CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: California Coastal Commission; Commissioners Sara Wan and Mark Stone

Mailing Address: 45 Fremont Street, Suite 2000

City: San Francisco, CA Zip Code: 94105-2219 Phone: (415) 904-5200

SECTION II. Decision Being Appealed

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COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Construction and operation of a community-wide sewer system.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos - Communitywide

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County Dept. of Public Works
County Government Center, Room 207
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Nancy Orton, Permit Chief
San Luis Obispo County Planning and Building Dept.
976 Osos St., Room 300, San Luis Obispo, CA 93408

(2) Surfrider Foundation - San Luis Bay Chapter
P.O. Box 13222
San Luis Obispo, CA 93406

(3) Sierra Club - Santa Lucia Chapter
P.O. Box 15755
San Luis Obispo, CA 93406

(4) Citizens for Affordable and Safe Environment
P.O. Box 6931
Los Osos, CA 93412

(5) J.H. Edwards Company
P.O. Box 6070
Los Osos, CA 93412

(6) Julie Tacker
P.O. Box 6070
Los Osos, CA 93412

(7) Don Beardon
1411 7th Street
Los Osos, CA 93402-1617

(8) Barry and Vivian Branin
P.O. Box 540
Morro Bay, CA 93442

(9) Steven Paige
1554 Ninth St.
Los Osos, CA 93402

(10) Chuck Cesena
591 Ramona Ave.
Los Osos, CA 93402

(11) Keith Weimer
1101 14th St.
Los Osos, CA 93402

(12) Richard Nyznyk
674 County Square Dr. 208C
Ventura, CA 93003

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit **decisions are** limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See Attached

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: _____
Appellant or Agent

Date: October 19, 2009

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

(Document2)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: October 19, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Reasons for Appeal: San Luis Obispo County Coastal Development Permit DRC2008-00103 (Los Osos Wastewater Project)

San Luis Obispo County approved a coastal development permit (CDP) to allow the construction and operation of a community-wide wastewater system in Los Osos. The County approved project raises Local Coastal Program (LCP) conformance issues as follows:

The LCP requires the protection of groundwater basins, including maintaining groundwater levels and surface flows to ensure the quality of coastal waters, wetlands, and streams. Special Condition #97 of the County approved project allows for the possible export of treated effluent outside of the Los Osos Groundwater Basin (subsection e). In addition, Special Condition #97 makes the disposal of treated effluent subject to an unknown outcome of legal adjudication. Given the possible export of treated effluent outside of the Los Osos Groundwater Basin and the uncertainty surrounding the outcome of legal adjudication, the long-term integrity of the Los Osos Groundwater Basin and the biological productivity of aquatic habitats may be significantly adversely impacted. Thus, the approved project raises conformance issues with the coastal watershed provisions of the LCP (e.g., LUP Coastal Watersheds Policies 1, 2, and 5).

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Santa Lucia Chapter of the Sierra Club

Mailing Address: P.O. Box 15755 San Luis Obispo, CA 93406

City: San Luis Obispo, CA Zip Code: 93406 Phone: 805-543-8717

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OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Luis Obispo

2. Brief description of development being appealed:

Los Osos Wastewater Project DRC2008-00103:
A sewer system serving the community of Los Osos, CA, including collection system, treatment plant, effluent disposal system, agricultural re-use program, water conservation program, and associated infrastructure.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos, CA

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Paavo Ogren, Director
San Luis Obispo County Department of Public Works
County Government Center, Room 207
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Don Bearden, 1411 7th Street Los Osos, CA 93402

(2) Steven Paige, 1554 Ninth Street Los Osos, CA 93402

(3) Vivian and Barry Branin, P.O. Box 540 Morro Bay, CA 93442

(4) Bruce Corelitz, 1920 Tapidero Ave Los Osos, CA 93402

(5) S.E. Acquisition of Los Osos Mortuary and Memorial Park, Inc.
DBA Los Osos Valley Memorial Park
C/O Andre, Morris & Buttery
1102 Laurel Lane
San Luis Obispo, CA 93401

(6) J.H. Edwards Company, P.O. Box 6070 Los Osos, CA 93412

(7) Piper Reilly, 691 Woodland Drive Los Osos, CA 93402

(8) Linde Owen, 1935 10th B Los Osos, CA 93402

(9) Keith Wimer, Los Osos Sustainability Group 1101 14th Street Los Osos, CA 93402

(10) Martha Goldin, P.O. Box 6007 Los Osos, CA 93412

(11) Elaine Watson , 1287 5th Street Los Osos, CA 93402

(12) Al Barrow, Coalition for Low-Income Housingm, 1250 4th Street B, Los Osos, CA 93402

(13) Chuck Cesena, 591 Ramona Ave. Los Osos, CA 93402

(14) Sarah Corbin, 809 Browns Valley Rd. Watsonville, CA 95076

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The project as approved raises a number of LCP and Coastal Act conformance issues, primarily due to that fact that feasible alternatives that would result in the avoidance of impacts have been disregarded in favor of mitigation measures that allow impacts to occur, contrary to the intent of local coastal policies and CEQA.

Where mitigations are stipulated, the mitigation is often inadequate and could be supplemented or replaced by other measures or project alternatives that would substantially increase mitigation value. Because this project evolved rapidly over the spring and summer of 2009, it contains artifacts of its previous stage of planning, prior to reconfiguration and conditioning of the permit by the County Planning Commission. As a result, some project components, such as disposal of effluent at the Broderson site, are no longer necessary or serve to actively hinder the avoidance of impacts or adequate mitigation of impacts, and conformity with the LCP and the Coastal Act. The same is true of the project's lack of a 100% fusion welded collection system, and the proposed placement of lift stations in proximity to a National Estuary and State Marine Reserve and the threat of their release of raw sewage therein in the event of a leak or power failure.

The project fails to avoid or adequately mitigate potential significant impacts on coastal resources because it does not include a wastewater collection system that would result in the greatest protection against the release of partially treated or untreated wastewater, afford the greatest protection for the groundwater of the Los Osos basin, utilize the most cost-effective means to avoid impacts to cultural sites, avoid environmental impacts from deep trenching/dewatering, and enable the use of renewable energy sources. A pressurized effluent collection system and the mitigations it provides when placing and operating a wastewater treatment collection system in an environmentally sensitive area include monitored system pressure which catches ground leakage immediately, no negative effects or line flushing required despite aggressive conservation coupled with increased use of on-site graywater systems over time, and no surface spillage of raw sewage (black water plus solids) likely to ever contact the waters of the Estuary. Polyethylene pipe (STEP) has a higher degree of toughness, impact and fatigue resistance than PVC pipe (gravity), which can crack under impact (backhoe, earthquake). Additional impacts would be avoided by the reduced size and carbon footprint of a STEP plant (absence of grit and heavy non-biodegradable organics in STEP influent would allow designers to eliminate or downsize the front end of the plant), and the reduction of inflow & infiltration and reduced sludge handling (about 5% of the solids from a gravity plant) attendant on the selection of pressurized effluent collection system instead of a gravity collection system.

The EIR assumes replacement of 5000 septic tanks with STEP tanks. On-site testing of septic tank integrity may find that up to 75% of existing tanks would be suitable for use in a STEP-STEG system, avoiding on site and archaeological impacts, sludge hauling, GHG emissions, and dewatering, as compared to the impacts of a gravity system.

COA amendments

Condition of Approval 86 should be revised to state that the Estero Area Plan be amended "to incorporate a sustainable buildout target that indicates affirms [not "indicates"] that there is water available [insert: "in the basin"] to support such development without impacts to wetlands and habitats." The current wording invites growth-inducing imported water and hence continued pumping and increasing drawdown of the aquifers, with ultimate impacts to habitat.

Condition of Approval 97 places the reservation of treated effluent subsidiary to and at the mercy of the negotiated Interlocutory Stipulated Judgment process, which could significantly reduce the amount of treated effluent made available for environmental needs, and thereby the biological continuance of the habitat, contrary to ESHA Policy 2. The subordination of the uses of treated effluent to a future ISJ decision subverts all potential mitigation value, and should be stricken from this condition and the county required to incorporate the stipulated uses and percentages of reserved treated effluent into any ISJ agreement it enters into.

Condition of Approval 98 should be amended so that the "areas of high groundwater" are specified as needing to be clearly defined and based on a detailed analysis by the design-build teams of historic high groundwater elevations. The County's map of vulnerable pipelines (COA p. 3-169) compared with DEIR Appendix D graphic showing the extent of potential perched groundwater raises concern as to the validity of the County's mapping of vulnerable pipelines. In an extreme local precipitation scenario such as March 1995 when the month recorded a total of 18.3" and a one-day record of 8.8", there is little doubt that the perching clay layer would create transient groundwater levels at or near the ground surface for a number of weeks or months. Hence, "areas of high groundwater" should include the entire service area above the perching clay layer as well as areas susceptible to tidal action and sea level rise. Project construction and detection of high groundwater areas is likely to take place in low precipitation months. Winter precipitation is often higher than summer precipitation, and groundwater storage is not fully recharged in summer. Consequently, the water table is lower in the summer period. The disparity between the level of the winter and summer water table (the zone of intermittent saturation), wherein the water table will fluctuate in response to climatic conditions, underscores the need for a condition requiring a detailed analysis of historic high groundwater elevations, rather than relying on identification of such areas in the field during construction.

Archaeological resources

The FEIR states: "The concept that STEP directional drilling will not impact archaeological sites is wrong. The resources could potentially be impacted under any condition, the impacts to sites through directional drilling would be unknown as opposed to controlled excavations where the scientific information would be preserved" (FEIR 3-295). This misstates the issue. It would appear that controlled excavations can be done regardless of collection system technology.

If, however, a site is discovered when laying gravity pipe, it is likely that artifacts/remains will be photographed, removed, and the site then trenched and destroyed, as gravity lines must maintain grade.

STEP directional drilling can easily avoid a site and impacts to resources by going around it. In choosing the former procedure over the latter, the project is inconsistent with Coastal Plan Chapter 12, Policy 1: Protection of Archaeological Resources, and its requirement for avoidance over mitigation, and that all available measures be explored at the time of a development proposal to avoid development on important archaeological sites.

Inflow and infiltration (I/I)

The project must avoid the impacts of sewer overflows, and one of their primary causes, inflow and infiltration of groundwater and rainwater into sewer pipes. County's repeated assertions that a new bell & spigot gravity system is watertight at the time of installation are disproven by documented instances of high I/I found in new gravity systems, but, even if true, would be irrelevant to the necessity to describe and avoid or mitigate impacts to coastal resources over the full lifespan of the project.

The EIR assumes that infiltration of water into the collection system will occur during the rainy season in the amount of 310,000 gallons a day. (EIR I&I evaluation, 310,000 gpd /5,000 homes). In the context of the EIR's discussion of increasing I&I due to gradual loss of integrity and compaction of the seals of bell & spigot joints of a gravity sewer, the FEIR states that "fusion welded pipe joints are expected to maintain water tightness indefinitely" (3-10), a statement that only applies to the 5 miles of gravity pipe that are proposed to be fusion welded. Differential settlement and earth movement in the areas of pipe-to-concrete penetrations (manholes and lift stations) creates significant sources of infiltration in a gravity system. Infiltration and inflow will become increasingly likely throughout the rest of the system over time, to a far more significant degree, than the estimated I&I attendant on a 100 percent fusion-welded pressurized effluent system, requiring mitigations for an impact that could be avoided. Gravity sewers throughout the country are experiencing SSO's (sanitary sewer overflows) because of excessive I&I. It is likely that most of these systems experienced minimal problems during the initial service period. Given the design life of the system is 100 years, I/I could easily double the plant footprint if the tolerance for spills (collection area and at the plant) is zero. Ripley Pacific Co. determined that gravity collection was infeasible for Los Osos based on vulnerability of the system to both Ground Water Infiltration and Rainfall Induced I/I ("Los Osos Wastewater Management Plan Update," Ripley Pacific, 2006). To achieve a "zero-discharge" system, the ability to treat/store 100% effluent in all precipitation /groundwater scenarios is mandatory.

The potential risk posed by I/I appears to be much higher than the 300,000 gpd average I&I and 500,000 peak I/I cited for the project. The County has stated that the use of PVC pipe mitigates the I/I problems of gravity sewers, and that high rates of I/I have been the result of more primitive construction materials used historically that have decayed over many years. This claim cannot be supported. The issue is the risk of excessive I/I. The use of gasketed PVC, while possibly an improvement, is not an assurance that the risk of excessive I/I is mitigated. Sources for gravity sewer I/I include manhole covers, manhole grade rings, manhole joints, manhole pipe connections, clean-outs, lift station joints, lift station pipe connections, illegal connections and leaking fixtures.

A 2005 WEFTEC study tracking I/I relative to sewer age included 30 years of PVC system data and showed that I/I in PVC piped systems is tracking similarly to other previously used piping materials and increasing linearly relative to time. This study show that the risk of I/I in a PVC piped system remains an issue, and notes that the rates for I/I (particularly peak hour flow) are being understated.

The study "Rainy Day Calculations" (Kurtz, Ward, Ballard, Water Environment Federation, Sept. 2009)

looks at Tennessee gravity system I&I flow due to rain events, not groundwater, which are uniform in any location. I&I flows from 1" rainfall ranging from 4 to 10 times the base flow. The study topped out at 4.5 inches of 24-hour precipitation. Morro Bay data for March 1995 recorded a 24-hour precipitation of nearly nine inches. The inflow into the LOWWP from nine inches of rainfall would be extreme, and still would not include I/I from high groundwater.

The EPA has established 275 gpcd as the national average for gravity sewer inflow. This is the average wet weather flow found, not the peak wet weather flow. The LOWWP Flows & Loads memo developed flows based on a service area of 18,428 people. Multiplying 275 times 18,428 results yields an inflow rate of 5,067,700 gpd. This is rain-dependent I&I, representing the average hourly flow during a rain event observed with respect to the utilities surveyed. This does not necessarily represent the peak hourly flow observed. This number is far different from the 500,000 gpd suggested in the project's flows and loads calculation. If the peak inflow for a Los Osos gravity sewer flow could eventually rise to 5 million gallons per day, this is a level of I&I capable of depleting basin groundwater resources and causing Sanitary System Overflows. The County has not included this level of inflow in calculations of impacts from overflows or groundwater removed from the basin by the project.

In its selection of a collection system that risks the substantial removal of groundwater from the basin and sanitary sewer overflow through the phenomenon of I&I, the project does not conform with Coastal Plan Policy 7, requiring that the natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored; Coastal Plan Policy 35 requiring that vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value and development shall be designed to disturb the minimum amount possible of wildlife or plant habitat; and ESHA Policy 20 requiring riparian vegetation and the natural hydrological system and ecological function of coastal streams be protected and preserved.

The estimated I&I of a STEP system for Los Osos is a fraction of gravity collection I/I and would not impact the treatment plant, per the EIR:

"3.2 STEP Sewers: With new septic tanks where drains and runoff are diverted away from the area around the tank, the I/I presumably would be much lower than that estimated for a gravity collection system. The major source of I/I in a STEP sewer is the tank and the connection to the house. I/I into the tank will be retained there and will not immediately translate into peak flows to the treatment plant. Based on these factors, average I/I is estimated to be 0.1 mgd." (LOWWP Flows & Loads technical memo-final, 11/08.)

This estimated average is likely high as, over time, any STEP unit that shows high pump run time during rain events would be easily identified and on-lot repair, but even if one accepts 0.1 mgd I/I for STEP, this is a fraction of gravity I/I rates or "non-excessive" EPA values, even before factoring in pipes that become submerged.

In addition to I&I, root intrusion in gravity sewer pipes is a major cause of Sanitary System Overflows. Root intrusion potential for STEP would be zero for the pressurized portion of the system (STEP tank to treatment plant). The house sewer (foundation to STEP tank) is potentially vulnerable, but the easement or service tariff can require a setback for certain vegetation types. STEP tanks themselves are not prone to root intrusion since the concrete tank joint is usually above the water line and the tanks are watertight. Given that the only potential for root intrusion is the house sewer, and an occupied home with very little

monitored STEP discharge would indicate either a blocked house sewer or that the STEP tank itself was defective, any blockage would be limited to a single residence and quickly detected, with a relatively quick fix in a short segment of 4" sewer pipe on private property.

The county's stated intention to manage the excessive I&I of a gravity sewer through a future maintenance program constitutes a promise, funding permitting, to attempt to mitigate an impact that could be better and more realistically mitigated by means of the selection of a 100% fusion-welded pressurized effluent collection system, a permit condition which should be mandated by the project's proximity to creeks, wetlands and other ESHA, a National Marine Estuary, and a State Marine Reserve characterized by low tidal flushing.

Reduced flow

- The County does not address the impacts on water availability and conservation of a gravity-flow collection system due to its minimum scouring flow requirement and the costs of flushing a gravity system, which will require that a percentage of treated effluent that the Conditions of Approval have identified as reserved for environmental and agricultural needs instead be permanently set aside for flushing the lines of the gravity collection system. The County has not included this reduction in the calculations of total groundwater removed from the basin by the project, nor was it subtracted as a percentage of treated effluent that will be permanently dedicated to flushing sewer lines, and thereby removed from the total amount of effluent that was believed to be allocated as mitigation, reserved for environmental and agricultural needs via ag exchange and aquifer recharge, nor was there consideration of avoidance of this impact via the use of a pressurized effluent collection system. Avoidance of this impact could be achieved by the installation of a collection system that does not require flushing of the lines.

Dewatering

The project does not appear to conform with ESHA Policy 2 due to dewatering impacts from deep trenching, which neither the County nor the Planning Commission included in calculations of groundwater removed from the basin by the project. On 1/30/09, the regional Water Quality Control Board submitted a comment on the DEIR referencing the EIR's failure to adequately characterize the environmental impacts of the deep trenching of a gravity collection system vs. the shallow trenches of a STEP/STEG system. ("The County should expand on their environmental impact evaluations regarding trenching associated with the installation of the STEP/STEG system as described in proposed project alternative number 1. This description should discuss potential environmental impacts associated with dewatering activities as a result of deeper versus shallower trenching.") In response, the Final EIR compared the 8-foot depth of a STEP tank excavation with the average 8-foot depth of "75 percent of a gravity collection system."

On this basis, the EIR concluded "the construction dewatering requirements of the two systems, and consequently their associated environmental effects, appear to be similar in nature" (FEIR 3-47).

Presuming to analyze alternatives and their impacts simply by stating that those impacts "appear to be similar in nature" is clearly inadequate and does not compare the dewatering requirement for a STEP tank excavation and the dewatering effort required for laying a gravity pipe in a trench. A number of the gravity trenches not included in the "75 percent of a gravity collection system" excavated at a depth of 8 feet would range in depth up to 23 feet.

A gravity sewer must be installed in a dry excavation. The trench must be dry in order to:

- assure that the pipe has a proper foundation- allow for the laser level to transmit a beam through the pipe for maintaining pipe grade
- assure that the pipe trench is maintained in a safe condition for workers that are working at the base of the trench
- allow for proper installation rates for the contractor to remain profitable
- allow for inspection of the pipe as it is installed.

Accordingly, any pipe installed deeper than the prevalent water table will require dewatering. Depending on the height of the water table and soil type, well points can easily require several days to draw down the water table. Coarse sands are particularly difficult to dewater as the cone of influence from the dewatering can extend hundreds of feet beyond the excavation area.

Dewatering can create several impacts. The quantity of water removed to dewater a project can be substantial. Often the quantity of water discharged exceeds the ability of the existing stormwater system to convey the discharged flows away from the site. The discharge can include sediments, pollutants, naturally occurring sulfides and organics that may requires treatment prior to discharge. Dewatering can affect existing surface water systems as it draws down the naturally occurring water table. Dewatering can induce settlement under existing structures.

In a Salinas case study (North Davis sanitary sewer trunkline project, "Water & Wastes Digest," April 2001, Volume 41 Number 4), the length of gravity trenching dewatered was less than what must be dewatered in Los Osos. 120gpm pumps were placed in 100 wells and 12,000 gpm was pumped around the clock for 3 weeks before the crews could work in the trenches to lay the pipe. It takes 41 hours @ 12,000 gpm to pump 90 acre feet of groundwater, which is the amount of flows from individual septic tanks that currently mitigate seawater intrusion into the Los Osos deep aquifer. The project's mitigation measures are supposed to mitigate for and replace the loss of this 90 acre feet, but the full amount of this annual flow could be removed from Los Osos' groundwater in less than two days by gravity trench dewatering.

STEP tanks are normally above the water table, even in areas of a high water elevation. STEP tanks are normally installed in areas close to a home. Since there is normally 18" and 36" of elevation difference between the road and the lot grade, the tank elevation receives the benefit of the extra elevation. If there is water in the STEP excavation, it is normally limited to a few feet at most. Removing water from a small STEP tank excavation can usually be achieved with a sump in one corner of the excavation. This dewatering approach can normally remove water from a small excavation in a matter of minutes. It is tolerable for the tank to be placed in a slightly wet excavation.

Although the Los Osos groundwater basin has been certified at Level of Severity III, and dewatering could remove an amount of groundwater equivalent to or greater than the entire annual septic flow that protects the aquifer from seawater intrusion, the County has not quantified the impacts of dewatering, nor accurately characterized the difference in volume of dewatering between a STEP tank and a gravity pipe, nor calculated or mitigated for impacts to the groundwater table and stormwater system.

Shoreline structures

The project does not conform with Coastal Plan Policy 39: Siting of Shoreline Structures: Shoreline

structures, including piers, groins, breakwaters, seawalls and pipelines, shall be designed or sited to avoid and minimize impacts on marine habitats.

The FEIR states: "The proposed projects evaluated in the Draft EIR do not have proposed facilities that directly affect the Morro Bay State Marine Reserve" (FEIR 3-587), and that "...accidental releases could indirectly affect the Morro Bay State Marine Reserve; however, at this time, it is speculative regarding the level of impact because the location and size of the accidental spill would need to be known."

The first statement is in error, as pumps on the shore of the estuary and a central lift station on the midtown site, one-half mile uphill from a portion of the estuary characterized by low tidal flushing, would have significant potential to directly affect the SMR. The second statement is in error both because the impacts of a spill on the SMR would not be "indirect" nor may the County omit an identified impact to coastal resources because "the location and size of the accidental spill would need to be known." It is not necessary to precisely forecast the size or duration of a sewage spill into the estuary in order to determine that this impact would not conform with coastal watershed policies meant to maintain productivity of coastal waters. Moreover, the location of the proposed pumps on the shore of the estuary and the midtown lift station are known. The size of a spill in the event of the failure of the midtown centralized lift station, through which 100 percent of the project's wastewater would flow, is readily calculable over various time frames.

The EIR states that mitigation measures for sewage spills are in place and seeks to equate the impacts of a major spill of raw sewage with the impacts of some percentage of pollutants making their way into the estuary as a result of some percentage of local septic leachfields not functioning properly, resulting in inadequate filtration of effluent. These environmental impacts are not comparable -- essentially comparing seepage of near-primary treated effluent to a spill of raw sewage/solids -- and should be viewed in the context of multiple sewage spills from local central coast gravity-fed treatment plants over just the last five year. It may be presumed that all of these plants had mitigation measures in place, which failed.

The project has substituted mitigation of impacts without consideration of measures that would avoid those impacts. A permit condition requiring a collection system that does not require pumping stations on the shore of the SMR or a central lift station at the midtown site will avoid these impacts.

Energy/GHG

The project is inconsistent with Coastal Zone Framework for Planning policy 13, which requires support of the conservation of energy resources by land use and transit measures that reduce use of non-renewable resources such as petroleum. The County claims that a gravity collection system is more energy intensive but emits less GHG due to the absence of septic tank venting and less chemical production; that STEP/STEG is less energy intensive, but overall the process emits a large amount of GHG due to septic tanks and chemicals. (Carollo, June 2008)

The EIR failed to evaluate alternatives to chemical (methanol) use for denitrification of STEP effluent that would result in a significant reduction of GHG emissions and compared this to the GHG emissions of a gravity system.

AIPS ponding presents the prospect of methane capture. "Using this renewable resource of methane reduces the depletion of fossil fuels, and recycling the carbon dioxide produced by its combustion to

enhance microalgal growth further reduces the level of greenhouse gas emissions." (-"Methane Recovery in Advanced Integrated Ponding Systems: An Update," W. J. Oswald, F.B. Green, UC Berkeley, CIEE 1993). The EIR evaluated methane production solely as a negative impact, not as a beneficial means of reducing the project's fossil fuel energy use and GHG impacts, and thus did not fully analyze this project alternative.

Per the project Technical Memo on treatment alternatives, the project's Biolac/oxidation ditch would consume 1.0-1.2 million kWh per year. The energy requirements for an AIPS pond system range from 570-720 kWh per year.

Issues raised in a 5/27/09 letter to the Planning Commission from Michael Saunders, Compliance Program Manager, Orenco Systems, Inc., concerned construction-related GHG emissions and methane from vented STEP tanks. These comments note, with supporting data, that "the GHG Technical Memorandum included a methodology that appears to hide the magnitude and overall impacts" of construction-related GHG emissions of a gravity sewer, and identifies "inconsistency between the construction impacts and the methane STEP tank emissions. While the construction impacts were averaged over 30 years, septic tank emissions were derived from day one.... A real and immediate impact in the gravity sewer column was averaged, while a nonexistent impact from nonexistent STEP tanks was utilized in day one of the analysis." Orenco proposed a methane monitoring and mitigation strategy and concludes that "the elimination of any potential methane emission, partnered with a lower impact methodology for sludge handling would generate a significantly different outcome than the analysis completed by staff.... The EIR readily uses mitigation strategies for the very significant environmental impacts associated with gravity sewers. The EIR makes no effort to consider or document any mitigation strategy for a STEP option."

A GHG credit should be acknowledged for inorganic nitrogen fertilizer not produced due to use of non-denitrified effluent, the GHG penalty removed for the projected use of methanol in an unnecessary denitrification process for STEP effluent, and the 30-year averaging of immediate gravity sewer GHG construction impacts discarded in calculating STEP/gravity GHG emissions.

Broderson mitigation

Impacts to the significant habitat resources on the Broderson site – including the complete removal of Morro manzanita, Monterey spineflower, Blochman leafy daisy, Morro shoulderband snail, Morro Bay kangaroo rat, and monarch butterfly – should be avoided if feasible. The need for the use of the Broderson site, and the immediate and long term impacts its use entails, was reduced by permit conditions mandating tertiary treatment. The need has now been eliminated by the condition mandating the use of effluent in an ag exchange program with local growers, a condition which has also greatly improved on the seawater intrusion mitigation factor originally conceived of for Broderson disposal. As a result, the need for the Broderson site and all impacts to its significant resources now can and should be eliminated entirely, along with its considerable financial burden to residents, by instead expanding the seasonal storage ponds on the treatment plant site and adjacent acreage. This would accommodate the effluent currently planned for Broderson disposal, which would also make further ag exchange possible, thereby further improving mitigation for seawater intrusion via reduction of pumping of the deep aquifer. The likely underestimation of winter precipitation (in March 1995, Morro Bay recorded nearly 9" of rain in 24 hours) invites overflows and the likelihood that the disposition of more than 300,000gpd of the project's estimated winter effluent is unaccounted for. Storage pond capacity should be significantly expanded, with or without Broderson disposal.

Nitrate handling

The degradation of the estuary and Morro Bay wastershed from nitrate runoff is a chronic problem, and a leading cause of habitat damage in the area. The project can alleviate this damage by foregoing the denitrification of treated effluent made available to growers, who will be able to make use of the nitrogen content of the effluent to significantly reduce the use and over-use of synthetic nitrogen fertilizers, the source of nitrate runoff problems from local agricultural operations. Per the County's assertion that this cannot be done without denitrification due to excessive nitrate levels in treated effluent, following is the assessment of the water resources and reuse specialist who conceived, planned, managed, and completed the ag exchange project for the Monterey Regional Water Pollution Control Agency and has published several papers regarding this use of recycled water:

"The MRWPCA recycled water total nitrogen (TKN) runs from the low 30s to the low 40s mg/L (expressed as NO3). Most of it is usually nitrate and there is no effort to nitrify. Over the 12+ years that recycled water has been in constant use for irrigation of 12,000 acres of raw-eaten vegetables, farmers have found the nitrogen content of recycled water to be beneficial but not entirely adequate for their crops--partly because some supplemental well water is also in use as there is not enough recycled water for all of their needs. So, they supplement with chemical fertilizers as needed to maximize their yields. I see a parallel situation in Los Osos, i.e., no need for denitrification and no need to reduce nitrogen levels to any extent or by any means. Farmers will be delighted with the nitrogen levels in the recycled water (whether in the form of NO3 or NH4 or NH3 or NO2) and will probably find that they will need to add a fraction of the pounds/acre of N that they have traditionally applied to their crops when using well water. Denitrification is expensive and energy-intensive. Why remove nitrogen at great cost when it is an asset to the end user (farmers) for irrigation of vegetables and other high-N demanding crops? The only case in which nitrogen may be in excess of what the crops will take up is if the recycled water is applied at high (disposal) rates in a land application scheme without the benefit of a crop that would aggressively take up the nitrogen. Even grass is a big user of nitrogen--as in golf courses and other landscaping."
(- Dr. Bahman Sheikh, Distinguished Fellow, Center for Integrated Water Research, University of California, Santa Cruz , 4/22/09.)

Disposal, not re-use, was the end goal of the project prior to the permit condition for ag exchange. Nitrate removal methods that are necessary for STEP effluent and are high emitters of GHG are not necessary and are counterproductive if recycled water is to be used on crops. The provision of nitrate-rich effluent to growers would promote the sound management practice of reducing the amount of synthetic nitrogen-based fertilizers used by growers, currently causing pollution of the watershed and estuaries. Removing the requirement for denitrification will allow for the uptake of nitrates by crops with minimal need for supplementation with nitrogen fertilizer. The project's failure to do so is inconsistent with LCP ESHA policy 3 mandating restoration of damaged habitats as a condition of project approval when feasible; the provision of Coastal Plan Policy 7 requiring the natural ecological functioning and productivity of wetlands and estuaries be protected, preserved and where feasible, restored; and Estero Area Plan, Chapter 6, Section IV, A.1 through A.4, and its requirements to minimize water pollution by promoting sound land management practices; maintain, and where feasible, restore the quality and biological productivity of coastal waters, streams, wetlands, estuaries; and avoid impacts to watershed from runoff and pollution.

Sludge

Sludge production

Coastal Commission staff has urged the County to make "minimizing sludge production to the maximum extent practicable" a "high priority in the selection of collection and treatment technologies" (7/15/09 letter to Paavo Ogren from Dan Carl). The project does not minimize sludge production to the maximum extent practicable. The EIR notes that a STEP/STEG system for Los Osos would result in a 75 percent reduction in the amount of sludge produced by a gravity system. Todd Ecological Design Inc. estimates 0.5 lbs of sludge generated and 0.8Kwh of energy consumed per 1,000 gallons in a natural system model (trickling filter/wetland). This compares to 10 pounds of sludge generated, consuming 3.5 Kilowatt hours per 1,000 gallons with the project's currently selected activated sludge process. For a treatment system optimized for STEP collection, Orenco Systems estimates 0.1-.15 lbs. of biosolids production per pound of incoming BOD, in comparison to an activated sludge process producing approximately .75-.85 lbs. of biosolids per pound of incoming BOD.

The FEIR claims no greater impact of increased sludge volume because "There is no plan to apply sludge to land with the current proposal" (FEIR 3-904). This assertion is based on a County moratorium currently in place limiting land application of sewage sludge to 1500 cubic yards per year, with the balance sent to landfill. The moratorium on land application will expire in three years. Sludge from wastewater treatment plants includes industrial solvents, paint and chemical residues, detergents, soaps, cleaning solutions, antibiotics, antimicrobial soaps, antidepressants, heart medication, and other physiologically active drugs, heavy metals such as mercury, lead, and arsenic, from all of the citizens that use the municipal sewage system, all going through the wastewater treatment process. Many of these chemicals are left in the sludge. These substances are harmful to humans and wildlife, and many persist and build up in the environment, unable to be broken down by natural processes.

The County did not evaluate the relative impacts of the volume of sludge production in the event of land application, in comparison of the sludge output of gravity vs. pressurized effluent collection system, or in comparison of oxidation ditch treatment to facultative/AIPS ponds.

The project's oxidation ditch treatment plant increases biosolids impacts in its use of conventional sand filters, which would increase solids wasting. Microfilter tertiary, after seasonal storage, would add no chemicals to the system and waste solids would be returned to the front of the secondary plant, an "endogenous operation" – i.e. highly degradable, ultimately reducing waste solids to carbon dioxide and water in the presence of oxygen. Post-seasonal microfiltration adds no chemicals, so solids load from tertiary filters does not increase overall load. This process has not been required as mitigation of the impacts of sludge production, processing and hauling.

Economic effects

The project is inconsistent with Coastal Zone Framework for Planning 15: Economics, which requires pursuit of planning policies that balance economic, environmental, and social needs of coastal areas and considering the economic effects of land use planning decisions. This inconsistency is confirmed by the assessment of the US EPA, on its septic technologies website, which urges "full consideration of options to a traditional gravity sewer," which "smaller communities cannot afford," such as pressurized effluent collection systems consisting of: "shallowly buried plastic pipes, low-cost cleanouts instead of frequent/costly manholes, and a minimum number (if any) of lift stations. They have 40 years of successful experience in the US and worldwide (less I/I [inflow and infiltration], exfiltration, construction duration and disruption). Their management requirements are equal to or lower than

conventional gravity sewers (depending on the number of lift stations)." (www.epa.gov/owm/septic/pubs/septic_technologies.ppt)

Further, "Given the expense associated with sludge disposal, the role of onsite solids digestion [i.e. STEP interceptor tanks] may improve the economics of wastewater treatment, while the transport of clarified effluent in small diameter, watertight piping will reduce the cost of collection systems." (G. Tchobanoglous, "Water Reuse," 2007, p. 791).

The project's selection of the highest-cost collection system has been rendered further out of conformity with coastal policies by the requirement for fusion-welded gravity pipe and change orders for more fusion welding as needed in the field. The County has not disclosed an estimate of the cost of fusion-welding five miles of pipe, change orders in the field for same, and the implications for the collection system of the permit's conservation measures and increased graywater systems, i.e. impacts and costs of reduced flows and the prospect of a "blackwater" sewer, requiring pumping trucks and system flushing, and assess estimated costs of any necessary collection system redesign versus the cost of a pressurized effluent collection system. These impacts must be assessed against the cost of a system that consists of 100% sealed pipe by design.

"If a STEP/STEG collection system is selected it is anticipated that there will be minimal I/I since the system is sealed and under pressure. If a gravity collection system is selected, only a system that was constructed of fusion-welded PVC piping could be operated with as little I/I as a STEP/STEG system. However, fusion welded PVC sewers are a new technology with little long-term operating history, and can be significantly more costly to install than traditional bell-and-spigot gravity sewers" (Fine Screening Report, 2007, Carollo Engineers).

The project is further inconsistent with the CZ Framework for Planning policy in that the County has not considered the necessity of redesign of the gravity collection system prior to construction to accommodate the substantially reduced flow of 50gpd when the permit's condition mandating 25% reduction in water us is implemented, in concert with additional reduction in flows, conservatively estimated at 40%, that will occur as the area sees increasing use of graywater systems over time.

The project has not identified the comparative costs of STEP system line maintenance versus the cost of identifying and repairing sections of large, rigid pipe, which will have "more leaks and damage to pipe sections over time" than a STEP system, "especially when located below roads and buildings in developed urban areas" ("Water Reuse: Issues, Technologies and Applications," Takashi, Asano, et al, 2006, Metcalf & Eddy).

The project has not estimated the comparative costs of horizontal boring for both gravity and pressurized effluent collection pipes, having simply stated "This approach could be done for a gravity system as well as a pressurized system" (FEIR 3-596).

Based on previous estimates, it would likely be possible to fund the entire project from the initial Prop. 218 assessment if a STEP collection system were chosen (Los Osos Wastewater Management Plan Update, page 9; Ripley Pacific Co., 2006, www.losososesd.org/pdf/ripley_final_report_12.18.06.pdf). Currently, a second Prop. 218 assessment is contemplated to fund the sewering of undeveloped lots in the Prohibition Zone with a gravity collection system.

LID

Coastal Plan Chapter 9, Policy 11, requires preserving and maximizing groundwater recharge by retaining runoff on-site to the extent feasible to maintain in-stream flows and riparian habitats. The project does not thus mitigate impacts from the presence and function of the collection system because the County denies a nexus between the project's road impacts and LID mitigation measures, such as a demonstration project (a "complete" or "Green Street" project) that would address flooding, stormwater and mobility.

CEQA

The project is not consistent with the requirements of CEQA. As proposed, it is likely to result in significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A), which prohibits approval of a proposed development if there are feasible alternatives and feasible mitigation measures which would avoid or substantially lessen any significant adverse environmental effects which the project would have on the environment.

For the same reasons, the County-approved project does not adequately protect coastal agriculture and ESHA and is therefore inconsistent with the Coastal Act and LCP.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Karen Merriam
Signature of Appellant(s) or Authorized Agent

Date: October 15, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: October 15, 2009

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Piper Reilly

Mailing Address: 691 Woodland Drive

City: Los Osos Zip Code: 93402 Phone: 805-704-7255

SECTION II. Decision Being Appealed

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Waste Water Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Prohibition Zone collection to the Cemetary for treatment

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☒ Planning Commission

☐ Other

6. Date of local government's decision: 09/29/09

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
976 Osos St. Room 300
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

To follow, via fax, is my 5 page explanation of my appeal, supporting documentation will arrive to your office in the US Mail. In essence, I am asking you not to approve the Coastal Development Permit for the Los Osos Waste Water Project because less impactful remedies exist and have not been fairly evaluated as promised. The current LOWWP violates CZLUO 30108, 23.04.430 & 23.08.288(d) California Coastal Act sections 30253 & 30231, Coastal Watershed Policy 1,2,3 &5, Sensitive Habitat Policy 2&7. The County of San Luis Obispo omitted answering many of my concerns in both my comments regarding the EIR as well as in my appeal to the Board of Supervisors. Please see 5 page Supplemental Information for a more detailed response.

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 10/19/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

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The LOWWP is highly impactive and violates;

CZLUO Section 30108 which defines "feasible" as "accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."

Public works chose an unsustainable project over sustainable options. In the Recorded Engineers Report for the 218, it was promised that STEP and Gravity costs would compete through the construction bidding phase., (see support **doc. A**). In January of this year Supervisor Gibson took the STEP option off of the table breaching the 218 contract.

Gravity was found by the County to be the environmentally preferred technology based upon faulty data which can be proven if STEP were allowed to compete fairly in an open bidding process, (see support **doc. B** for cost of STEP and **support doc. C1 & C2** green house gases and STEP). Also please not that in the calculation for ground disruption for STEP the County includes areas, (existing septic tanks), that have already been excavated. Also, STEG was not evaluated at all. These three issue, (excavation, green house gases, and cost), were not compared fairly. If STEP were allowed to compete in the bidding process this information would come forward but the County will not allow that. We have been submitting information through out this two year process and have been difficult. It is very easy to discredit something if you don't actually consider the facts and that is what has happened here.

The purpose of the LOWWP is to conform to a regulatory agency demands based upon controversial, 25 year old data, when 3 year old data shows we are at near legal limits for nitrates and the County has admitted that nitrate levels in the Los Osos basin may not change, even with the LOWWP, for decades.

In contrast, non point source pollution, sea water intrusion,(SWI), has been ignored by both the County and the Water Board for almost thirty years and now we are in serious danger of losing our only drinking water source to chlorides. The nitrate issue is with our groundwater supply and not the bay. Protecting our groundwater is the purpose of the LOWWP and the proposed project does not accomplish this because it does not adequately address SWI..

By taking all of the proposed septics off line, SWI will be exacerbated, further destroying our water supply and habitat will dry up die quickly violating **California Coastal Act 30231.** The loss of vegetation is counter productive to AB32 and it will diminish the amount of water which will percolate into our ground water supply. In Los Osos, some of our water supply comes from the trees catching the fog and bringing the water dripping to the ground. Because we have consistent fog, this allows the ground to stay relatively moist and aids in absorption. Los Osos consists of Baywood fine sands which have a hydrophobic property. Once it gets dry, it is difficult for water to percolate. LOCSD District Engineer, Rob Miller stated at a recent LOSCD Basin Update that Los Osos will look like a very different place, and that if a solution for the basin imbalance is not found soon, importing water or desal is a real possibility. .

Supervisor Gibsons most recent position is that the ISJ will solve basin issues. The ISJ, (three water purveyors, business entities, who control 2/3 *or less*- as current data is incomplete- of the basin,) are to fix a problem which has gone on for decades.

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During those decades, San Luis Obispo County was Los Osos' Water Purveyor and in the early 1990's, in order to solve the Los O sos Basin's problems, the County put together a Technical Advisory Committee consisting of one representative from each of the water purveyors and CSA9 representative, Paavo Ogren.

That group accomplished nothing and Paavo Ogren, as current head of Public Works, has not focused adequately on the health of the Los Osos aquifers when he is and was fully aware of it's alarming status. There is nothing to indicated that the current ISJ will be any more successful than the efforts headed by Mr. Ogren in the past. This violates **CZLUO 23.04.430** water availability. Without current and complete data we have no idea if we will have water for ourselves, the farmers or for future generations.

What could be successful is to be proactive and implement an immediate basin wide conservation element, (as suggested by the Los Osos Sustainability Group and accepted by the Planning Commission but then severely limited by the Board of Supervisors), as well as informing residents of the critical status of our water supply.

Also, implementing LID practices, as Ms. Darla Engles explained in her Planning Commission testimony; in an undeveloped area like Los Osos, it is the perfect opportunity to enact LID strategies which will help reduce flooding, (decreasing current pumping costs), assist with greater recharge therefor decreasing run off/pollution, plus LID has the opportunity for grant funding.

As a member of the Los Osos Sustainability Group please see support **Doc. D** for further information on violation of **LCP Coastal Watershed Policy 1,2,3,5 and Sensitive Habitat Policy 2&7 and more.**

In accordance with **CZLUO Section 23.08.288(d)** STEP/STEG is the least damaging feasible alternative because it utilizes the installation technology of inline directional boring 4" pipe at a depth of 4' which can include a camera to help avoid cultural artifacts, (plentiful in the area). It also can be installed more quickly than gravity collection.

Gravity must dig deep trenches for wide pipes displacing large amounts of dirt and requiring de-watering. This will have a, yet undetermined, effect on SWI, questioning water availability.

Due to Gravity's inadequate slope under conservation conditions, and the Planning Commissions decision to seal 12% of gravity collection pipes, a supplemental EIR should have been done to show redesign of slope, (as mentioned by John Waddel of Public Works, at the Planning Commission hearings), showing it's cost, effects on trench size and de-watering as well as effects on air pollution due to increase in large equipment needed to install large diameter gravity sealed pipes. These have not been evaluate nor compared with STEP/STEG. As stated previously, ground disturbance numbers are questionable given that some tanks would be place in existing location and STEG, (septic tank effluent gravity) was never considered in the equation.

The only reason traditional gravity collection became the "environmentally superior" method of collection is because certain pertinent factor's were completely ignored. Member's of our community would have liked to challenge the EIR but with almost 4,000 pages, (and CEQA states that the EIR should be concise so that the common man can understand it), the administrative record alone was so costly to produce it would have been a Herclean task to get it into court. As we were told in the begriming of this process, the County took as much money as they wanted from us in order to hire an environmental consultant who never lost an appeal on an EIR.

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For the past two years, we have consistently asked for the increased cost of a sealed gravity system, which was easily foreseeable, including installation and dewatering but were ignored. STEP/STEG is 100% sealed . Gravity is not sealed and has a predictable exfiltration/leakage rate. The LOWWP anticipates 300,000 gallons of I/I per day. This is in violation of **California Coastal Act Section 30230** prevention of discharge which could degrade coastal water quality and **LCP Policy 1** preservation of ground water basin.

Currently our septics discharge primary treated effluent to our leach fields and then are filtered through varying depths of Baywood fine sand, vadose zone. On the other hand, Gravity pipes will be releasing raw sewage on a consistent basis where as STEP's 100% sealed pipes are more likely to remain completely leak free.

Since the solids stay in the STEP tank and go through biological processes which break them down, sludge is not in an issue as it reduces itself naturally up to 75%. This is in contrast with Gravity which produces large amounts of sludge. The sludge disposal solution in the LOWWP was poorly defined and uncertain, questioning feasibility and therefore in violation of **CZLUO 23.04.430.** sewage disposal capacity.

The current Gravity plans may require potable water for flushing, defeating conservation measures. The only argument given by the Planning Commission for STEP being unacceptable was that it would rip up resident's front yard. When everyone's septics go off line and their entire yards start to die, people will water more outside again defeating any conservation achieved.. By not maximizing conservation and utilizing LID practices, due to the level three water severity and SWI issues, the current project is again in violation of **CZLUO 23.04.430** water availability. Gravity trenching will require extensive dewatering further depleting supply. This loss of water does not occur with STEP installation.

The Gravity plan uses the Mid Town site as a central sewage collection point and chemical mixing station. This component, located on ESHA and surrounded by a protected Marine Reserve, the town's only park and a residential neighborhood, would not be required in a STEP/ STEG design. STEP/STEG does not require any major pump stations, (currently planned in the Gravity system are several major pump stations to be built on ESHA). Again, STEP/STEG is less impactive than Gravity supporting **CZLUO section 23.08.288(d)** and this unique area should be protected by **California Coastal Act 30253**

Only the current Gravity plan requires Broderson as a recharge site. It is a highly controversial due to speculative peculations through the large clay aquitard as discussed by soil scientist's Larry Raio and the late Thomas Rhor and by Jeffery Young, of the CCRWQCB in a 2006 response to the CDO's. in Los Osos . The Broderson disposal site is located on top of a hill with 600 residences below and could become a liquefaction zone threatening homes and thousands of lives.

Also placing effluent at Broderson would reintroduce endocrine disruptors to our potable water supply defeating part of the purpose of collecting it in the first place. The California PTA and EPA have resolutions against this practice and these emerging contaminants are quickly becoming a major issue nation wide. To put them back into where you just took them out of makes no sense. Paavo Ogren has publically stated that Broderson may not even work. With all of the downfalls, (pun intended since Broderson is a hill with 600 home), it should be eliminated.

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We have 2 major fault lines in the Los Osos vicinity and slides are a probability. In regards to earthquakes, it is much easier to fix damage in a low pressure waste water system then it is to fix the trunk lines of a gravity system. Northridge is a perfect example of this. In the event of an emergency, replacement parts for the collection system would have to be staged locally. The impacts and costs of this element have also not been examined.

The LOWWP chose Biolac for treatment which violates **CZLUO section 23.04.430 and section 30108.** Biolac perpetuates the sludge problem gravity collection begins. The LOWWP does not have a certain disposal solution for the ample sludge produced by gravity collection and Biolac treatment.

In contrast, by using STEP with a passive ponding sytem, sludge is natural reduced to such a great extent that disposal of sludge may not come up for at least 50 years. The current LOWWP expects hauling twice per week to a place which may not be a permanent solution.

Biolac treatment uses high energy compared with passive or AES ponds and Biolac has a greater visual impact bringing into question **California Coastal Act section 30251.** In an area of scenic beauty, such as Los Osos, flat ponds can be hidden with landscaping and their extended turn over rates eliminate spills. In contrast, failure of generators in a conventional system frequently do cause spills, (examples: CMC and Marin County early 2008), **violating California Coastal Act section 30231.** Utilizing a combination of sites, Cemetary, Giacamazi, etc., a ponding system could be created in a park like setting which could include storage, wetland polishing and have the opportunity for carbon credits or cash crop and to install solar and/or wind power.

This inexpensive, unobtrusive and productive solution should be put back on the table. STEP and Ponds were actually the first systems to be approved in an EIR for Los Osos in 2001. Then Montgomery Watson Harza "mysteriously" arrived on the scene and we have been in a battle for a sustainable system ever since. Old fashioned conventional technology is not appropriate for our unusual, Baywood, fine sands and active fault area. These factors make big pipes highly problematic.

We need current data and third party oversight in order for this to become a sustainable project. Studies need to be done as to where SWI is today and to account for all the "straws" in the aquifer. Currently it is approximated that 1/3 of water drawn from the aquifer is not accounted for.

The process needs to be opened up to include the promised STEP comparison and a passive ponding system needs to be re evaluated for the new treatment location. This, accompanied by the reworking of the 12% sealed gravity system under conservation numbers, should be re-evaluated to determine the most truly environmentally protective system and one which the community can afford.

The 218 passed before the global economic crash and the 218 then promised a fair comparison of technology and price. Many more can now not afford the LOWWP's unnecessary high price tag than before. The costs submitted by Orenco for collection accompanied by quotes from several ponding companies, comes to about 1/3 of the cost of the proposed LOWWP

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Displacing thousands from their homes, due to avoidable economic hardship, when less impactful and less expensive technologies are available, violates **CZLUO section 30108 and section23.08.288(d).**

Please put STEP/STEG and passive ponds back into the process for consideration and do not approve the LOWWP in its current form..

Thank You,

Piper Reilly

Piper Reilly
Los Osos Prohibition Zone Property Owner
Los Osos Sustainability Group Member

Oct 19 09 01:58p Vista Incantato 805 772-7087 p.10

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OCT 27 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

10/23/09

Piper Reilly
691 Woodland Dr.
Los Osos, CA 93402

California Coastal Commission

Dear Staff,

Please accept the following support documentation for my appeal submitted to you via fax on 10/19/09.

Also included is a hard copy of my appeal, minus typos. The content is the same but I inadvertently faxed you a word perfect version instead of my word copy which is much more precise.

Thank you for your assistance.

Sincerely,

Piper Reilly

PIPER REILLY APPEAL OF LOWWP FROM RECORDED ENGINEERS REPORT LOWWP 2-26-08 pg. 33 ADOBE

SUPPORT DOC A (1 page)

Pursuant to Guideline No. 2 above, the special benefit of the collection system was selected such that a range of collection system alternatives could be funded. In the current project selection strategy, the STEP and gravity alternatives would compete through the construction bidding phase using a competitive bid, design/build, and/or build/own/operate/transfer process. If gravity system bids are received near the high end of the cost range, it is unlikely that gravity will be competitive with STEP. For this reason, the allocated special benefits will be based on the low end of the gravity system cost range, which would also cover the cost of a STEP system.

Consistent with previous assessment proceedings in Los Osos, the collection system can be separated into three components, defined as follows:

Lateral component: Laterals are defined as individual service lines that extend from the main in the street to the property line. In a STEP system, the lateral component would include the publicly financed and owned collection system components that are located on each private property within appropriate public easements that will need to be established for ownership and maintenance by the County, including the STEP tank, pump, control panel, and appurtenant facilities.

Trunk component: This component includes larger gravity mains, force mains, pump stations, and standby power facilities that serve regional areas. During the previous assessment proceedings, the trunk component was determined to include 19.1% of the planned pipelines. This percentage will also be used for the current assessment. Conveyance facilities required to pump wastewater to a treatment plant site if located east of Los Osos Creek would be included in this component.

Collector component: Collectors are defined as the localized sewer mains and pocket pump stations that convey water to trunks and regional pump stations. Some areas of the community, notably Bayridge Estates and Vista de Oro, have existing lateral and collector infrastructure as part of their existing community septic systems.

Table A.1 on the following page summarizes the proposed special benefits for each component of the collection system. The costs were derived from the low range of the gravity collection system, as summarized in the Fine Screening Report.

Treatment, Disposal, Permit, and Administrative Project Costs

In addition to the three collection system components described above, two additional project components are required to complete a functional wastewater system as follows:

Treatment/Disposal Component: This component includes the cost of the wastewater treatment facility, the effluent disposal system, and the wastewater treatment facility site.

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SUPPORT DOC B: (4 pages)

Below is Mike Saunder's, response regarding cost for STEP vs. Gravity: 8-25-09

I have worked with Orenco Systems, Inc for 4 1/2 year. Prior to that, I was the County Utility Engineer for Charlotte County Utilities for nine years. During my time at Charlotte County, I experienced a failed conventional sewer approach (40,000 connections), executed the extension of STEP wastewater collection to 5,000 properties. The use of STEP systems in Charlotte County provided significant capital cost savings when compared to the proposed gravity system.

Charlotte County Utilities was and is the oldest and largest STEP systems in the world. It is operated in conjunction with a conventional gravity sewer system that serves more than 20,000 homes. Based on my experience and observations, I offer the following discussion relative to the perceived cost of a STEP system in Los Osos.

The "Viable Project Alternatives Fine Screening, dated August 2007. In the reports introduction it is stated that the report provided "information on what the community can expect through the County implemented solution, in terms of costs, benefits and overall approach". Presumably, this report was intended to be one of the primary documents that the residents of Los Osos will utilize in deciding their vote with regards to the County's Proposition 218.

When the public voted on the County's Proposition 218, it was our understanding that they were approving a not-to-exceed expenditure and not a project. Additionally, it is our observation that the residents of Los Osos had an expectation that the most economical approach would become the constructed project.

Prior to the release of the Fine Screening, Orenco Systems had already expressed concern regarding the omission of input that we provided. This omission of key data, while not necessarily important to the vote, was critically important towards defining the most cost effective STEP project that was ultimately analyzed in the Fine Screening Study. Despite Orenco's vast experience with STEP projects, the consultant and the County unilaterally defined the scope of a STEP project and ultimately, the project that they defined.

Subsequent to the release of the Fine Screening Study, in a public presentation, there was statement from the County Consultants that inferred that capital costs for STEP and gravity sewer would be comparable, while the coordination of STEP installation will be more difficult.

In our opinion, the fine screening did not provide a comparison of STEP and gravity costs that adequately supported the statements made on public record.

The following table is included in the Appendix "C" of the Fine Screening Analysis. This table explains the various Categories of Estimates with regards to the level of project definition and expected accuracy.

It is critical that the public understand the significance of this table. The STEP estimates from Carollo are stated to be Class 4 while the gravity sewer estimates are stated to be Class 1. The estimates for STEP are stated to be 1% to 15% of the total level of project definition required. Furthermore the accuracy of the estimate can be off by as much as 30% on the low side and 50% on the high side.

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Based on the level of estimate provided, did a Class 1 estimate support the statement made by the consultant with regard to cost comparison? Furthermore, how could we conclusively state that STEP costs were actually comparable to gravity sewer? The public presentation contained no explanation regarding the potential variance in cost estimates.

The following table, also from Appendix "C" in the Fine Screening Study, further penalizes the STEP estimate for not being as accurate as the gravity sewer estimate.

Typically, contingency is added to projects in case unforeseen costs become applicable during construction. In the context of this analysis, Carollo has added 30% contingency to STEP because there has been less detail in the estimate. Comparatively, only 10% contingency is added to gravity as a reward for a more detailed estimate. Accordingly $11,000,000 (low estimate) to $15,000,000 (high estimate) is being added to STEP that isn't being added to gravity. In practicality, due to the complexity of construction, there is much more inherent risk in gravity sewer construction than STEP construction. Change orders, for unforeseen site condition are common in virtually all gravity sewer projects of this nature despite the level of detail put forth during design. Regardless of the level of estimate, it is highly questionable to assert that contingency should be higher for STEP. When a range of cost is presented, one has to understand that a large amount of subjective costs have been allocated to the cost of STEP, thereby inflating the possible range of cost.

Furthermore, the following table (Table 3.18), again from the fine screening analysis, shows that 15% overhead and 8% taxes are added to STEP while they are omitted from gravity. Since the gravity sewer estimate is more accurate, they have stated that the gravity sewer estimate includes these costs while presumably, they can not effectively say the same about their STEP estimate. This additional cost is added before contingency is added, so the impact of the overhead and taxes is compounded by the additional contingency.

Also in table 3.18, the low range cost shows the separate electrical premium. The electrical premium is contingent upon a hypothetical requirement from the State Water Board that would require a public electrical supply rather than a simple service through the existing homes electrical panel. In execution, virtually all existing STEP systems installed in this Country utilize power service from the home. While this could be included in the high end cost, we believe that the low end cost should be reflective of the methodology that is actually normally used to power a STEP pump package. The $14,500,000 in additional cost again was added before contingeny, so this arbitrary cost addition was compounded by the additional contingency that was added.

What did all of this mean to the voter? We believe there are two very important points to note. They are as follows:

1) If we use Table 1.1 to restate the potential cost range of the project, the numbers are very startling. The actual range for STEP, without compromising the integrity of this Study could actually be $45.5 million to $121.5 million while the actual range of gravity could be $73.8 million to $103.5 million. Accordingly, if these technologies were bid head to head, STEP could come in at $45.5 million while gravity could come in at $103.5 million and this report wouldn't be wrong. STEP in fact, by this report, could be half the cost of gravity. This potential variance in cost was never explained to the voter.

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· PIPER REILLY APPEAL OF LOWWP

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2) If the same level of estimate had occurred, one would presume that contingency, overhead and taxes would be treated comparably for both technologies. Orenco had provided bid tabs to the County, with overhead and profit included that support a cost that is lower than the stated low cost without overhead and sales tax. Also, if the low estimate actually utilized the probable low cost of electrical supply the low end cost would be significantly different. Without Sales Tax, Overhead, Electrical Premium and with 10% contingency, our calculations show that the low estimate would be in the range of $44 million while the high estimate would be in the range of $75 million.

We do not believe that this Fine Screening Analysis adequately provided proper "information on what the community can expect through the County implemented solution, in terms of costs, benefits and overall approach". The report did not compare STEP costs and gravity costs to the degree necessary to establish true comparative costs nor does it evaluate STEP on a level playing field with gravity sewer. We do not believe that an analysis that utilized different levels of estimating is adequate to support any determination that capital costs for STEP and gravity sewer are comparable. Furthermore, it is extremely misleading to apportion subjective costs such as sales tax, overhead, electrical premium costs and contingency in a manner that is not equitable between comparative technologies.

The consultant expended large resources in modeling treatment processes and in evaluating the cost of gravity sewer. We have to question why that the same level of resources was not applied to the STEP cost estimates so that a Class 1 estimate of STEP is available for comparison to the gravity sewer costs.

Our opinions were validated by an independent review that was done by the National Water Research Institute (NWRI). Their findings included the following:

· "Alternatives should be presented with sufficient detail in terms of description and estimated costs so that rational comparisons can be made."

· "Cost estimates should be stated clearly and compared on an equivalent basis with the same degree of variability and specificity. Refined and updated cost estimates are needed for each alternative so that decision makers and stakeholders can make informed judgments."

It does not appear that either of these NWRI recommendations was adequately addressed.

Beyond the estimates, we can take a more practical approach to discussing the provision of a STEP system in Los Osos. Orenco Systems, in the early stages of project development, recommended to the Los Osos Community Services District (LOCSD) that a Design Build approach be utilized for the procurement of a wastewater system for Los Osos. We told them that a Design Build approach, if properly executed, could deliver the ingenuity and expertise necessary to provide a low cost sewer option for Los Osos. At another meeting, we actually introduced the community to our potential Design Build team members that were ready to respond if a Design Build Request for Proposal was issued.

When the Design Build approach was finally recommended by County Staff, we believed that the process would move forward as promised. Unfortunately, during execution of the process, our

team was removed. We were not removed because of our teams competency or qualifications (we may have been the most highly qualified team involved), but by the recommendation of County Staff, we were removed because we recommended STEP wastewater collection as a viable method for reducing capital cost. In fact, during our presentation to County Staff, we stated the cost will be less and we will guarantee a not-to-exceed cost. Unfortunately, we were denied the opportunity to submit a proposal and therefore, we were denied the opportunity to make the ultimate not-to-exceed cost public.

At this time, the obvious question remains. Could STEP have delivered a low-end cost in the $40 million dollar range? The Design Build team intended to work in partnership with the County, starting with the County defined STEP project, and then offering value engineering alternative that were intended to reduce the project cost. Value engineering alternatives included the following:

· The use of all or some of the existing septic tanks.

· The use of STEG (Septic Tank Effluent Gravity) systems when hydraulic conditional allowed.

· The use of alternative STEP pump packages that are available from Orenco.

· The use of decentralized treatment at sites that have a need for irrigation water.

· The use of shared interceptor tanks (2 and possibly 4 homes per tank).

· The use of community tanks in areas of high density.

· The use of remote system monitoring.

· The possibility of including an O&M service at a fixed cost.

· The possibility of utilizing an extended period for connecting customers that prioritized the "hot-spots" first.

These options were never explored by the consultant and were never conveyed to the public as alternatives for possible adjustments in capital cost.

Respectfully,

Mike Saunders

Orenco Systems, Inc.

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SUPPORT DOC C 1 (6 pages)

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October 14, 2008

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John Waddell
San Luis Obispo County Dept. of Public Works
County Government Center, Room 207
San Luis Obispo CA. 93408

Subject: **TECHNICAL MEMORANDUM FOR GREENHOUSE GAS (GHG) INVENTORY EMISSIONS**

Dear Mr. Waddell:

Orenco Systems, Inc. has reviewed the Draft Technical Memorandum Greenhouse Gas Inventory Emissions dated June 2008. This letter is intended to express our concerns and questions with regards to the statements and data presented in the Memorandum.

Overall, we have a general concern regarding the context and content of the Technical Memorandum. The GHG Technical Memorandum only looks at a project that is defined solely by the consultant and then does not quantify the potential inaccuracy in the data presented. Changes in project scope, combined with more detailed discussion of the GHG estimates can have a significant impact to the results stated. Accordingly, we do not believe that the data presented in this Technical Memorandum has merit in any decision making matrix or the pending environmental review process.

In support of our overall perception, we offer the following three comments for consideration:

First, neither the GHG Technical Memorandum, nor has the project screening process made any consideration towards alternative STEP system configuration or operating protocol. The viable project alternatives that were developed in the rough and fine screening analysis were developed unilaterally by Carollo Engineering. With over 25 years of experience in developing STEP collection systems, Orenco has never seen greenhouse gas emissions analyzed with the intent of being utilized in a decision making matrix. Accordingly, STEP systems have traditionally been designed with the intent or minimizing O&M costs, while maximizing system efficiency and reliability. If greenhouse gases are deemed critical in deciding on a collection and treatment process we are confident that a STEP system can be reconfigured with the intent of reducing greenhouse gas emissions.

Secondly, in our opinion, while the Fine Screening Analysis goes into great detail regarding the poor level of accuracy in cost estimates, discussion on the level of accuracy with regards to GHG emissions is completely omitted in this analysis. Why are we seeing an inconsistency? Conveniently, engineering effort was minimized in the STEP cost estimate so that the estimate variability could be 30% lower or 50% higher than the numbers stated. This estimate is directly compared with a gravity

sewer estimate with more engineering effort that could be 10% lower or 15% higher. In our opinion, uncertainty in STEP pricing was utilized in the Fine Screening Analysis to avoid the possibility of a definitive cost differential.

Now, for the purposes of GHG emissions, results are presented in a definitive manner without discussion of any of the many issues that could significantly affect the accuracy of the estimates provided. The variability in accuracy of the data presented appears significant and should be discussed in detail.

Finally, this GHG Technical Memorandum does not specifically convey the potential inaccuracy in estimating methane emissions. Furthermore, it does not provide any discussion on global, U.S or California strategies with regard to quantifying and mitigating methane gas emissions from septic tanks. In our research, we were unable to find any GHG reduction plan in the United States that identifies methane from septic tanks as a meaningful target for GHG emission reductions. In 2005, the California Center for Clean Air Policy published a document entitled "Prospects for Participation of Methane Sectors in Emissions Trading Programs in California" and the word septic tank does not appear once in this 28 page document. The same document goes on to state that "most CO2 emissions can be viewed as *co-product emissions*, where the amounts of CO2 are directly and immediately related to the activity's inputs, particularly fossil fuel consumption. In contrast, most methane sources are *incidental emissions*, being either accidental releases or related to variable biological or geological processes. The resulting differences, particularly the differences in measurability (discussed below), have important implications for the feasibility of including these incidental emissions sources into a broader GHG trading system. A key factor in determining the proper approach is *measurability*. Because methane emissions tend to be incidental to the activity causing the emissions, estimates of methane emissions are substantially more uncertain and difficult to measure than those for carbon dioxide. Contributing to the difficulty of measurement is that methane emissions often arise from many diffuse points, often small individually but collectively large. This uncertainty has implications for including methane in the trading system. When emissions from a source cannot easily be measured, it becomes more difficult to determine how many allowances that source should have in an allowance-based trading system".

Rather than providing a thorough and constructive look at GHG gases, this document appears to utilize a weekly defined STEP project and combines this with poorly documented protocols for estimating GHG emissions to achieve the conclusions that are stated.

With respect to the Memorandum we also have some more detailed concerns. They are as follows:

1) The approach used for calculating septic tank methane emissions is based on an approach for Global GRG inventories. This method is a generic approach and does not consider issues such as sludge pump-out intervals, ground temperature, methane capture, etc.
2) The technical memorandums have continued to exploit Methanol addition for the purpose of denitrification to justify subetantial increases in capital cost, O&M cost and now greenhouse gas emissions. The analysis only considers options that will require denitrification to meet nitrogen levels of 7 mg/L while agricultural exchange and urban reuse could be considered as options to decrease the level of denitrification required.
3) While several options were considered for biosolids handling and disposal, none were specifically recommended. Now, this Technical Memorandum only considers third party composting. This choice appears to have been made out of convenience to reduce the GHG

emissions that could be associated with other biosolids disposal options.

4) The equivalent CO2 emission for the production of methanol appears to be severely overstated. Additionally it fails to consider other potential carbon sources that could be more GHG friendly.
5) Table 2, the annualized equivalent CO2 emissions resulting from the processing and production of construction materials, is heavily weighted on PVC production. A STEP system is predominantly 2" diameter piping while a gravity sewer system is predominantly 8" piping. Based on the large difference in pipe sizing we would expect a correspondingly large variance in equivalent CO2 emissions associated with plastic piping.
6) The GHG emissions for construction related impacts are annualized over 30 years. Why are these impacts annualized and why 30 years? If the results were annualized over 10 years the reported impact would be three times as high. Construction impacts are much larger for gravity than STEP. Was this done to reduce the annualized GHG emissions for gravity sewer?
7) Why was complete build-out utilized for methane production from STEP tanks? This adds more than 2,000 tanks to the existing inventory. It is completely inconsistent that gravity sewer has construction impacts spread over 30 years while STEP has a non-existent impact brought forward to every year including year 1.
8) The equivalent CO2 emissions for STEP system construction presumably assumes that all tanks are replaced, that there is one tank per household and is based on construction methodologies that Orenco has already stated to be incorrect.

Detailed discussion of each concern follows:

1) *The approach used for calculating septic tank methane emissions is based on an approach for Global GRG inventories. This method is a generic approach and does not consider issues such as sludge pump-out intervals, ground temperature, methane capture, etc.*

Domestic wastewater methane emissions in the United States are estimated using the default IPCC methodology. 2006 IPCC Guidelines for National Greenhouse Gas Inventories stated that "below 15°C, significant CH4 production is unlikely because methanogens are not active. The same document states that "Frequent solids removal reduces CH4 production".

Ground temperatures in Los Osos are below 15°C and pump-out intervals are analyzed at 5 years. Based on IPCC Guidelines, it may be appropriate to state that methanogens may not be established.

If methanogens are established, it may take up to three years for a methanogenic phase to establish itself in a septic tank. Accordingly, actual methane monitoring and a pump-out cycle that is intended to reduce or eliminate methane emissions appears to be reasonable approach in mitigating methane production from vented tanks.

2) *The technical memorandums have continued to exploit Methanol addition for the purpose of denitrification to justify substantial increases in capital cost, O&M cost and now greenhouse gas emissions. The analysis only considers options that will require denitrification to meet nitrogen levels of 7 mg/L while agricultural exchange and urban reuse could be considered as options to decrease the level of denitrification required.*

The feasibility of Agriculture Exchange has been deferred from immediate consideration because it has been assumed that current Agriculture users will not be cooperative. Given the extensive costs and now the GHG emission being attributed to STEP solely because of Nitrogen reduction, it appears that this issue requires far more investigation. It would be interesting to see the final cost and GHG emission calculations for a system that utilized agriculture exchange for Nitrogen reduction.

3) *While several options were considered for biosolids handling and disposal, none was recommended. Now, this Technical Memorandum only considers third party composting. This choice appears to have been made out of convenience to reduce the GHG Emissions that could be associated with other biosolids disposal options.*

The Solids Handling Technical Memorandum does not appear to establish a definitive method for solids handling. The same document makes no mention of a third party composting operation. Now, this analysis utilizes GHG emissions generated from the transport of Sub-Class B biosolids to a composting facility, McCarthy Family Farms in Kings County, CA, which is about a 130-mile trip. Was this method integrated into the viable projects for the purpose of reducing GHG emissions?

The McCarthy Family Farms web site indicates that this site only has limited capacity for new customers.

The analysis assumes that the windrow will be maintained in an aerobic state. Additionally, the analysis does little to verify on-site GHG emissions that may be associated with processing and handling.

Since the biosolids handling method has not been established, it would appear necessary to discuss GHG emissions should other methods of biosolids disposal be utilized. It is expected that other methods of biosolids disposal could create a significant increase in GHG emissions.

4) *The equivalent CO2 emission for the production of methanol appears to be severely overstated. Additionally it fails to consider other potential carbon sources that could be more GHG friendly.*

We contacted the Methanol Institute to see if they had up-to-date information regarding GHG emissions that can be associated with the production of methanol. They reported in writing that methanol production has seen significant reductions in GHG emissions. They stated that plants are producing Methanol with a GHG emission rate of 3.8 lbs of equivalent CO2 per gallon of methanol produced. This analysis appears to have utilized 13.9 lbs of equivalent CO2 per gallon of methanol produced. Additionally, methanol consumption is based on proprietary modeling that has not been provided for review. Finally, like the methane generated from septic tanks, the methanol consumptive rate is based on full build-out rather than existing flow rates. Again, GHG emissions for year 1 of STEP are being loaded with GHG emissions that may or may not ever exist..

5) *Table 2, the annualized equivalent CO2 emissions resulting from the processing and production of construction materials, is heavily weighted on PVC production. A STEP system is predominantly 2" diameter piping while a gravity sewer system is predominantly 8" piping. Based on the large difference in pipe sizing we would expect a correspondingly large variance in equivalent CO2 emissions associated with plastic piping.*

The paper entitled *Life Cycle Inventory of the Production of Plastic Pipes for use in Three Piping Applications* prepared for the Plastic Pipe and Fittings Association

stated that the "Weight per unit length of pipe is a key factor in all LCI results. Lighter pipes generally have lower environmental burdens". We have estimated that the weight of gravity sewer pipe more than doubles the weight of the STEP piping. This should appear reasonable since STEP systems will predominantly utilize 2" piping while gravity sewer will utilize 8" piping. The Technical Memorandum shows STEP equivalent carbon dioxide emissions are slightly less than 70% that of gravity, we believe that STEP is actually less than 50% that of gravity. Also, based on information contained in the same report, the CO2 emissions associated with PVC pipe appear to be significantly understated.

6) *The GHG emissions for construction related impacts are annualized over 30 years. Why are these impacts annualized and why 30 years? If the results were annualized over 10 years the reported impact would be three times as high. Construction impacts are much larger for gravity than STEP. Was this done to reduce the annualized GHG emissions for gravity sewer?*

GHG emissions, associated with construction related activities appear to be a significant weakness for gravity sewer. Annualizing the impact over 30 years significantly reduces the impact relative to the outcome. If the data is not annualized, or if it is annualized over a shorter period of time, the impact to the analysis would be far more notable.

7) *Why was complete build-out utilized for methane production from STEP tanks? This adds more than 2,000 tanks to the existing inventory. It is completely inconsistent that gravity sewer has construction impacts spread over 30 years while STEP has a non-existent impact brought forward to every year including year 1.*

Utilizing build-out numbers for STEP appears to be an effort to leverage STEP's GHG emissions for vented tanks. The initial GHG emissions should be quantified for comparison with the potential long-term increases in GHG quantified separately. We would suggest that gravity sewer should also include long term impacts that are caused by I&I (methanol use, pumping, repairs, etc). The consultant and the County recently visited the Scott's Valley WWTP. The tertiary treatment facility at Scott's Valley will spend $15,000/yr on Methanol according to their 2008/2009 proposed budget. This equates to approximately 5,000 gallons of methanol per year. They only send about 200,000 gpd through tertiary treatment and the rest goes to an Ocean outfall. At .8 MGD flow Carollo has STEP at approximately 33,000 gallons per year in Methanol. Should gravity actually be in the range of 20,000 gallons? Also, outside the Methanol quantity shouldn't all of the other O&M as well as capital costs be applied? To be consistent with the STEP evaluation should the long term likelihood of Methanol use be applied in every year of the analysis?

9) *The equivalent CO2 emissions for STEP system construction presumably assumes that all tanks are replaced, that there is one tank per household and is based on construction methodologies that Orenco has already stated to be incorrect.*

Again, the project has been pigeon holed by the author of this technical memorandum. We would suggest that a more intense tank pumping schedule that is aimed at reducing GHG emissions could redefine the strategy relative to tanks. A frequent pumping schedule would reduce the benefit of having larger tanks. Accordingly, we would suggest that many of the existing tanks could be utilized.

While we don't profess to be experts in GHG emissions, we did take the liberty to rework the analysis, based on a 3 year pump-out interval, our revised take-off on quantities of PVC piping, the utilization of existing tanks and the equivalent CO2 numbers provided by the methanol institute

	Energy	Construction	Chemical Production	Construction Material Handling	Solids & Septage Handling	Chemicals Handling	STEP - Septic Tank Venting	Total
Existing	0	0	0	0	26	0	1,249	1,276
Alt 1 - Gravity	769	622	48	106	106	30	0	1,682
Alt 2 - STEP	550	295	43	72	26	31	100	1,117
Alt 3 - Gravity	658	601	47	125	106	30	0	1,567
Alt 4 - STEP	465	282	43	86	26	31	100	1,033
Alt 5 - Gravity	856	606	43	161	17	28	0	1,511
Alt 6 - STEP	561	285	42	128	18	28	100	1,162

While we're not suggesting that our table is necessarily the correct interpretation, we felt that it was important to show how the utilization of different project protocols can have a profound impact on the outcome. We would contest that the GHG emission presented in the Technical Memorandum are meaningless without proper definition of the project and the science behind the analysis.

We hope that these comments are helpful in evaluating the issues discussed.

Respectfully,

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PIPER REILLY
APPEAL OF LOWWP

SUPPORT DOC. C2 (5 pages)

May 27, 2009

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Department of Planning and Building
Attn: Ms. Sarah Christie
Chairperson SLO Planning Commission
976 Osos Street, Room 300
San Luis Obispo, CA. 93408

Subject: **Green House Gas (GHG)**

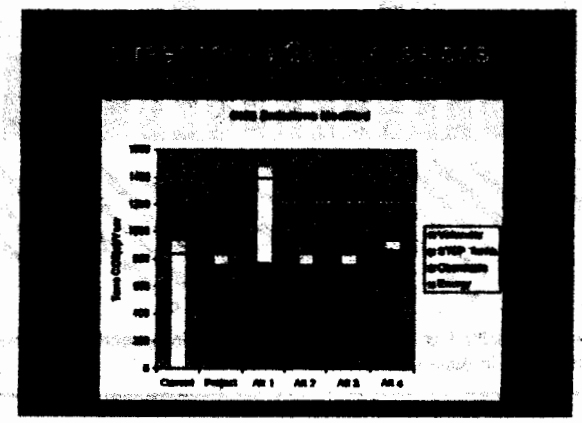
Honorable Planning Commissioners:

On April 30, 2009, San Luis Obispo County Staff presented data that was intended to convey gravity sewer wastewater collection system as a much lower producer of GHG emissions than a comparable STEP (Septic Tank Effluent Pump) wastewater collection system. Subsequent to the staff presentation, Carollo Engineering, on behalf of the County, has prepared a GHG Technical Memorandum. Orenco Systems, Inc. has reviewed the data and believes that the data has been manipulated and misrepresented with the apparent intent of supporting a gravity sewer project. Specifically, data has been misrepresented in the following ways:

1) Significant GHG emissions associated with gravity sewer construction have been presented with the apparent intent of hiding the magnitude of this GHG impact.

2) Theoretical methane emissions from septic tank venting have been exploited to the maximum extent possible with the apparent intent of promoting high GHG emissions for STEP systems.

The staff presentation included the following graphic comparing GHG emissions for the four project options.



For reference, Alternative 1 is the only collection/treatment option that includes STEP collection. Also, it is important to note that this comparison is not a comparison of STEP and gravity but is actually a comparison of project alternatives that are inclusive of dissimilar treatment strategies.

Orenco Systems, Inc. previously provided comments regarding the GHG Technical Memorandum that was prepared by Carollo Engineering. A copy has been attached for reference. To-date, our comments have not been addressed, nor has the Technical Memorandum been finalized. Much to our dismay, the Technical Memorandum has been conveyed publically as a finalized document that labels STEP collection as an inferior option for wastewater collection when comparing GHG emissions with conventional gravity sewer.

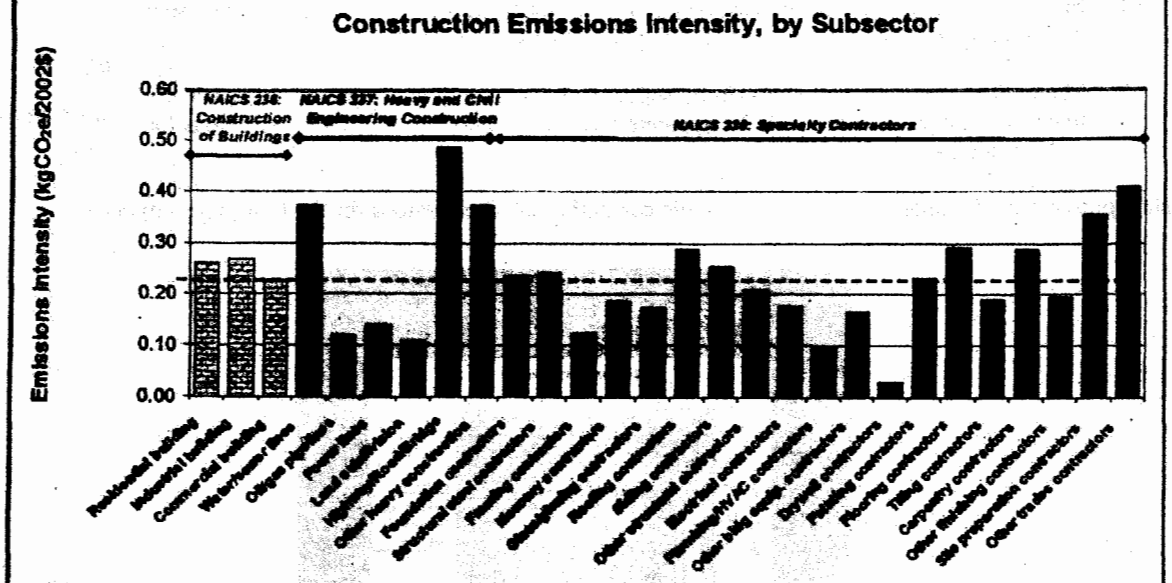
Discussion of our two major concerns regarding the presentation of data follows:

Construction Related GHG Emissions:

GHG emissions data, first presented by Carollo Engineering in the Technical Memorandum, and now being presented by staff has minimized the impact of GHG emissions associated with construction activities. In fact the staff presentation appears to avoid any discussion of GHG emissions associated with construction activities altogether. Construction GHG emissions are largely associated with fossil fuel consumption, electrical consumption, material production and material transportation.

The GHG emissions associated with construction of the gravity sewer options are extremely large. In rough numbers, STEP construction related GHG emissions are approximately 1/2 that of gravity sewer. In February of 2009, the EPA authored a document entitled "Potential for Reducing Greenhouse Gases in the Construction Sector". Figure 4 of this document shows water/sewer construction as one of the most intensive producers of GHG emissions per dollar spent. Figure 4 is included below for reference.

Figure 4: Construction Industry Emissions Intensity, with Breakdown by Subsector, in $MTCO_2e/2002k\$$



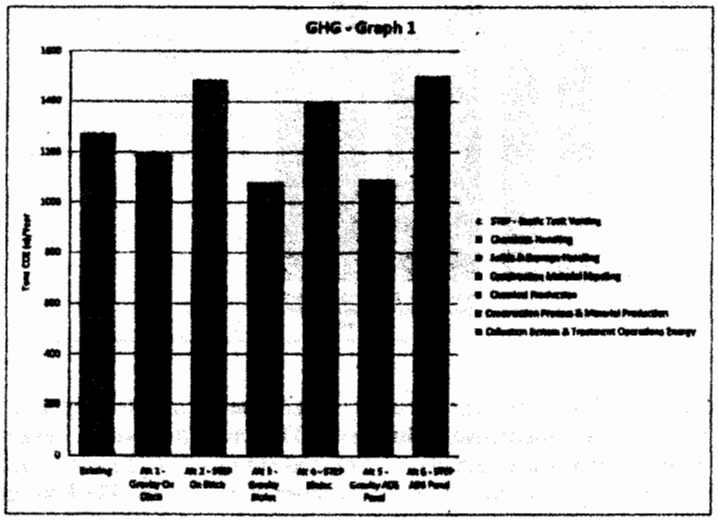
Note: A table of emissions and value added for each subsector is available in Appendix B, and descriptions of NAICS codes for construction subsectors are located in Appendix C.

Despite the significant GHG emissions associated with gravity sewer construction, the GHG Technical Memorandum included a methodology that appears to hide the magnitude and overall impact. The analysis annualized the immediate construction related impacts over a 30 year period. Essentially, they took an immediate and very large impact and averaged it over 30 years.

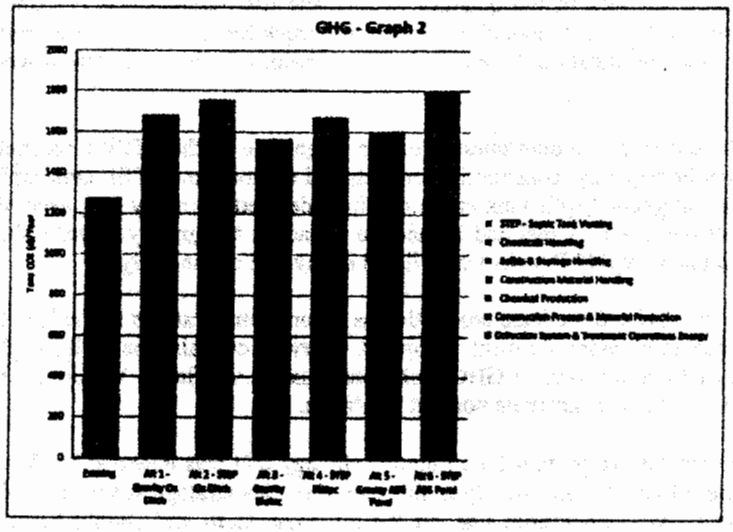
C.

Through numerous literature reviews of pertinent GHG inventory guidelines we have been unable to find any support for the annualization of construction related GHG emissions. Furthermore the annualization of construction GHG emissions fails to support Green Building initiatives.

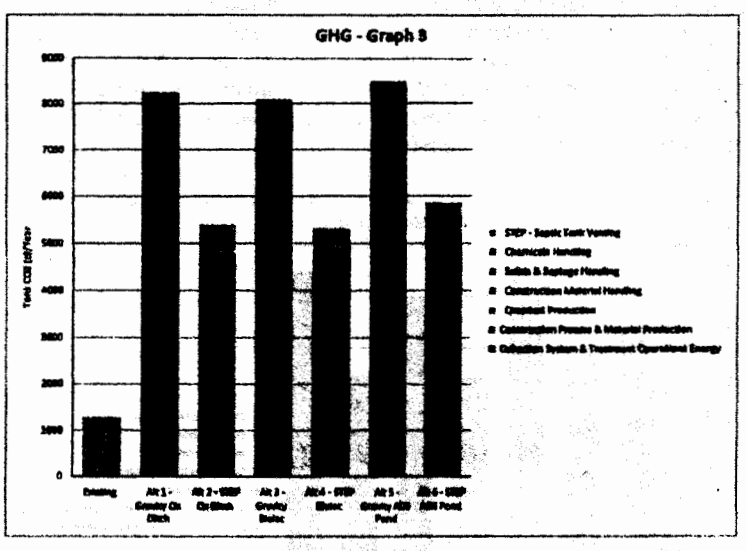
Graph 1, produced by Orenco Systems and shown below, includes GHG emissions associated with construction and annualizes them over 30 years. As you can see, annualizing this impact has made the two applicable impacts (construction material handling, construction & material production) appear to be marginally significant in the overall accumulation of GHG emissions. By this apparent manipulation of data, the benefits of STEP collection construction and material handling are hidden from the reader by making gravity sewer construction and material handling less significant in the annual emissions. Again remember, the GHG emissions for construction have been divided by 30 which makes gravity sewer annual emissions smaller relative to the other impacts.



If we simply change the annualization period for the construction impacts to 10 years, the outcome of the analysis changes significantly. Graph 2, shown below was developed by changing the annualization period from 30 years to 10 years. At 10 years, the gravity sewer options have changed significantly and the construction related GHG emissions are a dominant impact to the outcome of the analysis. We're not speculating that 10 years is an appropriate annualization period, we're simply trying to show how a subtle change in the approach can change the outcome significantly.



To further demonstrate this issue, we could restate the GHG impact of construction related activities without annualizing the data. Graph 3 shows the GHG emissions for construction related activities as an initial impact. Without annualizing the construction related impacts, the construction related GHG emissions are the dominant factor that affects the outcome of the GHG analysis. At the very least, it becomes very obvious that the construction related GHG emissions should not be ignored in the overall discussion. In rough numbers, the construction related GHG emissions are equal to approximately 7 years of operations GHG emissions.



We believe that construction related GHG emissions should be detailed and evaluated separate from operational GHG emissions. Again, in rough numbers, any alternative inclusive of STEP collection would have approximately 1/2 the construction GHG emissions when compared to gravity sewer based options. If GHG construction emissions of STEP collection was compared directly with gravity collection (no treatment), we believe STEP would be much lower than 1/2 of the of gravity.

Methane from Vented STEP Tanks:

Our second major issue is with the leverage staff has capitalized on with regards to septic tank venting. It has become very clear that their case is solely built on leveraging vented STEP tanks as the overriding concern in a GHG comparison. Methane gas, having a GHG impact that is 21 times that of CO_2 can have a drastic impact on the overall GHG computation with very subtle changes in the quantity of methane discharged. This became apparent when the GHG calculations for gravity sewer utilized a methodology that would truck biosolids 100 miles away to a compost site rather than use local landfilling or land application. Essentially, CO_2 emissions for hauling were lower than risking any methane impacts from biosolids.

Our comments on the technical memorandum questioned the magnitude of the STEP tank methane being produced. We questioned the inconsistency between the construction impacts and the methane STEP tank emissions. While construction impacts were averaged over 30 years, septic tank emissions were derived from day one, assuming non existing tanks that would materialize upon full build out A real and immediate impact in the gravity sewer column was averaged, while a nonexistent impact from nonexistent STEP tanks was utilized in day one of the analysis.

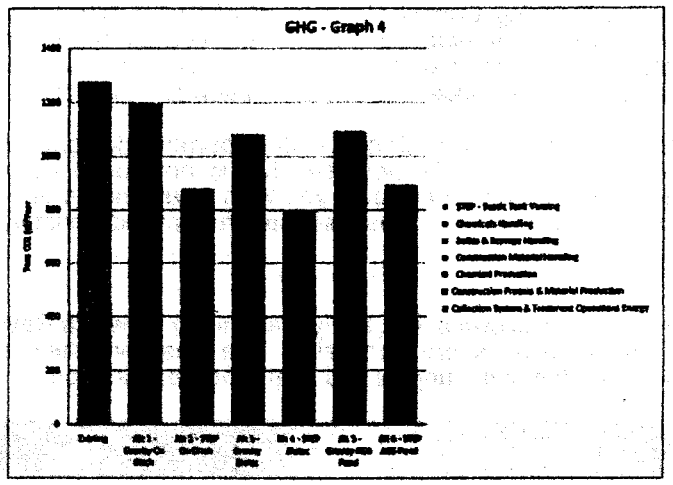
We also questioned the science behind methane production as ground temperatures in the Los Osos region do not support methane production. Furthermore, more frequent pump-out intervals can also be utilized should methane production occur. It is critical to note that the accuracy of GHG emissions must be verifiable. We do not believe that the quantity of methane gas from vented STEP tanks is accurate nor is it verifiable.

During the Design/Build interview we provided a mitigation strategy that was intended to identify and terminate methane emissions should they occur. Given the uncertainty in this emission, this strategy would provide actual data that could be utilized in a GHG inventory. Mr. Hutchinson was on the interview team and should be familiar with the mitigation strategy presented. Essentially, we proposed to measure methane production from STEP tanks with readily available

monitors. This monitoring would be added to the proposed preventative maintenance schedule. If methane production was measured from tank vents, we would proactively pump the tank of solids. We understand that Mr. Hutchinson acknowledged this strategy but pointed to the negative impact (more truck traffic) of a more aggressive pump-out schedule. Again, the GHG Technical Memorandum utilized 100 mile trips to dispose of gravity sewer biosolids to avoid methane production. If Mr. Hutchinson has a problem with the truck traffic, we would suggest that methane be quantified for local biosolids handling.

It is very important to note that a more aggressive pump-out schedule may not be necessy. Furthermore, we proposed that a more aggressive pump-out schedule could be handled with a dewatering septic truck to significantly reduce the number of pump-out trips. Finally, despite our recommendation of 10 year pump-out intervals, the GHG emissions are already based on an aggressive 5 year pump-out interval. If 5 years became 3 years, we don't believe that the impact to the overall GHG calculation would be significant.

In the overall production of GHG emissions, the elimination of any potential Methane emission, partnered with a lower impact methodology for sludge handling would generate a significantly different outcome than the analysis completed by staff. Graph 4 demonstrates the comparison of GHG emissions when methane gas is mitigated. Please note that the significance of the solids handling, with regards to GHG emissions is minimal. Also note that this graph utilizes a 30 year annualized construction impact for GHG emissions.



The EIR readily uses mitigation strategies for very significant environmental impacts associated with gravity sewer. The EIR makes no effort to consider or document any mitigation strategy for a STEP option. The mitigation strategy presented is reasonable, low cost and should have been considered.

We do not believe GHG emissions for STEP operation to be higher than gravity sewer.

Thanks for taking the time to consider these comments. You can reach me (800.718.4046) or Mike Saunders (866.914.9454) anytime.

Sincerely,

Michael Saunders
National Accounts Manager

PIPER REILLY · APPEAL OF LOWWP

SUPPORT DOC. D 10 pages

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Basis for Appeal:

As planned (by the San Luis Obispo County Public Works Department) and conditioned (by the County Planning Commission), the Los Osos Wastewater Project (LOWWP) does not conform to key provisions of the Local Coastal Program (LCP) and it violates related sections of the Coast Zone Land Use Ordinance (CZLUO), in part due an inadequate environmental review for the project. Therefore, the Coastal Development permit should be denied pending further environmental review, modification of the project and/or planned phasing of the project.

Fails to adequately assess, mitigate and/or avoid impacts on groundwater

Need for assessment of SWI and sustainability of the basin: The LOWWP's potential negative impacts on SWI have been recognized from the beginning of the project review process. The preferred alternative (before Planning Commission changes) provided mitigation for the project with Broderson leach fields and 10% conservation by 2020. Broderson is supposed to replace the basin recharge benefits of about 1000 AFY of septic return flows with 250-450 AFY of recycled water discharged in one location.

The Planning Commission recognized the need for a safer level of SWI mitigation for the project, adding conditions for stronger indoor conservation and beneficial reuse programs, among other conditions (e.g., 1, 97, 100, 103 & 108) The Coastal Commission and Regional Water Board have supported stronger conservation and reuse programs for the project.

Even with Planning Commission conditions, the basin's ability to sustain the project remains in question. Recent water quality tests from the Palisades Well (a main community drinking supply well) show SWI has reached the middle of Los Osos and might be accelerating. Data from the 2005 SWI Assessment (Cleath and Associates—Figure 5) show very low water levels at the Palisades location, extending through much of the lower aquifers. These facts raise the question of whether it is possible to stop SWI before it contaminates the remainder of the lower aquifers in the Urban Compartment (about two-thirds of the freshwater basin). Adding to concerns, SWI has been progressing through the lower aquifers unchecked since the 1980's despite a Level of II severity declared in 1992, various purveyor cooperative efforts, and a Level of III designation in 2007.

Recently, new basin studies have emerged from the adjudicated basin planning process involving water purveyors. The process is proceeding under a cooperative arrangement known as an interlocutory stipulated judgment or ISJ. According to Rob Miller, consultant to the purveyors (who presented the studies on July 30 at a combined meeting of the LOCSD and LOCAC), the studies show SWI can be stopped if most of the pumping from the lower aquifer is shifted to the upper aquifer (about 900 AFY). Mr. Miller also said the studies indicate the basin can be balanced without the project.

However, the ISJ studies assume pumping from the upper aquifer can exceed safe yield levels identified in the 2007 *Resource Capacity Study* by 40% (1600 AFY versus 1150 AFY). Further, the 2005 SWI assessment indicates the upper aquifer is only "relatively stable"...subject to seawater intrusion during periods of extended droughts" (p.27) Also, the

LOWWP will have its greatest impacts on the upper aquifer (and upper water zones); and, with the purveyor plan, substantial increased pumping from the upper aquifer will occur just as the basin undergoes significant impacts from the project. A letter from the Coastal Commission to County Public Works dated July 15 expresses doubt that Broderson leach fields and future purveyor plans will adequately address SWI. These ISJ studies should not remove that concern; they appear to be very preliminary requiring careful review.

Not only will the LOWWP cause significant impacts on upper and lower aquifers, but it will cause impacts on limited water supplies during construction (e.g., dust control) and for collection system maintenance (e.g., flushing lines). The project will also significantly reduce groundwater flows to environmentally sensitive ecosystems and may lead to additional water use in Los Osos to maintain the area's scenic and visual qualities (see below).

All assumptions about the progress of SWI, adequate project mitigation, and the basin's ability to sustain the project were made prior to the Palisades test sample. Assessing whether the Los Osos Valley Water can sustain the LOWWP, whether the basin is sustainable at all, and whether project is viable (can achieve is water quality objectives) require further assessment using current and complete well test data, as well as a thorough analysis of all water resource impacts from the project. This is necessary for compliance/conformance with the following CZLUO section and LCP policies:

> CZLUO 23.04.430: "Availability of water supply and sewage disposal services.
> A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section.
>
> LCP Coastal Watershed Policy #1: "Preservation of Groundwater Basins"
> "The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted."
>
> LCP Coastal Watershed Policy #2: "Water Extractions"
> "Extractions, impoundments and other water resource developments shall obtain all necessary county and/or state permits. All pertinent information on these uses (including water conservation opportunities and impacts on in-stream beneficial uses) will be incorporated into the data base for the Resource Management System and shall be supplemented by all available private and public water resources studies available. 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."
>
> LCP Coastal Watershed Policy #3: "Monitoring of Resources"

> In basins where extractions are approaching groundwater limitations, the county shall require applicants to install monitoring devices and participate in water monitoring management programs.
>
> LCP Coastal Watershed Policy #5: "Los Osos Groundwater Management"
> The county Planning and Engineering Departments should work with communities, property owners and the Regional Water Quality Control Board to develop and implement a basin-wide water management program for the Los Osos groundwater basin which addresses:
>
> -existing and potential agricultural demand
> -urban expansion in relation to water availability
> - groundwater quality
> -possible need for alternative liquid waste disposal
> -protection of aquatic habitats including coastal waters, streams and wetlands.
>
> The Resource Management System of the Land Use Element provides a framework for implementing this policy and an interim alert process for timely identification of potential resource deficiencies, so that sufficient lead time is allowed for correcting or avoiding a problem."

Need for a basin-wide management plan and accurate water use monitoring: As the above LCP policies state, a basin-wide water management program is essential to protection of Los Osos groundwater resources. This should include monitoring of all water use. Prohibition Zone property owners use about one-half of the water in the basin. Purveyors supply of the Prohibition Zone water, but control only about two-thirds of the pumping in the basin. Private wells and farm use account for the other one-third. Usage for the last category is not well-documented due to a lack of monitoring. To effectively address the SWI requires a basin-wide solutions. For it to be effective in the near future, a basin-wide plan implemented with a basin-wide ordinance is needed—and it must be a condition of project approval.

The LCP (*Coast Plan Policies*) states "In the critical groundwater basins, management programs must be completed" (9-8) (emphasis added). The Level II of Severity resource deficiency alert declared in 1992 and the above LCP policies in place since 1995 have given ample time for important management measures to be implemented. Thorough resource assessment and monitoring—along with a basin-wide management program—are essential to basin sustainability, the viability of the project, and orderly coastal zone development. Orderly development is stated as a key purpose of the CZLOU: "To regulate land use in a manner that will encourage and support the orderly development and beneficial use of lands within the county..." [(Section 23.01.010 "Title and purpose" (4)].

Need for consideration of other project alternatives: Based on the results of a SWI assessment and monitoring of water use, the project may need to be delayed, modified, and/or phased. At the end of this appeal, we suggest consideration of a decentralized system collecting from homes near the bay and in high groundwater, with many upgraded septic systems left in place.

Need for accurate flow estimates and treatment phasing: To enable orderly development that does not put a strain on coastal resources, flow estimates for the project must reflect accurate current usage and accurate usages with planned conservation. None of the conditions set in the Development Permit identify and/or limit flows to reasonable projections for the project. This is needed to avoid unnecessary costs for Prohibition Zone Property owners and to avoid growth inducement from the project. During Planning Commission review of the project on June 30, John Waddell, Project Engineer, used the figure of 960 AFY for total current flows within the Prohibition Zone. This may be high, given reductions in water use recently. However, with indoor use set at 50 gallons per capita per day (gpcd) (i.e., Condition 1), the total flows are under 800 gpcd, well under the approximately 1150 AFY estimated in the *Fine Screening Report* and EIR, and the 960 used by Mr. Waddell.

Additionally, build out flows should not assumed until the sustainability of the basin is confirmed. Further development in the basin cannot occur without a sustainable water source per LDP and CZLUO provisions (e.g., LCP Public Works Policies 1, 2, 5; CZLUO 23.04.430)

(In addition to the LCP/CZLUO policies/sections cited above, the project fails to conform/ comply with LCP Public Works Policies 1,2,5,6 and 8-10; LCP Groundwater Watersheds Policy 11; CZLUO Sections 23.04.430, 23.04.432, and 23.08.288)

Fails to avoid and/or adequately mitigate for impacts to environmentally sensitive habitats

Impacts from Reduced Groundwater Flows: The Coastal Develop Permit finds that there are no impacts to environmentally sensitive ecosystems, or that impacts have been reduced to insignificance with the mitigations provided (in the Plan and Conditions). However, mitigations are inadequate to protect and maintain coastal wetlands, riparian habitat, and other environmentally sensitive habitats in the area. Spencer Harris (consultant for the LOWWP EIR) stated at the Planning Commission Meeting on June 30 that hundreds of acre feet of flows to Willow Creek Drainage (a riparian habitat) would dry up when the project is implemented and that the area would revert to conditions closer to predevelopment. This was reiterated by Commissioner Christianson on August 13 and Rob Miller (a consultant for the LOWWP and Los Osos water purveyors) at a LOCSD meeting on July 30. .

Willow Creek Drainage supports Willow Creek, Eto Lake, Los Osos Valley Creek, Los Osos Valley Creek Estuary, and Morro Bay Estuary. Other sensitive ecosystems potentially impacted include Third Street Marsh, Baywood Marsh, and Third Street Point Spring. Broderson leach fields are not likely to supply subsurface flows to these systems. Furthermore, Permit Conditions 56-70, 86, 87, 88, and 101 designed to mitigate for biological impacts and address the reduction in groundwater flows fail to conform to mitigation/protection standards as provided in the following policies and sections

> LCP Environmentally Sensitive Habitat Policy #2 "As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on

sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat.

LCP Environmentally Sensitive Habitat Policy #7: "Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored."

CZLUO Section 23.07.174 "Streams and riparian vegetation"
The provisions of this section apply to development proposed within or adjacent to (within one hundred 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.
(1) Application Content. A land use permit application for a project on a site located within or adjacent to an environmentally sensitive habitat shall also include a report by a biologist approved by the environmental coordinator that:
(A) 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;
(B) Recommends conditions of approval for the restoration of damaged habitats, where feasible…

The applicant has not demonstrated that there will be no significant impact on sensitive habitats or that activities will be consistent with the biological continuance of these habitats. Sites have not been evaluated nor have maximum mitigation measures been determined. To determine the potential impacts on these systems and effectiveness of mitigations requires measuring and analyzing how much groundwater is flowing to the systems and the most effective options for replacing the flows. Condition 87 provides for a "Groundwater Level Monitoring and Management Plan," but the plan will be implemented after project installation. Avoiding harm to ecosystems requires putting effective measures in place prior to the impacts (which are acknowledged by project planners). (In addition to the LCP/CZLUO policies/sections cited above, the project fails to conform/ comply with LCP Environmentally Sensitive Habitats Polices 1-8, 11, 12, 16, 17-23, 26-30, 36-39; LCP Coastal Watersheds Policies 1-3, 5, 10, 11; CZLUO Sections 23.01.010, 23.04.403, 23.07.172, 23.07.174, 23.07.176, 23.07.178, 23.08.288).

Impacts from the collection system: The collection system selected for the project does not provide the "maximum feasible mitigation measures" for protecting environmentally sensitive habitats, including Morro Bay Estuary, a protected State Marine Reserve. Thus, this component of the project does not conform not to CZLUO 23.08.288 and other sections cited at the end of this section.

The *Fine Screening Report* and EIR assume the "hybrid gravity" collection system selected for the project will allow about 100 AFY of water into the system per year more than the system it was compared to (STEP). This is due to leaks in the system which become worse over time. The leaks allow what is known as inflow and infiltration or I/I. The Planning Commission added

Condition 98 (sealing portions of the system in high ground water and near the bay) recognizing the need to reduce I/I into the system, which results in increased wastewater flows, increased treatment needs, incomplete treatment, contamination of effluent with seawater (preventing its beneficial reuse), and reduced ground water recharge. I/I, especially during storms, is a leading cause of overflows and pollution of aquatic ecosystems. Exfiltration, or leaks out of a non-sealed system, is also a major cause of pollution of beaches and other marine environments.

STEP will completely eliminate I/I and related problems when laterals are sealed (as called for in Condition 98) and it avoids the need to locate pump stations near sensitive ecosystems as required with the hybrid gravity system (e.g., at Third Street and Pismo Streets). STEP pipelines are installed entirely in shallow, narrow trenches or by horizontal drilling, rather than deep open trenching as needed for gravity line installation. This significantly reduces impacts to soils, existing infrastructure, areas of archeological significance, and water resources. (Deep trenching in roadways requires more water for dust control and soil compaction, and it causes greater impacts to water resources from dewatering, e.g., removal and disposal of groundwater.). STEP reduces or alleviates the need for many conditions on the project designed to mitigate for the gravity system (e.g., 10, 24, 25, 46, 76, and 98). STEP also reduces sludge handling and hauling by 75-90% reducing associated problems (see below).

Furthermore, John Waddell, Project Engineer, indicated (at a Planning Commission meeting on July 24) that the hybrid gravity system is designed for 70-80 gpcd flows, and requires redesign of the system to accommodate conservation flows. On August 13, Mr. Waddell said redesign could be performed as part of a request for proposal (RFP) process. However, design review and analysis of potential impacts for a redesigned system is required to ensure the system protects resources. Impacts from a poorly designed system could include 1) installation impacts due to very deeper trenching, 2) greater blockage and overflows due to inadequate slope or pipe diameters, 3) large amounts of water needed to flush and clean the system, and/or 4) persistent odors. These potential impacts are inconsistent with LCP provisions and violate the CZLUO (e.g., Section 23.08.288). The collection system must perform optimally (e.g., with conservation flows) to protect and maintain sensitive ecosystems and other valuable resources. The STEP system maintains optimal performance with low flows from conservation, so it protects and preserves scarce water resources and provides maximum protection for environmentally sensitive habitat and other coastal resources consistent with LCP policies and CZLUO requirements.

(In addition to the LCP/CZLUO policies/sections cited in the above two sections, the project fails to conform/comply with LCP Environmentally Sensitive Habitats Polices 1-8, 11, 12, 16, 17-23, 26-30, 36-39; LCP Coastal Watersheds Policies 1-3, 5, 10, 11; LCP Public Works Policy; CZLUO Sections 23.01.010, 23.04.403, 23.07.172, 23.07.174, 23.07.176, 23.07.178, 23.08.288).

Fails to avoid and/or adequately mitigate for impacts to scenic and visual qualities

As discussed above, the visual character of the Los Osos will change with the project due to reduced groundwater flows supporting environmentally sensitive habitat and area vegetation. Conditions closer to predevelopment post-project will mean fewer trees and less vegetation in general. The project must protect and maintain the scenic qualities of the community to conform

and/or comply with the LCP (e.g., "Visual and Scenic Resource Policies" 1, 2, 6, and 7) and CZLUO sections (e.g., Sections)

The LCP identifies South Bay (Los Osos, Baywood Park and Cuesta-by-the-Sea) as a small-scale community with special scenic values (*Coastal Plan Policies*, 1988, rev. 1995, p. 10-6-10-7). It states, "The purpose of the special communities, small-scale neighborhood designations is to identify areas with unique, visually pleasing characteristics and to set standards and guidelines for new development that will not detract from these features." *Coastal Plan Policies* also note that South Bay has "... a few visually unattractive elements (that) have detracted from high scenic quality" identifying "...the lack of natural vegetation or landscaping for single-family homes, as well as street landscaping."

As reduced groundwater flows impact natural vegetation and landscaping, property owners will increase watering to maintain and restore it. This will increase project impacts on scarce water supplies and negate the Planning Commission's efforts to mitigate for SWI impacts with conservation and reuse (e.g., Conditions 1, 100, and 103). This potential impact has not been evaluated or mitigated. The unique scenic qualities of South Bay rely also on the continuance of environmentally sensitive ecosystems. Thus, the area has a combined designation under the Coastal Act, providing for a more intense level of project review.

Failure to avoid and/or adequately mitigate for impacts on social and economic coastal resources

Impacts due to project costs

The LCP states:

> "Special coastal communities and neighborhoods are an integral part of the experience of the coast, and are often built on the most scenically-desirable areas. Coastal neighborhoods with distinctive qualities are a value to both local residents as well as visitors. Maintaining their present qualities will often require retaining the present scale and mix of development: (p. 10-7).

As discussed above, the LCP identifies South Bay (the location of the project) as a small-scale community with special scenic and visual qualities. The above paragraph from the LCP—in keeping with the Coastal Act and its emphasis on maintaining viable coastal communities—recognizes the importance of sustaining the community of Los Osos with its distinctive neighborhoods and present mix of development. The "Title and purpose" of the CZLOU states a main purpose of the ordinance is "To protect and enhance the significant natural, historic, archeological and scenic resources within the county as identified by the county general plan" [Section 23.01.010 (4)]

The most obvious area in which the County Project Team and Board of Supervisors have failed to pursue project affordability, in order to protect the social and economic resources of Los Osos is with its decision to eliminate the STEP option from the design-build process. The STEP alternative not only avoids many of the environmental impacts mentioned above,

but it substantially reduces system costs. The alternatives analysis low estimate in the STEP cost range to be substantially lower than for the gravity system and the average of the range to be much lower. The high ranges was closer only because a 30% contingency had been added to STEP and a 10% contingency added to the gravity system. In retrospect the 10% contingency for gravity was not justified since the gravity system requires redesign to accommodate conservation flows and sealing the system.

The Lyles Group, which presented the STEP proposal to the County, guaranteed its bid would come in 20% under competing bids. The group made this commitment prior to the Planning Commission setting the condition to seal much of the gravity system (which adds considerable cost to the gravity system). Including the Lyle Team in the design build process ensures a cap on costs, and it ensures decision makers will know true costs and actual system designs to make the best decisions for the environment and community. Excluding the respected Lyles Group design-build team and the STEP option from the process will add millions to the cost of the LOWWP further straining the limited resources of a small-scale, low to middle income community. The decision is inconsistent with the LCP because it jeopardizes the viability of a coastal community while also undermining orderly coastal development.

Impacts from sludge disposal: Despite uncertainties about the future of sludge disposal in the County and the potential impacts to the health and safety of the public from hauling sludge and/or recycling it (e.g., air quality impacts), the Planning Commission did not condition the project on having pond treatment. Pond treatment is needed to greatly reduce sludge production and to ensure protection of coastal zone resources (e.g., air quality and crop land, if land disposal becomes the only viable option). The closest facility for sludge disposal outside of the County is Santa Maria (about 100 miles round trip) and the next closest facility (per County Staff during Planning Commission review) is Kern County several hundred miles away. The current project proposal is to use Biolac treatment, which requires weekly sludge removal and hauling. Pond systems require sludge removal every 20 years or so, and STEP systems reduce sludge and bio solids by about 75-90%.

(In addition to the LCP/CZLUO policies/sections cited in the above two sections, the project fails to conform/comply with LCP Environmentally Sensitive Habitats Polices 1-8, 11, 12, 16, 17-23, 26-30, 36-39; LCP Coastal Watersheds Policies 1-3, 5, 10, 11; LCP Public Works Policy; CZLUO Sections 23.01.010, 23.04.403, 23.07.172, 23.07.174, 23.07.176, 23.07.178, 23.08.288).

Project Conditions Needed (All of the following are needed for conformance/compliance with the LPC and CZLUO):

1. Further environmental review, testing, and peer-reviewed analysis of the following:
   - the status of seawater intrusion SWI using current data
   - the status of the upper aquifer using current data
   - flows to environmentally sensitive ecosystems (and water quality)
   - the amount of water pumped from the basin using on-site inspections and monitoring of actual use (e.g., private wells)

- an analysis of SWI, the potential for a sustainable basin, safe yields with adequate margins of safety, and water supply/ basin management options

2. Based on the above, an analysis of the best use of limited public funding to establish a sustainable water supply for Los Osos. This includes an analysis of how limited funds can achieve maximum water quality/supply benefits with optionsits intended water quality objectives and options. If the sustainability of the water basin is unlikely, desalination or imported water is needed, and/or the benefits of the upper aquifer can be achieved without an LOWWP project (as suggested by recent purveyor studies); then the LOWWP should be designed, sized, or phased to make the best use of limited public funds necessary to secure a sustainable water supply, while protecting, preserving, and restoring, where feasible, the natural environment, the community, and the economy of the areas. This will require long-term planning with an eye to how orderly coastal development in the areas can be best achieved..

3. A basin-wide management program to aggressively reduce SWI, implemented by the County, in cooperation with other key agencies (e.g., the Regional Water Board) within one year of project approval, aimed at stopping at least 900 AFY of pumping from the lower aquifer within two years. The program would implement on-going basin assessments and monitoring programs to establish safe pumping levels (with ample margins of safety), along with an intensive water-use efficiency program, integrating indoor-outdoor conservation (including graywater and rainwater reuse) with LID recharge and other reuse programs (ag exchange and urban reuse). Some shifting of pumping and redesign water delivery infrastructure is also necessary. The County, in cooperation with the Regional Water Board, would implement and enforce the program with a basin-wide ordinance and applicable laws.

4. Conservation and reuse elements for the project that do/have the following

- an integrated indoor-outdoor program maximizing water-use efficiency, including a full ranges of high-efficiency retrofits xeriscape, rainwater harvesting, and graywater options), along LID recharge, leak detection, and water auditor services. (The LID program would be designed, in part, to support the areas environmentally sensitive habitat.)
- provisions to pursue grant funding and ample funding set aside to implement the program, as necessary (e.g., about $10 million without grants)
- indoor-outdoor water use targets of no more than 60 gallons per capita per day (gpcd) of potable water use, with the goal of zero use of potable water for outdoor purposes
- an ordinance or ordinances to enact the program and provide incentives

5. A reuse program which specifies that recycled water will be used to support only current development within the Urban Services Line (except as otherwise required by law) and which specifically calls for ag exchange and urban reuse options to be maximized. This is needed to ensure beneficial reuse will not induce unsustainable growth between the Urban Services and Urban Reserve lines. (This amends/adds to Conditions 97 and 103. Note that Condition 103 should eliminate the parenthetical

phrase "(as identified in the "Effluent Re-use and Disposal Tech Memo, July 2008)." This phrase limit use of onsite urban reuse options.).

6. Pond treatment, either an Advanced Integrated Pond System (AIPS) or an Air Diffusion (Nelson Pond) System (ADS). The AIPS requires 14 and 12 acres for gravity collection and STEP respectively, and the ADS requires 25 and 21 acres respectively, according to the LOWWP TM entitled "Partially Mixed Facultative Pond Options" (Carollo Engineers, March 2007). (Note: The *Fine Screening Report*, and septage and biosolids TMs, overestimate the treatment needs, sludge and bio-solids production of a STEP system. Therefore, the size of a pond required for a STEP system treatment, sludge disposal needs (trips to land fills, etc.), and GHC impacts are likely to be significantly smaller or less than the TM estimates.)

7. Thorough design and environmental reviews of the"hybrid-gravity" system once it is redesigned for conservation flows.

8. The inclusion of the STEP option in the design build process and request for proposals to include/allow integrated water-wastewater designs and solutions. Teams should also provide bids for fully maintaining the systems in compliance with Water Board requirements for 10 years or more for accurate estimates of maintenance.

9. Appropriate sizing of the treatment system with conservation of at least 20% (i.e., designed for about 800 AFY flows). Treatment phasing should be implemented since buildout cannot be assumed with the uncertain sustainability of the basin.

(Note: The conditions would strengthen or be in addition to related conditions set by the Planning Commission. Please also see the attached letters to the Planning Commission for further details, e.g., for a brief description of the LOSG's recommended decentralized option.)

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OPEN LETTER TO CALIFORNIA STATE GOVERNOR WILSON

June 11, 1997

Dear Honorable Governor Wilson:

The State of California through the Regional Water Quality Control Board (RWQCB) HAS MANDATED THAT MUCH OF THE TOWN OF Los Osos/Baywood Park have a sewer [San Luis Obispo County]. In 1990, an Assessment District was formed via a misleading mailer-process vs. a ballot measure.

We were led to believe that the sewer would:

1. Be located out of immediate boundaries of town;
2. Cost approximately $49 million dollars at...
3. About $45.00/month/landowner;
4. Fix the alleged problem of excessive nitrates in groundwater which is RWQCB's rationale for mandating corrective measures;
5. And the County of San Luis Obispo would hold responsibility for damages from or failure of the project.

The County of San Luis Obispo is now acknowledging:

1. Plant and percolation ponds will be in residential areas;
2. Cost $71.5 Million dollars at...
3. Individual property costs as high as $145-200 monthly;
4. Nitrate levels may not change for 45 years if at all;
5. The county alleges that we the residents will be completely responsible for all costs of construction, repair, replacement of the sewer; and any legal claims arising from failure of the system or its components;
6. 1.8 Million gallons of undisinfected effluent will be pumped into open ponds set directly above 700+ homes on a 10-18% sloping sand-dune hillside [crushing our property values].

The economic impact of this sewer will devastate our community. 50% if not more of this community may be forced to sell their homes and move because of the high costs of the sewer. These costs will essentially rob young families from providing preschool, scouting, gymnastics or Little League and other socially and physically important experiences. We thought it was State of California policy for water quality to "be consistent with the state goal of providing a decent home and suitable living environment for every Californian" (California Water Code, section 13142). Older residents will be at risk of having inadequate resources for daily living.

If this project goes forward, our streets will be torn up for 2-5 years. If we must sell our homes who would come into this created disaster to buy?

We have appealed to our Board of Supervisors, the Coastal Commission and the EPA without success.

WE THE UNDERSIGNED WILL BE COERCED TO EVALUATE THE FORCED SALE OF OUR HOMES BECAUSE OF THIS UNFUNDED, MADATED SEWER. PLEASE HELP US!!

805

NAME	SIGNITURE	ADDRESS	PHONE
S. Gustafson		542 Highland Dr.	528-3173
D Mayfield	David Mayfield	379 Highland Drive 805 0305	528-3308
Gordon L Hardy	Gordon L Hardy	488 Mar Vista Dr.	528-1907

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CALIFO REGIONAL WATER QUALITY CONTRO OARD
CENTRAL COAST REGION

FILE

INTERNAL MEMO

TO: B. Leonard, K. Jones

FROM: Roger Briggs

DATE: December 14, 1984

SIGNATURE: Roger W Briggs

SUBJECT: ~~Baywood~~/Los Osos: S20 CSA #9

On December 13, 1984, Frank DeMarco and I met with San Luis Obispo County Engineering staff; Clint Milne, Jim Jonte, and George Gibson, County Environmental Coordinator, Vince Morici, and Lab Analyst, Percy Garcia. The County requested the meeting to discuss our staff report for the December 7 agenda for Baywood/Los Osos enforcement action.

Three minor editorial comments were noted, and there was a lengthy discussion about interpreting water quality data. Although County staff agrees there is evidence of human fecal bacteria in the surface waters, they feel we've overstated the significance of this. If there are problems, the County contends that the proposed project will do nothing to curtail them.

Ground water analyses in Tables 2 and 3 do not indicate human bacterial contamination, except in poorly constructed monitoring wells, according to Percy Garcia. The County had these wells installed. Frank inspected these wells last week with Percy and agrees there is a potential for contamination from surface runoff. County staff maintains the data indicates nitrate concentrations aren't going up much. Our wording in the staff report is "continued degradation."

The County does not want to debate these points on the 7th. They agree a project is needed and are proceeding as quickly as possible, according to Clint. The Request for Proposals for soils and EIR work will be developed after a "pre-EIR" meeting with concerned agencies. They hope to have this meeting December 5 or 6. My November 13th memo reports that County staff was preparing RFP's on the Supervisor's November 13th agenda. Actual proposals were to be received from consultants by December 7. Now we find out the RFP's haven't been prepared yet.

Clint gave us a schedule for financial decisions (attached) and Jonte gave us their project schedule (attached). As I mentioned, they're already behind schedule for RFP's.

We've been trying for over a year to tell the County to complete the EIR before design, but they've said they wouldn't do it that way. At our meeting, Clint said design costs will have to come out of bond money, and they can't sell bonds until an EIR is complete. So they'll have to complete the EIR before starting design. EIR certification is currently scheduled by the County for July, 1985, with design start-up in September, 1985. This shows how badly they've missed the November 1, 1984, compliance schedule date for beginning design (10 months).

RWB:bf
Attachments - 2 schedules

Exhibit J 6

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FALL 2006

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Table 5
Water Quality Comparison

Well ID	NO_3-N (mg/l)					TDS (mg/l)				
	Oct 2004	Apr 2005	Oct 2005	Apr 2006	Oct 2006	Oct 2004	Apr 2005	Oct 2005	Apr 2006	Oct 2006
30S/10E-13G	11	8.9	9.6	11	10	300	270	310	280	260
30S/10E-13H	3.2	1.3	14	8.7	2.6	210	130	180	190	250
30S/10E-13L5	26	28	22	23	11	1200	1100	1200	1100	1400
30S/10E-13Q1	21	21	20	22	18	430	470	460	500	450
30S/10E-24A	11	11	12	12	11	200	220	210	200	220
30S/11E-7K	14	14	6.1	12	11	380	410	330	440	350
30S/11E-7L3	16	19	? 52	21	23	510	490	580	470	550
30S/11E-7N1	2.4	2.2	2.1	2.6	2.9	180	120	160	150	150
30S/11E-7Q1	16	18	(+) 20	22	21	430	340	390	440	430
30S/11E-7R1	15	12	14	17	13	330	260	360	360	350
30S/11E-8Ma				? 4.9	- 4.2				330	440
30S/11E-8Mb				? 19	- 18				450	450
30S/11E-8N2	0.8	<0.5	0.8	2.4	1.2	100	67	58	75	57
30S/11E-17D	17	20	17	18	17	360	360	300	300	280
30S/11E-17E9				? 14	- 13				340	330
30S/11E-17F4	0.7	0.5	0.5	0.6	0.6	320	330	300	320	310
30S/11E-17N4	6.3	5.1	5.6	6.2	5.6	210	200	200	200	200
30S/11E-18A	15	14	14	13	11	310	330	340	280	270
30S/11E-18B1	7.4	2.4	12	8.6	7	350	110	320	340	250
30S/11E-18C1	15	10	+? 17	16	14	290	280	370	370	360
30S/11E-18E1	7.9	7.9	6.9	6.2	7.9	280	240	250	240	240
30S/11E-18J6	4.9	4.4	6.2	4.4	1.9	600	330	370	340	390
30S/11E-18L3	9.4	13	10	9.1	5.9	280	210	270	250	210
30S/11E-18L4	16	9.6	15	15	14	380	360	340	350	350
30S/11E-18N1	15	12	+? 21	22	20	420	270	400	440	420
30S/11E-18R1	17	15	17	18	18	370	390	410	380	350
30S/11E-20B	3.8	2.5	+3 6.2	7.0	6	320	340	330	330	340
30S/11E-21D	3.0	9.2	+3 6.0	7.3	4.8	610	600	850	720	780
Averages	11.0	10.4	13.1	12.2	10.5	375	333	372	364	373

#'s used for CDO hearing? note 52 mg/l ???

Long-Term Trends

Graphs 1 through 60 in Appendix E present the NO_3-N concentrations and TDS concentrations over time for all 30 current and former network wells in the Nitrate Monitoring Program. The graphs differentiate between historical (CSA9) data and new (LOCSD) data for those wells which were replaced in 2002. Many of the chemical hydrographs show a relatively large fluctuation in NO_3-N and TDS concentrations over time (300% fluctuation not uncommon).

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Jeffrey S. Young

frequent pumping will not completely eliminate the microbiology that causes anaerobic decomposition (when tanks are pumped, they are not sterilized, so substantial residual and microorganisms remain in the tank after pumping), so this is a moot point.

The proposed septic tank pumping requirement is akin to a holding tank and hauling system, which is recognized by U.S. Environmental Protection Agency (USEPA) as an appropriate application in some problematic or environmentally sensitive areas. USEPA's Fact Sheet on holding tanks and hauling systems[4] states, "[p]ump and haul collection is best used when soil absorption fields do not work (for example, where bedrock or ground water levels are near the ground surface) and there is no sewer system. Typical applications are...where a nuisance or public health hazard must be abated...or where nutrients must be excluded from ground water to protect environmentally sensitive areas."

5.
Septic Tank Pumping Will Not Exacerbate Seawater Intrusion

LOCSD and some CDO recipients have suggested that the proposed schedule of septic tank pumping will dewater the community's groundwater basin and exacerbate seawater intrusion. Staff's analysis is that frequent septic tank pumping will not exacerbate Los Osos' seawater intrusion problem.

Groundwater beneath Los Osos is generally divided into upper, middle, and lower zones by defined clay layers ('aquitards'). Los Osos' primary water supply used to be the upper zone, but has shifted to the deeper zones in recent years since nitrates now contaminate the upper zone.

Over-pumping of the middle and lower zones is decreasing fresh water pressure head in those zones and causing salt water to actively intrude eastward from the Pacific Ocean. The average rate of intrusion from 1985 to 2005 in the middle and lower zones is estimated to be 50 to 60 feet per year[5].

The community returns water pumped from the deeper zones to the upper zone through septic system discharges and irrigation. The upper zone is underlain with a competent aquitard that prevents significant recharge to the deeper zones. Consequently, groundwater levels in the upper zone have risen significantly since the community was rapidly developed in the late 1970s[6]. In fact, groundwater is so shallow in some of the lower parts of town near the Bay that LOCSD has installed an underdrain system and must pump shallow groundwater into Morro Bay Estuary to prevent localized flooding.

There is clearly a surplus of water in the upper zone. Pumping out septic tanks and dewatering of the upper zone will not exacerbate seawater intrusion. On the contrary, pumping out septic tanks, and eventual restoration of upper zone water quality through installation of a community sewer system, may allow the community to use more of the upper zone, reduce its reliance on the deeper zones, and combat seawater intrusion. Prior to a community sewer system being

[4] Onsite Wastewater Treatment Systems Special Issues Fact Sheet 4, Holding Tanks and Hauling Systems, Onsite Wastewater Treatment Systems Manual, February 2002, Page SIFS-9 (Document No. 15a of Prosecution Staff's Master Documents List).
[5] *Sea Water Intrusion Assessment and Lower Aquifer Source Investigation of the Los Osos Groundwater Basin*, July 2005, Cleath & Associates, page 41 (Document No. 5 of Prosecution Staff's Master Documents List).
[6] Personal communication with Los Osos Community Services District's Hydrogeologist, Spencer Harris of Cleath & Associates, March 29, 2006.

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Los Osos TAC Report Comments by Tom Ruehr March 30 through April 8, 2007

Major concern for not recharging the lower aquifer. Probably no sewer system will be able to do this. We will continue to lose water to Morro Bay. This remains a serious deficiency in terms of water management. We must insure we do not connect to the state water. We must prevent connecting to Lake Naciamiento water. This water contains sufficient mercury (even when it is below the mercury detection limit) to contain millions to billions of atoms of mercury in each gallon of water.

Using the recycled water through ag exchange will help to reduce the total water pumped from the lower aquifer. Water management in terms of deep aquifer recharge is critical and can not be solved by this sewer. However, we need to insure any results of the sewer will not make the potential for deep water recharge any worse.

Ironically, the RWQCB is so concerned about nitrate and potential "pollution" eventually no water will exist to become polluted unless they change their focus from contamination to recycling and retention of useful water.

I am pleased they have finally started looking down at the end of the process first (disposal and recharge) and working backward to how to collect the sewage. This is one reason previous studies have missed the major problems. They looked too closely only on collection.

I believe we must try as much as possible to prevent any use of the State Revolving Fund monies. I believe we can have access to private funding. It will cost not much more than the state funding. Most importantly, we will be able to insure we can have a sewer with the least amount of cost overrides if we reject using the SRF. With the SRF and an early 218 vote, we will very likely end with buying a pig in a poke. By this I mean the sewer installation companies will continually increase the costs and the total cost will be a continuously changing number, mainly because they have ignored the problems encountered with water recharge and biosolids processing.

The RWQCB has continuously changed their criteria. The major past problem has been their absolute stupidity of rejecting all science and technology developed within the past 25 years. They have been excessively wedded only to multinational sewer companies providing sewer systems for cities of 2 million people. These processes are not appropriate for small communities of 20,000 people.

Many amazing technologies have recently been developed with much superior and effective water processing in the past few years. Within the past decade a major mindset change has occurred. This new mindset essentially argues previous massive sewer installations should be avoided because of the serious problems (long term they create) and the realization smaller is more efficient, effective with lower long term maintenance and providing better water quality at a much lower treatment cost.

Be aware of the previous bait and switch process. They allow the TAC to develop many useful ideas. Then at the very last minute, all previous work is negated by claiming many "fatal

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flaws" resulting in all previous work having no value. Consequently, only the new ideas with no opportunity to evaluate their impacts publically are forced upon the community. This has occurred several times in the past in Los Osos.

The County and the RWQCB has ignored the nature of the people in Los Osos. For many years they assumed the community was full of dissidents only interested in trying to prevent having a sewer. Los Osos contains the most highly educated people per 1000 individuals between Monterey and Ventura. The reality is they do not want to pay for a non-functioning sewer rat hole with the obvious escalating costs associated with problems poorly examined (as was the recharge at the Broderson site for example).

The recharge site proposal for the Broderson site and Tri W was about 100 to 1000 times the actual water application rate which could be allowed. The County engineering and the RWQCB signed off indicating they accepted these rates. This was a major professional mistake. This is a fatal flaw regarding the recharge process. Because the County engineering and the RWQCCB signed off and approved this improper rate, we can not trust them fully to look out for the welfare the Los Osos residents. They are not considering all of the factors, only those which will make the sewer cost the most.

The RWQCB will be making more money in the form of monitoring the Los Osos wastewater situation in the future. The larger the plant, the more money will be coming to the RWQQCB. Consequently, they have a vested interest in forcing Los Osos to have the most expensive sewer possible. This helps to explain their zeal for approving anything in Los Osos regardless of whether it works or protects the overall water quality.

What is needed is not slick covered fancy multiple color brochures. They need to provide a clearly reasoned comparison step wide of why each option was chosen and why each other alternative was rejected. The people of Los Osos do not want to spend more money on glitz, they want more solid clearly argued thinking with more effective and assured results for these steps in the sewer process.

Page TS-3 estimate of 65 gallons per capita per day seems low, previous values were closer to 75 to 80. I hope they are correct with this new value.

Table TS 1 is critical to understand. The BOD loading with the conventional system is the reason for the excessive cost for grinding pumps and water flow compared to using the septic tank as a distinct part of the total treatment process. The BOD with STEP can be reduced nearly 3 fold. This means the treatment plant has a much better chance to process the waste water.

The conventional sewer processes this high BOD sewage so fast it results in a much greater mass of biosolids than will be generated with the STEP system even when the septic tank pumping added to the total process. In general, the faster sewage is processed at any central processing plant, the more total tons of biosolids which will be produced.

The County refuses to see all aspects of water for Los Osos (as the Blue Ribbon Comm.)

was charged to do a decade and a half ago. We must drastically reduce the total mass of rain water runoff by installing holding basins (possibly underground) and provide for carbon filtration to remove oils from highway surface interactions of this runoff water and reuse of this water currently lost. We must harvest the water from the upper aquifer and use this wherever possible. This will greatly reduce the total water lost from the community into Morro Bay

We must be much more serious about sea water intrusion. This is what I mean by looking at the end of the process first. Again, this report seems to have ignored how to prevent the sea water intrusion. Without addressing these points, the total value of the sewer is completely negated.

It is absolutely critical to establish an on site treatment process for biosolids treatment. We must have an effective means for aerobic composting and total biosolids biomass reduction on site. It will be essential to provide some clear process of utilization and beneficial processing of the biosolids. The metals content should be quite low and fortunately additional toxic chemicals are usually quite low in Los Osos.

A serious consideration is the presence of pharmaceutical and personal care products. These are not being processed during the conventional sewage treatment process. Releasing these products in the treated water will have very adverse conditions. For example, birth control medications will pass through the water and will eventually place all residence on birth control when they drink this recycled water. It is not certain whether soil filtration of these products will result in the elimination of these products.

In addition to birth control products, other serious considerations are the possible body elimination of major anti-cancer medications. Fragrances and antibiotics will present major problems. If we begin drinking treated waste water even after passage through soil will probably result in converting the citizens of Los Osos into a huge guinea pig experiment where they will be exposed to the potential transfer of the antibiotic resistance genes being transferred to people. If this occurs, the health of all individuals in the community will be seriously threatened because physicians will have no alternative during the critical process of administering life saving medications when the current antibiotics are no longer effective due to the people possessing these antibiotic resistance genes.

Table TS 2 These considerations suggest we must use disinfected tertiary treated waste water plus a much more intense treatment with Ultra Violet light and possibly hydrogen peroxide. Chlorine should be avoided because the addition of chlorine gas results in uncontrolled organic chemical reactions creating organic chlorine compounds which increasingly are seen as suspected cancer causing agents.

A consideration for ag exchange is what the RWQCB considers being inside the basin. In the past, this has created problems. The Los Osos valley for about 6 miles to the east is part of this basin. Don Asquith has helped to continue to confuse people about this problem.

Percolation ponds should be avoided. Maintaining constant saturated water over the soil results in microbes forming slimes which eventually clog the soil pores and greatly reduce the

total rate of water infiltration and percolation over time. This is under appreciated. This problem will magnify if only secondary water is used for the infiltration percolation ponds. Only the highest level of water treatment should be used for this purpose. Loading rates should allow at least one full day of complete drainage before adding more water.

Leach fields should not be used for disposal of any other than the highest quality of treated waste water. Secondary waste water will eventually clog due to the many lamellae in the sand dunes. This eventually will plug up the soil pores.

Creek discharge must be prevented. A constructed terminal wetland might work. However, the proximity to the sea level and the fog will mean this system will not be able to work optimally.

Table TS 3 Energy use has been played down by past proposals. Most of the conventional sewage treatment processes are extremely energy intensive, especially for electricity to move the water around. Other systems are much less energy intensive. Past considerations suggested we would have to have a complete dedicated electrical line directly to the treatment plant and this may not be enough for a conventional sewer. An excessive energy cost should be considered as a fatal flaw for any high energy proposal. This is especially true for future increases in energy costs.

The treatment site location must consider what I consider a fatal flaw from the human health perspective. Because of the persistent fog, any viruses entrapped in the air due to movement of the sewage and wastewater will result in a major down wind direction effect of contaminating residents close to the treatment facility. This effect is well know in the wastewater community where sewage treatment personnel are often fairly sick for the first several years until they become immune through previous exposure to these various viruses and microbes. However, the problem is much more serious for susceptible individuals (infants, elderly and those with a compromised immune system). Ideally, the treatment facility should be completely inclosed and all air leaving the facility should be treated with UV radiation to reduce the possibility of this happening in Los Osos.

Oxidation ditch, trickling filters and ponds have the same problem as identified in the previous paragraph. However, ponds may be a great idea for the purpose of removing phosphate by encouraging algal growth to remove both phosphate and some nitrate. I do not see any other treatment consideration which can assist in removing the phosphate. Phosphate contamination of Morro Bay is one of the primary reasons for the decrease in water quality to Morro Bay. Once the local sand dunes become saturated with phosphate, any additional phosphate from waste water treatment will move directly into Morro Bay regardless of whatever treatment process is used, unless algal treatment is added to the process.

Class A biosolids must be generated. Then these biosolids must be further composted aerobically ideally for over 6 months to a year on sight. This might most effectively be achieved by mixing the biosolids with green waste. This will greatly enhance degradation by providing more nutrients, more water holding ability, more aeration and more rapid degradation. The

resulting composted material could be used for erosion control and other purposes, including crops harvested with a protective cover (corn, wheat, etc.) but can not be used for root crop production.

Biosolids composting must emphasize vertical processing to enhance aeration and improved microbial degradation rather than the traditional horizontal processing only. Soil inoculation should be considered to insure these systems work optimally. Inclusion of rice hulls and straw will most likely greatly enhance the rate and quality of composting.

My suggested best location is the land just south of Los Osos Valley Road across from Turri Road and to the east for until the next home is encountered. This land has a slight elevation, has higher clay content for water filtration, allows for wells down hill being able to obtain the ground water for reuse. The closer the site is to Morro Bay water, the less effective it will be overall. Any site north of Los Osos Valley Road east of Turri Road has a problem of being dominated by serpentine soils and this will greatly reduce the effectiveness for waste water remediation (clean up).

I appreciate the emphasis upon using less productive soil sites. This is fine for the treatment plant site, but the waste water application soils should have an adequate amount of silt and clay to allow for both adsorption of phosphate and metals, plus the microbial soil community allowing the microbes to decompose the organic components in the waste water including potentially decomposing the pharmaceutical and personal care products.

It might be good to explore John Alexander's electrical agglomeration process. This will reduce metals and potentially may enhance the water quality prior to the water entering into the treatment process. John is a recognized engineer who has been ignored by most of these sewer people. He is a local resident (Cayucos) and has a patented process we should at least consider for the potential benefit to residents of Los Osos.

The best site location for the treatment facility is north of the cemetery where the plant can be primarily hidden by the topography. This will reduce virus spreading to the eastward (down wind and has much less fog).

The best site for application of the waste water is on locations with more clay than in most of the sand dunes area. The land south of Los Osos Valley Road between the creek valley to the land south of Turri Road is mostly sandy loam soil which is only moderately effective for potential microbial decomposition. Application of the waste water onto the sand dunes should be avoided because of the presence of the lamellae which prevent the effective water treatment and prevent an adequate rate of water infiltration and percolation with a maximum rate of microbial decomposition (which is low in sand dunes and sandy loam soils).

Conventional gravity collection will cause several major problems. First, the large diameter pipes will leak sewage downward into the soil below each leak. This will result in many uncontrolled leaks. This will provide non-treated nitrate, phosphate, and pathogens to the soil and enhance contamination within the collection zone. Second, these large diameter pipes

will leak inward meaning in zones closes to the sea level, sea water will move into these pipes. Any sea water leakage into these large diameter pipes will have two effects. The sea salts will strongly inhibit the microbial decomposition in the treatment plant. More importantly, these sea salts will prevent this water from being used as a water source for humans. This is absolutely to be prevented under all circumstances. This is a fatal flaw for the collection system. Ironically, the RWQCB approved of the Tri W collection process because it does not care about this problem of sea water quality deterioration of the collected waste water because of its excessive zeal for the most expensive sewer being installed in Los Osos. So much for the RWQCB's true concerns over water quality for Los Osos.

Another fatal flow is the major deep soil disturbance due to installation of the large diameter pipes. This process will cause disturbance at several major locations going from high on the hillside on the south downward towards the bay to the north. The problem is this will greatly increase the problems of soil erosion when water concentrates moving down the streets oriented north to south. If any of these streets leaks water, it will result in major outwash of the soil along the route of the sewer lines. In addition, in the event of an earthquake, this may greatly increase the probability of structural damage in homes because the stability of soil can never be returned to the original stability after such a deep soil disturbance. This situation will decrease over time after the sewer is installed, but it will never go away with the number and degree of deep digging actions in this vicinity.

STEP, vacuum and low pressure allow much faster response to leakage problems and other difficulties because it has much better monitoring. The greatly improved methods of installing small diameter pipe with minimal soil disturbance avoids much of the problems identified in the previous paragraph.

Although concerns about access to private property is a concern with septic tanks in place, all home owners need to understand what the trade off is in costs. The costs for not having a septic tank and not having access to inspect these tanks results in more than double the overall cost of the sewer. Some very wealthy people will not feel this is justified, but most people will realize this is a much better trade off if the system costs one half as much and it has a much less invasive soil treatment below ground. The community has to accommodate in various was and this is one of the realizations for having the sewer imposed upon the community. Maybe the cost would have to include buying a region near the street where new septic tanks would be installed. This would allow public control especially if community septic tanks were used instead of individual septic tanks.

A STEP collection system with a lower BOD treatment plant and effective Ag water exchange can be installed and working within about 2.5 years, whereas a conventional gravity sewer with the high BOD treatment plant will require about 4 to 5 years to complete. If speed is urgent, then we should consider these trade offs.

The 218 vote must clearly define all of the benefits to be gained from adopting the completed proposal to install the sewer. The vote should only be taken once the full costs are disclosed. The final cost must not be exceeded under any circumstances. Proper contingency

expenses are included in any engineering project. We must insure the creeping costs do not exist. Note, the Tri W site and Broderson site are examples of previously approved systems with now obvious engineering fatal flaws which would have necessitated millions of dollars of creeping costs increases over time. These provisions for a definite cost maximum, assurance of no creeping costs, a clearly articulated design for collection, treatment, an water reuse, and a firm deadline for completion must be spelled out before the citizens of Los Osos can be expected to approve a 218 vote.

Since the Tri W site is very much on the table, it is extremely important to point out at every opportunity how the County engineering and the RWQCB have adopted and approved of a fatally flawed system. This is a good example of the ethics violations of the process. They hide under the CEQA regulations as if this absolves the County engineering and RWQCB of criminal action for approving of significant errors in approving of the Tri W site as would have occurred if this process had not been stopped. Even now, many want to ignore these fatal flaws in their zeal to move forward in a speedy fashion.

The Supplemental EIR and additional CEQA review should be done prior to any 218 vote, not afterward. All community and regional considerations must be made prior to the 218 vote. This is again the reason so many problems have arisen in the past. All the facts must be known to the residents before they are willing to vote to support the sewer project. Again, we can not afford to have another debacle with unknown problems occurring and tremendous cost overrides after the 218 vote. We must never buy a pig in a poke regarding the Los Osos sewer.

Nacimiento water has the fatal flaw of containing mercury. Mercury is an accumulative poison. Thus, any mercury is too much mercury to allow its use by Los Osos. Water from Morro Bay and Cayucos is state water. This appears to be an effort to force state water upon the citizens of Los Osos. This was the original intent of bringing the old County engineer to San Luis Obispo, to force Los Osos to have to buy into state water. Now it rears its ugly head again, this time in disguise. Cayucos and Morro Bay are underlain by serpentine rock and soils. Any water mixed with the state water has a disproportionately higher level of magnesium. This creates a variety of problems including water infiltration. High magnesium in water makes people more "regular" than they may care to become.

State water is dangerous and potentially fatally flawed. The state water brought into the Metropolitan Water District of Los Angeles is loaded with natural organic compounds picked up when the water flows through the San Joaquin Delta histosols (organic muck and peat soils). These organic compounds react with the chlorine treatment to form a wide variety of organo-chlorine compounds many of which are known or suspected of being cancer causing agents (carcinogens). Why should we expose our citizens to this problem. It makes no difference whether other communities continue to do the wrong thing. it is not appropriate to allow Los Osos to expose our residents intentionally to this very serious potential health threat. State water flows through the San Joaquin Delta and has this problem.

This is the major reason we must insure all aspects of the sewer do keep all of our water locally. We must be able to reduce our water loss to Morro Bay to a minimum of about one inch

of water per year. The rest must be effectively reused and must not be wasted by allowing it to enter the bay by seepage from surrounding soils from the upper aquifer.

The Community advisory survey should be made a long time prior to any 218 vote. The citizens must know clearly what they are paying for instead of continually changing the system after the 218 vote.

It appears a vast waste of time and effort to do the process of comparing several cost estimates after the 218 vote. This means we will have no idea of the cost prior to voting on what it will cost. This is an totally asinine approach. Again, it treats the citizens of Los Osos in a totally paternalistic fashion trying to tell them what to do instead of reasoning with them about what will be done and exactly why these things will be done and the exact cost of doing these things. We must stop this paternalistic action in Los Osos.

Another paternalistic action was the process Blakesley used to become the white knight. How often has the state government imposed its will upon the properly elected citizens of Los Angeles or San Francisco in a similar manner? Those who would lose from a major very expensive conventional sewer installation wanted to insure a major sewer project would continue in Los Osos. This state intervention was the major reason for the state intervention. It had nothing to do with local politics or the capabilities of the CSD members to provide direction to the community process. It is all about insuring multinational sewer corporations can win in Los Osos, because if they can then they can impose their own very expensive wills in every other small community in the nation. Los Osos is recognized worldwide as a test case of gigantic multinational sewer corporations versus reasonable community wide small to medium size sewer projects to use the most modern technology at ecologically applicable means and least costs.

All viable alternatives must be known and the single best one must be selected and clearly explained to the residents prior to any 218 vote. Again, we can not afford to have a repeat of the sewer debacle. Placing the 218 vote prior to all of these considerations is a pure invitation for stupidity by the County and will insure a no vote on the 218 resolution.

I am deeply troubled by the assumption only SRF funds with major government strings will be the only way to go in Los Osos. I firmly believe various firms will be able to provide private lending because they realize the ecologically friendly small and medium size sewer companies are also fighting for their existence. If any community can obtain private funding for their sewer process, I can affirm it will certainly be Los Osos because of this world wide attention and understanding of these problems.

Figure 1.1 is a classic example of the problem. It says "Proposition 218 assessment to match final project selected". Again, we see the paternalistic and blank check approach the County engineering believes is the way. Certainly, the County engineering wants to run up the total costs as much as possible. We must do everything possible to turn this around allowing the citizens of Los Osos to be in control of what they will have to pay by knowing up front the true costs of this project. It is time to treat the citizens of Los Osos with respect and mature reasoning from facts and fiscal responsibility rather than continue the paternalistic dictatorial approach

The community must have an Economic Impact Analysis prior to any vote. We need to know the full impact on this community, especially because of the large number of retired people living on fixed incomes. Two economic Impact Analyses are needed. One including only the residents within the prohibition zone and one including all those potentially benefitting from the proposed sewer and potential hooking up in to the future.

The fatal flaw from the last two EIRs have been allowing the community to develop to full build out of the community as projected by the County. The fact is we are well beyond our current sustainable yield. We continue to lose water from the upper aquifer into Morro Bay at an unacceptable rate. Both the over drafting of the ground water causing sea water intrusion and the current failure to capture the water from septic tank recharge flowing into the bay are serious problems. They should never be allowed to occur. Much of the sewer is being driven by this development potential. However, the fact we are currently beyond the allowable sustainable yield tells us we can not allow further development to occur on undeveloped lots in Los Osos.

The Environmental Impact Reports (EIR) have been highly flawed. For example, it failed to assess the potential impact on wetlands in Los Osos. It has continually failed to assess properly the impact of the Broderson site for waste water recharge. The presence of Don Asquith on this current TAC appears to be a conflict of interest because the firm he works for has done the previous EIRs. Continuing to use this same firm will insure the same fatal flaws will be passed on the citizens to have to pay through the nose to correct problems the EIRs should have flagged.

Both the new Economic Impact Report and the Environmental Impact Reports should be done by people completely dissociated with any investments or interest in the sewer industry or in Los Osos or in San Luis Obispo County.

I have stopped processing this document. I reached section 1.3 on page 1-7. It is highly depressing to read how the County intends to force the conventional gravity sewer onto the community of Los Osos with bait and switch tactics and a blank check mentality. All parts of the sewer as currently conceived will contain fatal flaws which should have been eliminated, but they continue to reappear time and again in report after report without correction.

Somewhere an Engineering firm will have to bite the bullet and say these are fatal flaws and they can not install this sewer. Maybe County Engineer George Gibson many times reminded the waste water alternatives TAC, the many problems in Los Osos may very likely prevent the proper functioning of any installed sewer in this community.

I recognize a sewer is needed. I only ask for a true, open and honest assessment of every single facet of the myriad of problems related to this sewer. We owe the citizens to know all of the facts and the full costs before we approve of any legislation to contract bonds for the construction of a sewer in Los Osos. We must have some guarantee the various fatal flaws will not occur. Sufficient small businesses are in the sewer game, they probably will willing step forward to provide these guarantees and do this for much less cost, with less adverse environmental impact and with much less social disruption for this community than will occur by approving the Tri W site with the Broderson recharge and the failure to treat the biosolids problem or the initial hookups from each home to the sewer pipes.

CALIFORNIA COASTAL COMMISSION
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Chuck Cesena

Mailing Address: 591 Ramona Avenue

City: Los Osos Zip Code: 93402 Phone: (805) 534-1436

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CENTRAL COAST AREA

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos wastewater treatment project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Throughout the community.

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I appeal this decision primarily because potentially significant impacts upon archaeological, biological and groundwater resources have not been mitigated to the maximum extent feasible, as claimed by the applicant. The specific LCP policy violations are detailed in the attached appeal that was first filed with the County of San Luis Obispo, and will be supplemented with additional material in a timely manner. I also appeal on the basis of the County's refusal to consider alternatives that would reduce biosolids (sludge) production, as requested in the Coastal Commission staff's guidance letters to County Public Works.

TO: San Luis Obispo County Board of Supervisors

RE: Appeal of Coastal Development Permit, Los Osos Wastewater Project, DRC2008-00103

CC: Sara Christie. Chair, SLO Planning Commission
Jonathan Bishop, California Coastal Commission

I, Chuck Cesena, a resident of the Los Osos "prohibition zone", do hereby appeal the August 13, 2009 decision of the SLO Planning Commission regarding the above referenced project. The basis for the appeal is as follows:

Development Plan/Coastal Development Permit Findings

B-6
One of the goals of Coastal Act watershed policies is to protect groundwater basins. The proposed project must include an agricultural exchange/reuse program as the primary means of effluent disposal for this finding to be true. The previously proposed spray fields were a criminal waste of water. As detailed in the appeal from the Los Osos Sustainability Group, reliance upon the Broderson leachfields and the water purveyors' existing groundwater adjudication will not provide a balanced basin.

B-8
The proposed project **does not** avoid Environmentally Sensitive Habitat (ESHA) to the extent feasible. The proposed gravity collection system requires waiving wetland setbacks for pump stations and would probably construct pump stations in ESHA. The extent of this impact was not detailed in the EIR. There is no definitive statement regards the exact locations of the pump stations and no calculations regarding impacts upon sensitive resources, only vague statements alluding to the minimization of impacts to the extent feasible. But the STEP/STEG collection system would not require wetland setback variances or ESHA destruction as there would be no pump stations required. Regarding ESHA resources, the STEP/STEG collection system is the Environmentally Superior option.

B-10
The proposed project **does not** avoid impacts to archaeological resources to the maximum extent feasible. The proposed mitigation for the installation of deep gravity collection system trenches in sensitive areas calls for monitoring of mechanical backhoe trenching through these areas. But according to CEQA and Local Coastal Plan policies, avoidance is the first mitigation strategy, not the careful recordation of the destruction of the resource. Micro-tunneling, as would be used for installation of a STEP/STEG collection system, allows for the avoidance of the resource as the grade and route of the pipe can be easily changed during construction. Since the system is under constant low-pressure, there is not need to maintain preset grades to ensure the functioning of the system. The grades (profiles) for pipes that rely on gravity for conveyance cannot be

easily changed when unexpected resources are encountered. It becomes necessary to destroy the resource by trenching through it and all the careful monitoring in the world will not avoid the impact upon Native American grave sites.

C – 3, 4
For the reasons given above the project is not in conformance with the following Sections of Title 23 of the County Code and Local Coastal Plan:

23.107.04 Protection of Archaeological Resources,

23.07.170 (4) (B) New development in ESHA must be resource dependant,

23.07.172 Wetland Setbacks

23.07.176 (1) 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,

23.07.176 (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.

H-1, J
Again, the project **does not** avoid sensitive resources to the extent feasible as it favors a gravity collection system with pump stations within ESHA. The use of a STEP/STEG collection system would avoid these resources.

R-Y
There would be no need for a wetland setback variance for pump stations with a STEP/STEG collection system as there would be no pump stations.

Z
The proposed project **does not** acceptably and adequately provide for the protection of archaeological resources as it does not provide for the avoidance of those resources. It calls for the destruction of the resource and recordation of the destruction as mitigation.

Development Plan/Coastal Development Permit Conditions

24-26

Is it really possible to condition a project to prepare a report addressing geologic hazards and predetermine the findings of that report? What happens if the insignificant finding cannot be made? Isn't that why the EIR was written in the first place, to determine the risks?

A gravity collection system with bell and spigot connections is much more susceptible to rupture and displacement during a seismic event than a fuse-welded STEP/STEG collection system. Is it adequate to call for "soft-fixes" (a repair plan) rather than to require the construction of a collection system that would be better able to withstand seismic events in the first place?

28 -31

These measures call for the careful recordation of the destruction of archaeological resources, not the avoidance of those resources.

98
This condition needs to be amended to require fusion welded collection system pipes in all areas of historic high groundwater. Groundwater levels such as those present during the winter of 1995 will be much higher than those present when the project is likely to be constructed. Allowing these determinations to be made in the field during construction will not provide adequate protection against unnecessary infiltration of the collection system, especially if construction occurs during the summer months of a drought cycle. And these field determinations open the door to expensive change orders, which the design build process was supposed to prevent. Suggested language is attached.

101
The disposal of 33 acre feet per year of treated effluent will not mitigate the effect upon sensitive habitat resources dependent upon the existing discharges from this leach field. The Willow Creek drainage supported by this leach field, and other neighborhood septic tanks, will be adversely affect by the removal of water from this leach field. Other sensitive habitats throughout the community will suffer the same fate.

Development Plan/Coastal Development Permit CEQA Findings

1.3.2 Findings For Determination of the Environmentally Superior Alternative

The findings that the Planning Commission approved project is the Environmental Superior Project can only be made if it is assumed that the gravity collection system is the environmentally superior collection system. It is not, for the reasons given in the Sierra Club appeal of this project and my comments on the DEIR. The County has failed to adequately compare the two collection system technologies with regard to ESHA destruction, infiltration and inflow issues, biosolids production and greenhouse gas production. Inconsistencies with ESHA policies alone should preclude the gravity system. All of the County documents have acknowledged STEP/STEG's superior performance with regard to I & I issues. The County has yet to seriously address the production of biosolids, as was requested in the July 15, 2009 letter from the California Coastal Commission. And they have yet to respond to the issues raised and data presented in the 5/27/09 letter to the Planning Commission from Michael Saunders of Orenco Systems, Inc., or to adequately analyze green house gas emissions associated with hauling of sludge to probable destinations outside of the County.

In 2006, then County Public Works Director Noel King stated that the LOWWP would feature a gravity collection system. In the 2007 review of the Carollo Fine Screening Report, the National Water Research Institute (NWRI) peer reviewer stated that he was having a hard time not using the words gravity biased to describe the report. It has been obvious that the County has intended to not allow an honest consideration of alternative

collection system technologies. So it is very difficult to see how the general findings in Section 1.8 can be supported, particularly bullet #11 regarding no previous commitment to a definite course of action prior to certification of the EIR. And the failure of the general findings leaves open the question of all of the specific findings as the true Environmentally Superior Alternative was not the project proposed for consideration by the Planning Commission.

In addition to the failure to satisfy many Coastal Policies that focus on the physical environment, the proposed project fails to satisfy county code and Coastal Plan Policy 23.04.092 which requires that housing opportunities in the coastal zone for persons and families of low or moderate income shall be protected. The STEP/STEG collection system was guarenteed (by the Lyles team) to be at least 20% cheaper than the gravity system during the County Request for Qualifications interviews. And if the project were treated as whole rather than the sum of independent parts, the savings on the treatment system would likely be as substantial. In 2006, an updated wastewater project report was commission by the Los Osos CSD (Los Osos Wastewater Management Plan Update - Wastewater Collection, Treatment, Storage, and Water Recycling: Beneficial Reuse of Water and Nutrients, Ripley Pacific Company, 12/18/2006). The schematic diagram of this proposal was so highly regarded by the NWRI that it was published in their recent textbook entitled Water Reuse. It is interesting to note that the project, as now modified by the Planning Commission, looks exactly like that 2006 project except for the lack of the environmentally superior STEP/STEG collection system and a commitment to full agricultural reuse for disposal.

The EPA recognizes the potential benefits of a STEP/STEG system for communities such as Los Osos, urging "full consideration of options to a traditional gravity sewer, which "smaller communities cannot afford," such as pressurized effluent collection systems consisting of:
"shallowly buried plastic pipes, low-cost cleanouts instead of frequent/costly manholes, and a minimum number (if any) of lift stations. They have 40 years of successful experience in the US and worldwide (less I/I [inflow and infiltration], exfiltration, construction duration and disruption). Their management requirements are equal to or lower than conventional gravity sewers (depending on the number of lift stations)."
(www.epa.gov/owm/septic/pubs/septic_technologies.ppt)

Due to the substantial reconfiguration of the project in the Coastal Development Permit/Development Plan Findings and conditions of approval, the significant new information entered into the record in the Planning Commission process, and the inadequate and conclusory nature of the EIR as detailed above, the County must recirculate a revised EIR, pursuant to CEQA Guidelines § 15088.5(a)(1); § 15088.5(a)(2); and § 15088.5(a)(3).

Chuck Cesena
591 Ramona Avenue
Los Osos, CA 93402

STATE OF CALIFORNIA -- THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
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SANTA CRUZ, CA 95060-4508
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Linde Owen
Mailing Address: 1935 10th B
City: Los Osos Zip Code: 93402 Phone: (805) 528-6403

SECTION II. Decision Being Appealed

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1. Name of local/port government:
San Luis Obispo County

2. Brief description of development being appealed:
Los Osos Waste Water Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):
Prohibition Zone and treatment location, potential AG disposal sites.

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
- ☑ Approval with special conditions:
- ☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055
DATE FILED: October 19, 2009
DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☒ Planning Commission
- ☐ Other

6. Date of local government's decision: 9/29/09

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
976 Osos St. Room 300
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Refer to 17 appellants please, from Sept. 29 BOS hearing.

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Attached, w/one Exhibit (A) attached.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 10/19/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

California Coastal Commission
725 Front Street
Santa Cruz, CA

October 19, 2009

Attention: Jonathan Bishop

Subject: Appeal of Los Osos Wastewater Project / County File No. DRC2008-00103

I respectfully submit just three of my concerns, though every phase of the SLO County approved project, minus the new location and disposal using Ag exchange, are troubling. Having been involved for the past 8 1/2 years, I have seen a consistent battle over fair process and a failure to allow new technology to compete, thus leaving a fumbled and flawed project proposal for your review. I am a member of LOCAC, LOCAC Land Use Commiittee,LOCAC Tree Committee, and the LOCSD Water Operations Committee but I address you as a private citizen.

1) AFFORDABILITY. Section 30001 Legislative findings and declarations; ecological balance

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of the state and especially to working persons employed within the coastal zone.

Section 30001.5 Legislative findings and declarations; goals

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of this state.

Section 30604 Coastal development permit; issuance prior to certification of the local coastal program; finding that development in conformity with public access and public recreation policies; housing opportunities for low and moderate income persons

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

The only way to responsibly address Affordability would be to condition the project with a legitimate Design/Build bidding competition process as promised through out the current EIR and 218 election analysis. The County proposed project admits that STEP collection is more affordable:

Following is a direct quote from the Final Fine Screening Analysis (page 1-9) that addresses installation costs as well as additional treatment costs:

"If a STEP/STEG collection system is selected it is anticipated that there will be minimal I/I since the system is sealed and under pressure. If a gravity collection system is selected, only a system that was constructed of fusion-welded PVC piping could be operated with as little I/I as a STEP/STEG

system. However, fusion welded PVC sewers are a new technology with little long-term operating history, and **can be significantly more costly** to install than traditional bell-and-spigot gravity sewers.

Properly installed bell-and-spigot sewers will be watertight at first, and then slowly lose their integrity as the surrounding soils shift, compressing the pipes, and compromising their seals at the joints."

It appears that fusion-welded PVC is the only solution that will make gravity sewer a "viable project." This cost is un-accounted for and to further complicate the gravity sewer collection challenges, the final Fine Screening did not reflect the true cost impacts of sea/ground water infiltration into the gravity sewer line, which can adversely impact treatment costs, beneficial reuse, sea water intrusion mitigation, and crop irrigation.

Directionally bored, shallow (4-5 ft) STEP collection piping will go in the 'right of ways' vs the Gravity piping's needs to be located in the 42 miles of paved roadways. Cost of trenching, dewatering, cultural burial grounds disturbance and street repair/replacement has received little cost analysis.

That is why I ask that you condition the project to reopen the bidding process with an outside evaluation team. Currently the only STEP construction bidder(Lyles Construction) was questionably eliminated by a team made up of the same consultants and County staff working on preparation of the EIR.

I also ask for your consideration to request to the RWQCB for a Waiver to support a phased project design due to the unfundable costs of sewering the entire Prohibition Zone in a faling economy. Overall nitrate levels in the upper aquifer are 1 mg over drinking water standards, therefore do not constitute the perceived threat to health and safety. Collecting the low lying areas in a community Sewer/Septic District would significantly address nitrate levels as well as provide a treatment facility for septic pumpings that currently must be driven to Santa Maria. A Septic Management program for areas with adequate distance to groundwater would address the RWQCB's Resolution 83-12 which has never been enforced. San Diego couldn't afford to improve their ocean outfall pollution stream due to cost...and last week were allowed to continue with their pollution Waiver.)

Issue 2) **Unmitigated impact on landscape dependent on 5000 leach fields.** Section 30101 Coastal-dependant development or use "Coastal-dependant development or use".
Los Osos Groundwater Basin currently provides 1 million gallons per day of leachfield water for a wide variety of mature trees and shrubbery, native and non-native, as well as several areas of wetlands. Attached letter (attachment A) from Fish & Wildlife notes concern over a lack of mitigation and inconsistency with CEQA.

County's Response to Comment A8-9, (my bolding)

"This comment stated that the Draft EIR did not consider the loss of habitat associated with the elimination of the septic water leaching from the existing septic tanks. As described on page 5.2-19 in Appendix D-1, the implementation of the proposed project would reduce septic effluent discharge into the perched aquifer. **However, the exact quantity of reduction within the perched aquifer is unknown, and the potential impact on groundwater flow to surrounding surface water features is**

speculative given the amount of perched groundwater currently flowing to surface water features is not known. As a good faith effort to obtain measurement data, groundwater levels will be monitored to understand potential changes in groundwater levels. Therefore, as a project design feature and previously agreed to by the California Coastal Commission, the County will review and approve a Groundwater Level Monitoring and Management Plan detailing methods for measuring and responding to changes in groundwater levels that could affect wetland hydrology and habitat values. In accordance with the monitoring and action plan proposed by the LOCSD, the Plan shall include provisions for monitoring groundwater levels, surveys for wetland plant and animals, monitoring wetland hydrology and water quality, appropriate response procedures should impacts be identified, annual reporting, and an education program to encourage property owners to convert septic systems into areas capable of groundwater recharge."

The negative impact on all landscaping and wetland areas is of extreme concern and is NOT adequately addressed.

Requesting a waiver from the RWQCB for a phased project approach could best assure that there is not a total die-off of community tree and plant colonies.

3) AIR Quality - Sludge Removal. Current questionable project bidding outcome has also produced no alternative bidder for the Ponding Treatment vs conventional. Air Quality and toxic disposal issues alone would question why anyone would ignore a treatment process that, besides energy and operation/maintenance savings, eliminated sludge removal for TWENTY to THIRTY years. Over a 20 year period comparison of cost and air quality impact is substanial when 2-3 sludge loads per week are multilpied out. Ponding treatment ELIMINATES this transport.

Thankyou,

Linde Owen

1935 10th B
Los Osos
(805) 528-6403

Exhibit A

State of California - The Resources Agency ARNOLD SCHWARZENEGGER, Governor
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005

January 30, 2009

Mark Hutchinson
Environmental Programs Manager
San Luis Obispo County Department of Public Works
County Government Center, Room 207
San Luis Obispo, CA 93408

Subject: Los Osos Wastewater Project
Draft Environmental Impact Report
State Clearinghouse No. 2007121034

Dear Mr. Hutchinson:

The Department of Fish and Game has reviewed the Draft Environmental Impact Report (DEIR) received by the Department on December 22, 2008, for the County's Los Osos Wastewater Project (LOWWP). The Project consists of construction and operation of a collection and conveyance system; a wastewater treatment process and site; and effluent disposal process and locations, of differing technologies in different configurations. In addition, the DEIR describes some Project components which are identified in the alternatives section which would further the Project's goals and objectives.

The Department supports the construction of a Wastewater Treatment Facility for the community of Los Osos; we believe that the Project is necessary to alleviate groundwater contamination of the aquifer underlying the community and to curtail runoff of pollutants into Morro Bay, including the Morro Bay Wildlife Area, managed by the Department. We do not recommend one combination of required elements of the proposed Project over any other; however, we do have comments on content, as well as procedural issues, as laid out in the document. Our intent in submitting this detailed analysis and comments for your consideration is to continue our constructive support of a robust planning and permitting process, hopefully resulting in the best possible Project.

In general, the DEIR appears to defer surveys and identification of specific mitigation to a later date, which would not be consistent with the intent of the California Environmental Quality Act (CEQA) to disclose to the public and to decision makers, the potential impacts and feasible mitigation measures associated with the Project; nor does it allow the County to determine which potentially significant effects would be mitigated to a level of less than significant. Additionally, the DEIR does not completely characterize the regulatory framework or aspects of the permitting process for the proposed Project. This letter outlines the Department's authorities and provides comments regarding the DEIR, including whether the document has adequately characterized the type, extent and significance of effects; whether proposed mitigation measures would reduce potentially significant effects to less than significant; and if not, what additional measures would be required to do so. Additionally, we have attempted to clarify what subsequent permitting would be needed from the Department and the optimal manner to incorporate those requirements into this process.

TO: The California Coastal Commission
Central Coast District Office
Dan Carl, District Manager
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

From: Alfredo Magallanes and Lourdes Magallanes
12726 Oakthorn Lane
La Mirada, CA 90638
(562)947-1247

October 14, 2009

Re: Appeal from San Luis Obispo County's Supervisors decision concerning:
County File No: DRC2008-00103
Heard on September 29, 2009 at 9:00 a.m. Involving Los Osos Sewer.

Dear California Coastal Commission:

I. Introduction.

This is an appeal from the San Luis Obispo County Supervisor's decision at which hearing we filed a timely protest regarding the above referenced matter. Our intent is not merely to exhaust our administrative remedies with your offices for purposes of perfecting an appeal to Superior Court, if necessary, but to seek actual relief as unimproved property owners in Los Osos, California. A primary position is that we wish to enjoy, use, and benefit from by being allowed to build on our properties. Therefore by necessity we must connect to any proposed sewer which should be a reasonable fee without further government interference which to date has confiscated our use of the properties. The present history of the Los Osos sewer chronicle has unfairly taken without due process of law our property interest in violation of the state constitution, common law, statute, and justice which has been perpetuated through a series of administrative decisions. During the moratorium of many years the local authorities have assesses levies and taxes for the sewer on our property without benefit in violation of due process. Apparently, a so-called plan which seeks to impose, we have been told, a $75,000.00 fee on unimproved property is the most recent example of the violations of due process we have endured. Although we have never altered from the above position, we divide our arguments in parts for ease of reading.

II. Denial of Procedural Due Process and F.W.S. *Brookes v City of Oakland.*

The unimproved property lot owners have repeatedly been denied procedural due process and lack of notice in the processing of the Los Osos sewer project from its inception to the present date. Government units that have acted without providing the safeguards of due process involving sewers have had their actions declared unconstitutional. See Supreme Court decision in F.W.S. *Brookes v City of Oakland*, 160 Cal. 423 (1911). Proper notice is fundamental to due process compliance. *Londoner v Denver*, 210 U.S. 385, 28 Sup. Ct. 714

For example, we only received a few days prior notice of the San Luis Obispo Supervisors' hearing, without sufficient time to arrange for the opportunity to attend or in the alternative to place a more detailed written argument in the official record.

Another example, is this very appeal to the California Coastal Commission which was possible because of a kind gesture by a good neighbor that advised us today of the October 19, 2009 deadline to submit our appeal. Although clearly, the authorities are presumably required to give notice, the notices to date have been perfunctory, insufficient or none existent. The above deprived the unimproved property owners of proper notice as required by law.

III. The prior decision was held without sufficient information on whether our property would benefit and by how much.

To date, unimproved property owners have not been afforded a hearing to be informed how their property will be benefited and by how much. "...if the determination is committed to commissioners, the landowners "may be entitled to notice and hearing upon the question whether their lands are benefited and how much" See *Parsons v District of Columbia*, 170 U.S. 52, 18 Sup. Ct. 524.

The appealed from decision which makes vague, ambiguous and non-committal references to speculative provisions for eventual relief to unimproved property owners' ability to be serviced by the proposed sewer project is insufficient. The decision is a veiled attempt to circumnavigate the government's actual responsibilities toward us owners of unimproved property in Los Osos to inform us how our lands will benefit and by how much.

The eventual decision no doubt will be to place an unwarranted and prohibited assessment on these properties which for all practical purposes will take our property without due process of law. We have been advised by a private citizen that the so-called plan seeks to impose a $75,000.00 fee or assessment on unimproved property.

The above course has been the action of the majority of the government units and boards for the past years in Los Osos, which action is unconscionable, inequitable, and unsound. The California Coastal Commission has the authority to place conditions on the prior decision which will grant some relief to the unimproved property owners. It should require the units to inform us on whether our property would benefit and by how much. The relief sought is to permit immediate access to the sewer upon its completion upon payment of a reasonable fee and not a levy that confiscates.

IV. A Special Assessment without benefit is a denial of due process.

It was an abuse of discretion for the prior decision to prohibit unimproved property owners equal access to the Los Osos sewer, since as unimproved property owners we have paid a special assessment for the sewer project without benefit.

It has long been the law of this state, as illustrated in the *City of Plymouth v The Superior Court of Amador County*, 8 Cal. App. 3d 454 (1970) that any special assessment without benefits is a denial of due process. Over the years, our lots (assessment No 038,411,017 and 038,172,003) have been levied special assessments for the "LOCSD Waste Treatment" without any benefit. For example, in the properly located at 1287 18th Street, Los Osos, California during the 2008 through 2009 tax roll we were assessed $451.64. If you multiply this proportionately, since the inception of the assessment, you begin to understand the enormous tax burden this has been on us without any benefit.

To permit the authorities to levy special assessments or taxes on an unimproved lot so that another in a different street or lot may use the sewer is unlawful and prohibited in this state. See *City of Madera v Alex Black*, 181, Cal. 306 (1919). "If any was used for extensions to the sewer system, such use was unlawful, for it cannot be doubted that the city has no power to lay taxes or tolls on those who may use the sewer, in order to obtain money to build sewers in other streets for the special benefit of other persons."

Special assessment without benefits is a denial of due process. (*Kansas City Southern R. Co.* v. *Road Improvement Dist. No. 3* (1924) 266 U.S. 379, 386 [69 L.Ed. 335, 341, 45 S.Ct. 136]; *Municipal Improv. Co.* v. *Thompson* (1927) 201 Cal. 629, 638 [258 P. 955]; *Miller & Lux Inc.* v. *Sacramento & San Joaquin Drainage District* (1920) 182 Cal. 252, 265 [187 P. 1041]; *Spring Street Co.* v. *City of Los Angeles, supra*, 170 Cal. at pp. 30-32; *Howard Park Co.* v. *City of Los Angeles, supra*, 119 Cal.App.2d at pp. 521-522; *Hutchinson Co.* v. *Coughlin* (1919) 42 Cal.App. 664, 669 [184 P. 435]. A taking of property without due process is considered a jurisdictional defect. (*Hannon* v. *Madden* (1931) 214 Cal. 251, 256 [5 P.2d 4]; *Southlands Co.* v. *City of San Diego* (1931) 211 Cal. 646, 656 [297 P. 521].)

Without rectifying this significant point, the California Coastal Commission's action is subject to attack at Superior Court. Therefore in order to avoid the allegation that no benefits were received despite payments of special assessments, it is reasonable for the California Coastal Commission to modify the prior decision and permit unimproved property owners to be beneficiaries to the project they have paid for, by allowing them access upon the sewer project's completion.

V. Conclusion.

Sadly, the California Coastal Commission though with the best intentions and high aspirations, imposed a moratorium which no one could have predicted would have frozen property rights of unimproved lots for so many years. This action did not resolve the issue but only permitted those that had already built to ignore the California Coastal Commission mandates. The time has come for the California Coastal Commission to lift its moratorium and grant relief by permitting the unimproved property owners rightful use of their land. Your action has addressed not the polluters, but the innocent, and has prohibited our use of our properties without due process of law. The time is upon us to correct the above circumstances.

We thank you for your kind attention to this matter.

Sincerely,

Lourdes Magallanes

Alfredo Magallanes

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

This form accompanies my faxed letter of this morning. Joan Harlem

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Name: Joan T. Hartem

Mailing Address: PO Box 620780

City: Woodside Zip Code: 94062 Phone:

SECTION II. Decision Being Appealed

1. Name of local/port government: San Luis Obispo

2. Brief description of development being appealed: Los Osos Wastewater Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions: CCC amendment to approve Los Osos prohibition zone vacant land development upon Los Osos Wastewater's project completion subject to ea. individual project meeting water source solution in compliance w/ water shortage needs.

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

San Luis Obispo County has a potential approval from the California Coastal Commission (CCC) for the construction of a wastewater system for the community of Los Osos. Within this approval, is a statement from CCC which does not allow vacant land owners within the prohibition zone in Los Osos to make use of wastewater services until such time as a solution to Los Osos Water Problems is reached.

Members of F.A.I.R., which are Vacant Land owners within the 'prohibition zone' and under moratorium during the past twenty years, feel that they should be able to apply with San Luis Obispo County to be able to develop upon completion of the Los Osos Wastewater System, without the requirement of an additional 218 vote, PROVIIDED any person that applies for development can show they have earned water retrofit credits or can provide another solution to water use which does not jeopardize the cummunity's water supply for other members of the community.

This alternative should be considered if only to provide fair and equitably legal opportunity to ALL members of the community of Los Osos, without prejudice or discrimination.

Lack of consideration of this alternative could be considered discrimination or prejudice against certain members of this community.

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Gover

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Joan T. Harlem et al.

Mailing Address: PO Box 620780

City: Woodside CA Zip Code: 94062 Phone: 650·474·0969 (home)
650·464·9364 (cell)

SECTION II. Decision Being Appealed

1. Name of local/port government:

2. Brief description of development being appealed:

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

3. Development's location (street address, assessor's parcel no., cross street, etc.):
Vacant lots for single family dwelling — list of assessor's parcel numbers attached (→)

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☐ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT:

Parcel number of vacant properties owned by:
Joan T. Hartem and Judith T. Hunter

1. 038·312·027
2. 038·312·028
3. 038·312·029
4. 038·312·030
5. 038·312·031
6. 038·312·032
7. 038·312·033
8. 038 312·034
9. 038 312·035
10. 038 312 036
11. 038 462 042

Sincerely,
Joan T. Hartem

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☐ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: August 27, 2009

7. Local government's file number (if any): _____

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

None at this time other than owners Joan Harlem and Judith Hunter listed below.

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Joan Harlem
PO Box 620780
Woodside, CA 94062

(2) Judith Hunter
PO Box 846
Tiburon, CA 94920

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Joan T. Haulenn
Signature of Appellant(s) or Authorized Agent

Date: October 18 · 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

October 19 2009

California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, Ca. 95060-4508

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

To Whom It May Concern:

My sister and I are members of a Corporation known as 'F.A.I.R.' formed in 2007. We have tried to follow all the legal aspects of the Los Osos Water issues and the Coastal Commissions Development plans regarding the water basin. I am wording my statements carefully because without legal representation I am uncertain of my exact position except as stated below:

My sister and I want to maintain our legal right to potentially develop our vacant lots for single-family dwellings. I have attached a list of our parcel numbers.
We want to maintain our right to only pay EQUAL share of costs towards sewer, Water and environmental concerns as those individuals with already improved lots with the knowledge that the community needs and requires our participation to complete the waste water project, however, we do not agree that vacant propertty owners should be assessed more for these services or denied these services.
My sister and I (and others) want the upcoming 218 vote of improved property owners and vacant unimproved property owners to hold the same legal weight and rights.

I have not fully filled out the attached forms, as I do not fully understand the implications this may have on the project. I do want it to be of record that my sister and I want to maintain our legal rights to develop our vacant properties with an equitable assessed cost.

Sincerely,

Joan Harlem

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: CHRIS ALLEBE'

Mailing Address: P.O. BOX 6617

City: Los Osos , CA. Zip Code: 93402 Phone: 8055285710

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OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Waste Water Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Prohibition Zone collection to the Cemetary for treatment

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
- ☒ Approval with special conditions:
- ☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☒ Planning Commission
- ☐ Other

6. Date of local government's decision: 09/29/09

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
976 Osos St. Room 300
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) GEORGE & GWYNN TAYLOR
P.O. BOX 6383
LOS OSOS, CA
(2) 93412

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Christopher D. Allahe

Signature of Appellant(s) or Authorized Agent

Date: 10 18 09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____

Signature of Appellant(s)

Date: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

APPEAL FROM COASTAL PERMIT - 10.09 CHRIS ALLEBE CDO 1019

TO WHOM THIS MAY CONCERN: FILE # DRC 2008-00103

I HAVE BEEN INVOLVED IN THE LOS OSOS WASTEWATER PROJECT SINCE 1987. I OWN A HOME IN BAYVIEW HTS & ANOTHER IN BAYWOOD OCCUPIED BY MY MOTHER. I AM ONE OF THE "CDO" VICTIMS FIRST PROCECUTED - MY CDO # IS 1019. I HAVE ABOUT 100 LBS OF SURVEYS, REPORTS, STUDIES, PETITIONS, RECALLS & STREET SIGNS. I COULD WRITE VOLUMES ABOUT THE LOS OSOS PROJECT. - OTHERS WILL EXPOUND ON VARIOUS ASPECTS OF THE PROJECT - I WILL RESTRICT MY COMMENTS TO OUR BIGGEST PROBLEM SO FAR: SALT WATER INTRUSION. THE COUNTY HAS KNOWN ABOUT THIS SINCE THE 1970's & NOTHING HAS BEEN EXAMINED IN THE INTERIM. EVEN NOW WE DON'T KNOW THE RATE OF INTRUSION, OR EVEN IF IT CAN BE STOPPED. SOME EXAMPLES OF EXPERT TESTIMONY: 7-15-09: COASTAL COMMISSION TO PAVO OGREN (COUNTY PUBLIC WORKS) "WE RECEIVED COMPELLING PUBLIC TESTIMONY THAT SEA WATER INTRUSION (SWI) COSTITUTES AN IMMINENT CRISIS THAT WARRANTS IMMEDIATE ATTENTION. WE ARE CONCERNED THAT CONTINUED SWI INTO WATER BASIN THREATENS TO RENDER LOWER AQUIFER UNUSABLE." 3-30-07 4-8-07 = TAC REPORT COMMENTS BY Dr. TOM RUEHR INTERNATIONAL SOIL/WATER EXPERT: "WE MUST BE MUCH MORE SERIOUS ABOUT SWI - TAC IGNORED THE ISSUE - STATE WATER SHOULD BE AVOIDED DUE TO MERCURY CONTENT & THE POISONOUS ORGANIC COMPOUNDS CONTAINED THEREIN". DIRECT QUESTIONING AT OPEN MEETING RESULT IN NO ANSWERS OR "WE WON'T KNOW UNTIL PROJECT IS BUILT" NONSESE. THE PROBABLE SCENARIO HERE IS ME PAYING OFF 2 SEWER BONDS (1 AT HUGE COST), A DESAL PLANT BOND, PROPERTY TAX & A MORTGAGE PAYMENT. ALL THIS FOR A PLANT THAT CAN WAIT UNTIL UNCLE SAM CAN KICK IN OUR HIS UNFUNDED MANDATE. IN SUMMATION THIS PROJECT VIOLATES MANY PROVISIONS & INTENTS OF THE COASTAL ACT WHICH PROVIDES FOR PRESERVATION OF SCENIC AREAS & ADEQUATE, USABLE WATER SUPPLY.

THANK YOU - Chris Allebe

STATE OF CALIFORNIA—THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

Re Fax 10/20/09

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Bruce Payne

Mailing Address: 1061 Green Oaks Drive

City: Los Osos Zip Code: 93402 Phone:

SECTION II. Decision Being Appealed

RECEIVED
OCT 20 2009 @2pm
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Waste Water Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Prohibition Zone collection to the Cemetary for treatment

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal Re FAX 10/20/09

PLEASE NOTE:

- **Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.**
- **State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)**
- **This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.**

1. The Los Osos Waste Water Project (LOWWP) as Planned has insufficient Recharge of our Drinking Water Aquifers ie; Estimated collection 1.4 million Gallons Per Day (MGD) LOWW recharge .4 MGD! MORE SALT WATER INTRUSION!

2. The LOWWP will create 3 New Problems

A. Tons of Bio Solids (Sewer Sludge)
   a. Many places already Refusing to take any more!

B. Threat & high Probability of Raw Sewage SPILLS and Leaks into our Drinking Water Aquifers & MORRO Bay – Waters of a PORT

C. Gravity? Collection Has 3 Large Pump Stations, 2 have Diesel Power Generators for Power outs. & a dozen± more Small Pump stations; some Residences have Grinder Pumps.

and The Treatment Plant will Require #Millions of Electricity Causing more globle warming.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Bruce E Payne

Signature of Appellant(s) or Authorized Agent

Date: 10/19/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____

Signature of Appellant(s)

Date: _____

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Sandra Bean
Mailing Address: 1928 12th Street
City: Los Osos Zip Code: 93402 Phone:

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SECTION II. Decision Being Appealed

1. Name of local/port government: San Luis Obispo

2. Brief description of development being appealed: Los Osos Wastewater Project-
I wish to request an amendment in CCC's approval on L.O. Wastewater project, to allow development to proceed upon construction of the project, subject to conditions equitable to legal rights to property owners meeting specific water use and availability criteria, acceptable to CCC and SLO County.
II wish to appeal segregation and unfair taxation for services that should be available equally to all members of the community of Los Osos, including those members of the community penalized by a moratorium for the past 20 years.

3. Development's location (street address, assessor's parcel no., cross street, etc.):
Los Osos Wastewater Project as approved by SLO County Board of Supervisors Sept. 29, 2009

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions: CCC amendmet to approve Los Osos prohibition zone vacant land development upon Los Osos Wastewater's project completion subject to each individual project meeting retrofit credit or other water source solution in compliance with water shortage needs.

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A3-SLO-09-055
DATE FILED: October 19, 2009
DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☐ City Council/Board of Supervisors
- ☐ Planning Commission
- ☒ Other San Luis Obispo Board of Supervisors' approval of a segregated 218 vote

6. Date of local government's decision: _____

7. Local government's file number (if any): _____

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your **reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

San Luis Obispo County has a potential approval from the California Coastal Commission (CCC) for the construction of a wastewater system for the community of Los Osos. Within this approval, is a statement from CCC which does not allow vacant land owners within the prohibition zone in Los Osos to make use of wastewater services until such time as a solution to Los Osos Water Problems is reached.

I own Vacant Land within the 'prohibition zone' and during the past 30 years selling Real Estate as a Broker in this area, I have sold several unimproved properties under moratorium during the past twenty years.

As other members of FAIR, I feel that members of this community that have been denied the use of the land they have paid taxes on, should be able to apply with San Luis Obispo County to develop upon completion of the Los Osos Wastewater System, without the requirement of an additional 218 vote, PROVIDED each person that applies to build a home can show they have water retrofit credits or can provide another solution to water use which does not jeopardize the cummunity's water supply for other members of the community.

This SHOULD be considered to provide fair and unbiased opportunity to ALL members of the community of Los Osos, without prejudice or discrimination.

Lack of consideration of this alternative could be considered discrimination or prejudice against certain members of this community, and unfair practice against members of the community which have already been penalized due to no fault of their own.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 10/19/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

STATE OF CALIFORNIA -- THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: F.A.I.R. (Fair Allocation of Important Resources) A California Corporation
Mailing Address: P. O. Box 6355
City: Los Osos Zip Code: 93402 Phone:

SECTION II. Decision Being Appealed

1. Name of local/port government: San Luis Obispo

2. Brief description of development being appealed: Los Osos Wastewater Project-

We wish to request an amendment in CCC's approval on L.O. Wastewater project, to allow development to proceed upon construction of the project, subject to conditions equitable to legal rights to property owners meeting specific water use and availability criteria, acceptable to CCC and SLO County.
We wish to appeal segregation and unfair taxation for services that should be available equally to all members of the community of Los Osos, including those members of the community penalized by a moratorium for the past 20 years.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos Wastewater Project as approved by SLO County Board of Supervisors Sept. 29, 2009

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions: CCC amendmet to approve Los Osos prohibition zone vacant land development upon Los Osos Wastewater's project completion subject to each individual project meeting retrofit credit or other water source solution in compliance with water shortage needs.

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☐ City Council/Board of Supervisors
- ☐ Planning Commission
- ☒ Other San Luis Obispo Board of Supervisors' approval of a segregated 218 vote

6. Date of local government's decision: _____

7. Local government's file number (if any): _____

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

A list of Vacant Property Owners is Attached (there are additional members in F.A.I.R, not named here)

Mailing address: PO Box 6355, Los Osos, CA 93412

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See List (F.A.I.R) Attached

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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San Luis Obispo County has a potential approval from the California Coastal Commission (CCC) for the construction of a wastewater system for the community of Los Osos. Within this approval, ie a statement from CCC which does not allow vacant land owners within the prohibition zone in Los Osos to make use of wastewater services until such time as a solution to Los Osos Water Problems is reached.

Members of F.A.I.R., which are Vacant Land owners within the 'prohibition zone' and under moratorium during the past twenty years, feel that they should be able to apply with San Luis Obispo County to be able to develop upon completion of the Los Osos Wastewater System, without the requirement of an additional 218 vote, PROVIIDED any person that applies for development can show they have earned water retrofit credits or can provide another solution to water use which does not jeopardize the cummunity's water supply for other members of the community.

This alternative should be considered if only to provide fair and equitably legal opportunity to ALL members of the community of Los Osos, without prejudice or discrimination.

Lack of consideration of this alternative could be considered discrimination or prejudice against certain members of this community.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent for Sarah

Date: 10/19/2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

ROBERT G. WETZEL Robert G. Wetzel

Signature of Appellant(s) or Authorized Agent

Date: 19 OCTOBER 09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 10/19/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

F.A.I.R. CORPORATION / LOS OSOS VACANT PROPERTY OWNERS

Property Owner Name	Parcel # or ID
Michael P. Baker	038-012-001
Eric Barkley	074-324-005
Reg. Baldwin	038-441-030
Alex Batt&Joy Lynches	038-352-029
Betty Liebscher	Tr.316Blk 2,Lot2
Eva Albert	
Rose Robertson	038-663-001
Gary White	038-042-008 038-042-001
John Ventresca	
Mid-State Properties	
Rob Wetzel	038-512-033
Margaret Stevens	
David Klinzman	074-462-010
JoanHarlem/JudyHunter	038-3121-035 & other contiguous lots
Carolyn Coats	
G.& C. Shugard	
Shaunna Sullivan	038-052-028
Sean Hendifar	
Leonard Hall	
Giampiero Ambrosi	
Ronald G. Addy	
William Axtman	074-382-008
C.G.Investments LLC	038-391-018
Shu Chung siau	038-101-011
William D. Mehring	
Donald Nagai	
William Kengel	Lot on Ash, Sunnyhill & Fearn Ave./Cuesta
Sandra Bean	074-293-015 074-083-002 038-641-019
Red Truhitte	074-184-042
Nancy Durning	038-311-003
C.G. Shuttleworth	
Associatted Appraisers	1554 6th
Joy Erin Lyndes	
Robert Martinucci	
Steve Terry	lot on Nancy Ave
Shahin Aminllari	
Eric Larson	074-083-009
David Tibbitts	038-392-005

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Keith Wimer

Mailing Address: 1101 14th Street

City: Los Osos, CA Zip Code: 93402 Phone: 805-528-2027

SECTION II. Decision Being Appealed

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Wastewater Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos, CA

4. Description of decision being appealed (check one.):

☒ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC 2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County Public Works Department
County Government Center
San Luis Obispo, CA

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

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PLEASE NOTE:

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- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Please see attached reasons--14 pages, plus 4 pages of attachments.

- indoor-outdoor water use targets of no more than 60 gallons per capita per day (gpcd) of potable water use, with the goal of zero use of potable water for outdoor purposes
- an ordinance or ordinances to enact the program and provide incentives

5. A reuse program which specifies recycled water will be used to support only current development within the Urban Services Line, except as otherwise required by law (per LCP policies, e.g., Public Works Policies 1 & 9). The program should also specifically call for ag exchange and urban reuse options to be maximized. (These provisions amend/add to Conditions 97 and 103.) They are needed to ensure beneficial reuse will not induce unsustainable growth between the Urban Services and Urban Reserve lines. The parenthetical phrase in Condition 103 should also be eliminated: "(as identified in the "Effluent Re-use and Disposal Tech Memo. July 2008)." The phrase might be construed to limit onsite urban reuse.)

6. Pond treatment, either an Advanced Integrated Pond System (AIPS) or an Air Diffusion (Nelson Pond) System (ADS). The AIPS requires 14 and 12 acres for gravity collection and STEP respectively, and the ADS requires 25 and 21 acres respectively, according to the LOWWP TM entitled "Partially Mixed Facultative Pond Options" (Carollo Engineers, March 2007). (Note: The *Fine Screening Report*, and septage and biosolids TMs, overestimate the treatment needs, sludge and bio-solids production of a STEP system. The size of a pond required for a STEP system treatment, sludge disposal needs (trips to land fills, etc.), and GHC impacts are likely to be significantly smaller or less than the report/TMs estimate.)

7. Thorough design and environmental review of the "hybrid-gravity" system, once it is redesigned for conservation flows.

8. The inclusion of the STEP option in the design build process. The design build process must also allow innovative and cost-saving designs, e.g., plans that integrate all elements of the project (collection, treatment, and water management), also . It should also require bids for fully maintaining the systems in compliance with Water Board requirements for 10 years or more. These provisions are needed to keep costs as low as possible and to identify long-term best value.

9. Appropriate sizing of the treatment system with conservation of at least 20%. This would mean the treatment facility is designed for current flows of about 800 AFY of flows. Treatment for future development would be phased in (if basin sustainability is established) (per LCP policies, e.g., Public Works Polices 1 & 9).

(Note: The above conditions would be new condition to strengthen conditions set by the Planning Commission, or they can be additional conditions. Please also see the attached LOSG letters to the Planning Commission for further details, e.g., for a brief description of the LOSG's recommended decentralized option.)

LOSG Appeal of the LOWWP EIR and Coastal Development Permit, August 24,
Page 9 or 10

Project Conditions Needed (All of the following are needed for conformance/compliance with the LPC and CZLUO):

1. Further environmental review, testing, and peer-reviewed analysis of the following:
   - the status of seawater intrusion SWI using current data, to determine the potential for a sustainable basin, safe yields with adequate margins of safety, and water supply/ basin management options
   - the status of the upper aquifer using current data
   - flows to environmentally sensitive ecosystems (and water quality)
   - the amount of water pumped from the basin using on-site inspections and monitoring of actual use (including private wells)

2. Based on the above, an analysis of the best use of limited public funding to establish a sustainable water supply for Los Osos. This includes an analysis of how limited funds can achieve maximum water quality/supply benefits, whether the LOWWP (the centralized project proposed) can achieve intended water quality objectives, and options. If the sustainability of the water basin is unlikely, desalination or imported water is needed, and/or the benefits of the upper aquifer can be achieved without an LOWWP project (as suggested by recent purveyor studies); then the LOWWP should be designed, sized, or phased to make the best use of limited public funds necessary to secure a sustainable water supply, while protecting, preserving, and restoring, where feasible, the natural environment, the community, and the economy of the area. This will require at least a 5-year capital improvements plan and longer-term planning with an eye to how coastal zone objectives (protection and enhancement of area resources) can best be achieved.

3. A basin-wide management program to aggressively reduce SWI, implemented by the County, in cooperation with other key agencies (e.g., the Coastal Commission and Regional Water Board). This would be implemented with one year of project approval, aimed at stopping at least 900 AFY of pumping from the lower aquifer within two years. On-going basin assessments and monitoring programs would be implemented to establish safe pumping levels (with ample margins of safety), along with an intensive water-use efficiency program, integrating indoor-outdoor conservation (including graywater and rainwater reuse) with LID recharge and other reuse programs (ag exchange and urban reuse). A well-designed, intensive conservation program (with the elements described) should achieve about two-thirds of 900 AFY reduction, more cost effectively than other options. Shifting pumping to the upper aquifer would achieve the remainder within two years, while minimizing impacts and maximizing benefits to the basin. The County, in cooperation with the Regional Water Board, would implement and enforce the program with a basin-wide ordinance and applicable laws.

4. Conservation and reuse programs for the project, designed to be an integral part of the basin-wide program with the following
   - an integrated indoor-outdoor program maximizing water-use efficiency, including a full ranges of high-efficiency retrofits xeriscape, rainwater harvesting, and graywater options), along LID recharge, leak detection, and water auditor services. (The LID program would be designed, in part, to support the areas environmentally sensitive habitat.)
   - provisions to pursue grant funding and ample funding set aside to implement the program, as necessary (e.g., about $10 million without grants)

- A program to retrofit homes, commercial buildings and public facilities with high-efficiency water saving fixtures and appliances (and to stop leaks as needed) in all homes, commercial and public buildings using the basin as a water source, targeting an average 25% reduction in indoor water use basin wide.
- A program to install xeriscape measures and other measures and devices (e.g., rainwater harvesting and graywater reuse systems) to reduce outdoor potable water use an average of 50% basin wide among non-farm users. (Potable water-use reduction on farms will be set at appropriate achievable levels.)
- Total indoor and outdoor potable water use targets shall be set at 60 gallons per capita per day (gpcd) for residential use monitored monthly by meter (with water use levels set for commercial and institutional that achieve at least a 33% reduction where feasible).
- Homes and private wells without meters shall have meters installed.
- Adequate retrofit options, and appropriate incentives and consequences will be included in the ordinance to ensure compliance and to meet water use targets within one year of the LOWWP start up.

4. Urban reuse and ag exchange programs shall be implemented to reduce the pumping of the aquifers by supplying a supplemental water source for outdoor urban and agricultural uses. The ag exchange program will provide supplemental water in the form of well water from portions of the basin (Creek Compartment) not currently affected by SWI, also allowing a net reduction in the water pumped from those parts of the basin (because less well water is pumped than recycled water exchanged). Both programs will be developed concurrent with LOWWP development, so they can be implemented at start up of the LOWWP to provide at least 350 AFY of reduced pumping from the Western Compartment within one year of project start up.

5. On-going seawater intrusion monitoring and assessment will be part of a program to managed the basin, measure progress toward goals and benchmarks, and ensure the sustainability of the resource.

6. To preserve the health of aquatic ecosystems dependent upon the basin at pre-LOWWP levels an LID program shall be implemented using on-site and community recharge/infiltration systems to support freshwater subsurface flows to aquatic ecosystems. Highly treated recycled water may also be used as a secondary source of water, where safe and appropriate, to supply flows to sensitive aquatic ecosystems.

7. No further development within the basin shall be allowed until SWI stops (or until 900 AFY of reduced pumping occurs in the lower aquifers of the Western Compartment).

8. All applicable grants, rebates, and low cost funding options shall be sought and used to reduce costs for property owners and water purveyors.

9. All costs to property owners not covered by the options in #7 shall be funded by available means, including assessments, to ensure timely implementation of the plan.

10. All costs shall be shared basin-wide according to SWI mitigation and/or other appropriate benefits.

Attachment #2
Sample language for a basin-wide management plan ordinance to stop seawater intrusion (SWI) within two years of LOWWP final approval (Draft)

Purpose/Objective:

The purpose of the ordinance is to stop SWI intrusion in the Los Osos Valley Water Basin within two years of start up of the Los Osos Wastewater Project. SWI is rapidly destroying the freshwater Los Osos Valley Water Basin. It has progressed through at least one-third of the available freshwater capacity of the basin since the 1970's, permanently destroying much of the freshwater in the basin for beneficial uses. Recent data indicates it is apparently accelerating and the basin grown less stable. The sustainability of the sole source of water for the community of Los Osos and overlying farms and properties is in jeopardy without immediate and aggressive action.

The basin provides freshwater to highly valued ecosystems in the area, including Morro Bay Estuary, and it is the sole source of water for the community of Los Osos and farms overlying the basin. Desalinated and imported alternative water sources are economically and technically infeasible for the community for a number of reasons. Furthermore, predicted sea level rises (five feet in this century) will add SWI pressure to the basin, requiring that aquifer levels are brought up to match sea levels (i.e., five feet above the levels needed to prevent SWI; in some areas 15 feet or more). Finally, the Los Osos Valley Water Basin is a relatively small coastal basin. Therefore, urgent action is required to 1) stop the progress of SWI and preserve as much of the basin as possible 2) to prepare the uncertainties of climate change, e.g., sea level rises and changing weather patterns.

Provisions:

1. All pumping contributing to SWI will stop within two years of final approval of enactment of this ordinance, and water levels in aquifers vulnerable to SWI will be allowed to rise to levels needed to prevent SWI with sea level rises. This will require reducing the pumping from wells tapping the lower aquifers in the Western Compartment of the Los Osos Valley Water Basin (LOVWB) by about 900 AFY. The approximately 900 AFY of reduced pumping will be replaced by the following water sources:

   An water-use efficiency program integrating LID, graywater reuse, and rainwater harvesting strategies—550 -700 AFY
   Increased pumping of the upper aquifer and creek alluvium—200-350 AFY

2. Conservative safe yield estimates protective of the finite resource will be used for all water sources (e.g., upper aquifer, lower aquifer, and creek alluvium) to avoid harm to these resources, restore them where necessary, and ensure their long-term viability.

3. Because water use efficiency (conservation) provides the most cost effective source of supplemental or "new water" and reduces lower aquifer pumping, indoor and outdoor conservation programs will be implemented within one year of the enactment of this ordinance to achieve at least 550 AFY of reduced pumping from the Western Compartment within two years of LOWWP project approval enactment of the ordinance. The conservation program will have the following general components/provisions:

Attachment #1

Recommended Project Conservation Condition Language

Within on year of the adoption of a due diligence resolution by the BOS electing to proceed with the wastewater project, the applicant shall implement an integrated indoor-outdoor water use efficiency (conservation) program, in consultation with local water purveyors, within the prohibition zone of Los Osos. The applicant will provide 5 million dollars of funding towards the program. The program will be implemented with an ordinance that targets 1) a 45 gallon per capita per day (gpcd) average for residential indoor use, 2) a 60 gpcd average for indoor-outdoor use, 3) a 33% reduction in Class II indoor-outdoor potable water use, and 4) a 30% reduction in overall water use within the Prohibition Zone (based on 87% of the total purveyor production figures, e.g., 1906.4 acre feet in 2008). The program shall be designed to maximize funding and achieve targets within the first two years of program implementation. Property owner participation will be a condition of hook up to the wastewater project. However, incentives, including generous rebates and free installation will be offered to assure early participation in the program. Grant funding shall be pursued to augment program funding, and funding may be used as matching funds to leverage grants. Administrative and personnel costs will be limited to no more than 15% of program costs. Measures and funding will be applied where they can achieve the greatest water saving benefits and the program will include water auditing services to maximize funding and program effectiveness. Provisions for low income households to receive free retrofits and installation shall be provided. Indoor strategies shall include a range of the most cost-effective retrofits, including high efficiency toilets, washers, faucet aerators and shower heads. Outdoor strategies shall include the most cost-effective Xeriscape options and appropriate technologies, including LID systems and graywater reuse. Leak detection and repair will also be included in the program. Other best management practices may be considered if they can be demonstrated to provide greater benefits for the cost. The water savings from the program will be applied to reduce the pumping causing seawater intrusion.

6. Willow Creek Drainage impacts (loss of flows) per the DEIR, Appendix D-2 (file label "LOSG EcoSysImpacts" pdf.)
7. 2009 ISJ Technical Memorandum ("Flow Model Conversion and Urban Area Yield Update") Cleath-Harris Geologist, Inc. (file label "Urban+Area+Yield+TM" pdf)
8. Los Osos Water Purveyor Interlocutory Stipulated Agreement (ISJ) (file label: "ISJ 8.08")
9. Letter from the Golden State Water Company Attorney to the SLO County Planning Commission, dated May 27, 2009 (file label "GoldenStAttnLet" pdf)
10. 2007 *Resource Capacity Study* for the Los Osos Valley Water Basin (file label "LOVWB RCS 2007" pdf)
11. LOSG Appeal comments before the SLO County Board of Supervisors, September 29, 2009 (file label "LOSGappealcomments 9.29.09" pdf)
12. LOSG letter to the SLO County Planning Commission dated August 10, 2009 (file label "LOSGPLComm let 8.10.09" pdf)

Osos Sustainability Group's appeal of the project to the SLO County Board of Supervisors, which I incorporated by reference. I also incorporate by reference the Sierra Club and Surfrider appeals to the Coastal Commission. STEP system design and construction provide a higher level of mitigation for virtually all of the most of serious environmental impacts associated with collections systems—and they are considerably less expensive than the proposed hybrid gravity system.

Project facilities should be sized using current flow estimates with phasing to accommodate future buildout: The project, as currently proposed, uses buildout flow estimates to calculate costs and size facilities (e.g., treatment and recycled water storage facilities). Designing the project for buildout flows will induce future development by suggesting a sustainable basin can be established when it may not be possible to do so. The sizing of facilities should use current flows, and facilities should be phased to accommodate buildout, when, and if, a sustainable water supply is established.

The STEP option should be added to the design build process: This is needed to enable the project to be fundable using only the current 218 assessment, in case a sustainable water supply cannot be established and/or the second 218 doesn't pass. Whether or not it is selected, having it in the process will increase competition, help ensure a cap on costs, and keep the project as affordable as possible.

Attachments:

#1 "Recommended Conservation Condition Language"
#2 "Sample language for a basin-wide management plan and ordinance..."
#3 "Project Conditions Needed" from LOSG Appeal of the LOWWP EIR and Coastal Development Permit, August, 24, 2009, Pages 9 & 10

Supporting documents sent as email attachments:

1. Los Osos Sustainability Group (LOSG) Appeal of the LOWWP Coastal Development to the San Luis Obispo County Board of Supervisors, dated August 24, 2009 (file label "LOSG Appeal of LOWWP to BOS" pdf) *(Note: I would like this incorporated by reference into my Coastal Commission Appeal.)*
2. LOSG seawater intrusion progress estimates based on Palisades Well data (250 mg/l of chlorides) (three files labeled "LOSG SWI progress 1,2 & 3 pdfs)
3. "Lower Aquifer Ground Water Elevations" (large pumping depression) and discussion from the 2005 *Seawater Intrusion* Assessment by Cleath & Associates and LOWWP DEIR (file label "SWI lower aquifer levels" pdf)
4. Discussion of the upper aquifer stability: "...relatively stable...with a potential for active intrusion" from the 2005 *Seawater Intrusion Assessment* and DEIR (file label "SWIUpper Aq" pdf.)
5. Changes in safe yields from 2002 to 2007 for the upper and lower aquifers as shown in 2007 *Resource Capacity Study and* 2009 ISJ Technical Memorandum (file label "Upper Aq Safe Yields" pdf) (Note: These documents also show lower aquifer safe yield changes).

Some of the impacts that must be maximized to help ensure greater benefits than harm from the project include:

1. *Mitigations for the loss of groundwater flows to wetlands.* Mark Hutchinson, project environmental coordinator, acknowledged during the appeal hearing on September 29, 2009, that groundwater levels supplying bayside wetlands would drop one foot. These impacts were not acknowledged in the EIR, and they are estimates; loss groundwater flows to wetlands could be worse. The proposed project calls for deferring mitigation until the impacts are confirmed although the proposal may result in permanent harm to ecosystems. Another proposal is for homeowners to voluntarily redirect rain gutter down spouts to abandoned septic leach fields to help restore groundwater flows. These proposed mitigations are not likely to be as effective as community LID features installed at strategic locations to augment flows, in conjunction with on-site LID systems implemented as part of an integrated water use efficiency program.
2. *Mitigations for lost of groundwater flows to the Willow Creek Drainage:* According to Spencer Harris, of Cleath-Harris Geologists, Inc., consultant for the LOWWP and ISJ, several hundred acre feet of groundwater will stop flowing to Willow Creek, a riparian habitat, with the elimination of septic systems. The proposed mitigation is 36 AFY of recycled water discharged in Bayridge Estates leach fields and the voluntary redirection of rain gutter downspouts to septic leach field mentioned above. A better solution is a community LID system, possibly redirecting run off from near by commercial development.
3. *Mitigations for increased seawater intrusion:* All project review documents acknowledge the project will have potentially significant negative impacts on seawater intrusion. Broderson leach fields discharging about 450 AFY in one location, according the LOWWP EIR, will fully mitigate for these impacts (i.e., provide the recharge benefits of about 5000 septic systems discharging 1000 AFY throughout the basin). Spencer Harris, of Cleath-Harris Geologists, Inc., consultant for the LOWWP and ISJ, acknowledged during the Planning Commission review on June 30, 2009, that the leach fields may not perform as expected. The benefits of Broderson leach fields on the lower aquifer are based on basin modeling with a relatively high degree of uncertainty. The benefits were calculated prior to a recent well test showing SWI is accelerating and is now further inland than Broderson leach fields, suggesting Broderson leach field benefits should be re-evaluated using current data. Furthermore, according to the EIR and *Fine Screening Report,* Broderson leach fields provide less seawater intrusion mitigation than conservation, ag exchange, and urban reuse. They're also energy intensive and result in significant destruction of environmentally sensitive habitat as the leach fields are installed initially and refurbished over time. Conservation, ag reuse, and urban reuse provide better mitigation for seawater intrusion impacts, with conservation affording the most immediate and significant potential benefits because it can be implemented before the project goes on line. Given the unstable condition of the basin and the project's uncertain impacts on seawater intrusion, the project must maximize mitigation of seawater intrusion with an aggressive, integrated conservation program. The implementation process should begin upon project approval (see recommended conservation condition).
4. *Mitigations for collection system impacts: installation, leaks, cleaning, and overflows:* The benefits of STEP collection over the gravity system are well documented in the Los

mitigations for reduced groundwater flows. The original Planning Commission measure could be made stronger by eliminating language that limits urban reuse options to those identified in the "Reuse" technical memorandum (i.e., the parenthetical phrase should be removed). Also, ag exchange and urban reuse should be specifically mentioned as options with the greatest seawater intrusion benefits.

A Basin-wide management plan: For a water management plan to be effective in controlling seawater intrusion, it must be basin-wide plan. Water purveyors control less than two thirds of the water in the basin, so a management plan developed within the ISJ process cannot solve the seawater intrusion problem. An effective plan would include an intensive basin-wide conservation program and provide for on-going seawater intrusion assessment, and monitoring of all water use within the basin, also placing a moratorium on building basin wide until seawater intrusion is stopped (or aggressive benchmarks in reduced pumping are achieved). LCP Policy 5 provides for the County to implement a basin-wide water management program, with the help of the Regional Water Board, and LCP Policy 7 provides for on going monitoring of wells.

A County administered plan is needed partly because purveyors have shown they will not support an intensive water use efficiency program. Although water use efficiency is the fastest, surest, and most cost-effective way to curb seawater intrusion, it can also reduce revenue for purveyors in the short term. Past purveyor agreements have failed to produce a strong cooperative program, and a letter submitted to the Planning Commission by a local water purveyor indicates the company's reluctance to pursue conservation measures (see emailed doc "GoldenStAttnLet").

Condition 34, a condition set on the prior Los Osos project by the Coastal Commission, requires a "comprehensive water management plan for the Los Osos Groundwater basin that identifies management strategies for achieving a sustainable water supply." The SLO County Board of Supervisors added a reference to Condition 34 to Development Permit Condition 86. Condition 86 designed to avoid "growth that cannot be sustained by available water supplies." However, Supervisor Gibson (Board Chair) made it clear he considers the "comprehensive" plan to be developed by water purveyor within the ISJ process, and he said any moratorium on building would be limited to new development within the Prohibition Zone.

Condition 86 is designed to limit unsustainable growth from the project. A condition requiring a basin-wide plan to stop seawater intrusion is needed—along with other conditions—to help assure the project is viable, to support a successful second Proposition 218 assessment, and to protect, maintain, and restore where possible, sensitive ecosystems.

Maximum mitigation for project impacts: Currently, many proposed mitigations for the project's significant potential impacts are deferred until the impacts are observed. Other proposed mitigations are not the maximum mitigations feasible. As a result, the potential project impacts to the basin and ecosystems outweigh the modest and somewhat uncertain environmental benefits provided by the project, i.e., an approximately 2 mg/l nitrate reduction in the upper aquifer over 30 years and the reduction and the potential elimination of seeps and run off to the bay possibly caused by septic systems.

A seawater intrusion assessment using current data, followed by an analysis of various scenarios and options for developing a sustainable water supply, which applies a management asset strategy to determine the option with the greatest long-term value: Good decision making requires up-to-date information and objective analysis. The state of the basin is rapidly changing and new data showing the potential acceleration of seawater intrusion must be incorporated into basin models, with adequate analysis by independent, outside experts to determine the potential sustainability of the basin and various options for developing a sustainable water supply. Options should be prioritized using a triple bottom line asset management analysis, similar to the one used by Seattle Public Utilities (SPU), including a risk analysis to determine the option that offers the greatest long-term value. Options should also include a phased project option and a decentralized option. These can provide virtually all of the benefits of a centralized project at less than half the cost.

An Intensive, Integrated Conservation Program: The project's current conservation program does not maximize the benefits of integrated planning or the potential of an intensive water use efficiency program, apply indoor and outdoor high-efficiency retrofits, as well as LID, graywater reuse, and rainwater harvesting. An integrated approach emphasizing water use efficiency is recommended in the *California Water Plan,* and water use efficiency is now widely considered the most-cost effective way to provide a supplemental water source for thirsty communities. This approach also provides the fastest and surest way to develop the supplemental water needed to substantially reduce pumping of the lower aquifer and stop seawater intrusion. LID options are recognized as low-cost ways to enhance groundwater flows and reduced surface water pollution. As part of an integrated program, they will reduce water use, provide flows to sensitive ecosystems, mitigate for on-lot disturbance, and increase grant opportunities (among other benefits).

At the project appeal hearing on September 29, the SLO County Board of Supervisors substantially weakened the conservation condition set by the Planning Commission (Condition 99). The new language effectively delays program implementation and removes a definite funding source (i.e., LOWWP project funding) replacing these provisions with indeterminate timelines and funding mechanisms. The new language also limits measures to only indoor retrofits, and it eliminates a provision for water auditors. Even with the original Planning Commission language, the project's conservation element could be much stronger, providing significantly greater benefits to residents and the basin An aggressive water use efficiency program, targeting about a 30% reduction in indoor-outdoor water use throughout the basin is achievable and is likely the only way to establish a sustainable basin (see attached recommended conservation condition language and the language for a basin-wide management ordinance).

A Reuse Program that Prioritizes Seawater Intrusion Mitigation: The SLO County Board of Supervisors also weakened the SLO County Planning Commission conditions relating (originally Conditions 97 and 103, combined into Condition 97) designed to prioritize reuse options to achieve the greatest possible seawater intrusion benefits and to protect sensitive ecosystems. The condition, as now written, allows purveyors through the adjudicated (ISJ) process to determine the uses of recycled water. Only recycled water not negotiated as part of that process is subject to the seawater intrusion priority language in the condition presently. This change does not ensure recycled water will be used to maximize seawater intrusion benefits or provide important

4. Significantly increase the community's GHG production (septic systems use no energy)
5. Increase the community's sludge hauling and disposal by three times (septic systems break down solids by about 70%)
6. Cause impacts to community infrastructure, primarily roads (by open trench construction down 40 miles of roadways, requiring extensive dewatering, soil stabilization, disposal of contaminated water, and road repair).
7. Cause loss of area vegetation and trees (due to reduced groundwater flows)
8. Cause economic impacts to residents and businesses from $250 per month plus project costs

Note: Although seeps from septic systems and surface run off to the bay from septic systems are often cited as environmental impacts of septic systems, the EIR did not targets these issues as project objectives—and the data available do not directly link the nitrates and coliforms found in bayside test samples to septic systems (see Morro Bay National Estuary Program website).

Lack of a sustainable water supply reduces project funding and creates a burden on property owners

A second successful Proposition 218 assessment on undeveloped properties is not likely unless a sustainable water supply can be established. If the assessment does not pass, property owners in the Prohibition Zone will have to pay about 25% more for the project through sewer rates and changes. The current monthly costs for a typical home, as estimated by the LOWWP Project Team, is $250. The added expense to property owners from an unsuccessful second 218 would raise costs to well over $300. Additionally, Paavo Ogren, Public Works Director, has said project bid contracts will not put caps on costs, i.e., change orders will be allowed (untypical of design-build contracts). Therefore, costs could go much higher than estimated, even exceeding $400 per month for Prohibition Zone residents. These high project costs will drive many working families from the area and have significant negative impacts on social and economic resources in the area, *To reduce the potential for this impact, the project should be conditioned on the inclusion of options which could be fully funded with the currently-approved Proposition 218 assessment, e.g., the first phase of a phased project and/or a STEP project. This would protect social and economic resources and promote orderly development (e.g., avoid a scenario in which the project cannot be completed due to funding shortages).*

How the project can best support orderly development and protect and maintain vital coastal resources

To justify its costs and help assure it does more good than harm, the project must optimize its potential to establish a sustainable basin and it must provide maximum feasible mitigations. Absent these benefits, it will deplete limited public funding needed do develop a sustainable water supply and contribute to the area's uncertain future as it deals with a basin in critical overdraft. The following are ways the project can help assure a sustainable basin and water supply:

A major justification for the wastewater project has always been to allow more pumping from the upper aquifer to reduce pumping from the lower aquifer and stop seawater intrusion. However, the viability of the lower aquifer is clearly in question. Even if 900 AFY of pumping is stopped via intense conservation and some shifting of pumping, the resource may not be sustainable. Virtually all pumping from the lower aquifer in the Urban Compartment may need to be stopped for a period of time to allow the aquifer to recover. Under this scenario, other water sources (imported water and desalination) may have to be re-examined, and conservation would have to be maximized to extend the viability of the water basin.

The potential positive and negative impacts of the project on the upper aquifer and the overall basin sustainability of the basin as water source for the area must be examined, with cost-benefit and risk analysis completed for various options—as a condition of the project—to avoid a waste of public funds. Establishing a sustainable water supply cost-effectively may require implementing the first phase of a phased wastewater project as supplemental water is develop and other management options are pursued.

As proposed, the project will do more harm than good

The fact that project benefits can be summed up in one or two sentences (see the first paragraph of section above) and its impacts and proposed mitigations require 34 pages and over 100 conditions (see Coastal Development Permit—CDP—findings) says a lot about the project.

Mark Hutchinson, project environmental coordinator, acknowledged during the project appeal hearing before the SLO County Board of Supervisors (on September 29, 2009) that freshwater flows to bayside wetlands would drop by one foot with the project, and Spencer Harris of Cleath-Harris Geologists, Inc., acknowledged during the Planning Commission reviews on June 30, 2009, that several hundred acre feet of groundwater would stop flowing into the Willow Creek Drainage with the project. Willow Creek Drainage supports a mile-long stretch of riparian habitat feeding Willow Creek, Eto Lake, Los Osos Valley Creek, and Morro Bay National Estuary. On June 30, Spencer Harris also said that the Broderson leach fields are not sure to work as planned. The leach fields are supposed to completely replace the groundwater flow benefits of septic systems on the upper aquifer, lower aquifer, and baysice wetlands. Septic systems now dispense about 1000 AFY of water throughout the basin, and Broderson will dispense between 250-450 AFY of water.

The following is a partial list of potential negative project impacts:

1. Increase seawater intrusion (by removing septic return flows, reducing recharge to the upper aquifer and hydraulic pressure on the lower aquifer)
2. Cause seawater intrusion to begin in the upper aquifer (by reducing recharge to the upper aquifer and disrupting the recharge cycle)
3. Harm environmentally sensitive habitats (including several bayside wetlands, a large section of riparian habitat, dune scrub, creeks, and the National Estuary) (by reducing groundwater flows to these habitats and/or causing construction disturbance, e.g., system pump stations and leach field installation).

liquefaction downhill) are not certain. The attorney for one of the local water purveyors expressed concern about Broderson on water quality in a letter to the SLO County Planning Commission (see emailed doc "ISJ 8.08") The project description and EIR include plans to limit the water going into the leach fields to 250 AFY initially as groundwater is monitored. Therefore, very limited additional pumping should occur from the upper aquifer until the aquifer's safe yield is established based on water level and quality tests.

The viability of the project requires a sustainable basin and sustainable management practices

The EIR states that the primary environmental objective of the project is to "alleviate groundwater contamination—primarily nitrates—that has occurred at least partially because of the use of septic systems throughout the community" (DEIR, p. 3-8). The EIR also points out that the reduction will be modest and gradual (i.e., reduced by about 2 mg/l over 30 years from an average now of about 10 mg/l, high drinking water standards, to about 8.3 mg/l)—and the EIR points out a large percentage of nitrates in the upper aquifer come from other sources, citing the 2003 Yates & Williams study (DEIR, Appendix D, p. 5.2-28 and Appendix D-2, p. 34). This long-term environmental goal will not provide a benefit to coastal resources unless the basin is sustainable.

Pressure to over pump the upper aquifer will increase as the lower aquifer becomes less viable. Overdraft of the Los Osos Valley Water Basin has occurred over many years to meet demand. There is no reason to believe the upper aquifer will not fall victim to the same pressures as the lower aquifer, resulting in its permanent loss to seawater intrusion. Avoiding this problem requires establishing more protective safe yields and better basin management practices. *The project can promote these changes with conditions requiring strong conservation and reuse programs for the project—and a basin-wide management program with similar programs. A basin-wide program would be implemented with an ordinance and set a specific goal of stopping seawater intrusion. It should also emphasize an integrated water use efficiency approach (see Attachments #1& #2 for recommended language).*

Because pressure on the upper aquifer will occur within a relatively short timeframe, the water source will only be preserved if strong management measures are implemented in the near future. Determining safe yield estimates that err on the side of resource protection, developing cost-effective alternative water sources and feasible, safe pumping options—also treating upper aquifer water after it is pumped from the ground—are options that should be explored and developed to help assure basin sustainability. Some of the options would be developed by local purveyors. *However, a requirement for a basin-wide management plan that incorporates sustainable management options could be added as a condition of the project.*

Note: Golden State Water Company, one of the local water purveyors, has CPUC authorization and the equipment to treat the water currently although it is not being used. Paavo Ogren, SLO County Public Works Directory, pointed out the ability to treat water after pumping during a Planning Commission meeting on June 30, 2009.

Although the County has adopted two conservation ordinances to address the Level III of Severity designation (a retrofit on sale ordinance and an ordinance requiring off-site retrofits for new building) the ordinances have raised concerns among the public because they give more credits for water savings than actually achieved, and they effectively allow a net increase in water use by failing to adequately account for outdoor water use (e.g., on large properties). Additionally, building permits and will-serve notices are still being authorized within the basin (e.g., for properties with existing, unused wells).

SLO County officials (e.g., County Supervisor Bruce Gibson) have stated that water purveyors are responsible for stopping seawater intrusion. They have also claimed the adjudicated, cooperative planning process involving water purveyors including the County (referred to as an interlocutory stipulated judgment or ISJ), will result in a sustainable water supply (see emailed doc "ISJ 8.08"). They make these claims despite the fact water purveyors control only about two-thirds of the water in the basin and cooperative efforts among purveyor since the early 1990's have not slowed seawater intrusion.

ISJ technical memoranda do not establish a sustainable basin

County officials, including Supervisor Gibson (e.g., at a July 2009 Coastal Commission meeting in San Francisco) have also claimed recent technical memoranda by Cleath-Harris Geologists, Inc., completed as part of the ISJ process, show the Los Osos Valley Water Basin is sustainable under current conditions (see emailed doc "CHGurban+area+yield+TM").

The Cleath-Harris memoranda are very preliminary, and water purveyors are currently negotiating peer reviews and/or further studies. Some of the problems with the memoranda are the following:

1. They do not use current data, so they do not account for apparent seawater intrusion acceleration.
2. They propose shifting and/or increasing a considerable amount of pumping (e.g., 900 AFY in the Urban Compartment from the lower aquifer to the upper) and the propose increasing pumping in the creek compartment by 600 AFY. However, these changes are likely to be infeasible due to major obstacles with land acquisition, water rights, permitting, water quality, and/or costs.
1. The memorandum for the Urban Area requires pumping the upper aquifer at 40% over the established safe yield (about 1600 AFY rather than the 1150 AFY) despite the fact the *Seawater Intrusion Assessment* states the upper aquifer is only "relatively stable," subject to seawater intrusion during periods of extended drought (p. 27) (see emailed docs "LOVWB RSC 2007," "Upper Aq Safe Yields," and "SWIUpper Aq").
2. The memoranda use a modified definition of "safe yield" (and "sustainable yield") that assumes seawater intrusion continues at 55 AFY chloride levels (i.e., seawater contamination) increase at many supply wells in the basin (e.g., pp. 5 & 7). The County's definition of "safe yield" stated in the 2007 *Resource Capacity Study* (p. 6) doesn't allow continued seawater intrusion, and the Clean Water Act prohibits water quality degradation.

LCP Coastal Watershed Policy #1: "Preservation of Groundwater Basins"
"The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted."

LCP Environmentally Sensitive Habitat Policy #2 "As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat.

LCP Coastal Watershed Policy #3: "Monitoring of Resources"
In basins where extractions are approaching groundwater limitations, the county shall require applicants to install monitoring devices and participate in water monitoring management programs.

LCP Coastal Watershed Policy #5: "Los Osos Groundwater Management"
The county Planning and Engineering Departments should work with communities, property owners and the Regional Water Quality Control Board to develop and implement a basin-wide water management program for the Los Osos groundwater basin which addresses:
-existing and potential agricultural demand
-urban expansion in relation to water availability
- groundwater quality
-possible need for alternative liquid waste disposal
-protection of aquatic habitats including coastal waters, streams and wetlands.
The Resource Management System of the Land Use Element provides a framework for implementing this policy and an interim alert process for timely identification of potential resource deficiencies, so that sufficient lead time is allowed for correcting or avoiding a problem."

LCP Environmentally Sensitive Habitat Policy #7: "Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored."

(In addition to the Coastal Act/LCP/CZLUO policies/sections cited above, the project fails to conform/comply with Coastal Act Sections 30004, 30007.5., 30412, 30230, 30244, 30253, 30254; LCP Environmentally Sensitive Habitats Polices 1-8, 11, 12, 16, 17-23, 26-30, 36-39; LCP Coastal Watersheds Policies 1-3, 5, 10, 11; LCP Public Works Policies 1, 2, and 5-10; CZLUO Sections 23.01.010, 23.04.403, 23.07.172, 23.07.174, 23.07.176, 23.07.178, 23.08.288).

(See pages 4-12 for further reasons and support)

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state."

Coastal Act Section 30231: 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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act Section 30251: The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Coastal Act Section 30253: New development shall... (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

CZLUO 23.04.430: Availability of water supply and sewage disposal services.
A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section.

CZLUO Section 23.07.174 "Streams and riparian vegetation"
The provisions of this section apply to development proposed within or adjacent to (within one hundred 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.
(1) Application Content. A land use permit application for a project on a site located within or adjacent to an environmentally sensitive habitat shall also include a report by a biologist approved by the environmental coordinator that:
(A) 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;
(B) Recommends conditions of approval for the restoration of damaged habitats, where feasible...

Reasons for this Appeal

For the Los Osos Wastewater Project (LOWWP) to be viable, the Los Osos Valley Water Basin must be sustainable. However, recent data and basin studies show that the Los Osos Valley Water Basin may not be a sustainable water supply for the area due to serious seawater intrusion, which has progressed to the middle of the freshwater basin and appears to be accelerating.

Moreover, supplemental water sources (imported water and desalination) may not be feasible for Los Osos according to recent analyses. This fact has implications for project viability because about one-fourth of project funding must come from a second Proposition 218 assessment on undeveloped properties, and coastal land use policies require a sustainable water supply for new development. If the second 218 is not approved, an additional financial burden will fall on the people living within the Prohibition Zone, most of whom are low to middle income working families. The cost of the project is now well above state and federal affordability guidelines seriously threatening social and economic resources in the area. An additional financial burden will result in even greater harm.

Finally, the project will cause many potentially serious negative impacts to seawater intrusion and environmentally sensitive habitats, including wetlands, creeks, and Morro Bay National Estuary. Although numerous mitigations are proposed, many are deferred and do not provide the maximum feasible protections. When compared to the potential benefits of the project, the potential negative impacts clearly outweigh the benefits.

Thus, the project, as currently proposed, does not adequately protect and preserve coastal resources and assure orderly, balanced, and carefully planned development within the Coastal Zone. Without further conditions, the project fails to comply with the following Coastal Act, Local Coastal Plan, and Coastal Zone Land Use Ordinance sections and policies.

> Coastal Act Section 30001: "Legislative findings and declarations; ecological balance"
> The Legislature hereby finds and declares:
> (c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.
> (d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.
>
> Coastal Act Section 30001.5: "Legislative findings and declarations; goals"
> The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:
> (a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 10/16/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Citizens for Affordable and Safe Environment and Coalition for Low Income H

Mailing Address: PO Box 6931

City: Los Osos CA Zip Code: 93412 Phone: 805 534-0800

SECTION II. Decision Being Appealed

RECEIVED
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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

SLO County

2. Brief description of development being appealed:

LOWWP sewer, collection, treatment, recharge

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos PZ and Broderson site and Giacomazzi

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☒ Planning Commission

☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): drc20080103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

SLO CountyPublic Works

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Sierra Club

(2) Surfrider

(3) CLIH/CASE

(4) Los Osos Legal Defense Fund

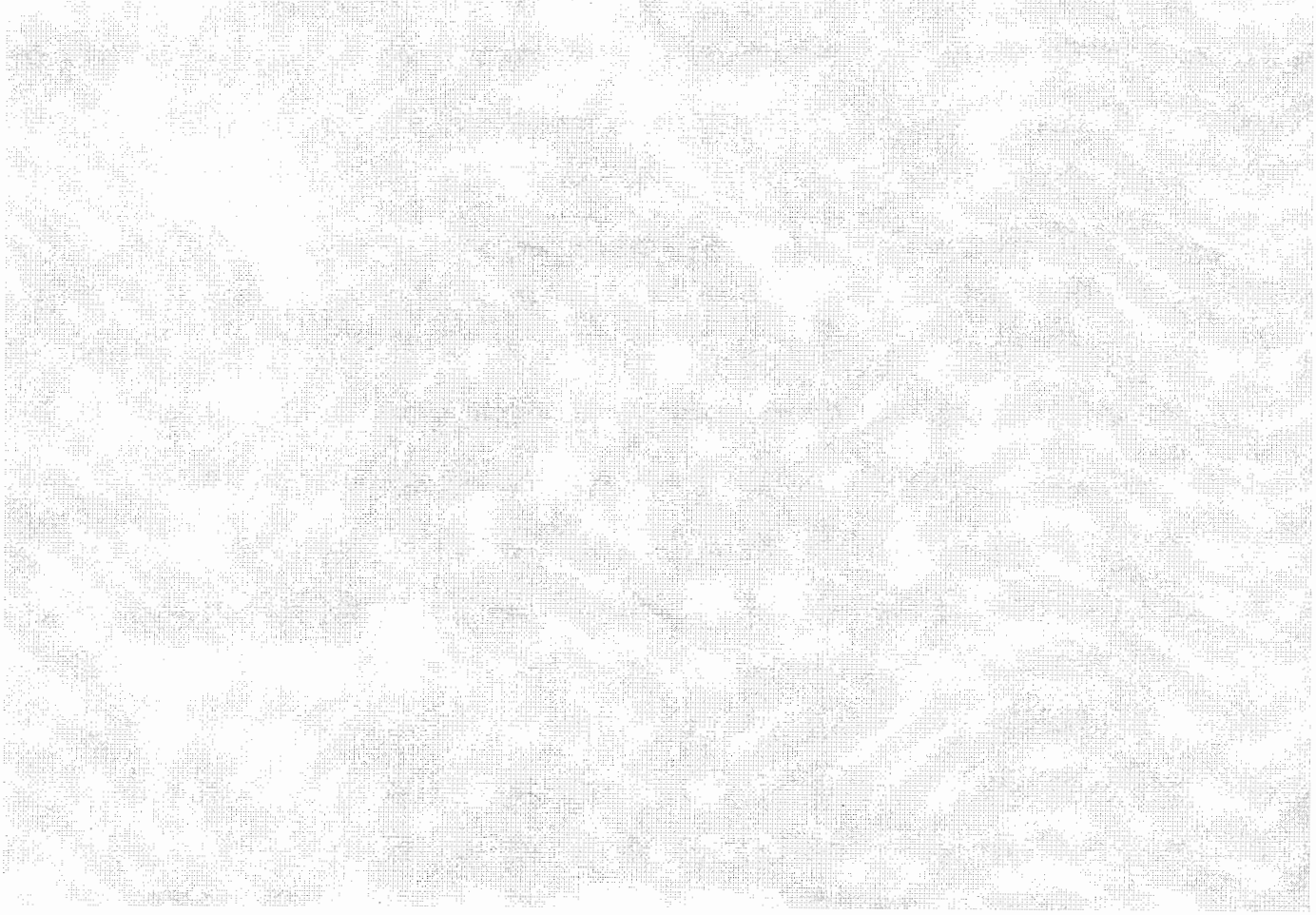
SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The Slo County application for a Public Facilities projectcreates major environmental, social and economic impacts to coastal resources that are avoidable when a more protective and more affordable alternative exist. This is a regulatory taking of ratepayer assest that is unnecessary to comply with the RWQCB3 order to stop septic discharges, which is the stated purpose of the project proposed for CD Permit. The development does not conform to the standards.
In order to justify the project a 3200 page EIR, 1200 pages of comments and 700 pages of SLO planning commissionf findings were used to make the "On Balance" argument to justify these avoidable impacts. They characterized these impacts as "un-avoidable" whne the majority are avoidable using "Viable Alternative technology".
The Coastal Act, The LCP, LUE, CZLUO all have specific language that states when there is a more protective method it should be implemented when feasable Section 30108
Her are the codes I am siting that could be better complied with:
23.01.032 LCP for Los Osos was not certified with the other areas of the Estero Plan Update so the SLO County CDP is premature.
Section 30801 The time window for a Writ of Mandate for the CEQA NOFA has not expirered and the appealants have 30 days from when the CEQA is final. State Clearing house number 2007121034.
Policies for Coastal Watershed Policy 1: Preservation of GW Basin...aquatic impacts have not been evauated and the long term integrity of the basin with the project has not been acertained and is questioned by scientific evidence to the contrary. Exfiltraion will endanger human health.
HCP should be in place before starting project as the undeveloped properties will not have water of HCP to enable a second 218 vote for an additinal $27 million. Not economically viable.
Eartquake in a liquifaction zone will render the slopes of the gravity sewer useless until thay can be repaired. There is no adequate recoverry plan or financial plan to replace the quake damage. (6.8 and 7.3 earthquake faults are on or adjacent to the liquefation zone.
We are within the 10 day appeal time. Section 23.02.039
Fire department has issues with public safety during construction and trench rescue issues.
23.07.172 Wetlands and Section 30121: destruction and endanger of adjacent sewer infrastructure to the Morro Bay Estuary and State Marine Reserve as well no recovery plan in place
Statement of overriding considerations. STEP?STEG reduces "unavoidable impacts of gravity collection"
Section 30231 project di=oes nit protect the Biology
Page 545 Graywtaer impacts to gravity flows for scouring speed not evaluated.
p 547 INI not evalutaed properly
P564 Misleading information regarding STE Collectionpage 574 project will not mitigate seawater intrusiona stated goalof the project\Page 579 STEP/STEG is a lower cost project with lower

environmental impacts.
Page 586 Endocrine Disruors and emerging contaminants harm childen and mothers. Page 588 Harms "Goby"in tidelands.
We will add supporting documents before CCC hearing. And ask the CCC Staff to notify us if hearing dates



SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: October 13, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

Appeal # 792

Citizens for Affordable & Safe Environment & Coalition for Low Income Housing

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

August 31, 2009

Citizens for Affordable & Safe Environment
And Coalition for Low Income Housing
Attn: Al Barrow
1250 4t Street B
Los Osos, CA 93402

County Of San Luis Obispo
Department Of Public Works
Attn: John Waddell
INTEROFFICE

SUBJECT: APPEAL OF DRC2008-00103 – COUNTY OF SLO - LOWWP
HEARING DATE: August 13, 2009 / PLANNING COMMISSION

We have received your request on the above referenced matter. In accordance with County Real Property Division Ordinance Section 21.04.020, Land Use Ordinance Section 22.70.050, and the County Coastal Zone Land Use Ordinance 23.01.043, the matter has been scheduled for public hearing before the Board of Supervisors. A copy of the appeal is attached.

The public hearing will be held in the Board of Supervisors' Chambers, County Government Center, 1055 Monterey Street, Room D170,San Luis Obispo. The project has a hearing date of **Tuesday, September 29, 2009**. All items are advertised for 9:00 a.m. If you have any questions, you may contact your Project Manager, **Murry Wilson**. A public notice will be sent out and you will receive a copy of the notice.

Please feel free to telephone me at 781- 5718 if you have any questions.

Sincerely,

Nicole Retana

Nicole Retana,
County Planning and Building Department

CC: Murry Wilson, Project Manager
Jim Orton, County Counsel

COASTAL APPEALABLE FORM

San Luis Obispo County Department of Planning and Building

SLO COUNTY PLANNING/BUILDING DEPT 7/25/08 07 PM 4:14

#198

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION Name: LOS OSOS Wastewater Project File Number: DRC2008-00103

Type of permit being appealed:

☐ Plot Plan ☐ Site Plan ☐ Minor Use Permit ☐ Development Plan
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☒ Other: Public Facility

The decision was made by:

☐ Planning Director (Staff) ☐ Building Official ☐ Planning Department Hearing
☐ Subdivision Review Board ☒ Planning Commission ☐ Other _____

Date the application was acted on: AUG 13 2009

The decision is appealed to:

☐ Board of Construction Appeals ☐ Board of Handicapped Access
☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary).

Explain: When an ALTERNATIVE is VIABLE THAT Reduces IMPACTS IT should be CHOSEN.

☐ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act - Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).

Explain: There is A Lower cost/impact ALTERNATIVE THAT SHOULD be ADDED BACK TO THE Design Build PROCESS

List any conditions that are being appealed and give reasons why you think it should be modified or removed. DOES NOT CONFORM TO LCP-COASTAL ACT

Condition Number Policy 1,2,5,11 Reason for appeal (attach additional sheets if necessary)

AND WATERSHED Pol 1

APPELLANT INFORMATION

Print name: (AL BARROW) Citizens for AFFORDABLE & SAFE ENVIRONMENT & COALITION FOR LOW INCOME HOUSING

Address: 1250 4th ST B 65050 CA 93402 Phone Number (daytime): 805 534-0800

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set froth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Al Barrow
Signature

8-26-09
Date

OFFICE USE ONLY
Date Received: 8/27/09
Amount Paid: $

By: Chris Macek, Secretary
Receipt No. (if applicable): N/A

SLO COUNTY
PLANNING/BUILDING
DEPT.

Citizens for Affordable and Safe Environment & Coalition for Low Income Housing (a California public benefit corporation)

2009 AUG 27 PM 4:14

August 26, 2009

Addendum to Coastal Appeasable Form

Glossary of expert testimony documents of Substantial issues supporting denial of permit DRC2008-00103 for LOWWP Gravity collection system and Biolac treatment. Cause for request is a significantly less costly and more protective viable alternative evaluated in the SLO County Fine Screening analysis of project option exists.

1. National Water research Institute Review of LOWWP
2. Soil Scientist and Lecturer on Los Osos Soils, aquifer and percolation rates
3. LCP for Los Osos is not certified Section 23.01.032-033,30328, Policy 1 preservation of Ground Water basin, Policy 2 Water extraction, Policy 3 monitoring resources, 23.07.172 Wetlands feasible to locate away from wetlands.
4. Prior Permit revocation Request complaint on project Many of those conditions have yet to be met or are promises to mitigate project impacts that are avoidable.. Which are vague without specifics to how mitigation is to be accomplished and monitored.
5. State Codes and Coastal Policies: Resources can be better protected by the Alternative Collection STEP/STEG and Ponds treatment.
6. Engineer's comments on exfiltration, infiltration, including trenching water losses for gravity collection maintenance from inadequate slope to move solids and insufficient flows. The loss to the basins potable water can be avoided by a STEP collection, which is, sealed 100%.
7. Graywater Impact to sewer flow is less flow will cause more inefficient movement of solids.
8. Infiltration and Inflow in Gravity sewer lines. Michael Saunders P.E. Orenco
9. Los Osos Soil Structure: will project remove Nitrates?
10. Dirt is estimated per yard to move cheaply making ponds and storage reservoirs least impact over concrete and steel structures.
11. Biosolids; Applicant has no place for them now, ponds and STEP do not produce biosolids for 30 plus years.
12. False and Misleading information: why the Commission should deny the permit. And STEP/STEG was promised to be in the Design/Build project bidding process.
13. Recharge of the Lower aquifer is myth not science. No mitigation for the seawater intrusion caused by this project.
14. More facts that the project does not stop seawater intrusion or mitigate it enough for a safe basin yield.
15. The STEP/STEG collection method cost is $44 million while reducing biosolids by 70%. This figure was not brought to the community.
16. Saving impacts and their mitigation is more germane to the Coastal Act than is gentrification of coastal communities.
17. a, b. Water Quality: Sewer effluent contains many carcinogens, mutagens and endocrine disrupters (EDCs) that should not be recharged into our drinking water aquifer. Recharge called disposal in this Broderson application will pollute our potable water supply. Classes as emerging contaminants by the USEPA there will

be MCL limits for them, extremely difficult and expensive treatment requiring brine hauling to Ventura brine facility, impacts that have not been defined. Orange County Water Factory One used tertiary treatment, reverse osmosis and advanced Oxidation Technology to remove dioxin-4 an EDC. We have evidence of these impacts in the aquatic biology in the Morro Bay Estuary from Dr. Lars Tomanek Ph.D. Toxicology Cal Poly SLO.

18. Coastal Commission Letter to Applicants "...designed and constructed in a manner that is consistent to the maximum extent required by law, with applicable land use and resource conservation policies." This request has not been complied with to date.

#1

NATIONAL WATER RESEARCH INSTITUTE

Final Report

of the

Independent Advisory Panel

on Reviewing the

Los Osos Wastewater Management Plan Update

December 4, 2006
Fountain Valley, California

Introduction

In August 2006, the Los Osos Community Services District (LOCSD) requested that the National Water Research Institute (NWRI) of Fountain Valley, California, organize an Independent Advisory Panel (Panel) to provide an independent review of the July 28, 2006, draft *Los Osos Wastewater Management Plan Update* (Plan Update), prepared by Ripley Pacific Company.

Los Osos, which has a population of over 15,000, lacks a centralized wastewater collection system and treatment facility. The community is served by septic tanks, leach fields, and cess pits. A number of studies have been conducted over the years, and several wastewater projects have been proposed. For a variety of reasons, no project has been constructed. The purpose of the review of the wastewater management plan was to provide an independent evaluation of the Plan Update project.

The Panel was organized to provide an independent, third-party review of the Plan Update. Panel members include:

- *Chair*: George Tchobanoglous, Ph.D., P.E., University of California, Davis
- Martin B. Feeney, P.G., CHG, Consulting Hydrogeologist (Ventura, CA)
- Robert Jaques, P.E., Private Consultant (Monterey, CA)
- Kenneth K. Tanji, D.Sc., University of California, Davis
- Valerie J. Young, AICP, Environmental Planner and Water Reuse Specialist (San Francisco, CA)

A description of NWRI is included in Appendix A. Short biographies on each Panel member are included in Appendix B.

The Panel held an initial conference call with the LOCSD district engineer and LOCSD consultants on October 25, 2006, to hear an overview presentation on the project in preparation for a November meeting in Los Osos.

The Panel later met with the LOCSD district engineer and LOCSD consultants in Los Osos, California, on November 8-9, 2006. The agenda for that meeting is included in Appendix C. The objectives of the Panel meeting included:

- Providing the Panel with appropriate context and background information regarding the Plan Update.
- Reviewing the assumptions, criteria, and findings of the Plan Update.
- Developing Panel findings and recommendations.

Representatives from the Central Coast Regional Water Quality Control Board (RWQCB) and the San Luis Obispo County Public Works Department (County) were invited by NWRI to attend the meeting. A list of meeting attendees is provided in Appendix C.

The Panel's comments, findings, and recommendations based on a review of written material, presentations, and discussions at the November 8-9, 2006, meeting in Los Osos, are presented in this report.

The report is organized into the following sections:

- Overview.
- Guiding Principles.
- Findings and Recommendations.

1. Overview

The Plan Update prepared by Ripley Pacific Company has provided an extremely valuable service to the Los Osos community by identifying alternative technologies and waste management opportunities that can be used to develop an overall integrated water management plan.

2. Guiding Principles

The Panel developed "Guiding Principles" to provide a perspective on the rationale for the Panel's Findings and Recommendations. While these principles are specifically directed at the Plan Update, they are based on knowledge that the Panel has accumulated from experience associated with planning and implementing wastewater collection, treatment, and reuse systems in California and elsewhere.

The Guiding Principles set forth by the Panel are as follows:

2.1 Doing nothing is not an option.

2.2 The continued use of individual septic tank/leachfield systems for a community of this size does not reflect the modern state of wastewater management.

2.3 Whatever wastewater management system is selected, careful attention must be devoted to the minimization of odors.

2.4 Recommended alternatives must solve the problems listed in paragraph 3.1 under "Findings and Recommendations."

2.5 The project must be implemented in a timely and cost-effective manner.

2.6 Given the many issues related to the wastewater management in Los Osos, it is imperative that priorities be established for project implementation. The first priority of the project must remedy the existing water pollution control problems. Secondary priorities may be incorporated to address other water

management issues, including effluent reuse and addressing saltwater intrusion.

2.7 Alternatives should be presented with sufficient detail in terms of description and estimated costs so that rational comparisons can be made.

2.8 The costs must be based on a better understanding of the elements for each alternative. Refined and updated cost estimates are needed for each alternative, so voters will understand the costs of what they are voting for under a required Prop 218 vote.

2.9 The solution to the saltwater intrusion problem should have lower priority relative to the resolution of wastewater compliance issues. However, the resolution of saltwater intrusion is recognized as a key element of the integrated water management plan.

3. Findings and Recommendations

3.1 What is the problem?

3.1.1 There is groundwater pollution from leaching of septic wastewater, as well as a rise in the shallow groundwater level due to septic system discharges.

3.1.2 The resulting pollution of the upper aquifer has forced the community to pump from the lower aquifer for water supply, which has resulted in overpumping of that aquifer, thus causing seawater intrusion in the deep aquifer zones.

3.1.3 Septic system discharges are polluting surface water supplies (for example, the Morro Bay shoreline).

3.1.4 RWQCB enforcement action is pending.

3.1.5 Los Osos has not corrected the problem for more than 30 years.

3.2 Collection Systems

3.2.1 The STEP/STEG system is a well-developed technology and is a viable alternative to the gravity collection system.

3.2.2 With both types of collection systems (i.e., STEP/STEG and conventional gravity with pump stations), it is imperative that the costs of connection from each home to the transmission line and the cost of property restoration be included in the total cost estimate for collection.

3.2.3 Regardless of which type of collection system is selected, consideration should be given to the use of vacuum sewers in low lying areas along Morro Bay.

3.2.4 Clarifications of homeowner responsibilities need to be made for each collection option.

3.2.5 Clear delineation of annual capital and operating costs for every collection alternative should be set forth, so the least costly alternative can be identified.

3.2.6 The cost estimates for the collection system must be thorough and complete and include ongoing maintenance requirements for both the homeowner and the operating agency.

3.2.7 The economic benefits of septic tank pretreatment should be considered in the cost estimates for alternative treatment technologies. Such an analysis should also include the economic benefit of reduced biosolids production.

3.2.8 The economic benefits of reduced inflow and infiltration (I/I) achieved by the use of small-diameter effluent pressure collection should be considered in the cost estimates for alternative treatment technologies.

3.3 Treatment Plant Sites

3.3.1 There are two potential plant locations for the treatment facility: in-town or out-of-town, each with their own implementation challenges.

3.3.2 Given the number of problematic issues with the downtown site, it is the unanimous opinion of the Panel that an out-of-town site(s) is a better alternative.

3.3.3 If an out-of-town site is selected, a return line for recycled water that could be used for various applications within the community should be considered as part of an initial phase.

3.3.4 Because of the potential benefits and economic cost savings of constructing a return line concurrently with the collection system, the Department of Health Services (DHS)-required pipeline separation distance should be appealed.

3.4 Treatment Technologies

3.4.1 The least costly and most easily implemented solution would involve appropriate treatment out-of-town with land application (with spray irrigation). Reuse options could be added at a later date (phase) to return water for in-town landscape irrigation, for agricultural reuse, and for irrigation of cemeteries and playgrounds.

3.4.2 Regardless of the type of treatment process selected, the process should be designed to allow for nitrogen removal, if needed.

3.5 Wastewater Disposal and Reuse

3.5.1 Effluent disposed by land application (i.e., spray irrigation) will not need to undergo nitrogen removal when applied at agronomic rates.

3.5.2 In the future, if water is used for agricultural purposes, preference should be given to non-food crops, such as turf grasses, pastures, and dry-land farmed crops, where less-restrictive Title 22 regulations apply. The removal of some nitrogen may be required for agronomic applications.

3.5.3 If the Broderson site is used for effluent disposal, it is important to evaluate compliance with the new DHS Groundwater Recharge Reuse criteria (because there is no vadose zone and there would be intentional recharge to the upper aquifer, which has historically been used for potable supply).

3.5.4 The beneficial use of treated effluent should be considered as part of a comprehensive Integrated Water Management Plan that should be developed concurrently with implementation of the Wastewater Management Plan.

3.5.5 Winter storage is required for land application, as well as for zero-discharge of effluent.

3.6 Public Communication Programs

3.6.1 There is no compelling evidence that either the County or LOCSD has a clear understanding of how the public views the various options and alternatives at this point in time.

3.6.2 A public outreach campaign is needed that leads to a positive Proposition 218 vote (property owners). Build a program around the people who support the need for a wastewater solution.

3.6.3 The County, in close collaboration with LOCSD, should assume the responsibility of being the source of credible information for the project.

3.6.4 There will be a need to develop a long-term communications program for wastewater management to build and maintain public support and acceptance for the project.

3.7 Permits and Schedule

3.7.1 Maximum use of the existing certified Environmental Impact Report (EIR) should be made for the out-of-town treatment plant site and disposal areas.

3.7.2 An Addendum to the EIR should be considered to expedite the California Environmental Quality Act (CEQA) process.

3.7.3 Discussions should be undertaken with the Coastal Commission to ensure that existing permits can be amended rather than applying for new permits.

3.7.4 The County needs to expedite the development and implementation of the wastewater management system to demonstrate to the RWQCB a commitment to fix the problems.

3.7.5 Every effort should be made to reestablish this project as a funding priority under the State Revolving Fund (SRF) program. Private financing may be considered for the project as an alternative to the SRF alternative.

3.7.6 The Central Coast RWQCB's 2010 compliance date appears to be somewhat arbitrary. The most optimistic estimate of the overall time period to complete the project is approximately 4 years:

- 1 year will be required to complete the planning process, including the Proposition 218 vote.
- 1 year to prepare the final design.
- 2 to 3 years for construction of the project (collection, treatment, and land application).

3.7.7 Opportunities for phasing the construction of the collection system should be evaluated.

3.8 Relationship of the Wastewater Project to Water Management Planning

3.8.1 The current Coastal Development Permit for the wastewater project requires that a wastewater management plan and a water management plan, as well as a habitat conservation plan (HCP), all be in place before additional connections can be made.

3.8.2 Completion of the wastewater management plan is an integral component in the development of the integrated water management plan.

3.8.3 The County should seek to secure funding under Proposition 50 and potentially Proposition 84.

Appendix A: National Water Research Institute

A 501(c)3 non-profit organization, NWRI was established in 1991 and is devoted to water education, research, and related activities. NWRI is governed by a Board of Directors consisting of representatives of six water and wastewater agencies in Southern California.

The mission of NWRI is to *create new sources of water supply through research and technology and to protect the freshwater and marine environments*. NWRI fulfills this mission by sponsoring cutting-edge research with a focus on practical results. NWRI also supports students though its many outreach programs; sponsors seminars, workshops, and conferences on critical issues facing the water community; and conducts Independent Advisory Panels for water and wastewater agencies and government agencies to provide a third-party review of plans and projects.

The only public-private partnership of its kind in the United States, NWRI receives its core funding from the Joan Irvine Smith & Athalie Richardson Irvine Clarke Foundation. NWRI leverages its resources through extensive collaborations with universities, federal and state agencies, and other associations and research organizations. Through these cooperative efforts, NWRI's has funded over 160 research projects with over 100 partners in the past 15 years, resulting in numerous peer-reviewed publications.

Appendix B: Panel Member Biographies

GEORGE TCHOBANOGLOUS, Ph.D., P.E. (Chair)
Professor Emeritus
University of California, Davis (Davis, California)

For over 35 years, wastewater expert George Tchobanoglous has taught courses on water and wastewater treatment and solid waste management at the University of California, Davis, where he is Professor Emeritus in the Department of Civil and Environmental Engineering. He has authored or coauthored over 350 publications, including 13 textbooks and five engineering reference books. Tchobanoglous has been past President of the Association of Environmental Engineering and Science Professors and currently serves as a national and international consultant to both government agencies and private concerns. Among his honors, he received the Athalie Richardson Irvine Clarke Prize from NWRI in 2003, was inducted to the National Academy of Engineers in 2004, and received an Honorary Doctor of Engineering degree from the Colorado School of Mines in 2005. Tchobanoglous received a B.S. in Civil Engineering from the University of the Pacific, an M.S. in Sanitary Engineering from the University of California, Berkeley, and a Ph.D. in Environmental Engineering from Stanford University.

MARTIN B. FEENEY, P.G., CHG
Consulting Hydrogeologist (Ventura, California)

Martin Feeney has been a consulting hydrogeologist since 1997, providing hydrogeologic consulting services to water agencies, private industry, and engineering firms. Prior to this, he served as hydrogeologist at various consulting firms such as Balanced Hydrologics, Inc. and Fugro West, Inc., where he provided analysis of groundwater basins, developed groundwater flow and transport, and developed saline groundwater source for desalination plants, injection wells/artificial recharge programs, and underground storage tank site assessment and remediation. He has been involved in numerous groundwater resources and water well projects throughout California, working for groups such as Monterey County, Salinas Valley, Santa Clara Valley Water District, Ventura County, and various others. Feeney received a B.S. in Earth Sciences from the University of California, Santa Cruz and an M.S. in Environmental Planning (Ground Water) from California State University.

ROBERT JAQUES, P.E.
Private Consultant (Monterey, California)

Bob Jaques has been a private engineering consultant since retiring from the Monterey Regional Water Pollution Control Agency in September 2005 after 30 years of service. During that time, he directed the planning, design, and construction of a wide-range of infrastructure projects, including a 30-mgd regional wastewater collection, treatment, and disposal system and a regional water recycling facility irrigating food crops. His areas of

interest include obtaining permits and approvals for various types of water and wastewater projects, and coordinating these activities with the County Health Department, the Regional Water Quality Control Board, and other regulatory agencies; preparing concept-level wastewater treatment alternatives studies; and preparing storm water programs, budgets, and work plans for Phase II storm water entities. He also continues to work part-time for the Monterey Regional Water Pollution Control Agency on certain projects and programs, including serving as the Program Manager for the regional storm water program of seven participating entities and five coordinating entities. Jaques received a B.S. and M.S. in Civil Engineering from the University of California, Berkeley.

KENNETH K. TANJI, D.Sc.
Professor Emeritus, Hydrology Program
University of California, Davis (Davis, California)

Ken Tanji retired from the University of California, Davis after 41 years as a Professor of Hydrology in the Department of Land, Air, and Water Resources. During that time, he had also served as Department Chair, Assistant Director of the University of California's Agricultural Experiment Station, and Director of the Kearney Foundation of Soil Science. He is internationally recognized in water-quality aspects of irrigation and drainage, and is the editor of the manual, *Agricultural Salinity Appraisal and Management*, published by the American Society of Civil Engineers. Currently, he heads a team developing a *Salinity Guide for Irrigation of Landscapes with Recycled Water* in the Los Angeles-San Diego corridor. Tanji received a B.A. in Chemistry from the University of Hawaii, an M.S. in Soil Chemistry from the University of California, Davis, and a D.Sc. in Irrigation, Drainage and Hydrological Engineering from Kyoto University in Japan.

VALERIE J. YOUNG, AICP
Senior Environmental Planner and Water Reuse Specialist (San Francisco, California)

Valerie Young is a senior environmental planner and water reuse specialist with over 26 years of professional planning experience, having spent 10 years working in the public sector and 15 years working as a consultant with CH2M HILL in California and The Louis Berger Group in New York. Currently, she has an independent consulting practice. Since 1993, she has focused her environmental planning work on recycled water and water-related projects in California. Her primary role has been to shepherd these projects through the environmental review process, preparing environmental documents and addressing community and agency concerns. She was also worked closely with engineers to ensure mitigation measures are incorporated into recycled water projects during design, construction, and operation. Young received a B.A. in History from the University of California, Santa Barbara, and an M.A. in Geography/Planning from Arizona State University.

Appendix C: Panel Meeting Agenda

NWRI Independent Advisory Panel Meeting: Los Osos Wastewater Management Plan Update Review

FINAL Meeting Agenda November 8-9, 2006

Meeting/Hotel Location	**On-Site Contacts**
Sea Pines Resort	**Tammy Russo (NWRI)**
1945 Solano St.	Cell: (714) 614-7386
Los Osos, CA 93402	**Jeff Mosher (NWRI)**
(805) 528-5252	Cell: (714) 705-3722

Meeting Objectives:

1. Provide panel with appropriate context and background information regarding the DRAFT Los Osos Wastewater Management Plant Update.
2. Review the assumptions, criteria, and findings of the Plan Update.
3. Develop panel findings and recommendations.

Wednesday, November 8, 2006

8:30 - 11:00 am	**Tour of Project Sites**	
11:15 - 11:30 am	Welcome and Introductions - Jeff Mosher (NWRI) - George Tchobanoglous (Panel Chair)	
11:30 - 12:00 noon	Status of Project	Rob Miller (LOCSD)
12:00 - 1:00 pm	**Lunch**	
1:00 - 2:30 pm	Discussion Questions: - General - STEP/STEG - Site Selection - Environmental and Public Acceptance - Agricultural Users - Agricultural Use Plan - Treatment Technologies - Storage - Costs - Other?	George Tchobanoglous
2:30 - 2:45 pm	**Break**	
3:00 - 4:00 pm	Discussion - Continued	
4:00 - 5:30 pm	**Panel Only Discussion**	

Thursday, November 9, 2006

8:30 - 10:30 am	Panel Discussion with Consultant Team	George Tchobanoglous (Panel Chair)
10:30 - 10:45 am	**Break**	
10:45 - 12:00 noon	Panel Only Discussion	
12:00 - 1:00 pm	**Lunch**	
1:00 - 2:30 pm	Panel Only Discussion	
2:30 pm	**Adjourn**	

#16

al barrow

From: "al barrow" <a.barrow@charter.net>
To: "jesse hill" <jlbhill@aol.com>
Cc: "Piper Reilly" <getgreenlo@gmail.com>; "al barrow" <a.barrow@charter.net>
Sent: Monday, August 24, 2009 4:13 AM
Attach: Policy 8.doc
Subject: LCP Policy 8

Dear Mr. Jesse Hill;

Here are a few LCP Policies that seem germane to our appeal of the CDP.
Deadline Thursday 5pm at SLO Planning desk.Each section ahs it's own policies so a few may overlap into combining policy. Only numbered policies are acceptable.
These are the updates from August 2006 but are not final as Los Osos was the area omitted from the General Plan Update.

Overall STEP/STEG is the most protective of coastal resources as it disturb less with directional drilling installation method of the collection system in the right of way. That eliminates huge dirt removal of deep trenching and the commensurate water losses from dewatering.

Also local labor will play a greater roll and aid in keeping the tax dollars in the community. A reduction in losses of revenue is a socio economic impact reduced by up to 50%. Michael Saunders P.E. is providing the STEP/STEG lowest cost estimate. He is Orenco (major STEP/STEG designers) engineer and past Water/Wastewater engineer for Charlotte County Florida where he supervised bidding, maintenance and installation of 25,000 gravity connections and 7,000 STEP/STEG connections.

The list of impact reduction by STEP/STEG and pond treatment is almost a universal reduction in cost and resource savings that is too great to eliminate from the Design/Build competition and evaluation. STEP/STEG and ponds treatment elimanate sludge almost entirely for 30 years and longer. All the coastal policiesa are more heartily adhered to with these viable alternatives. Why were they taken off of the table when they were described in the SOQ,RFQ and the 218 Assessment? We hold that is inappropriate and that SLO County should restore tham.

Regarding CEQA: Jones and Stokes stated that what where and how are essential for mitigation. The SLO County has been vague and evasive as to how and when it will occur, These mitigation plans are supposed to be reviewed in the CEQA process but were not. We agree with Santa Lucia Chapter of the Sierra Club an SEIR is required if they want to pursue this project. LOCAC and the LOCSD among others made comments on the inadequacies of fulfilling CEQA guidelines. Surfrider and the Los Osos Sustainability Group found it woefully inadequate as did other environmental professionals that meet these bars in their daily work, C.A.S.E. as well. (Citizens for Affordable and Safe Environment). By the way I added some LCP pipeline language that is specific to oil pipeline that may be inappropriate.

The lack of details on how impacts are to be mitigated are disturbing. I have professional friends in private industry that could not get a permit from the county for this kind of double standard.

In sum the compliance with the legal bar for CEQA is in question as in the compliance of the SLO County proposed project CDP related to the LCP. I hope I have not been to vague.

Thank You,.
Al Barrow

Los Osos Legal Defense Fund
P.O Box 6931
Los Osos CA 93412 805 534-0800

Until Tuesday 9am respectfully

#17a

al barrow

From: "Greg Haegele, Sierra Club" <membership.services@sierraclub.org>
To: <a.barrow@charter.net>
Sent: Saturday, April 04, 2009 7:00 AM
Subject: You Can Protect Kids from Toxic Chemicals

SIERRA CLUB

Dear Al,

Did you know that babies are being born with more than 300 industrial chemicals in their bodies, many associated with diseases from childhood cancer to birth defects, infertility and learning deficits?

Protect Kids from Toxic Chemicals!

America's toxic chemical safety law fails to protect the most vulnerable in society, kids. It assumes that chemicals are safe and relies on the government to identify dangerous chemicals among the 80,000 on the market. That hasn't worked. Instead, the burden should be on chemical manufacturers to **prove that chemicals are safe for infants and children before they enter the marketplace.**

California Senator Barbara Boxer has long supported the Kids-Safe Chemicals Act, which will make many important changes to chemical safety law to protect children. **Urge her to keep up the good work and pass the bill.**

Urge Senator Barbara Boxer to pass the Kids-Safe Chemicals Act!

As Chair of the Senate's Environment Committee, Senator Boxer is in a key position to pass legislation to protect kids' health from toxic chemicals in our food, air and water. The Kids-Safe Chemical Act would put the burden on chemical manufacturers to test chemicals' health effects thoroughly before marketing them, guarantee the public's right to know about health and safety data, and give the EPA clear authority to ban or restrict chemicals.

Senator Boxer has long been a leader in advocating protection of childrens' health. Urge her to pass the Kids-Safe Chemical Act ASAP.

Thanks for taking action to protect our children's future.

Sincerely,

Greg Haegele
Director of Conservation

If you do not wish to receive future emails like this, click here to be removed from this type of email contact.

Update My Profile | Manage My Email Preferences | Update My Interests

Sierra Club
85 Second St.
San Francisco, CA 94105

176

al barrow

From: "Lars Tomanek" <ltomanek@calpoly.edu>
To: "al barrow" <a.barrow@charter.net>
Sent: Thursday, January 29, 2009 3:56 PM
Attach: Los Osos Environmental Impact Statement 2009.pdf
Subject: Re: DEIR

Here it is: I sent it to Mark.

Thanks for sending me his e-mail. Please respect this information as confidential given the preliminary nature of some of our results.

Regards,

Lars

On Jan 28, 2009, at 12:12 PM, al barrow wrote:

> Hi Lars;
>
> Here is the contact to submit by this Friday to SLO County.
>
> Mark Hutchinson
>
> Environmental Programs Manager
>
> San Luis Obispo County Department of Public Works
>
> County Government Center Room 207
>
> San Luis Obispo, CA 93408
>
> mhutchinson@co.slo.ca.us
>
> The food chain in the saltwater marshes are all affected by nonylphenol and other EDCs and a list of emerging contaminants. Breast feeders, developing babies, adololecents of all species are damaged. The Steelhead population has been impacted. The USEPA clean water EDSP in vitro testing program is required to class as to EDC 86,000 common chemicals of comcern.
> Here is the DEIR http://www.lowwp-eir.net/lowwpeir/ site notice on PD, prokect description, all four project propose recharging our aquifer at Broderson...in my view that is a fatal flaw.
> Appendix B describes the Broderson site...the efluent will ride the lamella and clay lenses to the seeps aroud and under the MB Estuary and will pollute the Bay with these chemicals. MB is a special status Estuary as well as a National Estuary. These impacts are unacceptable and their is no mitigation, While there are other sources that need to be controlled that does not justify destroying habitat and the species that depend on it.
> Thank You.
> Al Barrow Coalition for Low Income Housing Citizens for Affordable and Safe Environment
> PS Please send a link to your webpage.

****
Lars Tomanek, Ph.D.
Assistant Professor

Environmental Proteomics Laboratory
Center for Coastal Marine Sciences
California Polytechnic State University
San Luis Obispo, CA 93407-0401
USA

Webpage: http://www.calpoly.edu/~bio/EPL/index.html
ltomanek@calpoly.edu
Phone: 805 756 2437
E-mail: ltomanek@calpoly.edu
****

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#18

STATE OF CALIFORNIA – NATURAL RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877

March 25, 2009

Paavo Ogren, Director
San Luis Obispo County Public Works Department
County Government Center, Room 207
San Luis Obispo, CA 93408

Subject: **Proposed Los Osos Wastewater Project**

Dear Mr. Ogren:

We received the County's request for our comments on the proposed Los Osos Wastewater project (project referral number DRC2008-00103). We also previously received a copy of the Draft Environmental Impact Report (DEIR) for the project. Please accept the following comments on both the project and the DEIR. We regret we could not complete these comments sooner, however, staffing and budget cuts have significantly impaired our ability to carry out our responsibilities under the law in a timely manner.

Summary

As we have previously indicated to the County on numerous occasions, we are supportive of a project designed to alleviate the current significant wastewater problems in the Los Osos area and ameliorate the degradation of marine resources in the Morro Bay estuary resulting from failing septic systems. It is clear to us that the community is in dire need of improved wastewater collection, treatment, and disposal facilities, and that these improvements are necessary if significant coastal resources (including the Los Osos Groundwater Basin, the Morro Bay estuary, and related resources) are to be adequately protected and restored. It is also clear to us that such a major public works project understandably raises a wide spectrum of Coastal Act and Local Coastal Program (LCP) issues and concerns. Similarly, we recognize that any proposed waste water treatment system, especially the siting of treatment works facilities, will generate local opposition. Notwithstanding local or neighborhood opposition, it is imperative that a system be located, designed and constructed in a manner that is consistent, to the maximum extent required by law, with applicable land use and resource conservation policies. Based on the information received, we have a number of recommendations we think are necessary and appropriate to best achieve Coastal Act and LCP conformity. We also have some questions that may lead to additional recommended modifications depending on the answers to them.

In summary, with certain modifications (including those detailed below), we support a build alternative that avoids adverse coastal resource impacts to the maximum degree feasible, including full mitigation for any unavoidable impacts. From the materials we have reviewed, it appears that a project is both feasible and consistent with law, including a project that can build upon the various alternatives evaluated by the County to date. However, because there are several critical outstanding questions that affect the precise siting and design of such a build

project, we cannot provide a specific recommendation relative to the four primary alternatives evaluated in the DEIR, including the project the County has identified as its preferred alternative (alternative 4 from the DEIR). At the same time, it is our firm opinion that an approvable project differs from all these projects as currently envisioned, and in fact is more likely to be a permutation of the best components of these alternatives and other concepts identified to date.

Toward that end, we have some specific recommendations and questions that we believe are necessary to achieve a build project that is consistent with the Coastal Act and LCP, and that we hope will assist the County as it moves toward that goal.

In terms of the avoidance of adverse coastal resource impacts, our primary recommendation is that an approvable build project, regardless of treatment plant location and collection method, must be modified to provide for tertiary treatment so that any spray field area used for the project that is in or affects agricultural land or uses can continue to be used for agricultural purposes and production (with or without the spraying). Such a modification also avoids potential adverse effluent disposal impacts on habitats and groundwater (including in relation to the leach fields at the Broderson site). It also addresses other necessary and appropriate mitigation measures for adverse project impacts because the tertiary treated wastewater will then be available and can then be used for other beneficial uses (i.e., groundwater augmentation, irrigation, habitat enhancement, etc.). In our opinion, and based on evolving information and circumstances, it is clear to us that a project that incorporates tertiary treatment is necessary to achieve LCP and Coastal Act consistency.

Unfortunately, the materials we have seen do not thoroughly evaluate the ramifications of going to tertiary treatment, and this affects our ability to provide much further project specific recommendations. By that we mean that although the physical plant requirements for tertiary treatment are identified (and generally appear to be fairly minor differences in scope and scale), as are the costs of doing so, the implications and opportunities that such a modification engenders appear not to have been identified or evaluated. It seems clear that if the project is a tertiary project, many of the effluent disposal options will be completely different from those that have been evaluated, and could significantly change the scope of the project, including the availability of effluent for a range of beneficial uses (including, but not limited to, injection wells, urban/agricultural exchange or "purple pipe" programs, etc.). At a minimum, a tertiary project will have significantly different effluent disposal needs and opportunities, including significantly different space requirements. In this regard, it is incumbent on the County to thoroughly evaluate and explain the various options and implications so that fully informed and best land use decisions can be made.

In addition to this primary means of avoiding adverse coastal resource impacts, the project must be sized and directed to existing developed areas in order to avoid inducement of inappropriate growth. This means that physical capacity, system sizing needs, and service area must be directly connected and correlated to the existing developed area and the limited infill/redevelopment potential within that area. Except for existing legal lots of record where some type of development may need to be approved to avoid a takings of private property, all existing habitat

areas (i.e., wetlands, streams, terrestrial habitat, ESHA, etc.) and agricultural land in and around the project area must be excluded from potential service to obviate growth that is inconsistent with Coastal Act and LCP. Furthermore, subsequent LCP amendments that strengthen the correlation of the urban services line to the service boundary will be necessary.

The project must be sited and designed in a manner that respects significant public visual resources and public recreational opportunities. It must also incorporate or take into consideration all applicable terms and conditions associated with the previous wastewater project permitted by the Commission in 2004 (per CDP A-3-SLO-03-113, since expired). As you know, considerable Commission and County effort was invested in developing the elements and parameters of that 2004 approval, and many of the same issues are raised now and warrant similar treatment. Thus, we recommend that the terms and conditions of CDP A-3-SLO-03-113 be used as a starting point for consideration of development terms for the current project.

Issues

Agriculture

One of the major concerns with the proposed project on the County's "preferred" site is that it would take some 192 acres of agricultural land, most of which is prime, out of agricultural production. Approximately 17 acres would be needed for the physical plant and related facilities. However, a much larger area, approximately 175-acres, would be converted for spray fields and leach lines. Because the effluent will only receive secondary treatment, that land would not be used or made available for agriculture (or almost anything else). Indeed, any materials removed from the disposal area (e.g., grass, cover crop) would have to be disposed of at a landfill.

LCP Agriculture Policy 1 requires that agricultural land be maintained in or available for agricultural production and strictly limits the conversion of agricultural lands to non-agricultural uses. Where such uses are allowed on agricultural land, it must be demonstrated that no alternative building site exists on or offsite and the least amount of land possible is converted. Such permitted uses cannot conflict with surrounding agricultural land and uses (Policy 1 and CZLUO Section 23.08.288(d)). It is clear that some conversion is required for a physical plant located outside of town (some 17 acres). However, it is not clear that the complete conversion proposed (i.e., where such land would be completely converted because the land cannot be used for anything other than secondary treated wastewater disposal) for the effluent spray fields and related area, some 175 acres, is similarly required. If the wastewater were treated to tertiary levels, this land could continue to be used for agricultural purposes. That is true whether the tertiary treated effluent is disposed of in the manner proposed, or whether it is instead directed to some form of beneficial reuse (e.g., injection wells to offset loss of septic input and/or to stem seawater intrusion, agricultural irrigation ("purple pipes") that allows certain groundwater pumping to be reduced). With tertiary treatment, some combination of beneficial uses would result in a reduction of land area required for effluent disposal. In our opinion, the LCP requires that the project be modified in this respect if it is feasible to do so.

In addition, with a tertiary treatment project, it may be that the co-location benefits that accrue to

a project outside of town on agricultural land are no longer applicable. In other words, a tertiary project may make better sense to be sited closer to or in town at the Tri-W site (and potentially off of agricultural lands altogether) to the extent it is re-envisioned as a hub for distributing reclaimed wastewater where such distribution is closer and/or in town (e.g., through injection wells, irrigation connections). As previously mentioned, the effluent disposal needs and potential alternative uses of tertiary treated effluent need to be thoroughly evaluated in order to make informed judgments on this point. However, it appears clear that such a basic change in presumption could lead to other treatment plant locations becoming more attractive, perhaps even some that were excluded from consideration in the DEIR through prior "screening" efforts, like locations near suitable injection well locations or appropriate irrigation hubs, etc. To the extent such options make sense with a tertiary project, and can avoid adverse agricultural impacts from plant siting, we encourage the County to pursue evaluation of such options as it reconsiders project parameters with a tertiary project.

In terms of mitigation for unavoidable agricultural impacts, the project appears to be premised on a 1:1 mitigation ratio for direct impacts, and a 0.5:1 mitigation ratio for indirect impacts. However, several aspects of this mitigation framework are unclear, including to what degree an impact is deemed "indirect", and thus, per the DEIR, considered of lesser magnitude. Because indirect impacts will decrease agricultural sustainability and productivity, and could even lead at a certain point to direct conversion depending on the nature and severity of the impacts, the most conservative LCP approach is to consider indirect impacts to be direct impacts, and we believe that that is the approach that should be used here.

In addition, since any unavoidable agricultural land impacts will be to existing agricultural lands protected as such by the LCP, all mitigation should be premised on appropriately replacing those agricultural lands (e.g., buying urban property with appropriate soils and converting back to agricultural production) and/or protecting specific agricultural properties that are seriously threatened by potential urban conversion (e.g., due to urban-agricultural interface conflicts, legal lot issues) or that are critical for ensuring a stable urban-rural boundary (e.g., due to strategic location). Further, given the inherent difficulty in ensuring that these agricultural mitigation measures will be successful over the long term, and to provide some insulation against a certain degree of potential failure in that respect, a rote reliance on a 1:1 mitigation framework is inappropriate in this case. Rather, any project approval should be based on a greater than 1:1 mitigation ratio that is itself derived from and supported by evidence showing that long term agricultural productivity will be protected on a minimum acre for acre basis that takes into account the need for "insurance buffer" acreage.

With respect to the ultimate amount of agricultural land impacted and necessary replacement/protection acreage, the acreage affected by the project in this respect is unclear based on the materials we have reviewed to date. The acreages identified as directly impacted are different in different locations (including between the DEIR and the project referral), and the indirect acreage impacts are unclear and need to be more clearly identified. In addition, a modification to tertiary treatment will substantially alter the agricultural mitigation premise,

including how much land is necessary for effluent disposal. Tertiary treatment also alters the mitigation premise in terms of associated project costs because, among other factors, agricultural mitigation costs would go down, but project costs would presumably go up (although some could be recouped through beneficial reuse of tertiary treated water). In any case, we would be happy to work with the County on the particulars of an agricultural mitigation program based on the evaluation we were provided as well as issues relating to tertiary treatment options relating to some form of continued agricultural production on affected lands.

Ultimately, the selected agricultural mitigation measures must be consistent with and further LCP goals of protecting overall public health and welfare, environmental quality, and long-term agricultural sustainability. Accordingly, any sites "protected" under the mitigation program must effectively guard against further losses and conversions, whether by urban sprawl or from other threats. The program must provide enforceable mechanisms to ensure that this is the case (e.g., affirmative agricultural easements, third-party easement holders). The program must also ensure that mitigation site management measures are mindful and protective of adjoining natural habitats and recreational resources. The program should also provide for evaluation of agricultural practices on affected lands to ensure that they are appropriate and capable of restoring and promoting healthy soils (e.g., minimize soil erosion, minimize air and water quality impacts, organic farming), ensuring sustainability over time, and that they foster skills, appreciation of and understanding needed to promote wise stewardship on the part of growers, the community and the general public. Obviously, such a program requires much more than an 'acreage for acreage' exercise, and instead calls for a more holistic and inclusive approach designed to take into consideration the range of factors and variables that will determine and ensure long term agricultural protection and sustainability. This is an area of land use undergoing close scrutiny, exciting change and innovation that is vital to our communities' future food security. We have some experience with recent agricultural mitigation programs of this type, and would be happy to provide additional input on this subject.

Urban-Rural Boundary, Growth Inducement

The proposed project represents a major public infrastructure works with the potential to significantly destabilize the urban-rural interface in this coastal region by inducing growth inconsistent with Coastal Act and LCP policies (e.g., protection of natural habitat areas, agricultural lands and uses, public visual resources). The LCP limits the capacity of public works facilities to avoid inducing growth beyond what can appropriately be accommodated consistent with coastal resources protection policies. Public Works Policy 2 together with LCP Coastal Zone Land Use Ordinance (CZLUO) Sections 23.04.430 and 23.04.032 specifically prohibit the extension of services outside the LCP's Urban Service Line (USL). Accordingly, it is critical that the project be sized, directed to, and restricted to service of existing developed areas only, and that it not be allowed to induce inappropriate development – whether in or outside the USL. This means that physical capacity and system sizing, as well as legally enforceable restrictions, must be included in the project to ensure that only existing developed areas, consistent with LCP infill/redevelopment policies, will be served by the project.

We understand that the proposed project service area is co-terminus to the septic discharge prohibition zone established by the Regional Water Quality Control Board (RWQCB). However, the prohibition zone includes properties with serious resource constraints (e.g., ESHA) and/or properties located outside of the USL. Conversely, certain developed properties are located outside the prohibition zone (and the proposed service area) and outside the USL and thus would not be eligible for sewer service. To ensure LCP consistency and avoid inappropriate growth inducement, the service area boundary needs to be made coterminous with the existing developed area (including LCP appropriate infill), and should be drawn to exclude all other (i.e., non-infill) ESHA, wetland, related habitat areas, and agricultural lands. In particular, and at a minimum, the following areas should be excluded from the service area boundary: the Elfin Forest, Sweet Springs, and other ESHA parcels within the USL generally located adjacent to Highland/Bayview Heights and east of the Broderson site. Based on a more refined habitat screening (see also habitat discussion below), we would be happy to work with you on fine tuning such a service area boundary.

Furthermore, in addition to reconfiguring the service area boundary, the effectiveness of this boundary needs to be reinforced through enforceable legal mechanisms (e.g., utility prohibition zones, utility connection prohibitions, third party one-foot non-access easements) as part of the project to ensure that only development within the service area boundary will be served by the project.

Subsequently, the LCP needs to be amended to codify the USL (and thus the urban-rural boundary) at the same location, and to make any other applicable and appropriate adjustments to conform to the operative elements of the approved project (e.g., redesignating property from urban to rural and vice versa as appropriate, accounting for agricultural mitigation sites). These subsequent and conforming LCP amendments would be separate from but related to the wastewater project, and could build on and be incorporated in the County's pending Estero USL LCP amendment, appropriately adjusted to reflect the USL after the wastewater project is clearly framed and to clearly designate areas suitable for urban or rural uses.

Finally, to further protect against potential growth inducement outside the identified service area boundary, the wastewater system needs to be clearly sized and restricted to address development and redevelopment within the urban service area so identified. On this point, the buildout numbers in the DEIR appear inflated because they fail to take into account the full spectrum of coastal resource protection constraints as well as other limitations, such as a sustainable water supply (although tertiary treatment could alter this aspect somewhat, depending on the nature of available beneficial uses). Further, we are concerned that these numbers presume development that the LCP would not allow. Build out numbers need to be based on what the LCP allows, including consideration of various resource protection and use constraints as well as those resulting from the redrawn service boundary/USL line. The project's sizing must be based on clear evidence that it will not provide or be capable of providing more capacity than necessary to accommodate LCP consistent development within the urban service area defined in the project and subsequent LCP amendments.

If these elements are effectively incorporated into the project, a secure urban-rural boundary and commitment to service that is not growth inducing can be ensured.

ESHA's, Wetlands, Other Habitats and Biological Resources

It is not clear to us from the project materials to date that all ESHA, wetlands, other habitats and biological resources have been identified and avoided to the maximum extent feasible. Lacking adequate completion of that evaluation, it is not clear that the habitat impacts are in fact unavoidable, and it is not clear that adequate mitigation for those impacts that are actually unavoidable has been identified and required. The LCP's ESHA, wetland, and other habitat and biological resources protection policies (including CZLUO Section 23.08.288(d)) allow for public facilities to be located within ESHA only where there are no other feasible alternatives and where maximum feasible mitigation measures are included. In this regard, we share the major concerns raised by the U.S. Fish and Wildlife Service in their January 29, 2009 letter commenting on the DEIR as well as those of California Department of Fish and Game in their letter of January 30, 2009. Both agencies raise significant concerns about major deficiencies in the information associated with the project alternatives as covered in the DEIR relative to biological resources information, documentation, consultation, avoidance of adverse impacts to endangered and threatened species, and adequacy of mitigation measures.

ESHA, Wetland, and Other Habitat Identification. All ESHA, wetland, and other habitat resources within the area affected by the project must be identified, mapped, and avoided. It is not clear that this has been done and therefore affects our ability to adequately comment on the project. For example, the DEIR indicates that botanical surveys have not been completed for large portions of the Tonini Ranch site. We also note that all of the known sensitive biological resources shown in Exhibit 6 of the DEIR's expanded biological analysis are not included on the project referral site layout plan (DRC2008-00103). For example, the expanded biological study identifies and maps an existing coastal stream running along the southwest side of the property, yet this coastal stream is not identified on the site layout plan included in the project referral. Instead, this area is shown to include effluent spray fields. It is clear to us that a project should not be permitted until all habitat constraints, including ESHA constraints, are clearly identified and avoided where it is feasible to do so.

Setbacks. It appears that the project also proposes reduced setbacks for certain ESHA, wetland, and other habitat areas. Similar to our discussion on habitat identification itself, LCP required setback areas need to be avoided in the same way sensitive habitat areas must be avoided, including evaluation of relocation and rerouting alternatives as necessary. This includes but is not necessarily limited to the following areas that were previously addressed in the 2004 CDP: East Paso, Sunny Oaks, Lupine Street, Donna Street Wetlands, 4th Street Wetlands (PPS), and Solano Avenue.

Spray Field Habitat Impacts. Additional analysis is needed regarding potential impacts to coastal streams and riparian habitat areas (including those identified as containing certain sensitive species, like the California red-legged frog) that could result from spraying treated effluent in

close proximity to these resources. The DEIR briefly describes a minimum required setback of 100 feet from any sensitive resource as the single mitigation measure needed to address spray field impacts on ESHA. However, it is not clear to us that this buffer distance is adequate to protect these resources as required by the LCP, particularly given only secondary treatment. In addition, and as indicated above, at least one coastal stream area appears slated for direct spraying. Further analysis is needed to address habitat impacts from spray field effluent making its way into these sensitive resource areas. The use of treated effluent spray fields adjacent to such habitat areas raises numerous questions that will need to be answered to find consistency with the LCP's habitat protection policies. For example, is a 100-foot buffer adequate to protect sensitive habitat areas from spray field impacts? Are larger buffers needed for creeks that may be occupied by red-legged frogs? How are wind and rain factored into the impact analysis? What other mitigations/site design techniques are available to avoid/minimize overspray and contaminated surface water quality impacts?

Of course, with tertiary treatment, as previously discussed, these impacts would presumably be significantly reduced. However, they must still be identified and adequately addressed (i.e., with tertiary treatment, 100 feet alone may be sufficient, but this must be clearly documented). And depending on the volume of spraying (as opposed to the volume that may be put to other beneficial use), these impacts might be further reduced or avoided. Further, it is possible that with tertiary treatment these potential ESHA impacts could be completely eliminated, or they may not be impacts so much as benefits (e.g., improved hydrologic inputs leading to habitat enhancement, recycled water for irrigation leading to less groundwater use), both in areas immediately adjacent to project elements (like coastal streams near spray fields) and on a broader environmental level (e.g., overall affect on the Los Osos groundwater basin and Morro Bay). In any event, though, the main point is that these impacts need to be clearly understood and addressed, and tertiary treatment would appear to be an appropriate way to avoid significant habitat impacts (i.e., in addition to the manner in which tertiary treatment avoids/minimizes certain agricultural and habitat impacts in other ways).

Habitat Impacts at the Broderson Site. According to the DEIR, significant impacts to ESHA will occur through the use of the Broderson site for effluent disposal as proposed. Not only will habitat be impacted when the site is developed for the leach fields, but long term maintenance of the site will also result in additional habitat impacts overtime. It is not clear to us that these impacts can be found consistent with the LCP. In particular, as discussed above, the tertiary treatment option would appear to significantly reduce habitat impacts at the Broderson site, both in terms of immediate impacts and with respect to long term impacts associated with site maintenance. Specifically, the Broderson site is home to significant habitat resources, including special status species (e.g. Morro Manzanita, Monterey spineflower, Blochman leafy daisy, Morro shoulderband snail, Morro Bay kangaroo rat, monarch butterfly). These resources would be completely removed as part of the project. According to the DEIR, impacts to ESHA will occur within 8-acres of the Broderson site. To be consistent with the LCP, these impacts must be avoided if feasible. Again, tertiary treatment would appear the method to avoid habitat impacts at Broderson to the extent feasible, including to the extent effluent disposal needs there are reduced

and/or changed, and is yet another reason that the County should consider modifying the project to provide for tertiary treatment. On this point, it should also be noted that in accordance with the previous CDP for the Tri-W site, mitigation at the Broderson site was required and, as noted in the USFWS letter, appears not to have been fully implemented. That mitigation was for impacts that have already occurred in connection with development authorized but not completed in that CDP. How this fact relates to what is now proposed at Broderson and what is considered to be mitigation there will need to be addressed.

Pump Station Locations. The pump stations proposed to be located in ESHA (or within requisite setbacks) are not allowed under the LCP. To meet LCP setback standards, the new project referral indicates that a setback adjustment is needed for two pump stations. However, the new project referral does not specify which pump stations are subject to the adjustment, nor to where they would be relocated. The project must be modified to remove such pump stations for all ESHA, wetland, and other habitat areas (see also ESHA identification above).

Treatment Plant Drainage. From the site plan included in the project referral we note that a stormwater discharge pipe is located in the ESHA. This is not consistent with the LCP. It appears clear that there are other methods of stormwater drainage and treatment that can be utilized with the project, including Low Impact Development (LID) technologies (e.g., vegetated ponds, swales, strips), that can avoid development of drainage facilities in ESHA and required buffers. We recommend that the project be revised accordingly to completely remove development from ESHA and ESHA buffers.

Trenching vs. Drilling/Boring. We concur with project specific mitigation measures discussed in the DEIR related to the implementation of trenchless technologies for the installation of conveyance pipelines within and adjacent to areas containing wetland, streams, and riparian vegetation (Mitigation Measure 5.5-A7). We also agree that the project should include pipe suspension methods for areas with existing bridge crossings along the proposed conveyance routes (particularly at the Los Osos Creek and Warden Creek crossings). In addition to reducing the amount of habitat disturbance that would occur through excavation, longer term maintenance and leak detection could be improved and impacts reduced when the pipes are visible and positioned in a location where access for repairs would be less intrusive.

Habitat Restoration. LCP ESHA Policy 3 requires the restoration of damaged habitats as a condition of new project approval when feasible. Both the LCP and the DEIR document the presence of wetland habitat in the southwestern corner of the Tonini site (Warden Creek Wetlands). However, the discussion contained in the DEIR of the habitat restoration proposed in this area is confusing. Per the LCP, we presume that damaged habitat areas in the project area are being avoided, restored where feasible, and appropriately buffered (see also above). However, from information provided to us this is not clear.

In addition and specifically, the document does not clearly identify what would be done at the Mid-Town site in this respect either. Initial construction activities at this site appear to have damaged ESHA there, and any wastewater project, including the preferred alternative that

includes a pump station in this area, must account for the impacts that have already occurred at that site. As noted above, the Broderson site was to be restored as mitigation for impacts at the Mid-Town site associated with the previously approved and permitted wastewater project. The Mid-Town site damage that occurred was to be mitigated by restoration at Broderson. Accordingly, mitigation credit at Broderson cannot be used to mitigate new impacts associated with the current project. In other words, absent some new mitigation framework that otherwise "undoes" impacts at the Mid-Town site, Broderson restoration is required whether this project moves forward or not.

HCP. It is not clear to us whether the project commits to a Habitat Conservation Plan (HCP) and HCP process to address potential impacts associated with in-fill development that would be served by the project (see also growth inducement comments above). We believe a project necessity is an accurate evaluation of such infill properties in terms of habitat constraints. Sites that are completely constrained and cannot be developed should be located outside the service area and the urban-rural boundary where feasible and appropriate. Where it is not feasible and appropriate to exclude such lands from the service area (e.g., lots completely surrounded by urban development), then that needs to be clearly explained. The results of this evaluation should be used to assist in defining the USL/service boundary, as described above. For any properties falling in this category, subsequent analysis will be required to determine whether any new development can be permitted (i.e., to avoid an unconstitutional taking). Under such circumstances, some habitat impact that might not otherwise be allowed under the LCP may be permitted. To accommodate such potential special circumstance cases, we recommend that the project include a commitment to the completion of an HCP process. It is noted that such a commitment was required as part of the Commission's previous wastewater treatment plant approval. This requirement needs to be carried over in this case as well.

Public Views

The LCP requires that development be located on the least sensitive portions of publicly visible sites, and that it incorporate design features, such as grading, screening and revegetation plans to minimize unavoidable adverse visual impacts. We note that photo simulations are not included in the project referral and the visual analysis in the DEIR is extremely limited and therefore unacceptable. The DEIR provides only a single view simulation from Los Osos Valley Road and is not adequate to fully evaluate and understand the potential negative impacts to scenic resources. Similarly, the materials we have seen are lacking in terms of proposed grading and landscaping parameters, including the manner in which such grading and landscaping could have its own view impacts and/or, conversely, could help to offset certain potential impacts (e.g., through berming/landscape screening). It is clear to us that additional public viewshed impact analysis is warranted. Specifically, we recommend that a supplemental visual and scenic resource analysis be provided for each potential development site (including those evaluated to date, as well as alternatives that are appropriate based on these comments, including analysis taking into account modifications that may be required if tertiary treatment is incorporated) that evaluate viewshed impacts from all public view corridors (for the County's currently proposed site, such evaluation must at a minimum include varying views of the sites from Los Osos Valley

Road and Turri Road). We recommend that the project be modified to make best use of existing topography to hide development from public view, and to include natural-looking berming and landscaping to screen development that is unavoidably sited in the public viewshed so that adverse visual impacts are minimized. From what we understand to date, and with the various project modifications associated with the recommendations above, it appears that there are sites capable of accommodating the proposed project facilities of the scale and scope needed that can be effectively hidden from public view.

In conclusion, we fully support measures to address the community's wastewater problems. We underscore that, in our opinion, a modified tertiary treatment project, as discussed, is a prerequisite for approval consistent with the LCP and the Coastal Act. There is little doubt that tertiary treatment can significantly reduce adverse environmental impacts as well as reducing adverse impacts to agricultural lands and uses. It can also assist in addressing community water supply problems, which, although not a primary project objective, should be part of a broader discussion of community needs and benefits derived from a project that includes tertiary treatment. This is particularly appropriate given that the project represents a significant public infrastructure investment which is capable, if properly conceived, designed and carried out, of achieving multiple public and community benefits.

We note, in closing, there may be additional issues that need to be addressed that we either were not aware of or that arise as a result of response to the discussion of our concerns in this letter. We would be happy to meet with you and will make every effort to make available time to move this important project to completion within the context of full compliance with Coastal Act and LCP requirements. Feel free to contact me if you have any questions or if we can be of further assistance.

Sincerely,

Jonathan Bishop
Coastal Program Analyst
Central Coast District Office

cc: Bruce Gibson, Chairperson, 2nd District Supervisor
Victor Holanda, Director, San Luis Obispo County Planning and Building Department
Mark Hutchinson, Environmental Programs Manager, San Luis Obispo County Public Works Department
Kerry Brown, San Luis Obispo County Planning and Building Department

Appendix D: List of Attendees at November 8-9, 2006, Panel Meeting

Panel Members:

- *Chair*: George Tchobanoglous, Ph.D., P.E., University of California, Davis
- Martin B. Feeney, P.G., CHG, Consulting Hydrogeologist (Ventura, CA)
- Robert Jaques, P.E., Private Consultant (Monterey, CA)
- Kenneth K. Tanji, D.Sc., University of California, Davis
- Valerie J. Young, AICP, Environmental Planner and Water Reuse Specialist (San Francisco, CA)

NWRI Staff:

- Jeffrey J. Mosher, Executive Director
- Gina Melin, Communications Specialist
- Tammy Russo, Administrative Coordinator

Los Osos Community Services District and Consultants:

- Robert S. Miller, P.E., District Engineer (Wallace Group)
- Dana K. Ripley, P.E. (Ripley Pacific Company)
- Sean Tobin (MVE, Inc./RPC Team)
- Ryan Vance, PLS (MVE, Inc./RPC Team.)
- Joe Leach, PE (MVE, Inc./RPC Team)
- Jeff Palin (MVE, Inc./RPC Team)

San Luis Obispo County Public Works Department Staff and Consultants:

- Paavo A. Ogren, Deputy Director
- Lou Carella P.E. (Carollo Engineers)
- Karl W. Hadler, P.E. (Carollo Engineers)

Central Coast Regional Water Quality Control Board:

- Matt Thompson, P.E., Water Resource Control Engineer
- Allison Dominguez, Environmental Scientist

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#2

Dear Members of the Planning Commission,

My name is Larry Raio. I have lived in Los Osos over 30 years. I am currently a lecturer at Cal Poly teaching classes in both Soil Mechanics and Soil Science. I have worked as a staff engineer, laboratory manager, and drill rig operator for a local geotechnical engineering firm with over 22 years of experience. I have drilled hundreds of holes in Los Osos to determine depth to groundwater and for percolation rates. I have also helped design over 100 on-site sewage disposal systems, many of them in the Los Osos area.

I am very concerned with how the sewer and water issues are being addressed by the county. As stated in the DEIR, the county is determined to resolve the sewer issue separate from the water issue, and I think this is a huge mistake. I feel that the sewer issue can be and must be used to help solve the water issue.

Water is critical to life, and if you just look at California's current water problems, it has never been more evident that each drop is precious. The Sacramento delta has been shut down and there is no water for many farmers to grow crops. The local jurisdictions who have opted to receive imported water are not going to get their allotted amounts.

Los Osos is in a perfect situation right now to get it right, but it appears to be going very wrong. We have and excellent system set up right now to provide a sustainable source of water to our community into the unforeseeable future. Part of this sustainability relies on the leachfields that are uniformly spread over the community's watershed and act to recharge the upper ground water sources uniformly, not localized.

We could not ask for a better soil to not only dispose of treated effluent, but for also cleaning that effluent up. The Los Osos soils have great absorption characteristics and excellent filtering capacity.

The only thing that the Water Quality Control Board (WQCB) has charged Los Osos with is polluting the upper aquifer with excess nitrogen from leachfields. This has not been scientifically been proven, only assumed.

The first study that was done that showed apparent evidence that leachfields were contaminating the groundwater was back in 1982. At that time there was federal grant money available to communities for sewage treatment plant with 50% matching funds. The County of SLO felt that because of the high population levels and continuing growth of Los Osos that they definitely could use a treatment plant. Using federal grant money would be a cost effective way of providing one. The only obstacle to obtaining the money was they had to prove that sewage treatment plant they needed by showing evidence of groundwater contamination. To that end, the county hired the firm Brown and Caldwell to perform the study, but with the guise of saving money, the county made a deal with Brown an Caldwell, that they would perform all the

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sampling and lab testing of the water samples. The results of these tests were then given to Brown an Caldwell for interpretation and final report. This is a typical "fox watching the hen house" situation and should never of been allowed and neither should the results be trusted.

I personally drilled and installed the monitoring wells for this study and can attest to the poor quality of the wells for use for monitoring purposes. We were instructed to drill 10-feet into the first ground water detected, which in many instances were relatively shallow (above 25-feet) which were perched waters not considered to be a part of the "Upper Aquifer". 10-feet of slotted perforated pipe was placed in the hole followed by solid pipe to the surface. Gravel was placed around the pipe to above the slots, 2-feet of bentonite clay placed on top of the gravel, and the holes were backfilled with native sand. The were no sanitary seals placed at the ground surface. A hand bailer with a rope attached was left in each well for purging and sampling the water. There was no protection provided to prevent the bailer rope from contaminating the well water from surface soil when the excess rope was laid on the ground surface. This surface soil can be a source of nitrogen. The person in charge of the lab was Perci Garcia. He was in charge of taking the samples and testing them. A few years ago, I was talking with a friend who used to live in Los Osos who now lives out of town, and I was discussing the situation in Los Osos in to her. She told me that she used to work in Garcia's lab and that she has seen him falsify data on numerous occasions. It finally dawned on me as to why the county wanted to do the testing, and it was because they needed the study to show we were polluting the groundwater in order to get the funding. The only problem was that once the study was completed, the funding was gone. But the bigger problem was now we had a study that said we were polluting the groundwater and the WQCB stepped in and said we had to fix it. That's when the building moratorium was put into place.

There is evidence through historical data and isotope studies that not only has there been similar levels of nitrogen in the groundwater well before the current build out of homes and leachfields but that those levels haven't change much in the past 25 years; if anything the levels appear to dropping. Isotope studies can be used to determine if the source of the nitrogen is from residential sewage or other potential sources such as horses, cattle or agriculture, which were all present when Los Osos had a very low population. In 1987, the county hired Dr. Roy Spaulding to conduct an isotope study to these ends, and the conclusions indicated that the nitrogen found in the samples were not entirely from septic systems. This information was suppressed by the county and by the WQCB. The WQCB did n not even admit to seeing this information until it was shown that they were copied the information and did indeed have. I can only conclude from this, that this is not what they wanted to hear because it didn't help their case and they preferred that no one hear about it.

The biggest issue right now is that we are over drafting the lower aquifer and are fighting saltwater intrusion. The county's direction is to try and recharge this aquifer from the Broderson site. The

effectiveness of this option is questionable at best with very little scientific data supplied as proof that it will recharge the aquifer. Their guess is that only 8% of the water used will recharge the basin. The water must go through an 80-foot think lense of clay to get into the lower aquifer. I have seen no data on the permeability rates of this lense. I have run these types of tests in my lab and found that clay typically have permeability rates of greater than 10^{-8} cm/sec. Basically, if you had a core sample being tested and put 100 psi water pressure on top of it, you would only see about a drop of water per hour or a few drops per day come out of it. It will take thousands of years to get the water through that lense. Again where's the scientific data to back it up.

I proposed that we start using the upper aquifer water again. This water can be made potable for as little as $0.60 per 1000 gallons through ion exchange. The water could also be used in a purple pipe system for irrigating our landscapes. We don't even have to take the nitrogen out or treat it at all for that matter. Remember, nitrogen is fertilizer, so if we add nitrogen rich water to our landscapes, we won't have to directly apply as much fertilizers. The key here is that for every gallon of water pumped from the upper aquifer that is one gallon not being pumped from the lower aquifer. This is the equivalent of 100% recharge; no guessing, no questions; 1:1. Isotope studies have shown that the water in the lower aquifer is between 4-7,000 years old. Should I be using pure ancient water for watering my lawn? I truly wish I wasn't. I would like to have the choice not to.

The existing leachfields provide a perfect way of recycling this water into the upper aquifer and spreading this recharge over the entire community. The system is already in place and working. If it's not broken, don't fix it. We just need to see it with a different set of eyes to see that it is not broken. It's been about 24 years since the building moratorium. Has anybody been caused harm from the apparent problem that we have? Supervisor Gibson states that we are in a state of emergency, but doesn't state what that emergency is. I don't see it. I would like the points listed with scientific data to back it up.

With groundwater to bottom of leachfield separations as little as 3-feet, studies show that with similar soils, 90 to 99% of the nitrogen is removed, proving that leachfields are very effective in removing nitrogen. There are some areas in Los Osos where we don't have this much separation. These areas need to be identified and fixed in the best way possible. Studies show also that 100% of coliform is removed in the soil below the leachfield. Los Osos has been blamed for polluting Morro Bay with coliform, but evidence points mostly towards the Men's Colony and the overflowing of their wastewater treatment plant during heavy rains annually for the past 15 years. Now that this has all been cleaned up, the bay has a clean bill of health and the oyster farm is up and running providing clean oysters to their customers. Nothing has changed in Los Osos.

From a soils standpoint, another problem I have is with the gravity pipe they want to install. The DEIR

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states that nearly 100% of the project has a very high to high potential for liquefiable soils. They also state that a study will be done to see what mitigation steps can be taken to reduce the potential of pipe failure due to liquefaction. The science clearly shows that the larger and heavier the pipe, the more potential there is for damage or failure of the pipe. Damage of the pipe means there will be raw sewage potentially contaminating our groundwater. They are assuming here that the situation can be mitigated, which with my background, I know it cannot be totally mitigated against. One thing I do know, it that the cost to mitigate against liquefaction will be sizable and is still not a guarantee that breakage won't happen. Once the mitigation measures are determined there will be a sizeable increase in cost and we have no idea at this point what that is going to be. The report should be made and cost estimates given before approval of this project. A project should not cause a higher concern for pollution than what already exists. Just looking locally, most of the sewage pollution to our waterways has come from sewage treatment plants and their delivery systems, and now we want to build another one? The EPA States "Old and leaking sewer pipes may pose a serious threat to the nation's groundwaters. A limited review of information on exfiltration suggests that the range of raw sewage loss to the underground environment is generally between 10 to 25 percent of the total annual flow of sewage through sewer collection systems". This means we are almost guaranteed that leakage will occur, and a lot of it at that. This is totally unacceptable for Los Osos and presents the potential to cause more problems than currently exists. We don't need to look far to see the effects of earthquakes on large gravity pipe systems. The 1994 earthquake in Northridge caused over billions of dollars in damage and took approximately 13 years to fix. The other problem here, was that the pipes continued to leak until the could be fixed, some for up to 13 years. This cannot be allowed in Los Osos. We need to know a plan of action which states how long it will take to fix the pipes and what the cost will be. Many of these pipes will be extremely deep, and if they break, the cost to fix them will be extremely high. Not to mention the streets will be dug up making it difficult for homeowners to get in and out of their home. The fact is that when the pipes fail, the adverse effect of the leaking pipes in sandy soils is going to greatly exceed the effect of having some nitrogen in our groundwater.

A big problem in Los Osos is the all these statements are being made, blaming us for this or that, but there never is the scientific data to prove it. And when scientific data is used to prove something they don't want to hear, it is ignored. We have been putting up with this double standard for years, and it needs to stop. We need a system that serves the Los Osos community, and one that is affordable and sustainable.

Conclusion:

Los Osos has been charged with polluting the upper aquifer with nitrogen. That water is not causing harm to people or the environment. There is no scientific data that prove the nitrogen levels as monitored from wells are all derived from leachfields. Lets pump the upper aquifer water, make it potable, save our lower aquifer and stop saltwater intrusion. Leave the leachfields with adequate groundwater separations in place

and fix the ones without proper separation. This gives the best dispersal of the water, spreading it uniformly over the entire community. This will provide Los Osos with a sustainable water supply that the rest of the people in the county, and for that matter, the state of California, will be envious of, and for a lot less money! The proposed plan to recharge the lower aquifer from the Broderson site will not work in my opinion and is a total waste of money. If the sewer is necessary, we need the total cost of the gravity pipe system, including the costs of the proposed mitigation measures for the known high liquefaction potential. When an earthquake hits, I guarantee pipes will be broken due to liquefaction even with the mitigation measures. When the pipes break, raw sewage will be spilled. We will end up with a much bigger problem than the perceived problem we currently have. I already have a huge problem with the cost of this project, but these added costs scare the hell out of me.

Larry Raio

#3

23.01.032 - 033 NOT Certified

b. Proposals pending at time of LCP certification:
(1) Any development proposal which the county approved before certification of the Local Coastal
Program but which has not been submitted to the Coastal Commission for approval shall be
re-submitted to the county through an
application for a permit pursuant to this title. The decision on the application shall be based solely
on the requirements of this title.
(2) Any development proposal which the county approved before certification of the Local Coastal
Program and for which an application has been filed with the Coastal Commission may, at the
option of the applicant, remain with the Commission for completion of review and permit
issuance. Commission review of any such application shall be based on the provisions of the certified Local Coastal Program. Alternatively, the applicant may re-submit the proposal to the
county through an application for a permit pursuant to this title, and the decision on the
application shall be based solely on the provisions of this title. Projects which elect to obtain a
coastal permit from the Coastal Commission will remain under the jurisdiction of the Commission

Section 30328 Violations; remedies
If a violation of this article occurs and a commission decision may have been affected by the violation, an aggrieved person, as described in Section 30801, may seek a writ of mandate from a court requiring the commission to revoke its action and rehear the matter. (Added by Ch. 1114, Stats, 1992.)

Policy 9: Construction Requirements
In sensitive resource areas the extent of construction and ground surface disturbance shall be reduced to a
minimum by restricting construction activities and equipment within narrow, limited and staked work corridors

and storage areas. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 7: Permit Requirements
The county shall require a permit for all public works projects located within the coastal zone except:

Policy 9: Review of Treatment Works
For any development that constitutes a treatment works (PRC 30120), issuance of a permit shall be consistent with the certified LCP and PRC 30412 and shall address the following aspects of such development:
a. The siting and visual appearance of treatment works within the coastal zone.
b. The geographic limits of the service area within the coastal zone which is to be served by the treatment works and the timing of the extension of services to allow for phasing of development consistent with the certified LCP.
c. Projected growth rates used to determine the sizing of treatment works.
[THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

NOT SUS STANDARD

POLICIES FOR COASTAL WATERSHEDS
To implement the provisions of the Coastal Act regarding watershed management, the following policies represent a commitment that all new development ensure watershed protection.
Policy 1: Preservation of Groundwater Basins
The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]
Policy 2: Water Extractions
Extractions, impoundments and other water resource developments shall obtain all necessary county and/or state

permits. All pertinent information on these uses (including water conservation opportunities and impacts on
in-stream beneficial uses) will be incorporated into the data base for the Resource Management System and shall
be supplemented by all available private and public water resources studies available. 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. (Public works
projects are discussed separately.) [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]
Policy 3: Monitoring of Resources
In basins where extractions are approaching groundwater limitations, the county shall require applicants to install
monitoring devices and participate in water monitoring management programs. [THIS POLICY SHALL BE
IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 8.40.065 OF THE COUNTY CODE
(WATER WELL REGULATIONS).]

*Footnote: The LOWWP did not comply with the conditions of the Coastal Development Permit no HCP in place 85 total

No earthquake recovery plan 6.8 Los Osos and 7.3 Hosgri faults within 10 miles

(2) If the determination of the Planning Director is challenged by the applicant or an interested
person, or if the county wishes to have a determination by the Coastal Commission as to the
appropriate designation, the Planning Director shall notify the Coastal Commission by telephone
of the dispute/question and shall request an Executive Director's opinion.

Processing of appeals:
(1) Timing and form of appeal. An appeal shall be filed within 14 days of the decision that is the

subject of the appeal, except where otherwise provided in this title, using the form provided by the
Planning Department in addition to any other supporting materials the appellant may wish to
furnish, explaining the reasons for the appeal. An appeal shall be filed with the Planning Director,
who shall process the appeal pursuant to this section, including scheduling the matter before the
appropriate hearing body.

DOES NOT

d. Grounds for appeal. As required by Section 30603 of the Public Resources Code, the grounds for appeal
pursuant to this section shall be limited to an allegation that the development does not conform to the
standards set forth in the certified Local Coastal Program or the public access policies set forth in the
California Coastal Act (Section 30210 et seq. of the Public Resources Code).
The grounds for appeal of a denial of a permit pursuant to section c(5) (Major Public Works or Major
Energy Facility) shall be limited to an allegation that the development conforms to the standards set forth
in the certified Local Coastal Program and the public access policies set forth in the California Coastal Act
(Section 30210 et seq. of the Public Resources Code).
23.01.043 - 045
COASTAL ZONE LAND USE ORDINANCE
REVISED JANUARY 2009
1-17 ENACTMENT, ADMIN & AMENDMENT
e. Time for appeal to Coastal Commission. Any final action by the county on an appealable development
shall become effective after the 10-working day appeal period to the Commission in accordance with the
requirements of Section 23.02.039 and applicable provisions of the Coastal Act.
f. Notice to county of appeal to Coastal Commission. An appellant shall notify the county when
appealing to the Coastal Commission by providing the county a copy of the information required in Section
13111 of Title 14 of the California Code of Regulations.

23.02.026 - Review by Other Agencies:
Planning Department review of applications filed pursuant to this chapter will include notification of the following agencies. The purpose of notification is to inform interested agencies of proposed projects that may affect their jurisdictions so that such agencies may provide comments on significant development proposals.

a. Air Pollution Control District (APCD): To be notified as set forth in Section 23.06.082 (Air Pollution Control District Review).

b. California Coastal Commission: To be notified of Minor Use Permit and Development Plan applications and proposed amendments to the Local Coastal Program.

c. Engineering Department: The county Engineering Department is to be notified of all Minor Use Permit and Development Plan applications regarding matters of drainage, flood hazards, water and sewer facilities, public street access and improvements, and surface mining operations conducted on behalf of the county.

d. Fire Department: County fire protection agencies including the county Fire Department, the various county fire protection districts and the California Department of Forestry are to be notified of all Minor Use Permit and Development Plan proposals within their respective jurisdictions.

e. Health Department: The county Health Department is to be notified of land use proposals pursuant to Section 8.06.010 (Construction Plans Required) of the County Code, or any case where a proposed use will involve toxic or hazardous materials in larger than household quantities.

f. Incorporated cities: The incorporated cities of the county are to be notified of all Minor Use Permit and Development Plan proposals in or within one mile of their respective urban reserve lines, or other area defined by agreement between the county and city.

g. Regional Water Quality Control Board: To be notified as set forth in Section 23.06.100 (Water Quality).

h. Special Districts: Including community services districts, school districts and sanitary districts are to be
notified in the same manner as incorporated cities.
i. Public Utilities: Public utility companies including but not limited to providers of water, gas, telephone
and electrical services are to be notified of all Minor Use Permit and Development Plan applications.
[Amended 1995, Ord. 2715]

23.02.036 - Final County Action on Development Permits.
After the Review Authority has acted on an application for development, the requirements of this section apply.
a. Notice of Final County Action. Within seven calendar days of county completing its review and meeting
the requirements of subsection c. of this section, the county shall notify by first class mail the Coastal
Commission and any persons who specifically requested notice of such action by submitting a
self-addressed, stamped envelope to the county (or, where required, who paid the fee established by the
PERMIT APPLICATIONS 2-18 COASTAL ZONE LAND USE ORD.
REVISED JUNE 2004
23.02.036
County Fee Ordinance to receive such notice) of its action. Such notice shall include conditions of
approval and written findings and the procedures for appeal of the county decision to the Coastal
Commission

c. Finality of county action. A county decision on an application for a development shall not be deemed
final until:
(1) The county decision on the application has been made and all required findings have been adopted,
including specific factual findings supporting the legal conclusions that the proposed development
is or is not in conformity with the certified Local Coastal Program and, where applicable, with the
public access and recreation policies of Chapter 3 of the Coastal Act (these can be found in Section

23.04.420 of this title and Sections 30210 through 30224 of the California Coastal Act); and
(2) When all county rights of appeal have been exhausted as set forth in Section 23.01.043b
(Exhaustion of county appeals).
(3) For actions on Land Use Permits that are not appealable to the Coastal Commission under the
standards of Section 23.01.043c, the Coastal Commission has received notice of Final County
Action as required by parts a and b of this Section; and
(4) For actions on Land Use Permits that are appealable to the Coastal Commission pursuant to
Section 23.01.043c, the standards set forth in Section 23,02,039 have been satisfied.
[Amended 1995, Ord. 2740; 2004, Ord. 3001]

23.02.039 - Effective Date of Land Use Permit for an Appealable Project.
A decision by the county on an appeal (Section 23.01.042), Variance (Section 23.01.045), Minor Use Permit (Section
23.02.033) or Development Plan (Section 23.02.034), or for a project that is appealable to the Coastal Commission
pursuant to Section 23.01.043 shall become effective after the 10 working day appeal period to the Commission
has expired unless either of the following occur:
a. An appeal is filed in accordance with Section 13111 of Title 14 of the California Administrative Code.
b. The notice of final county action does not meet the requirements of Section 23.02.036.
When either of the circumstances in this section occur, the Coastal Commission shall, within five calendar days of
receiving notice of that circumstance, notify the county and the applicant that the effective date of the county action
has been suspended.

d. Time extensions on permits issued by the Coastal Commission. A time extension on a coastal
development permit issued by the Coastal Commission shall only be granted by the Coastal Commission.

23.04.031 - Public Facilities Category.
When a proposed land division in a Public Facilities land use category is for the purpose of continuing use as a Public Facility, the minimum parcel size may be 6,000 square feet or larger, as needed for the land use, pursuant to Section 66428 of the Subdivision Map Act. The mini-mum size of a division for the purpose of sale for private use shall be determined through Land Use Element amendment to designate an appropriate land use category for private use.

23.07.010 - Purpose:
Combining designations are used to identify and highlight areas of the county having natural or built features which are sensitive, hazardous, fragile, of cultural or educational value, or of economic value as extractable natural resources. The purpose of combining designation standards is to require project design that will give careful consideration to the land features, structures and activities identified by the combining designations. These standards provide for more detailed project review where necessary to support public safety or proper use of public resources, or to satisfy the requirements of the California Coastal Act and the Local Coastal Plan, the certified Land Use Plan of the San Luis Obispo County Local Coastal Program.

23.07.172 - Wetlands. EMORT IS UNNECESSARY
Development proposed within or adjacent to (within 100 feet of the upland extent of) a wetland area shown on the Environmentally Sensitive Habitat Maps shall satisfy the requirements of this section to enable issuance of a land use or construction permit. These provisions are intended to maintain the natural ecological functioning and productivity of wetlands and estuaries and where feasible, to support restoration of degraded wetlands.
a. Location of development: Development shall be located as far away from the wetland as feasible, provided that other habitat values on the site are not thereby more adversely affected.

IMPACTS AVOIDABLE

Section 3:
Adverse Project-Specific and Cumulative Impacts Which Cannot Be Mitigated to a Level of Insignificance

3.1.1 - Agricultural Resources

Q5.11-A: The project will convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use, and pursuant to standards established by the California Coastal Commission.

Potentially Significant and Unavoidable Impact

The Project's proposed treatment plant at Giacomazzi will result in a significant and unavoidable impact to the conversion of farmland.

The proposed facilities for the treatment for the project will be located on the Giacomazzi Site. The facility will encompass approximately 16 acres of the approximate 38-acre site. The proposed treatment plant facilities will result in direct impacts on 16 acres of land that is or could be used for crops and indirect impacts on seven additional acres of land; however, this 7-acre area at the northeast corner of the Giacomazzi has not and cannot be used for crops. This conversion of land will result in a revenue loss of approximately $94,200 assuming
vegetable crops. Therefore, the implementation of treatment plant at the Giacomazzi site will result in a potential significant farmland conversion impact.

Finding

Pursuant to California Environmental Quality Act Guidelines Section 15091 (a)(3),
specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible mitigation measures or alternatives identified in the Final Environmental Impact Report.

Facts in Support of Finding

The potentially significant effect has been reduced to the maximum extent feasible
by virtue of the following mitigation measure as identified in the Final Environmental Impact Report and incorporated into the project and will substantially lessen the significant effect of the project on farmland conversion; however, the level of impact due to the conversion of agricultural land will still be considered significant and unavoidable.

5.11-A1 Prior to operation of the facility, the County Department of Public Works shall provide evidence to the County Planning and Building Department that a farmland conservation easement, a farmland deed restriction, or other farmland conservation mechanism has been granted in perpetuity to the County or a qualifying entity approved by

the County Agricultural Commissioner (or designee). The easement shall provide conservation acreage at a ratio of not less than 2:1 for the loss of agricultural land. Additionally, the project proponent shall

provide appropriate funds (as determined by the County Planning Department) to compensate for reasonable administrative costs incurred by the easement holder. The area conserved shall be minimally sized at 16 acres, and shall be of a quality that is reasonably (as determined by the County Agricultural Commissioner or designee) similar to that of the farmland within the project limits.

The implementation of the above mitigation measure will reduce and substantially lessen potential impacts from the project on farmland. However, the level of impact due to the conversion of agricultural land is still considered significant and unavoidable.

Alternative locations for the treatment plant facilities are considered throughout the Final Environmental Impact Report, Rough Screening Report and Fine Screening Report. A screening analysis was conducted as described in Section 7 of the Draft Environmental Impact Report to identify the sites that could feasibly accomplish the fundamental goals of the project while minimizing environmental impacts. The wastewater treatment plant sites that were determined to be feasible are located east of Los Osos Creek. As described in the Draft Environmental Impact Report, Los Osos Creek establishes the dividing line between agricultural land uses to the east and environmentally sensitive habitat areas to the west. In 2001, the Los Osos Wastewater Project was approved and the proposed treatment plant was located west of Los Osos Creek at the Mid-Town site (known as the Tri-W site). However, shortly after construction began, the majority of the Los Osos Community Service District board members were recalled and the new board members immediately halted construction on the wastewater project. This action demonstrated that the placement of a wastewater treatment plant west of Los Osos Creek will not be feasible from a social (community) standpoint. Further, cost estimates contained in the Fine Screening Report show that a treatment plant west of Los Osos Creek would cost at least 25 million dollars more, owing to the treatment technologies required for an in-town treatment plant. Therefore, feasible locations east of Los Osos Creek were reviewed for the location of a wastewater treatment plant.

In evaluating potential sites for the proposed treatment plant facilities, various constraints were identified. These constraints are shown on Exhibit 5.1-1 in the Draft Environmental Impact Report and include the following:

- No treatment plant will be located on slopes greater than 10 percent due to the need for substantial grading for treatment plant facilities.
- No treatment plant will be located within an Environmentally Sensitive Habitat Area or a Sensitive Resource Area as defined by County of San Luis Obispo.

□ No treatment plant facilities will be located on or within existing urban areas.

As discussed in the Draft Environmental Impact Report, the unconstrained areas were evaluated next to determine prime agricultural and non-prime agricultural. This evaluation utilizes the California Coastal Commissions definition of prime farmland. Farmland is considered Prime Farmland under the California Coastal Commission definition when one of the four following criteria is met:

□ The soils are classified as Class I and/or Class II irrigated soils.

□ The soils have an 80 to 100 Storie Index rating.

□ The land has a gross crop return of $200 or more per acre per year.

□ The land has an annual carrying capacity of one animal unit per acre per year.

Based on the above definition, there are no substantial areas within the Los Osos valley floor that are classified as non-agricultural land. Areas classified as nonprime

agricultural land were reviewed to determine whether there are feasible, alternative locations for the proposed treatment plant facilities. Large areas classified as prime agricultural land were not reviewed because the objective of the analysis is to reduce the potential impact of the proposed facilities on prime agricultural land while taking into consideration various environmental constraints.

As discussed in the Final Environmental Impact Report, one area with adequate acres and classified as non-prime agricultural land includes the series of parcels east of the cemetery parcel known as the Andre, Robbins 1, and Robbins 2 parcels, as well as one additional parcel east of the Robbins 2 parcel. The Andre, Robbins 1, and Robbins 2 parcels constitute a series of parcels identified as an alternative for treatment plant facilities in Section 7 of the Draft Environmental Impact Report.

The area east of the cemetery parcel is primarily classified as non-prime agricultural land. These parcels encompass approximately 128-acres; however, 46-acres include environmental constraints such as an environmentally sensitive habitat area. The area outside of the environmental constraints encompasses approximately 63-acres of non-prime agricultural land and 0.09-acre of prime agricultural land. This area could accommodate treatment plant facilities of approximately 20 acres. However, the area is adjacent to Los Osos Valley Road on the south and Warden Creek wetlands on the north. Issues related to using this alternative location for the treatment plant include:

□ These parcels are owned by private individuals that do not want to sell their property. Therefore, the County would be required to obtain the property through eminent domain.

□ The area is located immediately adjacent to Los Osos Valley Road and will result in a significant impact on views.

□ Los Osos Valley Road is proposed as a "scenic corridor" and the placement of treatment plant facilities adjacent to this roadway will not be consistent with a scenic corridor designation.

□ The placement of treatment plant facilities in close proximity to

Warden Creek wetlands reduces the project's ability to contain spills before material enters the creek and sensitive wetlands.
Due to these issues, the County considers the aforementioned parcels unable to accommodate the proposed treatment plant facilities.
The Tonini site is a large agriculturally designated parcel that provides more than sufficient area to develop a treatment plant site. However, the site consists of prime soils, which are part of a larger area of prime soils. In addition, all areas of the Tonini parcel that could accommodate a treatment plant are highly visible from
Turri Road, which is a highly scenic area. Further, the Tonini parcel is currently enrolled in the Williamson Act. Use of the site would require cancellation of the land conservation contract as described in the Environmental Impact Report.
Based on the above evaluation, there are no feasible alternative locations for the proposed treatment plant facilities as compared with the location of the facilities under the project.
The potentially significant and unavoidable adverse impacts related to the loss of agricultural land are acceptable in light of the Statement of Overriding Considerations provided herein and hereby made and adopted by the Planning Commission.

Potentially Significant Impact

The Project's facilities will result in a significant and unavoidable cumulative farmland conversion impact.

The Project will result in the direct loss of 16 acres of agricultural land.
(Why so much land? Spray fields???)
Since this
loss will contribute to the historic pattern of farmland conversion within the County
of San Luis Obispo, this will be a significant and unavoidable cumulative impact on
agricultural land.

California Environmental Quality Act Findings – page 122

Finding

Pursuant to CEQA Guidelines Section 15091 (a) (3), specific economic, legal, social, technological or other considerations, *including provision of employment opportunities for highly trained workers,???* make infeasible mitigation measures or
alternatives identified in the Final Environmental Impact Report.

Facts in Support of Finding

The potentially significant effect has been reduced to the maximum extent feasible
by virtue of the following mitigation measure as identified in the Final Environmental Impact Report and incorporated into the project and will substantially lessen the significant effect of the project on farmland conversion; however, the level of impact due to the conversion of agricultural land will still be considered significant and unavoidable.

Q5.11-A1 Prior to operation of the facility, the County Department of Public

Works shall provide evidence to the County Planning and Building Department that a farmland conservation easement, a farmland deed restriction, or other farmland conservation mechanism has been granted in perpetuity to the County or a qualifying entity approved by the County Agricultural Commissioner (or designee). The easement shall provide conservation acreage at a ratio of not less than 2:1 for the loss of agricultural land. The re-use of tertiary treated water would be consistent with the surrounding area because the water is treated to title 22 standards which allows the water to be placed on edible food crops, landscape areas, etc. and would not result in impacts to surrounding uses. Additionally, the project proponent shall provide appropriate funds (as determined by the County Planning Department) to compensate for reasonable administrative costs incurred by the easement holder. The area conserved shall be minimally sized at 16 acres, and shall be of a quality that is reasonably (as determined by the County Agricultural Commissioner or designee) similar to that of the farmland within the project limits.
The implementation of the above mitigation measure will reduce and substantially
lessen potential impacts from the Project on the cumulative impact on farmland. However, the Project's contribution to level of cumulative impact due to the conversion of agricultural land will still be considered significant and unavoidable.
As discussed above for the project-specific impact from the conversion of farmland, alternative locations for the treatment plant facilities are considered throughout the Final Environmental Impact Report. A screening analysis was conducted as described in Section 7 of the Draft Environmental Impact Report to identify the sites that could feasibly accomplish the fundamental goals of the project, while minimizing environmental impacts. Due to environmental constraints
and issues associated with potential alternative locations for the treatment plant,

there are no feasible alternative locations for the proposed treatment plant facilities
as compared with the location of the facilities under the Project.
The potentially significant and unavoidable adverse impact related to the loss of agricultural land is considered acceptable in light of the Statement of Overriding Considerations provided herein.

STATEMENT OF OVERRIDING CONSIDERATIONS

The California Environmental Quality Act requires the lead agency to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. The County of San Luis Obispo proposes to approve the Los Osos Wastewater Project although unavoidable adverse impacts to agricultural resources will result, as identified in the Environmental Impact Report. Specifically, the significant and unavoidable project-specific and cumulative impacts are associated with the conversion of approximately 16 acres of agricultural land to non-agricultural uses, rendering the

land incapable of agricultural production. Consistent with past County practice, mitigation in the form of agricultural easements over similar or better agricultural land are required, however, adverse impacts are not reduced to a level considered
less than significant. Never the less, the County finds that those impacts are outweighed by the public benefits of the Los Osos Wastewater Project which include improved marine water quality, improved groundwater quality, *reducing the rate of seawater intrusion,???* and balancing the Los Osos groundwater basin.
Further, alternatives identified in the Environmental Impact Report are not considered feasible to reduce the impacts on agricultural resources below the level
of impacts that will result from the Project.
Consequently, the County finds as follows:
1. As described in the Project's Environmental Impact Report, Rough Screening Report and Fine Screening Report, the project will result in the lowest level of impacts on agricultural resources among all of the feasible alternatives. As analyzed in the above-referenced documents, all of the feasible alternatives would result in the loss of agricultural land. By locating the wastewater treatment plant facility at the Giacomazzi site, the project will reduce those impacts to the lowest feasible level, both in terms of the overall acreage of land impacted, but also in terms in the productivity of the land as measured in terms of soil classification and proximity to other productive lands.
2. As described in the Project's Environmental Impact Report, Rough Screening Report and Fine Screening Report, the project will result in the least costly feasible treatment plant site. As demonstrated in the above referenced reports, locating the treatment plant at the Mid-town site would require the construction of a membrane bioreactor or equivalent treatment

process in order to address community concerns about odors, safety, visual effects and treatment plant size. Costs of this type of treatment would exceed those available for use at the Giacomazzi site by approximately 25 million dollars. Locating the treatment plant at the Tonini site would require the purchase of approximately 645 acres of land, as opposed to 38 acres at the Giacomazzi site, which provides a cost savings of at least 6 million dollars.
3. The Los Osos Wastewater Project, which includes multiple Environmental Impact Reports prepared in 1987, 1998, 2005 and 2009; the creation of the Los Osos Community Services District in 1998; the bankruptcy of the Los Osos Community Services District in 2005; the results of community elections that occurred in the fall of 2005 in which a majority of the board members of the LOCSD were recalled in a special election and where measure B, a referendum on the location of treatment plant was passed; and the passage of AB2701 in 2006; has generated an extraordinary degree of concern and controversy among the community, the County and

the State. The level of concern and controversy has resulted in part from the various proposed locations for the wastewater treatment plant, both inside and outside of the community. Based on the exhaustive review of potential treatment plant locations examined in previous project Environmental Impact Reports put forth in 1987, 1998, and 2005, together with information presented in the Project's Environmental Impact Report, *Rough Screening Report and Fine Screening Report, and evidence presented in the current Environmental Impact Report documenting that* ***all*** *potential environmental impacts except for the loss of agricultural land can be mitigated to level of insignificance???, the Giacomazzi site is the most* feasible location for a wastewater treatment plant and as such addresses the concern and controversy surrounding the siting of the treatment plant to highest degree possible.

Further, the loss of approximately 16 acres of agricultural land is acceptable because the project will provide multiple environmental, social, and legal benefits.

As documented in the Record, the benefits of the Los Osos Wastewater Project are as follows:

1. The Project will respond to and alleviate the Regional Water Quality Control Board's waste discharge prohibition in Los Osos. In 1983, the Central Coast the Regional Water Quality Control Board determined that contamination in excess of State standards had occurred in the groundwater basin (upper aquifer) with a substantial effect from the use of septic systems throughout the community and followed with a regulatory mandate to cease and desist. In 1983 the Regional Water Quality Control Board issued Resolution No. 83-13 and made the following findings:

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a) Previous studies (Brown and Caldwell 1983) indicated that the quality of water derived from the shallow aquifer underlying the community was deteriorating, particularly as it relates to increasing concentrations of nitrates in excess of State standards.

b) The current method of wastewater disposal by individual septic tank systems located in areas of high groundwater are a major contributing factor to this degradation of water quality.

c) Continuation of this method of waste disposal could result in health hazards to the community and the continued degradation of groundwater quality is in violation of the Porter-Cologne Act.

d) The Project will result in a community wastewater project that will comply with Regional Water Quality Control Board Waste Discharge Requirements for Los Osos, and will address the issues of water quality defined by the Waste Discharge Requirements for discharge limits issued by the Regional Water Quality Control Board.

In 2006 and 2007 the Regional Water Quality Control Board issued Cease and Desist Orders to 45 Los Osos residents with an expressed intention to eventually issue Cease and Desist Orders to all properties discharging septic system waste in the Prohibition Zone. In 2007, the Regional Water

METHODS are VAGUE

#4

al barrow

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To: "johnathan bishop" <jbishop@coastal.ca.gov>
Cc: "al barrow" <a.barrow@charter.net>; "Martha Goldin" <honmgret@charter.net>
Sent: Friday, March 06, 2009 2:38 PM
Attach: header.htm
Subject: 217. Monowitz -- CCC Permit Revocation Request

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OUR FILE NO:
4750-0001

March 23, 2005

Steve Monowitz

Permit Supervisor

725 Front Street,

Suite 300

Santa Cruz, CA 95060-4508

Re: Permit Revocation Request For Coastal Development Application No. A-3-SLO-03-113

Dear Mr. Monowitz:

This communication outlines the appropriate legal standards for the California Coastal Commission ("Commission") to utilize when determining whether revoke the permit ("Permit") that was issued on August 11, 2004 on Application No. A-3-SLO-03-113.

This communication does not focus on the factual allegations relating to the Permit and

the hearing, as those allegations are fully presented in the "Permit Revocation Request" prepared by the Los Osos Technical Task Force ("Revocation Request"); the February 23, 2005 rebuttal letter to Mr. Peter Douglas from Ms. Jana Zimmer ("Rebuttal Letter"); and additional comment letters that presumably are expected to have been or will be forwarded to your attention. Rather, this communication is intended to refute the legal assertions made in the Rebuttal Letter, and to provide a more accurate summary of applicable law.

When the appropriate legal standards are applied to those facts previously or subsequently submitted, it should establish that the Permit should be revoked.

I. REVOCATION IS REQUIRED IF THREE PRONGS ARE SHOWN.

CCR Title 14 Division 5.5. Article 16, 13105(a) (the "Regulation") provides:

> Grounds for revocation of a permit shall be:
>
> Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the commission finds that accurate and complete information would have caused the commission to require additional or different conditions on a permit or deny an application.[1]

Still Relevant

Stated differently, all that the Commission must find to revoke the Permit is (1) the Commission was presented with incomplete, inaccurate or erroneous information; (2) the inclusion of this information was intentional; and (3) complete or accurate information would have caused the Commission to have issued at least one condition in a different manner, or have denied the application.

TRUE

A. The Commission Was Presented With Incomplete, Inaccurate or Erroneous Information.

The first prong to establish grounds for revocation is that the Commission was presented with incomplete, inaccurate or erroneous information. Stated differently, this first prong is met if the commission was presented with either incorrect information, or a "half-truth."

1. There Is No Requirement That The Incomplete Or Incorrect Information Be Presented By A Particular Party.

The Regulation does not require that the incorrect information be submitted by any particular party. The only way to create a requirement of disclosure by a particular party would be to add words to the Regulation. Rather, the Regulation is silent as to who must have made the representations. Adding words to a regulation is prohibited. *Burden v. Snowden* (1992) 2 Cal.4th 556, 562 *modified*, 2 Cal.4th 758 ["Where the words of the statute are clear, we may not add to or alter them to accomplish a purpose that does not appear on the face of the statute or from the legislative history"]; *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 543 (1990) [A court "may not add to the statute or rewrite it to conform to an assumed intent that is not apparent in its language."]. Rather, the Regulation was drafted in the passive voice to avoid any requirement of action by a particular party.

And for good reason. Otherwise, individuals that support the issuance of the Permit other than

the applicant could make bald faced lies to the Commission and hide behind a rule that says, "unless the factual inaccuracies were presented by the actual applicant, the Commission can do nothing." This cannot be the law, nor is it the law. The Commission must have, and does have, the power to revoke permits if they were issued on incomplete or inaccurate information.

Nevertheless, the Rebuttal Letter asserts that this is the law. The rules of regulatory construction prohibit adding non-existent words and phrases. *Craig v. City of Poway* (1994) 28 Cal.App.4th 319, 337 [The Legislature is presumed to have meant what it said and the plain meaning of the language will govern the interpretation of the statute]. Contrary to this rule of regulatory construction, in an attempt to add a requirement of a particular actor, the Rebuttal Letter states the first prong requires that the "**applicant** or its representative submitted the contested testimony or information" [emphasis in Rebuttal Letter]. The only requirement is that there *were* factual misstatements; it is irrelevant who made the incorrect statements.

2. <u>The Incomplete Or Incorrect Information Need Only Have Related To The Permit Application.</u>

Similarly, the Rebuttal Letter asserts "the allegations merely restate a difference of opinion as to need for and the impacts of the project, not that the information provided the Commission did not accurately reflect the project to be constructed." This statement suggests that the only relevant information is that which relates to the "project to be constructed" – the size, shape, and location of the proposed structure. This may have been an inadvertent suggestion, but is nevertheless an improper conclusion, as the plain wording of the Regulation directly contradicts any such limitation. The Regulation provides that for the information to be considered, it need only have been presented "in connection with a coastal development permit application." Stated differently, if the information was relevant, it is at issue. As such, the Commission may consider any information that is relevant – including paperwork that was filed with the application, the status of approvals, the status of regulatory procedures, etc. The question of whether there are factual inaccuracies is so broad as to include whether the permits were obtained, whether the project complies with the LCP, and anything else related to the Permit.

Simply, the first prong merely requires that sometime during the Permit proceedings the Commission was presented with incomplete[2], inaccurate or erroneous information.

B. <u>The Information Must Have Been Intentionally Included</u>.

The second prong is that the information was intentionally included.

1. <u>There Is No Required Showing Of Bad Faith.</u>

The Regulation does *not* state that there is a requirement of bad faith; rather, the Regulation merely requires that the information be included "intentionally." Stated differently, there is no requirement that the Commission determine that whoever presented the information intended the *effect* of the act (i.e. intended to mislead the Commission), rather, the only requirement is that whoever presented the information had to have intended to do the act (i.e. to have intended to state or type the sentence, prepare a chart as it appeared, or have made any other representation in the manner in which it appeared as opposed to a mere oversight or any other accidental inclusion of information).

This interpretation is consistent with Black's Law Dictionary (both the 7th & 8th editions) which provides:

> "An act is intentional when foreseen and desired by the doer, and this foresight and desire resulted in the act through the operation of the will."

Simply, for an act to be "intentional" the law requires only a desire to do the act – there is no need to have a desire to have the actual effects of the act.[3] In legal jargon, the *actus reus*, is different than the *mens rea*; the act is different than the intent.

Had the Regulation been intended to require an improper motive, then the Regulations would have said so. For example, Regulation could have been drafted so as to require revocation where there was "intentional inclusion of inaccurate, erroneous or incomplete information introduced for the purpose of misleading the Commission." The Regulation, however, does not say this or anything similar. Because words cannot be added to regulations, the regulations must be interpreted as drafted. *Burden v. Snowden*, *supra*, 2 Cal.4th 556, 562.

Again, there is good reason for this rule. The drafters of the Regulation ("Drafters") were justifiably concerned that if the Commission required a showing of improper purpose, purpose could rarely, if ever be shown. How could the Commission ever know the motive of people who drafted documents, especially when the creator of those documents may never have even appeared at the hearing?[4] The Commission could never with any certainty determine that someone acted with a nefarious purpose. The ultimate concern of the Drafters was to preserve the California Coast. If the Commission was misled – regardless of the reason – the Commission must be allowed to properly regulate the California Coast. As such, the Commission us it trapped by mere technicalities.[5]

Yet that is exactly what the Rebuttal Letter proposes. It provides, "there is no evidence of an intent, let alone a motivation, to include erroneous or incomplete information." This statement improperly implies that the Commission must first determine whether the facts were incorrect, and *also* whether there was an improper motive. This is not the case.

2. The Best Means To Determine Whether Information Was Intentionally Included Is To Determine How Often the Statements Were Made.

The best means for the Commission to determine whether a statement was incomplete and/or factually inaccurate is to determine how many times that improper statement or a similar such statement was made. If the statement was made only one time, and that statement contradicted numerous other statements made by the same speaker, then the first statement was likely an unintended misstatement. If, however, the statement was made on more that one occasion, then the Commission can reasonably infer that the actor intended to make that statement.

Of course, there can be no hard and fast rule as to exactly when it can be known whether a particular statement is correct. In some situations one factual assertion can be known to be intentionally made. This is why the Regulation was drafted how it was – with a slight ambiguity and enough flexibility for the Commission to determine for itself whether a statement was accidental. Had the Drafters wished there to be a "bright line," they would have the exact number of misstatements that was required. The Drafters instead opted for flexibility.

At first blush, the Regulation does not appear to be clear as to exactly what is meant by "intentionally." On further examination, however, when applying general legal principles, it becomes clear that the second prong of the Regulation merely requires a showing that the presenter of the information intended to include the information in the presentation.

C. The Commission Would Have Either Issued Different Conditions Or Denied The Application.

The last prong is that the "accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application." In other words, the Commission must determine that the information would have affected its decision in some manner had the information been complete or accurate.

1. The Commission May Look To Later Events To Determine Whether The Commission Was Presented With Complete And Accurate Information.

The Rebuttal letter suggests that the Commission can never look to actions which took place after the hearing. This is an oversimplification. The only rule is that the Commission must determine whether the information presented at the hearing was incomplete or inaccurate at the time. This does not preclude the Commission from considering latter evidence to determine whether the information was correct or complete at the time.

The Regulation does not preclude the use of latter events to determine whether the past was correct. Again, for good reason. Otherwise, someone could lie to the Commission and the Commission could do nothing about it. If, for example, the Commission was told "tomorrow I will transfer $1 million to the City," and the transfer never occurred, but instead, three weeks thereafter, the individual transferred the money to a Swiss bank account and fled the country, the Commission should be able to determine based on that information alone that at the time that the statement was made, it was inaccurate – there was never any present intent to transfer the money. This rational conclusion is based entirely upon latter determined facts. Yet the Rebuttal Letter suggests that the Commission must ignore this information and conclude that the information it initially received was accurate. Because this legal interpretation of a regulation leads to absurd conclusions, the legal interpretation must be discarded. *Landrum v. Superior Court* (1981) 30 Cal.3d 1, 9 [courts are reluctant to attribute to the drafters of legislation an intent to create "an illogical or confusing scheme"].

Simply, the Commission *must* be permitted to look to future events; otherwise it could not fully determine the truth of the past events. When doing so, the Commission must determine whether it would have ruled differently. If the Commission would have issued, added, removed or changed any conditions, or if it would have denied the Permit, the Commission must revoke the Permit.

II. ADDITIONAL CORRECTIONS

In addition to those comments mentioned above, there are two additional comments made in the Rebuttal Letter that should be corrected.

A. The Existence of a Court Case In No Way Removes The Commission's Duty to Respond.

First, the Rebuttal Letter argues that because there is an existent lawsuit in which it is alleged that the Commission violated the Coastal Act, that somehow the Commission is therefore absolved from determining the issue in the current instance. This is incorrect. The fact that a court of law will determine a somewhat related issue on a previous matter does not absolve the Commission from its statutory and regulatory duty to now determine whether the Permit should be revoked. This is particularly true because the Court must use different legal standards, and will analyze different issues than those discussed herein. In fact, if the Commission fails to rule as required, it would likely be subject to litigation wherein it would be alleged that the Commission's failure of analysis was contrary

to law.

B. Neither Party Has The Burden of Proof.

Second, the Rebuttal Letter asserts that "Complainants have the burden to prove several separate elements." This can clearly be shown to not be the state of the law for various reasons. First, the Rebuttal Letter provides no authority that any party has the burden of proof. Second, 14 CCR 13108(d) provides only that Commission may revoke the permit if the Commission finds "that any of the grounds specified in [the Regulation] exist." 14 CCR 13108(d) does not require that either party meet some unspecified burden of proof. Third, the plain wording of the Regulation, too, does not provide that either party has the burden of proof. Last, pursuant to 14 CCR 13104, the Commission's Executive Director has standing to initiate proceedings. If the assertion was correct that the Complainants have the burden of proof, then 14 CCR 13104, or another similar regulation would state how the burden of proof is different in this situation where neither party requested revocation of the permit.

Simply, there is no authority for such a proposition. If indeed, there was some such requirement there would be at least a *scintilla* of evidence to support this proposition. Presumably, the authors of the Rebuttal Letter assumed that the *court* rules of burdens of proof applied in this *administrative* proceeding; but again, no authority is presented for such conclusion.

III. CONCLUSION

If the Commission finds that (1) the Commission was presented with incomplete, erroneous, or incorrect information; (2) the party intended to present this information to the Commission; and (3) the inclusion of proper information would have caused the Commission to have issued a different decision, then the Commission must revoke the Permit.

Very truly yours,

Scott E. Porter

for BURKE, WILLIAMS & SORENSEN, LLP

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[1] Section 13105(b) provides the alternate ground for revocation of a permit: "Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the commission and could have caused the commission to require additional or different conditions on a permit or deny an application."

[2] The MacMillan 1980 Legal Thesaurus lists twenty three synonyms to the word to the word "incomplete." The terms are "broken, defective, deficient, devoid, imperfect, inadequate, inchoate, insufficient, non-substantial (not sufficient), outstanding (unresolved), paltry, partial (part), partial (relating to apart), perfunctory, rudimentary, scarce."

[3] Numerous other authorities support this distinction. For example, Webster's Ninth New Collegiate Dictionary defines intent as "the state of mind with which an act is done: volition." It further provides that a synonym for "intent" is

"voluntary." Another example is from the criminal context. There an act is intentional, so long as it was not accidental; there is no duty to show any further intent, unless the statutes specifically so provides. *U.S. v. Fuller* 162 f.3d 256 (4th Cir. 1998). This is confirmed by the legal maxim *In criminalibus, voluntas reputabitur pro facto* (in criminal cases, the intent will be taken for the deed."

[4] This is not to suggest that those presenting incomplete information to the Commission did not have a motive for doing so. Numerous motives may exist, including: (1) the desire to avoid any potential fines to be imposed by water quality officials; (2) the desire to quickly complete the project before a replacement board of directors opts to terminate the project; (3) the desire to comply with one's boss who bases job performance based upon whether the project is approved. Rather, this is simply intended to state that there is no need to show any such motivation.

[5] Of course, there must be some finality to Commission decisions. That is why the three prongs were required.

#5

Section 30006.5 Legislative findings and declarations; technical advice and recommendations

The Legislature further finds and declares that sound and timely scientific recommendations are necessary for many coastal planning, conservation, and development decisions and that the commission should, in addition to developing its own expertise in significant applicable fields of science, interact with members of the scientific and academic communities in the social, physical, and natural sciences so that the commission may receive technical advice and recommendations with regard to its decision making, especially with regard to issues such as coastal erosion and geology, marine biodiversity, wetland restoration, the question of sea level rise, desalination plants, and the cumulative impact of coastal zone developments.
(Added by Ch. 965, Stats.

Section 30007 Housing; local government

Nothing in this division shall exempt local governments from meeting the requirements of state and federal law with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any law hereafter enacted.

Section 30007.5 Legislative findings and declarations; resolution of policy conflicts

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

PROJECT WILL DRAIN Wetland

Section 30121 Wetland

"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Section 30004 Legislative findings and declarations; necessity of continued planning and management

The Legislature further finds and declares that:
(a) To achieve maximum responsiveness to local conditions, accountability, and public accessibility, it is necessary to rely heavily on local government and local land use planning procedures and enforcement.
(b) To ensure conformity with the provisions of this division, and to provide maximum state involvement in federal activities allowable under federal law or regulations or the United States Constitution which affect California's coastal resources, to protect regional, state, and national interests in assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the well-being of the people of the state, and to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources, to coordinate and integrate the activities of the many agencies whose activities impact the coastal zone, and to supplement their activities in matters not properly within the jurisdiction of any existing agency, it is necessary to provide for continued state coastal planning and management through a state coastal commission.

Section 30006.5 Legislative findings and declarations; technical advice and recommendations

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The Legislature further finds and declares that sound and timely scientific recommendations are necessary for many coastal planning, conservation, and development decisions and that the commission should, in addition to developing its own expertise in significant applicable fields of science, interact with members of the scientific and academic communities in the social, physical, and natural sciences so that the commission may receive technical advice and recommendations with regard to its decisionmaking, especially with regard to issues such as coastal erosion and geology, marine biodiversity, wetland restoration, the question of sea level rise, desalination plants, and the cumulative impact of coastal zone developments.
(Added by Ch. 965, Stats. 1992.)

Section 30007 Housing; local government
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170 P Findings

Section 30105.5 Cumulatively; cumulative effect
"Cumulatively" or "cumulative effect" means the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.
(Added by Ch. 1087, Stats. 1980.)

Section 30106 Development
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"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

Section 30107.5 Environmentally sensitive area
"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30108 Feasible
"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors

Section 30108.2 Fill
"Fill" means earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

Bringing Pollutants Back!? RECHARGE

Section 30231 Biological productivity; water quality

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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural stream

Section 30236 Water supply and flood control

Section 30240 Environmentally sensitive habitat areas; adjacent developments

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.

(Amended by Ch. 285, Stats. 1991.)

Section 30241 Prime agricultural land; maintenance in agricultural production

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

(Amended by: Ch. 1066, Stats. 1981; Ch. 43, Stats. 1982.)

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (l) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Section 30237 (Repealed by Ch. 286, Stats. 2004.)

Section 30244 Archaeological or paleontological resources

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

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Re submission

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b. Proposals pending at time of LCP certification:

(1) Any development proposal which the county approved before certification of the Local Coastal

Program but which has not been submitted to the Coastal Commission for approval shall be re-submitted to the county through an

application for a permit pursuant to this title. The decision on the application shall be based solely

on the requirements of this title.

(2) Any development proposal which the county approved before certification of the Local Coastal

Program and for which an application has been filed with the Coastal Commission may, at the option *of the applicant, remain with the Commission for completion of review and permit issuance. **Commission review of any such application shall be based on the provisions of the certified Local Coastal Program.*** Alternatively, the applicant may re-submit the proposal to the

county through an application for a permit pursuant to this title, and the decision on the application shall be based solely on the provisions of this title. Projects which elect to obtain a coastal permit from the Coastal Commission will remain under the jurisdiction of the Commission

as set forth in subsection a. above.

Section 30251 Scenic and visual qualities

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting

Section 30253 Minimization of adverse impacts

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

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(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

(c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.

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Los Osos is Mapped liquefaction zone Throughout Sealed STEP is more Protective

(d) Minimize energy consumption and vehicle miles traveled. Less cost... less miles
(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.
(Amended by Ch. 179, Stats. 2008)

Section 30321 Jurisdiction of commission
For purposes of this article, "a matter within the commission's jurisdiction" means any permit action, federal consistency review, appeal, local coastal program, port master plan, public works plan, long-range development plan, categorical or other exclusions from coastal development permit requirements, or any other quasi-judicial matter requiring commission action, for which an application has been submitted to the commission.
(Added by Ch. 1114, Stats. 1992.)-

(b) In addition to any other applicable penalty, including a civil fine imposed pursuant to Section 30824, a commission member who knowingly violates this section shall be subject to a civil fine, not to exceed seven thousand five hundred dollars ($7,500). Notwithstanding any law to the contrary , the court may award attorney's fees and costs to the prevailing party.
(Added by Ch. 1114, Stats. 1992; Amended by Ch. 798, Stats. 1993.)
Section 30327.5

Section 30328 Violations; remedies
If a violation of this article occurs and a commission decision may have been affected by the violation, an aggrieved person, as described in Section 30801, may seek a writ of mandate from a court requiring the commission to revoke its action and rehear the matter.
(Added by Ch. 1114, Stats, 1992.)

The commission, unless specifically otherwise provided, shall have the primary responsibility for the implementation of the provisions of this division and is designated as the state coastal zone planning and management agency for any and all purposes, and may exercise any and all powers set forth in the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.) or any amendment thereto or any other federal act heretofore or hereafter enacted that relates to the planning or management of the coastal zone.

Section 30336 Planning and regulatory assistance to local governments
The commission shall, to the maximum extent feasible, assist local governments in exercising the planning and regulatory powers and responsibilities provided for by this division where the local government elects to exercise those powers and responsibilities and requests assistance from the commission, and shall cooperate with and assist other public agencies in carrying out this division. Similarly, every public agency, including regional and state agencies and local governments, shall cooperate with the commission and shall, to the extent their resources permit, provide any advice, assistance, or information the commission may require to perform its duties and to more effectively exercise its authority.
(Amended by Ch. 285, Stats. 1991.)

Sections 30342 and 30343 (Repealed by Ch. 294, Stats. 2006.)
Section 30344 Guide to coastal resources; components; purpose; production; distribution
(a) The Legislature hereby finds and declares that the coastal zone is one of its most precious natural resources, rich in diversity of living and nonliving resources and in the wide range of opportunities it provides for the use and conservation by the people of this state and nation. The Legislature further finds that, in order to promote the wise use of coastal resources for, among

other things, recreation, habitat conservation, educational, and scientific study, the production of food and fiber, residential purposes, and economic growth, it is necessary to provide the public with an informative and educational guide to coastal resources.
(b) The commission shall, not later than July 1, 1984, prepare a guide to coastal resources. The guide shall include, but not be limited to, the following components:
(l) An inventory of the natural resources which are of environmental, social, economic, and educational importance to the public. The inventory shall include a description of the resources, their location, and their significance to the people and the natural environment.
(2) An inventory of manmade resources of cultural, historic, economic, and educational importance to the public. The inventory shall focus on those resources which, by virtue of their location in or near the coastal zone, take on a special character or which, because of their nature, require a coastal location. The
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inventory shall include a description of the resource and any historic, educational, and technical notes of interest.
(3) A listing of public and private entities having responsibility for the planning, management, use, and restoration of the coastal resources and how interested persons can contact those entities for further information about their projects and programs.
The purpose of this guide shall be to contribute to a better understanding by the public of the importance of coastal resources, both to the quality of life for people and to the maintenance of a healthy and productive natural environment. The guide shall be sensitive to the need for a balanced approach to the conservation and use of coastal resources, to the rights and responsibilities of individuals and the public in the protection and use of these resources, and the need to limit human use of some resources in order to avoid their degradation or destruction. The guide shall not be a policy guide, but rather it shall be an educational tool to increase the public understanding and appreciation of the value of California's coastal resources.
(c) The commission shall utilize innovative techniques for the preparation, production, and distribution of the guide so as to minimize costs to the public. To this end, the commission is encouraged to enlist the voluntary assistance of private and public organizations with appropriate expertise. In addition, the commission shall seek grants from private and public institutions to augment its limited funding.
Notwithstanding Section 14850 of the Government Code or any other provision of law, the commission may contract for the production of this guide with any public or private entity in order to meet the objective of this section.
(d) The guide shall be written and illustrated so as to be easily understood by the general public and shall be set forth in a format that ensures its usefulness.
(e) The guide shall be made available to the public at a reasonable cost.
(Added by Ch. 1470, Stats. 1982.)
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Section 30401 Effect on existing state agencies; construction of chapter
Except as otherwise specifically provided in this division, enactment of this division does not increase, decrease, duplicate or supersede the authority of any existing state agency.
This chapter shall not be construed to limit in any way the regulatory controls over development pursuant to Chapters 7 (commencing with Section 30600) and 8 (commencing with Section 30700), except that the commission shall not set standards or adopt regulations that duplicate regulatory controls established by any existing state agency pursuant to specific statutory requirements or authorization.
(Amended by Ch. 285, Stats. 1991.)

Section 30412 State Water Resources Control Board & Regional Water Quality Control Boards
(a) In addition to Section 13142.5 of the Water Code, this section shall apply to the commission and the State Water Resources Control Board and the California regional water quality control boards.
(b) The State Water Resources Control Board and the California regional water quality control boards are the state agencies with primary responsibility for the coordination and control of water quality. The State Water Resources Control Board has primary responsibility for the administration of water rights pursuant to applicable law. The commission shall assure that proposed development and local coastal programs shall not frustrate this section. The commission shall not, except as provided in subdivision (c), modify, adopt conditions, or take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.

Except as provided in this section, nothing herein shall be interpreted in any way either as prohibiting or limiting the commission, local government, or port governing body from exercising the regulatory controls over development pursuant to this division in a manner necessary to carry out this division.

(c) 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 the 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 those 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.

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 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.

(d) The commission shall provide or require reservations of sites for the construction of treatment works and points of discharge within the coastal zone adequate for the protection of coastal resources consistent with the provisions of this division.

(e) Nothing in this section shall require the State Water Resources Control Board to fund or certify for funding, any specific treatment works within the coastal zone or to prohibit the State Water Resources Control Board or any California regional water quality control board from requiring a higher degree of treatment at any existing treatment works.

(Amended by Ch. 285, Stats. 1991.)

Section 30413 State Energy Resources Conservation & Development Commission

(a) In addition to the provisions set forth in subdivision (f) of Section 30241, and in Sections 25302, 25500, 25507, 25508, 25510, 25514, 25516.1, 25523, and 25526, the provisions of this section shall apply to the commission and the State Energy Resources Conservation and Development Commission with respect to matters within the statutory responsibility of the latter.

(b) The commission shall, prior to January 1, 1978, and after one or more public hearings, designate those specific locations within the coastal zone where the location of a facility as defined in Section 25110 would prevent the achievement of the objectives of this division; provided, however, that specific locations that are presently used for such facilities and reasonable expansion thereof shall not be so designated. Each such designation shall include a description of the boundaries of those locations, the objectives of this division which would be so affected, and detailed findings concerning the significant adverse impacts that would result from development of a facility in the designated area. The commission shall consider the conclusions, if any, reached by the State Energy Resources Conservation and Development Commission in its most recently promulgated comprehensive report issued pursuant to Section 25309. The commission shall transmit a copy of its report prepared pursuant to this subdivision to the State Energy Resources Conservation and Development Commission.

(c) The commission, after it completes its initial designations in 1978, shall, prior to January 1, 1980, and once every two years thereafter until January 1, 1990, revise and update the designations specified in subdivision (b). After January 1, 1990, the commission shall revise and update those designations not less than once every five years. Those revisions shall be effective on January 1, 1980, or on January 1 of the year following adoption of the revisions. The provisions of subdivision (b) shall not apply to any sites and related facilities specified in any notice of intention to file an application for certification filed with the State Energy Resources Conservation and Development Commission pursuant to Section 25502 prior to designation of additional locations made by the commission pursuant to this subdivision.

(d) Whenever the State Energy Resources Conservation and Development Commission exercises its siting authority and undertakes proceedings pursuant to the provisions of Chapter 6 (commencing with Section 25500) of Division 15 with respect to any thermal powerplant or transmission line to be located, in whole or in part, within the coastal zone, the commission shall participate in those proceedings and shall receive from the State Energy Resources Conservation and Development Commission any notice of intention to file an application for certification of a site and related facilities within the coastal zone. The commission shall analyze each notice of intention and shall, prior to completion of the preliminary report required by Section 25510, forward to the State Energy Resources Conservation and Development Commission a written report on the suitability of the proposed site and related facilities specified in that notice . The commission's report shall contain a consideration of, and findings regarding, all of the following:

(1) The compatibility of the proposed site and related facilities with the goal of protecting coastal resources.

(2) The degree to which the proposed site and related facilities would conflict with other existing or planned coastal-dependent land uses at or near the site.

(3) The potential adverse effects that the proposed site and related facilities would have on aesthetic values.

(4) The potential adverse environmental effects on fish and wildlife and their habitats.

(5) The conformance of the proposed site and related facilities with certified local coastal programs in those jurisdictions which would be affected by any such development.
(6) The degree to which the proposed site and related facilities could reasonably be modified so as to mitigate potential adverse effects on coastal resources, minimize conflict with existing or planned coastal-dependent uses at or near the site, and promote the policies of this division.
(7) Such other matters as the commission deems appropriate and necessary to carry out this division.
(e) The commission may, at its discretion, participate fully in other proceedings conducted by the State Energy Resources Conservation and Development Commission pursuant to its powerplant siting authority. In the event the commission participates in any public hearings held by the State Energy Resources Conservation and Development Commission, it shall be afforded full opportunity to present evidence and examine and cross-examine witnesses.
(f) The State Energy Resources Conservation and Development Commission shall forward a copy of all reports it distributes pursuant to Sections 25302 and 25306 to the commission and the commission shall, with respect to any report that relates to the coastal zone or coastal zone resources, comment on those reports, and shall in its comments include a discussion of the desirability of particular areas within the coastal zone as designated in such reports for potential powerplant development. The commission may propose alternate areas for powerplant development within the coastal zone and shall provide detailed findings to support the suggested alternatives.
(Amended by: Ch. 1013 and Ch. 1075, Stats. 1978; Ch. 1031, Stats. 1991.)

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Section 30414 State Air Resources Board & local air pollution control districts
(a) The State Air Resources Board and air pollution control districts established pursuant to state law and consistent with requirements of federal law are the principal public agencies responsible for the establishment of ambient air quality and emission standards and air pollution control programs. The provisions of this division do not authorize the commission or any local government to establish any ambient air quality standard or emission standard, air pollution control program or facility, or to modify any ambient air quality standard, emission standard, or air pollution control program or facility which has been established by the state board or by an air pollution control district.
(b) Any provision of any certified local coastal program which establishes or modifies any ambient air quality standard, any emission standard, any air pollution control program or facility shall be inoperative.
(c) The State Air Resources Board and any air pollution control district may recommend ways in which actions of the commission or any local government can complement or assist in the implementation of established air quality programs.
(Amended by Ch. 1246, Stats. 1982.)

c. Notice of Final County Action on appeals within the Coastal Zone. Where an appeal has been filed
and decided pursuant to this section on a project that is appealable to the Coastal Commission as set forth
in Section 23.01.043, the county shall provide Notice of Final Action on the project as set forth in Section
23.02.036.
d. Effective date of appeal decision. Except where otherwise provided by Section 23.02.039 for projects
that may be appealed to the Coastal Commission, a decision by the Board of Supervisors on an appeal shall

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be effective as of the date the decision is reached, and a decision on an appeal by the Planning Commission
shall be effective on the 15th day following

23.01.043 - Appeals to the Coastal Commission.
Decisions by the Planning Department, Planning Commission or Board of Supervisors on developments within
the Coastal Zone may be appealed to the California Coastal Commission as set forth in this section.

a. Status of appellant:

(1) Who may appeal. An appeal may be filed by an applicant, any aggrieved person, or two members
of the Coastal Commission pursuant to California Public Resources Code (PRC) Section 30625.

(2) Aggrieved person defined: As set forth in Public Resources Code Section 30801, an aggrieved
person is: anyone who, either in person or through a representative who was explicitly identified as such, appeared at a public hearing before the Planning Director, Planning Commission or Board
of Supervisors in connection with the decision or appeal of any development, or who by other appropriate means prior to a hearing, informed the county of the nature of his or her concerns, unless for good cause was unable to do either. Aggrieved person also includes the applicant for a permit.

We Are Exhausting

b. Exhaustion of local appeals required. For an action on coastal development permit applications that
may be appealed to the Coastal Commission as set forth in subsection c of this section, an applicant or
aggrieved party may appeal a county action on a coastal development application to the Coastal Commission only after all possible local appeals pursuant to Section 23.01.042 have been exhausted. This
limitation shall not apply to any circumstance identified in Section 13573 of Title 14 of the California Code
of Regulations, including:

(1) A situation where an appellant was denied the right of appeal pursuant to Section 23.01.042 because county notice and hearing procedures for the action on the development did not comply with the provisions of Title 14, Division 5.5, Chapter 8, Subchapter 2 of the California Code pf Regulations; or

(2) An appeal of a county decision by two members of the Coastal Commission pursuant to Public
Resources Code Section 30625. Provided, however, that notice of Commissioners appeals shall be transmitted to the Board of Supervisors pursuant to Title 14 of the California Code of Regulations Section 13573(b) and the appeal to the Commission may be suspended pending a decision on the merits of the appeal by the Board of Supervisors. If the 23.01.043 decision of the Board modifies or reverses the previous decision, the Commissioners shall be required to file a new appeal from that decision.

(3) Where the County charges a fee for the filing or processing of appeals of actions on coastal

development projects.

c. Appealable development. As set forth in Public Resources Code Section 30603(a), and this title, an action by the County on a permit application, including any Variance, Exception or Adjustment granted, for any of the following projects may be appealed to the California Coastal Commission:

(1) Developments approved between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach.

(2) Approved developments not included in subsection c(1) of this section that are proposed to be located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved in areas not included in subsections c(1) or c(2) that are located in a Sensitive Coastal Resource Area, which includes:

(i) Special marine and land habitat areas, wetlands, lagoons, and estuaries mapped and designated as Environmentally Sensitive Habitats (ESHA) in the Local Coastal Plan. Does not include resource areas determined by the County to be Unmapped ESHA.

(ii) Areas possessing significant recreational value, including any "V" (Visitor Serving designation) as shown in the Land Use Element and areas in or within 100 feet of any park or recreation area.

(iii) Highly scenic areas which are identified as Sensitive Resource Areas by the Land Use Element.

(iv) Archaeological sites referenced in the California Coastline and Recreation Plan or as designated by the State Historic Preservation Officer.

(v) Special Communities or Small-Scale Neighborhoods which are significant visitor destination areas as defined by Chapter 23.11 of this title.

(vi) Areas that provide existing coastal housing or recreational opportunities for low-and moderate income persons.

(vii) Areas where divisions of land could substantially impair or restrict coastal access.

The procedures established by Section 23.01.041c (Rules of Interpretation) shall be used to resolve any questions regarding the location of any land use category or combining designation boundary, or the location of a proposed public facility, road alignment or other symbol or line on the official maps, including for the purpose of determining the appealability of a development within a sensitive Resource Area.

(4) Any approved development not listed in Coastal Table O, Part I of the Land Use Element as a Principal Permitted (P) Use.

(5) Any development that constitutes a Major Public Works Project or Major Energy Facility. "Major Public Works Project" or "Major Energy Facility" shall mean any proposed public works project or energy facility exceeding $100,000 in estimated construction cost, pursuant to Section 13012,

Title 14 of the California Administrative Code.
[Amended 2004, Ord. 3048]

d. Grounds for appeal. As required by Section 30603 of the Public Resources Code, the grounds for appeal pursuant to this section shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in the California Coastal Act (Section 30210 et seq. of the Public Resources Code).

The grounds for appeal of a denial of a permit pursuant to section c(5) (Major Public Works or Major Energy Facility) shall be limited to an allegation that the development conforms to the standards set forth in the certified Local Coastal Program and the public access policies set forth in the California Coastal Act (Section 30210 et seq. of the Public Resources Code).

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e. Time for appeal to Coastal Commission. Any final action by the county on an appealable development shall become effective after the 10-working day appeal period to the Commission in accordance with the requirements of Section 23.02.039 and applicable provisions of the Coastal Act.

f. Notice to county of appeal to Coastal Commission. An appellant shall notify the county when appealing to the Coastal Commission by providing the county a copy of the information required in Section 13111 of Title 14 of the California Code of Regulations.

[Amended 2004, Ord. 2999; Amended 2004, Ord. 3001, Amendment 2006, Ord. 3082]

23.01.044 - Adjustment:

a. When allowed: When a standard of Chapter 23.04, 23.05 or 23.08, or a planning area standard of the Land Use Element identifies specific circumstances under which reduction of the standard is appropriate, an applicant may request an adjustment to the standard. (For example, Section 23.04.108a(3) provides that a required front setback may be reduced to a minimum of five feet through the adjustment process when the elevation of the lot is seven feet above or below the street centerline at 50 feet from the centerline.)

b. Application filing and processing: An adjustment request is to be filed with the Planning Department in the form of an attachment to the project application, with appropriate supporting materials. The request is to specify the Coastal Zone Land Use Ordinance standard requested for adjustment, and document the

manner in which the proposed project qualifies for the adjustment. A request for adjustment shall not be
accepted for processing by the Planning Department unless the request is within the range of adjustments
prescribed in the standard. A request for adjustment shall be approved by the Planning Director when the
director finds that the criteria for adjustment specified in the subject standard are satisfied.

Policy 12: Geologic Hazards Mapping
As part of the periodic update of an area plan, the draft plan shall include development of a dynamic Geologic
Hazards Map consistent with the Safety Element and updated geologic information. [THIS POLICY SHALL BE
IMPLEMENTED AS A PROGRAM.]
[Added 2004, Ord. 3006]

POLICIES FOR ARCHAEOLOGICAL RESOURCES
Because archaeological resources are scarce and non-renewable resources, the following general policies represent
the county's commitment to ensure that any proposed development would be designed and located to minimize
its impacts on archaeological resources:

STBR is more protective HDD Directional Drill - not Deep Trenching

Policy 1: Protection of Archaeological Resources
The county shall provide for the protection of both known and potential archaeological resources. All available
measures, including purchase, tax relief, purchase of development rights, etc., shall be explored at the time of a
development proposal to avoid development on important archaeological sites. Where these measures are not
feasible and development will adversely affect identified archaeological or paleontological resources, adequate
mitigation shall be required. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 3: Identification of Archaeological Sites
The county shall establish and maintain archaeological site records of data files about known sites. These sensitive
areas shall be defined as follows:
- Within rural areas, the county maintains on file a parcel number list of known sites as prepared and updated
by the California Archaeological Site Survey Office.
- Within urban areas, the county shall maintain maps in the Land Use Element (combining designation)
which reflect generalized areas of known sites. These maps shall be prepared by the California Archaeological Site Survey Regional Office.
Specific archaeological site information shall be treated as confidential to protect the archaeological resources.

Development within an archaeological sensitive areas shall not occur until a preliminary site survey is conducted
for the site, and if necessary, mitigation measures implemented. [THIS POLICY SHALL BE IMPLEMENTED
PURSUANT TO SECTION 23.07.106 OF THE COASTAL ZONE LAND USE ORDINANCE.]
Early information on sensitive sites where new development is anticipated can be used to design and locate
structures and site alterations to eliminate impacts. A preliminary archaeological survey can also help facilitate the
timing of construction: if there is no evidence of the potential existence of archaeological resources, construction
can commence; if the preliminary survey does indicate the presence of archaeological resources, mitigation
measures can be designed into the development.
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SUMMARY
Early identification can save both time and money for the applicant. Concerns have been raised by previous
applicants about the expense and time-consuming delay if a project is stopped. Work crews, equipment and capital
remain suspended until mitigation measures are drafted. Although all construction must cease if a site is discovered
during any phase of construction, a preliminary survey can usually determine the potential extent of resources and
thus avert unnecessary delays through an appropriate mitigation plan.

Policy 4: Preliminary Site Survey for Development within Archaeologically Sensitive Areas
Development shall require a preliminary site survey by a qualified archaeologist knowledgeable in Chumash culture
prior to a determination of the potential environmental impacts of the project. [THIS POLICY SHALL BE
IMPLEMENTED PURSUANT TO SECTION 23.07.106 OF THE CZLUO.]

Policy 5: Mitigation Techniques for Preliminary Site Survey before Construction
Where substantial archaeological resources are found as a result of a preliminary site survey before construction,
the county shall require a mitigation plan to protect the site. Some examples of specific mitigation techniques
include:
a. Project redesign could reduce adverse impacts of the project through relocation of open space, landscaping
or parking facilities.
b. Preservation of an archaeological site can sometimes be accomplished by covering the site with a layer of
fill sufficiently thick to insulate it from impact. This surface can then be used for building that does not

require extensive foundations or removal of all topsoil.
c. When a project impact cannot be avoided, it may be necessary to conduct a salvage operation. This is
usually a last resort alternative because excavation, even under the best conditions, is limited by time, costs
and technology. Where the chosen mitigation measure necessitates removal of archaeological resources,
the county shall require the evaluation and proper deposition of the findings based on consultation with
a qualified archaeologist knowledgeable in the Chumash culture.
d. A qualified archaeologist knowledgeable in the Chumash culture may need to be on-site during initial
grading and utility trenching for projects within sensitive areas.
[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.106 OF THE CZLUO.]

Policy 6: Archaeological Resources Discovered during Construction or through Other Activities

CHAPTER 13: AIR QUALITY

POLICY FOR AIR QUALITY

The following policy addresses the Coastal Act concern for air quality:

Policy 1: Air Quality

The county will provide adequate administration and enforcement of air quality programs and regulations to be
consistent with the county's Air Pollution Control District and the State Air Resources Control Board. [THIS
POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.06.080 OF
THE CZLUO.]

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Policy 3: Low Cost Facilities

Larger visitor-serving projects shall make provisions for services which are geared to a range of costs, including low cost facilities. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 4: Visitor-Serving Uses in Agricultural Areas

Where visitor-serving facilities are proposed within areas designated as agriculture on the LUE, the findings specified in agriculture Policy 3 as implemented in the CZLUO in the Agriculture chapter shall be met. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 9: Construction Requirements

In sensitive resource areas the extent of construction and ground surface disturbance shall be reduced to a minimum by restricting construction activities and equipment within narrow, limited and staked work corridors and storage areas. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 10: Site Restoration

Upon completion of pipeline construction the site shall be restored to the approximate pre-construction condition.

Measures shall be taken during the restoration effort to protect and enhance wetland habitats in accordance with the habitat protection, erosion, and revegetation policies of the Plan. A revegetation program shall be required where it is determined that a disturbed area would not naturally re-vegetate sufficiently quickly to prevent substantial erosion or disruption of adjacent habitat. If necessary, required revegetation techniques would be

determined based upon an investigation conducted by a qualified biologist. Additional measures necessary to
prevent erosion until the vegetation is established may also be required. [THIS POLICY SHALL BE
IMPLEMENTED AS A STANDARD.]

Policy 11: Geologic Requirements
Geologic investigations shall be performed by a qualified geologist or engineering geologist where a proposed
petroleum pipeline route crosses potential fault zones, seismically active areas, or moderately high to high risk
landslide areas as identified in the Geologic Study Area combining designation, the Seismic Safety Element or
inferred by more recent studies or investigations. This report shall investigate the potential risk and shall
recommend such mitigation measures as pipeline route changes and or engineering measures to help assure the
integrity of the pipeline and minimize erosion, geologic instability, and substantial alterations of the natural
topography. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 12: Pipeline Consolidation
New pipeline corridors shall be consolidated within existing pipeline or electrical transmission corridors where
feasible unless there are overriding technical constraints or significant social, aesthetic, environmental, or economic
concerns. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats
New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites
further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an
existing resource, only those uses dependent on such resources shall be allowed within the area. [THIS POLICY
SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE COASTAL ZONE LAND
USE ORDINANCE (CZLUO).]

Policy 2: Permit Requirement
As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact
on sensitive habitats and that proposed development or activities will be consistent with the biological continuance
of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a)
the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating
the effectiveness of mitigation measures where appropriate. [THIS POLICY SHALL BE IMPLEMENTED
PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]

COASTAL PLANT communities depend on fungal layer below grade TO feed TAKES long time: PLAN specifics LACKING

Policy 3: Habitat Restoration
The county or Coastal Commission should require the restoration of damaged habitats as a condition of approval
when feasible. Detailed wetlands restoration criteria are discussed in Policy 11. [THIS POLICY SHALL BE
IMPLEMENTED PURSUANT TO SECTION 23.07.170 OF THE CZLUO.]

Policy 5: Supporting Greenbelt Formation and Maintenance
The county shall continue programs and policies that support greenbelt and open space areas on the urban fringe
of coastal communities. In conjunction with the development of Habitat Conservation Plans (HCP's), certain
greenbelt areas may be suitable as habitat mitigation banks to help offset impacts from development in adjacent
urban areas. Other areas may be best utilized for open space, agriculture, or public recreation. Mitigation banking
shall be further evaluated as a potential

"Wetland" is defined as land where the water table is at, near, or above the land surface long enough to do
either of the following: a) promote the formation of (hydric) soils that are saturated with water at or near
the surface and are deficient of oxygen long enough during the growing season to result in soil properties
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that reflect dominate wetness characteristics near the soil surface (within 10"); or b) support the growth
of hydrophytic plants which grow in water or in wet habitats.
The primary wetland areas within San Luis Obispo County include: San Carpoforo Creek Lagoon, Arroyo de La
Cruz Creek Lagoon, San Simeon Creek Lagoon, Santa Rosa Creek Lagoon, Pico Creek Lagoon, Morro Bay
(includes Sweet Springs, Cuesta-by-the-Sea Marsh and Los Osos Estuary), Pismo Marsh, Oceano Lagoon, Dune
Lakes, Oso Flaco Lake and the Santa Maria River mouth. East of these wetlands is identified as a Sensitive
Resource Area and specific recommendations are included in the Land Use Element by planning area. Other

Policy 7: Protection of Environmentally Sensitive Habitats
Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]
Policy 8: Principally Permitted Use

Principally permitted uses in wetlands are as follows: hunting, fishing and wildlife management; education and
research projects. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-172
OF THE CZLUO.]

Policy 9: Public Acquisition
The California Department of Parks and Recreation, the California Department of Fish and Game and other public
and private sources should be encouraged to acquire or accept offers-to-dedicate coastal wetlands wherever
possible.
Priorities for acquisition should be:
. Sweet Springs Marsh
. Santa Maria River mouth
. Villa Creek Lagoon
. Properties surrounding Morro Bay which include wetland habitat.
[THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

Policy 10: Open Space Easements and Williamson Act Contracts
San Luis Obispo County shall continue to encourage the use of open space easements or Williamson Act contracts
to ensure preservation of coastal wetlands. The county will develop guidelines to facilitate use of open space
easements to include requirements for length of dedication (i.e., perpetuity or 10 years), appropriate management
responsibility, etc. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

Policy 11: Regional Water Quality Control Board "208" Program
California Regional Water Quality Control Board shall administer programs identified through the "208" nonpoint
source studies to ensure protection of coastal wetlands and water quality. (The county has incorporated the Basin
Plan Amendment requirements into the COASTAL ZONE Land Use Ordinance.) [THIS POLICY SHALL BE
IMPLEMENTED AS A PROGRAM.]
Policy 12: State Department of

Policy 15: Vehicle Traffic in Wetlands
No vehicle traffic shall be permitted in wetlands. This shall not restrict local and state agencies or the property
owner from completing the actions necessary to accomplish a permitted use within the wetland. Pedestrian traffic
shall be regulated and incidental to the permitted uses. [THIS POLICY SHALL BE IMPLEMENTED AS A
STANDARD.]

Policy 16: Adjacent Development
Development adjacent to coastal wetlands shall be sited and designed to prevent significant impacts to wetlands

through noise, sediment or other disturbances. Development shall be located as far away from the wetland as feasible, consistent with other habitat values on the site. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.172 OF THE CZLUO.]

GRADY LIFT STATIONS AT WETLANDS. STEP NOT IMPACTING WETLANDS

Policy 17: Wetland Buffer

In new development, a buffer strip shall be required and maintained in natural condition along the periphery of all wetlands. This shall be a minimum of 100 feet in width measured from the upland extent of the wetland unless a more detailed requirement for a greater or lesser amount is included in the LUE or the LUO would allow for adjustment to recognize the constraints which the minimum buffer would impose upon existing subdivided lots. If a project involves substantial improvements or increased human impacts, necessitating a wide buffer area, it shall be limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges, and roads when it can be demonstrated that: a) alternative routes are infeasible or more environmentally damaging, and b) the adverse environmental effects are mitigated to the maximum extent feasible. Access paths and/ or fences necessary to protect habitats may also be permitted.

The minimum buffer strip may be adjusted by the county if the minimum setback standard would render the parcel

physically unusable for the principal permitted use. To allow a reduction in the minimum standard set-back, it must

be found that the development cannot be designed to provide for the standard. When such reductions are permitted, the minimum standard shall be reduced to only the point at which the principal permitted use (development), modified as much as is practical from a design standpoint, can be accommodated. At no point shall this buffer be less than 25 feet. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION

23.07.172 OF THE CZLUO.]

Policy 20: Coastal Streams and Riparian Vegetation

Coastal streams and adjoining riparian vegetation are environmentally sensitive habitat areas and the natural

hydrological system and ecological function of coastal streams shall be protected and preserved. [THIS POLICY

SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.174 OF THE

CZLUO.]

Policy 30: Protection of Native Vegetation

Native trees and plant cover shall be protected wherever possible. Native plants shall be used where vegetation

is removed. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE

CZLUO.]

Policy 35: 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. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176

OF THE CZLUO.]

Policy 36: 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. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD

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

Permitted Uses on Non-Prime Agricultural Lands. Principal permitted and allowable uses on non-prime agricultural lands are designated on Coastal Table O - Allowable Use Chart in Framework for Planning Document. These uses may be permitted where it can be demonstrated that no alternative building site exists except on non-agricultural soils, that the least amount on non-prime land possible is converted and that the use will not conflict with surrounding agricultural lands and uses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 2:

Non-agricultural developments shall meet the following requirements:

a. No development is permitted on prime agricultural land. Development shall be permitted on non-prime land if it can be demonstrated that all agriculturally unsuitable land on the parcel has been developed or has been determined to be undevelopable.

b. Continued or renewed agricultural use is not feasible as determined through economic studies of existing

and potential agricultural use without the proposed supplemental use.
c. The proposed use will allow for and support the continued use of the site as a productive agricultural unit
and would preserve all prime agricultural lands.
d. The proposed use will result in no adverse effect upon the continuance or establishment of agricultural uses
on the remainder of the site or nearby and surrounding properties.
e. Clearly defined buffer areas are provided between agricultural and non-agricultural uses.
f. Adequate water resources are available to maintain habitat values and serve both the proposed development and existing and proposed agricultural operations.

g. Permitted development shall provide water and sanitary facilities on-site and no extension of urban sewer
and water services shall be permitted, other than reclaimed water for agricultural enhancement.
h. The development proposal does not require a land division and includes a means of securing the remainder
of the parcel(s) in agricultural use through agricultural easements. As a condition of approval of non-agricultural development, the county shall require the applicant to assure that the remainder of the
parcel(s) be retained in agriculture and, if appropriate, open space use by the following methods:

Policy 7: Water Supplies Granite Trench Remove 3 AcFa day of Potable Water - 1 Year Supply

Water extractions consistent with habitat protection requirements shall give highest priority to pre- serving available
supplies for existing or expanded agricultural uses. [THIS POLICY SHALL BE IMPLEMENTED AS A
STANDARD.] STEP is sealed does not.

b. The proposed development reflects that it is an environmentally preferable alternative.
The applicant shall assume responsibility in accordance with county ordinances or the rules and regulations of the
applicable service district or other providers of services for costs of service extensions or improvements that are
required as a result of the project. Lack of proper arrangements for guaranteeing service is grounds for denial of
the project or reduction of the density that could otherwise be approved consistent with available resources. [THIS
POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.021c (DIVISIONS OF LAND),
23.04.430 AND 23.04.432 (OTHER DEVELOPMENT) OF THE CZLUO.]
[Amended 2004, Ord. 3006]

c. Submit proposed construction projects recommended for the ensuing fiscal year to the county for review,
comment and findings as to the conformity of proposed projects with the Coastal Plan.

Policy 7: Permit Requirements
The county shall require a permit for all public works projects located within the coastal zone except:

Policy 9: Review of Treatment Works
For any development that constitutes a treatment works (PRC 30120), issuance of a permit shall be consistent with
the certified LCP and PRC 30412 and shall address the following aspects of such development:
a. The siting and visual appearance of treatment works within the coastal zone.
b. The geographic limits of the service area within the coastal zone which is to be served by the treatment
works and the timing of the extension of services to allow for phasing of development consistent with the
certified LCP.
c. Projected growth rates used to determine the sizing of treatment works.
[THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

POLICIES FOR COASTAL WATERSHEDS
To implement the provisions of the Coastal Act regarding watershed management, the following policies represent a commitment that all new development ensure watershed protection.

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

Policy 2: Water Extractions
Extractions, impoundments and other water resource developments shall obtain all necessary county and/or state permits. All pertinent information on these uses (including water conservation opportunities and impacts on in-stream beneficial uses) will be incorporated into the data base for the Resource Management System and shall be supplemented by all available private and public water resources studies available. 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. (Public works projects are discussed separately.) [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 3: Monitoring of Resources
In basins where extractions are approaching groundwater limitations, the county shall require applicants to install monitoring devices and participate in water monitoring management programs. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 8.40.065 OF THE COUNTY CODE (WATER WELL REGULATIONS).]

Policy 4: Chorro and Morro Basins
The county and the city of Morro Bay will jointly develop a groundwater management program which provides for
agricultural demand and for phased urban growth consistent with available groundwater resources and with the

protection of aquatic habitats. The Chorro and Morro groundwater basins have been identified as experiencing
potential for seawater intrusion, usually during drought conditions. Development of a successful groundwater
management program for these basins necessitates coordinating both urban and agricultural/rural extractions. The
city of Morro Bay has completed an investigation of the groundwater capacity of these basins. (*City of Morro Bay,*
Preliminary Water Management Plan, February, 1981.) This includes the evaluation of existing and potential agricultural
demand. A variety of management techniques are suggested, including development of recharge basins, well site
relocations and use of reclaimed water to satisfy agricultural demands.
In the interim, before development of a management program, to ensure that agricultural and residential demand
doesn't negate the alternative management strategies, or adversely impact aquatic habitats, all development which
would cause an intensification of groundwater use in the basins shall be evaluated for conformity with the
recommended management techniques and the protection of aquatic habitats. This will apply where a development
project would require more than one acre-foot of water annually.

SUMMARY

A county/city program shall be established which would result in the following:

a. Referral of any division of land, permit activity or grading in the Morro and Chorro watershed within the
city of Morro Bay's Sphere of Influence, as contained in the coastal zone boundary, to the city for review
and comment.

b. Consideration of "Best Management Practices" during the review of permit application on agricultural
parcels or parcels suitable for agricultural use in order to control agricultural practices that would result in
sedimentation, contamination of the groundwater basin, misuse of water resources or otherwise adversely
affect the groundwater basins.

c. Water basin management planning in cooperation with other affected agencies.

[THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM EXCEPT THAT PARAGRAPH 2 SHALL
BE IMPLEMENTED AS A STANDARD.]

Policy 5: Los Osos Groundwater Management

The county Planning and Engineering Departments should work with communities, property owners and the
Regional Water Quality Control Board to develop and implement a basin-wide water management program for

the Los Osos groundwater basin which addresses:
- existing and potential agricultural demand,
- urban expansion in relation to water availability,
- groundwater quality,
- possible need for alternative liquid waste disposal,
- protection of aquatic habitats including coastal waters, streams and wetlands.

The Resource Management System of the Land Use Element provides a framework for implementing this policy and an interim alert process for timely identification of potential resource deficiencies, so that sufficient lead time is allowed for correcting or avoiding a problem. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

Policy 6: Priority for Agriculture Expansion

Agriculture shall be given priority over other land uses to ensure that existing and potential agricultural viability is preserved, consistent with protection of aquatic habitats. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD

Policy 10: Drainage Provisions

Site design shall ensure THAT drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO.]

Policy 11: Preserving Groundwater Recharge

In suitable recharge areas, site design and layout shall retain runoff on-site to the extent feasible to maximize groundwater recharge and to maintain in-stream flows and riparian habitats. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

POLICIES FOR VISUAL AND SCENIC RESOURCES

Policy 1: Protection of Visual and Scenic Resources

Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 7: Preservation of Trees and Native Vegetation

The location and design of new development shall minimize the need for tree removal. When trees must be

removed to accommodate new development or because they are determined to be a safety hazard, the site is to be
replanted with similar species or other species which are reflective of the community character. [THIS POLICY
SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.05.064 OF THE CZLUO.]

Policy 2: Erosion and Geologic Stability
New development shall ensure structural stability while not creating or contributing to erosion or geological
instability. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION
23.07.086 OF THE CZLUO.]

Policy 3: Development Review in Hazard Areas
The county shall require a detailed review of development proposed within the geologic study area and flood hazard
combining designations as indicated on the Land Use Element maps for the coastal zone. The review shall be
performed by a qualified registered and/or certified engineering geologist and shall be adequately detailed to
provide recommendations and conclusions consistent with this plan. Residential, commercial and industrial
development shall be prohibited within the 100 year floodplain (1% chance of inundation in any year) as delineated
in the Flood Hazard combining designation except for those areas within an urban reserve line. [THIS POLICY
SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.082, 23.07.084, 23.07.062 AND 23.07.066 OF
THE CZLUO.]

CHAPTER 12: ARCHAEOLOGY

POLICIES FOR ARCHAEOLOGICAL RESOURCES

Because archaeological resources are scarce and non-renewable resources, the following general policies represent
the county's commitment to ensure that any proposed development would be designed and located to minimize
its impacts on archaeological resources:

Policy 1: Protection of Archaeological Resources
The county shall provide for the protection of both known and potential archaeological resources. All available
measures, including purchase, tax relief, purchase of development rights, etc., shall be explored at the time of a
development proposal to avoid development on important archaeological sites. Where these measures are not
feasible and development will adversely affect identified archaeological or paleontological resources, adequate
mitigation shall be required. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.

Early identification can save both time and money for the applicant. Concerns have been raised by previous
applicants about the expense and time-consuming delay if a project is stopped. Work crews, equipment and capital
remain suspended until mitigation measures are drafted. Although all construction must cease if a site is discovered
during any phase of construction, a preliminary survey can usually determine

Early information on sensitive sites where new development is anticipated can be used to design and locate
structures and site alterations to eliminate impacts. A preliminary archaeological survey can also help facilitate the
timing of construction: if there is no evidence of the potential existence of archaeological resources, construction
can commence; if the preliminary survey does indicate the presence of archaeological resources, mitigation
measures can be designed into the development.
ARCHAEOLOGY
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SUMMARY
Early identification can save both time and money for the applicant. Concerns have been raised by previous
applicants about the expense and time-consuming delay if a project is stopped. Work crews, equipment and capital
remain suspended until mitigation measures are drafted. Although all construction must cease if a site is discovered
during any phase of construction, a preliminary survey can usually determine the potential extent of resources and
thus avert unnecessary delays through an appropriate mitigation plan.

**Footnote: The LOWWP did not comply with the conditions of the Coastal Development Permit no HCP in place 85 total*

No earthquake recovery plan 6.8 Los Osos and 7.3 Hosgri faults within 10 miles

See Coastal Table 'O',

23.01.040 - Administration of the Coastal Zone Land Use Ordinance:
This title shall be administered by the Planning Director, who will advise the public about its requirements. The
responsibilities of the Planning Director under this title include but are not limited to the following functions, which
may be carried out by Planning Department employees under the supervision of the director.

23.01.041 - Rules of Interpretation:
Any questions about the interpretation or applicability of any provision of this title, are to be resolved as provided
by this section.

a. Effect of provisions:
(1) Minimum requirements: The regulations and standards set forth in this title are to be considered minimum requirements, which are binding upon all persons and bodies charged with administering or enforcing this title.

b. Language:
(1) Construction: When used in this title, the words "shall," "will," and "is to" are always mandatory
and not discretionary. The words "should" or "may" are permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes
the plural, and the plural the singular.

(4) At the discretion of the Planning Director, allowable use interpretation requests may be forwarded
to the Planning Commission for determination. Determinations by the Planning Director may be appealed to the Planning Commission as set forth in Section 23.01.042.

f. References to state law sections. The actual language of the provisions of California State Law take
precedence over any paraphrased versions, outdated quotations, or any other allusions to state law
contained in this title.

(2) If the determination of the Planning Director is challenged by the applicant or an interested person, or if the county wishes to have a determination by the Coastal Commission as to the appropriate designation, the Planning Director shall notify the Coastal Commission by telephone of the dispute/question and shall request an Executive Director's opinion.

Processing of appeals:
(1) Timing and form of appeal. An appeal shall be filed within 14 days of the decision that is the
subject of the appeal, except where otherwise provided in this title, using the form provided by the
Planning Department in addition to any other supporting materials the appellant may wish to
furnish, explaining the reasons for the appeal. An appeal shall be filed with the Planning Director,
who shall process the appeal pursuant to this section, including scheduling the matter before the
appropriate hearing body.

b. Appeal jurisdiction: An appeal shall be heard and decided by the appeal body identified as follows,

except where another section of this title may specify a particular appeal body for the purposes of that
section.

(1) Planning Department decisions: The following decisions of the Director of Planning and Building and Planning Department staff may be appealed to the Planning Commission:

23.01.043 - Appeals to the Coastal Commission.

Decisions by the Planning Department, Planning Commission or Board of Supervisors on developments within
the Coastal Zone may be appealed to the California Coastal Commission as set forth in this section.

a. Status of appellant:

(1) Who may appeal. An appeal may be filed by an applicant, any aggrieved person, or two members
of the Coastal Commission pursuant to California Public Resources Code (PRC) Section 30625.

(2) Aggrieved person defined: As set forth in Public Resources Code Section 30801, an aggrieved
person is: anyone who, either in person or through a representative who was explicitly identified as such, appeared at a public hearing before the Planning Director, Planning Commission or Board
of Supervisors in connection with the decision or appeal of any development, or who by other appropriate means prior to a hearing, informed the county of the nature of his or her concerns, unless for good cause was unable to do either. Aggrieved person also includes the applicant for a permit.

b. Exhaustion of local appeals required. For an action on coastal development permit applications that
may be appealed to the Coastal Commission as set forth in subsection c of this section, an applicant or
aggrieved party may appeal a county action on a coastal development application to the Coastal Commission only after all possible local appeals pursuant to Section 23.01.042 have been exhausted. This
limitation shall not apply to any circumstance identified in Section 13573 of Title 14 of the California Code
of Regulations, including:

(1) A situation where an appellant was denied the right of appeal pursuant to Section 23.01.042 because county notice and hearing procedures for the action on the development did not comply with the provisions of Title 14, Division 5.5, Chapter 8, Subchapter 2 of the California Code pf Regulations; or

(2) An appeal of a county decision by two members of the Coastal Commission pursuant to Public
Resources Code Section 30625. Provided, however, that notice of Commissioners appeals shall be transmitted to the Board of Supervisors pursuant to Title 14 of the California Code of Regulations Section 13573(b) and the appeal to the Commission may be suspended pending a decision on the merits of the appeal by the Board of Supervisors. If the 23.01.043 decision of the Board modifies or reverses the previous decision, the Commissioners shall be required to file a

new appeal from that decision.
(3) Where the County charges a fee for the filing or processing of appeals of actions on coastal development projects.
c. Appealable development. As set forth in Public Resources Code Section 30603(a), and this title, an
action by the County on a permit application, including any Variance, Exception or Adjustment granted,
for any of the following projects may be appealed to the California Coastal Commission:
(1) Developments approved between the sea and the first public road paralleling the sea, or within 300
feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach.
(2) Approved developments not included in subsection c(1) of this section that are proposed to be
located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.
(3) Developments approved in areas not included in subsections c(1) or c(2) that are located in a Sensitive Coastal Resource Area, which includes:

(i) Special marine and land habitat areas, wetlands, lagoons, and estuaries mapped and designated as Environmentally Sensitive Habitats (ESHA) in the Local Coastal Plan. Does not include resource areas determined by the County to be Unmapped ESHA.
(ii) Areas possessing significant recreational value, including any "V" (Visitor Serving designation) as shown in the Land Use Element and areas in or within 100 feet of any park or recreation area.
(iii) Highly scenic areas which are identified as Sensitive Resource Areas by the Land Use Element.
(iv) Archaeological sites referenced in the California Coastline and Recreation Plan or as designated by the State Historic Preservation Officer.
(v) Special Communities or Small-Scale Neighborhoods which are significant visitor destination areas as defined by Chapter 23.11 of this title.
(vi) Areas that provide existing coastal housing or recreational opportunities for low-and moderate income persons.

d. Grounds for appeal. As required by Section 30603 of the Public Resources Code, the grounds for appeal
pursuant to this section shall be limited to an allegation that the development does not conform to the
standards set forth in the certified Local Coastal Program or the public access policies set forth in the
California Coastal Act (Section 30210 et seq. of the Public Resources Code).
The grounds for appeal of a denial of a permit pursuant to section c(5) (Major Public Works or Major
Energy Facility) shall be limited to an allegation that the development conforms to the standards set forth

in the certified Local Coastal Program and the public access policies set forth in the California Coastal Act
(Section 30210 et seq. of the Public Resources Code).
23.01.043 - 045
COASTAL ZONE LAND USE ORDINANCE
REVISED JANUARY 2009
1-17 ENACTMENT, ADMIN & AMENDMENT
e. Time for appeal to Coastal Commission. Any final action by the county on an appealable development
***shall become effective after the** 10-working day appeal period to the Commission in accordance with the*
requirements of Section 23.02.039 and applicable provisions of the Coastal Act.
f. Notice to county of appeal to Coastal Commission. An appellant shall notify the county when
appealing to the Coastal Commission by providing the county a copy of the information required in Section
13111 of Title 14 of the California Code of Regulations.

e. Effective Date of Amendments. An amendment to this title or the San Luis Obispo County Local
Coastal Plan as certified by the California Coastal Commission shall not become effective after Board of
Supervisors adoption until the amendment is also certified by the California Coastal Commission pursuant
to Chapter 6, Article 2 of the California Coastal Act, as follows:
(1) Denial of an amendment request by the Board of Supervisors shall be final and no appeal to the
Coastal Commission shall be allowed except as provided by subsection e(2) of this section.
(2) Pursuant to Section 30515 of the Coastal Act, any person or agency authorized to undertake a
public works project or major energy facility development, who was denied a request to amend the
Local Coastal Program, may file the request for amendment with the Coastal Commission.

23.01.080 - 082
23.01.080 - Time for Judicial Review:
Any court action or proceeding to attack, review, set aside, void or annul any decision of matters set forth in this
Coastal Zone Land Use Ordinance otherwise subject to court review (other than those listed in Section 65907 of
the Government Code), or concerning any of the proceedings, acts or determinations taken, done or made before
such decisions, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not
be maintained by any person unless such action or proceeding is filed within 90 days after the date such decision
becomes final. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity

or unreasonableness of such decisions, proceedings, acts or determinations.

23.02.026 - Review by Other Agencies:
Planning Department review of applications filed pursuant to this chapter will include notification of the following
agencies. The purpose of notification is to inform interested agencies of proposed projects that may affect their
jurisdictions so that such agencies may provide comments on significant development proposals.
a. Air Pollution Control District (APCD): To be notified as set forth in Section 23.06.082 (Air Pollution
Control District Review).
b. California Coastal Commission: To be notified of Minor Use Permit and Development Plan
applications and proposed amendments to the Local Coastal Program.
c. Engineering Department: The county Engineering Department is to be notified of all Minor Use Permit
and Development Plan applications regarding matters of drainage, flood hazards, water and sewer facilities,
public street access and improvements, and surface mining operations conducted on behalf of the county.
d. Fire Department: County fire protection agencies including the county Fire Department, the various
county fire protection districts and the California Department of Forestry are to be notified of all Minor
Use Permit and Development Plan proposals within their respective jurisdictions.
e. Health Department: The county Health Department is to be notified of land use proposals pursuant to
Section 8.06.010 (Construction Plans Required) of the County Code, or any case where a proposed use will
involve toxic or hazardous materials in larger than household quantities.
f. Incorporated cities: The incorporated cities of the county are to be notified of all Minor Use Permit and
Development Plan proposals in or within one mile of their respective urban reserve lines, or other area
defined by agreement between the county and city.
g. Regional Water Quality Control Board: To be notified as set forth in Section 23.06.100 (Water Quality).
h. Special Districts: Including community services districts, school districts and sanitary districts are to be
notified in the same manner as incorporated cities.
i. Public Utilities: Public utility companies including but not limited to providers of water, gas, telephone
and electrical services are to be notified of all Minor Use Permit and Development Plan applications.
[Amended 1995, Ord. 2715]

(ii) Consent agenda. Projects that would normally be required by Section 23.03.042 or Chapter 23.08 of this title to have Plot Plan approval, but are required to have a public hearing pursuant to Section 23.02.030f. because they constitute development that may be appealed to the Coastal Commission pursuant to Section 23.01.043, may be listed upon the Minor Use Permit hearing agenda and acted upon as a consent agenda item, at the sole discretion of the Planning Director

Where the applicant volunteers to complete an environmental impact report (EIR) pursuant to the requirements of CEQA, the additional information required by this section may be fulfilled as part of the EIR completed for the project.

23.02.035 - 036

a. Agricultural buffers: Where there is an existing agricultural use taking place on adjacent parcels and the applicant proposes an agricultural buffer, such buffer shall be shown on site plans, and incorporated into the site design or the lot configuration of the proposed land division.

b. Archeological report: The applicant shall provide an archeological surface search, prepared by a qualified individual approved by the Environmental Coordinator.

c. Botanical report: The applicant shall provide a botanical report, prepared by a qualified individual approved by the Environmental Coordinator.

d. Biological report: The applicant shall provide a biological report, prepared by a qualified individual approved by the Environmental Coordinator.

e. Building site envelopes: Any proposed building sites that minimize grading, tree removal and other potential adverse impacts, or any areas proposed for exclusion from construction activities, shall be shown on site plans for existing or proposed parcels greater than 10,000 square feet in size to demonstrate how the future development of the site(s) relates to the other information required by this section.

f. Noise study: Where required by the Noise Element or where the project adjoins a potential noise generator, a noise study shall be required to be prepared by a qualified individual approved by the Environmental Coordinator.

g. Tree inventory plan: The applicant shall provide a tree inventory plan which locates all trees, on a site plan, their size and species and any proposed for removal. The plan shall also include proposals for

replacement of trees to be removed. In areas where no trees are proposed for removal, the limits of the
wooded area may be designated by the outline of the canopy.
h. Visual Analysis: For applications that propose development along significant visual corridors, as
identified in the Open Space Element or the Land Use Element, a visual analysis shall be required to be
prepared by a qualified individual approved by the Environmental Coordinator.
i. Other information: To be based on the list(s) maintained by the Department of Planning and Building,
as allowed by Government Code Section 65940, as required for specific cases to allow adequate review of
the proposal, and determine consistency with the general plan and other applicable ordinances.
[Added 1995, Ord. 2715]

23.02.036 - Final County Action on Development Permits.
After the Review Authority has acted on an application for development, the requirements of this section apply.
a. Notice of Final County Action. Within seven calendar days of county completing its review and meeting
the requirements of subsection c. of this section, the county shall notify by first class mail the Coastal
Commission and any persons who specifically requested notice of such action by submitting a
self-addressed, stamped envelope to the county (or, where required, who paid the fee established by the

County Fee Ordinance to receive such notice) of its action. Such notice shall include conditions of
approval and written findings and the procedures for appeal of the county decision to the Coastal
Commission

c. Finality of county action. A county decision on an application for a development shall not be deemed
final until:
(1) The county decision on the application has been made and all required findings have been adopted,
including specific factual findings supporting the legal conclusions that the proposed development
is or is not in conformity with the certified Local Coastal Program and, where applicable, with the
public access and recreation policies of Chapter 3 of the Coastal Act (these can be found in Section

23.04.420 of this title and Sections 30210 through 30224 of the California Coastal Act); and
(2) When all county rights of appeal have been exhausted as set forth in Section 23.01.043b
(Exhaustion of county appeals).
(3) For actions on Land Use Permits that are not appealable to the Coastal Commission under the
standards of Section 23.01.043c, the Coastal Commission has received notice of Final County
Action as required by parts a and b of this Section; and
(4) For actions on Land Use Permits that are appealable to the Coastal Commission pursuant to
Section 23.01.043c, the standards set forth in Section 23,02,039 have been satisfied.
[Amended 1995, Ord. 2740; 2004, Ord. 3001]

23.02.038 - Changes to Approved Project:
An approved land use shall be developed or established only as shown on the project plans approved as part of the
permit application, except where otherwise provided by this section. Deviation of project design or construction
from the approved plans, and changes to the project after completion of construction may occur only as follows:
a. Except as provided by subsection b. of this section, a feature of the use or project subject to the standards
of Chapter 23.04, 23.05, 23.07 or 23.08, may be modified provided that the change requested is in
conformity with the standards of this title. Such change is to be requested in writing with appropriate
supporting materials and explanation of the reasons for the request. The Planning Director may approve
a requested change upon verification of its conformity with this title, provided that such approval shall not
modify the effective date of the land use permit.
b. Where the Environmental Coordinator determines that the change results in an increased impact to an
aspect of the project that was specifically addressed in a negative declaration or environmental impact
report of the project, or the change relates to a project feature that was specifically addressed in conditions
of approval of a Minor Use Permit or Development Plan, or that was a specific consideration by the
Review Authority in the approval of a Minor Use Permit or Development Plan, a new Minor Use Permit
or Development Plan approval shall be obtained. [Amended 1993, Ord. 2649]
[Amended 1995, Ord. 2715]

23.02.039 - Effective Date of Land Use Permit for an Appealable Project.

A decision by the county on an appeal (Section 23.01.042), Variance (Section 23.01.045), Minor Use Permit (Section
23.02.033) or Development Plan (Section 23.02.034), or for a project that is appealable to the Coastal Commission
pursuant to Section 23.01.043 shall become effective after the 10 working day appeal period to the Commission
has expired unless either of the following occur:
a. An appeal is filed in accordance with Section 13111 of Title 14 of the California Administrative Code.
b. The notice of final county action does not meet the requirements of Section 23.02.036.
When either of the circumstances in this section occur, the Coastal Commission shall, within five calendar days of
receiving notice of that circumstance, notify the county and the applicant that the effective date of the county action
has been suspended.

23.02.040 - Permit Time Limits:
An approved Plot Plan or Site Plan is valid for a period of 18 months from its effective date. A Minor Use Permit,
Development Plan or Variance is valid for 24 months after its effective date. At the end of such time period, the
land use permit shall expire and become void unless:
23.02.040 - 042
PERMIT APPLICATIONS 2-20 COASTAL ZONE LAND USE ORD.
REVISED JUNE 2004
a. Substantial site work toward establishing the authorized use has been performed (Section 23.02.042); or
b. The project is completed (Section 23.02.044); or
c. An extension has been granted (Section 23.02.050).

b. Third and final extension: The Planning Commission (or Board of Supervisors on appeal) may grant
one additional 12-month extension to an approved land use permit after the two initial extensions in
accordance with the notice, hearing, and appeal procedures required for a new development application,
subject to the same findings and standards required by Section 23.02.050a. provided that the Planning
Commission makes the following additional findings:
(1) That substantial site work could not be completed as set forth in Section 23.02.042 because of
circumstances beyond the control of the applicant; and
(2) The findings specified in Sections 23.02.050a(1), (2) and (3) above; and
(3) The findings that were required by Section 23.02.034c(4) to enable initial approval of the permit

d. Time extensions on permits issued by the Coastal Commission. *A time extension on a coastal*

development permit issued by the Coastal Commission shall only be granted by the Coastal Commission.

23.02.060 - Guarantees of Performance:
When required by the provisions of this title, or by conditions of approval of a Minor Use Permit or Development
Plan, appropriate security or guarantees are to be provided by the applicant as set forth in this section. A bond is
used to guarantee the proper completion of required improvements, drainage facilities, grading, revegetation, site
restoration after use, reclamation and/or removal of structures, equipment or other materials, preservation of
certain site features, or compliance with other provisions of this title or conditions of approval. The guarantee shall
be a bond or other secured contractual guarantee, unless otherwise provided in Chapter 23.08 (Special Uses). The
use of the terms bond, guarantee and security in this section shall all mean guarantees of performance.
a. Posting: The guarantee is to be posted with the Planning Department, with the county of San Luis
Obispo named as beneficiary.
b. Form of bond: A surety bond or other guarantee shall be in a form approved by the County Counsel,
including default provisions, and shall provide that in the event suit is brought upon the bond by the
county and judgment is recovered, the surety shall pay all costs incurred by the county in such suit,
including reasonable attorneys' fees to be fixed by the court.

c. Amount of bond: The guarantee is to be of an amount established by the Planning Director equal to the
actual cost of completing the specified improvements, restoration, or satisfying conditions of approval.
Provided, however, that where a guarantee is required by Development Plan condition of approval to
preserve identified site features, the guarantee is to be in an amount the Planning Commission deems
necessary to assure compliance with the applicable condition.
d. Release of bond: At the request of an applicant, or before the expiration of a bond or guarantee, the
Planning Director will review the project and issue a completion statement if all provisions of this title and
conditions of approval have been met. Upon issuance of the completion statement, the guarantee, bond
or cash deposit will be released. If the Planning Director determines the project does not meet the

applicable requirements, the applicant shall be notified in writing of such deficiencies. A time period for
their correction shall be mutually agreed upon by the applicant and the planning director, with the security
being held until all such requirements are satisfied.
Where no agreement is reached following written notification by the Planing Director, or where an agreed
time period for completion is exceeded, the bond shall be called.
[Amended 1995, Ord. 2715]

(8) Public works projects, where such development:
(i) Involves a state university, college, public trust lands or tidelands (which require a permit from the State Coastal Commission and must meet the requirements of Chapter 3 of the Coastal Act). In such cases, the Local Coastal Plan will serve an advisory function; or
(ii) Is a minor project that is defined as categorically exempt by Section 30610(e) of the Coastal Act because of geographic area or function and where the categorical exclusion has been approved by the Coastal Commission; or
(iii) Is the installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division; provided that the county may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources including scenic resources; or

23.04.031 - Public Facilities Category.
When a proposed land division in a Public Facilities land use category is for the purpose of continuing use as a
Public Facility, the minimum parcel size may be 6,000 square feet or larger, as needed for the land use, pursuant
to Section 66428 of the Subdivision Map Act. The mini-mum size of a division for the purpose of sale for private
use shall be determined through Land Use Element amendment to designate an appropriate land use category for
private use.

23.06.040 - Noise Standards:
Sections 23.06.044-050 establish standards for acceptable exterior and interior noise levels and describe how noise
is to be measured. These standards are intended to protect persons from excessive noise levels, which are
detrimental to the public health, welfare and safety and contrary to the public interest because they can: interfere
with sleep, communication, relaxation and the full enjoyment of one's property; contribute to hearing impairment
and a wide range of adverse physiological stress conditions; and adversely affect the value of real property. It is
the intent of this chapter to protect persons from excessive levels of noise within or near various residential

development and other specified noise-sensitive land uses.
[Amended 1992, Ord. 2546]1

23.06.044 - Exterior Noise Level Standards:
The exterior noise level standards of this section are applicable when a land use affected by noise is one of the
following noise-sensitive uses which are defined in the Land Use Element and Local Coastal Plan: residential uses
listed in Table O, Framework for Planning, except for residential accessory uses and temporary dwellings; health
care services (hospitals and similar establishments only); hotels and motels; bed and breakfast facilities; schools (preschool
to secondary, college and university, specialized education and training); churches; libraries and museums;
public assembly and entertainment; offices, and outdoor sports and recreation.
a. No person shall create any noise or allow the creation of any noise at any location within the
unincorporated areas of the county on property owned, leased, occupied or otherwise controlled by such
person which causes the exterior noise level when measured at any of the preceding noise-sensitive land
uses situated in either the incorporated or unincorporated areas to exceed the noise level standards in the
following table. When the receiving noise-sensitive land use is outdoor sports and recreation, the following
noise level standards shall be increased by 10dB.
OPERATIONAL STANDARDS 6-4 COASTAL ZONE LAND USE ORDINANCE REVISED JANUARY 2009
23.06.044 - 046
EXTERIOR NOISE LEVEL STANDARDS
Daytime
(7 a.m. to 10 p.m.)
Nighttime1
(10 p.m. to 7 a.m.)
Hourly Equivalent Sound Level (Leq, dB) 50 45
Maximum level, dB 70 65
Notes:
1. Applies only to uses that operate or are occupied during nighttime hours
b.

23.06.100 - Water Quality:
a. Standards for Preventing Polluted Runoff Impacts from Non-point Sources. New development
shall be designed and located to avoid significant adverse impacts to wetlands, streams, tidepools, sensitive
plants, riparian vegetation, agricultural lands, and other environmentally sensitive habitat areas from surface
water runoff and wastewater. The following shall apply to new development:

(1) Where potentially significant adverse impacts might occur, new development shall assess potential
pollutants resulting from the development project, as well as the potential impacts of those pollutants on nearby waterways and agricultural lands. Proposed new development shall furthermore be consistent with the Central Coast Basin Plan's current water quality objectives for
ocean waters, inland surface waters, enclosed bays, and estuaries.
Where polluted surface water runoff might occur as the result of a proposed development project,
the proposed project shall be evaluated for potential impacts to critical waterway components, such as: dissolved oxygen, pH, suspended material, oil/grease, sediment, turbidity, temperature, toxicity, pesticides, chemicals, etc. Where applicable, measures shall be developed and

implemented to avoid and mitigate potentially significant adverse impacts (e.g., establish a vegetation "filter" strip between a waterway and development).
[Added 2006, Ord. 3082

vegetation "filter" strip between a waterway and development).
[Added 2006, Ord. 3082]

23.06.102 - Regional Water Quality Control Board (RWB) Review:
This section establishes a procedure for the notification of the California Central Coast Regional Water Quality
Control Board when a new land use or modification to an existing use may affect groundwater quality because of
proposed methods of disposal, or large volumes of wastewater, or because of the disturbance of natural soil
contours.
a. Applications to be transmitted: Any application filed as set forth in Chapter 23.02 (Permit Applications),
Section 23.05.020 (Grading), or Sections 23.08.170 et seq. (Resource Extraction) except for business
licenses, is to be transmitted by the Planning Department to the RWB for review where:
(1) Any proposed development of more than five dwelling units will not be connected to an existing
public sewer system;
(2) A discharge of wastewater to surface waters is proposed;
(3) A proposed waste discharge will contain toxic or hazardous materials (e.g., agricultural chemicals
or metal plating wastes);
(4) On site wastewater treatment and disposal systems other than conventional individual septic tank
absorption fields are proposed;
(5) Waste flows are expected to exceed 2,500 gallons per day;
(6) A variance from state or local water quality or construction standards is requested;

(7) A livestock specialty use as defined by the Land Use Element is proposed;
(8) A cemetery is proposed.
b. Review procedure: A copy of all applications as described above shall be forwarded to the Regional
Water Quality Control Board for review upon receipt by the Planning Department. The purposes of such
transmittal are to:
(1) Enable the RWB to determine if the proposed use or activity is required to have discharge requirements, or is subject to other regulations of the RWB.
(2) Enable the RWB to contact and advise the applicant on applicable requirements, and to advise the
Planning and Building Department of any RWB requirements:

23.06.102 - 106
(i) In the case of applications for Plot Plan approval, within 10 business days of application transmittal.
(ii) In the case of Minor Use Permit or Development Plan applications, notification of RWB requirements, special comments or recommendations to be forwarded to the Zoning Administrator or Planning Commission, shall be returned to the Planning Department no later than 10 days before the public hearing on the application.

23.06.104 - Municipal Well-head Protection: Referrals:
The purpose of this section is to protect groundwater resources from contamination by proposed development.
Minor Use Permit and Development Plan applications that propose uses within one mile of a municipal well
(locations of municipal wells may be shown in the area plans) that have the potential to release toxic or hazardous
materials (e.g., gas stations, businesses that handle hazardous wastes) shall be referred to the County Environmental
Health Division for review and appropriate recommended measures that assure protection of water quality.
Recommended measures may include, but are not limited to the following:
a. Determining the extent of areas that contribute water to municipal wells, and making further recommendations as appropriate.
b. Relocating proposed uses relative to municipal wells, especially where such uses involve the manufacture,
storage or handling of hazardous materials.
c. Concentrating or clustering development relative to the location of municipal wells.
d. Reducing the density or intensity of proposed uses.
e. Limiting the amounts of potential contaminants that may be stored or handled.
[Added 2004, Ord 3048]

23.07.010 - Purpose:
Combining designations are used to identify and highlight areas of the county having natural or built features which
are sensitive, hazardous, fragile, of cultural or educational value, or of economic value as extractable natural

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resources. The purpose of combining designation standards is to require project design that will give careful consideration to the land features, structures and activities identified by the combining designations. These standards provide for more detailed project review where necessary to support public safety or proper use of public resources, or to satisfy the requirements of *the California Coastal Act and the Local Coastal Plan, the certified Land Use Plan of the San Luis Obispo County Local Coastal Program.*

23.07.066

23.07.066 - Construction Standards:

a. Construction, general:

(1) No construction or grading is to limit the capacity of the floodway or increase flood heights on existing structures unless the adverse effect of the increase is rectified to the satisfaction of the Director of Public Works. In no case shall flood heights be increased above that allowed under the Federal Flood Insurance Program.

(2) Structures shall be anchored to prevent collapse, lateral movement or flotation that could result in damage to other structures or restriction of bridge openings and narrow sections of the stream or river.

(3) Service facilities such as electrical and heating equipment are to be floodproofed or constructed at minimum of one-foot above the 100-year storm flood profile level for the site.

(4) Water supply and sanitary sewage systems shall be designed to minimize infiltration of flood waters into the system and discharge from systems into flood waters.

(5) On-site waste disposal systems shall be located to avoid their being impaired or contaminated during flooding.

(6) All buildings or structures shall be located landward of mean high tide.

(7) Residential, commercial and industrial development shall be prohibited outside of urban and village reserve lines.

(8) Whenever a watercourse is to be altered or relocated, the Department of Planning and Building shall notify adjacent communities and the California Department of Water Resources and evidence of such notification shall be sent to the Federal Insurance Administration.

(9) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices

provided that they permit the automatic entry and exit of flood waters.

(10) On the basis of structural plans and the depth analysis, the ground floor of all structures is to be
constructed at a minimum of one-foot above the 100-year storm flood profile level. Within any AO zone on the Flood Insurance Rate maps, this elevation shall be determined by adding one foot
to the depth number specified. If no depth is specified, structures shall be elevated a minimum of two feet above adjacent natural grade.
(11) Non-residential construction shall either be elevated in conformance with Section 23.07.066a(10)
above, or together with attendant utility and sanitary facilities, be elevated a minimum of two feet above the highest adjacent grade and be floodproofed to a minimum of one-foot above the 100-year storm flood profile level. Examples of floodproofing include, but are not limited to:
(i) Installation of watertight doors, bulkheads, and shutters.
(ii) Reinforcement of walls to resist water pressure.
(iii) Use of paints, membranes, or mortars to reduce seepage through walls.
(iv) Addition of mass or weight to structure to resist flotation.
(v) Armor protection of all fill materials from scour and/or erosion.
(12) All structures subject to inundation shall use flood resistant materials up to one foot above base
flood elevation.
b. Storage and processing: The storage or processing of materials that in time of flooding are buoyant,
flammable, or explosive; that could be injurious to human, animal, or plant life; or that may unduly affect
the capacity of the floodway or unduly increase flood heights is not permitted. Storage of other material
or equipment may be allowed if not subject to major damage by floods and if firmly anchored to prevent
flotation, or if readily removable from the area within the time available after flood warning.

Coastal High Hazard areas. The following requirements shall apply to new structures or any improvement / repair to an existing structure as specified in Section 23.07.066 in areas identified as having
special flood hazards extending from offshore to the inland limit of a primary frontal dune along an open
coast and any other area subject to high velocity waters including coastal and tidal inundation or tsunamis
as established on the maps identified in subsection 23.07.060 of this title:
(1) All buildings or structures shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural
members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation level. The pile or column foundation and structure attached thereto is anchored

#7

Comparing STEP and Gravity Sewer - Implementing a Graywater System

Mike Saunders April 29, 2009

The separation of residential wastewater into graywater and blackwater has significant merit relative to water conservation and energy conservation. Graywater is relatively clean water that can potentially be utilized for onsite residential reuse. Sources of residential graywater include baths, showers, clothes washers, dish washers, faucets, etc. In total a family of four will utilize approximately 160 gpd of water that could be utilized for graywater.

Onsite residential reuse opportunities would include toilet flushing and irrigation. For a family of four, toilet flushing alone will consume approximately 70 gpd of water daily assuming a low flow toilet that uses 3.5 gallons per flush. An older toilet may consume as much as 140 gpd. Landscape irrigation can easily utilize another 20 gpd of water or more on average.

Up to 40% to 60% reduction in potable water usage appears possible through graywater reuse. If graywater were utilized for toilets alone, potential water savings could be 30% or more.

Separation of graywater from the wastewater stream will result in a high strength blackwater discharge to the wastewater collection system. The blackwater will have higher concentrations of solids, Nitrogen and Phosphorus. The table below shows typical wastewater strengths of blackwater and graywater.

Separate Graywater: What Happens to Wastewater Characteristics?

Consituent	Graywater Range (mg/L)	Blackwater Range (mg/L)	Domestic WW Range (mg/L)
COD	77 – 240	806 - 3138	250 - 800
BOD	26 – 130	410 - 1400	160 - 300
TSS	7 – 207	920 - 4340	390 - 1230
Total-N	3.6 – 6.4	130 - 180	20 - 70
Tot-P	0.28 – 0.779	21 - 58	4 - 12

Sources: Palmquist & Hanæus 2004 & Eriksson et al. 2003

The ability of a collection system to convey blackwater should be seriously considered. A gravity sewer system relies upon adequate flow volume to create scouring velocity in the collection pipe. In a gravity sewer pipe, a velocity of 2 ft/sec is generally stated as the velocity necessary to stop sedimentation in the gravity sewer main. Velocity in a gravity sewer main will be impacted by the pipe size, the roughness of the pipe and the slope of the pipe and the volume of flow.

If we assume that pipe size, pipe roughness and the slope of pipe are all designed with an assumption that normal wastewater flow will occur. Graywater reuse will decrease wastewater flow volume, therefore reducing flow velocities. A 40% reduction in wastewater flow rate could reduce flow velocities up to 25%.

Gravity sewer pipes that are impacted by sedimentation will require regular line cleaning to remove sediment accumulations. Line cleaning consumes water that may reduce the benefits of a graywater reuse strategy. Additionally, large equipment and additional manhours will be utilized for cleaning the sewer mains and removing sediments from the sewer system. If gravity sewer cleaning is not implemented, SSO's (sanitary sewer overflows) of high strength wastewater could result.

By comparison, a STEP system is designed to separate solids from the wastewater stream. When blackwater enters an interceptor tank, solids are retained to settle and decompose. Whether a STEP system received regular strength wastewater or high strength blackwater, it still only conveys wastewater from the clear zone that develops in the tank. Since the mass of solids retained the tank should theoretically remain unchanged, we would not anticipate that the pump-out interval would be any higher than normal.

#8

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September 21, 2007

Paavo Ogren
Deputy Director of Public Works
San Luis Obispo County Dept. of Public Works
County Government Center, Room 207
San Luis Obispo CA. 93408

Subject: I&I In Gravity Sewer Systems

Dear Mr. Ogren:

The County of San Luis Obispo created a project selection process for the Los Osos Wastewater Project that was intended to be factual and unbiased. To-date, Orenco Systems has put faith in this process. We have provided input with the confidence that our contributions would be utilized appropriately. As you know, we have continued to raise issues regarding I&I (Inflow and Infiltration) with the intent that your consultants would consider our input.

In your e-mailed response of September 5th, 2007, you stated that our concerns have already been addressed. By this statement, we have to assume that these issues have been reviewed by the County's consultant and that they have decided that they are not worthy of detailed evaluation at this time . To-date, Orenco has not been aware of any type of documentation or response that in anyway reflects the input that we have provided. If we are mistaken, please provide those responses for our records and accept our apologies for having prepared this letter.

Under the assumption that a detailed analysis of the I&I issue has not occurred we are providing this letter so that our concerns can be more clearly understood.. While we apologize for the late timing of this response, we were hopeful that the Consultant would have completed this work for you.

The Federal Pollution Control Act. Was created, "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters". Ultimately this act can be credited for created funding mechanisms such as the State Revolving Funds (SRF) program that is intended to finance this project.

The four potential project options presented to the Board of Supervisors are shown below:

Option	Collection Technology	Treatment Technology	Effluent Disposal Level	Solids Disposal Option	Sites
1.	STEP	Ponds	Level 2	Sub-Class "B"	TBD
2.	STEP	Biolac	Level 2	Sub-Class "B"	TBD
3.	Gravity	Biolac	Level 2	Sub-Class "B"	TBD
4.	Gravity	Ox. Ditch	Level 2	Sub-Class "B"	TBD

TBD = To Be Determined

It is our belief that the Viable Project Alternative Fine Screening Analysis does not accurately quantify the environmental impacts nor the costs attributable to gravity sewer I&I. Accordingly, we believe that Options 3 and 4 fall short in meeting the intent of the Federal Pollution Control Act. Additionally, our concern would extend further to the applicability of SRF funding if in fact, Options 3 and 4 actually have the potential to cause detrimental affects to the Los Osos Water Basin. In our opinion, more detailed evaluation of I&I is necessary to assure that the wastewater project will restore and maintain the chemical, physical, and biological integrity of the Los Osos Water Basin in accordance with Federal directives and guidelines.

The Viable Project Alternative Fine Screening states that "any viable project could not result in an increase in the groundwater deficit". Maintaining the existing basin balance (i.e. level 1) was considered a minimum for a viable project. **Any I&I entering the gravity sewer collection system is not recharging the groundwater**, therefore a definitive withdrawal from the basin is created, and therefore should be quantified and mitigated with regards to sea water intrusion. In this context, the proposed gravity sewer project options, as defined, may in fact be unviable projects .

Issues believed to be critical towards quantifying the impact of I&I on a gravity sewer system on the Los Osos Water Basin are as follows:

- Since the Fine Screening report has stated that STEP systems and gravity systems have dissimilar characteristics with regards to I&I, the complete financial and environmental impact should be differentiated with regards to the two technologies. The report discusses wet weather flow versus dry weather flow with a focus on plant sizing. No discussion is included regarding the impact of I&I within the Los Osos Water Basin. Average I&I (initial and long term) and total annual I&I should have been clearly quantified.
- By definition, dry weather flow is inclusive of groundwater that is infiltrated. Normally, dry weather infiltration would be groundwater infiltration that is continuous in nature. Accordingly, infiltration found in dry weather gravity sewer pipes would normally be attributable to submerged gravity sewer pipes or manholes. Los Osos would have a large portion of potentially submerged gravity sewer pipe. Accordingly, dry weather flow for STEP and gravity systems will not be equal as has been stated. Also, the I&I should not be construed to be the difference between wet weather and dry weather flow, but in fact, should be inclusive of both dry weather infiltration and wet weather infiltration or inflow.
- Wet weather flow is, by definition, a wastewater flow inclusive of stormwater. Essentially it is wastewater flows that typically occurs during a rain event. Wet weather flow is predominantly caused by Inflow and should be considered only a portion of the total I&I.
- Allowable Infiltration (not including Inflow) for ***new*** gravity sewer based on current St. Louis Obispo County Standards equates to 226 AFY (acre feet per

year). Essentially, the gravity sewer is capable of removing this amount of groundwater from the Los Osos Water Basin from day 1 of its existence. While we understand that this may not be indicative of actual total I&I, it does define the *potential* I&I risk. Additionally, I&I will increase as pipe ages. Essentially, the gravity sewer system can be viewed as a sponge that is capable of removing valuable water resources from the water basin. The City of Lathrop, California is a classic example of a relatively new PVC gravity sewer system that is experiencing extensive I&I. The correlation between the wastewater flow and a rain event (documented in the river flow) is clearly evident in the graphs shown below. The impact of I&I is now causing impacts in treatment and capacity that will be costly to the Utility rate payers of that City

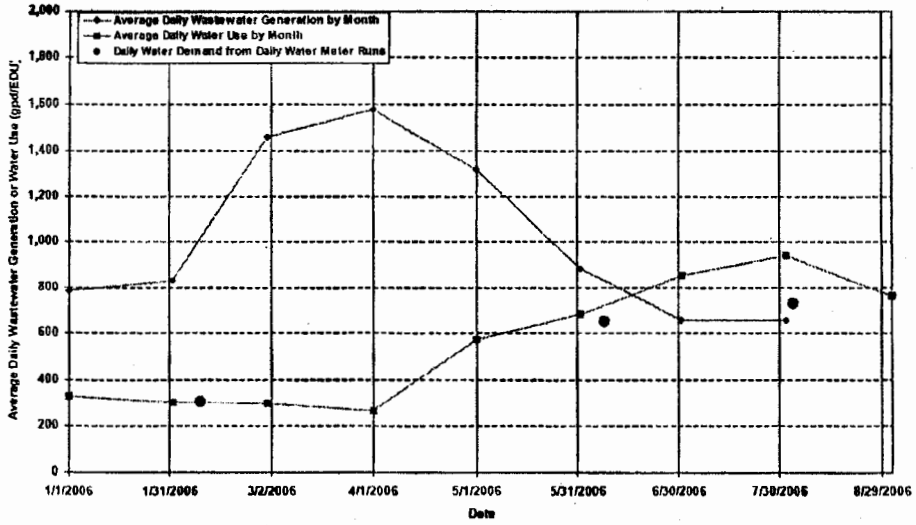
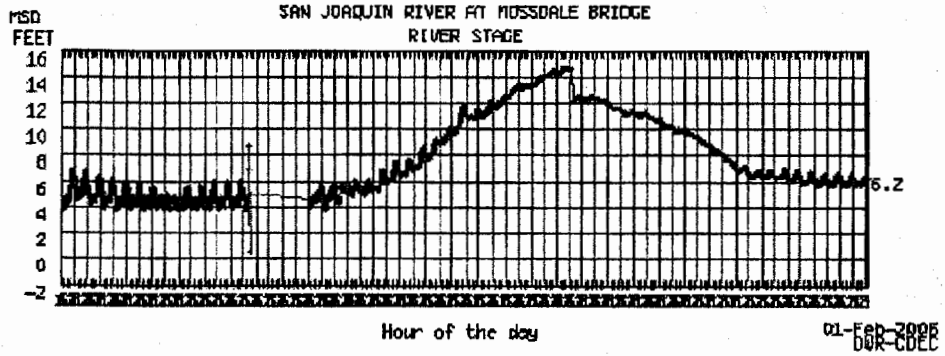


Figure 4
Average Daily Water and Wastewater Rates Per EDU Per Month – Basin 4



Data from 12/01/2005 00:00 through 02/01/2006 00:00 - Duration: 62days
Max of period: 14.72 - Min of period: .5

- The Seawater Intrusion Mitigation calculations do not include water being removed from the Los Osos Water Basin through I&I.
- Additional cost to Mitigate 226 AFY of water removal could easily add $10,000,000 to the cost of Seawater Intrusion Mitigation for Gravity Sewer.

We would anticipate that the costs associated with mitigation should actually be adequate to mitigate the cost of I&I throughout the life cycle of the gravity sewer system (50 to 70 years). Seawater Mitigation associated with I&I, at any level, appears to be a significant impact with regards to the overall cost. Mitigation for the life cycle of the gravity sewer pipe would in all likelihood be unmanageable.

- Additional Seawater Mitigation attributable to I&I could make Level 2 Seawater Mitigation unfeasible since the quantity of mitigation required could exceed the available capacity of the sites referenced under this Level.
- The County Construction Standards for gravity sewer could also permit exfiltration of raw sewage from the gravity sewer, into the Los Osos Water Basin. Any argument against Infiltration would support the possibility of exfiltration. A typical single *new* gravity sewer pipe (manhole to manhole) can pass the County testing gravity sewer testing protocol and still provide a point source discharge that equates to 60 lbs of Nitrogen annually. With more than 800 gravity sewer runs (manhole to manhole), the risk of Nitrogen discharge into the Los Osos Water Basin from a *new* gravity sewer system appears to be in direct conflict with the Nitrogen reduction intended by this project. Again, the potential Nitrogen leakage will only increase as the pipe ages.
- The California 2006/2007 State Revolving Fund Program Priority List contains 63 projects that have I&I reduction or wet weather stated in the project job title. In addition to these 63 projects that are obviously attributable to I&I, there are numerous projects that are likely attributable to I&I. These projects include equalization tankage, capacity expansion, emergency storage, sewer rehabilitation, collection systems upgrades, interceptor sewers and relief sewers. The 63 projects have a construction cost of more than $500,000,000. While SRF funds are being utilized to mitigate water quality impacts due to I&I, how can SRF funds then also finance a new project that would potentially have the same water degradation risk as the 63 projects on the SRF Priority list? Equally important, we should note that these communities are having to borrow money and adjust rate structures to pay for these impacts. The long term impacts of I&I and the associated costs are not being included as reserves within rate structures. The Fine Screening continues this oversight by not clearly including any future cost in the $450,0000 O&M cost for gravity sewer. The SRF list is available at the following link:

  http://www.swrcb.ca.gov/funding/docs/srf/0607srf_plist_adopted.pdf

Accordingly, we believe that the cost associated with gravity sewer should reflect the following:

- The cost of a "water-tight" gravity sewer system should be quantified. This cost could be necessary to qualify for SRF funding and/or grants under federal guidelines. Otherwise, gravity sewer should probably be deemed unviable under the current project configuration.
- The I&I being withdrawn from the Los Osos Water Basin should be thoroughly quantified (peak I/I, seasonal average, and long term). Also, the cost impacts in terms of Sea Water Mitigation, Capital and O&M costs should be adjusted accordingly. I&I should be defined in terms of cost throughout the life cycle (50 to 70 years) of the gravity sewer and not only at the beginning of the pipe life cycle as shown.

- The potential leakage of Nitrogen from the gravity sewer collection system (infiltration and sanitary sewer overflows) should be quantified and considered when establishing the requirements for Nitrogen reduction within the Los Osos Water Basin. Adjustments to the maximum Nitrogen discharge limits from the Treatment Plant may require adjustment to offset potential Nitrogen leakage from the gravity sewer pipe.
- Flow equalization should be added to the plant to assure flows to the treatment plant do not overcome plant headwork capacity. Again, consideration should be given to short term and long term peak flows.
- Short and long term effects from Chlorides, normally associated with gravity sewer infiltration, should be anticipated and quantified. Additional costs for treatment of Chlorides should be quantified and included in the overall project costs.
- O&M costs for gravity sewer should clearly identify reserve funds for future projects that could be required for I&I reduction and R&R (Renewal and Replacement)

Failure to consider the issues we have raised could have serious cost and environmental consequences for the residents of Los Osos. We are concerned that the project, as proposed for gravity sewer, may not provide the water quality benefits that the residents of Los Osos are assuming that they will receive. Additionally, under the current assessment model, the funding threshold may not provide adequate funding for a water-tight gravity sewer system capable of assuring lower I&I impacts. Also, if the proposed project does not satisfy the Federal Pollution Control Act, the use of SRF loans and/or grants could be compromised.

It appears that the Water Control Board, through the issuance of Cease & Desist Orders regarding the use of existing on-site septic systems has effectively sent the message that degradation of the Los Osos Water Basin will not be tolerated. Accordingly, how can a proposed option that potentially allows an increase in Sea Water Intrusion and/or Nitrogen loading relative to the current levels be considered?

Finally, the Rough Screening Analysis stated that project components would be checked for Fatal Flaws. The Fatal Flaw Analysis was described as follows:

" Fatal Flaw Analysis - An alternative will be removed from consideration if it has a characteristic that will clearly impede its implementation, from either a cost, regulatory, institutional or technical standpoint."

We believe that the analysis we have provided could very well lead to a conclusion that Options 3 and 4 are fatally flawed. For your project selection process to continue forward, as you have intended, this information should be evaluated promptly and thoroughly. We are ready, willing and able to assist in any way possible.

Respectfully,

Michael Saunders
National Accounts, Manager
Engineered Systems Division
Orenco Systems Inc.

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#9

al barrow

From: "al barrow" <a.barrow@charter.net>
Sent: Monday, September 29, 2008 11:36 PM
Subject: Fw: Larry Riao's description of Los Osos Soil structures

---- Original Message ----
From: al barrow
To: mike saunders
Cc: al barrow
Sent: Tuesday, August 19, 2008 8:12 AM
Subject: Larry Riao's description of Los Osos Soil structures

Hello Mike;
Larry is a teacher in the Cal Poly Soil Science department. Formerly in the 80's he worrked for a driller thatcontracted to Brown&Caldwell for the SLO County first sewer effort. They were sampling the ground water with piezometer drilling.
Thank You.
Al Barrow Coalition for Low Income Housing
----- Original Message -----
From: Larry E. Raio
To: albarrow
Sent: Thursday, May 12, 2005 2:34 PM
Subject: Re: Emailing: Glenns.html

Many great points brought out in this paper,

The biggest issue here is whether the proposed sewer will "correct" the nitrate problem because this is why the RWQCB has mandated the sewer. As Glen states in his paper, the point sources of the nitrate contamination has not been adequately characterized, and how can a solution be offered without truly understanding the problem; it cannot. The upper aquifer has not even been adequately characterized. I don't think anyone truly realizes how complicated and non uniform this aquifer really is mostly with respect to the shallower ground waters. I have drilled hundreds of piezometer wells (perforated pipes installed for 24 hours to measure the presence and stabilized depth to groundwater) throughout the Los Osos community, and many times I was surprised where and at what depth I found it. Los Osos has many perched water tables that I would not consider to be a part of the "upper aquifer" per se and yet these are some of the same ground waters that were tested in the Brown & Caldwell study. The placement of the Brown & Caldwell wells were in areas where there were no existing water wells that could be sampled and tested; they were to fill in the gaps. The wells were placed into the first groundwater encountered and extending 10-feet into the water. The problem with using these shallow wells (besides the fact as Glen mentions that the wells were not installed to the standards in place at the time) is that some of these wells were in these perched waters. It is important to understand the formation of what much of Los Osos is sitting on top of.

Most of Los Osos is built on top of a stabilized sand dune. You have to imagine what it was like before the plants were able to grow and stabilized it from moving. The Pismo sand dunes is a great example of sand dune that are in constant change and sculpted by the winds; unstable. During this evolution of the dunes, there can be found low spots in the middle of the dunes; little basins surround by dunes. When it rains, the silt fraction of the soil is carried with the runoff to these low areas and are deposited there. Each rain deposits more silt and it doesn't take much silt to build up before it will start holding water and cause a poorly drained condition; an 1/8-inch thick lense of silt is all it needs. As the winds continue to blow, the dunes shift, and these lenses are covered by sand and become a permanent fixture of the subsurface strata. Over thousands of years this process continues and you end up with all these subsurface lenses that hold water on top of them as it percolates through the sand. These lenses can be very small or very extensive depending on how long they developed and what the topography of the dunes were during its development. When I started installing the piezometers throughout Los Osos, I encountered one situation where I was on a level lot and encountered ground water at 8-feet. 300-feet away I encountered no ground water to a depth of 25-feet. I split the difference between these borings and still I encountered no ground water to a depth of 25-feet. I split the difference again and I encountered ground water at a depth of 12-feet, 75-feet from the first hole. Over the years, I encountered similar situations where ground water elevations were found at different levels within close proximity to each other.

The purpose of the piezometers were to verify depths to groundwater to ensure minimum separations from bottom of leachfields to groundwater. These minimum separations are determined from the percolation rate of the soil. The soil in Los Osos is very uniform and SLO County did not require percolation tests be performed on every building site for septic approval; in fact very few sites were required to do so. The percolation rate for Los Osos was assumed to be between 1 to 4 minutes/inch (how many minutes it takes water to drop 1-inch in a standard percolation hole). My experience verified this for the most part, even though I encountered soils with faster and some with slower percolation rates. The minimum separation from bottom of leachfield and groundwater with a percolation rate of 1-4 min/inch is 8-feet. A standard leachfield consisted of shallow trenches, typically with 3-feet of gravel below the perforated pipe and 2 feet of cover. With this in mind, SLO County only required a 13-foot piezometer be installed and verify that groundwater was below this depth. The short sightedness of this will become apparent. First, these are all minimum requirements, and rarely fit into real world situations. The outlet flowline of the typical septic tank is usually a minimum of 3-feet below the surface. Allowing another 1-foot fall from septic tank to leachfield places the top of the leachfield at 4-feet below the surface. Add 3-feet of gravel and this puts the bottom of leachfield at 7-feet below the surface requiring groundwater to be 15 feet or greater. This scenario is for level lot; lots that slope down to the leachfield can maintain minimum separations, and lots that slope up require more. But actually this isn't as big a problem as what comes next. Most leachfields installed in Los Osos are NOT of the leach trench type; these were typically only installed when the system was required to be engineered. What was typically installed were leach pits; a type of leachfield that has no standard. It is not the leach pit that is described in the Uniform Plumbing Code (UPC). These pits were deep holes dug with a backhoe, usually as deep as it could dig, typically 14-feet. The hole was then filled with a truck and trailer load of gravel; about 25 cubic yards. A vertical perforated stand pipe was placed in the center of the pit, extending from the bottom of the pit and connected to the outlet pipe from the septic tank. Here's the problem. Suppose groundwater is at 14-feet below the surface. A piezometer installed to 13-feet measures no groundwater encountered. The County gives their OK for development and allows a leach pit to be installed (you have to ask yourself why they are allowing 14-foot pits without at least a 22-foot piezometer, but they did in many cases). The contractor excavates the pit and encounters groundwater at 14-feet (when you encounter groundwater in an excavation in sand you can't dig further because the hole caves in at the water level). The contractor now places the vertical pipe in the hole and backfills with gravel. What you end up with is a direct conduit for the effluent to enter the groundwater without filtration through the soil.

The septic tank breaks down our household waste anaerobically, and breaks down most of the solids into liquids. Only the liquids go into the leachfield where it not only can be filtered by the soil but also broken down aerobically. If the effluent enters directly into the groundwater, there is no aerobic breakdown because there is no free oxygen in the groundwater. There are many systems installed in Los Osos where the bottoms of the leachfields are in the groundwater or in close proximity to it. Another reason why this occurred is because SLO County did not require piezometers be installed and monitored through the wet season. As most of us know, groundwater levels fluctuate seasonably and from one year to the next, and they can fluctuate quite dramatically. So a piezometer measuring water levels in the summer will not reflect water levels after high amounts of rainfall are encountered, yet this was not taken into consideration. Some have asked how a leachfield can work if its in groundwater; why doesn't it fail. The answer is simply that water will always seek its own level; the effluent simply enters the groundwater and seeks that level no problem. The system won't "fail" until the water level reaches the same elevation as the outlet of the septic tank; and then it will work again as the water lever subsides as the dry season approaches.

I agree with Glen's discussion in Section 11 about pumping groundwater from the upper aquifer and recharging the lower aquifer with that water. It will help increase groundwater separations, increase our drinking water supply, and help combat saltwater intrusion. For years, I have felt the need to increase groundwater separations from leahfields. A solution I had envisioned was to punch through the restrictive lenses holding up the water with gravel columns and allow the to drain to deeper levels. This would also solve some surface drainage problems which in some areas due to ground water levels being at or near ground surface levels. Los Osos is unique in many ways as compared to other communities. Common sense indicates that a community of this size should be sewered. That how this whole mess started. The community was growing and it seemed to make sense that it should be sewered. There was federal grant money for sewers so lets go try to get some of it. But to get it, we need a study that there is a need for it. SLO County wanted the sewer and they bought a study that proved they needed it; the Brown & Caldwell report. Or should I call it the Brown & Caldwell and SLO County report. If you recall, the County didn't want to pay Brown & Caldwell the price tag that they were asking so they looked for ways of reducing the cost. One way was for the County to sample the wells and perform the chemical tests on those samples (unsupervised). Another way is to put sub-standard monitoring wells in and not install enough of them to properly characterize the complicated groundwater conditions of Los Osos. I also question whether the wells were properly purged before sampling.

Each well was fitted with a 3-foot, 1-inch diameter hand bailer attached to a rope. The reason there was a hole in the top of the cap covering the well was that the rope was placed through the hole and a knot tied to prevent the bailer from falling in. According to my calculations it would take 25 –30 bails to properly purge the hole. Doing this by hand in a 90-foot hole is not only very time consuming but also very strenuous. Then there is the problem of contamination from the rope attached to the bailer. Was it placed on the ground surface as the bailer was raised each time and did it contaminate the well each and every time the well was bailed; probably. Again, we just needed a study to prove we needed a sewer so we could get the funding, and we got one. Too bad for us there was no funding available by the time the study was done. But we did end up with a study saying that we need a sewer and that's what we have now.

Another issue that needs to be kept in mind, in one that Dr Rhuer discussed, and that is that the soils in Los Osos are relatively infertile, and that many of the native plants that have adapted well to these soils, are nitrogen fixing plants. These plants have a symbiotic relationship with soil microorganisms and create there own nitrogen for survival. So nature has added its own nitrogen into the system and should not be ignored as a possible source for some of the nitrogen levels in the subsurface water.

I was amused by Sorrel Marks comments. I didn't know the RWQCB could make distinctions based on cost. How would she know it would cost too much to sewer high on the hill? If this is true about it costing too much, doesn't the proposed sewer cost too much? How much is too much? Much of the cost is for the installation of the gravity flow sewer pipe that can't gravity flow very well because of the undulating surface topography, thus requiring numerous lift stations. You could probably sewer the entire hill without one lift station; there's a lot of gravity in that hill! Who did the cost analysis on how much it would cost to sewer the hill? Also, there are areas of perched water up on the hill. How come there were no studies done up there? I have to agree with Glen, that a lot of what's being mandated by the RWQCB is by the seat of the pants and has little scientific basis.

If you look at Los Osos in the big picture, you have a community of homes with septic systems built on a soil that is ideally suited for septic systems. Most communities of this size would not fare well on septic systems due to soil restrictions; Los Osos is an exception. Water is pumped from the lower aquifer and used in every home, and then this water is put back in the ground and, because each house is putting it back, this water recharges the upper aquifer uniformly over the entire Los Osos area. Unfortunately this does not recharge the lower aquifer, which urgently needs to be done. Pumping the upper into the lower is one way of accomplishing this. Another is by using less of the lower aquifer water. I would estimate that more than 50% of our water usage is for irrigation. If the upper aquifer water was also used for this, which is in ready supply, it would cut consumption in half, while increasing the of groundwater to leachfield to separation which will improve the quality of the upper aquifer water.

Larry Raio

From: albarrow <abarrow@sbcglobal.net>
Date: Wed, 11 May 2005 03:40:20 -0700
To: <lraio@calpoly.edu>
Cc: <birgie1326@sbcglobal.net>, <abarrow@sbcglobal.net>
Subject: Emailing: Glenns.html

Hello Larry]
Please comment on this;
Thank You,
Al Barrow C.A.S.E.
The message is ready to be sent with the following file or link attachments:
Glenns.html

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

#10

al barrow

From: "al barrow" <a.barrow@charter.net>
Sent: Monday, September 29, 2008 11:35 PM
Subject: Fw: Dirt cost by the yard

----- Original Message -----
From: al barrow
To: billbowne@comcast.net
Cc: al barrow
Sent: Wednesday, July 30, 2008 11:37 AM
Subject: Fw: Dirt cost by the yard

Hello Bill;
Wet weather storage or treatment ponds have dirt moving costs. Here is an estimate from a local, Madonna construction. It is a little old but in the ballpark.
Thank You.
Al Barrow Coalition for Low Income Housing

----- Original Message -----
From: Tom Simmer
To: albarrow
Sent: Thursday, March 31, 2005 8:30 AM
Subject: RE: Dirt cost by the yard

As per our conversation, I have done a little estimating. If the dirt is rippable with a D-9 or smaller, and easily compacted, it should be able to be moved and compacted for $ 2.00 or less per cubic yard. This would be based on approximately 200,000 cubic yards of dirt and follow the below listed guidelines.

1-easily rippable
2-easily compactable
3-not rocky
4-moved to within 600 feet
5-water supply within 1/2 mile
6-no engineering or surveying included
7-no finish grading included
8-no compaction testing included
9-no pond lining included

Cost for the above items need to be added in.

> -----Original Message-----
> **From:** albarrow [mailto:abarrow@sbcglobal.net]
> **Sent:** Wednesday, March 30, 2005 9:45 AM
> **To:** tom@jmadonna.com
> **Cc:** abarrow@sbcglobal.net
> **Subject:** Dirt cost by the yard
>
> Hello Tom;
> To make some ponds 14 acres 15 feet deep. We need to know cubic yards cost. You mentioned $1.50 to $2.00 including water tender and grader etc.
> Please reply with a preliminary cost per yard to move clay soil to make excavation.
> Thank You,
> Al Barrow C.A.S.E.

#11

San Luis Obispo County Treated Sewage Sludge / Biosolids Land Application Task Force Report & Recommendations to SLO Co. Board of Supervisors
October 26, 2001

BACKGROUND

An application to apply treated sewage sludge or biosolids on a thousand acres near San Miguel led to public controversy and a determination by the Regional Water Quality Control Board (RWQCB), in May of 1998, to require an Environmental Impact Report (EIR) for the project. Although that project was withdrawn due to the EIR requirement, continued public concern regarding potential health effects and the lack of regulation within the County led the Health Commission to form a task force to study these issues. That initial task force met during 1998 and 1999, and produced the report, *"Biosolids: An Overview and Recommendations for Land Application in San Luis Obispo County."* Details of this history are contained in the Introduction to that previous task force report. In part, this effort was responsive to policies in the Agriculture & Open Space Element of the County General Plan. Policy AGP13 b reads as follows:

The county should carefully evaluate and work cooperatively with appropriate state and federal agencies, local organizations and land owners to determine whether and under what circumstances bio-solids are appropriate for land disposal.
Discussion: The county should evaluate the issues associated with land applications of bio-solids (sludge). If it is determined that there are benefits to agriculture to allow such applications, guidelines should be prepared to specify how and where such materials may be applied. The county Agricultural Commissioner, Environmental Health Department and the Department of Planning and Building should work cooperatively with U.C. Cooperative Extension, the Regional Water Quality Control Board, waste generators, land owners, researchers and environmental organizations to carefully evaluate this issue to determine the appropriate actions to take.

A similar policy, OSP 16d, is contained in the Open Space portion of the Element:

The county should carefully evaluate, in conjunction with state and federal agencies and local organizations, whether and under what circumstances bio-solids are appropriate for disposal on open space lands.

The work of the Health Commission task force described above was the first step in this effort, and resulted in recommendations from the task force, the Health Commission and the Agricultural Commissioner's office to develop a County-based program to ensure local control and oversight of biosolids management and disposition.
On February 8, 2000, the Board of Supervisors considered seven options or approaches to regulating the land application of treated sewage sludge/biosolids. The options ranged from no regulatory action by the County, to a complete ban on land application. The Board shortened the list of options by deleting three, and then directed staff of the

Environmental Health Division to proceed with the next phase in developing a local ordinance to address the matter. In providing this direction, three essential charges were given to staff and the Task Force:

First, the Environmental Health Division was to convene a public working group or Task Force to review and make recommendations from the narrowed list of policy choices for a local ordinance to control the land application of treated sewage sludge/biosolids. The four remaining options to be considered were:

1. Create a local ordinance based on federal and state regulations providing local control and oversight of how, when and where biosolids may be applied in San Luis Obispo County. A public education campaign as described ... would be implemented concurrently. [The education campaign would focus on the nature of biosolids production, the public's (commercial and residential) ability to positively affect the quality of biosolids created, responsibility of safe production and disposal of biosolids material and the potential risks and benefits of biosolids land application.]
2. Create a local ordinance establishing more stringent requirements for quality of acceptable biosolids material, as well as local control and oversight of how, when and where biosolids may be applied. A public education campaign as described [above] would be implemented concurrently.
3. Create a local ordinance limiting biosolids land application to "exceptional quality" (EQ), the highest quality grade of biosolids as defined by existing federal regulations. Local measures for control and oversight would also be established, and a public education campaign as described ... would be implemented concurrently.
4. Create an interim ban on biosolids land application while the workgroup conducts an evaluation to determine whether the ban should be lifted or remain in place. A public education campaign as described ... would be implemented concurrently.

The second charge given to staff and the Task Force was to ensure the process incorporated diverse points of view. Recommendations to increase participation in the Task Force were adopted by the Board of Supervisors and funds were allocated for a consultant to help with the collaborative process. The product of the Task Force work was to reflect consideration of broad input from the community, affected land owners, technical specialists, environmental groups, and agencies involved in the management of treated sewage sludge/biosolids.
Third, several core issues to be considered in the deliberations were identified in the February 8, 2000 staff report. These formed the basis for discussions and recommendations regarding specific concerns to be addressed in the formulation of a local control ordinance.
Over the course of the last year, the Task Force met 20 times. With the presentation of this report and recommendations, all three of the above charges are fulfilled and guidance is provided for the next step in the process of developing a local ordinance for control of the land application of treated sewage sludge/biosolids in the County.

PRIMARY RECOMMENDATION

The primary recommendation of the Task Force is contained in the following motions, which were adopted over the course of several meetings by a majority of the Task Force members:

Identify Option No. 2 as the primary recommendation of the Task Force.
[Create a local ordinance establishing more stringent requirements for quality of acceptable biosolids material, as well as local control and oversight of how, when and where biosolids may be applied. A public education campaign as described [above] would be implemented concurrently.]

Local standards for sewage sludge quality shall be derived from but not limited to state and federal regulations.

San Luis Obispo County should adopt a sewage sludge land application ordinance using pollution accumulation limits, considering local soil pollutant levels.

San Luis Obispo County should incorporate into an ordinance a comprehensive set of constituents including heavy metals, synthetic chemicals, pathogens and other pollutants not limited to those in current state and federal standards, for setting sewage sludge quality and land accumulation limits.

The County should establish a limitation on accepting or processing new land application projects for treated sludge beyond historical amounts of EQ treated sewage sludge until completion of the local ordinance to control and regulate land application of treated sludge. (EQ is "exceptional quality" material, as defined in the federal regulations 40 CFR 503.)

In developing an ordinance San Luis Obispo County should consider all feasible methods of treated sewage sludge/biosolids management and their relative impacts.

ADDITIONAL RECOMMENDATIONS

The Task Force considered a series of more detailed motions dealing with some of the major issues and concerns that need to be addressed by the ordinance. Recommendations made by a majority of the Task Force members are summarized as follows:

Notification and Public Information
San Luis Obispo County should incorporate into an ordinance:

specific procedures to ensure adequate public & community notification of project proposals, including opportunities to comment regarding them.

specific testing, written notification & reporting procedures to ensure consumers receive comprehensive information about treated sewage sludge/biosolids content, source, and usage guidelines.

specific procedures for delivering a notification to recipient landowners and users as to the potential problems and benefits associated with the use &/or misuse of treated sewage sludge/biosolids, and for obtaining formal & prior informed consent.

specific procedures to ensure property records document any land application activity and the availability of information regarding that activity, so prospective land purchasers and appraisers may be fully informed.

Fees and Financial Considerations
San Luis Obispo County should incorporate into an ordinance:

specific procedures to ensure that the fees imposed upon each project are sufficient to fund required assessment, monitoring & oversight activities.

provisions for the assessment of fines and/or penalties in case of violations to effectively and rapidly enforce its regulations.

requirements for project proponents to post performance bonds & obtain insurance coverage, including pollution liability, to recompense parties potentially impacted by related remediation and/or litigation.

General Use and Site Prohibitions
In preparing its ordinance, San Luis Obispo County should consider how, when, where, and whether treated sewage sludge/biosolids should be applied to:

a. Human Food-Chain Crops
b. Animal Feed Crops
c. Grazing, Pasture Land
d. Agricultural Soil Classifications
e. Home Gardens
f. Home Lawns
g. Public Parks
h. School Playgrounds
i. Sports Fields
j. Forests
k. Sensitive Ecological Areas & Species

Program and Project Requirements
In preparing its ordinance, San Luis Obispo County should consider provisions related but not limited to:

a. Transportation requirements
b. Buffer Zones / Set Back Distances
c. Water Supply Protection
d. Wind Speed Limits
e. Monitoring of heavy metals, pathogens, and other constituents.
f. Weather / Season
g. Incorporation into Soil
h. Runoff Protection
i. Erosion Control
j. Agronomic Rates
k. Crop Limitations

#12

flowsandloadscomments

May 5, 2008

John Waddell

San Luis Obispo County Dept. of Public Works

County Government Center, Room 207

San Luis Obispo CA. 93408

Subject: TECHNICAL MEMORANDUM FOR FLOWS AND LOADS

Dear Mr. Waddell:

Orenco Systems, Inc. has reviewed the Draft Technical Memorandum for Flows and Loads dated February 2008. We offer the following comments and/or concerns for consideration:

I. Following is a direct quote from section 3.1 of the Flow and Loadings Tech Memo:
"Gravity sewers utilize bell and spigot joint construction. Properly installed bell-and-spigot sewers will be watertight at first, and then may slowly lose their integrity as the surrounding soils shift, compressing the pipes, and compromising their seals at the joints."

Comment:

We believe that the Fine Screening Analysis eliminates a bell and spigot joint gravity sewer technology as a viable option. The Fine Screening Analysis (page 1-6) states that a "viable project" could not result in an increase in the groundwater balance deficit, maintaining the existing basin balance (i.e. level 1) was considered the minimum viable project."

In support of our belief, we offer the following observations:

•
The sentence containing the statement, "compromising their seals at the joints," depicts groundwater as the source for I/I.
•
The Fine Screening states that the newly constructed gravity collection system can expect 300,000 gallons per day of wet weather infiltration and inflow (Table 1.2 page 1-10). This number represents a minimum I/I volume acceptable for new construction standards, and does not account for settling and aging resulting in additional infiltration and inflow. Additionally, this number would not include dry weather infiltration that would be associated with the miles of submerged gravity sewer pipe.
□
•
In essence over the life cycle of the system, I/I risk is very high and will never get better only worse.
•
Over the systems life cycle, the gravity sewer collection system will pump an un-quantified number of acre feet per year of groundwater out of Los Osos' shallow aquifer that will ultimately be run through the treatment plant. Within the context of the Fine Screening this is defined as a groundwater balance deficit. This brings to light four significant points:

o
The Carollo Engineering proposed gravity sewer system results in an increase in the groundwater balance deficit; therefore it does not meet the criterion used in the Fine

Screening analysis to be a "viable project."

o

The gravity sewer groundwater balance deficit is unaccounted for in the sea water mitigation study both in magnitude and in cost.

o

It appears that fusion-welded PVC is the only solution that will make gravity sewer a "viable project." This cost is unaccounted for.

o

The long-term risk, or potential magnitude of I&I is not quantified in any way. Given the goals and objectives for this project, it is inevitable that Los Osos will eventually be looking at methods for mitigating the impacts of I&I in the Los Osos water basin.

II. Following is a quote from section 6.0 of the Flow and Loadings Tech Memo:

"Inflow/infiltration (I/I) estimates for the collection system alternatives were the main source of uncertainty in calculating the future treatment facility influent flow volume. If a gravity collection system is selected, only a system that was constructed of fusion-welded PVC piping could be operated with as little I/I as the other types systems. However, fusion welded PVC sewers are a fairly new technology with little long-term operating history, and can be significantly more costly to install than traditional bell-and-spigot gravity sewers."

Comment:

This quote illustrates a double standard when comparing technology options. While every effort was made to establish costs for "high-end" quality STEP system, the cost of fusion welded PVC gravity sewer was not discussed nor quantified in any way. When the r

#12

al barrow

From: "Larry Raio" <lraio@calpoly.edu>
To: "Al Barrow" <a.barrow@charter.net>
Sent: Wednesday, August 26, 2009 10:50 PM
Subject: FW: Los Osos WWTP Cost Range

------ Forwarded Message
From: al barrow <a.barrow@charter.net>
Date: Tue, 25 Aug 2009 19:25:05 -0700
To: Larry <lraio@calpoly.edu>
Cc: al barrow <a.barrow@charter.net>
Subject: Fw: Los Osos WWTP Cost Range

----- Original Message -----
From: Bill Cagle <mailto:bcagle@orenco.com>
To: 'al barrow' <mailto:a.barrow@charter.net>
Cc: 'Mike Saunders' <mailto:msaunders@orenco.com>
Sent: Tuesday, August 25, 2009 4:13 PM
Subject: Los Osos WWTP Cost Range

Sorry, this version should have the tables included.

Al,
Below is Mike's response to your question regarding cost. Can you please have your attorney explain how this statement might be used? This will help us be better prepared should we be called to question. Thanks

I have worked with Orenco Systems, Inc for 4 1/2 year. Prior to that, I was the County Utility Engineer for Charlotte County Utilities for nine years. During my time at Charlotte County, I experienced a failed conventional sewer approach (40,000 connections), executed the extension of STEP wastewater collection to 5,000 properties. The use of STEP systems in Charlotte County provided significant capital cost savings when compared to the proposed gravity system.

Charlotte County Utilities was and is the oldest and largest STEP systems in the world. It is operated in conjunction with a conventional gravity sewer system that serves more than 20,000 homes. Based on my experience and observations, I offer the following discussion relative to the perceived cost of a STEP system in Los Osos.

The "Viable Project Alternatives Fine Screening, dated August 2007. In the reports introduction it is stated that the report provided "information on what the community can expect through the County implemented solution, in terms of costs, benefits and overall approach". Presumably, this report was intended to be one of the primary documents that the residents of Los Osos will utilize in deciding their vote with regards to the County's Proposition 218.

When the public voted on the County's Proposition 218, it was our understanding that they were approving a not-to-exceed expenditure and not a project. Additionally, it is our observation that the residents of Los Osos had an expectation that the most economical approach would become the constructed project.

Prior to the release of the Fine Screening, Orenco Systems had already expressed concern regarding the omission of input that we provided. This omission of key data, while not necessarily important to

the vote, was critically important towards defining the most cost effective STEP project that was ultimately analyzed in the Fine Screening Study. Despite Orenco's vast experience with STEP projects, the consultant and the County unilaterally defined the scope of a STEP project and ultimately, the project that they defined.

Subsequent to the release of the Fine Screening Study, in a public presentation, there was statement from the County Consultants that inferred that capital costs for STEP and gravity sewer would be comparable, while the coordination of STEP installation will be more difficult.

In our opinion, the fine screening did not provide a comparison of STEP and gravity costs that adequately supported the statements made on public record.

The following table is included in the Appendix "C" of the Fine Screening Analysis. This table explains the various Categories of Estimates with regards to the level of project definition and expected accuracy.

Table 1.1 Category of Cost Estimates[1]
Los Osos Wastewater Project Development
San Luis Obispo County

	Primary Characteristic	Secondary Characteristic			
ESTIMATE CLASS	LEVEL OF PROJECT DEFINITION Expressed as % of complete definition	END USAGE	METHODOLOGY Typical estimating method	EXPECTED ACCURACY RANGE Typical variation in low and high ranges [2]	PREPERATION EFFORT Typical degree of effort relative to least cost index of 1 [b]
Class 5	0% to 2%	Concept Screening	Capacity Factored, Parametric Models, Judgment, or Analogy	L: -20% to -50% H: +30% - +100%	1
Class 4[2a]	1% to 15%	Concept Screening or Feasibility	Capacity Factored, Equipment Factored, Parametric Models or Analogy	L: - 15% to -30% H: +20% - +50%	2 to 4
Class 3	10% to 40%	Budget, Authorization, or Control	Semi-Detailed Unit Costs with Assembly Level Line Items	L: - 10% to -20% H: +10% - +30%	3 to 10
Class 2	30% to 70%	Control or Bid/ Tender	Detailed Unit Cost with Forced Detailed Take-Off	L: - 5% to -15% H: +5% - +20%	4 to 20
Class 1	50% to 100%	Check Estimate or Bid/Tender	Detailed Unit Cost with Detailed Take-Off	L: - 3% to -10% H: +3% - +15%	5 to 100

Notes:
1. Table 1.1 comes from the AACE International Recommended Practices and Standards, No. 18R-97.
2. Most of the estimates in the Fine Screening Report are at this level.
   a. The state of process technology and availability of applicable reference cost data affect the range markedly. The +/- value represents typical percentage variation of actual costs from the cost estimate after application of contingency (typically at a 50% level of confidence) for a give scope.
   b. If the range index value of "1" represents 0.005% of project costs, then an index value of 100 represents 0.5%. Estimate preparation effort is highly dependent upon the size of the project and the quality of estimating data and tools.

It is critical that the public understand the significance of this table. The STEP estimates from Carollo are stated to be Class 4 while the gravity sewer estimates are stated to be Class 1. The estimates for STEP are stated to be 1% to 15% of the total level of project definition required. Furthermore the accuracy of the estimate can be off by as much as 30% on the low side and 50% on the high side.

Based on the level of estimate provided, did a Class 1 estimate support the statement made by the consultant with regard to cost comparison? Furthermore, how could we conclusively state that STEP costs were actually comparable to gravity sewer? The public presentation contained no explanation regarding the potential variance in cost estimates.

The following table, also from Appendix "C" in the Fine Screening Study, further penalizes the STEP estimate for not being as accurate as the gravity sewer estimate.

Table 1.4 Basis for Estimating Project Costs Los Osos Wastewater Project Development San Luis Obispo County	
Item	Estimated Cost[1]
Obtain Base Construction Cost from Bid Tabs, previous Engineers Estimates, analogous facility costs, parametric models and/or Carollo's unit price catalog. Adjust this cost to April 2007 cost for San Luis Obispo, California. Cost includes: • Adjustment to "mid range" of bids for each item • Mobilization/Demobilization • Electrical • Site Work/Yard Piping • Sales Tax on materials only (8%) • Contractor overhead and profit (15%)	"A"
Add 30% of Subtotal Cost to Class 4 estimates and 10% to Class 1 estimates as Construction Cost Contingency.	+ 10% to 30% of "A"
Subtotal Estimated Construction Cost	"B"
Add 8% sales tax on materials and 15% for contractor overhead and profit	+ 15% to 22% of "B"
Subtotal Estimated Construction Cost	"C"
Escalate to June 2011 - 5% per year	+ 24.5% of "C"
Subtotal Escalated Estimated Construction Cost	"D"
Project Cost - will provide line items [2]	+"E"
Total Estimated Project Cost	"F"

Notes:
1. Based on June 2011 costs for San Luis Obispo, California (Estimated ENRCCI projection for the 20-Cities Average is 7878 for February 2007 and location factor adjustment is 1.064.).
2. Includes design engineering contingencies, construction management, administrative, and legal costs.

Typically, contingency is added to projects in case unforeseen costs become applicable during construction. In the context of this analysis, Carollo has added 30% contingency to STEP because there has been less detail in the estimate. Comparatively, only 10% contingency is added to gravity as a reward for a more detailed estimate. Accordingly $11,000,000 (low estimate) to $15,000,000 (high estimate) is being added to STEP that isn't being added to gravity. In practicality, due to the complexity of construction, there is much more inherent risk in gravity sewer construction than STEP construction. Change orders, for unforeseen site condition are common in virtually all gravity sewer projects of this nature despite the level of detail put forth during design. Regardless of the level of estimate, it is highly questionable to assert that contingency should be higher for STEP. When a range of cost is presented, one has to understand that a large amount of subjective costs have been allocated to the cost of STEP, thereby inflating the possible range of cost.

Furthermore, the following table (Table 3.18), again from the fine screening analysis, shows that 15% overhead and 8% taxes are added to STEP while they are omitted from gravity. Since the gravity sewer estimate is more accurate, they have stated that the gravity sewer estimate includes these costs while presumably, they can not effectively say the same about their STEP estimate. This additional cost is added before contingency is added, so the impact of the overhead and taxes is compounded by the additional contingency.

Table 3.18 Range of Probable Costs for STEP/STEG Collection System
Los Osos Wastewater Project Development
San Luis Obispo County

Item[2]	Range of Probable Costs Low (-5%)[1]	Range of Probable Costs High (+5%)[1]	Notes on Development of Range
Mobilization/Demobilization /General Conditions	2.0	3.2	Based on 5% of Construction Cost Subtotal.
COMMON FACILITIES			
Force Mains and Laterals in Right-of-Way	$1.7	$5.2	Low estimate based on Los Osos Wastewater Management Plan Update (Ripley 2006) and installation costs from Talwalk. High estimate includes 30% contingency due to conceptual design level.
Odor Control	0.1	0.3	Low and High estimates based on 100 and 300 air release valves respectively at $500 each.
Road Restoration	1.3	2.6	Low and High estimates based on 25% and 50% of the gravity system requirements, respectively, due to estimated reduction in pavement disturbance.
Land and Easement Acquisition	Assumed No Additional Cost[3]	Assumed No Additional Cost[3]	
ON LOT FACILITIES			
Project Facilities	23.5	25.8	Based on on-lot options and cost development information presented above. High estimate includes 10% contingency similar to gravity system.
Homeowner Facilities	8.1	8.7	Based on on-lot options and cost development information presented above. High estimate includes 10% contingency similar to gravity system.
Electrical Connection	9.1	14.3	Low and High estimates based on $1,900 and $3,000 per connection as presented in Table 3.15 for 4769 Prohibition Zone lots.
Subtotal	$54.4	$68.1	
Overhead and Profit (15%)	$8.1	$10.2	
Subtotal	$62.3	$78.2	
Sales Tax (8¼%)[4]	$2.5	$3.1	
TOTAL CONSTRUCTION COST WITH BASE ELECTRICAL CONNECTION	$65.0	$81.4	
Separate Electrical Service Premium	$14.5	$24.1	
TOTAL CONSTRUCTION WITH SEPARATE ELECTRICAL SERVICE PREMIUM	$79.6	$105.6	

Notes:
(1) All costs in April 2007 dollars, based on an ENR of 7879.
(2) Prohibition Zone lots only - 4769 connections.
(3) Land and easement acquisition assumed to be sunk cost as part of the previous Tri-W project.
(4) Sales Tax included on materials only.

Also in table 3.18, the low range cost shows the separate electrical premium. The electrical premium is contingent upon a hypothetical requirement from the State Water Board that would require a public electrical supply rather than a simple service through the existing homes electrical panel. In execution, virtually all existing STEP systems installed in this Country utilize power service from the home. While this could be included in the high end cost, we believe that the low end cost should be reflective of the methodology that is actually normally used to power a STEP pump package. The $14,500,000 in additional cost again was added before contingeny, so this arbitrary cost addition was compounded by the additional contingency that was added.

What did all of this mean to the voter? We believe there are two very important points to note. They are as follows:

1) If we use Table 1.1 to restate the potential cost range of the project, the numbers are very startling. The actual range for STEP, without compromising the integrity of this Study could actually be $45.5 million to $121.5 million while the actual range of gravity could be $73.8 million to $103.5 million. Accordingly, if these technologies were bid head to head, STEP could come in at $45.5 million while gravity could come in at $103.5 million and this report wouldn't be wrong. STEP in fact, by this report, could be half the cost of gravity. This potential variance in cost was never explained to the voter.

2) If the same level of estimate had occurred, one would presume that contingency, overhead and taxes would be treated comparably for both technologies. Orenco had provided bid tabs to the County, with overhead and profit included that support a cost that is lower than the stated low cost without overhead and sales tax. Also, if the low estimate actually utilized the probable low cost of electrical supply the low end cost would be significantly different. Without Sales Tax, Overhead, Electrical Premium and with 10% contingency, our calculations show that the low estimate would be in the range of $44 million while the high estimate would be in the range of $75 million.

We do not believe that this Fine Screening Analysis adequately provided proper "Information on what the community can expect through the County implemented solution, in terms of costs, benefits and overall approach". The report did not compare STEP costs and gravity costs to the degree necessary to establish true comparative costs nor does it evaluate STEP on a level playing field with gravity sewer. We do not believe that an analysis that utilized different levels of estimating is adequate to support any determination that capital costs for STEP and gravity sewer are comparable. Furthermore, it is extremely misleading to apportion subjective costs such as sales tax, overhead, electrical premium costs and contingency in a manner that is not equitable between comparative technologies.

The consultant expended large resources in modeling treatment processes and in evaluating the cost of

gravity sewer. We have to question why that the same level of resources was not applied to the STEP cost estimates so that a Class 1 estimate of STEP is available for comparison to the gravity sewer costs.

Our opinions were validated by an independent review that was done by the National Water Research Institute (NWRI). Their findings included the following:

- "Alternatives should be presented with sufficient detail in terms of description and estimated costs so that rational comparisons can be made."

- "Cost estimates should be stated clearly and compared on an equivalent basis with the same degree of variability and specificity. Refined and updated cost estimates are needed for each alternative so that decision makers and stakeholders can make informed judgments."

It does not appear that either of these NWRI recommendations was adequately addressed.

Beyond the estimates, we can take a more practical approach to discussing the provision of a STEP system in Los Osos. Orenco Systems, in the early stages of project development, recommended to the Los Osos Community Services District (LOCSD) that a Design Build approach be utilized for the procurement of a wastewater system for Los Osos. We told them that a Design Build approach, if properly executed, could deliver the ingenuity and expertise necessary to provide a low cost sewer option for Los Osos. At another meeting, we actually introduced the community to our potential Design Build team members that were ready to respond if a Design Build Request for Proposal was issued.

When the Design Build approach was finally recommended by County Staff, we believed that the process would move forward as promised. Unfortunately, during execution of the process, our team was removed. We were not removed because of our teams competency or qualifications (we may have been the most highly qualified team involved), but by the recommendation of County Staff, we were removed because we recommended STEP wastewater collection as a viable method for reducing capital cost. In fact, during our presentation to County Staff, we stated the cost will be less and we will guarantee a not-to-exceed cost. Unfortunately, we were denied the opportunity to submit a proposal and therefore, we were denied the opportunity to make the ultimate not-to-exceed cost public.

At this time, the obvious question remains. Could STEP have delivered a low-end cost in the $40 million dollar range? The Design Build team intended to work in partnership with the County, starting with the County defined STEP project, and then offering value engineering alternative that were intended to reduce the project cost. Value engineering alternatives included the following:

- The use of all or some of the existing septic tanks.

- The use of STEG (Septic Tank Effluent Gravity) systems when hydraulic conditional allowed.

- The use of alternative STEP pump packages that are available from Orenco.
- The use of decentralized treatment at sites that have a need for irrigation water.
- The use of shared interceptor tanks (2 and possibly 4 homes per tank).
- The use of community tanks in areas of high density.
- The use of remote system monitoring.
- The possibility of including an O&M service at a fixed cost.
- The possibility of utilizing an extended period for connecting customers that prioritized the "hot-spots" first.

These options were never explored by the consultant and were never conveyed to the public as alternatives for possible adjustments in capital cost.

Had the design build process moved forward and had the County partnered with our Design Build team to achieve the best value for the residents of Los Osos, a final cost in the $40 million dollar range was not only possible, but probable.

Respectfully,

Mike Saunders
Orenco Systems, Inc.

Mike Saunders
Orenco Systems, Inc.
www.orenco.com <http://www.orenco.com>

Phone: (866) 914-9454
Cell: (941) 276-8586

Respectfully,

Bill Cagle
National Accounts
Orenco Systems Inc.
www.orenco.com
bcagle@orenco.com
(P) 800.718.4046 direct
(F) 541.459.2884

------ End of Forwarded Message

al barrow

From: "Larry Raio" <lraio@calpoly.edu>
To: "Al Barrow" <a.barrow@charter.net>
Sent: Wednesday, August 26, 2009 10:49 PM
Subject: FW: Los Osos Wastewater Project STEP/STEG Collection system has been inappropriately removed

------ Forwarded Message
From: al barrow <a.barrow@charter.net>
Date: Thu, 20 Aug 2009 09:37:38 -0700
To: Jonathan Bishop <jbishop@coastal.ca.gov>, Dan Carl <dcarl@coastal.ca.gov>
Cc: Piper Reilly <getgreenlo@gmail.com>, al barrow <a.barrow@charter.net>, Ann Calhoun <churadogs2@att.net>
Subject: Re: Los Osos Wastewater Project STEP/STEG Collection system has been inappropriately removed

Dear Coastal Commissioner's:

This is a revision of the letter that I recently sent you with a few grammatical improvements...in essence the same. I hope this is clearer:
" Our position is that SLO County violated the 218 process by promising a Design/Build process that included STEP/STEG, then after the vote removing it, damaging the ratepayers with exorbitantly higher wastewater fees, charges and capital costs, when a more compliant technology is at lower costs and impacts that is also quicker to install.is already pre-designed in the LOCSD Ripley Report 2006."

Thank You,.
Al Barrow

Los Osos Legal Defense Fund
P.O Box 6931
Los Osos CA 93412 805 534-0800 Thank you for your support.

--- On **Wed, 8/19/09, al barrow <a.barrow@charter.net>** wrote:

From: al barrow <a.barrow@charter.net>
Subject: Los Osos Wastewater Project STEP/STEG Collection system has been inappropriately removed
To: "johnathan bishop" <jbishop@coastal.ca.gov>, "Dan Carl" <dcarl@coastal.ca.gov>
Cc: "Dana Ripley" <ripac@comcast.net>, "Will Lyles" <wlyles@ldico.com>, "betty winholtz" <winholtz@sbcglobal.net>, "Rosemarie Arnold" <usa2072@charter.net>, swandiego@gmail.com, "shaunna sullivan" <sullivanlaw@charter.net>, "Carl Pope, Sierra Club" <sierraclub.giving@sierraclub.org>, "Andrew Christie/Sierra Club" <sierra8@charter.net>, "steve paige" <shpaige@sbcglobal.net>, "Roy F Spalding" <rspaldin@unlnotes.unl.edu>, "Ron Crawford" <ron@slocreek.com>, "Rhian Gulassa" <rhian88@sbcglobal.net>, "vita miller" <realnurse1205@yahoo.com>, "Phyliss Caruthers" <Rcaruthe@fix.net>, peggypavek@yahoo.com, "dave akey" <pdhakey@sbcglobal.net>, patricia.renshaw@sbcgloval.net, "Orval Osborne - Creek Labs" <orval@creeklabs.com>, "mike saunders" <msaunders@orenco.com>, "Morgan Rafferty" <morgan@ecoslo.org>, MJHJ2020@aol.com, "Mary Fullwood" <Mary.Fullwood@gmail.com>, "Marie smith" <mail.1@charter.net>, "Larry" <lraio@calpoly.edu>, "shaunna"

<lososan@charter.net>, loautobody@thegrid.net, "Lisa Schicker" <lisaschicker@hotmail.com>, lindeowen@sbcglobal.net, "'Leon Goldin'" <lgoldin@charter.net>, "Karen Venditti" <kjvenditti@sbcglobal.net>, KATIELOVESEMILY@HOTMAIL.COM, "julie tacker" <julietacker@charter.net>, "jim patterson" <jpatterson@co.slo.ca.us>, "Johnbrumfield" <Johnbrumfield@charter.net>, "Jim Tkah" <jimtk@charter.net>, "Jack Hunter" <jhunter@dot.ca.gov>, "jeff edwards" <jhedwardsco@Charter.net>, "Jack Beardwood" <j.beardwood@yahoo.com>, "greenbuild" <info@slogreenbuild.org>, "Farm Bureal slo" <info@slofarmbureau.org>, "apcd" <info@slocleanair.org>, "ecoslo" <info@ecoslo.org>, "Jan Der Garabedian" <hyeder@charter.net>, "Martha Goldin" <honmgret@charter.net>, "John/Mary" <Haleyje@charter.net>, "CHUCK&CAROL CRIBBS" <h_r_advocate@hotmail.com>, "Galen Ricard PR" <grpr@charter.net>, "Gerry Spence" <gerryspence@gerryspence.com>, "gary patton" <gapatton@pcl.org>, "R. Glenn Stillman" <g.stillman@verizon.net>, "Frank Ausilo" <Fjaunion@aol.com>, "Fred Dellagatta" <fdellagatta@aehloans.com>, "Jeff Pienack" <ezjerky123@yahoo.com>, ericm@clarkvalleyfarm.com, "eric greening" <elquadrillo@charter.net>, "ARB/earl eldridge" <eeldridge@arbinc.com>, "ed ochs" <edochs@charter.net>, "duane woodman" <dwoodman@aol.com>, "David Jeffries" <dwjeff@charter.net>, "Duncan and Marlene McQueen" <dmmcqueen@charter.net>, "David Duggan" <date1969@gmail.com>, "mimi whitney" <coastoilartist@aol.com>, "ann calhoun" <Churadogs2@att.net>, carolja@fix.net, "Bo and Lacey Cooper" <boleecooper@webtv.net>, birgie1326@sbcglobal.net, billbowne@comcast.net, "bill cagle" <bcagle@orenco.com>, "Barbara Carlock" <barbara@carlocksbakery.com>, "Allen and Ricard" <allenricard@charter.net>, "Dr. C. Hite" <aaaptly@gmail.com>, a.r.martyn@worldnet.att.net
Date: Wednesday, August 19, 2009, 12:08 AM

Dear Coastal Commissioners:

SLO County promised in the 218 tax vote that funded the Los Osos Sewer project:

"In the current project selection strategy, the STEP and gravity alternatives would compete through the construction bidding phase using a competitive bid, design/build, and/or build/own/operate/transfer process. "

That was signed by the Assessment Engineer and PW Director Paavo Ogren.
But they have removed the lower impact collection system, which was adjudged in their two year fine screening process as a "viable alternative" out off the Design/Build project delivery method. Now only the most impactive project on coastal resources remains. Gravity deep trenching in liquefaction conditions is what the SLO County has chosen as their only project. A loss of 300,000 gpd of drinking water through leakage into the collection system. Gravity is many millions of dollars more cost, a cost that the lower income half of the population cannot afford, $3000.00 a year.or 8 times average cost.

In order to put STEP/STEG or vacuum collection, which are far more protective of coastal resources, we ask that you direct the SLO County to do so immediately. Something that the SLO Country planning commission did not do in their recent findings.
We also believe, in order to protect our community and environment, we must have legal counsel so we have engaged the Law offices of Jesse LB.Hill to see that the Local Coastal Plan, The Coastal Act and the supporting laws in the CZLUO are respected and that the environment is once again is not sacrificed.

We would hope that the SLO County would be sensitive to our concerns as we have submitted them, but that has not been the case in most issues of concern. As we prepare for the coming BOS and Coastal commission we ask all parties to reconsider the impact of removing a more protective and affordable collection technology.

Our position is that SLO County violated the 218 process by promising a Design/Build process that included STEP/STEG, then after the vote removing it, damaging the ratepayers with exorbitantly higher wastewater fees, charges and capital costs, when a more compliant technology is at lower costs and impacts that is also quicker to install.is already pre-designed in the LOCSD Ripley Report 2006.

SLO County admits their will be design changes required for their purportedly "shovel ready" collection system whose slopes are to shallow for solids to move through the collection pipes as the design flows are much lower than the original Montgomery Watson Harza design plans called for.

In order to avert "the train wreck" at the Coastal Commission Hearings we seek relief in the form of direction from your staff who have sent two directional letters to SLO County to date.

We also request by FOIA all communications whether phone memos, emails and letters relating to the LOWWP Coastal Development permit application.

Thank You,.
Al Barrow

Los Osos Legal Defense Fund
P.O Box 6931
Los Osos CA 93412 805 534-0800 Thank you for your support.

------ End of Forwarded Message

#13

al barrow

From: "Larry Raio" <lraio@calpoly.edu>
To: "Al Barrow" <a.barrow@charter.net>
Sent: Wednesday, August 26, 2009 10:47 PM
Attach: Re_ Permeability Calculations.eml
Subject: FW: Permeability Calculations Retraction

------ Forwarded Message
From: al barrow <a.barrow@charter.net>
Date: Wed, 5 Aug 2009 14:14:58 -0700
To: planning commission <planningcommission@co.slo.ca.us>, johnathan bishop <jbishop@coastal.ca.gov>, al barrow <a.barrow@charter.net>
Cc: Larry <lraio@calpoly.edu>, Chuck Cesena <ccesena@charter.net>
Subject: Re: Permeability Calculations Retraction

Dear Commissioners;
This email was done without the authors permission . My error. He has a comment that is appropriate attached for the record.
Thank You.
Al Barrow Coalition for Low Income Housing

----- Original Message -----

From: al barrow <mailto:a.barrow@charter.net>

To: johnathan bishop <mailto:jbishop@coastal.ca.gov> ; planning commission <mailto:planningcommission@co.slo.ca.us>

Cc: al barrow <mailto:a.barrow@charter.net> ; Chuck Cesena <mailto:ccesena@charter.net>

Sent: Monday, August 03, 2009 2:28 PM

Subject: Fw: Permeability Calculations

Dear Coastal and SLO Planning Commissioners and Staffs,

We have new information regarding the fate of the Broderson recharge leach fields and the septic leach fields. The calculations by this expert indicate that Level ! mitigation of this project will not be met (90afy seawater mitigation). There is no solid evidence that it can be met by the project. Therefore it is not a permitable project.

Mr. Raio is willing to testify if you notice him or myself by email. It is evident you need a SEIR to investigate flows and loads on the old gravity design by MWH that is still being used. Wastewater expert have said with conservation and the shallow slope of the collection pipe the "scouring speed will not be attained and a stinking "Black Sewer" will result. All violation of LCP Policies and Standards.

Thank You.
Al Barrow Coalition for Low Income Housing

----- Original Message -----
From: Larry Raio <mailto:lraio@calpoly.edu>

To: Al Barrow <mailto:a.barrow@charter.net>

106

Sent: Monday, August 03, 2009 10:14 AM

Subject: Permeability Calculations

Hi Al,

I ran some calculations with permeability rates to see how much water would leak through the aquitard at 3 different rates. As I mentioned to you, I believe the material would be slower than 1.00E-08 cm/sec, but I also ran it with 2 faster values, 1.00E-06 cm/sec, and 1.00E-06 cm/sec. Attached is the excel worksheet I used.

The results are:

1.00E-08 cm/sec: 0.12-inches of water would drip past it per year for 66 AF water over area of 10 sq miles

1.00E-07 cm/sec: 1.24-inches of water would drip past it per year for 662 AF water over area of 10 sq miles

1.00E-06 cm/sec: 12.4-inches of water would drip past it per year for 6622 AF water over area of 10 sq miles

As you can see from these results. It is critical to use accurate numbers in estimating recharge values through the aquitard. If the material is slower than 1.00E-08 cm/sec, which I believe it is, we would not get appreciable amounts of water recharge through this layer. I would like to know if core samples have been taken of the aquitard and if they have been tested for permeability rates.

I personally drilled a boring near the corner of 16th St. and Paso Robles to see what was holding up the water there, where during the Winter, the groundwater is at the surface. At 25-feet of depth, I encountered a 5-ft thick lense of clay, and once I punched through the clay, I encountered clean, dry sand below it. The clay appeared to be a pure clay with no appreciable amounts of sand in it; in my estimation, over 80% clay. It is the type of clay you could use for pottery. It was moist, very difficult to drill through, and came off the auger in solid ribbons. It is this type of material I would guess the aquitard that separates the upper and lower aquifer in Los Osos would be made of.

I have over 24-years experience in the Geotechnical Engineering profession, in the field and in the lab, classifying soils. I was the Laboratory Testing Manager for over 15-years for Earth Systems Consultants, Inc. I have run more permeability tests than I could count, not only on soils from this county, but on soils shipped to us from outside the area. I have seen soils with much less clay than I estimate in the material I mentioned above have that had rates slower than 1.00E-08 cm/sec. The test is fairly simple. A 2.5-in. diameter by 6-in tall sample in a brass tube is capped and sealed at both ends. There are porous stones and tubes at each end to allow water to pass into and out of the sample. Pressurized water is added to the bottom of the sample in small increments of added pressure and a vacuum is applied to the top of the sample until water comes through the sample. This can take days for water to even start coming through on slow permeable soils even with up to 100-psi water pressure being applied. After water comes through, vacuum is removed, the sample is allowed to equilibrate, and measurements of volumes of water collected over time are taken and results plugged into the equation for coefficient of permeability. What's amazing when observing the test, is how little water comes out of the sample; as little sometimes as a drop or two per hour even with 100-psi pressure being applied. Many times we collect water over a few days before we get enough for measurements and to determine when the rate becomes constant.

It is my understanding that the aquitard that separates the upper and lower aquifer in Los Osos is between 50-80-ft thick. As you can see from my calculations, depending on the values used, there is a huge difference on how much recharge can be expected through the aquitard. A layer as thin as 1/8-inch can slow water down to a drip, so it is the most restrictive part of the aquitard that needs to be used in recharge estimations. The only other way for water to get through the aquitard in for there to be a discontinuous area or "window" through it. The thicker

the layer, the less potential there is for a window. If there is a window, they need to be specifically identified and quantified before estimations of additional recharge can be made. From what I understand, identifying and quantifying these windows are very difficult, and to date, this has not been done for the Los Osos sewer project.

Larry Raio

------ End of Forwarded Message

#14

al barrow

From: <kwimer1@charter.net>
Cc: "Al Barrow" <a.barrow@charter.net>
Sent: Wednesday, August 26, 2009 8:21 PM
Subject: Re: Summary of discussion

--- Larry Raio <lraio@calpoly.edu> wrote:
> This is a summary of my discussion with Spencer Harris with Cleath-Harris
> Geologists, Inc. on August 21, 2009
>
> Most of my discussion with Spencer revolved around the recent technical
> memorandum presented to the ISJ Group (referred to the ISJ Report in this
> discussion) dated July 29, 2009. Specifically, the report with the subject
> ³Flow Model Conversion and Urban Area Yield Update² (apparently there are 4
> reports with the same date to the same group with different subjects; I am
> only familiar with this report). I also discussed parts of the Sea Water
> Intrusion Assessment Report (SWIAR) dated July 2005.
>
> It is important to note that this report represents one scenario that uses a
> steady-state condition to produce a sustainable pumping condition which is
> not to be confused with a safe yield condition (page 6, ISJ Report). The
> report says ³Safe yield is historically defined as the maximum draft on a
> basin that will not produce undesirable impacts. In Los Osos, the primary
> undesirable impact is sea water intrusion² (page 4). Again, the report
> proposes a sustainable as opposed to a safe yield condition, and the reason
> for this, is that is what the purveyors requested Cleath-Harris to study.
> They are defining a sustainable yield where the chlorides are not allowed
> to exceed 250 mg/l due to sea water intrusion (page 6). In a safe yield
> condition, chlorides would not be allowed to increase at all. What is being
> proposed here is to allow sea water intrusion to advance as long as the
> purveyors wells don't exceed 250 mg/l of chlorides. In fact the note at the
> end of page 8 states ²that 55 AFY of sea water intrusion continues to enter
> the basin, where it dilutes to below 250 mg/l chloride before reaching
> active production wells.² This is just another way of saying that sea water
> intrusion is OK as long as it doesn't ruin our wells and we can still sell
> our water. By definition, this is not a safe yield condition, nor does it
> appear that the purveyors are even interested in a safe yield condition.
>
> Throughout the report (ISJ Report) the term ³current conditions² is used and
> I asked for clarification. Current conditions in this report refers to the
> Draft LOCSD Water Management Plan (Cleath & Associates, 2005a) report.
> Spencer mentioned that in some instances newer data was included up to the
> year 2008, but it was not clear what data or the dates of the data used.
>
> The report (ISJ Report) involved simulating 50 years of historical data. The
> first 25 years at early basin development, an average value of 700 AFY was
> used. I questioned this valued because it seemed that the production would
> of been very low early on (less that 700 AFY) and then increased as the
> population increased over time. It seemed to me that if they had the actual
> data, that it should of been used in the SEWAT model to create a more
> accurate calibration of the model. His response was that he had neither the
> time or the budget to add this data. I also mentioned that the data for the
> first 25 years were not presented in the first table presented in the
> attachments labeled ³Los Osos Water Purveyor Production in acre-feet.² He
> said that this was privileged client information and that I could request it
> from them or that it may already be in the public record and could be found
> there. I feel it should be presented in the report as it was data that was
> used in the simulation, even though they only used the average.
>
> I also had questions on values used for (permeability) of the aquitard in

> the SWIAR 2005 report. In the section ³Regional Aquitard² on page 8, a value
> of. My common sense and experience told me that if the aquitard is a 50 to
> 80 feet thick layer of clay then very little to no measurable water is going
> to get through the lense. I have worked for about 30 years in the
> geotechnical engineering field. I am currently employed at Cal Poly, SLO as
> a Lecturer in the Architectural Engineering Department teaching Soil
> Mechanics Lab, also as a Lecturer in the Soils & Earth Sciences Department
> teaching a Introductory to Soil Sciences Lab. I worked for a local
> geotechnical engineering firm, Earth Systems, Inc., for 22 years where I
> worked as a staff engineer (I am not a registered engineer), Laboratory
> Manager, drill rig operator, field technician along with other functions. I
> have a B.S. In Natural Resources Management and a M.S. in Soil Science, both
> from Cal Poly, SLO. While working for Earth Systems, I personally drilled
> the borings and installed the monitoring wells for the Brown & Caldwell
> study. I have drilled hundreds of borings in Los Osos and installed
> piezometers to measure shallow ground water depths. I have performed
> hundreds of percolation tests throughout the county and many of them in Los
> Osos. I have designed over a hundred on-site sewage disposal systems under
> the supervision of a registered engineer throughout the county and many of
> them in Los Osos. Earth Systems was the only lab in the county that
> performed hydraulic conductivity on soil samples and I personally ran most
> of them while acting as Laboratory Manager, so I guess I would call myself
> an expert in this particular situation. It is my opinion that the regional
> aquitard has a hydraulic conductivity that is 100 to 1,00 times slower than
> the value used in this report.
>
> I would like to expand on why I think the hydraulic conductivity of the
> regional aquitard is slower than the value used in the report. I personally
> drilled a boring at the corner of 16th and Paso Robles Streets in Los Osos.
> The situation at this location was that during the wet season, after rains,
> ground water would rise to the surface and cause flooding of the street and
> would not disappear until days or weeks after the rain stopped and the
> ground water receded. Recently a pump has been installed here, and ground
> water is maintained to a lower level so flooding does not occur here any
> more. During the soil investigation, I encountered a nearly pure lense of
> clay at a depth from 25 to 30 feet below the ground surface. Located below
> the 5-foot thick clay lense, was dry, very fine to fine silty sand. The clay
> that came up the auger was difficult to drill through and came off the auger
> in long continuous ribbons. I remember thinking that this clay could be used
> for pottery as is, right out of the ground, it was that pure. Typically to
> test for fine sand that can neither be seen or felt between the fingers, a
> little is put between your teeth to see if it is gritty, and I found that
> there was very little fine sand in the clay. I encountered the same clay
> lense at 18th and Paso Robles Streets and about the same depth. When
> imagining what the composition of the regional aquitard that separates the
> upper and lower aquifers is, I always visualized this shallow aquitard that
> I experienced first hand in the 16th street boring.
>
> From what I understand, there have been no actual samples taken of the
> regional aquitard and the value of 0.002 ft/day is only an estimate as
> stated in the SWIAR 2005 report and in my conversation with Spencer Harris.
> As per the test method, values for hydraulic conductivity are typically
> expressed in unit of cm/s (centimeters per second). The value of is
> equivalent to 7 x 10-7 cm/s. I ran some calculations to estimate how much
> water would seep through the aquitard using the above stated value and some
> slower values. I don't know the actual area of the regional aquitard, but I
> used a value of 5 square miles which I believe to be in the ball park. Using
> 0.002 ft/day, I calculated that 2336 AFY of water would pass through the
> aquitard. Using 0.00002 ft/day (100 times slower, 23 AFY of water would pass
> through the aquitard.
>

> I asked Spencer how much water he felt was leaking through the annular space
> of the existing wells, which create a conduit for water to move from the
> upper aquifer into the lower aquifer. He estimated that about 200 AFY of
> water leaked through by this method. According to Table 14 of the SWIAR 2005
> report, 420 AFY recharges the lower aquifer from Creek Valley. The total of
> these two sources is 620 AFY, which also happens to be the yield
> distribution for a current conditions balanced basin for the lower aquifer
> as stated on page 6 of the ISJ Report. If these two sources of recharge are
> correct, then it would appear that there is not much leakage through the
> regional aquitard, similar to what my estimates show. I think the estimated
> value used in the model to be reduced to something more realistic and see
> how that changes the scenario.
>
> Items not discussed with him because my call was cut short, but I think are
> still of importance and concern are discussed next.
>
> Once the septic systems are taken offline, it appears that the Los Osos
> creek valley is going to dry up creating similar conditions to what existed
> before development. None the less, large areas of wetlands will be
> destroyed.
>
> On page 11 of the ISJ Report under Discussion, I don't understand the number
> given in paragraph 2 where it states 'that exporting all of the current
> septic flow from the prohibition zone (1,157 AFY before conservation) will
> decrease basin yield by approximately 500 AFY. Is this saying that there
> will be 57% conservation of the 1157 AFY?
>
>
> I have also attached a word document of this.
>
> Larry Raio
>

#15

al barrow

From: "Larry Raio" <lraio@calpoly.edu>
To: "Al Barrow" <a.barrow@charter.net>
Sent: Wednesday, August 26, 2009 10:50 PM
Subject: FW: Los Osos WWTP Cost Range

------ Forwarded Message
From: al barrow <a.barrow@charter.net>
Date: Tue, 25 Aug 2009 19:25:05 -0700
To: Larry <lraio@calpoly.edu>
Cc: al barrow <a.barrow@charter.net>
Subject: Fw: Los Osos WWTP Cost Range

----- Original Message -----
From: Bill Cagle <mailto:bcagle@orenco.com>
To: 'al barrow' <mailto:a.barrow@charter.net>
Cc: 'Mike Saunders' <mailto:msaunders@orenco.com>
Sent: Tuesday, August 25, 2009 4:13 PM
Subject: Los Osos WWTP Cost Range

Sorry, this version should have the tables included.

Al,
Below is Mike's response to your question regarding cost. Can you please have your attorney explain how this statement might be used? This will help us be better prepared should we be called to question. Thanks

I have worked with Orenco Systems, Inc for 4 1/2 year. Prior to that, I was the County Utility Engineer for Charlotte County Utilities for nine years. During my time at Charlotte County, I experienced a failed conventional sewer approach (40,000 connections), executed the extension of STEP wastewater collection to 5,000 properties. The use of STEP systems in Charlotte County provided significant capital cost savings when compared to the proposed gravity system.

Charlotte County Utilities was and is the oldest and largest STEP systems in the world. It is operated in conjunction with a conventional gravity sewer system that serves more than 20,000 homes. Based on my experience and observations, I offer the following discussion relative to the perceived cost of a STEP system in Los Osos.

The "Viable Project Alternatives Fine Screening, dated August 2007. In the reports introduction it is stated that the report provided "information on what the community can expect through the County implemented solution, in terms of costs, benefits and overall approach". Presumably, this report was intended to be one of the primary documents that the residents of Los Osos will utilize in deciding their vote with regards to the County's Proposition 218.

When the public voted on the County's Proposition 218, it was our understanding that they were approving a not-to-exceed expenditure and not a project. Additionally, it is our observation that the residents of Los Osos had an expectation that the most economical approach would become the constructed project.

Prior to the release of the Fine Screening, Orenco Systems had already expressed concern regarding the omission of input that we provided. This omission of key data, while not necessarily important to

the vote, was critically important towards defining the most cost effective STEP project that was ultimately analyzed in the Fine Screening Study. Despite Orenco's vast experience with STEP projects, the consultant and the County unilaterally defined the scope of a STEP project and ultimately, the project that they defined.

Subsequent to the release of the Fine Screening Study, in a public presentation, there was statement from the County Consultants that inferred that capital costs for STEP and gravity sewer would be comparable, while the coordination of STEP installation will be more difficult.

In our opinion, the fine screening did not provide a comparison of STEP and gravity costs that adequately supported the statements made on public record.

The following table is included in the Appendix "C" of the Fine Screening Analysis. This table explains the various Categories of Estimates with regards to the level of project definition and expected accuracy.

Table 1.1 Category of Cost Estimates[1]
Los Osos Wastewater Project Development
San Luis Obispo County

	Primary Characteristic	Secondary Characteristic			
ESTIMATE CLASS	LEVEL OF PROJECT DEFINITION Expressed as % of complete definition	END USAGE	METHODOLOGY Typical estimating method	EXPECTED ACCURACY RANGE Typical variation in low and high ranges [a]	PREPERATION EFFORT Typical degree of effort relative to least cost index of 1 [b]
Class 5	0% to 2%	Concept Screening	Capacity Factored, Parametric Models, Judgment, or Analogy	L: -20% to -50% H: +30% - +100%	1
Class 4[2]	1% to 15%	Concept Screening or Feasibility	Capacity Factored, Equipment Factored, Parametric Models or Analogy	L: - 15% to -30% H: +20% - +50%	2 to 4
Class 3	10% to 40%	Budget, Authorization, or Control	Semi-Detailed Unit Costs with Assembly Level Line Items	L: - 10% to -20% H: +10% - +30%	3 to 10
Class 2	30% to 70%	Control or Bid/ Tender	Detailed Unit Cost with Forced Detailed Take-Off	L: - 5% to -15% H: +5% - +20%	4 to 20
Class 1	50% to 100%	Check Estimate or Bid/Tender	Detailed Unit Cost with Detailed Take-Off	L: - 3% to -10% H: +3% - +15%	5 to 100

Notes:
1. Table 1.1 comes from the AACE International Recommended Practices and Standards, No. 18R-97.
2. Most of the estimates in the Fine Screening Report are at this level.
   a. The state of process technology and availability of applicable reference cost data affect the range markedly. The +/- value represents typical percentage variation of actual costs from the cost estimate after application of contingency (typically at a 50% level of confidence) for a give scope.
   b. If the range index value of "1" represents 0.005% of project costs, then an index value of 100 represents 0.5%. Estimate preparation effort is highly dependent upon the size of the project and the quality of estimating data and tools.

It is critical that the public understand the significance of this table. The STEP estimates from Carollo are stated to be Class 4 while the gravity sewer estimates are stated to be Class 1. The estimates for STEP are stated to be 1% to 15% of the total level of project definition required. Furthermore the accuracy of the estimate can be off by as much as 30% on the low side and 50% on the high side.

Based on the level of estimate provided, did a Class 1 estimate support the statement made by the consultant with regard to cost comparison? Furthermore, how could we conclusively state that STEP costs were actually comparable to gravity sewer? The public presentation contained no explanation regarding the potential variance in cost estimates.

The following table, also from Appendix "C" in the Fine Screening Study, further penalizes the STEP estimate for not being as accurate as the gravity sewer estimate.

Appeal # 794

Los Osos Legal Defense Fund

SLO CNTY PLANNING/BUILDING DEPT

COASTAL APPEALABLE FORM

San Luis Obispo County Department of Planning and Building 2009 AUG 27 PM 2:36 7/25/08

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION Name: Los Osos Wastewater Treatment Project File Number: DRC 2008-00103

Type of permit being appealed:

☐ Plot Plan ☐ Site Plan ☐ Minor Use Permit ☒ Development Plan
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☐ Other: _____

The decision was made by:

☐ Planning Director (Staff) ☐ Building Official ☒ Planning Department Hearing
☐ Subdivision Review Board ☒ Planning Commission ☐ Other _____

Date the application was acted on: August 13, 2009

The decision is appealed to:

☐ Board of Construction Appeals ☐ Board of Handicapped Access
☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary).

Explain: See attached Exhibit A

☐ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act - Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).

Explain: _____

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number Exhibit A Reason for appeal (attach additional sheets if necessary)

_____

APPELLANT INFORMATION

Print name: Al Barrow / Los Osos Legal Defense Fund

Address: PO Box 6931 Los Osos CA 93412 Phone Number (daytime): 805 534-0800

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set froth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature Attorney for Appellant JESSIE HILL ATTORNEY 8/27/09 Date

OFFICE USE ONLY
Date Received: 8/27/09 By: Doris Macon, Sec.
Amount Paid: _____ Receipt No. (if applicable): _____

S.L.O. CNTY
PLANNING/BUILDING

Exhibit A to Coastal Appeal Form of Al Barrow and Los Osos Legal Defense Fund

2009 AUG 27 PM 4:28

The following are the basis of the appeal:

1. Seawater intrusion is a significant unavoidable impact that has not been adequately addressed. The placement of the site with little ability to infiltrate into the aquifer and recharge the basin is of prime concern.

2. There are less impacts with the STEP/STEG method of waste disposal than with the gravity system. This alternative treatment technology would have less water waste and allow a better point of entry from ponds to protect against sea water intrusion.

3. The Proposition 218 vote required side by side cost comparisons of the two system alternatives and this was not done. Establishing the least expensive side by side funding mechanism was promised in the 218 vote.

4. It is believed that the more cost effective system would be STEP/STEG because the capital costs are $44,000,000.00 based upon engineering estimates and the capital costs of the gravity feed system is well over double that amount.

5. STEP system has fewer environmental impacts that the gravity system.

6. STEP is a superior alternative and it was not adequately addressed at the planning commission hearing. In fact, participants were told not to discuss alternatives.

The following mitigations and related policies were not followed:

Policy B-1 the waste water treatment plan is not an allowed use at the current site under a Coastal Development Permit;

Conditions of Approval 8 the mitigation is not specific as required by CEQA and Policy 8 Pipeline Route selection and Policy 9 Construction Requirements in sensitive resource areas;

Conditions of Approval 86 the growth inducing impacts of the location of the sewer plant have not been adequately addressed at the current location under Policy 10 Site Selection; and

Conditions of Approval 24 and 25, Policy 11 Geologic Requirements are not being met because of the changed location of the facilities site.

SLO COUNTY
PLANNING/BUILDING
DEPT

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#1794

COASTAL APPEAL FORM

San Luis Obispo County Department of Planning and Building *7/25/08*

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION Name: Los Osos Wastewater Treatment Project File Number: DRC 2008-00103

Type of permit being appealed:

☐ Plot Plan ☐ Site Plan ☐ Minor Use Permit ☒ Development Plan/Conditional Use Permit

☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☐ Other: _____

The decision was made by:

☐ Planning Director (Staff) ☐ Building Official ☐ Planning Department Hearing

☐ Subdivision Review Board ☒ Planning Commission ☐ Other _____

Date the application was acted on: 8/13/09

The decision is appealed to:

☐ Board of Construction Appeals ☐ Board of Handicapped Access

☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

State the basis of the appeal. Clearly state the reasons for the appeal. In the case of a Construction Code Appeal, note specific code name and sections disputed). (Attach additional sheets if necessary

See Attached Exhibit A

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number Exhibit A Reason for appeal (attach additional sheets if necessary)

APPELLANT INFORMATION

Print name: Al Barrow / Los Osos Legal Defense Fund

Address: PO Box 6931 Los Osos, CA 93412

Phone Number (daytime): 805 534-0800

We have completed this form accurately and declare all statements made here are true.

Jesse Hill Attorney for Appellants 8/27/09

Signature JESSE HILL - ATTORNEY Date

OFFICE USE ONLY

Date Received: 8/27/09 By: Denise Macen, Secretary

Amount Paid: 0 Receipt No. (if applicable): N/A

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

August 31, 2009

Al Barrow
(Los Osos Legal Defense Fund)
P.O. Box 6931
Los Osos, CA 93412

County Of San Luis Obispo
Department Of Public Works
Attn: John Waddell
INTEROFFICE

SUBJECT: APPEAL OF DRC2008-00103 – COUNTY OF SLO - LOWWP
HEARING DATE: August 13, 2009 / PLANNING COMMISSION

We have received your request on the above referenced matter. In accordance with County Real Property Division Ordinance Section 21.04.020, Land Use Ordinance Section 22.70.050, and the County Coastal Zone Land Use Ordinance 23.01.043, the matter has been scheduled for public hearing before the Board of Supervisors. A copy of the appeal is attached.

The public hearing will be held in the Board of Supervisors' Chambers, County Government Center, 1055 Monterey Street, Room D170,San Luis Obispo. The project has a hearing date of **Tuesday, September 29, 2009**. All items are advertised for 9:00 a.m. If you have any questions, you may contact your Project Manager, **Murry Wilson**. A public notice will be sent out and you will receive a copy of the notice.

Please feel free to telephone me at 781- 5718 if you have any questions.

Sincerely,

Nicole Retana

Nicole Retana,
County Planning and Building Department

CC: Murry Wilson, Project Manager
Jim Orton, County Counsel

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Los Osos Legal Defense Fund

Mailing Address: PO Box 6931

City: Los Osos CA Zip Code: 93412 Phone: 805 534-0800

SECTION II. Decision Being Appealed

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CENTRAL COAST AREA

1. Name of local/port government:

slo county

2. Brief description of development being appealed:

sewer project collection treatment and disposal/recharge

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Loso osos Prohibition zone, Giacomazi

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☒ Planning Commission
- ☐ Other

6. Date of local government's decision: 9-29-09

7. Local government's file number (if any): drc20080131

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

slo county covernment bldg SLO CA 93401

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Project has to many impacts to social and economic status of community The business community will lose $1.5 million in disposable income a month. Alternative technolgy is more affordable and will protect economy and ratepayers from home loss. STEP/STEP is 50% less costly. Ratepayers have the right to the more protective and affordable vfiable project where one exists.
Also STEP/STEG protects from seawater intrusion saving 300ACF of drinking water causing higher cost for GW losses and imported water when a sustainable alternative is available.. Coastal Act requires protection of social and ecnomic impacts Section 30006.51 TECHNICAL ADVISE TO SUPPORT COSTS..."SOCIAL, PHYSICAL AND NATURAL SCIENCES".
Section 30007 Housing and Local government"...low and moderate-income housing, replacemert housing, relocation benefits..." Many residents will not be able to pay $250.00 a month and unreasonable amout that is not in line with statewide sewer rates under $50.00 a month. It is no the intention of the Coastakl Act to gentrify the California Coastal Communities, in fact the opposite is true.
Cost is a factor if it is a socio economic impact.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 10/13/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Don Bearden

Mailing Address: 1411 - 7th Street

City: Los Osos Zip Code: 93402-1617 Phone: 805-528-3579

SECTION II. Decision Being Appealed

1. Name of local ~~port~~ government:

San Luis Obispo County Board of Supervisors

2. Brief description of development being appealed:

Los Osos Wastewater Project DRC 2008-00103. Locating the treatment plant at the Giacomazzi site instead of the Mid-town site.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Giacomazzi site APN 067-011-022.
Mid-town site APN 074-229-017

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COASTAL COMMISSION
CENTRAL COAST AREA

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☐ Approval with special conditions:

☒ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ ~~City Council~~/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC 2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
Department of Planning and Building
Murry Wilson, Project Manager 805-788-2352
976 Osos Street, Room 300
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) 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, Chuck Cesena. The County has addresses for all these Planning Commission decision appellants.

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Locating a wastewater treatment plant at the Giacomazzi site when the Mid-town site is still feasible, is incompatible with the LCP. See attached sheets of my appeal #781 to the August 13, 2009 Planning Commision decision and my power point presentation at the September 29, 2009 Board of Supervisor's denial of that appeal. Additionally attached are the first three pages of 9/29/09 agenda item.

1. It converts ag land unnecessarily.
2. It disturbs archaeological sites unnecessarily.
3. Makes polution of Morro Bay more probable due to its closer proximity to waterways.
4. Requires a force main sewer pipeline with a creek crossing from the Mid-town site to the Giacomazzi site.
5. Has the potential to induce inappropriate growth.

The County of San Luis Obispo has deemed the previously approved Mid-town (Tri-W) waste treatment site as "socially infeasible". It's a political hot potato that neither the Planning Commission nor the Board of Supervisors is willing to touch. Therefore, they have selected 30 acres of Giacomazzi farmland to convert to a waste treatment site.

I believe that the Giacomazzi site, located right next to the Los Osos Cemetery is just as "socially infeasible" as the Mid-town site, if not more so. The people in Los Osos Valley, a small community just outside of town, are being asked to accept a waste treatment plant in their community which they can't connect up to and get no benefits from. They have never had a voice in any vote or survey on the Los Osos sewer project. They're even asked to accept a less costly oxidation ditch type plant instead of an MBR type plant which has more stringent odor controls. Up until August 13, 2009 nobody there complained very much because the preferred site was the Tonini site, way out of town. It's been less than two months since the Planning Commission moved the preferred site to the near-town Giacomazzi site. I don't know if the Los Osos Valley people or the Cemetery owners will file lawsuits or not, but I think locating the project at the Giacomazzi site is more "socially infeasible" than the Mid-town site.

The Coastal Commission is the last place to right this injustice by requiring the project be moved back to the Mid town site.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Don Bearden

Signature of Appellant(s) or Authorized Agent

Date: October 1, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____

Signature of Appellant(s)

Date: _____

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

August 18, 2009

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COASTAL COMMISSION
CENTRAL COAST AREA

Don Bearden
1411 7th Street
Los Osos, CA

County Of San Luis Opbiso
Department Of Public Works
Attn: John Waddell
INTEROFFICE

SUBJECT: APPEAL OF DRC2008-00103 – COUNTY OF SLO - LOWWP
HEARING DATE: August 13, 2009 / PLANNING COMMISSION

We have received your request on the above referenced matter. In accordance with County Real Property Division Ordinance Section 21.04.020, Land Use Ordinance Section 22.70.050, and the County Coastal Zone Land Use Ordinance 23.01.043, the matter will be scheduled for public hearing before the Board of Supervisors. A copy of the appeal is attached.

The public hearing will be held in the Board of Supervisors' Chambers, County Government Center, San Luis Obispo. As soon as we get a firm hearing date your Project Manager, **Murry Wilson** will notify you of that date. A public notice will be sent out and you will receive a copy of the notice.

Please feel free to telephone me at 781- 5718 if you have any questions.

Sincerely,

Nicole Retana

Nicole Retana,
County Planning and Building Department

CC: Murry Wilson, Project Manager
Jim Orton, County Counsel

#781

Coastal appealable form

San Luis Obispo County Department of Planning and Building *701/09*

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION Name: LOWWP File Number: DRC2008-00103

Type of permit being appealed:

☐ Plot Plan ☐ Site Plan ☐ Minor Use Permit ☒ Development Plan
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☐ Other: _____

The decision was made by:

☐ Planning Director (Staff) ☐ Building Official ☐ Planning Department Hearing
☐ Subdivision Review Board ☒ Planning Commission ☐ Other _____
Date the application was acted on: August 13, 2009

The decision is appealed to:

☐ Board of Construction Appeals ☐ Board of Handicapped Access
☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary).
Explain: USES AG LAND UNNECESSARILY. DISTURBS ARCHAEOLOGICAL SITES UNNECESSARILY. MAKES POLUTION OF MORRO BAY MORE PROBABLE.

☐ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act - Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).
Explain: _____

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number 1.A Reason for appeal (attach additional sheets if necessary)
LOCATING THE WASTE WATE TREATMENT PLANT AT THE GIACOMAZZI SITE WHEN THE Mid-TOWN SITE IS FEASIBLE. (SEE ATTACHED SHEETS).

APPELLANT INFORMATION

Print name: DON BEARDEN
Address: 1411 - 7th STREET Phone Number (daytime): 805-528-3579

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set froth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Don Bearden 8/17/09
Signature Date

OFFICE USE ONLY
Date Received: 8/17/09 By: NAA
Amount Paid: 0 Receipt No. (if applicable): _____

Don Bearden's Coastal appealable form continued:

Condition Number 1.a of DCR2008-00103 authorizes "A wastewater treatment facility, including all appurtenant structures, landscaping and site access to be located on the Giacomazzi site (APN 067-011-022)." **The findings suggest no other feasible location. I believe the Mid-town site is far more feasible than the Giacomazzi site.**

Giacomazzi site versus Mid-town site:

Planning Commission 4/23/09 page 1-29

The Giacomazzi property consists of 38.2 acres, 30 acres of which is farmable (the other 8.2 acres contain a residence at one site and steep topography and drainages leading to Warden Lake on another 7 acre area). Of the 30 farmable acres, 6.6 acres are prime agricultural soils. As currently proposed, the treatment facility requires 20 acres; however, relocation to the Giacomazzi site would likely remove the entire 38.2-acre parcel from agricultural use because of the need accommodate slopes on the site, setbacks from property lines, and space for any future treatment needs. The gently sloping nature of the parcel would require greater separation between treatment plant facilities; setbacks from the cemetery expansion area would be required, and the treatment plant layout would need to be re-configured to avoid or reduce impacts to a large prehistoric cultural site that occupies substantial portions of all three parcels north of the cemetery.

Draft EIR Appendix P page 14

Mid-Town (APN 074-229-017); approximate acreage 11.7 ac: The Mid-Town site was the location for the previously proposed treatment plant for the 2001 wastewater project. Mid-Town has been identified as the preferred in-town site for locating a wastewater treatment facility. This site is located next the Los Osos Community Services District off LOVR in town. The site is known to be shoulder-banded snail habitat.

Here are the findings that, I believe, are incompatible with the LCP:

1. DCR2008-00103 Findings - Exhibit A, Environmental Determination A. says: "Significant and unavoidable impacts to agricultural resources were identified for the project alternative (Giacomazzi treatment plant site) that was selected by the Planning Commission at the July 24, 2009 hearing." **These agricultural impacts are avoidable by selecting the Mid-town site.**
2. DCR2008-00103 Findings - Exhibit A, Coastal Development Permit B.1 says: "The wastewater treatment facility is an allowable use at the proposed location (Giacomazzi site) because there is no other feasible location..." **I believe the Mid-town site is a feasible alternative.**
3. DCR2008-00103 Findings - Exhibit A, Coastal Development Permit B.4 says: "Agricultural policies encourage the preservation of viable agriculture. The proposed project is found to minimize agricultural impacts and will provide an additional water supply to promote the continuance of agriculture within Los Osos Valley." **30 acres of farmland would be saved by not using the Giacomazzi site.**

4. DCR2008-00103 Findings - Exhibit A, Coastal Development Permit B.10 says: "Archaeology policies relate to the identification and preservation of archaeological resources will be met by implementation of the required Cultural Resource Treatment Plan and other conditions associated with the protection and preservation of cultural resources." **There is a large prehistoric cultural site that occupies substantial portions of all three parcels north of the cemetery. The best way to preserve these resources is to not put a treatment plant at the Giacomazzi site. The Mid-town site has already been excavated and disturbed.**
5. DCR2008-00103 Findings - Exhibit A, Coastal Development Permit B.12 says: "The project is consistent with the Agriculture and Open Space Element AG Policy 24 regarding conversion of agricultural lands because there is no other feasible location to site the treatment facility within the urban reserve boundary..." **I believe the Mid-town site is a feasible alternative.** E-4
6. DCR2008-00103 Findings - Exhibit A, Coastal Development Permit ~~C.4~~ says: "The treatment plant would be located adjacent to existing grazing lands and Warden Lake. The project will be set back from Warden Lake and provide enhancement of on-site drainage features which drain into Warden Lake." **Plant spills at Giacomazzi have only a short way to go down steep topography to get to Warden Lake and flow to Morro Bay, a National Estuary. The Mid-town site has sandy soils and a greater distance to waterways making spill prevention more easily solved.**
7. DCR2008-00103 Findings - Exhibit A, Streams and Riparian Vegetation N. says: "Alternative locations and routes were evaluated and determined to be infeasible because the location of the wastewater treatment plant requires crossing Los Osos Creek in order to construct the collection system and disposal system which are required elements of the wastewater treatment project." **The Giacomazzi location requires a force main wastewater creek crossing and a purple pipe creek crossing. The Mid-town location would only require a purple pipe creek crossing and would not require any force main wastewater piping going out of town.**

As a separate matter, the preferred treatment plant site was changed from Tonini to Giacomazzi at the Planning Commission July 24, 2009 hearing. I believe this came as a complete surprise to the Los Osos valley residents, the Cemetery management, and the farmers near the Giacomazzi site. I don't know when these people realized that they were getting a wastewater treatment plant in their neighborhood that they will never be able to connect up to.

Don Bearden 8/17/09

Don Bearden's

Appeal re project DRC2008-00103

September 29, 2009

Los Osos Wastewater Project

- Planning Commission has proposed that the project be moved from the out-of-town Tonini site to a near-town Giacomazzi site.

- I believe that the project should be moved back to the Tri-W mid-town site.

Basis for Appeal

Incompatible with the LCP:

- Converts agricultural land unnecessarily.
- Disturbs archaeological sites unnecessarily.
- Makes pollution of Morro Bay more probable.

Condition being Appealed

Condition Number 1.a of DCR2008-00103 authorizes "A wastewater treatment facility, including all appurtenant structures, landscaping and site access to be located on the Giacomazzi site (APN 067-011-022)."

- **The findings suggest no other feasible location.**
  I believe the Mid-town site (APN 074-229-017) is far more feasible than the Giacomazzi site.

Giacomazzi Site 38.2 acres
Next to Cemetery, near Warden Lake/Creek, some prime ag land.

Giacomazzi site:

- 38.2 acres need to be bought.
- 30 acres farmable, 6.6 acres of the farmable acres are prime agricultural soils.
- Steep topography and drainages leading to Warden Lake, less than 500 feet away, on the north east 7 acre area.
- Setbacks from the Cemetery expansion area would be required.
- A portion of a large prehistoric cultural site occupies part of the property.
- Many more studies will need to be done.

Mid-Town Site 11.7 acres
Already bulldozed, already litigated, still has construction fence.

Mid-town site:

- 11.7 acres already owned.
- No agricultural acreage converted.
- Drainage to Morro Bay, a national estuary, is over a half a mile away.
- Site is known to be a shoulder-banded snail habitat, which has been mitigated and can be mitigated again.
- Site has already been bulldozed and is ready for construction.
- No further studies need to be done.

Findings Incompatible with LCP

1. Exhibit A, Environmental Determination A. says:
   "Significant and unavoidable impacts to agricultural resources were identified for the project alternative (Giacomazzi treatment plant site) that was selected by the Planning Commission at the July 24, 2009 hearing."

- **These agricultural impacts are avoidable by selecting the Mid-town site.**

Findings Incompatible with LCP (continued)

2. Exhibit A, Coastal Development Permit B.1 says:
   "The wastewater treatment facility is an allowable use at the proposed location (Giacomazzi site) because there is no other feasible location..."

- **I believe the Mid-town site is a feasible alternative.**

Findings Incompatible with LCP (continued)

3. Exhibit A, Coastal Development Permit B.4 says:
   "Agricultural policies encourage the preservation of viable agriculture. The proposed project is found to minimize agricultural impacts and will provide an additional water supply to promote the continuance of agriculture within Los Osos Valley."

- **30 acres of farmland would be saved by not using the Giacomazzi site. The Mid-town site will supply the same amount of water.**

Findings Incompatible with LCP (continued)

4. Exhibit A, Coastal Development Permit B.10 says: "Archaeology policies relate to the identification and preservation of archaeological resources will be met by implementation of the required Cultural Resource Treatment Plan and other conditions associated with the protection and preservation of cultural resources."

- **There is a large prehistoric cultural site that occupies substantial portions of all three parcels north of the cemetery. The best way to preserve these resources is to not put a treatment plant at the Giacomazzi site. The Mid-town site has already been excavated and disturbed.**

Findings Incompatible with LCP (continued)

5. Exhibit A, Coastal Development Permit B.12 says:
   "The project is consistent with the Agriculture and Open Space Element AG Policy 24 regarding conversion of agricultural lands because there is no other feasible location to site the treatment facility within the urban reserve boundary..."

- **I believe the Mid-town site is a feasible alternative.**

Findings Incompatible with LCP (continued)

6. Exhibit A, Coastal Development Permit E.4 says:
"The treatment plant would be located adjacent to existing grazing lands and Warden Lake. The project will be set back from Warden Lake and provide enhancement of on-site drainage features which drain into Warden Lake."

- **Plant spills at Giacomazzi have only a short way to go down steep topography to get to Warden Lake and flow to Morro Bay, a National Estuary. The Mid-town site has sandy soils and a greater distance to waterways making spill prevention more easily solved.**

Findings Incompatible with LCP (continued)

7. Exhibit A, Streams and Riparian Vegetation N. says: "Alternative locations and routes were evaluated and determined to be infeasible because the location of the wastewater treatment plant requires crossing Los Osos Creek in order to construct the collection system and disposal system which are required elements of the wastewater treatment project."

- **The Giacomazzi location requires a force main wastewater creek crossing and a purple pipe creek crossing. The Mid-town location would only require a purple pipe creek crossing and would not require any force main wastewater piping going out of town.**

Excerpts from a California Coastal Commission letter dated March 25, 2009 of comments on the proposed Los Osos Wastewater Project:

- "Thus, we recommend that the terms and conditions of CDP A-3-SLO-03-113 be used as a starting point for consideration of development terms for the current project."
- "Where such uses are allowed on agricultural land, it must be demonstrated that no alternative building site exists on or offsite and the least amount of land possible is converted."
- "In other words, a tertiary project may make better sense to be sited closer to or in town at the Tri-W site (and potentially off of agricultural lands altogether) …"
- "… and that it not be allowed to induce inappropriate development – whether in or outside the USL."

Mid-town site stopped because:

- We don't need a sewer.
- We don't want a sewer.
- Not in my back yard.
- Move the sewer elsewhere.
- The cost is too much.
- It's too expensive to operate.
- It's the wrong treatment type.
- It's the wrong collection type.
- It's not green enough.
- It doesn't address every sewer issue.

Therefore we ought to stop and start all over again? I don't think so.

Giacomazzi site not feasible because:

- From a social (Los Osos Valley community) standpoint, they don't want another community's problems.
- Los Osos Valley residents can not connect up to treatment plant at Giacomazzi, that would be growth inducing.
- Many people don't want a waste treatment plant next to the Los Osos Cemetery where their loved ones are buried.
- 30 acres of farm land will be taken out of production unnecessarily.
- Archaeological sites will have to be disturbed unnecessarily.
- The Coastal Commission will have to spend many man hours studying the change from the Mid-town site to the Giacomazzi site delaying the project.
- The steep terrain and close proximity to Warden Lake/Creek makes pollution of Morro Bay more probable.
- We would have to buy the Giacomazzi property, whereas we already own the Mid-town property.
- A pressurized sewer main with creek crossing would have to be run from the Mid-town site to the Giacomazzi site.

Therefore we ought to stop the Giacomazzi siting before it gets started.

Other Wastewater Treatment Plants next to residential neighborhoods along the California coast:

- Scotts Valley WWTP
- Santa Cruz WWTP
- Carmel WWTP
- San Simeon WWTP
- Cambria WWTP
- Morro Bay/Cayucos WWTP
- Avila Beach WWTP
- Santa Barbara WWTP
- Montecito WWTP
- Carpinteria WWTP

Los Osos Mid-Town Site

Why can't we put a Scotts Valley type plant at the Los Osos Mid-Town site?

- Good alternative to Giacomazzi site.
- No agricultural land needed.
- Use CDP A-3-SLO-03-113 (Tri-W project) where applicable.
- Would not allow too much growth.

COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL

(1) DEPARTMENT	(2) MEETING DATE	(3) CONTACT/PHONE
Planning and Building	September 29, 2009	Murry Wilson, Environmental Resource Specialist (805) 788-2352

(4) SUBJECT

Hearing to consider an appeal by **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** of the **Planning Commission's approval** of a request by the **COUNTY OF SAN LUIS OBISPO** for a Development Plan / Coastal Development Permit to allow construction and operation of a sewer system to serve the community of Los Osos, which includes a collection system, a sewer treatment facility plant, effluent disposal system, agricultural re-use program, water conservation program, and all associated appurtenant infrastructure in multiple land use categories. The proposed treatment plant site is located at 2198 Los Osos Valley Road, approximately 0.5 miles east of the community of Los Osos (known as the Giacomazzi site) and is located in the Agriculture land use category. The infrastructure for the project is located in the county throughout the community of Los Osos and 0.5 miles east of the community of Los Osos, in the Estero Planning Area. Said project may include an application for USDA Rural Development Funding. (SUPERVISORIAL DISTRICT 2)

(5) SUMMARY OF REQUEST

The Board is being asked to consider the issues raised in sixteen appeal letters associated with a wastewater treatment project for the community of Los Osos which has recently been approved by the Planning Commission. The numerous appeal issues are related to the project description, environmental analysis, mitigation measures, conditions of approval, project costs, analysis of coastal policies, etc. Staff has provided responses to the issues raised in the appeal letters in the attached staff report.

(6) RECOMMENDED ACTION

Adopt the resolution denying the appeals and affirming the decision of the Planning Commission and conditionally approving the application of County of San Luis Obispo – Department of Public Works for a Development Plan / Coastal Development Permit (DRC2008-00103) based on the findings in Exhibit A, the conditions of approval in Exhibit B, and the California Environmental Quality Act (CEQA) findings in Exhibit C.

(7) FUNDING SOURCE(S)	(8) CURRENT YEAR COST	(9) ANNUAL COST	(10) BUDGETED?
None – Coastal Appeal	N/A	N/A	☐ No ☐ Yes ☒ N/A

(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST):

Environmental Health, Agriculture Commissioner, County Parks, Cal Fire, Air Pollution Control District (APCD), California Department of Fish and Game (CDFG), California Coastal Commission, Regional Water Quality Control Board (RWQCB), United States Fish and Wildlife Service (USFWS), Los Osos Community Services District (LOCSD), National Marine Fisheries Service (NMFS), Morro Bay Estuary Program, City of Morro Bay, Army Corp of Engineers (ACOE), California State Lands Commission, Los Osos Community Advisory Council, Northern Chumash Tribal Council, Salinan Heritage Consultants, Native American Heritage Commission, and the Office of Historic Preservation.

(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? ☒ No ☐ Yes, How Many? _____

☐ Permanent ____ ☐ Limited Term ____ ☐ Contract ____ ☐ Temporary Help ____

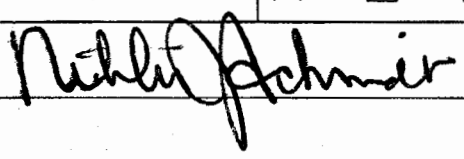
(13) SUPERVISOR DISTRICT(S)	(14) LOCATION MAP	(15) Maddy Act Appointments Signed-off by Clerk of the Board
☐ 1st, ☒ 2nd, ☐ 3rd, ☐ 4th, ☐ 5th, ☐ All	☒ Attached ☐ N/A	☒ N/A

(16) AGENDA PLACEMENT	(17) EXECUTED DOCUMENTS
☐ Consent ☒ Hearing (Time Est.) ☐ Presentation ☐ Board Business (Time Est._____)	☒ Resolutions (Orig) ☐ Contracts (Orig + 3 Copies) ☐ Ordinances (Orig) ☐ N/A ☐ Email Resolution and Ordinance to CR_Board_Clerk (in Word)

(18) NEED EXTRA EXECUTED COPIES?	(19) BUDGET ADJUSTMENT REQUIRED?
☐ Number: _____ ☐ Attached ☒ N/A	☐ Submitted ☐ 4/5th's Vote Required ☒ N/A

(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)	(21) W-9	(22) Agenda Item History
N/A	☒ No ☐ Yes	☒ N/A

(23) ADMINISTRATIVE OFFICE REVIEW



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

TO: BOARD OF SUPERVISORS

FROM: MURRY WILSON, PROJECT MANAGER

VIA: MATT JANSSEN, DIVISION MANAGER

DATE: SEPTEMBER 29, 2009

SUBJECT: HEARING TO CONSIDER AN APPEAL BY **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** OF THE **PLANNING COMMISSION'S APPROVAL** OF A REQUEST BY THE **COUNTY OF SAN LUIS OBISPO** FOR A DEVELOPMENT PLAN / COASTAL DEVELOPMENT PERMIT TO ALLOW CONSTRUCTION AND OPERATION OF A SEWER SYSTEM TO SERVE THE COMMUNITY OF LOS OSOS, WHICH INCLUDES A COLLECTION SYSTEM, A SEWER TREATMENT FACILITY PLANT, EFFLUENT DISPOSAL SYSTEM, AGRICULTURAL RE-USE PROGRAM, WATER CONSERVATION PROGRAM, AND ALL ASSOCIATED APPURTENANT INFRASTRUCTURE IN MULTIPLE LAND USE CATEGORIES. THE PROPOSED TREATMENT PLANT SITE IS LOCATED AT 2198 LOS OSOS VALLEY ROAD, APPROXIMATELY 0.5 MILES EAST OF THE COMMUNITY OF LOS OSOS (KNOWN AS THE GIACOMAZZI SITE) AND IS LOCATED IN THE AGRICULTURE LAND USE CATEGORY. THE INFRASTRUCTURE FOR THE PROJECT IS LOCATED IN THE COUNTY THROUGHOUT THE COMMUNITY OF LOS OSOS AND 0.5 MILES EAST OF THE COMMUNITY OF LOS OSOS, IN THE ESTERO PLANNING AREA. SAID PROJECT MAY INCLUDE AN APPLICATION FOR USDA RURAL DEVELOPMENT FUNDING. (SUPERVISORIAL DISTRICT 2)

RECOMMENDATION

Adopt the resolution denying the appeals and affirming the decision of the Planning Commission and conditionally approving the application of County of San Luis Obispo – Department of Public Works for a Development Plan / Coastal Development Permit (DRC2008-00103) based on the findings in Exhibit A, the conditions of approval in Exhibit B, and the California Environmental Quality Act (CEQA) findings in Exhibit C.

DISCUSSION

The Los Osos Wastewater Treatment Project includes a comprehensive wastewater program for the community of Los Osos. The treatment facility will provide tertiary treatment of wastewater and is designed to treat wastewater for the expected build-out population within the prohibition zone of 18,428 residents.

On August 13, 2009, a Development Plan / Coastal Development Permit was approved to allow the construction and operation of a sewer system to serve the community of Los Osos which includes: a collection system, a sewer treatment facility, effluent disposal system, agricultural re-use program, water conservation program, and all associated appurtenant infrastructure in multiple land use categories. The proposed treatment plant site is located at 2198 Los Osos Valley Road, approximately 0.5 miles east of the community of Los Osos (known as the Giacomazzi site) and is located in the Agriculture land use category. The infrastructure for the project is located in the county throughout the community of Los Osos and 0.5 miles east of the community of Los Osos, in the Estero Planning Area.

The Department of Planning and Building received sixteen (16) appeals of the Planning Commission's decision by numerous community members and organizations. Due to the large number of appeals received on this project, and overlapping issues raised in the individual appeals, the appeal issues have been organized into sixteen (16) categories and one catch-all category of "Other Issues." Table 1 – Appellants / Appeal Issues highlights the general appeal issues raised in the individual appeal letters submitted to the Department of Planning and Building. Responses will be provided to the over arching appeal issues / categories rather than individual appellant issues.

Staff has included in Attachment 2, optional findings and conditions of approval which would further support those adopted by the Planning Commission. Your Board has the option of including any or all of the findings and conditions of approval suggested by staff that are determined appropriate to support the Planning Commission's approval of August 13, 2009. The intent of the changes to the findings and conditions of approval are to clarify, in writing, tasks that are already required to be completed by the applicant and to further support the Planning Commission's approved project in the required findings. Additionally, there are minor "clean-up" changes included in Attachment 2 that your Board may wish to adopt.

The following discussion responds to the issues raised in the appeals under the Coastal Zone Framework for Planning, the Local Coastal Program – Coastal Plan Policies, the California Environmental Quality Act, the Estero Area Plan, and the Coastal Zone Land Use Ordinance (CZLUO).

Staff is recommending that the Board uphold the Planning Commission recommendation for approval.

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Julie Tacker

Mailing Address: P.O. Box 6070

City: Los Osos Zip Code: 93412 Phone: 805-528-3569

SECTION II. Decision Being Appealed

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Wastewater Proejct

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2198 Los Osos Valley Road, Los Osos, CA , APN# 067-011-022

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County Board of Supervisors
San Luis Obispo County Government Center
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See Attached List

(2)

(3)

(4)

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September 29, 2009 speakers at SLO CO. Board of Supervisor's LOWWP Appeal Hearing

Mr. Don Beardon
Mr. Steven Paige
Mr. Barry Branin
Mr. Bruce Corelitz
Mr. Scott Kimura
Mr. Dennis Law
Mr. Jeff Edwards
Ms. Piper Reilly
Ms. Linde Owen
Mr. Keith Wimer
Mr. Al Barrow
Ms. Sarah Corbin
Mr. Jesse Hill
Mr. Andrew Christie
Mr. Chuck Cesena
Ms. Anne Wyatt (Planning Commissioner)
Mr. Eric Greening
Dr. C. Hite
Ms. Lisa Schicker
Ms. Gail McPherson
Ms. Julie Tacker
Mr. Bruce Payne
Mr. Chris Allebe
Ms. Anne Bahme
Mr. Bill Garfinkel
Mr. Phil Gray
Ms. Joyce Albright
Mr. Frank Ausilio
Mr. David Dubbink
Mr. George Taylor
Ms. Gewynn Taylor
Mr. Bill Moylan
Mr. Richard Nyznyk
Ms. Anne Norment
Mr. Fred Collins (Northern Chumash Tribal Council)
Mr. Michael Chamberlain
Ms. Gretchen Clark
Ms. Elaine Watson
Ms. Sharon Frederick
Ms. Vita Miller
Mr. Ben DiFatta
Ms. Jerri Walsh
Mr. Richard Margetson
Mr. Alon Perlman
Ms. Carolina VanStone
Mr. Jack Hunter
Mr. Joe Sparks (Los Osos Community Services District President)
Ms. Katie Franklin

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The Approved Project fails to comply with the following sections of The California Coastal Act/Public Resources Code/s.

Section 30001 Legislative findings and declarations; ecological balance

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of the state and especially to working persons employed within the coastal zone.

Section 30001.5 Legislative findings and declarations; goals

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of this state.

Section 30604 Coastal development permit; issuance prior to certification of the local coastal program; finding that development in conformity with public access and public recreation policies; housing opportunities for low and moderate income persons

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

Significant portions of the Los Osos Wastewater Project are being defered to another project and/or to future mitigation measure, in violation of CEQA and the spirit of the Coastal Act.

Please see the attached discussion related to specific appeal contentions.

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: October 16, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

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California Coastal Commission
725 Front Street
Santa Cruz, CA

October 16, 2009

Attention: Jonathan Bishop

Subject: Appeal of Los Osos Wastewater Project / County File No. DRC2008-00103

Julie Tacker respectfully requests an appeal of the San Luis Obispo County Board of Supervisors approval of the above referenced project to the California Coastal Commission. This appeal text is attached to the official appeal forms for approved development within the Coastal Zone. The County of San Luis Obispo has approved a Development Plan/Coastal Development Permit to allow construction and operation of a sewer system to serve the community of Los Osos, which includes a collection system, a sewer treatment facility plant, effluent disposal system, agricultural re-use program, water conservation program, and all associated appurtenant infrastructure in multiple land use categories, located at 2198 Los Osos Valley Road, approximately 0.5 miles east of the community of Los Osos in the Estero Planning Area. 2nd District.

Said project may include an application for USDA Rural Development Funding. Also approved at the hearing was the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, found that there was evidence that the project may have significant effects on the environment, and therefore a Final Environmental Impact Report (FEIR) was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) for this project. The FEIR addressed potential impacts on: Land Use and Planning; Groundwater Resources; Drainage and Surface Water Quality; Geology; Biological Resources; Cultural Resources; Public Health and Safety; Traffic and Circulation; Air Quality; Noise; Visual Resources and Environmental Justice. Mitigation measures were proposed to address these impacts and are included in the conditions of approval. Overriding considerations were determined necessary based on significant and unavoidable impacts associated with agricultural resources.

As a longtime resident (1971-current), property owner and former Director of the Los Osos Community Services District (2004-2008) I have been fully engaged in all aspects of the Los Osos Wastewater Project over the last 8 years.

I support a wastewater project for Los Osos and have participated as an involved citizen during the project development throughout the County of San Luis Obispo's current effort beginning in June 2006. At every turn in the public process I have raised my concerns, yet to date remain unsatisfied with the resulting project.

To have my concerns adequately considered I am forced to appeal the San Luis Obispo County Board of Supervisors approval of the Los Osos Wastewater Project of September 29, 2009 to the California Coastal Commission.

I respectfully request a de Novo review of the project.

Thank you for your consideration, *Julie Tacker*

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The Los Osos Wastewater Project as approved violates:

Section 30001 Legislative findings and declarations; ecological balance

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of the state and ***especially to working persons employed within the coastal zone.***

Section 30001.5 Legislative findings and declarations; goals

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the ***social and economic needs of the people of this state.***

Section 30604 Coastal development permit; issuance prior to certification of the local coastal program; finding that development in conformity with public access and public recreation policies; housing opportunities for low and moderate income persons

(g) The Legislature finds and declares that it is important for the commission to ***encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.***

AB2701 the bill passed by the Assembly in 2006 gives the County of San Luis Obispo specific authority to best meet the needs of Los Osos and its water *and* wastewater issues.

> *(c) The county may undertake any efforts necessary to construct and operate a community wastewater collection and treatment system to meet the wastewater collection and treatment needs within the district. These efforts may include programs and projects for recharging aquifers, preventing saltwater intrusion, and managing groundwater resources to the extent that they are related to the construction and operation of the community wastewater collection and treatment system. These efforts shall include any services that the county deems necessary, including, but not be limited to, any planning, design, engineering, financial analysis, pursuit of grants to mitigate affordability issues, administrative support, project management, and environmental review and compliance services. The county shall not exercise any powers authorized by this section outside the district.*

The project as presented by the applicant fails to address the serious threat of seawater intrusion to the Los Osos Groundwater Basin. This has resulted in the Certification of a Level III Severity for supply in the lower basin under the Resource Management System. It appears the rate of intrusion is increasing rapidly in a manner that threatens the continued use of the lower basin for domestic supplies. A goal of this appeal is to ask the California Coastal Commission to further address the water supply

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issues in Los Osos by implementing programs and projects for replenishing aquifers, preventing seawater intrusion, and managing groundwater resources to the extent that they are related to the construction and operation of the community wastewater collection and treatment system. AB2701 enables the County through implementation of the wastewater project to concurrently address groundwater management issues including the method of effluent disposal that maximizes mitigation to seawater intrusion occurring in the lower basin this includes construction of all necessary conveyance systems, acquisition of necessary real property or easements and permitting.

The appellant objects to the general approach the project takes assuming the water purveyors (Interlocutory Stipulated Judgment, ISJ) will beneficially use treated effluent to the extent the project does not. This will include necessary planning, design, permitting, funding and construction of water resource infrastructure to manage the Los Osos Groundwater Basin. In light of the sensitive project area, the appellant requests that the California Coastal Commission recognize and modify the project to eliminate the need for water purveyors to plan, design, permit and finance water infrastructure development in the future and compel the wastewater project to include these features. The current project enjoys treatment under Section 7 under the Federal Endangered Species Act, while future purveyor projects would likely be delayed by the onerous and costly pursuit of an incidental take permit under Section 10 of the Act.

If beneficial use of the treated effluent isn't made part of the LOWWP it will be deferred into the future with an uncertain outcome and at an unknown cost. This is inconsistent with CQEA and the Coastal Act. The ISJ is coercive, not compulsory and future projects to be performed by purveyors identified in the ISJ Work Program may or may not ever be accomplished. (See ISJ Work Program attached as Exhibit 1).

The project purports to serve existing developed properties. The current deficit in the lower groundwater basin from seawater intrusion has resulted from the very development the project will serve. It is a well known legal and planning precept that deficits or limitations concerning a given resource may not be made up or offset by future development. For example, 66000 of the Government code requires a demonstration that development pay solely for the impacts associated with such and not for any existing deficiencies. The project may not proceed without a showing that the entire 469 AFY deficit in the lower groundwater basin is addressed and not the 120AFY or so the current project achieves.

Over many years the Los Osos Wastewater Project (LOWWP) has risen in price from under $40 million in the 1980's to $70 million in 998 to $165 million today. This growing number has desensitized the community to cost and in 2007 the majority of developed property owners who "just want it over" voted to assess themselves $127 million or $25,000 per home. Many of those who voted in the affirmative can not afford the project and anticipated taking advantage of the Senior Citizens' Property Tax Deferral Program which is now defunct. (See Exhibit 2 from LOWWP website). The project applicant used the $25,000 benefit price tag in a 218 assessment ballot proceeding calling it a "cap", when in fact the operations and maintenance costs are excluded.

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A local comparison of public works project in San Luis Obispo County

Nacimiento Water Pipeline Project $175,000,000
Divided by 110,000 (5 communities) people = $1,500 per capita

Los Osos Wastewater Project $165,000,000
Divided by 12,500 (Prohibition Zone) people = $13,200 per capita
(nearly 9X greater)

The LOWWP's exclusion of vacant properties triggers additional economic hardship for the residents/property owners of the Prohibition Zone. The already high cost of the project will increase significantly without the shared cost by vacant properties expected to be served by the project. These 500 +/- vacant properties have not been, and will not be, assessed to pay for their share of project for many years. This approach leaves the entirety of $165,000,000 to be paid wholly by the 12,500 current residents of the Los Osos Prohibition Zone. The loss of 'economies of scale' is staggering; an additional $27+ million dollars will be borne by the current population for a project that narrowly addresses water resources.

Conditions of Approval (COA) 86 and 92 underscore the inability of vacant properties to participate and benefit from the project, further reinforcing un-affordability for the current population. As approved, no infill development will take place until a Groundwater Management Plan (GWMP), Habitat Conservation Plan (LOHCP) and amendments to the Estero Area Plan have all been adopted, certified and incorporated into the Local Coastal Plan. The timeline for each of these hurdles is unknown.

1. The Groundwater Management Plan is being pursued through the ISJ agreement. The applicant suggests the current efforts to, prepare, evaluate and draft a Ground Water Management Plan for the Los Osos basin will be completed by the end of this calendar year (2009), sources within the ISJ disagree. (See Exhibit 1 ISJ Work Program) These efforts, while important, do not identify who will do what and with what funds. Recent studies (publicly released July 29, 2009) have yet to be peer reviewed. No parties of the ISJ have "signed off" on their conclusions as set forth by the hydrogeologist consultants. It will likely take years to have agreement among purveyors and costs associated for implementation will be borne by the same Los Osos residents (but for 6% of the community outside the PZ that receive community water from Golden State Water Company primarily) via their water bills.

Customers served by water purveyors in the area "outside the Prohibition Zone" are fewer than once thought. While 13% of the community resides outside the RWQCB Prohibition Zone (PZ) boundary, just 6% of those are served by community water. The remaining 7% are served by their own private wells. There is little benefit in entering into a legal battle with private well owners to achieve so little in cost sharing for basin management. Credible legal opinions suggest the cost to litigate would be greater than

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the benefit received.

2. The LOHCP had been drafted several times and nearly $300,000 spent in pursuit of the 2005 LOCSD's LOWWP. On June 23, 2009, the County accepted $385,000 in grants from California Department of Fish and Game and the Morro Bay National Estuary Program and allocated $135,000 of matching funds to reconvene work on the communitywide LOHCP. San Luis Obispo County Planning staff estimates completion dates that vary from 3-5 years. A significant complication relates to the Morro Kangaroo Rat and the inability of an HCP to allow incidental take. Given its protective status.

3. The amendments to the Estero Area Plan can not and will not begin until the previous tasks are complete.

Several conditions and mitigation measures drive the cost of the project up and should be better scrutinized to reduce economic impacts of the project. These conditions were raised at the County level but were ignored or not adequately answered.

Condition 87: Monitoring Wetlands

Monitoring wetland health/preserving artificial wetlands along the bay fringe. While this a noble effort, much of these wetlands were established by septic discharge and urban runoff, competing sea level rise will make it nearly impossible to delineate and very expensive to mitigate for losses over time.

Condition 61: Revegetating Broderson

An estimated $200,000 in native plants, watered, and monitored for success, then stripped and replanted every 5 years for leachfield maintenance is counterproductive. This area will be fenced as part of the leachfield utility yard, workmen will be accessing this area regularly; to invite endangered species back to the property just to "take" them again is very expensive and contrary to protection of the species. The intent of preserving the 72 (or 73 as the current project proposes) acres of Broderson adjacent to the leach field was to mitigate for project impacts. Drainage and erosion mitigation can be accomplished less expensively through engineering design (i.e. Low Impact Development).

Condition 17: Hours of Construction

a. The approval allows construction to take place from 7:00am – 9:00pm on weekdays and 8:00am – 5:00pm on weekends. Construction during daylight hours is optimal for the environment; wildlife can be confused by unfamiliar lighting. There are no mitigation measures provided for these activities.

b. These extended hours of construction are in excess for a bedroom community.

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The project approved fails to adequately address:

1. Growth Inducing potential:

a. The project failed to analyze all feasible treatment site alternatives, including the Gorby site, uniquely positioned adjacent to the Urban Reserve Line, alleviating growth inducing concerns.

b. As required for the Millennium High School in Watsonville, this project should be a conditioned to develop a utility easement/"Utility Donut" or "Watsonville Straight Jacket" restricting service to only those served by the project within the Prohibition Zone.

2. Decommissioning Septic systems.

a. The contents of septic tanks is different than wastewater, this material is concentrated and requires special handling. The LOWWP removes the contents of 4,770 septic tanks and does not specify where these materials will go. The project does not specify the interval in which individual homes will hook up to the wastewater collection system. The response to comments by the EIR author claims *"A typical part of the building of any new treatment works is the development of an **initial operations plan**. As part of the plan, issues dealing with septage disposal will certainly be considered and coordinated with the Santa Maria plant and others"*. Local treatment facilities are ill-equipped to handle large volumes of this concentrated material. Deferring this analysis violates CEQA by segmenting the "Initial Operations Plan" to future analysis and unknown mitigation.

b. In 2006, the Air Pollution Control District deemed a similar proposal by a Regional Water Quality Control Board enforcement action levied on the Los Osos Prohibition Zone, pumping of thousands of septic systems 'a project in and of itself' and needed CEQA analysis. The DEIR does not adequately analyze the truck trips and air quality impacts associated with hundreds of trips to the Santa Maria Wastewater Treatment Facility (the local facility that currently taking septage from Los Osos and other areas within SLO Co.).

c. The EIR author responds to this question in the FEIR saying septic tanks can be pumped at some other time, after hook up. (P24-33) This duplicative on lot disturbance is not only impractical, costly, unanalyzed and infeasible.

3. Wetland Impacts/pump stations:

a. Staff admits that wetland surveys have not been done since 2005. The 18th and Paso is well within the necessary 75 ft. set back. To move the pump

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station after the permitting constitute a Change Order, thus increasing the cost of the project.

b. Additionally, the Paso and 3rd St. pump station was located at 4th and Paso in the 1998 project, using hybrid technologies to locate away from the bay fringe. This pump station is also vulnerable to sea level rise.

4. Staging Areas

a. The only staging area analyzed in the DEIR within the urban area of Los Osos is the 6 acre parcel at Pismo and South Bay Blvd., this parcel is **inconsistent** with COA 35.j, (air quality) receptors are not to be within 1000 feet of staging areas. The Los Osos Middle School and numerous homes surround the site. This location is also **inconsistent** with COA 54 (aesthetics) relative to the highly visual nature in the public view to travelers on South Bay Blvd., a 'scenic highway' as defined by the Estero Area Plan, updated and approved by the California Coastal Commission in July 2008.

b. The LOWWP Notice does not mention the intensity of such an operation within a neighborhood and the impacts staging heavy equipment for several years at that location. The average public would not know that the project impact them as such without being notified to read the DEIR.

5. Private Property Lateral Connections

Archeologists/monitors and biologists may be necessary for private home lateral excavations in sensitive areas (both habitat and archeological). Some wetland indicating plants (i.e. willow trees) have been established on private properties directly due to leachfield use. How does the project mitigate for sensitive resources on private property and costs associated with professional consultants?

6. Treatment Facility Water Use

The treatment facility will use fresh drinking water for some operations; employee breakroom, restrooms, showers, etc. This use has not been quantified, nor has it been mitigated for. Recent amendments to Title 19 require any new development within the Los Osos Groundwater Basin retrofit existing homes to offset its use on a 2:1 ratio. This mitigation appears to have been overlooked by the applicant and permitting authorities.

Tacker Exhibit 1

ISJ Participants Work Program
For Los Osos Groundwater Basin

Task 1

- Update Steady State Hydraulic Model
- Adjust Build-out Projections of the Basin Water Demand, including water conservation
- Preliminary Evaluation of Nitrate Removal Unit
- Assess the potential of the upper aquifer before and after wastewater project

Task 2

- Evaluate and Determine Creek Compartment Safe Yield
- Perform Sampling Analysis for Water Quality of Creek Compartment

Task 3

- Prepare Groundwater Basin Infrastructure Master Plan
- Evaluate Groundwater Recharge Opportunities
- Evaluate Options for Beneficial Re-Use of Reclaimed Water
- Prepare a Draft Basin Management Plan

Task 4

- Prepare a Transient, Dual-Density Hydraulic Model of the Groundwater Basin

Task 5

- Annual Groundwater Monitoring
- Transient Model Updates Every Two Years

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Tacker Exhibit 2 From LOWWP project website

**Appellants comments are in italics.*

Affordability Assistance

The following links provide households (homeowners and renters) within Los Osos loan and/or grant opportunities and financial assistance for the wastewater project. Unless otherwise noted, the household is responsible for contacting and applying for the assistance.

California State Controller's Office

Property Tax Postponement for Senior Citizens, Blind or Disabled Citizens

Synopsis: Allows eligible homeowners to postpone payment of the property taxes on their principle place of residence. Special assessments are eligible for postponement.

Additional Information:

How to Apply: Visit the link above and complete the required application, or call 1-800-952-5661

THIS PROGRAM HAS BEEN SUSPENDED INDEFINITLY

California State Franchise Tax Board

Homeowner and Renter Assistance

Synopsis: Once-a-year payment to qualified individuals for part of their property taxes or portion of their rent that indirectly covers property taxes. Special assessments are not eligible for postponement, however, qualifying individuals can lower their overall tax liability by receiving the payment.

Additional Information:

How to Apply: Visit the link above and complete the required application or call 1-800-868-4171

SPECAIL ASSESSMENTS ARE NOT ELIGIBLE FOR POSTPONEMENT

United States Department of Agriculture, Rural Development

Single Family Housing Repair Loans/Grants - Section 504

Synopsis: Loan and/or grant to low income households for home improvements. Qualifying households may use funds for "on-lot" costs.

Additional Information:

APPLIES TO COMMUNITIES OF LESS THAN 10,000 per capita. Only applies to "on lot" costs. Ongoing wastewater related expenses are not eligible.

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FACSIMILE TRANSMITTAL SHEET

To: Diana Chapman	From: **Julie Tacker**
Fax Number:: 831-427-4877	Date: October 16, 2009
Company: **California Coastal Commission**	Total Number of Pages Including Cover: **15**
Re:	Appeal of Los Osos Wastewater Project

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

Memo:

Thank you for your attention to this matter.

Hard copy to follow.

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Feel free to call 805-528-3569 with any questions,

Julie

P.O. BOX 6070
LOS OSOS, CA 93412

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CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: J. H. Edwards Company, Jeff Edwards

Mailing Address: P.O. Box 6070

City: Los Osos Zip Code: 93412 Phone: 805-235-0873

SECTION II. Decision Being Appealed

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Wastewater PRoejct

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2198 Los Osos Valley Road, Los Osos, CA, APN#067-011-022

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC2008-10103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County
San Luis Obispo County Government Center
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See Attached

(2)

(3)

(4)

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September 29, 2009 speakers at SLO CO. Board of Supervisor's LOWWP Appeal Hearing

Mr. Don Beardon
Mr. Steven Paige
Mr. Barry Branin
Mr. Bruce Corelitz
Mr. Scott Kimura
Mr. Dennis Law
Mr. Jeff Edwards
Ms. Piper Reilly
Ms. Linde Owen
Mr. Keith Wimer
Mr. Al Barrow
Ms. Sarah Corbin
Mr. Jesse Hill
Mr. Andrew Christie
Mr. Chuck Cesena
Ms. Anne Wyatt (Planning Commissioner)
Mr. Eric Greening
Dr. C. Hite
Ms. Lisa Schicker
Ms. Gail McPherson
Ms. Julie Tacker
Mr. Bruce Payne
Mr. Chris Allebe
Ms. Anne Bahme
Mr. Bill Garfinkel
Mr. Phil Gray
Ms. Joyce Albright
Mr. Frank Ausilio
Mr. David Dubbink
Mr. George Taylor
Ms. Gewynn Taylor
Mr. Bill Moylan
Mr. Richard Nyznyk
Ms. Anne Norment
Mr. Fred Collins (Northern Chumash Tribal Council)
Mr. Michael Chamberlain
Ms. Gretchen Clark
Ms. Elaine Watson
Ms. Sharon Frederick
Ms. Vita Miller
Mr. Ben DiFatta
Ms. Jerri Walsh
Mr. Richard Margetson
Mr. Alon Perlman
Ms. Carolina VanStone
Mr. Jack Hunter
Mr. Joe Sparks (Los Osos Community Services District President)
Ms. Katie Franklin

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See Attached

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SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

JEFF EDWARDS

Signature of Appellant(s) or Authorized Agent

Date: October 16, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

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California Coastal Commission
725 Front Street
Santa Cruz, CA

October 16, 2009

Attention: Jonathan Bishop

Subject: Appeal of Los Osos Wastewater Project / County File No. DRC2008-00103

The J. H. Edwards Company respectfully requests an appeal of the San Luis Obispo County Board of Supervisors approval of the above referenced project to the California Coastal Commission. This appeal text is attached to the official appeal forms for approved development within the Coastal Zone. The County of San Luis Obispo has approved a Development Plan/Coastal Development Permit to allow construction and operation of a sewer system to serve the community of Los Osos, which includes a collection system, a sewer treatment facility plant, effluent disposal system, agricultural re-use program, water conservation program, and all associated appurtenant infrastructure in multiple land use categories, located at 2198 Los Osos Valley Road, approximately 0.5 miles east of the community of Los Osos in the Estero Planning Area. 2nd District.

Said project may include an application for USDA Rural Development Funding. Also approved at the hearing was the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, found that there was evidence that the project may have significant effects on the environment, and therefore a Final Environmental Impact Report (FEIR) was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) for this project. The FEIR addressed potential impacts on: Land Use and Planning; Groundwater Resources; Drainage and Surface Water Quality; Geology; Biological Resources; Cultural Resources; Public Health and Safety; Traffic and Circulation; Air Quality; Noise; Visual Resources and Environmental Justice. Mitigation measures were proposed to address these impacts and are included in the conditions of approval. Overriding considerations were determined necessary based on significant and unavoidable impacts associated with agricultural resources.

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Throughout this appeal document, the J. H. Edwards Company, herein referred to as "Appellant" will bring attention to shortfalls in the approved project, demonstrate inadequacy in the Final Environmental Impact Report (FEIR) relative to the approved project and inconsistencies with the County of San Luis Obispo's Certified Local Coastal Plan and the Coastal Act. The approved project is that project approved by the San Luis Obispo County Board of Supervisors on September 29, 2009 including the Findings and Conditions. The appellant has been a resident of the community of Los Osos since 1976 and has been a supporter of wastewater project since 1982. Furthermore, the appellant supports the use of a gravity-hybrid collection system as approved by the Board of Supervisors. Additionally, the appellant supports the use of the Broderson site (APN# 074-022-073 and 074-022-074) for purposes of disposing of treated effluent during periods of wet weather.

While supportive of the adjustments made to the Los Osos Wastewater Project (LOWWP) by the Planning Commission on July 24, 2009, specifically removing all aspects for use of the 3515 Turri Road aka "Tonini" property from the project, the Planning Commission's effort does not go far enough to bring a comprehensive wastewater project to the community of Los Osos. Neither did the action of the Board of Supervisors on September 29, 2009 include provisions that would have obviated the appellants concerns. The project falls short in a number of areas including identification of dry weather options for disposal of treated effluent, the treatment site location, disposal methodology at the Broderson site, and miscellaneous other appeal contentions. The standard for review for the proposed LOWWP is conformity with and adequacy to carry out the provisions of the County's Certified LCP and the Coastal Act.

Appeal Contention No. 1: Construction of AB2701

The bill passed by the Assembly in 2006 gives the County of San Luis Obispo specific authority to best meet the needs of Los Osos and its water *and* wastewater issues.

> *(c) The county may undertake any efforts necessary to construct and operate a community wastewater collection and treatment system to meet the wastewater collection and treatment needs within the district. These efforts may include programs and projects for recharging aquifers, preventing saltwater intrusion, and managing groundwater resources to the extent that they are related to the construction and operation of the community wastewater collection and treatment system. These efforts shall include any services that the county deems necessary, including, but not be limited to, any planning, design, engineering, financial analysis, pursuit of grants to mitigate affordability issues, administrative support, project management, and environmental review and compliance services. The county shall not exercise any powers authorized by this section outside the district.*

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The project as presented by the applicant fails to address the serious threat of seawater intrusion to the Los Osos Groundwater Basin. This has resulted in the Certification of a Level III Severity for supply in the lower basin under the Resource Management System. It appears the rate of intrusion is increasing rapidly in a manner that threatens the continued use of the lower basin for domestic supplies. A goal of this appeal is to ask the California Coastal Commission to further address the water supply issues in Los Osos by implementing programs and projects for replenishing aquifers, preventing seawater intrusion, and managing groundwater resources to the extent that they are related to the construction and operation of the community wastewater collection and treatment system. AB2701 enables the County through implementation of the wastewater project to concurrently address groundwater management issues including the method of effluent disposal that maximizes mitigation to seawater intrusion occurring in the lower basin this includes construction of all necessary conveyance systems, acquisition of necessary real property or easements and permitting.

The appellant objects to the general approach the project takes assuming the water purveyors (Interlocutory Stipulated Judgment, ISJ) will beneficially use treated effluent to the extent the project does not. This will include necessary planning, design, permitting, funding and construction of water resource infrastructure to manage the Los Osos Groundwater Basin. In light of the sensitive project area, the appellant requests that the California Coastal Commission recognize and modify the project to eliminate the need for water purveyors to plan, design, permit and finance water infrastructure development in the future and compel the wastewater project to include these features. The current project enjoys treatment under Section 7 under the Federal Endangered Species Act, while future purveyor projects would likely be delayed by the onerous and costly pursuit of an incidental take permit under Section 10 of the Act.

If beneficial use of the treated effluent isn't made part of the LOWWP it will be deferred into the future with an uncertain outcome and at an unknown cost. This is inconsistent with CQEA and the Coastal Act. The ISJ is coercive, not compulsory and future projects to be performed by purveyors identified in the ISJ Work Program may or may not ever be accomplished. (See ISJ Work Program attached as Exhibit 1).

The project purports to serve existing developed properties. The current deficit in the lower groundwater basin from seawater intrusion has resulted from the very development the project will serve. It is a well known legal and planning precept that deficits or limitations concerning a given resource may not be made up or offset by future development. For example, 66000 of the Government code requires a demonstration that development pay solely for the impacts associated with such and not for any existing deficiencies. The project may not proceed without a showing that the entire 469 AFY deficit in the lower groundwater basin is addressed and not the 120AFY or so the current project achieves.

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Appeal Contention No. 2: **Inadequate Review of Alternatives**

The Final Environmental Impact Report fails to adequately analyze feasible alternatives: Specifically, Conditions of Approval, Approved Development 1.a and 1.d.

Disposal Plan Alternative Analysis:

The applicant claims to have done a co-equal analysis of effluent disposal alternatives. On the contrary, the applicant provides only one disposal scheme, a two pronged approach by which 2/3 of the effluent is sprayed on the Tonini site in an effort to "lose" the wastewater and 1/3 dedicated to the Broderson site for subsurface disposal. The approved dry weather effluent disposal plan was not analyzed in the DEIR, remains unanalyzed and is deficient in many areas.

Dry Weather Effluent Disposal Concept Approved by the County is Infeasible

The following is language included in approved Condition #97 *"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. New paragraph - Total agricultural re-use shall not be less than 10% of the total treated effluent. New paragraph - 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."* Please see map labeled as Attachment 4 included and color coded list of property owners that would potentially participate in the programs associated with effluent disposal. (Attached as Exhibit 2).

The approved project as conditioned above fails to adequately address seawater intrusion migrating into the lower basin. The Broderson site is intended to serve as the wet weather disposal option. Wintertime disposal is proposed at the Broderson site using leachfields for subsurface disposal. Gravity/dry wells should be considered for subsurface disposal instead of the leachfields because of superior performance with respect to groundwater mounding as discussed in the March 2004 geotechnical report prepared by Fugro West, Inc. It is anticipated Broderson will be used exclusively for treated effluent disposal during periods of wet weather. However, the approved plan fails to deploy the treated effluent during dry weather in a manner that optimizes lower basin replenishment to slow the rate of seawater intrusion. (See Broderson Prototype Drywell test attached as Exhibit 3).

Effluent disposal should be considered in a seasonal context. Summertime deployment of treated effluent in an Ag in-lieu disposal scenario would work in concert

with disposal into Los Osos Creek where the lower basin is exposed during dry weather. A creek discharge of treated effluent would likely have a high seawater intrusion mitigation factor given the unique hydrogeologic characteristics of the lower groundwater basin. (Please see Technical Memo #3 prepared by Kenneth Schmidt, July 10, 2006). An NPDES permit for the surface water discharge would be required. This disposal option was the dry weather disposal option for the LOWWP as discussed in the Morro Group August 1987 FEIR and Appendices; and Morro Group September 1989, SEIR..

A key distinction relates to the use of the words "Ag-Exchange and Ag In-lieu". Ag-Exchange is a relationship where farmers receive treated effluent and they provide fresh water supplies from their wells in exchange. Given the uncertain water quality underlying agricultural uses in Los Osos Valley an in-lieu program appears more desirable. An ag in-lieu program would provide treated effluent to farmers in consideration of farmers not pumping their wells overlying the Creek Compartment of the Los Osos groundwater basin. Ag In-Lieu should be a lower priority disposal option given its minimal seawater intrusion mitigation (0.1). It is clearly a mistake to reserve any minimum allocation (10%) for ag-reuse as the approved project does when higher priority options for disposal are available. The agricultural wells in the Los Osos Valley are substantially removed from the seawater intrusion wedge in contrast to the ag interests in Monterey County that receive treated effluent from the MRWPCA.

Additionally, a 10% minimum reservation for "Environmental" may have little to no seawater intrusion mitigation. At present the only known location for such disposal is the Willow Creek wetland system that will receive 33AFY which is substantially less than the 120AFY provided for in the approval.

As for urban reuse so called "purple pipe", there are limited opportunities, if any, to utilize treated effluent for Urban Reuse. Locations, including schools, golf course and the cemetery are problematic for a number of reasons. The most notable constraint is the cost to convey treated effluent to any given location as compared to the economic benefits of receiving the effluent. Neither the project or potential recipients of treated effluent for urban reuse will pay for the costly conveyance infrastructure. California Water Code 13550 cannot compel private properties overlying the groundwater basin to terminate well extractions which in most cases serve turf irrigation needs in the community. (E.g. Sea Pines Golf Resort, Simple Tribute Cemetery).

With regard to individual residences, the exterior water use in Los Osos is only thirty percent (30%) of daily water use and with drought tolerant landscaping, exterior water use will likely be reduced further in the future. The cost benefit analysis of providing purple pipe to all homes in the community is cost prohibitive. The following table summarizes effluent disposal locations as proposed under the current Board of Supervisors approval as compared to alternatives.

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Effluent Disposal Summary

BOS Approved		Appellant Proposed	
Disposal Location	**AFY**	**Disposal Location**	**AFY**
Broderson	448	Broderson	448
Ag In-Lieu 10% min.	522	Creek Discharge	350
Urban Reuse	110	Ag In-Lieu	369
Environmental 10% min.	120	Limited Urban Reuse (Willow Creek)	33
Total	**1200AFY**	**Total**	**1200AFY**

The ability to check the rate of seawater intrusion in the lower basin should be the single focus of an effluent disposal plan for the project. The wet weather disposal at Broderson in combination with a dry weather creek discharge and ag-in-lieu program has the greatest seawater intrusion mitigation and will allow the community of Los Osos to continue to rely primarily on the lower basin for domestic water supplies. In the absence of a sound and feasible dry weather disposal plan, 100% reliance on the Broderson site year round may be necessary resulting in significant downstream impacts that have not been fully analyzed.

As a housekeeping item it is unclear what roll if any the following properties in connection with the approved project, specifically concerning the effluent disposal plan. *"a portion of the effluent disposal system to 2350 and 2780 Los Osos Valley Road (APN's 067-031-008 Andre; 067-031-011, Andre; 067-031-037, Robbins; and 067-031-038, Robbins)."*

Treatment Sites Alternatives analysis:

The applicant claims to have performed a co-equal analysis of project treatment site alternatives. Arguably, the most viable site, Gorby, was not analyzed as a treatment plant location. The Planning Commission efforts to relocate the treatment facility from the Tonini site to the Giacomazzi site are appreciated, yet the constraints identified in the DEIR render their decision infeasible, when potentially feasible alternatives exist.

San Luis Obispo County Agricultural Policy 24 contained in the Agricultural & Open Space Element and California Coastal Act Section 30250 discourages conversion of agricultural lands to non agricultural uses through the following policies:
AGP a. (4). *Avoid location new public facilities outside urban and village reserve lines unless they serve a rural function or there is no feasible alternative location within the urban village reserve lines.*
California Coastal Act Section 30250: Location, existing developed area (a) *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located with, contiguous with, or in close proximity to, existing*

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developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land division, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The appellant agrees there are no feasible alternatives for a treatment plant site within the Urban Reserve Line (URL) including the Tri-W site, but there is a potentially feasible location **adjacent to** the URL at the Gorby site on the urban fringe. A project at Gorby would likely be consistent with AGP 24 and Section 30250, would also reduce environmental effects and it would provide the broadest options for beneficial re-use of treated effluent via its strategic location as a distribution hub. Condition of Approval, 95, Mitigation 5.11-A1, requires procurement of an ag easement related to the conversion of ag resources which is not applicable to the Gorby site.

The Giacomazzi site is considered "Farmland of Statewide Importance", once used for irrigated pasture, dryland farming, confined livestock, or dairy facilities, aquiculture poultry facilities, or dry grazing that has since become idle. See Exhibit 5.11-2, Farmland Designations map. In contrast, the Gorby site holds no distinction due to the fact that the parcel currently operates as an equestrian facility.

Physical characteristics of the Cemetery, Branin and Gacomazzi sites only differ slightly. The similarities of these parcels hardly provide alternatives for an exhaustive treatment site analysis. An adequate alternatives analysis would have included all potential sites adjacent to or near the URL. In essence there were only two treatment sites reviewed by the FEIR, the Cemetery Complex and Tonini.

The Giacomazzi site raises significant growth inducing questions, as it is located approximately one-half (0.5) mile from the Los Osos Urban Reserve Line (URL). AGP 24 a. (4) and California Coastal Act Section 30250.

In the DEIR the Giacomazzi site is mapped as having "Very High Potential" for liquefaction. Conversely, the CEQA Findings characterize the Giacomazzi site as having "low potential for liquefaction"; the latter statement appears to be in error. The record shows that the Gorby site is in an area of "Moderate Potential" for liquefaction.

The Giacomazzi site is considered a Visual Resource under Section 23.04.210 of the CZLUO, the parcel is in the foreground of the Morro's Scenic Corridor, this open space is a scenic, visual resource that could be protected if the Gorby site was analyzed as a potentially feasible alternative.

California Coastal Act Section 30251:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to

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protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The Giacomazzi treatment plant layout as presented at the Planning Commission hearing of August 13, 2009, please see site Layout Plan labeled as Attachment 2 (Exhibit 4) clearly ignores impacts to wetlands. Considerable testing was done onsite, with pits dug at W-1 and W-2 drainage fingers that form a funnel criss-crossing the Giacomazzi site at the project location. These pits identified wetland characteristics of the land. Specifically, W-1 Pits 4-6 identified hydrophytic vegetation; hydric soils and wetland hydrology were encountered during the study. Due to agricultural practices much of the vegetation (hydrophytic) that would otherwise be present in these areas has been disked under apparently reducing overall area of project impacts. The Sensitive Biological Resources Map (FEIR Exhibit 6) clearly demarcates wetland fingers bisecting the Giacomazzi parcel. These wetland fingers represent environmentally sensitive habitat areas (ESHA) and are afforded protections under the LCP.

The FEIR further identifies Special Status Wildlife in the vicinity of the Giacomazzi drainage features specifically;

California Tiger Salamander
Southwestern Pond Turtle
Coast Range Newt
Two Stripe Garder Snake
Northern Harrier
Yellow Warbler
*Southwestern Willow Flycatcher

*Federal and State listed endangered species.

These species are all associated with the Warden Lake and Warden Wetlands which are adjacent to the Giacomazzi site. There are no mitigation measures proposed for impacts to wetlands on the Giacomazzi site.

It is consistent with planning policies to avoid impacts wherever possible, the constraints of the Giacomazzi site are such that feasible alternatives should be explored in an effort to reduce impacts to wetlands and ESHA's. CZLUO Section 23.07.172 e. (1) Wetlands Site Development Standards and Section 23.08.288(d) Public Utilities Facilities Development Standards. The LUP requires that only resource dependant uses be allowed within ESHA; that is new development must completely avoid ESHA if it is not dependant on the ESHA.

CZLUO, 23.05.034 (c), Grading Standards, will be violated by grading within 100 feet of ESHA as part of a project at the Giacomazzi site, due to alterations necessary to drainage finger W-1 into Warden Wetland and Warden Lake and on to Morro Bay.

The appellant has provided a Pro-Con Analysis of the Gorby site for the benefit of the Board. While this property was identified in the FEIR it was not analyzed fully. It remains an unanalyzed potentially feasible alternative and therefore must be analyzed before the finding can be made as required by AGP 24 a. (4) and California Coastal Act Section 30250.

Gorby Pro-Con Analysis

Advantages of Gorby Property

(Los Osos Valley Equine Farm, 1869 Los Osos Valley Rd.)

Gorby is 50 acres in total area with approximately 20 acres of usable flat land presently occupied by an equestrian facility in the box canyon at the South west corner of the Los Osos Valley. A number of unique hydrogeologic characteristics are present at or near this location. The site abuts Los Osos Creek, overlies the creek compartment and the Los Osos Groundwater Basin. Also, the site is outside of the clay aquitard and is near outcroppings of the lower groundwater basin. The site is accessible from Los Osos Valley Road approximately six-tenths (0.6) of a mile to the South. The conversion of the horse ranch to a wastewater treatment facility and distribution hub for the beneficial reuse of treated effluent represents an adaptive reuse of the site and optimizes water resource management. Please note that the Gorby site is already developed, impacts to biology, archeology, and prime ag (6 acres identified in the DEIR) are impacts already realized. The use of the Gorby site in a redevelopment/Brownfield scenario for a wastewater treatment facility and treated effluent distribution hub is the highest and best use of the site all things considered. Please see Treated Effluent Distribution map attached, the Gorby site represents a "small footprint" project with associated cost savings. The National Water Resource Institute failed to analyze a surface water discharge disposal option into Los Osos Creek nor did they review the Gorby site as a potential treatment location and effluent distribution hub on a seasonal basis.

** Gorby currently boards dozens of horses with their associated waste stream; which would be removed, further protecting Los Osos Creek and Morro Bay from these point and non-point pollution sources. Ideal Brownfield redevelopment site.*

** Nearest receptors (homes) are upwind and across the creek from the site. This is low density Residential Suburban zoning with parcels ranging from 1-10 acres in size.*

** Adjacent to the Los Osos Urban Reserve Line and LOCSD boundary. This location addresses potential "growth inducing" arguments that plague sites further removed from the urban reserve line.*

Oct 16 09 02:11p Vista Incantato 805 772-7087 p.15

* *Gorby overlies the Los Osos Groundwater Basin and lies adjacent to Los Osos Creek for potential dry weather creek discharge. The Paso Robles Formation (lower aquifer) "daylights" or surfaces at Los Osos Creek in this vicinity. Also, the site strategically overlies the creek valley alluvial aquifer, also known as Creek Compartment. The Creek Compartment has been identified as having additional storage capacity of approximately 600 AFY (CHG 2009). This concept of a surface water discharge and creek outfall during dry weather has been endorsed by the Coastal San Luis Resource Conservation District. The primary test in considering an NPDES permit for a surface water discharge from the CCRWQCB is whether, or not an entirely land disposal project is feasible. A cursory review of the history of LOWWP's and the current dry weather effluent disposal plan proposed project would indicate that it is not feasible. SLO County has considered a surface water discharge during the summer time in the vicinity of the Gorby site. See Morro Group August 1987 FEIR and Appendices; and Morro Group September 1989, SEIR.*

* *Proximate to the Broderson winter time disposal site (approximately 1.5 miles from Gorby). Please see the Treated Effluent Map for treated effluent disposal distribution from Gorby. With adequate disposal options for treated effluent, limited to no storage of treated effluent would be necessary.*

* *Nearby agricultural interests overlying the Los Osos Groundwater Basin have been willing to consider participation in an ag in-lieu program. Treated effluent would be conveyed to agricultural properties overlying the basin in exchange for reduced groundwater extractions by agriculture. Please see Treated Effluent Disposal map (Exhibit 5). It is important to note this disposal option provides minimal seawater intrusion mitigation.*

* *The wastewater facilities would be out of site, hidden in the canyon and out of the scenic view corridors.*

* *The site has excellent solar access for installation of solar panel arrays.*

* *Limited to no impact to prime Ag soils and not under Williamson Act contract.*

* *Construction of the collection system can begin and the treatment facility may be phased subsequently to allow the horse ranch business(s) time to discontinue operations over a 1-year period before treatment facilities begin construction.*

* *In combination with the various disposal options outlined here the overall wastewater project with Gorby as a treatment site location is contained within a small "footprint" and optimizes the length of collection system and transmission of treated wastewater pipelines ultimately reducing costs. Please see Treated Effluent Disposal map.*

Oct 16 09 02:11p Vista Incantato 805 772-7087 p.16

** With effective seasonal disposal options (winter and summertime discharge strategies) a balance between supply and foreseeable demand for water within the basin may be achieved without the need for imported water.*

** The development of a wastewater project at this location is consistent with the Certified Local Coastal Plan and Coastal Act.*

The FEIR diminishes the potential for Gorby site for a number of reasons. Most notable is the statement of unwillingness to sell on the part of the property owners. Other misplaced reasons include the potential presence of the Los Osos Fault (Strand A), Los Osos Creek is subject to flooding, sensitive receptors nearby, potential impacts to archaeological resources, potential biological impacts (Red Legged frog and Steelhead trout), Los Osos Creek setbacks and impacts to prime soils.

Strand A of the Los Osos Fault is shown to bisect the property in the DEIR. In fact, this is an inferred fault because the fault line as shown is not located accurately and is based upon questionable fault traces. At the Gorby site a break-in-slope (bis) is of uncertain origin, this bis may have seismic implications; however it may also be an errosional feature. The only way to verify the origin of the bis and the potential presence of a fault is to conduct field testing. This field testing has not been done to date. The Gorby site has a moderate potential for liquefaction in contrast to the very high potential at the Giacomazzi site for example. Ground movement during a seismic event would have comparable effects on all of the treatment sites considered in the Los Osos Valley. (See Treated Effluent Distribution Plan). The most important seismic consideration is that related to a ground rupture which may be fully assessed by field testing as referenced above. The source document for the depiction of faults in the DEIR is the PG&E report of July 1988 (portion of plate 16). Maps of Faults, Scarps and Lineaments along the Los Osos Fault Zone, South-Central California, Morro Group, September 1989, SEIR.

The Gorby site is shown to be affected by being partially within the 100-Year Flood Hazard map. Most, if not all facilities would be located outside the affected area given a minimum 50 foot setback/buffer from Los Osos Creek would be required. The usable area of the site is shown as an "Area of Minimal Flooding" in the FEMA Map revised July 18,1985. Any reported soil erosion in the vicinity has occurred on the west side of Los Osos Creek where the soil is sandy.

The only homes in the vicinity are part of a low density neighborhood that lies upwind from the Gorby site. The Los Osos Creek also separates the Gorby site from the nearby receptors. Also, an additional buffer is achieved because of the elevational differences (i.e. Gorby is in the valley below most of the homes in the vicinity). The Giacomazzi site, for instance, has dozens of residential neighbors in the immediate area and they have formed an opposition group (Bear Valley Alliance) and retained legal counsel.

Oct 16 09 02:11p Vista Inoantalo 805 772-7087 p.17

Potential impacts to archeological resources will be addressed with monitoring and creek setbacks following surface surveys that should be conducted.

Potential biological impacts may only be determined following appropriate surveys which have not been completed to date.

Transcription of Board of Supervisors September 29, 2009 Discussion of Gorby
Live stream video time: 7:42:25

Supervisor Frank Mecham: ...and then also I've heard from some folks about, I think Mr. Edwards, was talking about the Gorby site and from what I understand from letters I think the Board has received and the folks out there are not interested in any way, shape or form in relinquishing that property so, that would be an eminent domain issue that I don't think we'd want to be getting into.

Environmental Mark Hutchinson: Yeah it would, that was interestingly not one of the criteria in the rough and fine screening report, just because it wasn't appropriate at the time. But there are issues with prime soils, although used for a horse facility. Most confident authorities agree there is a trace of the Los Osos fault either on or very near to the property. It's a long linear, which we might be able to deal with. But, Los Osos Creek does come out of the mountains and does run down the long side of the property that bank is eroding and subject to mass relocating the creek during a significant event and there are residences overlooking the site. So, quite a few constraints that moved it down the priority list.

Supervisor Bruce Gibson: I emphasize that, the questions of eminent domain we don't want to exercise that it f we don't have to but there are other environmental issues that were very plainly at play there as well as prime soil underlying the current equestrian facility?

Environmental Mark Hutchinson: Yes, and all of those issues were discussed relative to that site at the Planning Commission.

*The Gorby site did not receive co-equal analysis by the applicant. County staff misrepresents Gorby to the County Board of Supervisors in their discussion.

Appeal Contention No. 3: Unaddressed Growth Inducing Impacts

The Giacomazzi site raises significant growth inducing questions, as it is located approximately one half mile from the Los Osos Urban Reserve Line (URL). New public facilities outside of the URL, specifically sanitary sewer service is potentially available to serve development around the facility yet outside of the URL. On the other hand, the Gorby site being contiguous to the URL and LOCSD boundary raises no growth inducing impacts. The Gorby site represents a feasible alternative at the URL which is analogous to a feasible alternative location within the urban or village reserve lines.

Coastal Act policies require that the maximum amount of prime agricultural lands be maintained in production and that conflicts between agricultural and urban land uses be

minimized. To carry out the goals of the Coastal Act, the Local Coastal Program delineates long-range urban/rural boundaries to support long-term agricultural use free from urban encroachment.

There are no Conditions of Approval or Findings to address this concern. Siting of the wastewater treatment facility at the Giacomazzi site is at cross purposes with the Coastal Act and its protection of agricultural resources and issues relative to growth inducement.

Appeal Contention No. 4: Los Osos Groundwater Basin is Coastal Dependant

Section 30101 Coastal-dependant development or use "Coastal-dependant development or use".

The use of the Los Osos Groundwater Basin is Coastal Dependant and as such the current project must fully address impacts from seawater intrusion occurring in the lower confines of the basin. Once the County collects the wastewater it becomes incumbent upon them to return that water in a replenishment scheme in a manner that protects the lower basin from further seawater intrusion. The interface between the Los Osos Groundwater Basin and the sea is well documented.

Appeal Contention No. 5: Tertiary Treatment

Modify Condition of Approval, 6, for disinfection to delete chlorination/dechlorination and substitute Ultraviolet (UV) disinfection. UV disinfection is a physical process rather than a chemical disinfectant, which eliminates the need to generate, handle, transport, or store toxic/hazardous or corrosive chemicals. Please see Wastewater Technology Fact Sheet Ultraviolet Disinfection, USEPA, September 1999, EPA-F-99-064.

Appeal Contention No. 6: Inadequate Statement of Overriding Considerations

The Planning Commission approved project finds project impacts are outweighed by the benefits of the project via a Statement of Overriding Considerations. In fact the applicant's project and the Planning Commission's alternative project neglected to analyze all feasible alternatives, specifically adjacent to or within the URL. To comply with CEQA, the LCP and Ag Policy 24 the project must exhaust all feasible alternatives as discussed in the above appeal.

Appeal Contention No. 7: Further CEQA Analysis Necessary

Under CEQA, there are viable alternatives to the proposed project that would likely reduce impacts to Land Use and Planning; Groundwater Resources; Drainage and Surface Water Quality; Geology; Biological Resources; Cultural Resources; Public Health and Safety; Traffic and Circulation; Air Quality; Noise; Visual Resources,

Environmental Justice and Growth Inducing potential. We believe further environmental review be performed for inclusion in the project.

1. Treatment site locations including site specific project review of the Gorby site.
2. Effluent disposal options, summer time or dry weather approved by Planning Commission and shown on Attachment 4, page 3-170. Surface water discharge into Los Osos Creek via an NPDES permit at the AT&T crossing as per 1987 Final EIR, Morro Group.
3. Miscellaneous other refinements.

The appellant requests that further CEQA requirements for review be performed by the California Coastal Commission as the functional equivalent of either a Supplemental or Subsequent EIR.

Throughout the course of the review of the applicant's proposal at the local level much was heard about what is feasible, in terms of time and money, yet the applicant misspent $7 million and over one year on a fatally flawed "Preferred Alternative". A preferred alternative that was decided upon prior to any meaningful analysis, let alone a true comparison of potentially viable alternatives for disposal of treated effluent with high seawater intrusion mitigation and a treatment site location that can effectively serve as a distribution hub to effectuate that disposal plan.

The County applicant has advanced the community of Los Osos $7 million and repayment will occur only if the County accepts the project following receipt of all discretionary permits. I submit a conflict of interest has arisen during the process and at this juncture the applicant is motivated more by an interest in being repaid and do what is expedient rather that what may be in the best long-term interest of the community of Los Osos.

The appellant requests that the California Coastal Commission determine:

1. The subject appeal raises Substantial Issue with regard to the project's compliance with the Coastal Act.
2. Hold a de Novo hearing on the matter.
3. Examine a scheduled or seasonal surface water discharge of treated effluent into a creek outfall at upper Los Osos Creek.
4. Review the viability of the redevelopment of the Gorby site for purposes of siting a wastewater treatment plant and seasonal distribution hub for disposal of treated effluent.

Oct 16 09 02:13p Vista Inoantato 805 772-7087 p.20

J. H. Edwards Company Appeal Exhibits

Exhibit 1 ISJ Work Program

Exhibit 2 Approved Urban and Ag Reuse Map
List of Urban and Ag Reuse Prospects

Exhibit 3 Broderson Prototype Drywell test data
Map
Well Schematic
Photographs

Exhibit 4 Giacomazzi Site Layout

Exhibit 5 Appellant Proposed Treated Effluent Distribution Map

Oct 16 09 02:13p Vista Incantato 805 772-7087 p.21

Exhibit 1

ISJ Participants Work Program
For Los Osos Groundwater Basin

Task 1

- Update Steady State Hydraulic Model
- Adjust Build-out Projections of the Basin Water Demand, including water conservation
- Preliminary Evaluation of Nitrate Removal Unit
- Assess the potential of the upper aquifer before and after wastewater project

Task 2

- Evaluate and Determine Creek Compartment Safe Yield
- Perform Sampling Analysis for Water Quality of Creek Compartment

Task 3

- Prepare Groundwater Basin Infrastructure Master Plan
- Evaluate Groundwater Recharge Opportunities
- Evaluate Options for Beneficial Re-Use of Reclaimed Water
- Prepare a Draft Basin Management Plan

Task 4

- Prepare a Transient, Dual-Density Hydraulic Model of the Groundwater Basin

Task 5

- Annual Groundwater Monitoring
- Transient Model Updates Every Two Years

Oct 16 09 02:13p Vista Incantato 805 772-7087 p.22

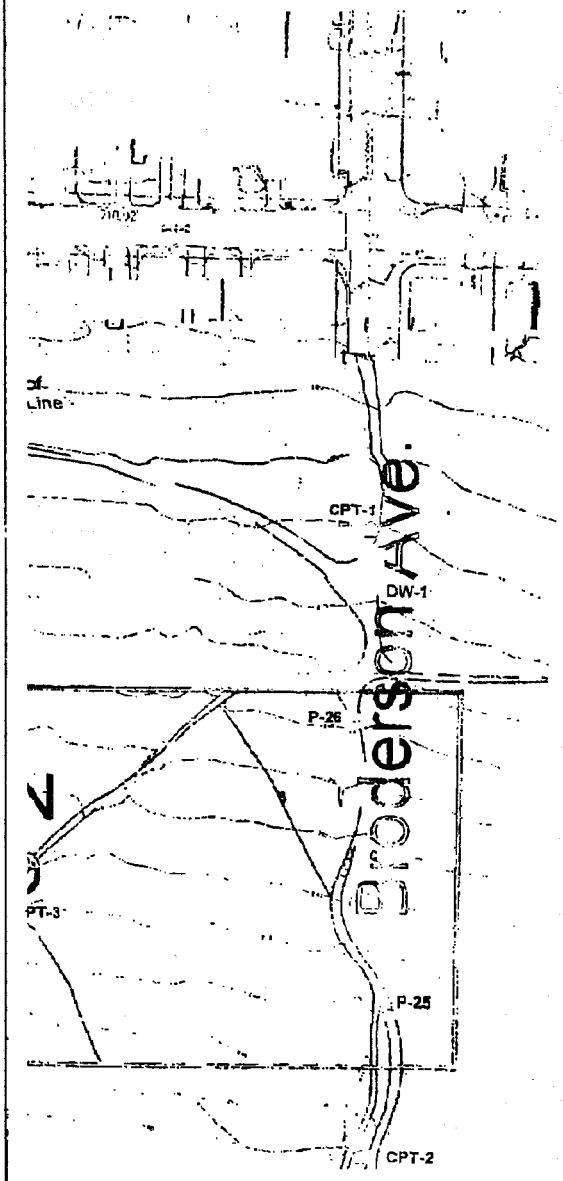
ATTACHMENT 4

Exhibit 2

LEGEND

	Recycled Irrigation Water Phasing								
					Phase & Parcel Acreage				
Phase	APN	OWNER	PROPERTY ADDRESS	CITY / COUNTY	A	B	C	D	NOTES
A	067-011-004	ETO ALAN T			17				Row Crop
A	067-011-019	BRANIN BARRY F	(PO Box 540, MB, CA) TURRI RD	SAN LUIS OBISPO	57				Row Crop
A	067-011-020	BRANIN BARRY F	(PO Box 540, MB, CA) TURRI RD	SAN LUIS OBISPO	42				Row Crop
A	067-011-021	GIACOMAZZI JOHN	LOS OSOS VALLEY RD		58				Row Crop
A	067-011-035	ETO ALAN T	ETO LN		108				Row Crop
A	067-011-049	LEE WILLIAM J	TURRI RD	SAN LUIS OBISPO	30				Row Crop
B	067-171-011	KANDARIAN LARRY	LOS OSOS VALLEY RD	LOS OSOS		30			Row Crop
B	067-171-038	KANDARIAN LARRY	3255 LOS OSOS VALLEY RD	LOS OSOS		64			Row Crop
B	067-171-039	SILVA OLYMPIA L	3885 LOS OSOS VALLEY RD	LOS OSOS		20			Row Crop
B	067-171-043	PAULSON ELLIOTT E	2335 JACARANDA LN	LOS OSOS		5			Nursery
B	067-171-081	FUNDAMENTAL EVANGELISTIC ASSN	CLARK VALLEY RD	LOS OSOS		17			Row Crop
B	067-171-085	CLARK VALLEY FARM INC A CA CORP	2310 CLARK VALLEY RD	LOS		15			Row Crop
B	074-222-014	LOS OSOS MORTUARY & MEM PARK INC	2250 LOS OSOS VALLEY RD	LOS OS		20			Turf & Landscape
B	074-225-008	BAUMAN SUSY S	(5810 Brookline Lane)	SLO		35			Row Crop
B	074-225-019	GOODWIN LESLIE S	2131 BLUE HERON VIEW LN	LOS OSOS		15			Row Crop
B	074-225-020	KOSTIK WILLIAM D	2130 BLUE HERON VIEW LN	LOS OSOS		10			Turf & Landscape
B	074-225-021	MAY EARL T	2161 BLUE HERON VIEW LN	LOS OSOS		3			Nursery
B	074-225-022	PAPAZIAN ROBERT	BLUE HERON VIEW LN	LOS OSOS		12			Turf & Landscape
B	074-225-039	ETO ALAN T	LOS OSOS VALLEY RD	LOS OSOS		35			Row Crop
C	NA	Los Osos Middle School	In Town	LOS OSOS			9.1		Turf & Landscape
C	NA	Sunnyside Elementary School	In Town	LOS OSOS			3		Turf & Landscape
C	NA	Monarch Grove Elementary School	In Town	LOS OSOS			3.8		Turf & Landscape
C	NA	Bayridge Elementary School	In Town	LOS OSOS			2.2		Turf & Landscape
C	NA	Community Park	In Town	LOS OSOS			1.4		Turf & Landscape
C	NA	Tri W Sdn**	In Town	LOS OSOS			12		Turf & Landscape
C	NA	LO Valley Nursery***	In Town	LOS OSOS			0.1		Turf & Landscape
C	NA	Sheltered Acre Nursery	In Town	LOS OSOS					Turf & Landscape
C	NA	Sea Pines Resort Golf Course****	In Town	LOS OSOS			28		Turf & Landscape
C	NA	Sea Pines Driving Range****	In Town	LOS OSOS			9		Turf & Landscape
C	067-011-050	GLIKBARG MICHAEL M	1614 SAGE AVE	LOS OSOS			2		Nursery
C	067-011-051	GLIKBARG MICHAEL M	1614 SAGE AVE	LOS OSOS			3		Nursery
D	067-031-001	TONINI JOHN C	3517 TURRI RD	SAN LUIS OBISPO				145	Row Crop - Off Basin
D	067-031-021	ALFORD 1999	3710 TURRI RD	SAN LUIS OBISPO				175	Row Crop - Off Basin
D	067-031-022	GIACOMAZZI JOHN	LOS OSOS RD	SAN LUIS OBISPO				154	Row Crop - Off Basin
D	067-031-032	DELGADO HOLLIE	5666 LOS OSOS VALLEY RD	SAN LUIS OBISPO				40	Row Crop - Off Basin
D	067-041-003	ALFORD 1999	3795 TURRI RD	SAN LUIS OBISPO				115	Row Crop - Off Basin
	TOTALS			Total Acreage	323		69	479	
				Estimated Annual Acre Feet By Phase	747 / 978 / 1198	777 / 911 / 1152	152 / 178 / 226	1450 / 1700 / 2150	Cool or Wet Season / Average Season / Hot or Dry Season

Exhibit 3



LEGEND

M&E (1997) Prototype Drywell

CPT and/or Boring Site (Fugro 1996, M&E 1996)

Boring Site (Fugro 1997)

Monitoring Well for Prototype Percolation Testing

P-1 Percolation Test Location

L-1 Percolation Test Location at Prototype Percolation Line Site

M&E (1997) Prototype Percolatic:

Section C-C' extends to approximately 150' north of Los Osos Valley Road

NORTH

0 200 400

FEET

FIELD EXPLORATION PLAN
Prototype Test Site at Broderso:
Los Osos Wastewater Proje:
Los Osos, California

PLATE

Oct 16 09 02:15p Vista Incantato 805 772-7087 p.25

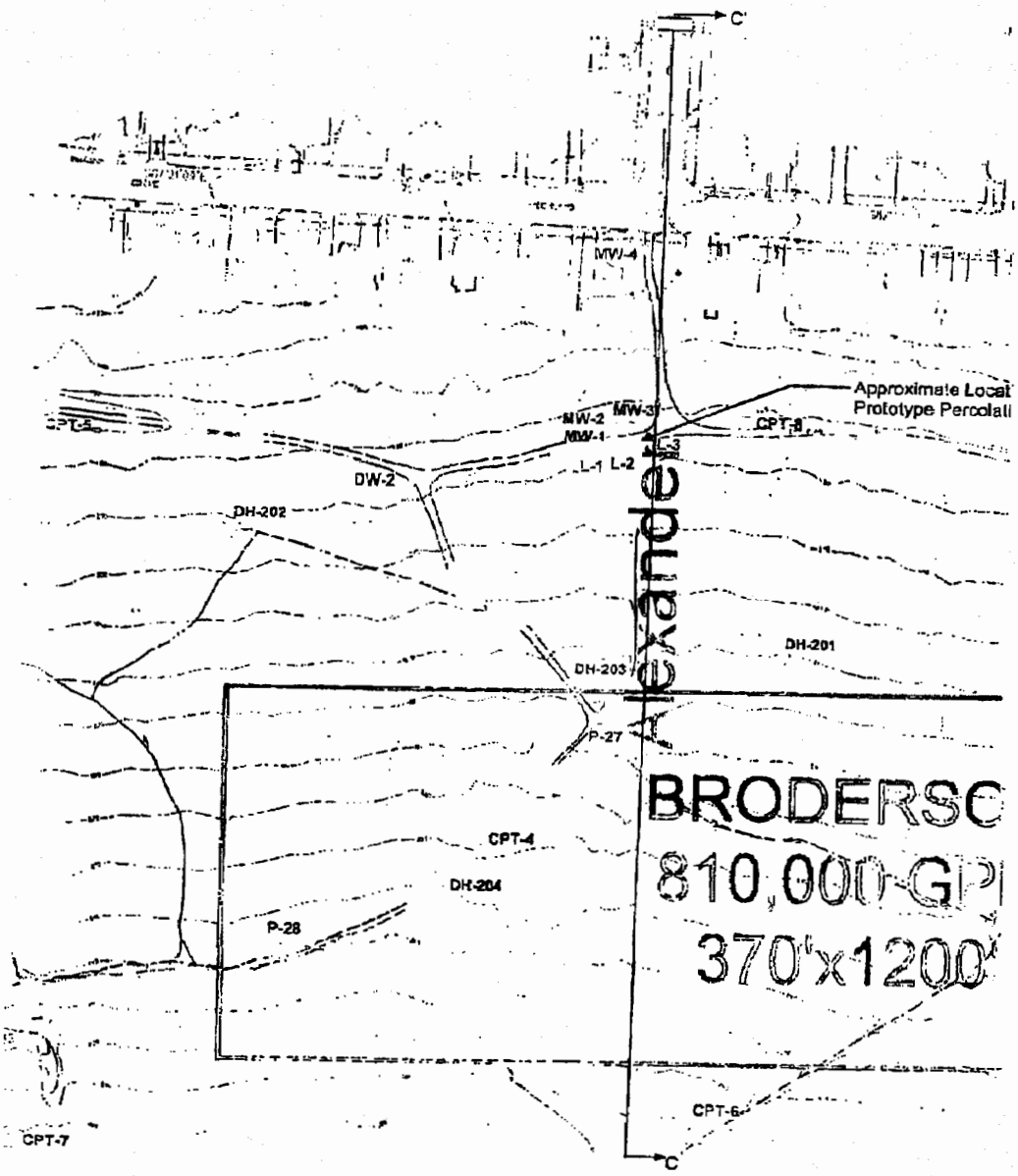

C'
MW-4
Approximate Locat
Prototype Percolati
MW-2
MW-3
MW-1
CPT-8
L-1
L-2
DW-2
DH-202
DH-201
DH-203
P-27
BRODERSC
810,000 G
370'x1200'
CPT-4
DH-204
P-28
CPT-6
CPT-7
C

Exhibit 5

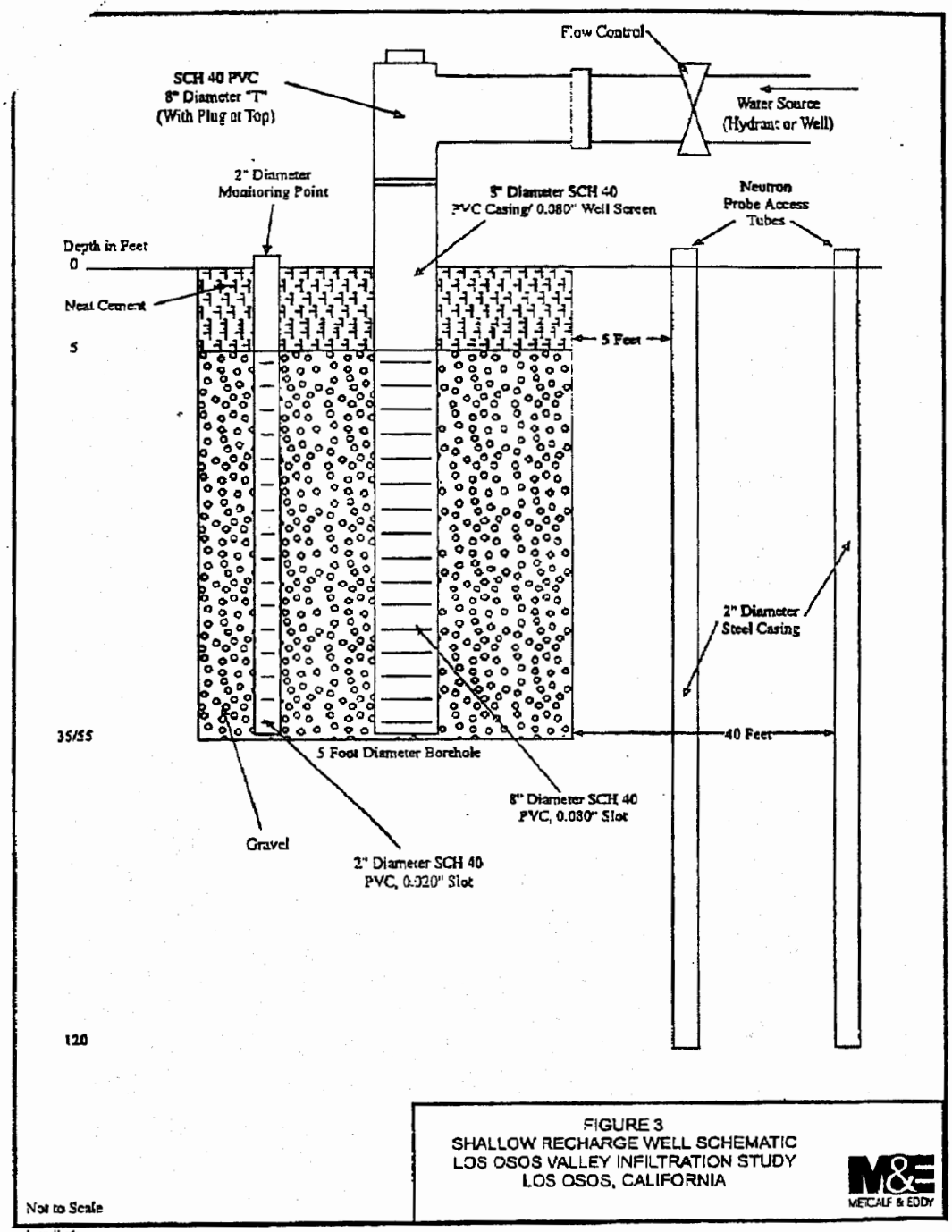


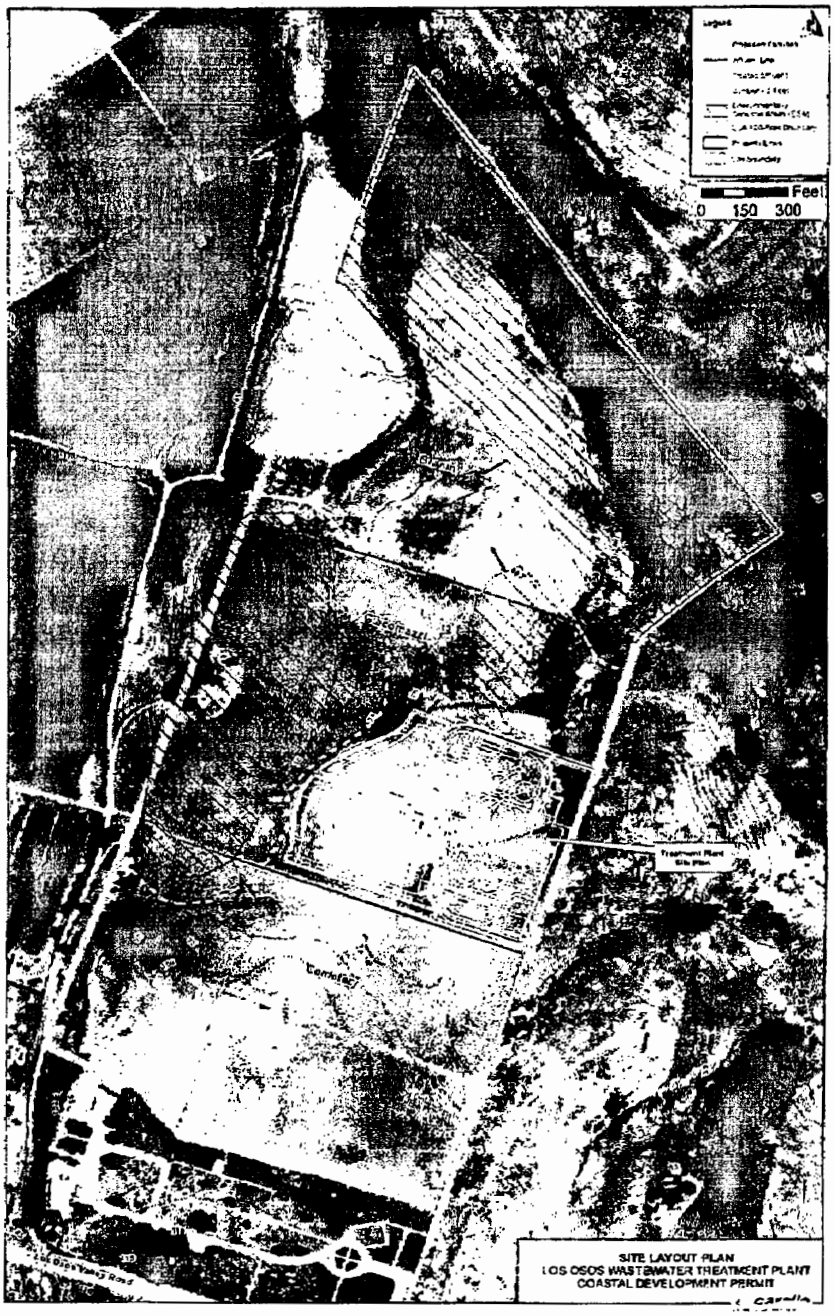
FIGURE 3
SHALLOW RECHARGE WELL SCHEMATIC
LOS OSOS VALLEY INFILTRATION STUDY
LOS OSOS, CALIFORNIA

METCALF & EDDY

Oct 16 09 02:15p Vista Incantato 805 772-7087 p.27

ATTACHMENT 2

Exhibit 4



Oct 16 09 02:16p Vista Incantato 805 772-7087 p.29

Exhibit 5.2-2
Los Osos Surface Water Features

COUNTY OF SAN LUIS OBISPO • LOS OSOS WASTEWATER PROJECT
GROUNDWATER QUALITY AND WATER SUPPLY EXPANDED ANALYSIS SECTION

J.H. EDWARDS CO

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

FACSIMILE TRANSMITTAL SHEET

To: Diana Chapman

From: Jeff Edwards

Fax Number:: 831-427-4877

Date: October 16, 2009

Company: **California Coastal Commission**

Total Number of Pages Including Cover: **30**

Re: Appeal of Los Osos Wastewater Project

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

Memo:

Thank you for your attention to this matter.

Hard copy to follow.

Feel free to call 805-235-0873 with any questions,

Jeff

P.O. BOX 6070
LOS OSOS, CA 93412

Oct 16 09 02:05p Vista Incantato 805 772-7087 p.1

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Steven Paige

Mailing Address: 1554 Ninth Street

City: Los Osos Zip Code: 93402 Phone: 805-528-4738

SECTION II. Decision Being Appealed

RECEIVED
OCT 15 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

County of San Luis Obispo

2. Brief description of development being appealed:

Los Osos Wastewater Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos Prohibition Zone wastewater collection system and LOWWP Wastewater Treatment Facility

4. Description of decision being appealed (check one.):

☒ ~~Approval; no special conditions~~ ← LOCAL CONDITIONS

☒ Approval with special conditions: ADOPTION OF P.C. FINDINGS AND MITIGATIONS. SUBMISSION OF LOWWP TO CC.

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☒ Planning Commission

☐ Other

6. Date of local government's decision: Sept. 29, 2009

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
976 Osos Street Rm. 300
San Luis Obispo, Ca
93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Surfrider Foundation
San Luis Obispo Chapter
PO Box 13222 San Luis Obispo, Ca.
93406

(2) Mike Saunders
Orenco Systems, Inc.
814 Airway Ave
Sutherlin, Oregon 97479

(3) Attorney General's Office
California Department of Justice
Attn: Public Inquiry Unit
P.O. Box 944255

(4) Sierra Club
Santa Lucia Chapter Office
547-B Marsh Street,
San Luis Obispo, CA 93401

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I, Steve Paige, am claiming the CSLO's CEQA filing is incomplete because of CEQA Section 21091 d (2) (B) inconsistencies. Simply, there was no written responses to my several challenges to the SLOPC claim of "maximum affordability mitigation". This creates an incomplete and tainted filing to the Coastal Commission due to violations of my right to due process. Further, I sent a 25 minute request for time (see attachment) certified mail, two weeks before hearing on seven specific and complicated issues (see BOS filing) and was denied 15 minutes of 25 minutes of the time requested and rebuttal time at CSLO-BOS 9/29/09 hearing. My right to do process was violated a second time.
No mitigation is proposed for REO properties and properties in foreclosure. A new SEIR on Enviormental Justice and affordability mitigation is required that includes a independent study of recycling existing septic tanks to mitigate total project costs. Further, the Enviormental Justice FEIR impact study for CEQA is flawed. The CSLO FEIR EJ APPENDIX statistical methodology does not specifically delineate the Prohibition Zone Population but falsely includes wealthier homeowners outside the PZ to justify a 'negative declaration' for low income impacts and is inconsistant with Costal Act Sec.30253 (e). The present sewer project reduces low and middle income access to costal 'resources', including habitation, by economic attrition and lack of reasonable Enviormental Justice mitigation.

Issues ignored at the CSLO hearing but required to be addressed under CEQA include:

Issue 1--No written response by CSLO to my claim that the County assumption of a presumptive right to remove existing septic tanks is a "regulatory taking" in violation of the Costal Act "Sec. 30010: Taking of private property". Existing tanks can be used as STEP/STEG component without challenging property rights and creating assessment irregularties. No mitigation has been proposed using existing on site septic tanks as an affordability and enviormental mitigation. Primary waste treatment (see my County BOS Powerpoint) is not a "special benefit" under Article XIII D. It is occuring on site already. No regulatory takings study was done by either the RWQCB3 or the CSLO. The County has no right to demand the removal of the septic tank waste processing component from my property. It has zero discharge when tied to the project collection system. The CSLO gravity LOWWP as proposed, is an act of 'inverse condemnation' given that treated wastewater leaving the existing septic tank can go into a STEP collection system with beneficial enviormental results for a lessor cost to homeowners.

Issue 2--No written Response by CSLO, 23.02.035 Additional information required: Gravity collection I and I expands wasterwater system sizing to greater than the needs generated by existing home inventory. Added capacity may be used for justification of urban development after CC approval justifies added capacity for I and I impacts. LCP Public Works Policy states: "Policy 2: New or expanded public works facilities shall be designed to accommodate but not exceed the needs generated by projected

development within the designated urban reserve lines." "Projected development" cannot include infill lots without a water source, HCP findings, a 218 vote, and stoppage of salt water intrusion.
Gravity pipe 'infiltration' is a fresh water recharge removal of 300,000 GPD during the rainy season. STEP collection is an obvious mitigation. STEP collection retains recharge at the 'site' by not having any infiltration potential (pressure gradient). STEP collection is more consistant with 'on site provisions' Costal Watersheds-Policy-11. In gravity collection the county ROW is the 'site'. Gravity pipe infiltration removes recharge water from the 'site', pollutes it, transfers it to the wastewater plant, treats it then sends it back to a point source (Broderson) for release with questionable results. This process does not represent the best mitigation when gravity pipe infiltration can be avoided entirely. Costal Watersheds policy 11: "Preserving Groundwater Recharge In suitable recharge areas, site design and layout shall retain runoff on-site to the extent feasible to maximize groundwater recharge and to maintain in-stream flows and riparian habitats."

Issue 3--No written response by CSLO as per CEQA Act, 23.02.035 Additional information required: Grewater usage is given no economic credit as an incentive. Greywater is a non-point basin recharge benefit. Greywater reuse creates water conservation. Highly efficent conservation is related to gravity collection low flow impacts of odor and sulfide gas corrosion. No Grewater GHG reduction analysis was done.

Issue 4--No written response by CSLO as per CEQA Act, Costal Act 23.02.022 Determination of completeness, 23.02.035 Additional information required.
The CSLO failed to adequately review Environmental Justice impacts and did not minimize life cycle costs and mitigate affordability by omitting reference to and mitigation for the suspension of Senior Citizens' Property Tax Deferral Program used to garner votes in the 218 voting process. Petitioner claims the action is discrimitory aginst seniors and denies seniors the right to due process.

Issue 5-- Affordablity mitigation No response, Costal Act 23.02.022 Determination of completeness, 23.02.035 Additional information required.
The Planning Commission and CSLO failed to adequately review Environmental Justice impacts and did not minimize life cycle costs and mitigate affordability by the act of not acknowledging that the County of San Luis Obispo Broke Community 218 vote Contract for the inclusion of the STEP/STEG Option in the design bid build process. County claims paralegal advisory vote trumps constitutionally required engineer's report and assessment vote giving itself permission to break community contract that was to include STEP/STEG in design/build process. Petitioner claims the action is discriminatory.

Issue 6--Costal Act 23.05.140 Archeological resources discovery and impact study incomplete. SEIR for STEP using existing septic tanks is required. CSLO uses a 'heresay' evaluation based on a false assumption. The CSLO LOWWP EIR claimed Step and Gravity piping systems have the same archeological impacts by avoiding considering recycling of existing septic tanks. Where trenching is needed with STEP collection it seldom requires a depth of over 5 feet. For gravity trenching 14,784,000 cu ft of soil up to 22 feet deep and 4 feet wide is subject to archeological investigation and impacts. Dewatering makes archeological investigation impossible in low lying areas. For STEP collection in Los Osos, 369,000 cu ft are subject to investigation based on using directional boaring. On site STEP laterials are typically 1 1/2 " diameter HDPE pipe 18 inches below grade minimum without slope considerations. Petitioner claims CSLO ignored existing septic tank recycling to justify their own claims of co-equal mitigation. Petitioner will submit contrary evidence and engineering to back this claim by a licenced engineering firm knowledgable in step collection. END.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 10/13/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize None
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: 10/13/09

COUNTY BOS POWERPOINT 9/29/09

Appeal DRC2008-00103-#782 Steven Paige

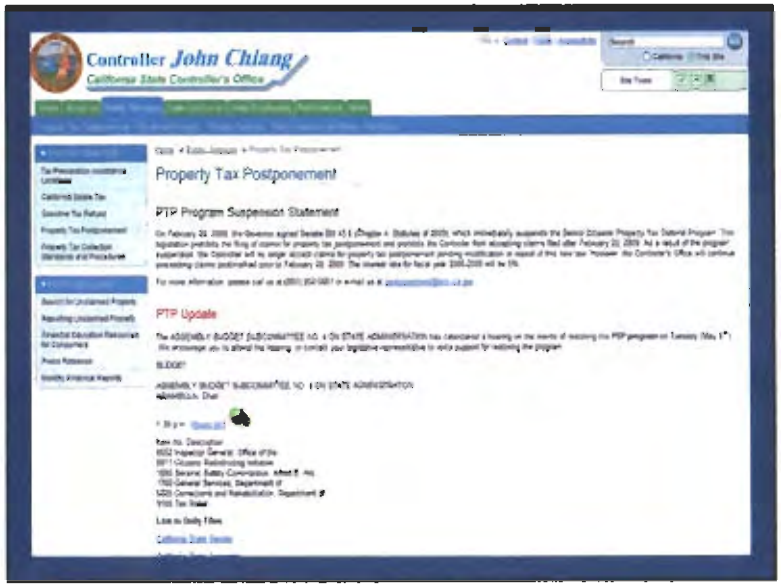
- I complain that My right to due process described in CEQA has been violated.
- My Certified Mail request for 25 min time was ignored on my seven complex issues.
- Abridging my right to an independent response to each issue in my petition violates my right to due process under CEQA.
- Staff is commingling and confusing my complaints with others and ignoring many.

CEQA Section 21091 d (2)(B)

- "The written response shall describe the disposition of each significant environmental issue that is raised by commenters."
- ***The Following issues were not responded to in writing as required under CEQA:***

NO Response Cost Mitigation for seniors PTP program discontinued

- No staff written response as required by CEQA .
- Seniors property tax program described in the 218 vote literature and FSR no longer exists.
- The County garnered votes for the 218 assessment using the PTP program as affordability mitigation.
- Without this mitigation many fixed income Seniors will loose their homes to tax liens.
- The County has the legal right to sell fixed income Senior's properties to receive payment.



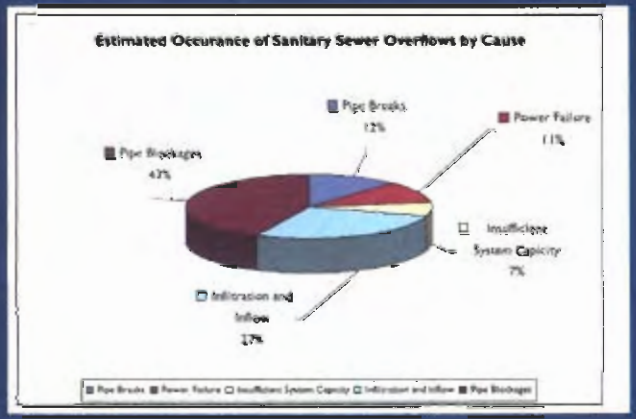
Eliminating STEP/STEG from the Design Build process as described in 218 vote.

- There is no staff written response required by CEQA relating to contractual obligations.
- A contractual obligation to voters-- STEP/STEG sewer system was removed from the Design/Bid/Build process prematurely.
- The County garnered votes with the inclusion of STEP/STEG described in the Design/Build process.
- STEP/STEG was removed from D/B using heresy conclusions and cherry picked science.

"I and I" is not a Special Benefit.

Howard Jarvis Taxpayers Assoc Vs. Salinas (1st App. 6/3/02

- There is no staff written response as required by CEQA.
- Infiltration from 17,000 pipe joints is a general tax not special benefit to our properties because it is an avoidable impact, affordability not mitigated.
- STEP/STEG sewer systems avoid plant over sizing by 30% due to I and I impacts.
- Absorbing clean groundwater, mixing it with sewage, treating it, and returning it to the basin has no special benefit to the homeowner, does not comply with AB 32.
- Plant over sizing will induce growth and is an unmitigated impact not covered in the FEIR.



USING EXISTING SEPTIC TANKS

- There are staff written response as required by CEQA.
- 70% of all septic tanks in Los Osos were installed and inspected by the County after 1970.
- Votes were garnered illegitimately for the advisory vote by ignoring testing and using existing tanks for a STEP/STEG sewer system.
- Using existing tanks would save home owner's approx $10,000 per property
- Voters were sent brochures overestimating on lot impacts for STEP before the advisory vote. Why are they not on your website?

Secondary vaults.

- Installing low impact pump vaults on existing septic systems saves homeowners thousands of dollars in unnecessary tank replacement.

The 'takings' flaw RWQCB overlooked you have inherited.

- Primary waste treatment is not a "special benefit" to PZ homeowners and adds **illegitimate taxation** to PZ owner's properties.
- Decommissioning on site septic tanks denies homeowners the economically beneficial use of private waste treatment without compensation.

Table 8.3 Treatment of Wastewater within Interceptor (Septic) Tank

TREATMENT

Parameter	Units	Influent	STEP Effluent	Percent Reduction
BOD_5	Mg/l	450	140	69%
Suspended Solids	Mg/l	500	30	94%
Total Nitrogen	Mg/l	70	70	0%
Total Phosphorus	Mg/l	17	16	6%
Oil and Grease	Mg/l	164	29	88%

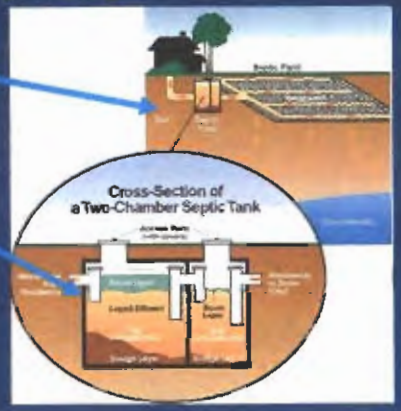
Forced decommissioning of septic tanks is called for legal purposes "Inverse condemnation".

- The RWQCB did no takings study as stipulated by presidential executive order 12630, Reagan, 3/15/1988.
- The County is complicit in the RWQCB's negligence.
- The precautionary rule for Environmental Justice has not been met as long as there is no takings study or renewed affordability mitigation.

- *Pennsylvania Coal Co. v. Mahon*
- *First English Evangelical Lutheran Church of Glendale v. Los Angeles County*
- *Dolan v. City of Tigard*
- *Palazzolo v. Rhode Island*
- *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*

RWQCB's and CSLO'S failure to divide septic system components in "decommissioning" creates a "regulatory taking".

- Leach field, 100% of discharge.
- Your septic tank has zero discharge. It meets the discharge order for the prohibition zone. You own it's beneficial use as a 'wastewater plant' as described by the RWQCB in it's actions against the Los Osos 45 CDO recipients.



Focus: Penn Central Transportation Co. v. City of New York

"Where a regulation places limitations on land that fall short of eliminating all economically beneficial use, a taking nonetheless may have occurred, depending on a complex of factors including the regulation's economic effect on the landowner [citing Penn Central].101"

A property seizure challenge would cut sewer bills almost in half if homeowners prevailed. *Homeowner's could recoup the following costs:*

- 100% the cost of primary treatment.
- The difference in cost between STEP and gravity collection.
- All on site improvements related to changing from STEP to a gravity sewer.
- Septic tank decommissioning.
- All maintenance costs and fines related to solids blockages and 'I and I' spills and repairs.
- 70 % of solids dewatering and shipping costs.

How can the BOS avoid a class action challenge for septic tank seizure of property?

1. Ripening of property seizure case starts with your approval today. To avoid the challenge:
2. Re-insert STEP/STEG into the Design/Build process.
3. Direct staff to revisit affordability, takings, and environmental justice issues with a supplemental EIR and open hearing.
4. Direct legal staff to perform a regulatory takings study to protect property rights and avoid illegitimate taxation that now exists.

SUBMISSION TO P.C.

San Luis Obispo Planning Dept
Planning Commission

TO: SLO County Planning Commission

RE: Hearing on Coastal Development Permit & EIR for Los Osos Wastewater Project, 7/23-24

Dear Commissioners,

My name is Steven Paige, I am a Los Osos resident, committee member of LOCAC Land use committee, member of Slo Green Build's Appropriate Technology Committee and Participate in joint meetings with Sierra Club, Surfrider Foundation and SLOGB's technical advisory committee. I have been building passive solar homes since 1976.

I presently am concerned about four misrepresentations relating to STEP/STEG collection systems found in the LOWWP EIR that has made the Gravity vs. STEP/STEG co-evaluation in the EIR meaningless and unscientific. I request that if possible you require the County to re-evaluate STEP systems and include them in the design build process using where possible existing septic tanks.

I find the following assumptions questionable:

1) Existing Septic tanks cannot be recycled as STEP tanks. All old septic tanks leak and cannot be tested therefore they all should be replaced.
2) Step treatment and collection has the same Archeological impacts as Gravity collection.
3) Step collection systems leak as much as gravity sewers and share the same geologic risks.
4) Step system tanks produce more GHG than the proposed system of wastewater nitrogen reduction.

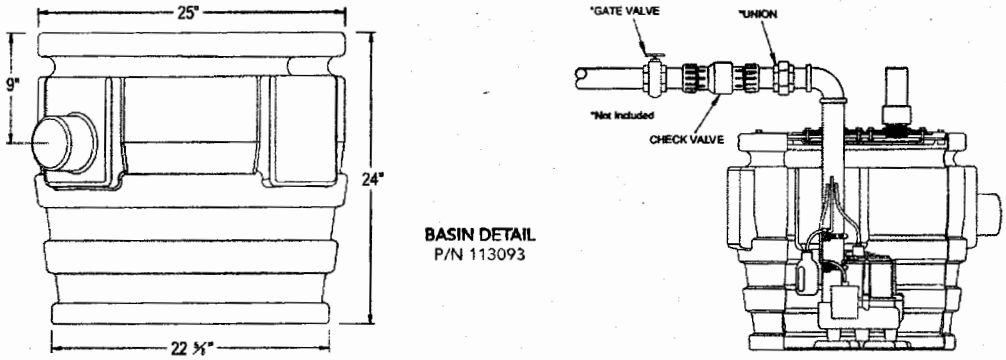
1) Existing Septic tanks cannot be recycled as STEP tanks.

Originally the Ripley Report claimed that a portion of the existing septic tanks could be used in a STEP system. Later for the sake of being conservative, Ripley presented their plan replacing all septic tanks with fiberglass tanks. Many of the existing tanks in Los Osos are concrete. In the LOWWP DEIR no mention was made of septic tank testing and using a secondary pumping vault to handle the liquids going into the system. Testing existing septic tanks is common practice. Septic tank testing mitigates greenhouse gas production for embedded energy costs in the new equiptment.

The LOWWP ignores testing and utilizing existing septic tanks in the EIR. Standardized pump vaults could be installed after the existing 'tested' septic tank avoiding 80% of on site impacts and much of the cost. On site STEP/STEG impacts were thoroughly misrepresented in the EIR and TAC findings because of this one fact. The misrepresentations about on site impacts are summed up in the LOWWP DEIR: `

"Proposed Project 1 would include a combination STEP/STEG system. A key feature of the STEP/STEG system is that it will require individual property owners to decommission their old septic tanks (pump the tank, remove the tank top, and backfill with sand). If room is not sufficient for installation of the new tank, it would be the responsibility of the property owner to have the old tank removed and hauled to the landfill prior to installation of the new tank."

Standardized pump vaults what would they look like?



Typical standardized pump vault for step collection.

Each property would have a hole dug for a 24" to 30" diameter and 5' deep and have installed a standardized pump vault. The vault would be 'leased' to the home owner (benefit) in exchange for a servicing contract that allowed access to the vault much like PG&E loans you an electrical meter and is allowed on site for meter reading.

Responsibility for the Septc Tank integrity and replacement would rest with the homeowner and would be evaluated by testing. This eliminates the need for complicated easements. On site septic tank pumping would be performed by the owner 'as required' with content evaluation every five years by ordinance, NOT pumping every five years as mentioned in the EIR.(Industry standard is 8 to 12 years.). Evaluation mitigates unnecessary greenhouse gas production and localized air pollution from over pumping well functioning septic systems. A third party commercial engineering company would be hired by the homeowner to initially and periodically test the septic tank. A form would be filled out for the County and put in the County data base like is now happening with repaired septic systems.

Hydrostatic testing of existing septic tanks, how is it done?

It has been said that "A water test to the top of the riser is the only valid test for watertightness." You should ask: "In what standard does this language appear?" Indeed the hydrostatic test is one alternative that can be used to evaluate the watertightness of a septic tank. However, it is certainly not the only valid test method for watertightness, nor is the need to fill to the top if the riser.

A review of existing industry standards reveals the fact that there are several accepted watertightness test methods. ASTM International standard C1227, "Standard Specification for Precast Concrete Septic Tanks," states that "Testing for leakage is performed using either vacuum testing or water-pressure (hydrostatic) testing." Further stated in ASTM C1227 are descriptions of these two test methods, the performance criteria for each and the requirements for approval of tanks.

Another industry standard is the International Association of Plumbing and Mechanical Officials (IAPMO) "Material and Property Standard for Prefabricated Septic Tanks" (PS-1), which references ASTM C1227, stating "Concrete septic tanks shall comply with ASTM C 1227, except when the requirements deviate from this standard in which case this standard will govern." The IAPMO standard

contains additional specific language regarding tank sampling and water testing and states, "Sample tanks shall be assembled per manufacturer's instructions, set level, and water raised to the flow line of the outlet fitting …," not to the top of the riser.

Finally, the Canadian Standards Association publication CSA B66, "Design, Material, and Manufacturing Requirements for Prefabricated Septic Tanks and Sewage Holding Tanks," states that "Following the appropriate tests … remove the load or vacuum and fill properly bedded tank with water to its outlet or overflow level …," not to the top of the riser.

It is important to note that all of these recognized industry standards include provisions allowing either a hydrostatic or vacuum test for watertightness. Given this fact, is the statement "A water test to the top of the riser is the only valid test for watertightness" fact or fiction?

Vacuum testing how is it done?

We have also heard from time to time that "Vacuum testing is not a real world test." Is this simply because tanks do not operate in a vacuum or that a vacuum test exerts a uniform pressure on all six sides of a tank, when in reality soil and ground water loads vary with depth? The fact is that a vacuum test can be designed such that it approximates the maximum loads the tank will experience in the ground. Although this is a conservative approach, it does not diminish its validity.

One of the benefits of vacuum testing is that it is a multipurpose performance evaluation – both watertightness and structural integrity can be evaluated during the same test cycle. Vacuum testing is commonly used to check other precast concrete structures, including installed manholes, and is gaining in popularity for checking septic tanks and wastewater-related products. This increase in popularity is primarily because the equipment is easily portable, and the test setup and procedures are relatively simple. For example, most tank delivery vehicles have a ready supply of air that can be used to run the vacuum testing equipment. The test equipment (gauges, hoses, lid, etc.) requires little space to transport to the installation site. Tank manufacturers can easily perform routine testing in the yard and also conduct any required performance testing on site.

Both ASTM C1227 and IAPMO PS-1 standards allow the performance of a vacuum test for watertightness evaluation as well as proof of structural design. For instance, the CSA B66 standard offers a vacuum test as an option for strength evaluation – both physical loading with sand bags and vacuum testing are allowed. Both tests are performed for approximately one hour and then the tank is checked for deformation and leakage. The strength testing is then followed by a watertightness test.

Again, we see that all three industry standards recognize the vacuum test as a perfectly viable performance evaluation method. It is certainly considered to be a "real world" test by these standards bodies.

How do other agencies test existing septic tanks?

Oregon
Watertight testing of the tank into the riser is required during installation. It is also recommended the tank manufacturer watertight test each tank before shipping.

Rule Reference:
340-073-0025(3):
Watertightness. After installation, all tanks must be watertight. The installer must test each tank for watertightness by filling the tank to a point at least 2 inches above the point of riser connection to the top of the tank. During the test there may be no more than a one gallon leakage over a 24 hour period. The tank manufacturer must deliver watertight tanks and should test each tank for watertightness before the tank is shipped from the manufacturing plant.

Arizona
State Comments
This provision requires that a field watertightness test be conducted for all septic tank installations. If water is available at the site, which will be the case in the large majority of installations, added materials and labor costs, will be an estimated $15 to $68. For the sites where water must be delivered, the estimated cost, including site labor for initial tank fill and refill after a 24-hour presoak, is $214. The field water tightness test has significant benefit in ensuring that the septic tank does not leak due to factory defects or damage during installation. In addition, the weight of water in the septic tank during testing ensures that the tank is properly bedded, reducing the chance of major malfunction of the tank upon use by the homeowner.

Rule Reference:
R18-9-A314.5.d:
The septic tank is tested for watertightness after installation by the water test described in subsections (5)(d)(i) and (5)(d)(ii) and repaired or replaced, if necessary.
i. The septic tank is filled with clean water, as specified in R18-9-A310(A), to the invert of the outlet and the water left standing in the tank for 24 hours and:
(1) After 24 hours, the tank is refilled to the invert, if necessary;
(2) The initial water level and time is recorded; and
(3) After one hour, water level and time is recorded.
ii. The tank passes the water test if the water level does not drop over the one-hour period. Any visible leak of flowing water is considered a failure. A damp or wet spot that is not flowing is not considered a failure.
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04/23/2008

Montana
Watertight, Vacuum or Pressure (fiberglass only) testing of all tanks used for commercial facilities, multiple-user systems or public systems must be tested in place for watertightness. The rules stop short of requiring this for single family residential systems.

Rule Reference:
7.3
1. All tanks must be watertight. Tanks used for commercial facilities, multiple-user systems or public systems must be tested in place for watertightness. Watertightness testing for a concrete tank may be conducted using a water test or vacuum test. Watertightness testing for a fiberglass tank may be conducted using a water test, a vacuum test, or a pressure test.

1. 7.3.1 Water testing must be conducted by sealing the outlets, filling the septic tank to its operational level, and allowing the tank to stand for at least 8 hours. If there is a measurable loss (2 inches or more), refill the tank and let stand for another 8 hours. If there is again a measurable loss, the tank must be rejected.
2. 7.3.2 Vacuum testing must be conducted by sealing all inlets, outlets, and accesses, then introducing a vacuum of 4 inches of mercury. If the vacuum drops in the first 5 minutes, it must be brought back to 4 inches of mercury. If the septic tank fails to hold the vacuum at 4 inches of mercury for 5 minutes, the tank must be rejected.
3. *7.3.3 For pressure testing a fiberglass tank, all inlets, outlets, and access ports must be sealed and adequately secured. The tank must be charged with 5 psig (3 psig for a 12-foot diameter tank). Allow tank pressure to stabilize. Disconnect the air supply. If there is any noticeable pressure drop in 1 hour, the tank must be rejected or repaired. Repeat the test after repair. Release air carefully through an appropriate valve mechanism.*

Rhode Island
All septic tanks and their risers are required to be certified watertight by the manufacturer or by on-site testing in accordance with the below rule (which is very similar to ASTMC-1227).

Rule Reference:
26.11
Performance Testing- All septic tanks and their risers must be certified watertight by the manufacturer or by on-site testing. On-site testing for septic tank leakage shall be conducted for tanks assembled at the installation site. The Director may require onsite testing on a case-by-case basis. The testing shall be conducted using either:
26.11.1 Vacuum Test- Seal the empty tank and risers and apply a vacuum to two (2) inches (50 mm) of mercury. The tank is approved if ninety percent (90%) of the vacuum is held for two (2) minutes; or
26.11.2 Water-Pressure Test- Seal the tank and risers, fill with water to the top of the risers, and let stand for twenty-four (24) hours. Refill the tank. The tank is approved if the water level is held for one (1) hour.
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04/23/2008

Vermont
Requires "leakage testing" in the field for all holding tanks and any tank utilized with a sand filter.

Rule Reference:
1-915(a)2(F) Sand Filters
After installation all components, including septic tanks, pump chambers, recirculation tanks and filter containers, shall be tested by filling to a point at least two inches, but not more than three inches, above the point of riser connection to the top of the tank, chamber, or container. During the test there shall not be a measurable leakage over a twenty-four (24) hour period.
1-919(c)(3) Holding Tanks
the tank, any piping connected to the tank, and all access structures connected to the tank shall be watertight. The tank shall be leakage tested prior to being placed in service;

Utah

Watertight testing in the field is required in accordance with ASTM C-1227 ***OR*** as stated in the below Utah rule. ASTM C-1227 "leakage testing" requires the tank be either vacuum or water tested. The vacuum testing is performed by applying a vacuum to 4 inches of mercury and the tank passes if 90% of the vacuum is held for 2 minutes. Water testing is performed by filling the tank with water (no specified level) and letting it stand for 24 hours then refilling the tank and it is approved if the water level is held for one hour.

Rule Reference:

R317-4-3.3.5

Final On-Site Inspection.

A. After an onsite wastewater system has been installed and before it is backfilled or used, the entire system shall be inspected by the appropriate regulatory authority to determine compliance with these rules.

B. Each septic tank shall be tested for water tightness. Testing may be performed in accordance with the requirements and procedure outlined in the American Society for Testing Materials' Standard ASTM C-1227, or concrete tanks shall be filled 24 hours before the inspection to allow stabilization of the water level. During the inspection there shall be no change in the water level for 30 minutes. Nor shall moving water, into or out of the tank, be visible. The regulatory authority may allow two piece tanks, with the joint below the water level, to be backfilled up to three inches below the joint to provide adequate support to the seam of the tank. Testing shall be supervised by the regulatory authority. Tanks exhibiting obvious defects or leaks shall not be approved unless such deficiencies are repaired to the satisfaction of the regulatory authority.

Page 4

04/23/2008

New Jersey

The *Aerobic Treatment System Guidance* document requires that all tanks be tested for watertightness through one of the following methods as established in the guidance document, see below.

Guidance Document Reference:

H.7

7. Watertightness of any septic, processing and dispersal system dosing tanks specified in the design must be watertight tested at the installation site after being installed using hydrostatic or vacuum tests. Testing of the tanks shall include all upper portions of the tank, including riser joints. Testing must be done in accordance with the following:

a. Water tightness testing procedures and criteria for concrete tanks shall follow the methods described in ASTM C-1227 standards or National Precast Concrete Association appropriate testing criteria and procedures

b. Tanks made of materials other then concrete shall be tested, after installation, in accordance with the methods described in ASTM C-1227 standards, if applicable, or other hydrostatic or vacuum testing methods approved by the tank manufacturer.

c. Water used for this testing shall be either from a potable water source or Reclaimed Water for Beneficial Reuse authorized by a NJPDES permit.

d. The use of an onsite potable well for purposes of supplying water for this testing is not recommended. If an onsite potable well is to be used, pumping of the well must be done in a

manner which will withdraw water at a rate less than 50% of the safe yield of that well and will not damage the pump or any other component of the well.

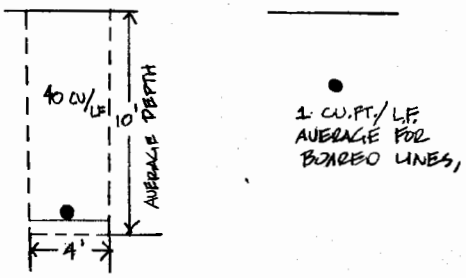
Finally, what if STEP/ STEG septic tanks were allowed to leak as much as a 'standard' gravity sewer?

During the rainy season the LOWWP gravity system is 'designed' to leak 310,000 gallons per day into the system (EIR I&I evaluation, 310,000 gpd / 5000 homes) 62 gallons/day is the amount each residential tank would be allowed to leak to have the same environmental impact as the gravity conveyance system .

If a standard tank was tested and the water level dropped 3 inches in one day in the tank, it would have the same leakage rate and environmental impact as the purposed gravity sewer system!

This is shown by the following simple math.
62 gallons/day/household / 7.481 = 8.2 Cubic Ft.
Average tank inner wetted surface 4.25 x 7.5 = 32 Sq. Ft.
8.2 Cubic feet/ 32 sq ft = 0.25 foot drop in water level
or three inches drop in the tank water level.

2) STEP has the same archeological impacts as the Gravity sewer.



As seen in the drawing to the left, the amount of earth subject to archeological investigation using STEP horizontal boring is 2.5 % that of gravity trenching. For gravity trenching 14,784,000 cu ft of soil is subject to archeological investigation. For step, only 369,000 cu ft are subject to investigation based on 70 miles of piping.

Horizontal boring is a valid archeological mitigation that cannot be matched by trenching. Its economic benefits have not been evaluated reasonably in the EIR.
Gravity trenching could incur extreme costs that would be added to the gravity sewer collection to meet state law with respect to archeological findings in the excavated earth. This cost would be passed on to the homeowner and could raise the price of the collection system for gravity by as much as 1/3. The in ground cultural resources of Los Osos are vast. A review of the Cultural Resource Appendix of the EIR makes that fact obvious. The LOWWP Engineers have misrepresented this added cost by not estimating it at all. The EIR claims that State law requires that:

> *"Mechanical backhoe trenching shall be conducted within the sensitive areas where any construction impacts will occur and shall be monitored by a qualified geoarchaeologist. Any identified intact deposits will be evaluated, and any deposits determined to be eligible to the California Register and/or National Register shall require project redesign to avoid impacts, or data recovery to mitigate unavoidable impacts."*

To counteract the obvious archeological benefits of STEP collection illustrated above, the County EIR made a series of vague claims about on site impacts without using septic tank recycling as an obvious mitigation and assuming that the tank when first installed did not have any archeological impact. Septic tank recycling avoids 80% of the described impacts. The LOWWP EIR for step collection erroneously concludes:

> *"Excavation for the new STEP/STEG tank as a replacement for the existing septic tanks at each property could result in an unknown amount of impact to human remains. Avoidance of burials in these situations would be difficult to attain due to limited space and the need for significant excavation to accommodate the STEP tanks.*

Recycling existing tested tanks with small pump vault impacts mitigates on site excavation by 80% on site.

3) STEP collection systems share the same geologic risks.

The County in the LOWWP EIR has made the assumption that infiltration of water into the collection system will occur during the rainy season in the amount of 310,000 gallons a day. What the county fails to add to that is the potential additional infiltration due to lateral spreading, subsidence, liquefaction or collapse in 20 percent of the piping system. STEP piping eliminates pipe slope failure due to soil conditions entirely. Instead of estimating the cost of the expected liquefaction conditions in six miles of sewer line in low lying areas, the County takes a pass on the analysis and differs that it will be covered in the Emergency Response Plan (ERP) for the wastewater facility. Many low income high elevation properties will be paying for geologic impacts of wealthier income owners adjacent to the bay that are in problematical soils. STEP collection eliminates this inequality.

To quote the EIR Geologic report which reads almost like a disclaimer by the engineers:

> *"Liquefaction could impact the pump station and pipelines in portions (about 20 percent) of the collection system areas, and where the conveyance crosses low-lying areas".*

> *"Based on a review of the additions and modifications of the collection system facilities, the Preferred Project facilities may be located on a geologic unit or soil that is unstable and could potentially result in lateral spreading, subsidence, liquefaction or collapse* ***Project Specific Impact Analysis Collection System LOWWP EIR- Geology.***

> *Mitigation. Liquefaction could impact the pump station and pipelines in portions (about 20 percent) of the collection system areas, and where the conveyance crosses low-lying areas or creeks. Mitigation for pump stations typically consists of site preparation and grading that will reduce the potential for liquefaction and seismic settlement to impact the pump station areas, or supporting the structure on deep foundations bearing below the liquefiable materials. Specific recommendations for designing pump stations considering liquefaction hazards should be provided in the design-level geotechnical report.*

> *When practical, pipelines should be founded below liquefiable soils. Because of the difficulty of predicting pipeline performance relative to liquefaction and seismic hazards, pipelines are commonly not mitigated as part of the design and construction of a pipeline*

project.

Alternatively, liquefaction and seismic hazards can be addressed in an Emergency Response Plan (ERP) for the wastewater facility. The ERP should recognize the potential for liquefaction and seismic hazards to impact the pipeline, and specific high hazard areas that should be inspected for damage following an earthquake. "Soft fixes" are sometimes incorporated in the ERP. Soft fixes typically consist of having a plan in-place to address the hazards, such as can be achieved by storing supplies and equipment associated with the pipeline and repair that can be difficult to obtain or have long lead times to obtain." (Geotechnical Report for Los Osos Wastewater Project May 22, 2008 (Michael Brandman Associates)

STEP collection system holds the following geological benefits in this environmentally sensitive area:

- System pressure is monitored, in ground leakage is caught immediately and contains no solids.
- Pipe slope settlement or damage is non-existent.
- The sewer plant cannot be damaged by salt water intrusion into the 6 miles of low near sea level elevation piping subject to failure from liquefaction and hydrostatic pressure. High water table piping may be impacted by global warming sea level rise.
- Extreme conservation coupled with on site greywater systems will have no negative effect on the design of the step collection system. (> 40 gal/person/day possible.)
- Dewatering impacts and unknown expenses related to pipe slope stabilization are reduced by 50% based on shallow trench depths (5') required for STEP and use of directional boring where possible.
- No massive surface spillage of raw sewage (black water plus solids) will ever contact the Bay Waters.
- ½ the system (solids digestion via septic tanks) is in place, well proven, and already built.

4) Step systems tanks produce more GHG impacts.

Gravity sewers have the mechanical potential to gas off more Ammonia and Methane than septic tanks.

Consider the case of the Los Osos piping system. There are 70 miles of sewer pipe including laterials (Table Q.3-2: Summary of Proposed Projects Los Osos Wastewater Project (LOWWP) with and average diameter of 10 inches creating an area of exposed sewage surface 82 % larger than the combined total of all septic tank effluent surface areas as shown by the calculations below. Both septic tank and sewer wetted surface areas are exposed to the atmosphere through home venting. And in the case of gravity, 907 manholes throughout the community will release greenhouse gasses as solids are actively digested in the piping system.

1) For the gravity piping system internal wetted surface area:
10/12 x 5280 x 70 = 307,999 square feet of surface area exposed to the atmosphere through home venting. But the wetted surface area in a gravity sewer is not flat. It is convoluted and therefore has a larger surface area than the minimum used in this calculation.

2) For the internal wetted surface area of 5000 septic tanks:
4.5 x 7.5 x 5000 = 168,500 square feet of surface area exposed to the atmosphere through home venting. Both areas are exposed continuously to the atmosphere during operation.

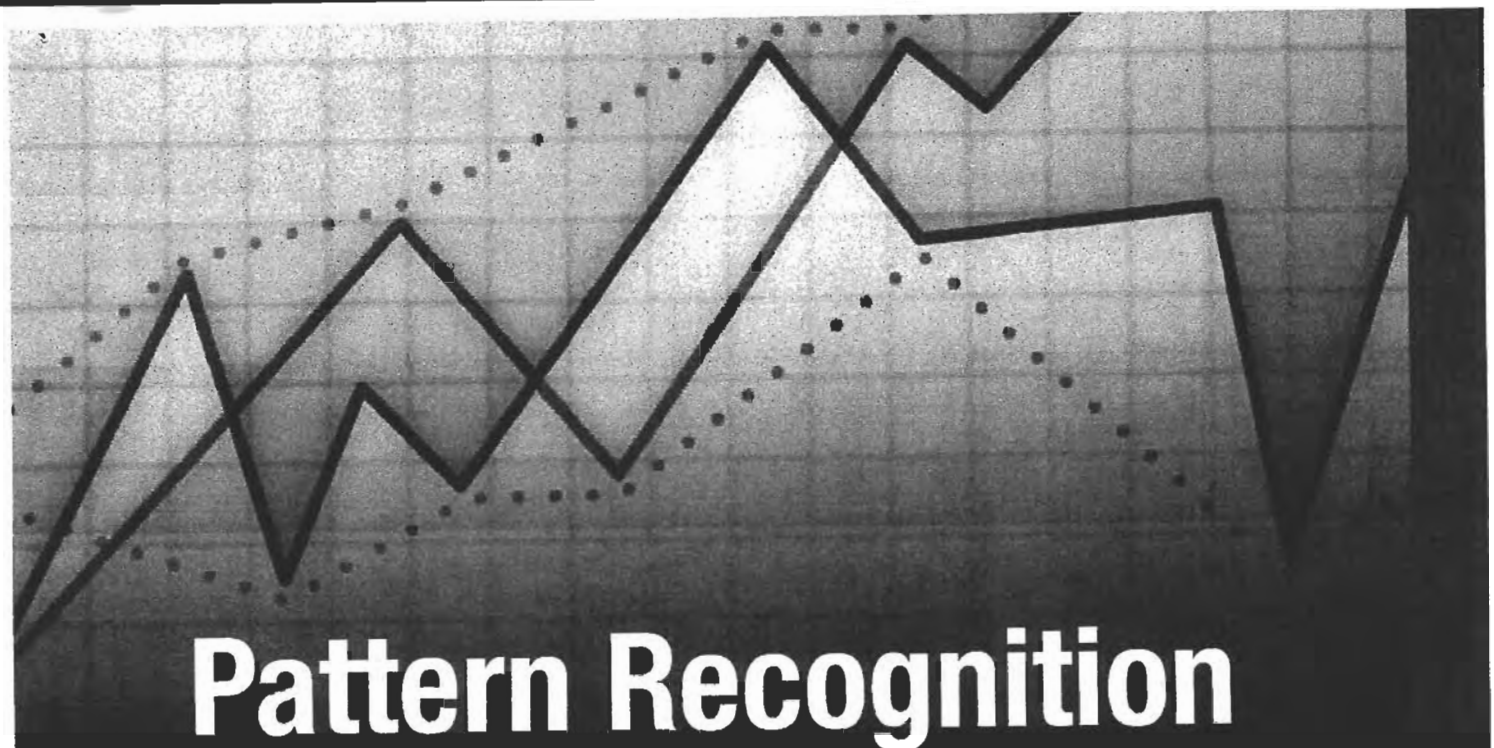
3) The sealed STEP piping system does not gas off through home venting like the gravity piping system does. A small amount of air is released through charcoal filters to remove air from the pressurized all liquid lines. There is no wetted area exposed to the atmosphere in STEP piping.

Carollo fails to recognize and compare the two surface areas in their evaluation and instead claims that only septic tanks expose sewage surfaces to the atmosphere. Carollo ignores the wetted surface area of the gravity piping system and claims in the EIR that:

> *Energy Use/GHG emissions – Gravity is more energy intensive, but emits less GHG due to the absence of septic tank venting and less chemical production. STEP/STEG is less energy intensive, but overall the process emits a large amount of GHG due to septic tanks and chemicals. (Carollo, June 2008)*

The actual volume of air in the gravity system is about twice that which is in the top of the 5000 septic tanks in Los Osos. Carollo, clearly did not do their homework on this important calculation. Public works staff has continuously misrepresented the co-evaluation on GHG assuming the EIR calculations were correct. They are not.

Steven Paige, Monday, July 20, 2009
Homeowner, Prohibition Zone
Los Osos , California



Pattern Recognition

Using diurnal flows to predict and prevent odors

Bryan Haan

Sporadic odors in a collection system are almost impossible to eliminate completely and usually come from an isolated event. Although odors may seem random at first, monitoring can reveal trends that quite often relate to diurnal flow patterns. Diurnal flows, which are basically the trend between collection system flows and human activity, can change throughout the day.

Adapting your approach or modeling your odor treatment to account for diurnal flow is not as difficult as it may sound. You may already have access to many of the resources needed to develop a greater understanding of the odor issues and how to proceed with treatment options. These options should be optimized to match the diurnal flow pattern to reduce treatment cost and increase treatment levels. Understanding this influence and correlating it with system retention times also may explain phantom odors.

What Smells?

Odor generation has a lot of building blocks, but a stable base of organic material and biochemical oxygen demand is usually enough to cause a large odor issue to develop. Hydrogen sulfide is the most common source of odor issues: its pungent rotten-egg smell is noticeable in concentrations as low as 0.1 ppm. Therefore, hydrogen sulfide is the driving factor for odor monitoring and quantification at most treatment plants and collection system emission points.

Table 1 (p. 64) lists additional predominant substances that cause odors from a wastewater perspective. These substances are the main compounds emitted from sewers but, by far, aren't the only ones. If a collection system has a large industrial influence, the list of odor compounds can grow exponentially, depending on the nature of the industry and how its wastes mix and break down in the collection system.

As no two sewers are exactly alike, no two sewers will share exactly the same odor-generation or emission rate. However, most sewers have a similar basis for odor generation and, thus, modeling and estimating can be done.

How Does Hydrogen Sulfide Form?

In order to understand how to control odor — and specifically hydrogen sulfide — it's necessary to look at odor production at the biological level in the wastewater system. Simply stated, sulfides in wastewater — which become hydrogen sulfide when released to the air — come from waterborne facultative bacteria finding an alternate oxygen source. Facultative bacteria prefer free or "dissolved" oxygen, but dissolved oxygen is scarce in wastewater streams and is consumed rapidly. However, sulfate — another sulfur compound found in most wastewater systems — contains oxygen atoms. The facultative bacteria attach to the sulfate compound and strip away the oxygen, thereby creating sulfides. Through various biological

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processes, the sulfides become the source material for the formation of hydrogen sulfide and sulfuric acid compounds. These compounds, respectively, cause the severe odor and corrosion problems in a typical wastewater collection system, as shown in Figure 1 (p. 65).

When hydrogen sulfide is present in a moisture-laden atmosphere, the hydrogen sulfide mixes with water in the atmosphere to form sulfuric acid. These droplets will oxidize almost everything they come in contact with. As the hydrogen sulfide levels increase, so do sulfuric acid levels. In some instances, gaining corrosion control — not odor control — is the key objective for reducing hydrogen sulfide.

The three contributors to hydrogen sulfide at a control point — a location where odors are being emitted — are

- existing dissolved hydrogen sulfide in the contributing flow,
- production of hydrogen sulfide by bacteria in the bulk liquid, and
- production of hydrogen sulfide from the slime layer or sediment within the collection system.

An individual sewer can have multiple control points. As the wastewater moves along the sewer, it emits odors at all atmospheric release points.

How Does It Get Into the Air?

When considering odor or hydrogen sulfide generation, it's important to consider what sends the dissolved sulfide out of the water and into the air. The main factor that dictates how much hydrogen sulfide is released is the natural instability of dissolved sulfide, pH, and turbulence.

First, dissolved sulfides by their nature are prone to escape the liquid phase and become airborne. And as more sulfides are generated by the three contributors listed above, the more saturated the solution becomes and the more hydrogen sulfide is released.

Second, the pH of the water also contributes to the stability of the dissolved sulfide. As seen in Figure 2 (p. 65), dissolved sulfide is driven to hydrogen sulfide under increasingly acidic conditions. This factor should be taken into consideration, especially if there's an industrial input on the collection system that could affect pH.

Third, turbulence in the water can drive dissolved sulfide into the atmosphere. Any drop, turn, or splashing of the wastewater releases hydrogen sulfide from solution.

Small changes to the flow characteristics in the collection system can sometimes reduce releases; any change to reduce turbulence helps keep dissolved sulfide in suspension. Simple changes — such as reducing wastewater flow speed by increasing pump runtimes but decreasing the pump rate, implementing a variable-frequency drive pump arrangement versus an on–off pump-cycle arrangement, or removing obstructions or large elevation changes — can help.

How Much Hydrogen Sulfide Is There?

Once control points have been identified, atmospheric and liquid testing should be conducted to quantify the raw levels. For liquid testing, special sample bottles must be used to preserve the dissolved sulfide. In atmospheric testing, "bag sampling" is commonly used for complete spectrum analysis, which also will quantify the hydrogen sulfide levels. This type of analysis is useful, especially early on, as it provides accurate

Table 1. Common Wastewater Odor Compounds

Substance	Formula	Characteristic odor
Allyl mercaptan	$CH_2 = CH–CH_2–SH$	Strong garlic – coffee
Amyl mercaptan	$CH_3–(CH_2)_3–CH_2–SH$	Unpleasant – putrid
Benzyl mercaptan	$C_6H_5–CH_2–SH$	Unpleasant – strong
Crotyl mercaptan	$CH_3–CH = CH–CH_2–SH$	Skunklike
Dimethyl sulfide	$CH_3–S–CH_3$	Decayed vegetables
Ethyl mercaptan	$CH_3CH_2–SH$	Decayed cabbage
Hydrogen sulfide	H_2S	Rotten eggs
Methyl mercaptan	CH_3SH	Decayed cabbage
Propyl mercaptan	$CH_3–CH_2–CH_2–SH$	Unpleasant
Sulfur dioxide	SO_2	Pungent – irritating
Tert-butyl mercaptan	$(CH_3)_3C–SH$	Skunklike
Thiocresol	$CH_3–C_6H_4–SH$	Skunk – rancid
Thiophenol	C_6H_5SH	Putrid – garliclike

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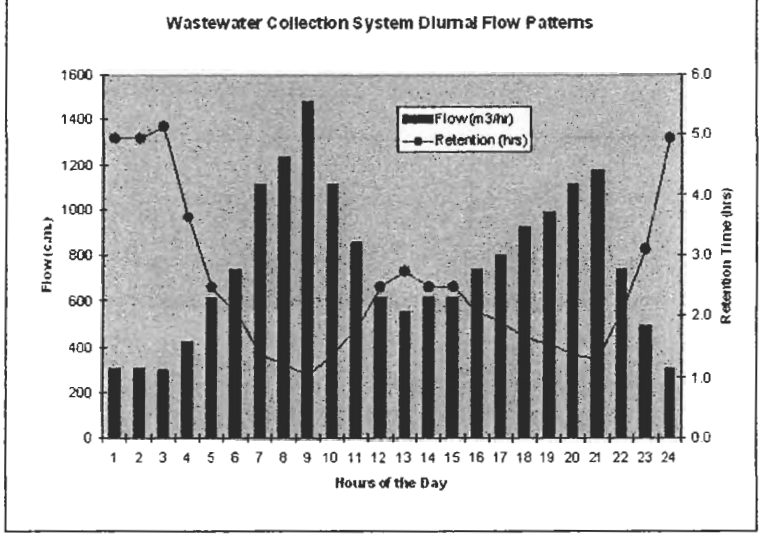
Figure 3. Small-System Retention Time With Standard Flow Pattern



odors may not be generated evenly during the course of a day. Retention-time changes, however, drastically affect odor generation. The longer the wastewater is in a captive system, such as a sewer, the more time the biomass has to break down food sources and generate byproducts that lead to gases, such as hydrogen sulfide.

A lot of factors play a role in odor generation, but the diurnal flow pattern is going to compound a small or nonexistent issue into something that causes problems at certain times of the day.

Understanding the effect diurnal flows may have on odor generation is key, as is applying it to actual systems and their individual retention times. Figure 4 (below) shows how an untreated municipal sewer system's odor generation is being monitored in the form of hydrogen sulfide. Looking at the time scale on the bottom, this initially appears to be completely the opposite of how diurnal flow affects odor generation. Are the highest hydrogen sulfide results seen when you would expect to see the highest flows or the lowest retention times?

This collection system has roughly a 6-hour retention time, so the monitoring results taken from the downstream control point at the end of the collection system can have up to a 6-hour delay from when the actual generation occurred. In Figure 5 (p. 67), the time scale has been altered to show when the wastewater that causes the high levels actually enters the collection system. This view shows that the odor generation originates during the early morning low flows and the midday flows. Wastewater that enters during these times has

Figure 4. Untreated Sewer Odor-Generation Timeline

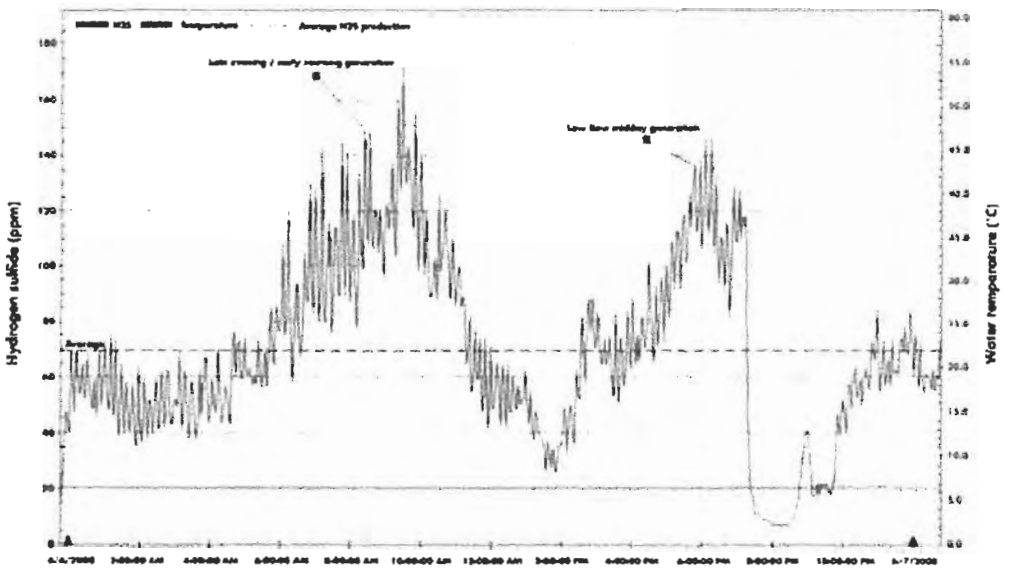


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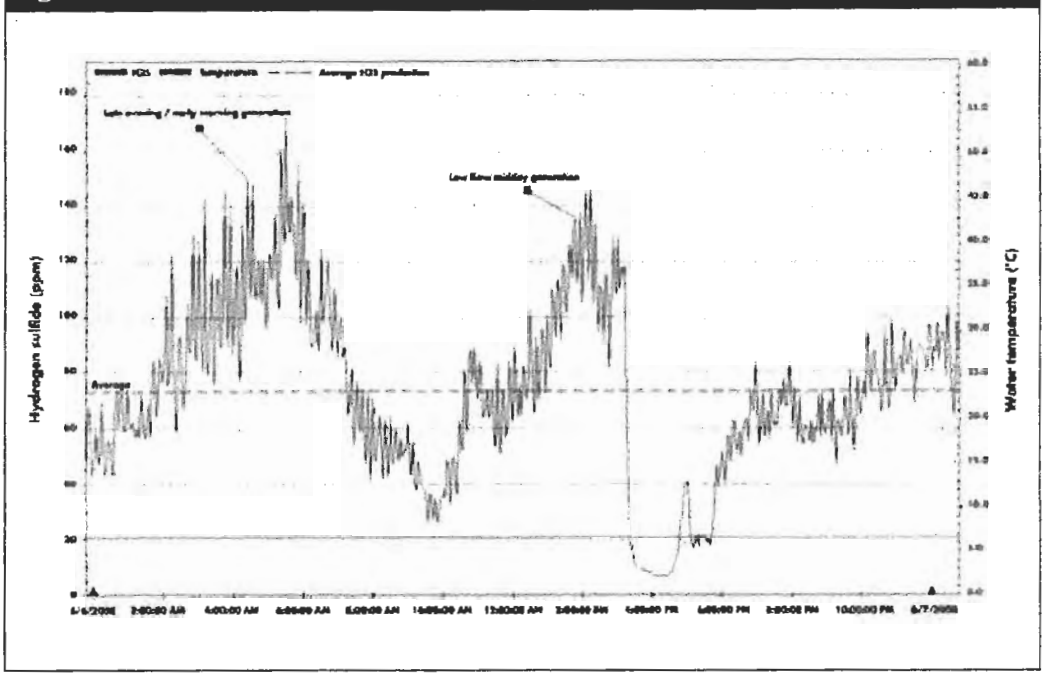
Figure 5. Untreated Sewer Odor Generation With Adjusted Timeline



longer retention times and thus causes higher odor levels at the control point downstream.

What Can I Do To Stop Odors?

A lot of treatment options can be applied when an odor-control issue is either present or expected to occur. Treatment options can be split into two main areas: liquid-phase treatment options that treat the wastewater and vapor-phase options that treat the atmospheric conditions generated.

The main liquid-phase options are oxidizers, iron salts, or nitrate addition. The main vapor-phase options are carbon adsorption, biofiltration and bioscrubbers, or wet–chemical scrubbers. Just as there are many factors that contribute to odor generation, there are many factors to consider when choosing the treatment technology. A few points that should be considered are listed below:

- Are the odors present at one specific location or at multiple release points?
- At the control point, what are acceptable odor levels (targets for control)?
  - For odor control, the typical target is a daily average of 1 ppm or less hydrogen sulfide.
  - For corrosion control, the typical target is a daily average of 5 ppm or less hydrogen sulfide.
- What space is available at the control point or an upstream dosing location for treatment equipment?
- Does the system generate odors at differing levels throughout the day? That is, does diurnal flow contribute to the problem?
- Can the treatment option be tailored or optimized for uneven odor generation?
- Does odor generation decrease in the cooler months due to a decrease in wastewater temperature, or does the generation increase due to a decrease in average daily flows and increased retention time?

Where Can I Go From Here?

These questions are the starting point to assessing an odor issue. When engaging a treatment option, technical help from the supplier or consultants should be readily available. As odors have received more attention, some consultants now specialize in this area, and some suppliers have developed a variety of proven technologies for various situations.

Remember that no two sewers are exactly alike, so treatment options must be considered on a case-by-case basis. Applying one proven technology to every odor issue most likely will not achieve the best treatment or the most cost-effective solution.

This is not to say that if one odor issue has similar characteristics to another that has an effective treatment option already in place, the new issue can't be approached in a similar manner, but ensure that testing and monitoring of the situation is done so that a complete understanding of the issue can be achieved before applying a technology.

Bryan Haan *is an odor-control applications engineer at Siemens Water Technologies Canada Inc. in Markham, Ontario.*

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H-2: Archaeological Survey Report

Confidential Information Not for Public Distribution

The September 2008 Archaeological Survey Report and Sensitivity Study for Proposed Projects and Alternatives for the Los Osos Wastewater Project, San Luis Obispo County, California by Far Western Anthropological Research Group, Inc. is:

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CALIFORNIA CONSTITUTION
ARTICLE 13D [ASSESSMENT AND PROPERTY-RELATED FEE REFORM]

SEC. 4. Procedures and Requirements for All Assessments. (a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. **No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel.** Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.

(b) All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.

(c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.

(d) Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency's address for receipt of the ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.

(e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

(f) In any legal action contesting the validity of any assessment,

the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.

(g) Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall not be imposed unless approved by a two-thirds vote of the electorate in the district in addition to being approved by the property owners as required by subdivision (e).

CALIFORNIA CONSTITUTION
ARTICLE 13D [ASSESSMENT AND PROPERTY-RELATED FEE REFORM]

SEC. 5. Effective Date. Pursuant to subdivision (a) of Section 10 of **Article** II, the provisions of this **article** shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this **article**. Notwithstanding the foregoing, the following assessments existing on the effective date of this **article** shall be exempt from the procedures and approval process set forth in Section 4:

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(b) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.

(d) Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4.

CALIFORNIA CONSTITUTION
ARTICLE 13D [ASSESSMENT AND PROPERTY-RELATED FEE REFORM]

SEC. 6. Property Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures

pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this **article**, including, but not limited to, the following:

(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.

(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.

(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

(5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners. Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imp

COPY OF CERTIFIED MAIL REQUEST

Request for Time

From: Steven Paige DRC2008-00103–Protestant #782

To: Murry Wilson, Nicole Retana, Bruce Gibson-Supervisor, County of San Luis Obispo.

I am requesting a specific amount of time to address the Board of Supervisors on Sept 29, 2009. I will need 5 minutes for each claim in my petition for a sum total of 35 minutes of presentation time. I also request rebuttal time of ten minutes for staff's objections to my claims.

My legal standing on these issues was first set in my 'no' vote and tax protest filed with the County clerk before the 218 vote. Ignoring my request is in violation of Article XIII D of the State Constitution, Sec.(6)B-5 "In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article." Both taxation and environmental issues are at nexus in my complaint. Curtailing my time has a taxation effect.

I am aware that the Board of Supervisors is not holding hearings the previous week. I request that my time frame for rebuttal to the Planning Commission findings should not be reduced because of time lost the previous week.

Thank you,

Steve Paige

215-9025

COPY OF P.C. SUBMISSION

COASTAL APPEALABLE FORM

San Luis Obispo County Department of Planning and Building 7/25/08

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION Name: LOWWP (LOS OSOS WASTEWATER PROJECT) File Number: DRC2008-00183

Type of permit being appealed:

☐ Plot Plan ☐ Site Plan ☐ Minor Use Permit ☐ Development Plan
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☒ Other: LOWWP

The decision was made by:

☐ Planning Director (Staff) ☐ Building Official ☐ Planning Department Hearing
☐ Subdivision Review Board ☒ Planning Commission ☐ Other _____
Date the application was acted on: _____

The decision is appealed to:

☐ Board of Construction Appeals ☐ Board of Handicapped Access
☒ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary).
Explain: SEE ATTACHED COMPLAINT AND EXHIBITS

☐ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act - Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).
Explain: _____

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number's _____ Reason for appeal (attach additional sheets if necessary)

SEE ATTACHED APPEALS

APPELLANT INFORMATION

Print name: STEVEN PAIGE

Address: 1554 NINTH ST. Phone Number (daytime): 528-4738

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set froth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature _____ Date 8/26/09

OFFICE USE ONLY
Date Received: _____ By: _____
Amount Paid: _____ Receipt No. (if applicable): _____

Planning Commission Protest LOWWP

Wednesday, August 26, 2009,

My name is Steven Paige, I am the Petitioner named below.

I am a low income homeowner in the "Prohibition Zone" of Los Osos California. I am dissatisfied with the approval of the Los Osos Wastewater Project I have the right to appeal the Planning Commission decision to the Board of Supervisors up to 14 days after the date of action, in writing, to the Planning Department. Legitimate coastal resource issues related to The CSLO's Local Coastal Program are raised in the appeal, I claim there should be no fee.

I will appeal my claims to the California Coastal Commission pursuant to Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043 if they are not addressed by the board. I understand that exhaustion of appeals at the county is required prior to appealing the matter to the California Coastal Commission. The appeal to the Board of Supervisors must be made to the Planning Commission Secretary, Department of Planning and Building, and the appeal to the California Coastal Commission must be made directly to the California Coastal Commission Office.

I understand 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 the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

I am appealing the Planning Commission's findings and I claim that they violate the Coastal Act I reference the specific language in the Planning Commission findings:

STATEMENT OF OVERRIDING CONSIDERATIONS

The California Environmental Quality Act requires the lead agency to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. The County of San Luis Obispo proposes to approve the Los Osos Wastewater Project although unavoidable adverse impacts to agricultural resources will result, as identified in the Environmental Impact Report. Specifically, the significant and unavoidable project-specific and cumulative impacts are associated with the conversion of approximately 16 acres of agricultural land to non-agricultural uses, rendering the land incapable of agricultural production. Consistent with past County practice, mitigation in the form of agricultural easements over similar or better agricultural land are required, however, adverse impacts are not reduced to a level considered less than significant. Never the less, the County finds that those impacts are outweighed by the benefits of the Los Osos Wastewater Project. Further, alternatives identified in the Environmental Impact Report are not considered feasible to reduce the impacts on agricultural resources below the level of impacts that will result from the Project.

Consequently, the County finds as follows:

b) **The current method of wastewater disposal by individual septic tank systems located in areas of high groundwater are a major contributing factor to this degradation of water quality.**

NO reference to the division of system components. More analysis needed. I protest this finding.

4. **The Project will meet water quality requirements while minimizing life-cycle costs and mitigating affordability impacts on the community to the maximum degree possible**

More analysis is needed. I protest this finding.

Complaints By Petitioner

General Issues:

The petitioner's general complaints about the Planning Commission's findings that impact the Costal Act are related to inadequate Environmental Justice Review, affordability, Historical resources, GHG mitigation, greywater law, affordability and co-equal analysis between STEP/STEG and gravity sewers in the Planning Commission's Oversight of the LOWWP FEIR.

Seniors and other low income homeowner's affected by the present economic environment and $300 dollar a month sewer bills have not been addressed adequately. An update of the FEIR environmental Justice review is necessary. Under existing State law fixed income Seniors will have their homes condemned and sold out from underneath them to pay for the proposed assessment if they can't make monthly payments. A STEP/STEG sewer using existing septic tanks could cut the assessment and user fees in half contrary to County Claims that STEP/STEG will cost the same. Proof of further inconsistencies in the co-equal review can be found in **(Exhibit 2)**

More analysis is needed for the following:

1) Costal Act 23.02.022 Determination of completeness, 23.02.035 Additional information required.

The Planning Commission failed to adequately review Environmental Justice impacts and did not minimize life cycle costs and mitigate affordability by omitting reference to and mitigation for the suspension of *Senior Citizens' Property Tax Deferral Program*.

Omission of this program will have severe social and environmental impacts that the Planning Commission has ignored. Many seniors will not be able to afford the proposed monthly cost of the project yet voted for it because of the County's claim of tax deferral. The County of San Luis Obispo claimed PTP program as a mitigation of costs. The Planning Commission failed to acknowledge that the CSLO Broke the Community Contract with seniors for tax deferral. The CSLO assumed, advertised, and projected to voters the Senior Citizens' Property Tax Deferral Program prior to the 218 vote.

Quoting the State Comtrollers website:

"On February 20, 2009, the Governor signed signed Senate Bill X3 8 (Chapter 4, Statutes of 2009), which immediately suspends the Senior Citizens' Property Tax Deferral Program. This legislation prohibits the filing of claims for property tax postponement and prohibits the Controller from accepting claims filed after February 20, 2009."

"As a result of the program suspension, the Controller will no longer accept claims for property tax postponement pending modification or repeal of this new law. 6)Enacts the Governor's proposal to suspend indefinitely the Senior Citizens' Property Tax Deferral Program. This program is administered by the State Controller and allows the State to pay the local property tax for low-income seniors with reimbursement to the state (including interest) made when the property is sold. Suspension of the program will save the GF $6.5 million in 2008-09 and $32.0 million in 2009-10 and ongoing."

The program is discontinued. Before the 218 vote was cast, County literature stated that the property tax deferral program would help seniors. The CSLO must supply voters with a comparable deferral option or recast the 218 vote. The Planning commission missed this important issue in its entirety.

2) Costal Act 23.02.022 Determination of completeness, 23.02.035 Additional information required.

The Planning commission failed to adequately review Environmental Justice impacts and did not minimize life cycle costs and mitigate affordability by the act of not acknowledging that the County of San Luis Obispo Broke Community Contract for the inclusion of the STEP/STEG Option in the design bid build process.

The Petitioner claims that the assessment engineers report for the LOWWP and community brochures (**Exhibit 1**),constitute a contract with the Petitioner and other homeowners. It was readable by the petitioner before the vote. That contract included having a STEP sewer option in the design/bid/build process. The STEP sewer option was represented in the contract as being co-equal to gravity sewer in the design/bid/build process.

The Petitioner concludes that the omission of the STEP sewer from the design/bid/build process is a breach of contract. The Petitioner quotes a specific letter written on August 16, 2007, in a communication to the petitioner via an addendum the assessment engineers report labeled TO: Noel King, Director of Public Works, VIA: Paavo Ogren, Deputy Director of Public Works, FROM: Dean Benedix., P.E., Assessment Engineer of Work on the SUBJECT of: San Luis Obispo County Wastewater Assessment District No. 1, Determination of Special Benefits and Project Cost, said letter Dept of Public Works Stationery states without question that:

"In the current project selection strategy, the STEP and gravity alternatives would compete through the construction bidding phase using a competitive bid, design/build, and/or build/own/operate/transfer process. "

The engineers report for the Prop 218 tax vote assessment against the petitioner's property states unequivocally that STEP sewer would be included in the design bid build process. Since the contract

with the petitioner has been broken then the petitioner claims that the running time to challenge the assessment and 218 vote has not been closed. The petitioner claims that through passive negligence, that the County allowed the continuing process of evaluation for the LOWWP to eliminate prematurely STEP collection and on site primary treatment using existing septic tanks from the design build process without regard to the petitioners tax rights and contractual promise in the quote from the engineers report.
The petitioner claims that the proposed process presented in the engineers report and flyers and absorbed in the public psyche in the taxation vote is an implicit contract to perform co-equal analysis between STEP and gravity sewers, including using existing on site septic tanks. That contract has been subverted, mishandled, manipulated, and neglected by omissions, hyperbole and 'heresy' accounts against STEP collection and treatment. The potential low end cost of step collection using existing septic tanks is reviewed in a recent e-mail from Mike Saunder's of Orenco Systems to Al Barrow. I thank Al for sharing this with me. It outlines how subverted the process has become. **(Exhibit 2)**

3) Costal Act section 23.05.040 Drainage, 23.06.100 Water quality, 23.02.035 Additional information required.

The Planning commission failed to adequately review Environmental Justice impacts and mitigate affordability by <u>not</u> challenging the assumption that drainage runoff, and groundwater seepage into the gravity piping system is the petitioner's wastewater expense. It can be avoided at a lesser cost and environmental impact.

The County of San Luis Obispo has misrepresented what is sewer water in its cost analysis of the LOWWP. This was not overlooked by the petitioner during the challenge period but it was assumed by the petitioner that STEP sewers would be part of the design/bid/build process as stated. In the certified opinion of the appellate Court in HOWARD JARVIS TAXPAYERS ASSOCIATION et. al. v CITY OF SALINAS et.al ., Defendants and s. (Monterey County v. Super. Ct. No. M45873). The Court concluded that storm drainage is separate from sewer wastes and sided with this petitioner in his claim that drainage (and ergo I and I in the gravity sewer system that is equivalent to drainage) is subject to a separate vote or assumed to be subject to general tax assessments not ones specific to the owner's property. The Appellate Court ruled in HJ vs. SALINAS:

"For similar reasons we cannot subscribe to the City's suggestion that the storm drainage fee is "for . . . water services." Government Code section 53750, enacted to explain some of the terms used in articles XIIIC and XIIID, defines "[w]ater" as "any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water." The average voter would envision "water service" as the supply of water for personal, household, and commercial use, not a system or program that monitors storm water for pollutants, carries it away, and discharges it into the nearby creeks, river, and ocean. We conclude that article XIIID required the City to subject the proposed storm drainage fee to a vote by the property owners or the voting residents of the affected area.
The trial court therefore erred in ruling that Ordinance Nos. 2350 and 2351 and Resolution No. 17019 were valid exercises of authority by the City Council."

The petitioner claims it is illogical to take 300,000 gallons a day of perfectly clean rainwater out of the Los Osos basin, that is part of a natural process of groundwater recharging and interject it into the gravity sewer lines, mix the clean water with polluted water, transfer it to the treatment plant, treat it, and re-dispense in into the water basin and claim that the actions are a special benefit to the petitioners property. The CSLO has by assuming that I&I is wastewater, has created a tax claim against the petitioner property that is thoroughly avoidable.

The petitioner then has good reason to assume that the BOS would concur that infiltration of stormwater into the gravity conveyance system should be subject to a separate 218 vote because it is storm drainage and not sewage and has no relevance to the waste discharge prohibitions in the prohibition zone against the petitioners property. It is a general benefit if it has any benefit at all. Assuming the appellate courts findings in HJ vs. CITY OF SALINAS, the petitioner contends that the CSLO cannot take unpolluted rainwater and groundwater seeping into the gravity piping system and charge sewer fees for its treatment. Petitioner claims that in the gravity collection system the treating and disposing of off site drainage, rainwater and groundwater have no relationship to the owner's property. The impact is avoidable in its entirety at no further expense to the property owner using STEP collection.

Hence fees and services, and infrastructure costs caused by CSLO's 'I & I' component of the gravity sewer lines, treatment and disposal need to be eliminated from the petitioner's assessment evaluation. It was assumed by the petitioner at the time of the engineer's report that STEP sewer system would be judged to be the superior method of avoiding the tax impacts of I&I. This assumption is founded in fact contained in the "Ripley Report Dec. 18, 2006 Final Report" commissioned by the Los Osos Community Service District and portions of it are submitted herewith as **(Exhibit 3, See end of document reference and hard copy of pertinent facts.)**. But the STEP sewer system was recently removed from the RFP- design/bid/build process with no public discussion on the subject of the tax ramifications of I&I impacts. These facts ripen the petitioner's claim to challenge its' inclusion in contemporary declaratory relief and injunctive action as it is the only way to assure that Article XIII D provision to limit taxation can be satisfied.

The petitioner claims that the cost of stormwater transmission and treatment within the total LOWWP must be removed from the Petitioner's special benefit. The Petitioner claims that the the County of San Luis Obispo must remove the related portion of special benefit assessment against the petitioners property representing the cost of infiltration of water into the Los Osos Wastewater Project gravity conveyance (piping) system, and the added cost of treating mixed sewage, stormwater and groundwater from the petitioner's "special benefit" sewage treatment costs. The Petitioner claims that runoff and groundwater infiltration into the wastewater piping system is not a sewage conveyance cost that the petitioner should bear but instead is a "Stormwater Transmission" expense.

The added cost for accidental or involuntary stormwater transmission and infiltration is not subject to Regional Water Quality Control Boards requirements aginst the homeowner and projected penalties related to the Petitioner's home waste discharge in the Prohibition Zone of Los Osos. The petitioner is correct in assuming that there is of no "special benefit" to the owner's property for involuntary or accidental off site stormwater and groundwater transmission and treatment related to gravity pipe leakage. The petitioner assumes that the Court would concur with the petitioner that Stormwater and groundwater infiltration into the gravity piping system is entirely avoidable at an equal or lesser cost using accepted engineering technology of a Septic Tank Effluent Pump sewer treatment system as

shown in the engineering study by Ripley **(Exhibit 3).** The petitioner assumes the Court would mandate that the cost of stormwater transmission and treatment within the total LOWWP be removed from the Petitioner's special benefit. This claim is based on constitutional law found in Section 4, Article XIII D.

"SEC. 4. Procedures and Requirements for All Assessments.
No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel."

4) Costal act 23.02.035 Additional information required.
The Planning commission failed to adequately review Environmental Justice impacts, affordability and taxation irregularities by not reviewing the use of the existing septic tank component on each property to be used in conjunction with a low cost STEP/STEG sewer system.

A septic system consists of two components, a septic tank, and a leach field. The septic tank is a sealed system with no waste discharge into the environment. The Petitioner has afforded the environment of the Los Osos groundwater basin primary treatment in the sealed portion of the total septic system commonly referred to as the 'septic tank'. The septic tank component has no discharge into the water basin and the Petitioner claims that the CSLO's claims of endemic community wide leakage are "heresy". Septic tank testing standards are common. The local Regional Water Quality Control Board recognizes the most common standards for construction of concrete septic tanks **(Exhibit 4).** Many septic tanks in Los Osos installed after 1975 were built to the standards in exhibit 4. The Petitioner submits to the BOS that the CSLO's own estimate of reduced pollutants from waste treated in septic tanks by biological action in **(Exhibit 5).**

Petitioner claims that the pollutants found in a gravity sewer release from the Petitioner's property are well above the pollutants found in the release from the outlet side of the Petitioner's existing septic tank. Hence the Petitioner receives no credit in the special benefit from waste treatment related to the difference between the two different constituent discharges described in the LOWWP FEIR **(Exhibit 5,).** The CSLO by co-mingling the pollution consequences of the two separate parts of the Petitioner's waste handling system has denied the petitioner the right to claim partial treatment in the evaluation of what constitutes a special benefit for the petitioner's property and has omitted the tax ramifications in the engineers report.

The petitioner claims that requiring the homeowner to exchange a perfectly functioning septic tank for one that performs the same function and charge the petitioner for the new one is 'inverse condemnation' of the petitioner's property and subject to adjudication. Basically the petitioner's Fifth Amendment rights are being violated. The petitioner's septic tank is being taken without compensation either by physical reward or adjustment of the assessment. The existing septic tank is the property of the homeowner and is not discharging into the groundwater basin. This property right issue clouds the co-equal analysis and the Planning Commission has made no effort to remove the onus of Fifth Amendment challenges which could further delay the project.

The Petitioner contends that if the CSLO included accurate low end cost for STEP/STEG collection in the engineers report and included using existing tested septic tanks, the tax burden to the Petitioner's property would be approximately one half the present proposed assessments. Using the "Ripley Report and subtracting the savings of using the petitioner's existing septic tank the estimated special benefit would be $12,500 dollars not the proposed $24,000 dollars of the CSLO's preferred project. This fact illustrates the 'existing standing benefit' that the Petitioner's primary treatment of waste represents. The Ripley report illustrates how the savings are spread throughout the design of the total waster water project especially for energy consumption **(Exhibit 6).**

The petitioner's tax burden should be limited to secondary and final treatment only as redundant primary treatment of solids is not a special benefit. The petitioner claims that the Petitioner's existing septic tank biological system is already reducing pollutants in waste water by an amount shown in **(Exhibit 5).** The the petitioner concludes that the septic tank is distinct from the leach field and represents no further hazard to the environment than a gravity collection piping system does. The Petitioner claims that the cost of primary treatment is of no benefit to the petitioner and hence the cost of such should be removed from the petitioner's special benefit. The Petitioner would connect to the effluvent STEP piping at the effluvium outlet of the petitioners existing septic tank to the conveyance system of the County sewer project thereby eliminating groundwater contamination via the leach field on the owner's property and meeting the RWQCB's requirements to cease leachfield discharges in the prohibition zone regardless of the method chosen by the CSLO for the LOWWP.

Petitioner references the following codes related to using existing septic tanks. Existing tanks can be easily tested under ASTM C1227 procedures. It is impossible for me to believe that Public works is unaware of existing legitimate tank testing procedures already approved by the RWQCB Central Valley Region **(Exhibit 7)** .

Both ASTM C1227 and IAPMO PS-1 standards allow the performance of a vacuum test for watertightness evaluation as well as proof of structural design. For instance, the CSA B66 standard offers a vacuum test as an option for strength evaluation – both physical loading with sand bags and vacuum testing are allowed. Both tests are performed for approximately one hour and then the tank is checked for deformation and leakage. The strength testing is then followed by a watertightness test. Again, we see that all three industry standards recognize the vacuum test as a perfectly viable performance evaluation method. It is certainly considered to be a "real world" test by these standards bodies.

Petitioner claims that the Planning Commission ignored the following standards in its evaluation:

Oregon
Watertight testing of the tank into the riser is required during installation. It is also recommended the tank manufacturer watertight test each tank before shipping.
Rule Reference:
340-073-0025(3):
Watertightness. After installation, all tanks must be watertight. The installer must test each tank for watertightness by filling the tank to a point at least 2 inches above the point of riser connection to the top of the tank. During the test there may be no more than a one gallon leakage over a 24 hour period.

The tank manufacturer must deliver watertight tanks and should test each tank for watertightness before the tank is shipped from the manufacturing plant.

Arizona State Comments:
This provision requires that a field watertightness test be conducted for all septic tank installations. If water is available at the site, which will be the case in the large majority of installations, added materials and labor costs, will be an estimated $15 to $68. For the sites where water must be delivered, the estimated cost, including site labor for initial tank fill and refill after a 24-hour presoak, is $214. The field water tightness test has significant benefit in ensuring that the septic tank does not leak due to factory defects or damage during installation. In addition, the weight of water in the septic tank during testing ensures that the tank is properly bedded, reducing the chance of major malfunction of the tank upon use by the homeowner.

Rule Reference:
R18-9-A314.5.d:
The septic tank is tested for watertightness after installation by the water test described in subsections (5)(d)(i) and (5)(d)(ii) and repaired or replaced, if necessary.
i. The septic tank is filled with clean water, as specified in R18-9-A310(A), to the invert of the outlet and the water left standing in the tank for 24 hours and:
(1) After 24 hours, the tank is refilled to the invert, if necessary;
(2) The initial water level and time is recorded; and
(3) After one hour, water level and time is recorded.
ii. The tank passes the water test if the water level does not drop over the one-hour period. Any visible leak of flowing water is considered a failure. A damp or wet spot that is not flowing is not considered a failure.

Montana
Watertight, Vacuum or Pressure (fiberglass only) testing of all tanks used for commercial facilities, multiple-user systems or public systems must be tested in place for watertightness. The rules stop short of requiring this for single family residential systems.

Rule Reference:
7.3
1. All tanks must be watertight. Tanks used for commercial facilities, multiple-user systems or public systems must be tested in place for watertightness. Watertightness testing for a concrete tank may be conducted using a water test or vacuum test. Watertightness testing for a fiberglass tank may be conducted using a water test, a vacuum test, or a pressure test.
Falsehoods about STEP sewer design and piping systems. 6
1. 7.3.1 Water testing must be conducted by sealing the outlets, filling the septic tank to its operational level, and allowing the tank to stand for at least 8 hours. If there is a measurable loss (2 inches or more), refill the tank and let stand for another 8 hours. If there is again a measurable loss, the tank must be rejected.
2. 7.3.2 Vacuum testing must be conducted by sealing all inlets, outlets, and accesses, then introducing a vacuum of 4 inches of mercury. If the vacuum drops in the first 5 minutes, it must be brought back to 4 inches of mercury. If the septic tank fails to hold the vacuum at 4 inches of mercury for 5 minutes, the tank must be rejected.
3. *7.3.3 For pressure testing a fiberglass tank, all inlets, outlets, and access ports must be sealed and adequately secured. The tank must be charged with 5 psig (3 psig for a 12-foot*

diameter tank). Allow tank pressure to stabilize. Disconnect the air supply. If there is any noticeable pressure drop in 1 hour, the tank must be rejected or repaired. Repeat the test after repair. Release air carefully through an appropriate valve mechanism.

Rhode Island

All septic tanks and their risers are required to be certified watertight by the manufacturer or by on-site testing in accordance with the below rule (which is very similar to ASTMC-1227).

Rule Reference:

26.11

Performance Testing- All septic tanks and their risers must be certified watertight by the manufacturer or by on-site testing. On-site testing for septic tank leakage shall be conducted for tanks assembled at the installation site. The Director may require onsite testing on a case-by-case basis. The testing shall be conducted using either:

26.11.1 Vacuum Test- Seal the empty tank and risers and apply a vacuum to two (2) inches (50 mm) of mercury. The tank is approved if ninety percent (90%) of the vacuum is held for two (2) minutes; or

26.11.2 Water-Pressure Test- Seal the tank and risers, fill with water to the top of the risers, and let stand for twenty-four (24) hours. Refill the tank. The tank is approved if the water level is held for one (1) hour.

Vermont

Requires "leakage testing" in the field for all holding tanks and any tank utilized with a sand filter.

Rule Reference:

1-915(a)2(F) Sand Filters

After installation all components, including septic tanks, pump chambers, recirculation tanks and filter containers, shall be tested by filling to a point at least two inches, but not more than three inches, above the point of riser connection to the top of the tank, chamber, or container. During the test there shall not be a measurable leakage over a twenty-four (24) hour period.

1-919(c)(3) Holding Tanks

the tank, any piping connected to the tank, and all access structures connected to the tank shall be watertight. The tank shall be leakage tested prior to being placed in service;

Falsehoods about STEP sewer design and piping systems. 7

Utah

Watertight testing in the field is required in accordance with ASTM C-1227 ***OR*** as stated in the below Utah rule. ASTM C-1227 "leakage testing" requires the tank be either vacuum or water tested. The vacuum testing is performed by applying a vacuum to 4 inches of mercury and the tank passes if 90% of the vacuum is held for 2 minutes. Water testing is performed by filling the tank with water (no specified level) and letting it stand for 24 hours then refilling the tank and it is approved if the water level is held for one hour.

Rule Reference:

R317-4-3.3.5

Final On-Site Inspection.

A. After an onsite wastewater system has been installed and before it is backfilled or used, the entire system shall be inspected by the appropriate regulatory authority to determine compliance with

these rules.
B. Each septic tank shall be tested for water tightness. Testing may be performed in accordance with the requirements and procedure outlined in the American Society for Testing Materials' Standard ASTM C-1227, or concrete tanks shall be filled 24 hours before the inspection to allow stabilization of the water level. During the inspection there shall be no change in the water level for 30 minutes. Nor shall moving water, into or out of the tank, be visible. The regulatory authority may allow two piece tanks, with the joint below the water level, to be backfilled up to three inches below the joint to provide adequate support to the seam of the tank. Testing shall be supervised by the regulatory authority. Tanks exhibiting obvious defects or leaks shall not be approved unless such deficiencies are repaired to the satisfaction of the regulatory authority.

New Jersey

The *Aerobic Treatment System Guidance* document requires that all tanks be tested for watertightness through one of the following methods as established in the guidance document, see below.

Guidance Document Reference:

H.7
7. Watertightness of any septic, processing and dispersal system dosing tanks specified in the design must be watertight tested at the installation site after being installed using hydrostatic or vacuum tests. Testing of the tanks shall include all upper portions of the tank, including riser joints. Testing must be done in accordance with the following:
a. Water tightness testing procedures and criteria for concrete tanks shall follow the methods described in ASTM C-1227 standards or National Precast Concrete Association appropriate testing criteria and procedures
b. Tanks made of materials other then concrete shall be tested, after installation, in accordance with the methods described in ASTM C-1227 standards, if applicable, or other hydrostatic or vacuum testing methods approved by the tank manufacturer.
c. Water used for this testing shall be either from a potable water source or Reclaimed Water for Beneficial Reuse authorized by a NJPDES permit.
d. The use of an onsite potable well for purposes of supplying water for this testing is not recommended. If an onsite potable well is to be used, pumping of the well must be done in a Falsehoods about STEP sewer design and piping systems. 8
manner which will withdraw water at a rate less than 50% of the safe yield of that well and will not damage the pump or any other component of the well.

Finally, what if STEP/ STEG septic tanks were allowed to leak as much as a 'standard' gravity sewer? During the rainy season the LOWWP gravity system is 'designed' to leak 310,000 gallons per day into the system (EIR I&I evaluation, 310,000 gpd / 5000 homes) 62 gallons/day is the amount each residential tank would be allowed to leak to have the same environmental impact as the gravity conveyance system .
The Petitioner claims by comparison that if a standard septic tank was tested and the water level dropped 3 inches in one day in the tank, it would have the same leakage rate and environmental impact as the purposed gravity sewer system due to I & I.

This is shown by the following simple math.
62 gallons/day/household / 7.481 = 8.2 Cubic Ft.
Average tank inner wetted surface 4.25 x 7.5 = 32 Sq. Ft.

8.2 Cubic feet/ 32 sq ft = 0.25 foot drop in water level
or three inches drop in the tank water level.

To replace 5000 septic tanks has an environmental cost. That cost is called the 'embedded energy cost'. Each new tank takes energy to make, transport, and install. All those processes produce greenhouse gasses. One ton of concrete requires 3,700,000 btu's of energy to make. If you multiply that impact by 5.0 x 103 times 3.7 X 106 you get a greenhouse gas energy consumption penalty of 18.5 Billion BTU's energy to replace the existing septic tanks. Using existing tanks should be a valid GHG mitigation and be subject to analysis. Many existing tanks have a 60 year projected life span. The fact is, utilizing tested on site septic tanks and standardized pump vaults would have even more benefits. Among them are:

- Reduces on site step collection costs by 80% for homeowner's that qualify.
- Mitigates on site archeological impacts by 80%.
- Mitigates on site landscape and small lot impacts by 80% (no torn up yards)
- An estimated 75% of existing septic tanks appear in good condition and are concrete monolithic vaults with sealed lids.
- ***Reduces construction time***
- Lowers on site embedded energy costs by 80% with equal CO2 reduction.
- Mitigates and Eliminates surface spillage of untreated septic wastes containing solids and solid medical wastes into the estuary entirely.
- Reduces solids processing and hauling by 80 %, reduces embedded energy costs and reduces air pollution from solids handling by 80%.
- Widens scope of value engineering criteria to reduce the entire cost of project.
- Saves approx $5000 dollars in expenses to homeowners.
- Mitigates unknown dewatering environmental impacts for deep trenching associated with tank replacement.

5) 23.02.035 Additional information required.

The Planning commission failed to adequately review Environmental Justice impacts and did not minimize life cycle costs and mitigate affordability by not challenging the assumption that County of San Luis Obispo LOWWP EIR and FEIR made that the County of San Luis Obispo that Gives No Benefit Credit, Environmental credit, or AB 32 analysis for Greywater Installation.

On site greywater discharge for landscaping also reduces the homeowner's special benefit but is nowhere reflected in the Planning Commission analysis. This induces more water consumption. There is a conflict between the RWQCB's xero discharge order and State Greywater law that the CSLO has ignored at the expense of the enviorment and to the tax detrement of seniors and low income homeowners in the prohibition zone. Onsite greater usage benefits the water basin and lessons the cost of the wastewater project. From Article XIIID:

"(3) The amount of a fee or charge imposed upon any parcel orperson as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel."

For STEP, only 369,000 cu ft are subject to investigation based on 70 miles of piping (including laterals).

Horizontal boring is a valid archeological mitigation that cannot be matched by trenching. Its economic benefits have not been evaluated reasonably by the Planning Commission. Gravity trenching could incur extreme costs that would be added to the gravity sewer collection to meet state law with respect to archeological findings in the excavated earth. This cost would be passed on to the homeowner and could raise the price of the collection system for gravity by as much as 1/3. The in ground cultural resources of Los Osos are vast. A review of the Cultural Resource Appendix of the EIR makes that fact obvious. The LOWWP Engineers have misrepresented this added cost by not estimating it at all. The EIR claims that State law requires that:

"Mechanical backhoe trenching shall be conducted within the sensitive areas where any construction impacts will occur and shall be monitored by a qualified geoarchaeologist. Any identified intact deposits will be evaluated, and any deposits determined to be eligible to the California Register and/or National Register shall require project redesign to avoid impacts, or data recovery to mitigate unavoidable impacts."

To counteract the obvious archeological benefits of STEP collection illustrated above, the County EIR made a series of vague hearsay claims about on site impacts without using septic tank recycling as an obvious mitigation and assuming that the tank when first installed did not have any archeological impact. Septic tank recycling avoids 80% of the described impacts. The LOWWP EIR for step collection erroneously concludes:

"Excavation for the new STEP/STEG tank as a replacement for the existing septic tanks at each property could result in an unknown amount of impact to human remains. Avoidance of burials in these situations would be difficult to attain due to limited space and the need for significant excavation to accommodate the STEP tanks.

The petitioner incorporates by reference all documents presently held electronically at the LOCSD and CSLO Public Works Dept as printing documents that are already in the possession of the LOWWP project coordinators and the BOS represents an undue financial burden on the Petitioner and represents a waste of resources and energy. Their location is at:

http://www.slocounty.ca.gov/Assets/PW/LOWWP/document+library/Past+Project+Documents+4-15-09.pdf

And by reference the LOCSD's Ripley Report dated December 18, 2006 at:

http://losososcsd.org/pdf/ripley_final_report_12.18.06.pdf

Thank you for your time and consideration,

Steven Paige

End Complaint

PART OF ENGINEERS REPORT

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PUBLIC WORKS

Noel King, Director

County Government Center, Room 207 • San Luis Obispo CA 93408 • (805) 781-5252
Fax (805) 781-1229 email address: pwd@co.slo.ca.us

SEE PAGE 4. TOP OF PG

August 16, 2007

TO: Noel King, Director of Public Works

VIA: Paavo Ogren, Deputy Director of Public Works

FROM: Dean Benedix, P.E., Assessment Engineer of Work

SUBJECT: San Luis Obispo County Wastewater Assessment District No. 1, Determination of Special Benefits and Project Cost

BACKGROUND

On February 6, 2007, the Board of Supervisors approved a contract for Assessment Engineering services with the Wallace Group for the Los Osos wastewater project. The contract contemplates the completion of an Assessment Engineer's Report through the combined efforts of the County and the Wallace Group. Craig Campbell, P.E. of the Wallace Group and Dean Benedix, P.E., Utilities Manager for the County Public Works Department were selected to serve jointly as the Engineer of Work for the assessment proceedings. The Scope of Work to be completed by the County included the following items as described in Table 1 of the contract:

1. Determine the proportional special benefits for overall project components as described in Article 13D, Section 4a of the California State Constitution.

2. Provide a summary of the proposed project and estimated total cost as required by Section 10204 of the 1913 Act.

3. Provide a notice and ballot to each parcel in the assessment district as described in Article 13D.

This memorandum summarizes the information required in the first two scope items, and provides the basis for the preparation of an Assessment Engineer's Report that delineates the special benefit amount for each parcel within the assessment district.

ANALYSIS AND CONCLUSIONS

In accordance with Assembly Bill 2701 (Blakeslee), the County commissioned the preparation of an engineering analysis that identifies a range of viable project options for the Los Osos wastewater project. The report was prepared by Carollo Engineers and is entitled, "Viable Project Alternatives Fine Screening Analysis" dated August, 2007 (Fine Screening Report). The Fine Screening Report provides a substantial body of evidence that can be used to estimate the overall special benefits that would accrue to properties within the assessment district. The selection of specific project elements such as the treatment plant site and collection technology will occur in future phases of the project, following the County's due diligence period and a community survey. However, costs can be assigned to each project element that would allow for a reasonable range of alternatives while providing a complete and functional wastewater collection, treatment, and disposal system. The following guidelines were used to identify the proportional special benefits for each project element:

Special Benefit Guidelines

1. The Fine Screening Report identified a range of water supply benefits that could be achieved with the wastewater project. Given that properties inside and outside of the assessment district benefit from water supply enhancements, incremental project costs that relate to providing a water supply benefit beyond the current condition (Level 1 identified in the Fine Screening Report) are deemed general benefits.

2. The cost assigned to each component should be sufficient to fund a range of viable alternatives, but would not necessarily fund the most costly alternatives. This guideline would apply even if the most costly alternative can be determined to confer a special benefit consistent with its higher cost. As a result, the proposed assessed special benefit is expected to be less than the maximum special benefit which could be assessed given the body of evidence. If more costly alternatives are ultimately selected, other/additional sources of revenue would be required to supplement the proceeds of the assessment district.

3. The cost of the inclusion of additional treatment processes beyond secondary treatment, such as tertiary filtration, if determined necessary to achieve a level of water supply benefit beyond the current condition, would be a general benefit. The cost of providing advanced sludge recycling through composting or other means would also not be included as a special benefit.

4. Given that overall project costs for engineering, administration, and legal expenses would include some efforts relating to general benefits, the low range of these project costs will be utilized as the proposed special benefit.

5. The mid-point of the estimated cost of the treatment plant site will be utilized as the proposed special benefit.

6. Given the uncertainties associated with permit and mitigation costs and the need for a reasonable contingency, the high end of the permitting/mitigation cost range will be used as the proposed special benefit.

7. In the event project components are implemented that result in total costs less than the allocated special benefit for the project, the County shall then reduce the assessment levied to reflect the actual special benefits of the total project costs incurred for project construction and implementation.

General Benefits

Costs of general benefits are not included in the estimate of Special Benefits included herein for project component costs. General benefits are capital improvements, general services, operations and/or maintenance, other amenities and/or programs which benefit the public at large or are a general benefit to all properties within a designated area. Examples of such general benefits are:

1. Repayment of the $6.5 million dollar State Revolving Fund (SRF) loan used by the LOCSD to initiate construction on the former wastewater project. While the County does not know whether the California SRF program will be utilized to help fund the project, nor whether the Governor's signing message with his approval of Assemble Bill 2701 will be binding, any such costs shall not be paid utilizing the proposed assessments.

2. Biosolids treatment and disposal measures beyond that required for the baseline wastewater treatment project.

3. Inclusion of additional treatment processes beyond secondary treatment, such as tertiary filtration.

4. Preparation, processing and/or implementation of a Habitat Conservation Plan.

5. Mitigation of seawater intrusion beyond the impacts of the wastewater treatment project.

6. Preparation of a regional water resources plan.

Costs for implementation of any general benefit improvement, service, program or amenity is anticipated to be funded through grants and/or with other legally permissible supplemental funding sources.

Collection System Special Benefit

Pursuant to Guideline No. 2 above, the special benefit of the collection system was selected such that a range of collection system alternatives could be funded. In the current project selection strategy, the STEP and gravity alternatives would compete through the construction bidding phase using a competitive bid, design/build, and/or build/own/operate/transfer process. If gravity system bids are received near the high end of the cost range, it is unlikely that gravity will be competitive with STEP. For this reason, the allocated special benefits will be based on the low end of the gravity system cost range, which would also cover the cost of a STEP system.

Consistent with previous assessment proceedings in Los Osos, the collection system can be separated into three components, defined as follows:

Lateral component: Laterals are defined as individual service lines that extend from the main in the street to the property line. In a STEP system, the lateral component would include the publicly financed and owned collection system components that are located on each private property within appropriate public easements that will need to be established for ownership and maintenance by the County, including the STEP tank, pump, control panel, and appurtenant facilities.

Trunk component: This component includes larger gravity mains, force mains, pump stations, and standby power facilities that serve regional areas. During the previous assessment proceedings, the trunk component was determined to include 19.1% of the planned pipelines. This percentage will also be used for the current assessment. Conveyance facilities required to pump wastewater to a treatment plant site if located east of Los Osos Creek would be included in this component.

Collector component: Collectors are defined as the localized sewer mains and pocket pump stations that convey water to trunks and regional pump stations. Some areas of the community, notably Bayridge Estates and Vista de Oro, have existing lateral and collector infrastructure as part of their existing community septic systems.

Table A.1 on the following page summarizes the proposed special benefits for each component of the collection system. The costs were derived from the low range of the gravity collection system, as summarized in the Fine Screening Report.

Treatment, Disposal, Permit, and Administrative Project Costs

In addition to the three collection system components described above, two additional project components are required to complete a functional wastewater system as follows:

Treatment/Disposal Component: This component includes the cost of the wastewater treatment facility, the effluent disposal system, and the wastewater treatment facility site.

Common Component: Project costs that are attributable to the entire project including engineering, administration, legal, permitting, and mitigation are included in this component.

The special benefits attributable to the wastewater treatment facility were determined based on a range of technologies that would form a functional Level 1 system. A number of different combinations of treatment technology and sludge processing would be fundable at a cost less than or equal to the proposed special benefit. Table A.2 on the following page summarizes sample technologies that could be funded at a cost at or near the proposed special benefit. As indicated in Table A.2, a total special benefit of $27,639,000 is recommended for this element of the project.

The special benefit associated with the effluent disposal system was determined by using the high range of the Level 1 cost estimate, or $15,600,000 in 2007 dollars. It should be noted that a Level 2 project could also be completed for essentially the same cost. The total special benefit for effluent disposal, including inflation of 24.5%, is therefore estimated at $19,422,000.

Table A.3 summarizes the proposed special benefit for the treatment/disposal and common assessment components, and the total wastewater project:

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Table A.1 - Collection System Special Benefit and Component Allocation				Cost Allocation by Collection System Component	
Item Description	Low Range Construction Cost Estimate	Total Cost with Inflation 24.50%	Lateral Component	Collector Component 80.90%	Trunk Component 19.10%
Mob/Demob/GC's (split)	$3,700,000	$4,606,500		$3,726,659	$879,842
Gravity sewers / force mains (split)	$27,800,000	$34,611,000		$28,000,299	$6,610,701
Manholes (split)	$4,300,000	$5,353,500		$4,330,982	$1,022,519
Shoring and dewatering (split)	$4,800,000	$5,976,000		$4,834,584	$1,141,416
Duplex pump station (trunk)	$2,600,000	$3,237,000			$3,237,000
Triplex pump station (trunk)	$1,200,000	$1,494,000			$1,494,000
Pocket pump station (collector)	$2,400,000	$2,988,000		$2,988,000	
Standby power station (trunk)	$2,500,000	$3,112,500			$3,112,500
Misc facility requirements (split)	$3,200,000	$3,984,000		$3,223,056	$760,944
Laterals in right of way (lateral)	$8,800,000	$10,956,000	$10,956,000		
Road restoration (split)	$5,200,000	$6,474,000		$5,237,466	$1,236,534
Land and easement acquisition	No additional cost	N/A			
Overhead and profit	No additional cost	N/A			
Conveyance to out-of-town WWTF (trunk)	$2,900,000	$3,610,500			$3,610,500
Totals	**$69,400,000**	**$86,403,000**	**$10,956,000**	**$52,341,045**	**$23,105,955**

Notes: 1. Percentage split between trunk and collector from gravity main analysis performed by the LOCSD in the 2001 assessment district - applied to split items only.
2. Estimate of inflation from Fine Screening Report, Appendix C

Table A.3: Special Benefits Summary for Treatment/Disposal and Common Components		
Item Description	Proposed Special Benefits	Comments
Wastewater Treatment Facility (Secondary for Level 1 Disposal)	$27,639,000	Funds a range of secondary technology alternatives, not including tertiary treatment (see Table A.2)
Effluent Disposal System (Level 1)	$19,422,000	Water supply benefits beyond current conditions are general benefits
Treatment facility site	$2,490,000	Middle of cost range consistent with proposed guidelines
Total for Treatment/Disposal Component	**$49,551,000**	
Project costs including engineering, administration, and legal	$16,000,000	Low end of cost range consistent with proposed guidelines
Permitting and mitigation	$2,490,000	High end of cost range consistent with proposed guidelines
Total for Common Component	**$18,490,000**	
Total for Collection System Components from Table A.1	**$86,403,000**	
Total Project Special Benefits	**$154,444,000**	

APPENDIX B

PEOPLES BROSHURE

CONTRACT WITH ME. COUNTY IS IN BREACH OF CONTRACT.

Project Selection Strategies

(Summary of policies officially adopted by the County Board of Supervisors on August 14, 2007)

Design-Build

- First priority: Seek special legislation to provide greatest flexibility
- Second priority: Apply Gov't Code Section 5956 for design-build of STEP option and use traditional design-bid-build for gravity option
- Prepare design-build selection model based on life-cycle cost analysis and results of community survey

STEP Collection System

- Oppose requirements for separate electrical meters on individual properties
- Establish STEP tanks and pump equipment as public facilities—ie. maintained by the project

Co-Equal Environmental Analysis

- Begin preparation for environmental review work as soon as possible (before Prop 218 results)
- Near-concurrent release of draft Environmental Impact Report (EIR) and community advisory survey in 2008
- County Planning Commission review of EIR and Coastal Development Permit (CDP) after bids are received for design-build of collection system
  - Develop CDP consistent with previous CDP for project
  - Limit CDP modifications to specific project changes
- Evaluate risks to Morro Bay State Marine Reserve from wastewater treatment at alternative sites identified in EIR
- Evaluate greenhouse gases based on Assembly Bill 32 regulations

Consider Regional Options in EIR

- Regional treatment with Morro Bay and Cayucos
- Regional septage handling facilities
- Regional water supplies

Decentralized Wastewater System

- Develop technical memorandum reviewing proposal presented by Lombardo Associates, Inc.
- Obtain input from regulatory and permitting agencies
- Develop scope of additional studies for consideration in EIR

Demand-Based Sewer Rates

- Similar to City of San Luis Obispo demand-based sewer rate structure
- Provide incentives for permitted gray-water systems
- Seek special legislation to provide option for income based rate discounts

Financing Strategies

- Support State Water Board development of 30 year loans and 0% interest loans for disadvantaged communities and projects which exceed affordability standards
- Consider tax increment financing
- Consider redevelopment agency financing
- Consider Community Development Block Grant financing for on-lot costs incurred by disadvantaged individuals
- Support staff coordination of USDA grant applications for disadvantaged individuals
- Prioritize Prop. 50 (Integrated Regional Water Management) grant funds for disadvantaged individuals

Water Resources

- Coordinate with community water purveyors to identify
  - "Water Supply Enhancements"—wastewater project benefits to existing community water supply needs
  - "Additional Water Projects"—water projects to meet build-out and development needs
- Consider implementation and cost sharing contracts with community water purveyors to meet identified water needs

Exhibit 5
Page 122 of 677

Web Yellow Pages People Shopping Images Video More
Search The Web... Search

Categories Hi, Steve Sign Out Account Info All-new Mail Help
Mail Contacts Calendar Notepad What's New? Mobile Mail Options

Check Mail Compose Search Mail Search the

Folders
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Drafts (7)
Sent
Spam (13) [Empty]
Trash [Empty]

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sewer (11)
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Fw: Los Osos WWTP Cost Range Tuesday, August 25, 2009

From: "al barrow" <a.barrow@charter.net>

To: "steve paige" <shpaige@sbcglobal.net>

----- Original Message -----
From: Bill Cagle
To: 'al barrow'
Cc: 'Mike Saunders'
Sent: Tuesday, August 25, 2009 4:13 PM
Subject: Los Osos WWTP Cost Range

Sorry, this version should have the tables included.

Al,
Below is Mike's response to your question regarding cost. Can you please have you attorney explain how this statement might be used? This will help us be better prep should we be called to question. Thanks

I have worked with Orenco Systems, Inc for 4 1/2 year. Prior to that, I was the Cou Engineer for Charlotte County Utilities for nine years. During my time at Charlotte C experienced a failed conventional sewer approach (40,000 connections), executed t extension of STEP wastewater collection to 5,000 properties. The use of STEP sys Charlotte County provided significant capital cost savings when compared to the pro gravity system.

Charlotte County Utilities was and is the oldest and largest STEP systems in the wo operated in conjunction with a conventional gravity sewer system that serves more t 20,000 homes. Based on my experience and observations, I offer the following disc relative to the perceived cost of a STEP system in Los Osos.

introduction it is stated that the report provided "information on what the community expect through the County implemented solution, in terms of costs, benefits and ove approach". Presumably, this report was intended to be one of the primary documen the residents of Los Osos will utilize in deciding their vote with regards to the Count Proposition 218.

When the public voted on the County's Proposition 218, it was our understanding tha were approving a not-to-exceed expenditure and not a project. Additionally, it is our observation that the residents of Los Osos had an expectation that the most econor approach would become the constructed project.

Prior to the release of the Fine Screening, Orenco Systems had already expressed regarding the omission of input that we provided. This omission of key data, while n necessarily important to the vote, was critically important towards defining the most effective STEP project that was ultimately analyzed in the Fine Screening Study. De Orenco's vast experience with STEP projects, the consultant and the County unilate defined the scope of a STEP project and ultimately, the project that they defined.

Subsequent to the release of the Fine Screening Study, in a public presentation, the statement from the County Consultants that inferred that capital costs for STEP anc sewer would be comparable, while the coordination of STEP installation will be mor

In our opinion, the fine screening did not provide a comparison of STEP and gravity that adequately supported the statements made on public record.

The following table is included in the Appendix "C" of the Fine Screening Analysis. T explains the various Categories of Estimates with regards to the level of project def expected accuracy.

Table 1.1 Category of Cost Estimates[1]
Los Osos Wastewater Project Development
San Luis Obispo County

	Primary Characteristic	Secondary Characteristic			
ESTIMATE CLASS	LEVEL OF PROJECT DEFINITION Expressed as % of complete definition	END USAGE	METHODOLOGY Typical estimating method	EXPECTED ACCURACY RANGE Typical variation in low and high ranges (a)	PREPERATION EFFORT Typical degree of effort relative to least cost index of 1 (b)
Class 5	0% to 2%	Concept Screening	Capacity Factored, Parametric Models, Judgment, or Analogy	L: -20% to -50% H: +30% - +100%	1
Class 4[2a]	1% to 15%	Concept Screening or Feasibility	Capacity Factored, Equipment Factored, Parametric Models or Analogy	L: - 15% to -30% H: +20% - +50%	2 to 4
Class 3	10% to 40%	Budget, Authorization, or Control	Semi-Detailed Unit Costs with Assembly Level Line Items	L: - 10% to -20% H: +10% - +30%	3 to 10
Class 2	30% to 70%	Control or Bid/ Tender	Detailed Unit Cost with Forced Detailed Take-Off	L: - 5% to -15% H: +5% - +20%	4 to 20
Class 1	50% to 100%	Check Estimate or Bid/Tender	Detailed Unit Cost with Detailed Take-Off	L: - 3% to -10% H: +3% - +15%	5 to 100

Notes:
1. Table 1.1 comes from the AACE International Recommended Practices and Standards, No. 18R-97.
2. Most of the estimates in the Fine Screening Report are at this level
   a. The state of process technology and availability of applicable reference cost data affect the range markedly. The +/- value represents typical percentage variation of actual costs from the cost estimate after application of contingency (typically at a 50% level of confidence) for a give scope.
   b. If the range index value of "1" represents 0.005% of project costs, then an index value of 100 represents 0.5%. Estimate preparation effort is highly dependent upon the size of the project and the quality of estimating data and tools.

It is critical that the public understand the significance of this table. The STEP estim Carollo are stated to be Class 4 while the gravity sewer estimates are stated to be The estimates for STEP are stated to be 1% to 15% of the total level of project def

required. Furthermore the accuracy of the estimate can be off by as much as 30% (low side and 50% on the high side.

Based on the level of estimate provided, did a Class 1 estimate support the statem by the consultant with regard to cost comparison? Furthermore, how could we conc state that STEP costs were actually comparable to gravity sewer? The public prese contained no explanation regarding the potential variance in cost estimates.

The following table, also from Appendix "C" in the Fine Screening Study, further pen STEP estimate for not being as accurate as the gravity sewer estimate.

Table 1.4 Basis for Estimating Project Costs
Los Osos Wastewater Project Development
San Luis Obispo County

Item	Estimated Cost[1]
Obtain Base Construction Cost from Bid Tabs, previous Engineers Estimates, analogous facility costs, parametric models and/or Carollo's unit price catalog. Adjust this cost to April 2007 cost for San Luis Obispo, California. Cost includes: • Adjustment to "mid range" of bids for each item • Mobilization/Demobilization • Electrical • Site Work/Yard Piping • Sales Tax on materials only (8%) • Contractor overhead and profit (15%)	"A"
Add 30% of Subtotal Cost to Class 4 estimates and 10% to Class 1 estimates as Construction Cost Contingency.	+ 10% to 30% of "A"
Subtotal Estimated Construction Cost	"B"
Add 8% sales tax on materials and 15% for contractor overhead and profit	+ 15% to 22% of "B"
Subtotal Estimated Construction Cost	"C"
Escalate to June 2011 - 5% per year	+ 24.5% of "C"
Subtotal Escalated Estimated Construction Cost	"D"
Project Cost - will provide line items [2]	+"E"
Total Estimated Project Cost	"F"

Notes:
1. Based on June 2011 costs for San Luis Obispo, California (Estimated ENRCCI projection for the 20-Cities Average is 7879 for February 2007 and location factor adjustment is 1.054.)
2. Includes design engineering contingencies, construction management, administrative, and legal costs.

Typically, contingency is added to projects in case unforeseen costs become applic during construction. In the context of this analysis, Carollo has added 30% continge STEP because there has been less detail in the estimate. Comparatively, only 10% contingency is added to gravity as a reward for a more detailed estimate. Accordin $11,000,000 (low estimate) to $15,000,000 (high estimate) is being added to STEF being added to gravity. In practicality, due to the complexity of construction, there is more inherent risk in gravity sewer construction than STEP construction. Change or unforeseen site condition are common in virtually all gravity sewer projects of this na despite the level of detail put forth during design. Regardless of the level of estimat highly questionable to assert that contingency should be higher for STEP. When a ra cost is presented, one has to understand that a large amount of subjective costs ha allocated to the cost of STEP, thereby inflating the possible range of cost.

Furthermore, the following table (Table 3.18), again from the fine screening analysis that 15% overhead and 8% taxes are added to STEP while they are omitted from g Since the gravity sewer estimate is more accurate, they have stated that the gravity estimate includes these costs while presumably, they can not effectively say the sa

their STEP estimate. This additional cost is added before contingency is added, so impact of the overhead and taxes is compounded by the additional contingency.

Table 3.18 Range of Probable Costs for STEP/STEG Collection System
Los Osos Wastewater Project Development
San Luis Obispo County

Item [2]	Range of Probable Costs Low ($M) [1]	High ($M) [1]	Notes on Development of Range
Mobilization/Demobilization /General Conditions	2.6	3.2	Based on 5% of Construction Cost Subtotal.
COMMON FACILITIES			
Force Mains and Laterals in Right-of-Way	11.7	15.2	Low estimate based on Los Osos Wastewater Mas Plan Update (Ripley 2005) and installation costs fr Tidwell. High estimate includes 30% contingency d conceptual design level.
Odor Control	0.1	0.3	Low and High estimates based on 100 and 500 air valves respectively at $500 each.
Road Restoration	1.3	2.6	Low and High estimates based on 25% and 50% o gravity system requirements, respectively, due to e reduction in pavement disturbance.
Land and Easement Acquisition	Assumed No Additional Cost [3]	Assumed No Additional Cost [3]	
ON LOT FACILITIES			
Project Facilities	29.5	25.8	Based on on-lot options and cost development info presented above. High estimate includes 10% cont similar to gravity system.
Homeowner Facilities	6.1	6.7	Based on on-lot options and cost development info presented above. High estimate includes 10% cont similar to gravity system.
Electrical Connection	9.1	14.3	Low and High estimates based on $1,900 and $3,0 connection as presented in Table 3.15 for 4769 Pro Zone lots.
Subtotal	$64.4	$88.1	
Overhead and Profit (15%)	$8.1	$13.2	
Subtotal	$62.3	$79.2	
Sales Tax (8%) [4]	$2.5	$3.1	
TOTAL CONSTRUCTION COST WITH BASE ELECTRICAL CONNECTION	$65.0	$91.4	
Separate Electrical Service Premium	$14.5	$24.1	
TOTAL CONSTRUCTION WITH SEPARATE ELECTRICAL SERVICE PREMIUM	$79.5	$105.5	

Notes:
(1) All costs in April 2007 dollars, based on an ENR of 7879.
(2) Prohibition Zone lots only - 4769 connections
(3) Land and easement acquisition assumed to be sunk cost as part of the previous Tri-W project.
(4) Sales Tax included on materials only.

Also in table 3.18, the low range cost shows the separate electrical premium. The e premium is contingent upon a hypothetical requirement from the State Water Board would require a public electrical supply rather than a simple service through the exis homes electrical panel. In execution, virtually all existing STEP systems installed in t Country utilize power service from the home. While this could be included in the high cost, we believe that the low end cost should be reflective of the methodology that i normally used to power a STEP pump package. The $14,500,000 in additional cost was added before contingeny, so this arbitrary cost addition was compounded by th additional contingency that was added.

What did all of this mean to the voter? We believe there are two very important poir note. They are as follows:

1) If we use Table 1.1 to restate the potential cost range of the project, th numbers are very startling. The actual range for STEP, without compromisi integrity of this Study could actually be $45.5 million to $121.5 million while range of gravity could be $73.8 million to $103.5 million. Accordingly, if thes technologies were bid head to head, STEP could come in at $45.5 million w gravity could come in at $103.5 million and this report wouldn't be wrong. S fact, by this report, could be half the cost of gravity. This potential variance was never explained to the voter.

2) If the same level of estimate had occurred, one would presume that cor overhead and taxes would be treated comparably for both technologies. Or provided bid tabs to the County, with overhead and profit included that supp cost that is lower than the stated low cost without overhead and sales tax. . the low estimate actually utilized the probable low cost of electrical supply t end cost would be significantly different. Without Sales Tax, Overhead, Ele Premium and with 10% contingency, our calculations show that the low esti would be in the range of $44 million while the high estimate would be in the

$75 million.

We do not believe that this Fine Screening Analysis adequately provided proper "inf on what the community can expect through the County implemented solution, in tern costs, benefits and overall approach". The report did not compare STEP costs and costs to the degree necessary to establish true comparative costs nor does it evalu on a level playing field with gravity sewer. We do not believe that an analysis that ut different levels of estimating is adequate to support any determination that capital c STEP and gravity sewer are comparable. Furthermore, it is extremely misleading tc apportion subjective costs such as sales tax, overhead, electrical premium costs an contingency in a manner that is not equitable between comparative technologies.

The consultant expended large resources in modeling treatment processes and in e the cost of gravity sewer. We have to question why that the same level of resource applied to the STEP cost estimates so that a Class 1 estimate of STEP is available comparison to the gravity sewer costs.

Our opinions were validated by an independent review that was done by the Nationa Research Institute (NWRI). Their findings included the following:

- "Alternatives should be presented with sufficient detail in terms of description and estimated costs so that rational comparisons can be ma
- "Cost estimates should be stated clearly and compared on an equiv basis with the same degree of variability and specificity. Refined and u cost estimates are needed for each alternative so that decision makers a stakeholders can make informed judgments."

It does not appear that either of these NWRI recommendations was adequately addressed.

Beyond the estimates, we can take a more practical approach to discussing the provision of a STEP system in Los Osos. Orenco Systems, in the early stages c development, recommended to the Los Osos Community Services District (LC that a Design Build approach be utilized for the procurement of a wastewater s Los Osos. We told them that a Design Build approach, if properly executed, co deliver the ingenuity and expertise necessary to provide a low cost sewer optio Osos. At another meeting, we actually introduced the community to our potent Design Build team members that were ready to respond if a Design Build Requ Proposal was issued.

When the Design Build approach was finally recommended by County Staff, w believed that the process would move forward as promised. Unfortunately, du execution of the process, our team was removed. We were not removed becau teams competency or qualifications (we may have been the most highly qualifi involved), but by the recommendation of County Staff, we were removed bec recommended STEP wastewater collection as a viable method for reducing cap In fact, during our presentation to County Staff, we stated the cost will be less will guarantee a not-to-exceed cost. Unfortunately, we were denied the opportu submit a proposal and therefore, we were denied the opportunity to make the u not-to-exceed cost public.

At this time, the obvious question remains. Could STEP have delivered a low- in the $40 million dollar range? The Design Build team intended to work in pa with the County, starting with the County defined STEP project, and then offe value engineering alternative that were intended to reduce the project cost. Val engineering alternatives included the following:

- The use of all or some of the existing septic tanks.
- The use of STEG (Septic Tank Effluent Gravity) systems when hy conditional allowed.
- The use of alternative STEP pump packages that are available fron Orenco.
- The use of decentralized treatment at sites that have a need for irri water.
- The use of shared interceptor tanks (2 and possibly 4 homes per ta
- The use of community tanks in areas of high density.
- The use of remote system monitoring.
- The possibility of including an O&M service at a fixed cost.
- The possibility of utilizing an extended period for connecting cust that prioritized the "hot-spots" first.

These options were never explored by the consultant and were never conveyed to t as alternatives for possible adjustments in capital cost.

Had the design build process moved forward and had the County partnered with ou Build team to achieve the best value for the residents of Los Osos, a final cost in th million dollar range was not only possible, but probable.

Respectfully,

Mike Saunders
Orenco Systems, Inc.

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www.orenco.com

Phone: (866) 914-9454
Cell: (941) 276-8586

Respectfully,

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(F) 541.459.2884

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LOS OSOS WASTEWATER MANAGEMENT PLAN UPDATE

for the

Los Osos Community Services District

San Luis Obispo County, California

Wastewater Collection, Treatment, Storage, and Water Recycling: Beneficial Reuse of Water and Nutrients

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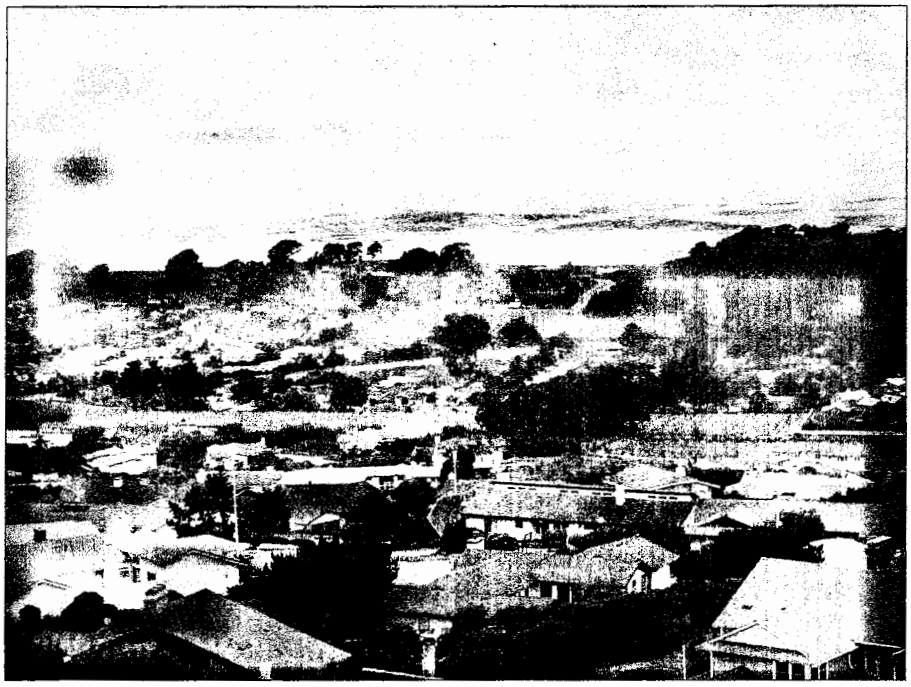

RIPLEY PACIFIC COMPANY

WATER REUSE INFRASTRUCTURE

SEE EXCERPTS

LOS OSOS WASTEWATER MANAGEMENT PLAN UPDATE

San Luis Obispo County, CA

Wastewater Collection, Treatment, Storage, and Water Recycling:

Beneficial Reuse of Water and Nutrients

Prepared for:

Los Osos Community Services District

P.O. Box 6064

Los Osos, CA 93412

Prepared by:

Ripley Pacific Company

5820 Stoneridge Mall Road, Suite 100

Pleasanton, CA 94566

Final Report: December 18, 2006

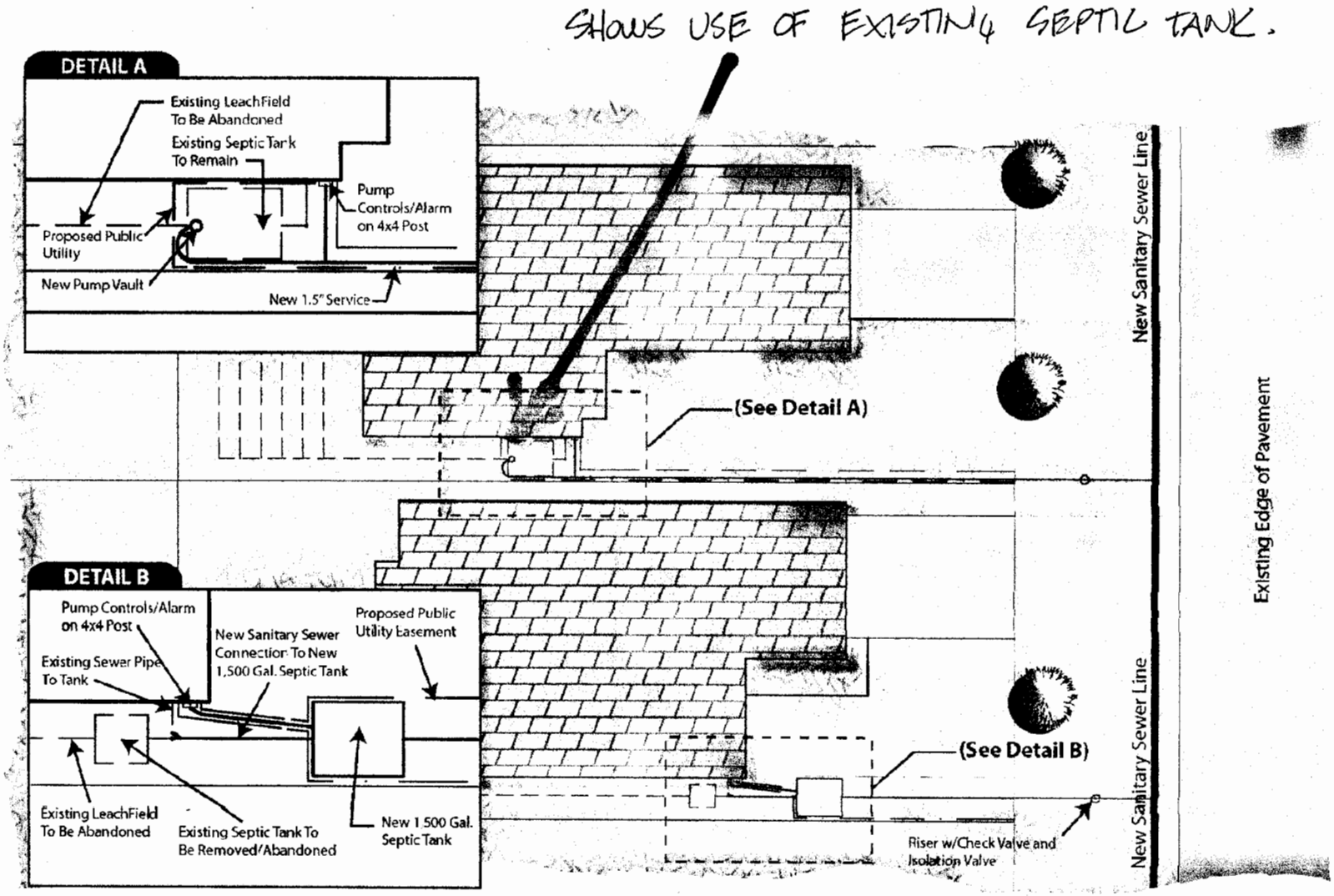

Figure 8.4 Typical Septic Tank Locations – Retrofit & New

Figure 8.3 below represents a typical service connection to the collection system.

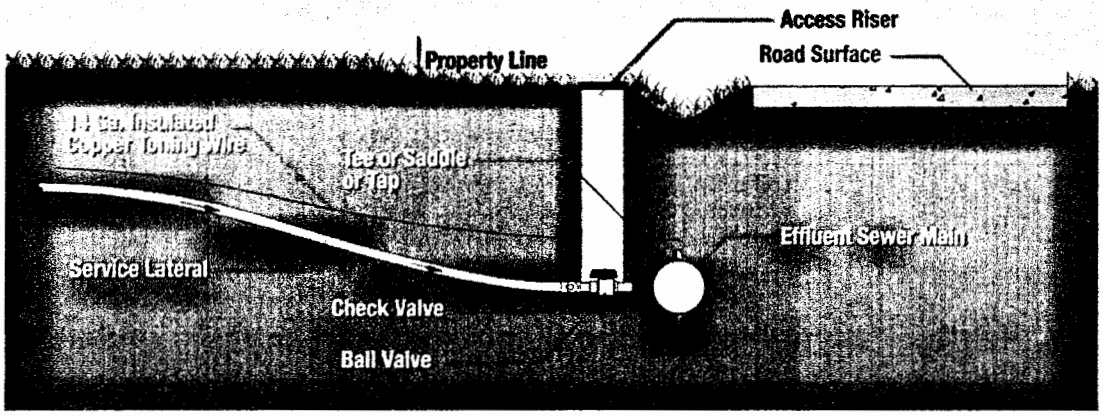

Figure 8.3 Typical Service Connection to Effluent Sewer Main

The configurations of existing septic tank/leach field locations vary throughout the town. As depicted in Figure 8.4 below, it has been conservatively assumed that two solutions will resolve most residential configurations:

1. Salvage existing septic tank; install pump vault/controls and service line to collection main (Detail A).
2. Remove/abandon existing septic tank; connect house service to new tank; install a new tank, pump vault/controls and service line to collection main (Detail B).

NEVER CONSIDERED IN COUNTY EIR,

1. Power intensive -- should a system such as this be incorporated into a District-wide system, power requirements for both the circulating pump and the effluent pump would be borne by the homeowner.

8.4. STEP Wastewater Collection System

While effluent sewer systems of varying size and complexity exist in nearly every state of the United States, the track record of the systems is largely based upon management of the systems, as previously noted in the EPA summary.

A significant benefit to the effluent sewer system is the wastewater treatment that occurs within the septic tank. Table 8.3 below summarizes the treatment realized from the septic tank prior to entering a wastewater treatment facility.

PREXISTING TREATMENT

Table 8.3 Treatment of Wastewater within Intercepter (Septic) Tank

Parameter	Units	Influent	STEP Effluent	Percent Reduction
BOD_5	Mg/l	450	140	69%
Suspended Solids	Mg/l	500	30	94%
Total Nitrogen	Mg/l	70	70	0%
Total Phosphorus	Mg/l	17	16	6%
Oil and Grease	Mg/l	164	29	88%

Source: Crites and Tchobanogous, 1998

The main components for the Effluent Sewer System include:

1. On-Lot Equipment (including interceptor tank, pump, sensors, controls)
2. Collection System Components
3. Wastewater Treatment Facility

The discussion below focuses on how the existing on-lot and collection system components could be incorporated into a solution for Los Osos. Discussion on the

Below represents a summary of the comparison between capital costs for MWH Gravity Collection system and the Effluent Sewer Collection system.

Table 4-4.1 Summary of Comparative Costs

Item	Description	FEB 2005 BID AMT	Soft Costs (a)	Subtotal Design & Construction	2004 MWH ANDRE (b) Low	2004 MWH ANDRE (b) High	Total Design & Construction Costs Low	Total Design & Construction Costs High	Additional On-Lot Costs Low	Additional On-Lot Costs High
1	Collection System (e)	$69,876,310	$2,980,000	$72,856,310	$3,214,969	$3,777,750	$76,071,279	$76,634,060	$14,935,950	$15,027,900
2	Treatment Facility (e)	$48,346,780	$1,000,000	$49,346,780	($2,908,781)	($897,000)	$46,437,999	$48,449,780	n/a	n/a
3	Aesthetic Mitigation	$5,830,000	$190,000	$6,020,000	n/a	n/a	$6,020,000	$6,020,000	n/a	n/a
4	Effluent Disposal (Leachfields)	$6,701,000	$750,000	$7,451,000	n/a	n/a	$7,451,000	$7,451,000	n/a	n/a
5	Land Costs								n/a	n/a
6	Harvest System (Groundwater Mitigation)	$2,552,000	$20,000	$2,572,000	n/a	n/a	$2,572,000	$2,572,000	n/a	n/a
	Total	$133,306,090	$4,940,000	$138,246,090	$306,188	$2,880,750	$138,858,465	$144,007,590	$14,935,950	$15,027,900

(a) Based upon *Los Osos Wastewater Project Table 7-5 Update - Estimated Construction Cost* @ 8% of original Estimated Construction Cost

(b) Based upon *Exhibit 3C - MWH Memo comparing costs of Tri-W with Andre*
(c) Based upon collection area of the Prohibition Zone
(d) Based upon total collection area

(e) Based upon *Los Osos Wastewater Project Bid Schedule (LOCSD BIDS 022405.PDF)* - replaces values from (a) for FEB 2005 BID AMOUNT

COLLECTION SYSTEM COSTS · COMPARE

Table 4-4.1 Summary of Comparative Costs (continued)

Item	Description	Grand Total MWH Gravity System Low	Grand Total MWH Gravity System High	MWH Gravity System Cost/Lot Low	MWH Gravity System Cost/Lot High	Effluent Sewer System Low (c)	Effluent Sewer System High (d)	Effluent Sewer System Cost/Lot Low	Effluent Sewer System Cost/Lot High
1	Collection System	$91,007,229	$91,661,960	$18,988	$19,124	$58,145,324	$68,277,071	$12,131	$14,245
2	Treatment Facility	$46,437,999	$48,449,780	$9,689	$10,108	tbd	tbd	tbd	tbd
3	Aesthetic Mitigation	$6,020,000	$6,020,000	$1,256	$1,256	tbd	tbd	tbd	tbd
4	Effluent Disposal (Leachfields)	$7,451,000	$7,451,000	$1,555	$1,555	tbd	tbd	tbd	tbd
5	Land Costs					tbd	tbd	tbd	tbd
6	Harvest System (Groundwater Mitigation)	$2,572,000	$2,572,000	$537	$537	tbd	tbd	tbd	tbd
	Total	$153,488,228	$156,154,740	$32,023	$32,580	tbd	tbd	tbd	tbd

MWH Gravity Collection = 4,793 Lots
Effluent Sewer Collection System = 5,151 Lots (low)
5,929 Lots (high)

Table 14.2 Cost Estimates for the Wastewater Management Plan Update with STEP/STEG Collection, Trickling Filter Treatment, Storage, Filtration, Disinfection, and Distribution of Recycled Water to Agricultural Customers

Basic Assumptions	Scenario 1	Scenario 2
Number of lots:	5,151	5,929
Flow of Wastewater, mgd:	1.30	1.50
Base Capital Costs	**$ millions**	**$ millions**
On-lot Costs	42.00	48.50
STEP Collection - ROW	16.00	19.70
WRF at Site D	19.50	22.50
Aesthetic Mitigation	0.50	0.50
Effluent Storage	4.25	4.90
Effluent Distribution	2.00	2.30
Groundwater Monitoring Wells	0.25	0.25
Subtotal Base Capital Cost	84.50	98.65
Land Costs		
Site D - 38 ac.	1.00	1.00
Reservoir Site #2	0.50	0.60
Subtotal Land Cost	1.50	1.60
Total Base Capital and Land Costs	**86.00**	**100.25**
Base Capital and Land Cost per Lot	**$16,696**	**$16,908**
Life Cycle Costs	**$ millions**	**$ millions**
Base Capital	84.50	98.65
Land	1.50	1.60
Total Capital Costs	**86.00**	**100.25**
Salvage Value - Land	0.42	0.45
Present Worth Capital Cost	**85.58**	**99.80**
O&M - Collection	0.45	0.52
O&M - WRF	1.00	1.10
O&M - Effluent Distribution	0.15	0.15
O&M - Groundwater Montioring	0.05	0.05
Subtotal O&M	**1.65**	**1.82**
Annualized Capital Costs, 6.625%, 20 yrs.	7.85	9.15
Total Annualized Costs	**9.50**	**10.97**
Total Annualized Costs per Lot - $/year	**$1,844**	**$1,851**
Total Annualized Costs per Lot - $/month	**$154**	**$154**

Table 14.1 Cost Estimates for the Previously Designed Gravity Collection, MBR Treatment at Tri-W, and Disposal at Broderson

Basic Assumptions	Values Used
Number of Lots	4,793
Flow of Wastewater, mgd	1.30

Base Capital Cost Elements	Cost, $ millions
On-lot Costs	15.00
Gravity Collection - ROW	72.80
MBR @ Tri-W	49.30
Aesthetic Mitigation	inc. in treatment
Effluent Disposal	inc. in collection
Groundwater Mitigation	inc. in collection
Engineering and Admin. - 25%	34.28
Subtotal Base Capital Costs	171.38

Land Costs	
Broderson	4.70
Tri-W	3.00
Subtotal Land Cost	7.70

Total Base Capital and Land Costs	**179.08**
Base Capital and Land Cost per lot:	**$37,362**

Life Cycle Costs	$ millions
Base Capital	171.38
Land	7.70
Total Capital Costs	**179.08**
Salvage Value - Land	2.15
Present Worth Capital Cost	**176.93**

Operation and Maintenance Costs	
O&M - Collection	0.45
O&M - WRF	2.10
O&M - Effluent Disposal and Harvest Wells	0.06
Subtotal O&M	**2.61**
Annualized Capital Costs, 6.625%, 20 yrs.	16.22
Total Annualized Costs	**18.84**
Total Annualized Costs per Lot - $/year	**$3,930**
Total Annualized Costs per Lot - $/month	**$328**

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2007-0108

ALLOWING AN EXEMPTION FOR AN ENGINEERED RESIDENTIAL WASTEWATER DISPOSAL SYSTEM UNDER WASTE DISCHARGE REQUIREMENTS ORDER NO. 85-039 FOR 967 SIERRA BROOKS DRIVE (LOT NO. 81) SIERRA BROOKS SUBDIVISION UNIT 2A, LOYALTON SIERRA COUNTY

WHEREAS, the Central Valley Regional Water Quality Control Board (hereafter "Regional Water Board") proposes to grant an exemption for an engineered residential wastewater treatment and disposal system for Lot No. 81 at 967 Sierra Brooks Drive, Loyalton (APN 016-200-050) in the Sierra Brooks Subdivision under the terms and conditions of Waste Discharge Requirements (WDRs) Order No. 85-039; and

WHEREAS, Discharge Prohibition A.1. of WDRs Order No. 85-039 states, in part: "An exemption may be approved by the Regional Board if a report is prepared by a civil engineer registered in the State of California, supporting the engineering conclusion that a septic tank/leaching system on the parcel(s) in question will provide adequate treatment and disposal....The report must be approved by the Sierra County Health Department and the Regional Board before an exemption may be issued"; and

WHEREAS, the primary concern with residential wastewater disposal on this lot (and many other lots in the subdivision) is inadequate groundwater separation and high housing density. Evidence of seasonal high groundwater at 20 inches below ground surface (bgs) was reported for this lot. Order No. 85-039 requires a minimum of 60 inches of soil separation between the bottom of leachline trenches and water, rock, or the first impervious layer; and

WHEREAS, the proposed engineered on-site wastewater treatment and disposal system will consist of a septic tank, recirculating textile filter, pump tank, and pressure-dosed mound system for a three-bedroom residence. Wastewater will be pre-treated in a 1,500-gallon septic tank equipped with a recirculating textile filter. Pretreated septic tank effluent will be pumped to an engineered mound leaching system for disposal. The mound will be constructed of silty sand, and there will be a minimum of 40 inches of this engineered fill below the bottom of the distribution trenches. The three distribution trenches will be three feet wide by 54 feet long. The distribution pipes will have a minimum depth of 10 inches of gravel bedding, 2 inches of gravel cover, and 12 inches of capping fill. Pressure distribution of effluent to the trenches will provide even distribution across the disposal area. The design is based on an average percolation rate of 27.8 minutes per inch and a peak flow of 450 gallons per day; and

WHEREAS, Regional Water Board staff has reviewed the engineered residential wastewater treatment and disposal system design report submitted by Coombs Engineering Inc., dated 23 March 2007;

WHEREAS, the Sierra County Health Department has reviewed and approved the engineered system design report, including the conditions recommended by Regional Water Board staff; and

WHEREAS, Regional Water Board staff has reviewed the design report and concurs that the engineered system design, with conditions, will provide adequate treatment and disposal of domestic wastewater for the proposed residence; and

WHEREAS, the engineered system design and conditions recommended by Regional Water Board staff should ensure the long-term protection of water quality; and

WHEREAS, the action to grant this exemption under WDRs Order No. 85-039 for this existing facility is exempt from the provisions of the California Environmental Quality Act (CEQA), in accordance with Title 14, California Code of Regulations (CCR), Section 15301; and

WHEREAS, the Regional Water Board considered all testimony and evidence at a public hearing held on 2 August 2007 in Sacramento, California.

THEREFORE BE IT RESOLVED that the California Regional Water Quality Control Board, Central Valley Region, finds as follows for the residence at 967 Sierra Brooks Drive:

1. The engineered system shall be installed as described in the engineered system design report submitted on 23 March 2007, and in accordance with the following conditions:

    a. The septic tank and pump tank shall be manufactured in accordance with the American Society of Testing and Materials (ASTM) C1227 Standard Specification For Precast Concrete Septic Tanks;

    b. Tank lids and all tank penetration points shall be sealed to prevent groundwater inflow;

    c. A minimum set back distance of 10 feet shall be maintained between all property lines and the base of the mound system; and

    d. The bottom of each distribution trench shall be level.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 2 August 2007.

PAMELA C. CREEDON, Executive Officer

BPK:08/02/2007

San Luis Obispo County
Los Osos Wastewater Project Development

TECHNICAL MEMORANDUM

FLOWS AND LOADS

FINAL
November 2008

2700 YGNACIO VALLEY ROAD • SUITE 300 • WALNUT CREEK, CALIFORNIA 94598 • (925) 932-1710 • FAX (925) 930-0208

The treatment component comprises approximately 12 percent of the cost of the entire wastewater project. This sensitivity analysis shows that changing the dry weather or wet weather flow assumptions change the cost of the treatment facility by up to six percent, which corresponds to less than one percent of the total project cost. This difference is lower than was anticipated for the various flow estimates, and is much less than the contingency of the cost estimates, and is therefore insignificant.

8.0 LOAD ESTIMATES

The Rough Screening Report listed influent concentration for the future wastewater treatment facility. These values are considered valid and will be used for treatment facilities sizing for a gravity collection system.

If a STEP collection system is selected, the concentrations of BOD and suspended solids in the treatment plant influent are expected to be lower, due to solids removal and degradation in the septic tanks. Nitrogen concentrations are expected to be unchanged. Estimates for the percentage removal of BOD and suspended solids in septic tanks were obtained from a review of septic tank performance studies (Bounds, 1997). In seven studies, septic tanks reduced BOD by an average of 58 percent and suspended solids by an average of 78 percent. In 14 septic tanks fitted with filtering devices, it was estimated in the review that approximately 64 percent of BOD and 90 percent of suspended solids were removed. Concentrations of total nitrogen were expected to be unaffected by septic tanks. Using these removal efficiencies and the influent quality listed in Table 10 the septic tank effluent quality was calculated and presented in Table 11.

Table 10 Projected Characteristics of Wastewater, Gravity Collection System[1]
Los Osos Wastewater Project Development
San Luis Obispo County

Parameter	Units	Average Day	Peak Day
BOD	mg/L	340	350
Suspended Solids	mg/L	390	400
Total Nitrogen	mg/L	56	58

Note:
(1) The Wastewater Facilities Project Final Project Report, 2003.

Smaller loads of solids and BOD can reduce the size and cost of the wastewater treatment facility when reducing the concentration of these two constituents is the primary concern. However, nitrogen removal can be inhibited by low BOD because it depends on the presence of a carbon source for the microorganisms that perform this task. In order to ensure nitrogen removal, as will likely be required for the new Regional Water Quality

Table 11 Projected Characteristics of Wastewater, STEP[1] Los Osos Wastewater Project Development San Luis Obispo County			
Parameter	**Units**	**Unfiltered Septic Tank Effluent**	**Filtered Septic Tank Effluent**
BOD	mg/L	140	120
Suspended Solids	mg/L	80	40
Total Nitrogen	mg/L	56	56

Note:
(1) Removal efficiencies from Bounds, T.R., 1997.

Control Board (RWQCB) waste discharge requirement (depending on the final selected reuse/disposal alternative), plant operators may have to add a supplemental carbon source such as methanol to the biological treatment processes, which would increase the cost of treatment.

9.0 SUMMARY

The estimates of flows remains unchanged from the Fine Screening Report and the estimates for loading remain unchanged from the Rough Screening Report. An ADDWF of 1.1 mgd was assumed, including 0.1 mgd of conservation, to be implemented before buildout in 2020. Different collection alternatives will be associated with different levels of inflow/infiltration. Therefore, the facility will be designed to treat an ADWWF of 1.4 mgd if a gravity sewer is selected, or an ADWWF of 1.2 mgd if a STEP or low-pressure sewer is selected. The PHWWF was estimated to be 2.5 for gravity, 1.7 for STEP and 1.9 for low pressure.

A sensitivity analysis was performed to examine how the treatment facility capital and O&M costs would change if dry weather flows varied from 1.0 mgd to 1.4 mgd, and if the PHWWF factor changed to 2.5 from the Fine Screening Report estimate of 2.75. None of the costs for the three treatment technologies that have passed fine screening changed by more than approximately 6 percent which translates to less than 1 percent of total project cost. Because of the small fraction of the treatment component as part of the total project cost, these upper and lower boundary assumptions would not have a significant impact on the total project cost.

10.0 REFERENCES

Alferink, F, et al. "Old PVC Gravity Sewer Pipes: Long Term Performance" presented at the Plastics Pipe IX Conference, Edinburgh Scotland, September 1995.

TECHNICAL MEMORANDUM #: 8

Author: Dana Ripley

Reviewer: Bahaman Sheikh, Mike Huck

Date: July 24, 2006

TM Title: Energy Intensity of Collection and Treatment Alternatives

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Introduction and Energy Awareness

In September 2005 Governor Arnold Schwarzenegger proclaimed the month of October "Energy Awareness Month" (See Attachment TM 8-1.) In that proclamation the Governor stated that *"an affordable, reliable and adequate energy supply is the lifeblood to California's economy"*. He also commended the efforts of the California Energy Commission for setting the most stringent standards for building and appliance efficiency in the country that have since become standards for the federal government and other states. He encouraged the use of sustainable and renewable energy resources and positioning the state as an international leader in this area. He set a goal of generating twenty percent of our state's power from these renewable sources by 2010 and closed the proclamation by stating *"Energy Awareness Month is a fitting time to focus on responsible energy use and to work towards building a secure energy future for our state"*. In the spirit of the Governors' 2005 energy proclamation the Ripley Pacific team in this technical memo examines and compares energy requirements for the previous wastewater design concept relative to alternative more conventional treatment and collection alternatives.

Energy Demands - Gravity Collection/MBR Treatment

Attachment TM 8-2 presents an analysis of power demands of the gravity collection system, 1.3 million gallon per day (mgd) membrane bioreactor (MBR) tertiary treatment system, and effluent transmission to the subsurface disposal sites included in the existing design for Los Osos. The source of information for this analysis was technical memos and design documents prepared by MWH in 2002 and 2004. Influent is assumed to be full-strength sanitary wastewater (biochemical oxygen de-

mand/suspended solids = 340/390 mg/l) and the effluent quality is assumed to be consistent with California Health and Safety Code (Title 22) for unrestricted irrigation uses. The MBR treatment includes integral nitrification and denitrification unit processes necessary to achieve a total nitrogen effluent limit of 7 milligrams per liter (mg/l). Not included in this analysis is the power required for the dewatering well network designed to intercept the down-gradient subsurface mound anticipated from the Broderson leach fields. Table TM 8-1 summarizes the power demands in units of kilowatt-hours per day (kWh/dy) and kilowatt-hours per acre-foot (kWh/af) assuming a 1.3 mgd treatment plant operating at full capacity.

Table TM 8-1 – Gravity Collection/MBR Treatment Summary

Energy Intensity by Category	kWh/dy	kWh/af
Collection	1,028	258
Headworks	564	141
Secondary Treatment	7,047	1,767
Filtration	5,315	1,333
Disinfection	1,296	325
Odor Control	886	222
Solids Dewatering	483	121
Effluent Pumping	1,235	310
Ancillary Loads	50	13
Totals	**17,904**	**4,490**

Energy Demands – STEP Collection/Trickling Filter

Attachment TM 8-3 presents a power demand analysis of a septic tank effluent pump (STEP) collection system, a hypothetical 1.3 mgd multi-stage trickling filter system, tertiary filtration and disinfection, and effluent transmission to agricultural exchange sites. Influent is assumed to be low-strength sanitary wastewater (BOD/SS = 130/40 mg/l) and the effluent quality is assumed to be consistent with California Health and Safety Code (Title 22) for unrestricted irrigation uses. The treatment process assumes no extra energy required for nitrification and denitrification due to the fact that all effluent will be applied at agronomic rates consistent with the nutrient uptake of crops. Table TM 8-2 summarizes the power demands for this collection and treatment alternative in units of kWh/dy and kWh/af.

Table TM 8-2 - STEP Collection/Trickling Filter Treatment Summary

Energy Intensity by Category	kWh/dy	kWh/af
Collection	705	177
Headworks	5	1
Secondary Treatment	2,391	599
Filtration	295	74
Disinfection	1,296	325
Odor Control	370	93
Solids Dewatering	81	20
Effluent Pumping	483	121
Ancillary Loads	50	13
Totals	**5,676**	**1,423**

Energy Demand Comparison

Table TM 8-3 presents a comparison of the power demands of the gravity collection/MBR design with the STEP collection/trickling filter design concept. As indicated, it is estimated that the overall power consumption will be reduced by 68% with STEP collection and trickling filter secondary treatment relative to the gravity collection/MBR design concept.

Table TM 8-3 Comparison of Gravity/MBR to STEP/Trickling Filter Energy Intensity

Unit Process	Gravity/MBR (kWh/af)	STEP/TF (kWh/af)	Reduction (Percent)
Collection	258	177	31%
Headworks	141	1	99%
Secondary Treatment	1,767	599	66%
Filtration	1,333	74	94%
Disinfection	325	325	0%
Odor Control	222	93	58%
Solids Dewatering	121	20	83%
Effluent Pumping	310	121	61%
Ancillary Loads	13	13	0%
Totals	**4,490**	**1,423**	**68%**

Attachment TM 8-4 presents reference values from various published sources relating power intensity (in terms of kWh/af) to various secondary treatment processes. For the MBR process, Günder estimates a power intensity of about 2,470 kWh/af assuming a mixed liquor suspended solids (MLSS) concentration of 25 grams per liter (g/L). This compares to the Tri-W MBR design requiring an estimated 1,770 kWh/af for aeration, nitrification, and denitrification. Added to this figure is an esti-

mated 1,330 kWh/af for submerged micro-filtration with is integral to the MBR secondary treatment process. The total estimate for secondary treatment and filtration for the MBR design is about 3,100 kWh/af. This energy intensity figure is about 25% higher than the Günder estimate for an MBR operating at 25 g/L MLSS.

Attachment TM 8-4 indicates a range of values for trickling filter secondary treatment from 225 kWh/af to 580 kWh/af. This compares with a value of about 600 kWh/af presented in Table TM 8-2 for trickling filter secondary treatment. This value appears to be within 5% of the high range value reported by NRDC for a 1-mgd trickling filter secondary treatment facility. It should be noted that while the alternative trickling filter facility has low-strength influent that theoretically would have a lower energy intensity, the process redundancy mandates of California Title 22 for irrigation of recycled water require more energy than would otherwise be necessary. Overall, the power intensity numbers presented with the alternative trickling filter secondary treatment process appear consistent with published values for a smaller 1.3 mgd facility appropriate for Los Osos.

Table TM8-4 summarizes power intensities presented in the prior LOCSD Wastewater Facilities Project Report (MWH 2001) for four secondary treatment process options considered at that time. These power intensities are higher than the reference values (Attachment TM 8-4) with differences likely attributable to Title 22 redundancy requirements, UV disinfection, and on-site sludge processing. It should also be noted that the figures presented below do not include power requirements for either gravity lift stations or STEP effluent pumping.

Table TM 8-4 Energy Intensity of Treatment Options Considered in 2001

Secondary Process Alternative	(kWh/af)
Advanced Wastewater Ponds	1,170
Sequencing Batch Reactor	1,370
Extended Aeration	1,370
Hybrid Extended Aeration	1,370

Source: MWH 2001, Chapter 4

It is apparent that all process energy intensities presented in the 2001 report are within a limited range, and generally consistent with the energy intensity of the trickling filter option (considered as a baseline in this analysis) which was not considered at that time. Further, it is evident that the gravity collection/MBR energy intensity is approximately three times the energy intensity of any of the secondary treatment options considered by MWH in 2001, and is likewise about three times the energy intensity of the baseline trickling filter plant considered in this present analysis.

Annual Power Cost Comparison

Attachment TM 8-5 presents the Pacific Gas and Electric Company time of use (TOU) rate schedule A-10. The preliminary power budgets presented herein were reviewed by a PG&E account representative, and an estimated average annual rate of $0.14705 per kWh is considered appropriate for estimating the Los Osos wastewater facility power costs for the remainder of 2006. An escalator of 3% per year is recommended for estimating power budgets beyond 2006. Based on the 2006 rate, the total power cost for collection, treatment, and distribution of the gravity/MBR design is approximately $960,000 per year assuming an effluent production volume of 1,455 acre-feet per year. The alternative STEP/trickling filter design option would have an annual power budget of approximately $310,000 per year. Of this amount, approximately $55,000 would be paid directly by ratepayers on their existing power bills for STEP pumping. This STEP pumping cost translates to about $1 per month per residential account. The annual power requirements and power costs are graphically compared on Figure TM 8.1

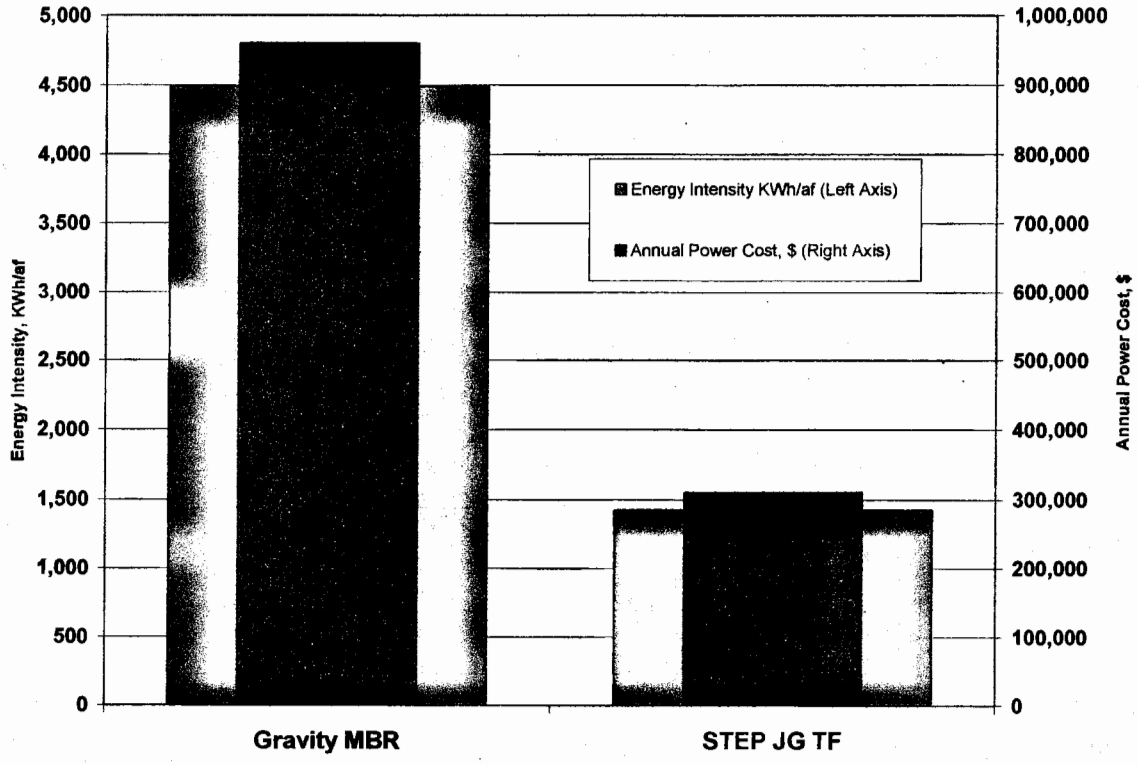

Figure TM-8.1 Energy Intensity and Cost for Two Collection/Treatment Regimes.

Summary & Conclusion

Significant differences exist between energy intensities of the MBR treatment option relative to the more conventional secondary treatment options available. Long term cost savings and environmental sustainability can only result by selecting a technology that is most appropriate for application in Los Osos and that is fundamentally energy efficient. Additionally, unnecessary excess energy usage, and resulting ongoing excessive energy costs, would become a encumbrance to ratepayers for the life of the operating facility. To borrow from the Governor's key points in his 2005 Energy Awareness Proclamation *"an affordable, reliable and adequate energy supply is the lifeblood to California's economy"* is akin to an affordable, reliable and adequate sewerage collection and treatment system for Los Osos. As stated by the Governor, now is *"a fitting time to focus on responsible energy use and to work towards building a secure energy future for our state."* The same is true for the community of Los Osos.

List of Attachments

Attach. TM 8-1	Energy Awareness Proclamation by Governor Scharzenegger
Attach. TM 8-2	Gravity Collection/MBR Energy Intensity Estimate
Attach. TM 8-3	STEP Collection/Trickling Filter Energy Intensity Estimate
Attach. TM 8-4	Energy Intensity Reference Values
Attach. TM 8-5	PG&E TOU Rate Schedule A-10

Office of the Governor

ARNOLD SCHWARZENEGGER
THE PEOPLE'S GOVERNOR

PROCLAMATION

09/30/2005

Governor Schwarzenegger Proclaims October "Energy Awareness Month"

PROCLAMATION by the Governor of the State of California

An affordable, reliable and adequate energy supply is the lifeblood of California's economy. Since 1975, the California Energy Commission has set the benchmark for balanced energy, economics and environmental policies.

The Commission developed the most stringent building and appliance efficiency standards in the nation, saving Californians more than $35 billion in costs over the last 30 years. These standards have become the guidelines used by the federal government and other states.

Through its forward-thinking programs, the California Energy Commission has encouraged renewable energy resources and positioned our state as an international leader of electricity produced from solar, wind, small hydroelectric, geothermal and biomass. These sources successfully generate more than 10 percent of our electricity, and we are on a path to attaining 20 percent of our power from these sources by 2010.

For 30 years, the California Energy Commission has supported innovative technologies through a successful public interest research and development program that brings environmentally safe, affordable and reliable energy services and products to the marketplace.

This year, Californians have witnessed how elevated market prices, fuel disruptions or natural disasters can affect their jobs, their household budget and their lifestyle. Energy Awareness Month is a fitting time to focus on responsible energy use and to work towards building a secure energy future for our state.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, do hereby proclaim October 2005 as "Energy Awareness Month."

IN WITNESS WHEREOF I have here unto set my hand and caused the Great Seal of the State of California to be affixed this the thirtieth day of September 2005.

/s/ Arnold Schwarzenegger

Governor of California

Los Osos Gravity/Tri-W MBR Energy Intensity Analysis

(Rated Hp for each motor below from MWH 2/16/04, Sheet AD-E-200)

	Rated Pump Motor (Hp)	Rated Pump Motor (kW)	Average Duty Load (kW)	Duty: Continuous	Duty: Intermittent	Duty: Standby	Average Hours per day	Average kWh per day	Subtotal kWh per day
Pocket Grinder Pump Stations									
Pocket Pump 4A #1	1	0.7	0.7		x		4	2.7	
Pocket Pump 4A #2	1	0.7	0.7		x		2	1.3	
Pocket Pump 4A #3	1	0.7	0.7			x	0	0.0	
Pocket Pump 7A #1	1	0.7	0.7		x		2	1.3	
Pocket Pump 7A #2	1	0.7	0.7			x	0	0.0	
Pocket Pump 8A #1	1	0.7	0.7		x		2	1.3	
Pocket Pump 8A #2	1	0.7	0.7			x	0	0.0	
Pocket Pump 9A #1	1	0.7	0.7		x		2	1.3	
Pocket Pump 9A #2	1	0.7	0.7			x	0	0.0	
Pocket Pump 10A #1	1	0.7	0.7		x		2	1.3	
Pocket Pump 10A #2	1	0.7	0.7			x	0	0.0	
Pocket Pump 11A #1	1	0.7	0.7		x		2	1.3	
Pocket Pump 11A #2	1	0.7	0.7			x	0	0.0	
Pocket Pump 12A #1	1	0.7	0.7		x		2	1.3	
Pocket Pump 12A #2	1	0.7	0.7			x	0	0.0	
Pocket Pump 13A #1	1	0.7	0.7		x		2	1.3	
Pocket Pump 13A #2	1	0.7	0.7			x	0	0.0	
Pocket Pump 9B #1	1	0.7	0.7		x		4	2.7	
Pocket Pump 9B #2	1	0.7	0.7		x		2	1.3	
Pocket Pump 9B #3	1	0.7	0.7			x	0	0.0	
Pocket Pump 9C #1	1	0.7	0.7		x		2	1.3	
Pocket Pump 9C #2	1	0.7	0.7			x	0	0.0	
Pocket Pump 13B #1	1	0.7	0.7		x		2	1.3	
Pocket Pump 13B #2	1	0.7	0.7			x	0	0.0	
Pocket Pump 15B #1	1	0.7	0.7		x		2	1.3	
Pocket Pump 15B #2	1	0.7	0.7			x	0	0.0	
									21

(Duty pump loads below from MWH 12/16/02, p.7)

	Duty Pump Load (Hp)	Duty Pump Load (kW)	Average Duty Load (kW)	Duty: Continuous	Duty: Intermittent	Duty: Standby	Average Hours per day	Average kWh per day	Subtotal kWh per day
Submersible Pump Stations									
Lupine #1	28	20.9	20.9		x		10	208.8	
Lupine #2	28	20.9	20.9		x		5	104.4	
Lupine #3	28	20.9	20.9			x	0	0.0	
West Paso #1	27	20.1	20.1		x		10	201.3	
West Paso #2	27	20.1	20.1		x		5	100.7	
West Paso #3	27	20.1	20.1			x	0	0.0	
Baywood #1	23	17.2	17.2		x		10	171.5	
Baywood #2	23	17.2	17.2		x		5	85.8	
Baywood #3	23	17.2	17.2			x	0	0.0	
Scenic #1	7	5.2	5.2		x		5	26.1	
Scenic #2	7	5.2	5.2			x	0	0.0	
East Paso #1	23	17.2	17.2		x		5	85.8	
East Paso #2	23	17.2	17.2			x	0	0.0	
Sunny Oaks #1	6	4.5	4.5		x		5	22.4	
Sunny Oaks #2	6	4.5	4.5			x	0	0.0	
									1,007

(Rated Hp for each motor below from MWH 2/16/04, Sheet G-07)

	Rated Pump Motor (Hp)	Rated Pump Motor (kW)	Average Duty Load (kW)	Duty: Continuous	Duty: Intermittent	Duty: Standby	Average Hours per day	Average kWh per day	Subtotal kWh per day
Influent Pump Station									
Submersible #1	20	14.9	13.4		x		10	134.2	
Submersible #2	20	14.9	13.4		x		5	67.1	
Submersible #3	20	14.9	13.4			x	0	0.0	
									201
Plant Drain Pump Station									
Submersible #1	10	7.5	6.7		x		2	13.4	
Submersible #2	10	7.5	6.7		x		2	13.4	
Submersible #3	10	7.5	6.7			x	0	0.0	
									27
Influent Screens									
Screen Motor #1	3	2.2	2.0		x		20	40.3	
Screen Motor #2	3	2.2	2.0			x	0	0.0	
Sluice Water Pump #1	2	1.5	1.3		x		20	26.8	
Sluice Water Pump #2	2	1.5	1.3			x	0	0.0	
									67
Grit Removal									
Grit Pump #1	20	14.9	13.4		x		20	268.5	
Grit Pump #2	20	14.9	13.4			x	0	0.0	
									268
Pre-Anoxic Basins									
Mixer #1	2.5	1.9	1.7	x			24	40.3	
Mixer #2	2.5	1.9	1.7	x			24	40.3	
Mixer #3	2.5	1.9	1.7	x			24	40.3	
Mixer #4	2.5	1.9	1.7	x			24	40.3	
Mixer #5	2.5	1.9	1.7	x			24	40.3	
Mixer #6	2.5	1.9	1.7	x			24	40.3	
ML Recycle Pump #1	10	7.5	6.7	x			24	161.1	
ML Recycle Pump #2	10	7.5	6.7	x			24	161.1	
ML Recycle Pump #3	10	7.5	6.7	x			24	161.1	
									725
Aeration Basins									
Aeration PD Air Blower #1	100	74.6	67.1	x			24	1,610.7	
Aeration PD Air Blower #2	100	74.6	67.1	x			24	1,610.7	
Aeration PD Air Blower #3	100	74.6	67.1	x			24	1,610.7	
Aeration PD Air Blower #4	100	74.6	67.1			x	0	0.0	
									4,832
Post-Anoxic Basin									
Pump Mixer #1	5	3.7	3.4	x			24	80.5	
Pump Mixer #2	5	3.7	3.4	x			24	80.5	
Pump Mixer #3	5	3.7	3.4	x			24	80.5	
									242
Mixed Liquor Transfer Pumps									
ML Transfer Pump #1	25	18.6	16.8	x			24	402.7	
ML Transfer Pump #2	25	18.6	16.8	x			24	402.7	
ML Transfer Pump #3	25	18.6	16.8	x			24	402.7	
ML Transfer Pump #4	25	18.6	16.8			x	0	0.0	
									1,208
Waste Activated Sludge Pumps									
WAS Pump #1	5	3.7	3.4		x		6	20.1	
WAS Pump #2	5	3.7	3.4		x		6	20.1	
WAS Pump #3	5	3.7	3.4			x	0	0.0	
									40

(Rated Hp for each motor below from MWH 2/16/04, Sheet G-07)

	Rated Pump Motor (Hp)	Rated Pump Motor (kW)	Average Duty Load (kW)	Duty: Continuous	Duty: Intermittent	Duty: Standby	Average Hours per day	Average kWh per day	Subtotal kWh per day
Membrane Bioreactor Basins									
Permeate Pump #1	7.5	5.6	5.0	x			24	120.8	
Permeate Pump #2	7.5	5.6	5.0	x			24	120.8	
Permeate Pump #3	7.5	5.6	5.0	x			24	120.8	
Permeate Pump #4	7.5	5.6	5.0	x			24	120.8	
Permeate Pump #5	7.5	5.6	5.0			x	0	0.0	
MBR PD Air Blower #1	75	55.9	50.3	x			24	1,208.0	
MBR PD Air Blower #2	75	55.9	50.3	x			24	1,208.0	
MBR PD Air Blower #3	75	55.9	50.3	x			24	1,208.0	
MBR PD Air Blower #4	75	55.9	50.3	x			24	1,208.0	
MBR PD Air Blower #5	75	55.9	50.3			x	0	0.0	
									5,315
Disinfection - Low Pressure High Output UV									
UV Lamps - use 1.0 kWh/kgal			54	x			24	1,296.0	
									1,296
Effluent Pump Station									
Broderson Pump #1	60	44.7	40.3		x		12	483.2	
Broderson Pump #2	60	44.7	40.3		x		12	483.2	
Broderson Pump #3	60	44.7	40.3			x	0	0.0	
Service Area Pump #1	20	14.9	13.4		x		8	107.4	
Service Area Pump #2	20	14.9	13.4		x		8	107.4	
Service Area Pump #3	20	14.9	13.4			x	0	0.0	
Utility Water Pump #1	10	7.5	6.7		x		4	26.8	
Utility Water Pump #2	10	7.5	6.7		x		4	26.8	
Utility Water Pump #3	10	7.5	6.7			x	0	0.0	
									1,235
Solids Dewatering									
Centrifuge #1	120	89.5	80.5		x		6	483.2	
Centrifuge #2	120	89.5	80.5			x	0	0.0	
									483
Odor Control									
Residuals Bldg Blower #1	15	11.2	10.1	x			24	241.6	
Residuals Bldg Blower #2	15	11.2	10.1			x	0	0.0	
Treatment Bldg Blower #1	40	29.8	26.8	x			24	644.3	
Treatment Bldg Blower #2	40	29.8	26.8			x	0	0.0	
									886
Facitliy Lighting, Instrumentation, HVAC, and Other Ancillary Loads									
Lump Sum Estimate				x				50.0	
									50

Summary: Energy Intensity for Collection and Treatment

Total kWh Load per day @ 1.3 mgd	**17,904**

Summary: Energy Intensity by Category	**kWh/dy**	**kWh/af**
Collection	**1,028**	**258**
Headworks	**564**	**141**
Secondary Treatment	**7,047**	**1,767**
Filtration	**5,315**	**1,333**
Disinfection	**1,296**	**325**
Odor Control	**886**	**222**
Solids Dewatering	**483**	**121**
Effluent Pumping	**1,235**	**310**
Ancillary Loads	**50**	**13**
Totals	**17,904**	**4,490**

Los Osos STEP/Trickling Filter Energy Intensity Analysis

	Rated Pump Motor (Hp)	Rated Pump Motor (kW)	Average Duty Load (kW)	Duty: Continuous	Duty: Intermittent	Duty: Standby	Average Hours per day	Average kWh per day	Subtotal kWh per day
STEP Effluent Pumps									
1,700 Low Elevation STEP	0.5	0.4	0.3		x		900	302.0	
1,700 Mid Elevation STEP	0.5	0.4	0.3		x		700	234.9	
1,700 High Elevation STEP	0.5	0.4	0.3		x		500	167.8	
									705
Septage Receiving Station									
Grinder Motor	2	1.5	1.3		x		2	2.7	
Auger Motor	2	1.5	1.3		x		2	2.7	
									5
Flow Equalization Basin(s)									
Propeller Mixer #1	3	2.2	2.0	x			24	48.3	
Propeller Mixer #2	3	2.2	2.0			x	0	0.0	
Propeller Mixer #3	3	2.2	2.0	x			24	48.3	
Propeller Mixer #4	3	2.2	2.0			x	0	0.0	
PD Aeration Blower #1	10	7.5	6.7		x		24	161.1	
PD Aeration Blower #2	10	7.5	6.7			x	0	0.0	
PD Aeration Blower #3	10	7.5	6.7		x		24	161.1	
PD Aeration Blower #4	10	7.5	6.7			x	0	0.0	
Submersible Pump #1	7.5	5.6	5.0	x			24	120.8	
Submersible Pump #2	7.5	5.6	5.0			x	0	0.0	
Submersible Pump #3	7.5	5.6	5.0	x			24	120.8	
Submersible Pump #4	7.5	5.6	5.0			x	0	0.0	
									660
TF Recirculation Pumps									
Recirculation Pump #1	20	14.9	13.4	x			24	322.1	
Recirculation Pump #2	20	14.9	13.4	x			24	322.1	
Recirculation Pump #3	20	14.9	13.4	x			24	322.1	
Recirculation Pump #4	20	14.9	13.4	x			24	322.1	
									1,289
Secondary Clarifier Mechanical									
Sludge Scraper Drive #1	3	2.2	2.0		x		6	12.1	
Sludge Scraper Drive #2	3	2.2	2.0			x	0	0.0	
									12
Sludge Transfer Pumps									
WAS Pump #1	5	3.7	3.4		x		2	6.7	
WAS Pump #2	5	3.7	3.4		x		2	6.7	
WAS Pump #3	5	3.7	3.4		x		2	6.7	
WAS Pump #4	5	3.7	3.4		x		2	6.7	
									27
Aerobic Sludge Storage									
PD Aeration Blower #1	25	18.6	16.8	x			24	402.7	
PD Aeration Blower #2	25	18.6	16.8			x	0	0.0	
									403

	Rated Pump Motor (Hp)	Rated Pump Motor (kW)	Average Duty Load (kW)	Duty: Continuous	Duty: Intermittent	Duty: Standby	Average Hours per day	Average kWh per day	Subtotal kWh per day
Microfiltration Feed Pumps									
Submersible Pump #1	10	7.5	6.7		x		22	147.6	
Submersible Pump #2	10	7.5	6.7		x		22	147.6	
Submersible Pump #3	10	7.5	6.7			x	0	0.0	
									295
Disinfection - Low Pressure High Output UV									
UV Lamps - use 1.0 kWh/kgal			54	x			24	1,296.0	
									1,296
Effluent Pump Station									
Ag Delivery Pump #1	40	29.8	26.8		x		12	322.1	
Ag Delivery Pump #2	10	7.5	6.7		x		20	134.2	
Ag Delivery Pump #3	40	29.8	26.8			x	0	0.0	
Utility Water Pump #1	10	7.5	6.7		x		4	26.8	
Utility Water Pump #2	10	7.5	6.7			x	0	0.0	
									483
Solids Dewatering/Composting									
Monobelt Mini-Press	6	4.5	4.0		x		5	20.1	
Solar Sludge Dryer	5	3.7	3.4		x		18	60.4	
									81
Odor Control									
Process Blower #1	10	7.5	6.7	x			24	161.1	
Process Blower #2	10	7.5	6.7	x			24	161.1	
Process Blower #3	10	7.5	6.7			x	0	0.0	
Treatment Bldg Exhaust #1	3	2.2	2.0	x			24	48.3	
Treatment Bldg Exhaust #2	3	2.2	2.0			x	0	0.0	
									370
Facitliy Lighting, Instrumentation, HVAC, and Other Ancillary Loads									
Lump Sum Estimate				x				50.0	
									50

Summary: Energy Intensity for Collection and Treatment

Total kWh Load per day @ 1.3 mgd	**5,676**

Summary: Energy Intensity by Category	kWh/dy	kWh/af
Collection	705	177
Headworks	5	1
Secondary Treatment	2,391	599
Filtration	295	74
Disinfection	1,296	325
Odor Control	370	93
Solids Dewatering	81	20
Effluent Pumping	483	121
Ancillary Loads	50	13
Totals	**5,676**	**1,423**

Energy Intensity Reference Values for Various Secondary Treatment Unit Processes

Treatment Description	All Values converted to kWh/acre-foot				
	Burton 1996 National Average	Reardon 2001 Benchmark Average	NRDC 2004 1-mgd facility	NRDC 2004 100-mgd facility	Günder 2001 MCASP
Lagoons	–	245	–	–	–
Trickling Filter	311	380	580	225	–
Activated Sludge	431	660	750	340	615
Extended Aeration/Oxidation Ditch	–	945	–	–	–
Advanced Treatment without Nitrification	502	–	865	400	–
Advanced Treatment with Nitrification	623	–	980	520	–
MBR activated sludge @ 15 g/L MLSS	–	–	–	–	1,235
MBR activated sludge @ 25 g/L MLSS	–	–	–	–	2,470

List of Sources

1. Burton, Franklin L., 1996, *Water and Wastewater Industries: Characteristics and Energy Management Opportunities.* (Burton Engineering) Los Altos, CA, Report CR-106941, Electric Power Research Institute Report, p. 2-45.
2. Reardon, D.J., *Strategies for Managing Spiraling Energy Costs,* in California Water Environment Association Summer 2001 Bulletin, p.25.
3. Natural Resources Defense Council and Pacific Institute, *Energy Down the Drain, the Hidden Costs of California's Water Supply,* 2004, Table 6.
4. Günder, Berthold, Ph.D., *The Membrane-Coupled Acrivated Sludge Process in Municipal Wastewater Treatment,* 2001, p. 173.

Dana Ripley

From: Nishi, Greg [GHN2@pge.com]
Sent: Monday, July 24, 2006 9:37 AM
To: Dana Ripley
Subject: RE: LO Power rates

Dana, Yes A-10 given your information. Yes $.14705/Kwh is good ballpark #. I do not know of any official policy as to rate projections. I personally would input 3% per year just to be safe.

Greg

From: Dana Ripley [mailto:Ripac@comcast.net]
Sent: Monday, July 24, 2006 8:55 AM
To: Nishi, Greg
Subject: LO Power rates

Greg, question – if the LO ww plant uses say 5,000 kWh per day (say peak load of 250 kW), would the A-10 rate schedule apply? The E-20 table indicates >1,000 kW, so may not apply to this facility. For budgeting, we are using $0.14705/kWh. Does this sound reasonable? Any estimate of rate increases over the 2 to 5 year horizon? Your guidance on these power issues appreciated. Dana

Dana K. Ripley, P.E.
Ripley Pacific Company
5820 Stoneridge Mall Road, Suite 100
Pleasanton, CA USA 94588-3275
925-847-2086 Fax 925-398-8498
Ripac@comcast.net

SEE PG 2

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2007-0108

ALLOWING AN EXEMPTION FOR AN ENGINEERED RESIDENTIAL WASTEWATER DISPOSAL SYSTEM UNDER WASTE DISCHARGE REQUIREMENTS ORDER NO. 85-039 FOR 967 SIERRA BROOKS DRIVE (LOT NO. 81) SIERRA BROOKS SUBDIVISION UNIT 2A, LOYALTON SIERRA COUNTY

WHEREAS, the Central Valley Regional Water Quality Control Board (hereafter "Regional Water Board") proposes to grant an exemption for an engineered residential wastewater treatment and disposal system for Lot No. 81 at 967 Sierra Brooks Drive, Loyalton (APN 016-200-050) in the Sierra Brooks Subdivision under the terms and conditions of Waste Discharge Requirements (WDRs) Order No. 85-039; and

WHEREAS, Discharge Prohibition A.1. of WDRs Order No. 85-039 states, in part: "An exemption may be approved by the Regional Board if a report is prepared by a civil engineer registered in the State of California, supporting the engineering conclusion that a septic tank/leaching system on the parcel(s) in question will provide adequate treatment and disposal....The report must be approved by the Sierra County Health Department and the Regional Board before an exemption may be issued"; and

WHEREAS, the primary concern with residential wastewater disposal on this lot (and many other lots in the subdivision) is inadequate groundwater separation and high housing density. Evidence of seasonal high groundwater at 20 inches below ground surface (bgs) was reported for this lot. Order No. 85-039 requires a minimum of 60 inches of soil separation between the bottom of leachline trenches and water, rock, or the first impervious layer; and

WHEREAS, the proposed engineered on-site wastewater treatment and disposal system will consist of a septic tank, recirculating textile filter, pump tank, and pressure-dosed mound system for a three-bedroom residence. Wastewater will be pre-treated in a 1,500-gallon septic tank equipped with a recirculating textile filter. Pretreated septic tank effluent will be pumped to an engineered mound leaching system for disposal. The mound will be constructed of silty sand, and there will be a minimum of 40 inches of this engineered fill below the bottom of the distribution trenches. The three distribution trenches will be three feet wide by 54 feet long. The distribution pipes will have a minimum depth of 10 inches of gravel bedding, 2 inches of gravel cover, and 12 inches of capping fill. Pressure distribution of effluent to the trenches will provide even distribution across the disposal area. The design is based on an average percolation rate of 27.8 minutes per inch and a peak flow of 450 gallons per day; and

WHEREAS, Regional Water Board staff has reviewed the engineered residential wastewater treatment and disposal system design report submitted by Coombs Engineering Inc., dated 23 March 2007;

WHEREAS, the Sierra County Health Department has reviewed and approved the engineered system design report, including the conditions recommended by Regional Water Board staff; and

WHEREAS, Regional Water Board staff has reviewed the design report and concurs that the engineered system design, with conditions, will provide adequate treatment and disposal of domestic wastewater for the proposed residence; and

WHEREAS, the engineered system design and conditions recommended by Regional Water Board staff should ensure the long-term protection of water quality; and

WHEREAS, the action to grant this exemption under WDRs Order No. 85-039 for this existing facility is exempt from the provisions of the California Environmental Quality Act (CEQA), in accordance with Title 14, California Code of Regulations (CCR), Section 15301; and

WHEREAS, the Regional Water Board considered all testimony and evidence at a public hearing held on 2 August 2007 in Sacramento, California.

THEREFORE BE IT RESOLVED that the California Regional Water Quality Control Board, Central Valley Region, finds as follows for the residence at 967 Sierra Brooks Drive:

1. The engineered system shall be installed as described in the engineered system design report submitted on 23 March 2007, and in accordance with the following conditions:

    a. The septic tank and pump tank shall be manufactured in accordance with the American Society of Testing and Materials (ASTM) C1227 Standard Specification For Precast Concrete Septic Tanks;

    b. Tank lids and all tank penetration points shall be sealed to prevent groundwater inflow;

    c. A minimum set back distance of 10 feet shall be maintained between all property lines and the base of the mound system; and

    d. The bottom of each distribution trench shall be level.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 2 August 2007.

PAMELA C. CREEDON, Executive Officer

BPK:08/02/2007

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Barry and Vivian Branin

Mailing Address: P.O. Box 540

City: Morro Bay Zip Code: 93442 Phone: 714.920.9226

SECTION II. Decision Being Appealed

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo Board of Supervisors

2. Brief description of development being appealed:

Los Osos Waste Water Project. Location of Treatment Plant on the Giacomazzi property.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2198 Los Osos Valley Rd. (Know as the Giacomazzi site) APN 067.011.022

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: October 1, 2009

7. Local government's file number (if any): DRC 2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
Department of Public Works
976 Osos Street
Room 300
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

1.Taking of Agricultural Land. The location of the treatment site on this property takes Agricultural land and disturbs Native American and current Cultural Resources. It will impact the adjacent Historic Los Osos Valley Cemetary, which is the site of more than 1100 Military graves.

2. Impact on Environmentally Sensitive Area. The Treatment Plant will be thirty (30) feet higher than Warden Lake which is only 600 ft away. Any overflow from the plant or pressure piping, or operator miscues will flow directly into Warden Lake which flows to the creek which leads directly into the Morro Bay Estuary.

3. If the plant is built as proposed it does not properly stop fugitive odors. The requirement for any treatment plant is that there shall be no odors escaping if there are adjacent residential properties. There are residential properties adjacent to the Giacomazzi property.

4. The location at the prior approved "Tri-W" site will reduce the potential impacts to the Cultural Resources and the Environmentally Sensitive Warden Lake. If the plant is located at the Giacomazzi site then the design should be such that there are no fugitive odors and there shall be a Tertiary impoundment wall constructed so that no waste can leak into the Lake and on to the Esturary due to pipe leaks, power failure or inundation due to a huge rain event. Rain events of more than 4 inches in a twenty four hour period happen approximately every 10 years.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: October 14, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Legend
Proposed Facilities
Influent Line
Treated Effluent
Contour - 5 Foot
Environmentally Sensitive Areas (ESA)
ESA 100-Foot Boundary
Property Lines
Site Boundary
Feet
0 150 300
Branin
Giacomazzi
Treatment Plant Site Plan
Cemetery
Los Osos Valley Road
SITE LAYOUT PLAN
LOS OSOS WASTEWATER TREATMENT PLANT
COASTAL DEVELOPMENT PERMIT

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Richard A. Nyznyk

Mailing Address: 674 County Square Drive, Suite 208C

City: Ventura, Calilfornia Zip Code: 93003 Phone: 805.754.0587

SECTION II. Decision Being Appealed

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Waste Water Treatment Project, approved September 29, 2009.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2198 Los Osos Valley Road, Los Osos, CA

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC 2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
County Government Center
San Luis Obispo, California 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Al Barrow

(2) Jeff Edwards

(3) Julie Tacker

(4) Chuck Cesena

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I support a Waste Water Treatment System for the Los Osos Community. The County of SLO's recent development approval, however, fails to conform to the standards set forth in the certified Local Coastal Program for the area (the Estero Area Plan) and it also violates public access policies of the Coastal Act itself.

In particular, various conditions of approval and features of the approved project, including but not limited to condition numbers 5, 86 and 92, violate the Coastal Act's public access policies. The project, as approved, is unjust and inequitable, and violates the equal protection of the law to certain residents and property owners in Los Osos. AS APPROVED, A LARGE NUMBER OF CURRENT PROPERTY OWNERS are being forced to pay for benefits, designs, analyses and studies that THOSE SAME PROPERTY OWNERS ARE PRECLUDED from using without paying additional amounts for same again.

The conditions of approval that preclude participation in the Sewer Project by undeveloped AND UNDERdeveloped properties within the project area violate ALL notions of due process, equity and fair play in addition to running afoul of Coastal Act goals and policies identified throughout the Act, as touched on below.

Section 30001.5 (a): The legislature declared that the goals for the coastal zone include to protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources. A primary coastal resource is water availability and groundwater basin health and sustainability. In Los Osos, this is relevant especially for the lower acquifer. The Project, as approved, has an incomplete financing plan and effluent disposal plan. Completion of both of these is put off to an uncertain future date, itself dependent upon a future successful Proposition 218 assessment vote of undeveloped property owners, a Habitat Conservation Plan that will be recommenced at some future date PRIOR to the 218 vote, and another Local Coastal Program amendment FOLLOWING this project's completion to make the adjustments and changes NOW PLANNED ON.

Furthermore, this project has failed to consider all feasible alternatives for siting the project more efficiently for the benefit of the community and for the project's, environmental, efficient resource management and aesthetic values.

Moreover, Public Resources Code section 30254.5 precludes the imposition of any terms or conditions on a sewage treatment plant development, which condition applies to any future

development that can be accommodated by that plant. Several conditions imposed upon this project are specifically tailored to new development and an outright preclusion thereof without substantial additional actions by both the County individual property owners, including conditions 86 and 92, among others. All this is true notwithstanding the FACT that the approved project INCLUDES capacity for FULL LOS OSOS BUILDOUT to include ALL undeveloped AND underdeveloped lots in the service area.

The county is breaking 1 complete project (The LOWWP) into at least 2 parts, increasing cost and delaying (and possibly precluding) the environmental and systemic benefits which the wastewater system is designed to produce. And by breaking the project into two parts, the county is substantially increasing the overall cost of the completed project, delaying both complete funding for the Project and satisfaction of mitigation measures until after another assessment vote, the timing of which is uncertain, and several years away at best. Worse, they are squandering the opportunity to COMPLETE this ENTIRE project with a Section 7, federal nexus process, requiring ONLY NEW DEVELOPMENT TO PAY for the entire system's needs (vis a vis species mitigation, etc.) through a Section 10 process, further increasing costs of the overall project.

I seek de novo review of this project by the Coastal Commission. As de novo review is the functional legal equivalent of CEQA, the Commission's action to approve a more efficient project that more effectively satisfies goals and policies of the Act and of the Estero Area Plan can be complete by decisive Coastal Commission action.

In the alternative, I seek a denial of the project as submitted, with approval of the project conditioned upon the county's completion, with all due haste, of their contemplated Prop 218 vote to include ALL undeveloped AND UNDERdeveloped lot owners, and tract owners, as equal participants with all other property owners whether they have already been included within the recent Prop 218 vote for the Project or not.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 10/13/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: The Surfrider Foundation San Luis Bay Chapter (Jeff Pienak, Chair)

Mailing Address: P.O. Box 13222 San Luis Obispo, CA 93406

City: San Luis Obispo, CA Zip Code: 93406 Phone: 805-709-1905

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OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Luis Obispo

2. Brief description of development being appealed:

Los Osos Wastewater Project DRC2008-00103:
A wastewater project for the town of Los Osos, CA consisting of conveyance, treatment and disposal facilities.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos, CA (See attachment for map)

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County Department of Public Works (attn: Paavo Ogren, Director)
County Government Center, Room 207
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Don Bearden 1411 7th Street Los Osos, CA 93402

(2) Steven Paige 1554 Ninth Street Los Osos, CA 93402

(3) Vivian and Barry Branin P.O. Box 540 Morro Bay, CA 93442

(4) Bruce Corelitz 1920 Tapidero Ave Los Osos, CA 93402

(5) S.E. Acquisition of Los Osos Mortuary and Memorial Park, Inc.
DBA Los Osos Valley Memorial Park
C/O Andre, Morris & Buttery
1102 Laurel Lane
San Luis Obispo, CA 93401

(6) J.H. Edwards Company P.O. Box 6070 Los Osos, CA 93412

(7) Piper Reilly 691 Woodland Drive Los Osos, CA 93402

(8) Linde Owen 1935 10th B Los Osos, CA 93402

(9) Keith Wimer, Los Osos Sustainability Group 1101 14th Street Los Osos, CA 93402

(10) Martha Goldin P.O. Box 6007 Los Osos, CA 93412

(11) Elaine Watson 1287 5th Street Los Osos, CA 93402

(12) Al Barrow (Citizens for Affordable & Safe Environment and Coalition for Low-Income Housing)
1250 4th Street B
Los Osos, CA 93402

(13) Sierra Club Santa Lucia Chapter (attn: Andrew Christie) P.O. Box 15755 San Luis Obispo, CA 93406

(14) Chuck Cesena 591 Ramona Ave. Los Osos, CA 93402

(15) Sarah Corbin 809 Browns Valley Rd. Watsonville, CA 95076

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The Surfrider Foundation, San Luis Bay Chapter ("Surfrider") submits this document as substantiation for its appeal of the San Luis Obispo County Board of Supervisor's September 29 decision regarding the Development Plan DRC2008-00103 for the Los Osos Wastewater Project ("LOWWP"). The Surfrider Foundation is a non-profit environmental organization dedicated to the protection and enjoyment of the world's oceans, waves and beaches, for all people, through conservation, activism, research and education.

In appeal, Surfrider asserts that the project as approved does not conform with several Coastal Act and LCP policies, and that the EIR analysis is deficient for inadequately identifying and mitigating environmental impacts to coastal resources protected by the Coastal Act. Because of project non-conformance with policies over which the California Coastal Commission has jurisdiction, and because the CEQA analysis does appropriately identify coastal resources (i.e. wetlands per the Commisson's criteria) and, thus, does not adequately avoid or mitigate impacts to these resources, Surfrider requests that the Commission hear this issue based on the substantial issues raised in this appeal.

Protection of Significant Coastal Resources

"Balancing" Provision in Coastal Act Section 30007.5

> The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

This policy allows for balancing to occur between two different conflicting policies within the Coastal Act. In approving this project ("CDP Findings" B(3) and H(3)), presumably the San Luis Obispo County Board of Supervisors is justiying the development of ESHA and other policy non-conformance because the Board feels that, on balance, the project as approved will protect more coastal resources than it destroys. Regardless of whether or not this finding is accurate, the policy in Section 30007.5 does not preempt mitigation of avoidable adverse impacts to the maximum extent as required by resource protection policies (such as Section 30240). If there are feasible mitigation measures or project alternatives that would serve to bring the project in closer conformance with such Coastal Act policies,

these measures or alternatives must first be incorporated as part of the project prior to applying this "balancing" provision for policy conflicts.

Surfrider finds that significant environmental impacts to coastal resources have not been mitigated to the maximum extent feasible and points to the following areas of deficiency:

Impermissible Development of Wetlands:

The Coastal Act expressly prohibits siting coastal-dependent development in wetlands except in limited circumstances that do not apply to the proposed project (Coastal Act Sections 30233 and 30255). LCP Coastal Plan Policy Chapter 6, Section 7 recognizes coastal wetlands as environmentally sensitive habitat area (ESHA), and states that the "natural ecological functioning [...] of wetlands [...] shall be protected, preserved and where feasible restored" (emphasis added). LCP Coastal Plan Policy Chapter 6, Policy 13 requires that diking, dredging and filling activities for wetlands shall conform to provisions set forth in the Coastal Act. Section 30233 of the Coastal Act only allows diking, filling or dredging of wetlands where there is no feasible less environmentally damaging alternative, and only in specific instances, such as incidental public services (Section 30233(a)(4). This policy further limits disturbance of wetlands to specific instances, including incidental public service purposes, and in the case of Morro Bay wetlands (which, according to the Wetlands Policy in the LCP Coastal Plan Policies, includes Los Osos Estuary), only "very minor" incidental public facilities (per Coastal Act Section 30233(c)).

Additionally, development adjacent to wetlands must not significantly disrupt the resource, per LCP Coastal Plan Policy Chapter 6, Policy 1. CZLUO 23.07.172 (4)(A) provides that the buffer distance to avoid significant disruption to the resource is 100 feet, and can only be less than 100 feet (but no less than 25 feet) in limited circumstances described in CZLUO 23.07.172 (4)(B).

Based on the Coastal Zone Land Use Ordinance, Coastal Act and Coastal Plan policies regarding wetlands, as enumerated above, it is clear that permissible development on wetlands is very limited, and that the LOWWP does not meet the limited criteria for such development. Therefore, to appropriately mitigate impacts to wetlands, development on wetlands must be avoided and the 100 foot buffer mandated by the CZLUO must be observed.

The Environmental Setting in the EIR needed to consider wetlands as interpreted under the Coastal Act, as opposed to limiting the definition of wetlands as defined by Section 404 of the Clean Water Act. The California Coastal Commission's regulations establish a one parameter definition for delineating wetlands, where only one of the three criteria for soils, vegetation, and hydrology needs to be met to determine wetland conditions:

> Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. (14 CCR Section 13577)

Conversely, Clean Water Act Section 404 requires that all three criteria need to be met to consider an area a wetland. As such, the EIR undoubtedly underestimates the number and extent of wetlands in the project vicinity very significantly and, therefore, the BOS approved project does not adequately avoid development of wetlands, which is inconsistent with the LCP and Coastal Act policies that protect wetlands. To appropriately identify wetlands under the Coastal Commission standards, a qualified biologist needs to be retained to identify qualifying soils, plant species and hydrologic conditions so that wetlands can be appropriately delineated. In absence of such a delineation, significant impacts to wetlands can not be and have not been adequately analyzed or mitigated.

Impermissible development of ESHA:

In regard to ESHA, the Planning Commission--and the Board of Supervisors through approval--applies a low threshold for development on ESHA, citing that the proposed project will have no significant impact to ESHA and, therefore, the threshold for protecting ESHA has been met. However, Section 30240(a) of the Coastal Act takes a two-pronged approach that requires no significant disruption of habitat values AND approves only uses dependent on the ESHA resources. Given that the wastewater project does not depend on use of ESHA, any disturbance of ESHA would be significant and require avoidance or full mitigation of unavoidable adverse impacts. As approved, the project has multiple components that would be sited on ESHA. For example, as part of the gravity collection systems in Alternatives 2 through 4, pump station developments are proposed within terrestrial ESHA lands. As described in the EIR, these impacts would be significant and permanent (p 5.5-36; Impact 5.5 E):

> CZLUO Section 23.07.176: Terrestrial Habitat Protection. As part of the collection systems for Proposed Projects 2 through 4, pump station developments are proposed within potential ESHA lands containing terrestrial habitat associated with the Mid-town property and other parcels located within developed portions of the community of Los Osos. Impacts resulting from pump station developments would be permanent. Terrestrial habitats within these areas contain suitable habitats for the Morro manzanita, Morro Bay blue butterfly, and Morro shoulderband snail.

Surfrider finds that the project impermissibly impacts ESHA because there appears to be a feasbile alternative that avoids these impacts. Although a STEP collection system (as outlined in Project Alternative 1 in the EIR) does not entirely avoid impacts to ESHA, it does avoid permanent impacts to ESHA where the gravity collection system does not, therefore avoiding significant impacts to the maximum extent feasible.

Protection of Groundwater and Surface Waters

Coastal Plan Chapter 6, Policy 7, requires that the natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored. ESHA Policy 20 requires riparian vegetation and the natural hydrological system and ecological function of coastal streams be protected and preserved. Additionally, Coastal Act Section 30231 protects water quality through, amongst other means, minimizing adverse effects of wastewater discharges and preventing depletion of groundwater supplies. Section 30232 further requires that protection against hazardous substance spills be provided and effective containment procedures to be implemented. Arguably, the most effective means of protection against spills and leaks is to start by implementing a system that is

designed to minimize infiltration and inflow ("I/I") as well as exfiltration.

Peaks in I/I can lead to sanitary system overflows ("SSOs"), while significant exfiltration can pollute ground water and surface waters (through subsurface percolation and seeps). SSOs and exfiltration are leading causes of ground and surface water pollution in the United States (California Regional Water Quality Control Board, Central Coast Region Staff Report for Special Meeting of November 19, 2004.).

Gravity sewers utilize bell and spigot joint construction. Properly installed bell-and-spigot sewers will be watertight at first, and then may slowly lose their integrity as the surrounding soils shift, compressing the pipes, and compromising their seals at the joints (SLO County LOWWP Development. Technical Memorandum: Flows and Loads. Final Draft, February 2008, p. 6). Only a sealed-pipe solution would act to minimize I/I and exfiltration. Thus, to adequately protect against spills, Surfrider contends that the project must make use of a feasible 100% fusion-welded pressurized effluent collection alternative.

Sludge Production and Biosolids Hauling:

The volume of biosolids created by a gravity collection system estimated solids volume is estimated at 4,000 lbs/day dry weight or 730 tons/yr dry weight, compared to an estimate of 1,000 lbs/day dry weight or 182.5 tons/yr dry weight that would be produced by a STEP collection system (SLO County LOWWP Viable Project Alternatives Fine Screening Analysis August 2007, p. 5-4, Table 5.1). Biosolids that would result from use of a gravity collection system, therefore, are 75% greater in mass than those resulting from the STEP collection alternative; this additional mass of course has associated impacts for hauling, greenhouse gas emissions, and coastal resource protection.

Assuming that biosolids will be hauled away, failure to minimize the creation of biosolids is inconsistent with Coastal Act Section 30253(4) which requires new development to minimize energy consumption and and vehicle distances traveled. However, Surfrider believes it is not safe to assume that landfills will continue to accept sludge over the entire economic life of the project, nor is it safe to assume that there will not be other forces (i.e. economic) that result in land-based application locally. In the event that sludge would be applied to land locally, it would be desirable for sludge creation to be minimized; given that sludge produced by the treatment process proposed would still contain hazardous chemical compounds, applying the sludge to land could have significant adverse impacts on coastal resources.

Flows needed for proper system function:

The absence of analysis which considers the minimum flows needed to maintain collection system functionality renders the project description incomplete. This lack of information prevents adequate comparison of collection alternatives' relative functionality in a range of flows, and also prevents avoidance or mitigation of significant impacts that may occur due to system malfunction in cases where adequate flows are not maintained. In the absence of this information to facilitate comparison and impacts analysis, the project cannot claim to be consistent with Coastal Act policies that protect coastal resources from adverse impacts (including but not limited to Section 30231 (riparian and groundwater protection), Section 30231 (water quality), and Section 30240 (ESHA).

These concerns are further elevated by the additional increases in water conservation approved by the Board of Supervisors. Condition of Approval, Item 1(k) sets a maximum water usage target of 50

gpc/d—roughly equivalent to a 25% reduction from current usage. Additionally, in August 2009, the state of California adopted new standards for the construction, installation and alteration of graywater systems for indoor and outdoor uses. These new standards will make it easier for homeowners to get permits to install these technologies for their own homes and may result in increased water conservation for outdoor water usage, in addition to the savings that the Planning Commission's condition would achieve. Our concerns are substantiated by published findings from Ronald Crites and George Tchobanoglous which state: "The minimum flows required for gravity-flow sewers to operate make them problematic where…water conservation reduces the wastewater flows significantly. In many cases, the water used to flush conventional gravity-flow collection systems for the removal of accumulated solids far exceeds the water saved through water conservation measures" (Ronald Crites and George Tchobanogrous, Small and Decentralized Management Systems. New York: McGraw-Hill, 1998, p. 8). Although Surfrider supports the Board of Supervisor's decision to pursue aggressive water conservation, as we feel it is necessary in the effort to balance the groundwater basin, the impacts of this level of increased water conservation have not been considered.

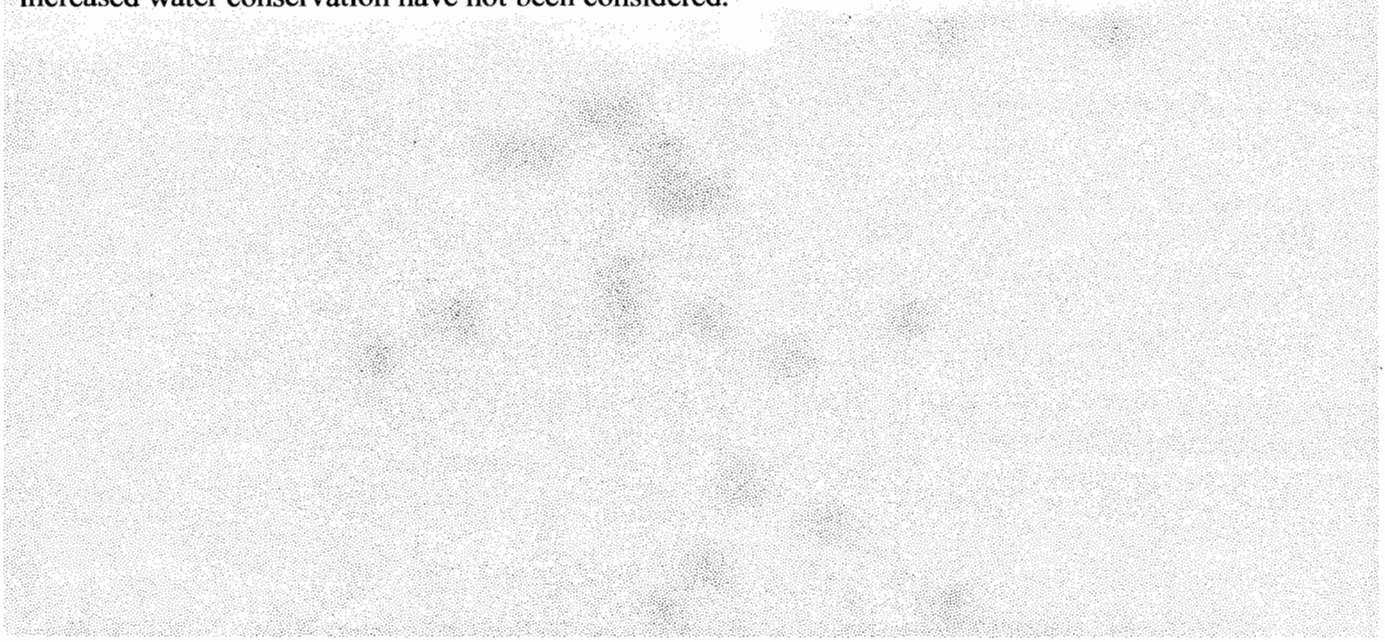

Exhibit 1-2
Project Setting

COUNTY OF SAN LUIS OBISPO - LOS OSOS WASTEWATER PROJECT
ENVIRONMENTAL IMPACT REPORT

Source: Draft Environmental Impact Report, County of San Luis Obispo, Los Osos Wastewater Project. Michael Brandman & Associates (2008).

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: October 6, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Sarah Corbin
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: October 6, 2009

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Julie Tacker

Mailing Address: P.O. Box 6070

City: Los Osos Zip Code: 93412 Phone: 805-528-3569

SECTION II. Decision Being Appealed

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Wastewater Proejct

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2198 Los Osos Valley Road, Los Osos, CA , APN# 067-011-022

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County Board of Supervisors
San Luis Obispo County Government Center
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See Attached List

(2)

(3)

(4)

September 29, 2009 speakers at SLO CO. Board of Supervisor's LOWWP Appeal Hearing

Mr. Don Beardon
Mr. Steven Paige
Mr. Barry Branin
Mr. Bruce Corelitz
Mr. Scott Kimura
Mr. Dennis Law
Mr. Jeff Edwards
Ms. Piper Reilly
Ms. Linde Owen
Mr. Keith Wimer
Mr. Al Barrow
Ms. Sarah Corbin
Mr. Jesse Hill
Mr. Andrew Christie
Mr. Chuck Cesena
Ms. Anne Wyatt (Planning Commissioner)
Mr. Eric Greening
Dr. C. Hite
Ms. Lisa Schicker
Ms. Gail McPherson
Ms. Julie Tacker
Mr. Bruce Payne
Mr. Chris Allebe
Ms. Anne Bahme
Mr. Bill Garfinkel
Mr. Phil Gray
Ms. Joyce Albright
Mr. Frank Ausilio
Mr. David Dubbink
Mr. George Taylor
Ms. Gewynn Taylor
Mr. Bill Moylan
Mr. Richard Nyznyk
Ms. Anne Norment
Mr. Fred Collins (Northern Chumash Tribal Council)
Mr. Michael Chamberlain
Ms. Gretchen Clark
Ms. Elaine Watson
Ms. Sharon Frederick
Ms. Vita Miller
Mr. Ben DiFatta
Ms. Jerri Walsh
Mr. Richard Margetson
Mr. Alon Perlman
Ms. Carolina VanStone
Mr. Jack Hunter
Mr. Joe Sparks (Los Osos Community Services District President)
Ms. Katie Franklin

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The Approved Project fails to comply with the following sections of The California Coastal Act/Public Resources Code/s.

Section 30001 Legislative findings and declarations; ecological balance

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of the state and especially to working persons employed within the coastal zone.

Section 30001.5 Legislative findings and declarations; goals

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of this state.

Section 30604 Coastal development permit; issuance prior to certification of the local coastal program; finding that development in conformity with public access and public recreation policies; housing opportunities for low and moderate income persons

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

Significant portions of the Los Osos Wastewater Project are being defered to another project and/or to future mitigation measure, in violation of CEQA and the spirit of the Coastal Act.

Please see the attached discussion related to specific appeal contentions.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: October 16, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

California Coastal Commission
725 Front Street
Santa Cruz, CA

October 16, 2009

Attention: Jonathan Bishop

Subject: Appeal of Los Osos Wastewater Project / County File No. DRC2008-00103

Julie Tacker respectfully requests an appeal of the San Luis Obispo County Board of Supervisors approval of the above referenced project to the California Coastal Commission. This appeal text is attached to the official appeal forms for approved development within the Coastal Zone. The County of San Luis Obispo has approved a Development Plan/Coastal Development Permit to allow construction and operation of a sewer system to serve the community of Los Osos, which includes a collection system, a sewer treatment facility plant, effluent disposal system, agricultural re-use program, water conservation program, and all associated appurtenant infrastructure in multiple land use categories, located at 2198 Los Osos Valley Road, approximately 0.5 miles east of the community of Los Osos in the Estero Planning Area. 2nd District.

Said project may include an application for USDA Rural Development Funding. Also approved at the hearing was the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, found that there was evidence that the project may have significant effects on the environment, and therefore a Final Environmental Impact Report (FEIR) was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) for this project. The FEIR addressed potential impacts on: Land Use and Planning; Groundwater Resources; Drainage and Surface Water Quality; Geology; Biological Resources; Cultural Resources; Public Health and Safety; Traffic and Circulation; Air Quality; Noise; Visual Resources and Environmental Justice. Mitigation measures were proposed to address these impacts and are included in the conditions of approval. Overriding considerations were determined necessary based on significant and unavoidable impacts associated with agricultural resources.

As a longtime resident (1971-current), property owner and former Director of the Los Osos Community Services District (2004-2008) I have been fully engaged in all aspects of the Los Osos Wastewater Project over the last 8 years.

I support a wastewater project for Los Osos and have participated as an involved citizen during the project development throughout the County of San Luis Obispo's current effort beginning in June 2006. At every turn in the public process I have raised my concerns, yet to date remain unsatisfied with the resulting project.

To have my concerns adequately considered I am forced to appeal the San Luis Obispo County Board of Supervisors approval of the Los Osos Wastewater Project of September 29, 2009 to the California Coastal Commission.

I respectfully request a de Novo review of the project.

Thank you for your consideration, *Julie Tacker*

The Los Osos Wastewater Project as approved violates:

Section 30001 Legislative findings and declarations; ecological balance

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of the state and ***especially to working persons employed within the coastal zone.***

Section 30001.5 Legislative findings and declarations; goals

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the ***social and economic needs of the people of this state.***

Section 30604 Coastal development permit; issuance prior to certification of the local coastal program; finding that development in conformity with public access and public recreation policies; housing opportunities for low and moderate income persons

(g) The Legislature finds and declares that it is important for the commission to ***encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.***

AB2701 the bill passed by the Assembly in 2006 gives the County of San Luis Obispo specific authority to best meet the needs of Los Osos and its water *and* wastewater issues.

> *(c) The county may undertake any efforts necessary to construct and operate a community wastewater collection and treatment system to meet the wastewater collection and treatment needs within the district. These efforts may include programs and projects for recharging aquifers, preventing saltwater intrusion, and managing groundwater resources to the extent that they are related to the construction and operation of the community wastewater collection and treatment system. These efforts shall include any services that the county deems necessary, including, but not be limited to, any planning, design, engineering, financial analysis, pursuit of grants to mitigate affordability issues, administrative support, project management, and environmental review and compliance services. The county shall not exercise any powers authorized by this section outside the district.*

The project as presented by the applicant fails to address the serious threat of seawater intrusion to the Los Osos Groundwater Basin. This has resulted in the Certification of a Level III Severity for supply in the lower basin under the Resource Management System. It appears the rate of intrusion is increasing rapidly in a manner that threatens the continued use of the lower basin for domestic supplies. A goal of this appeal is to ask the California Coastal Commission to further address the water supply

issues in Los Osos by implementing programs and projects for replenishing aquifers, preventing seawater intrusion, and managing groundwater resources to the extent that they are related to the construction and operation of the community wastewater collection and treatment system. AB2701 enables the County through implementation of the wastewater project to concurrently address groundwater management issues including the method of effluent disposal that maximizes mitigation to seawater intrusion occurring in the lower basin this includes construction of all necessary conveyance systems, acquisition of necessary real property or easements and permitting.

The appellant objects to the general approach the project takes assuming the water purveyors (Interlocutory Stipulated Judgment, ISJ) will beneficially use treated effluent to the extent the project does not. This will include necessary planning, design, permitting, funding and construction of water resource infrastructure to manage the Los Osos Groundwater Basin. In light of the sensitive project area, the appellant requests that the California Coastal Commission recognize and modify the project to eliminate the need for water purveyors to plan, design, permit and finance water infrastructure development in the future and compel the wastewater project to include these features. The current project enjoys treatment under Section 7 under the Federal Endangered Species Act, while future purveyor projects would likely be delayed by the onerous and costly pursuit of an incidental take permit under Section 10 of the Act.

If beneficial use of the treated effluent isn't made part of the LOWWP it will be deferred into the future with an uncertain outcome and at an unknown cost. This is inconsistent with CQEA and the Coastal Act. The ISJ is coercive, not compulsory and future projects to be performed by purveyors identified in the ISJ Work Program may or may not ever be accomplished. (See ISJ Work Program attached as Exhibit 1).

The project purports to serve existing developed properties. The current deficit in the lower groundwater basin from seawater intrusion has resulted from the very development the project will serve. It is a well known legal and planning precept that deficits or limitations concerning a given resource may not be made up or offset by future development. For example, 66000 of the Government code requires a demonstration that development pay solely for the impacts associated with such and not for any existing deficiencies. The project may not proceed without a showing that the entire 469 AFY deficit in the lower groundwater basin is addressed and not the 120AFY or so the current project achieves.

Over many years the Los Osos Wastewater Project (LOWWP) has risen in price from under $40 million in the 1980's to $70 million in 998 to $165 million today. This growing number has desensitized the community to cost and in 2007 the majority of developed property owners who "just want it over" voted to assess themselves $127 million or $25,000 per home. Many of those who voted in the affirmative can not afford the project and anticipated taking advantage of the Senior Citizens' Property Tax Deferral Program which is now defunct. (See Exhibit 2 from LOWWP website). The project applicant used the $25,000 benefit price tag in a 218 assessment ballot proceeding calling it a "cap", when in fact the operations and maintenance costs are excluded.

A local comparison of public works project in San Luis Obispo County

Nacimiento Water Pipeline Project $175,000,000
Divided by 110,000 (5 communities) people = $1,500 per capita

Los Osos Wastewater Project $165,000,000
Divided by 12,500 (Prohibition Zone) people = $13,200 per capita
(nearly 9X greater)

The LOWWP's exclusion of vacant properties triggers additional economic hardship for the residents/property owners of the Prohibition Zone. The already high cost of the project will increase significantly without the shared cost by vacant properties expected to be served by the project. These 500 +/- vacant properties have not been, and will not be, assessed to pay for their share of project for many years. This approach leaves the entirety of $165,000,000 to be paid wholly by the 12,500 current residents of the Los Osos Prohibition Zone. The loss of 'economies of scale' is staggering; an additional $27+ million dollars will be borne by the current population for a project that narrowly addresses water resources.

Conditions of Approval (COA) 86 and 92 underscore the inability of vacant properties to participate and benefit from the project, further reinforcing un-affordability for the current population. As approved, no infill development will take place until a Groundwater Management Plan (GWMP), Habitat Conservation Plan (LOHCP) and amendments to the Estero Area Plan have all been adopted, certified and incorporated into the Local Coastal Plan. The timeline for each of these hurdles is unknown.

1. The Groundwater Management Plan is being pursued through the ISJ agreement. The applicant suggests the current efforts to, prepare, evaluate and draft a Ground Water Management Plan for the Los Osos basin will be completed by the end of this calendar year (2009), sources within the ISJ disagree. (See Exhibit 1 ISJ Work Program) These efforts, while important, do not identify who will do what and with what funds. Recent studies (publicly released July 29, 2009) have yet to be peer reviewed. No parties of the ISJ have "signed off" on their conclusions as set forth by the hydrogeologist consultants. It will likely take years to have agreement among purveyors and costs associated for implementation will be borne by the same Los Osos residents (but for 6% of the community outside the PZ that receive community water from Golden State Water Company primarily) via their water bills.

Customers served by water purveyors in the area "outside the Prohibition Zone" are fewer than once thought. While 13% of the community resides outside the RWQCB Prohibition Zone (PZ) boundary, just 6% of those are served by community water. The remaining 7% are served by their own private wells. There is little benefit in entering into a legal battle with private well owners to achieve so little in cost sharing for basin management. Credible legal opinions suggest the cost to litigate would be greater than

the benefit received.

2. The LOHCP had been drafted several times and nearly $300,000 spent in pursuit of the 2005 LOCSD's LOWWP. On June 23, 2009, the County accepted $385,000 in grants from California Department of Fish and Game and the Morro Bay National Estuary Program and allocated $135,000 of matching funds to reconvene work on the communitywide LOHCP. San Luis Obispo County Planning staff estimates completion dates that vary from 3-5 years. A significant complication relates to the Morro Kangaroo Rat and the inability of an HCP to allow incidental take. Given its protective status.

3. The amendments to the Estero Area Plan can not and will not begin until the previous tasks are complete.

Several conditions and mitigation measures drive the cost of the project up and should be better scrutinized to reduce economic impacts of the project. These conditions were raised at the County level but were ignored or not adequately answered.

Condition 87: Monitoring Wetlands

Monitoring wetland health/preserving artificial wetlands along the bay fringe. While this a noble effort, much of these wetlands were established by septic discharge and urban runoff, competing sea level rise will make it nearly impossible to delineate and very expensive to mitigate for losses over time.

Condition 61: Revegetating Broderson

An estimated $200,000 in native plants, watered, and monitored for success, then stripped and replanted every 5 years for leachfield maintenance is counterproductive. This area will be fenced as part of the leachfield utility yard, workmen will be accessing this area regularly; to invite endangered species back to the property just to "take" them again is very expensive and contrary to protection of the species. The intent of preserving the 72 (or 73 as the current project proposes) acres of Broderson adjacent to the leach field was to mitigate for project impacts. Drainage and erosion mitigation can be accomplished less expensively through engineering design (i.e. Low Impact Development).

Condition 17: Hours of Construction

a. The approval allows construction to take place from 7:00am – 9:00pm on weekdays and 8:00am – 5:00pm on weekends. Construction during daylight hours is optimal for the environment; wildlife can be confused by unfamiliar lighting. There are no mitigation measures provided for these activities.

b. These extended hours of construction are in excess for a bedroom community.

The project approved fails to adequately address:

1. Growth Inducing potential:

a. The project failed to analyze all feasible treatment site alternatives, including the Gorby site, uniquely positioned adjacent to the Urban Reserve Line, alleviating growth inducing concerns.

b. As required for the Millennium High School in Watsonville, this project should be a conditioned to develop a utility easement/"Utility Donut" or "Watsonville Straight Jacket" restricting service to only those served by the project within the Prohibition Zone.

2. Decommissioning Septic systems.

a. The contents of septic tanks is different than wastewater, this material is concentrated and requires special handling. The LOWWP removes the contents of 4,770 septic tanks and does not specify where these materials will go. The project does not specify the interval in which individual homes will hook up to the wastewater collection system. The response to comments by the EIR author claims *"A typical part of the building of any new treatment works is the development of an* ***initial operations plan.*** *As part of the plan, issues dealing with septage disposal will certainly be considered and coordinated with the Santa Maria plant and others".* Local treatment facilities are ill-equipped to handle large volumes of this concentrated material. Deferring this analysis violates CEQA by segmenting the "Initial Operations Plan" to future analysis and unknown mitigation.

b. In 2006, the Air Pollution Control District deemed a similar proposal by a Regional Water Quality Control Board enforcement action levied on the Los Osos Prohibition Zone, pumping of thousands of septic systems 'a project in and of itself' and needed CEQA analysis. The DEIR does not adequately analyze the truck trips and air quality impacts associated with hundreds of trips to the Santa Maria Wastewater Treatment Facility (the local facility that currently taking septage from Los Osos and other areas within SLO Co.).

c. The EIR author responds to this question in the FEIR saying septic tanks can be pumped at some other time, after hook up. (P24-33) This duplicative on lot disturbance is not only impractical, costly, unanalyzed and infeasible.

3. Wetland Impacts/pump stations:

a. Staff admits that wetland surveys have not been done since 2005. The 18th and Paso is well within the necessary 75 ft. set back. To move the pump

station after the permitting constitute a Change Order, thus increasing the cost of the project.

b. Additionally, the Paso and 3rd St. pump station was located at 4th and Paso in the 1998 project, using hybrid technologies to locate away from the bay fringe. This pump station is also vulnerable to sea level rise.

4. Staging Areas

a. The only staging area analyzed in the DEIR within the urban area of Los Osos is the 6 acre parcel at Pismo and South Bay Blvd., this parcel is **inconsistent** with COA 35.j, (air quality) receptors are not to be within 1000 feet of staging areas. The Los Osos Middle School and numerous homes surround the site. This location is also **inconsistent** with COA 54 (aesthetics) relative to the highly visual nature in the public view to travelers on South Bay Blvd., a 'scenic highway' as defined by the Estero Area Plan, updated and approved by the California Coastal Commission in July 2008.

b. The LOWWP Notice does not mention the intensity of such an operation within a neighborhood and the impacts staging heavy equipment for several years at that location. The average public would not know that the project impact them as such without being notified to read the DEIR.

5. Private Property Lateral Connections

Archeologists/monitors and biologists may be necessary for private home lateral excavations in sensitive areas (both habitat and archeological). Some wetland indicating plants (i.e. willow trees) have been established on private properties directly due to leachfield use. How does the project mitigate for sensitive resources on private property and costs associated with professional consultants?

6. Treatment Facility Water Use

The treatment facility will use fresh drinking water for some operations; employee breakroom, restrooms, showers, etc. This use has not been quantified, nor has it been mitigated for. Recent amendments to Title 19 require any new development within the Los Osos Groundwater Basin retrofit existing homes to offset its use on a 2:1 ratio. This mitigation appears to have been overlooked by the applicant and permitting authorities.

Tacker Exhibit 1

ISJ Participants Work Program
For Los Osos Groundwater Basin

Task 1

- Update Steady State Hydraulic Model
- Adjust Build-out Projections of the Basin Water Demand, including water conservation
- Preliminary Evaluation of Nitrate Removal Unit
- Assess the potential of the upper aquifer before and after wastewater project

Task 2

- Evaluate and Determine Creek Compartment Safe Yield
- Perform Sampling Analysis for Water Quality of Creek Compartment

Task 3

- Prepare Groundwater Basin Infrastructure Master Plan
- Evaluate Groundwater Recharge Opportunities
- Evaluate Options for Beneficial Re-Use of Reclaimed Water
- Prepare a Draft Basin Management Plan

Task 4

- Prepare a Transient, Dual-Density Hydraulic Model of the Groundwater Basin

Task 5

- Annual Groundwater Monitoring
- Transient Model Updates Every Two Years

Tacker Exhibit 2 From LOWWP project website

**Appellants comments are in italics.*

Affordability Assistance

The following links provide households (homeowners and renters) within Los Osos loan and/or grant opportunities and financial assistance for the wastewater project. Unless otherwise noted, the household is responsible for contacting and applying for the assistance.

California State Controller's Office

Property Tax Postponement for Senior Citizens, Blind or Disabled Citizens

Synopsis: Allows eligible homeowners to postpone payment of the property taxes on their principle place of residence. Special assessments are eligible for postponement.

Additional Information: http://www.sco.ca.gov/col/taxinfo/ptp/index.shtml

How to Apply: Visit the link above and complete the required application, or call 1-800-952-5661

THIS PROGRAM HAS BEEN SUSPENDED INDEFINITLY

California State Franchise Tax Board

Homeowner and Renter Assistance

Synopsis: Once-a-year payment to qualified individuals for part of their property taxes or portion of their rent that indirectly covers property taxes. Special assessments are not eligible for postponement, however, qualifying individuals can lower their overall tax liability by receiving the payment.

Additional Information: http://www.ftb.ca.gov/individuals/hra/index.shtml

How to Apply: Visit the link above and complete the required application or call 1-800-868-4171

SPECAIL ASSESSMENTS ARE NOT ELIGIBLE FOR POSTPONEMENT

United States Department of Agriculture, Rural Development

Single Family Housing Repair Loans/Grants - Section 504

Synopsis: Loan and/or grant to low income households for home improvements. Qualifying households may use funds for "on-lot" costs.

Additional Information: http://www.rurdev.usda.gov/CA/pdf files and documents/SFH Repair504.pdf

APPLIES TO COMMUNITIES OF LESS THAN 10,000 per capita. Only applies to "on lot" costs. Ongoing wastewater related expenses are not eligible.

Jonathan Bishop

From: Julie Tacker [julietacker@charter.net]
Sent: Monday, November 02, 2009 1:10 PM
To: Jonathan Bishop
Subject: FW: Los Osos sewer funding

Follow Up Flag: Follow up
Flag Status: Flagged

Jonathan,
Please amend my appeal exhibits to include this email from John Waddell, engineer for the LOWWP, attached.
This underscores the delta in which the developed properties will have to pony up to cover the entire project costs should no new development occur.
Thank you, looking forward to reading all the appeals, please let me know when they are available. Also awaiting a response on the question related to reopening the appeal window if the project is "re-heard" at the local level as contemplated by tomorrow's BOS Agenda.
Thanks, I know you're busy,
Julie

-----Original Message-----
From: jwaddell@co.slo.ca.us [mailto:jwaddell@co.slo.ca.us]
Sent: Friday, October 30, 2009 2:59 PM
To: julietacker@charter.net
Cc: jgdiodati@co.slo.ca.us
Subject: Los Osos sewer funding

Hi Julie,

John D. forwarded your questions about project costs to me.

The project cost estimate of $165 million includes the $127 million in sewer assessments already approved by the developed properties, $27 million
in sewer assessments to be approved by undeveloped properties, and about $10 million in general benefits (ie. water supply benefits) that must be paid through rates and charges.

The $150,000 estimate for the USDA application is for completing the requirements of the USDA's financing program, which are similar to the requirements of the SRF program and other financing programs that provide
funding for major projects. It includes an engineering report, legal review, rate analysis, and compliance with federal environmental requirements.

I am preparing a power point for Tuesday's Board update on the subject. I
will make sure that we address what is required for the USDA application.
If you send me other specific questions that are relevant to the discussion, I will try to address them on Tuesday.

--John Waddell

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: J. H. Edwards Company, Jeff Edwards

Mailing Address: P.O. Box 6070

City: Los Osos Zip Code: 93412 Phone: 805-235-0873

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Wastewater PRoejct

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2198 Los Osos Valley Road, Los Osos, CA, APN#067-011-022

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC2008-10103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County
San Luis Obispo County Government Center
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See Attached

(2)

(3)

(4)

September 29, 2009 speakers at SLO CO. Board of Supervisor's LOWWP Appeal Hearing

Mr. Don Beardon
Mr. Steven Paige
Mr. Barry Branin
Mr. Bruce Corelitz
Mr. Scott Kimura
Mr. Dennis Law
Mr. Jeff Edwards
Ms. Piper Reilly
Ms. Linde Owen
Mr. Keith Wimer
Mr. Al Barrow
Ms. Sarah Corbin
Mr. Jesse Hill
Mr. Andrew Christie
Mr. Chuck Cesena
Ms. Anne Wyatt (Planning Commissioner)
Mr. Eric Greening
Dr. C. Hite
Ms. Lisa Schicker
Ms. Gail McPherson
Ms. Julie Tacker
Mr. Bruce Payne
Mr. Chris Allebe
Ms. Anne Bahme
Mr. Bill Garfinkel
Mr. Phil Gray
Ms. Joyce Albright
Mr. Frank Ausilio
Mr. David Dubbink
Mr. George Taylor
Ms. Gewynn Taylor
Mr. Bill Moylan
Mr. Richard Nyznyk
Ms. Anne Norment
Mr. Fred Collins (Northern Chumash Tribal Council)
Mr. Michael Chamberlain
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Ms. Elaine Watson
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Ms. Carolina VanStone
Mr. Jack Hunter
Mr. Joe Sparks (Los Osos Community Services District President)
Ms. Katie Franklin

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See Attached

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

JEFF EDWARDS

Signature of Appellant(s) or Authorized Agent

Date: October 16, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

California Coastal Commission
725 Front Street
Santa Cruz, CA

October 16, 2009

Attention: Jonathan Bishop

Subject: Appeal of Los Osos Wastewater Project / County File No. DRC2008-00103

The J. H. Edwards Company respectfully requests an appeal of the San Luis Obispo County Board of Supervisors approval of the above referenced project to the California Coastal Commission. This appeal text is attached to the official appeal forms for approved development within the Coastal Zone. The County of San Luis Obispo has approved a Development Plan/Coastal Development Permit to allow construction and operation of a sewer system to serve the community of Los Osos, which includes a collection system, a sewer treatment facility plant, effluent disposal system, agricultural re-use program, water conservation program, and all associated appurtenant infrastructure in multiple land use categories, located at 2198 Los Osos Valley Road, approximately 0.5 miles east of the community of Los Osos in the Estero Planning Area. 2nd District.

Said project may include an application for USDA Rural Development Funding. Also approved at the hearing was the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, found that there was evidence that the project may have significant effects on the environment, and therefore a Final Environmental Impact Report (FEIR) was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) for this project. The FEIR addressed potential impacts on: Land Use and Planning; Groundwater Resources; Drainage and Surface Water Quality; Geology; Biological Resources; Cultural Resources; Public Health and Safety; Traffic and Circulation; Air Quality; Noise; Visual Resources and Environmental Justice. Mitigation measures were proposed to address these impacts and are included in the conditions of approval. Overriding considerations were determined necessary based on significant and unavoidable impacts associated with agricultural resources.

Throughout this appeal document, the J. H. Edwards Company, herein referred to as "Appellant" will bring attention to shortfalls in the approved project, demonstrate inadequacy in the Final Environmental Impact Report (FEIR) relative to the approved project and inconsistencies with the County of San Luis Obispo's Certified Local Coastal Plan and the Coastal Act. The approved project is that project approved by the San Luis Obispo County Board of Supervisors on September 29, 2009 including the Findings and Conditions. The appellant has been a resident of the community of Los Osos since 1976 and has been a supporter of wastewater project since 1982. Furthermore, the appellant supports the use of a gravity-hybrid collection system as approved by the Board of Supervisors. Additionally, the appellant supports the use of the Broderson site (APN# 074-022-073 and 074-022-074) for purposes of disposing of treated effluent during periods of wet weather.

While supportive of the adjustments made to the Los Osos Wastewater Project (LOWWP) by the Planning Commission on July 24, 2009, specifically removing all aspects for use of the 3515 Turri Road aka "Tonini" property from the project, the Planning Commission's effort does not go far enough to bring a comprehensive wastewater project to the community of Los Osos. Neither did the action of the Board of Supervisors on September 29, 2009 include provisions that would have obviated the appellants concerns. The project falls short in a number of areas including identification of dry weather options for disposal of treated effluent, the treatment site location, disposal methodology at the Broderson site, and miscellaneous other appeal contentions. The standard for review for the proposed LOWWP is conformity with and adequacy to carry out the provisions of the County's Certified LCP and the Coastal Act.

Appeal Contention No. 1: Construction of AB2701

The bill passed by the Assembly in 2006 gives the County of San Luis Obispo specific authority to best meet the needs of Los Osos and its water *and* wastewater issues.

> *(c) The county may undertake any efforts necessary to construct and operate a community wastewater collection and treatment system to meet the wastewater collection and treatment needs within the district. These efforts may include programs and projects for recharging aquifers, preventing saltwater intrusion, and managing groundwater resources to the extent that they are related to the construction and operation of the community wastewater collection and treatment system. These efforts shall include any services that the county deems necessary, including, but not be limited to, any planning, design, engineering, financial analysis, pursuit of grants to mitigate affordability issues, administrative support, project management, and environmental review and compliance services. The county shall not exercise any powers authorized by this section outside the district.*

The project as presented by the applicant fails to address the serious threat of seawater intrusion to the Los Osos Groundwater Basin. This has resulted in the Certification of a Level III Severity for supply in the lower basin under the Resource Management System. It appears the rate of intrusion is increasing rapidly in a manner that threatens the continued use of the lower basin for domestic supplies. A goal of this appeal is to ask the California Coastal Commission to further address the water supply issues in Los Osos by implementing programs and projects for replenishing aquifers, preventing seawater intrusion, and managing groundwater resources to the extent that they are related to the construction and operation of the community wastewater collection and treatment system. AB2701 enables the County through implementation of the wastewater project to concurrently address groundwater management issues including the method of effluent disposal that maximizes mitigation to seawater intrusion occurring in the lower basin this includes construction of all necessary conveyance systems, acquisition of necessary real property or easements and permitting.

The appellant objects to the general approach the project takes assuming the water purveyors (Interlocutory Stipulated Judgment, ISJ) will beneficially use treated effluent to the extent the project does not. This will include necessary planning, design, permitting, funding and construction of water resource infrastructure to manage the Los Osos Groundwater Basin. In light of the sensitive project area, the appellant requests that the California Coastal Commission recognize and modify the project to eliminate the need for water purveyors to plan, design, permit and finance water infrastructure development in the future and compel the wastewater project to include these features. The current project enjoys treatment under Section 7 under the Federal Endangered Species Act, while future purveyor projects would likely be delayed by the onerous and costly pursuit of an incidental take permit under Section 10 of the Act.

If beneficial use of the treated effluent isn't made part of the LOWWP it will be deferred into the future with an uncertain outcome and at an unknown cost. This is inconsistent with CQEA and the Coastal Act. The ISJ is coercive, not compulsory and future projects to be performed by purveyors identified in the ISJ Work Program may or may not ever be accomplished. (See ISJ Work Program attached as Exhibit 1).

The project purports to serve existing developed properties. The current deficit in the lower groundwater basin from seawater intrusion has resulted from the very development the project will serve. It is a well known legal and planning precept that deficits or limitations concerning a given resource may not be made up or offset by future development. For example, 66000 of the Government code requires a demonstration that development pay solely for the impacts associated with such and not for any existing deficiencies. The project may not proceed without a showing that the entire 469 AFY deficit in the lower groundwater basin is addressed and not the 120AFY or so the current project achieves.

Appeal Contention No. 2: **Inadequate Review of Alternatives**

The Final Environmental Impact Report fails to adequately analyze feasible alternatives: Specifically, Conditions of Approval, Approved Development 1.a and 1.d.

Disposal Plan Alternative Analysis:

The applicant claims to have done a co-equal analysis of effluent disposal alternatives. On the contrary, the applicant provides only one disposal scheme, a two pronged approach by which 2/3 of the effluent is sprayed on the Tonini site in an effort to "lose" the wastewater and 1/3 dedicated to the Broderson site for subsurface disposal. The approved dry weather effluent disposal plan was not analyzed in the DEIR, remains unanalyzed and is deficient in many areas.

Dry Weather Effluent Disposal Concept Approved by the County is Infeasible

The following is language included in approved Condition #97 *"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. New paragraph - Total agricultural re-use shall not be less than 10% of the total treated effluent. New paragraph - 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."* Please see map labeled as Attachment 4 included and color coded list of property owners that would potentially participate in the programs associated with effluent disposal. (Attached as Exhibit 2).

The approved project as conditioned above fails to adequately address seawater intrusion migrating into the lower basin. The Broderson site is intended to serve as the wet weather disposal option. Wintertime disposal is proposed at the Broderson site using leachfields for subsurface disposal. Gravity/dry wells should be considered for subsurface disposal instead of the leachfields because of superior performance with respect to groundwater mounding as discussed in the March 2004 geotechnical report prepared by Fugro West, Inc. It is anticipated Broderson will be used exclusively for treated effluent disposal during periods of wet weather. However, the approved plan fails to deploy the treated effluent during dry weather in a manner that optimizes lower basin replenishment to slow the rate of seawater intrusion. (See Broderson Prototype Drywell test attached as Exhibit 3).

Effluent disposal should be considered in a seasonal context. Summertime deployment of treated effluent in an Ag in-lieu disposal scenario would work in concert

with disposal into Los Osos Creek where the lower basin is exposed during dry weather. A creek discharge of treated effluent would likely have a high seawater intrusion mitigation factor given the unique hydrogeologic characteristics of the lower groundwater basin. (Please see Technical Memo #3 prepared by Kenneth Schmidt, July 10, 2006). An NPDES permit for the surface water discharge would be required. This disposal option was the dry weather disposal option for the LOWWP as discussed in the Morro Group August 1987 FEIR and Appendices; and Morro Group September 1989, SEIR..

A key distinction relates to the use of the words "Ag-Exchange and Ag In-lieu". Ag-Exchange is a relationship where farmers receive treated effluent and they provide fresh water supplies from their wells in exchange. Given the uncertain water quality underlying agricultural uses in Los Osos Valley an in-lieu program appears more desirable. An ag in-lieu program would provide treated effluent to farmers in consideration of farmers not pumping their wells overlying the Creek Compartment of the Los Osos groundwater basin. Ag In-Lieu should be a lower priority disposal option given its minimal seawater intrusion mitigation (0.1). It is clearly a mistake to reserve any minimum allocation (10%) for ag-reuse as the approved project does when higher priority options for disposal are available. The agricultural wells in the Los Osos Valley are substantially removed from the seawater intrusion wedge in contrast to the ag interests in Monterey County that receive treated effluent from the MRWPCA.

Additionally, a 10% minimum reservation for "Environmental" may have little to no seawater intrusion mitigation. At present the only known location for such disposal is the Willow Creek wetland system that will receive 33AFY which is substantially less than the 120AFY provided for in the approval.

As for urban reuse so called "purple pipe", there are limited opportunities, if any, to utilize treated effluent for Urban Reuse. Locations, including schools, golf course and the cemetery are problematic for a number of reasons. The most notable constraint is the cost to convey treated effluent to any given location as compared to the economic benefits of receiving the effluent. Neither the project or potential recipients of treated effluent for urban reuse will pay for the costly conveyance infrastructure. California Water Code 13550 cannot compel private properties overlying the groundwater basin to terminate well extractions which in most cases serve turf irrigation needs in the community. (E.g. Sea Pines Golf Resort, Simple Tribute Cemetery).

With regard to individual residences, the exterior water use in Los Osos is only thirty percent (30%) of daily water use and with drought tolerant landscaping, exterior water use will likely be reduced further in the future. The cost benefit analysis of providing purple pipe to all homes in the community is cost prohibitive. The following table summarizes effluent disposal locations as proposed under the current Board of Supervisors approval as compared to alternatives.

Effluent Disposal Summary

BOS Approved		Appellant Proposed	
Disposal Location	**AFY**	**Disposal Location**	**AFY**
Broderson	**448**	**Broderson**	448
Ag In-Lieu 10% min.	522	Creek Discharge	350
Urban Reuse	110	Ag In-Lieu	369
Environmental 10% min.	120	Limited Urban Reuse (Willow Creek)	33
Total	**1200AFY**	**Total**	**1200AFY**

The ability to check the rate of seawater intrusion in the lower basin should be the single focus of an effluent disposal plan for the project. The wet weather disposal at Broderson in combination with a dry weather creek discharge and ag-in-lieu program has the greatest seawater intrusion mitigation and will allow the community of Los Osos to continue to rely primarily on the lower basin for domestic water supplies. In the absence of a sound and feasible dry weather disposal plan, 100% reliance on the Broderson site year round may be necessary resulting in significant downstream impacts that have not been fully analyzed.

As a housekeeping item it is unclear what roll if any the following properties in connection with the approved project, specifically concerning the effluent disposal plan. *"a portion of the effluent disposal system to 2350 and 2780 Los Osos Valley Road (APN's 067-031-008 Andre; 067-031-011, Andre; 067-031-037, Robbins; and 067-031-038, Robbins)."*

Treatment Sites Alternatives analysis:

The applicant claims to have performed a co-equal analysis of project treatment site alternatives. Arguably, the most viable site, Gorby, was not analyzed as a treatment plant location. The Planning Commission efforts to relocate the treatment facility from the Tonini site to the Giacomazzi site are appreciated, yet the constraints identified in the DEIR render their decision infeasible, when potentially feasible alternatives exist.

San Luis Obispo County Agricultural Policy 24 contained in the Agricultural & Open Space Element and California Coastal Act Section 30250 discourages conversion of agricultural lands to non agricultural uses through the following policies:
AGP a. (4). *Avoid location new public facilities outside urban and village reserve lines unless they serve a rural function or there is no feasible alternative location within the urban village reserve lines.*
California Coastal Act Section 30250: Location, existing developed area (a) *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located with, contiguous with, or in close proximity to, existing*

developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land division, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The appellant agrees there are no feasible alternatives for a treatment plant site within the Urban Reserve Line (URL) including the Tri-W site, but there is a potentially feasible location **adjacent to** the URL at the Gorby site on the urban fringe. A project at Gorby would likely be consistent with AGP 24 and Section 30250, would also reduce environmental effects and it would provide the broadest options for beneficial re-use of treated effluent via its strategic location as a distribution hub. Condition of Approval, 95, Mitigation 5.11-A1, requires procurement of an ag easement related to the conversion of ag resources which is not applicable to the Gorby site.

The Giacomazzi site is considered "Farmland of Statewide Importance", once used for irrigated pasture, dryland farming, confined livestock, or dairy facilities, aquiculture poultry facilities, or dry grazing that has since become idle. See Exhibit 5.11-2, Farmland Designations map. In contrast, the Gorby site holds no distinction due to the fact that the parcel currently operates as an equestrian facility.

Physical characteristics of the Cemetery, Branin and Gacomazzi sites only differ slightly. The similarities of these parcels hardly provide alternatives for an exhaustive treatment site analysis. An adequate alternatives analysis would have included all potential sites adjacent to or near the URL. In essence there were only two treatment sites reviewed by the FEIR, the Cemetery Complex and Tonini.

The Giacomazzi site raises significant growth inducing questions, as it is located approximately one-half (0.5) mile from the Los Osos Urban Reserve Line (URL). AGP 24 a. (4) and California Coastal Act Section 30250.

In the DEIR the Giacomazzi site is mapped as having "Very High Potential" for liquefaction. Conversely, the CEQA Findings characterize the Giacomazzi site as having "low potential for liquefaction"; the latter statement appears to be in error. The record shows that the Gorby site is in an area of "Moderate Potential" for liquefaction.

The Giacomazzi site is considered a Visual Resource under Section 23.04.210 of the CZLUO, the parcel is in the foreground of the Morro's Scenic Corridor, this open space is a scenic, visual resource that could be protected if the Gorby site was analyzed as a potentially feasible alternative.

California Coastal Act Section 30251:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to

protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The Giacomazzi treatment plant layout as presented at the Planning Commission hearing of August 13, 2009, please see site Layout Plan labeled as Attachment 2 (Exhibit 4) clearly ignores impacts to wetlands. Considerable testing was done onsite, with pits dug at W-1 and W-2 drainage fingers that form a funnel criss-crossing the Giacomazzi site at the project location. These pits identified wetland characteristics of the land. Specifically, W-1 Pits 4-6 identified hydrophytic vegetation; hydric soils and wetland hydrology were encountered during the study. Due to agricultural practices much of the vegetation (hydrophytic) that would otherwise be present in these areas has been disked under apparently reducing overall area of project impacts. The Sensitive Biological Resources Map (FEIR Exhibit 6) clearly demarcates wetland fingers bisecting the Giacomazzi parcel. These wetland fingers represent environmentally sensitive habitat areas (ESHA) and are afforded protections under the LCP.

The FEIR further identifies Special Status Wildlife in the vicinity of the Giacomazzi drainage features specifically;

California Tiger Salamander
Southwestern Pond Turtle
Coast Range Newt
Two Stripe Garder Snake
Northern Harrier
Yellow Warbler
*Southwestern Willow Flycatcher

*Federal and State listed endangered species.

These species are all associated with the Warden Lake and Warden Wetlands which are adjacent to the Giacomazzi site. There are no mitigation measures proposed for impacts to wetlands on the Giacomazzi site.

It is consistent with planning policies to avoid impacts wherever possible, the constraints of the Giacomazzi site are such that feasible alternatives should be explored in an effort to reduce impacts to wetlands and ESHA's. CZLUO Section 23.07.172 e. (1) Wetlands Site Development Standards and Section 23.08.288(d) Public Utilities Facilities Development Standards. The LUP requires that only resource dependant uses be allowed within ESHA; that is new development must completely avoid ESHA if it is not dependant on the ESHA.

CZLUO, 23.05.034 (c), Grading Standards, will be violated by grading within 100 feet of ESHA as part of a project at the Giacomazzi site, due to alterations necessary to drainage finger W-1 into Warden Wetland and Warden Lake and on to Morro Bay.

The appellant has provided a Pro-Con Analysis of the Gorby site for the benefit of the Board. While this property was identified in the FEIR it was not analyzed fully. It remains an unanalyzed potentially feasible alternative and therefore must be analyzed before the finding can be made as required by AGP 24 a. (4) and California Coastal Act Section 30250.

Gorby Pro-Con Analysis

Advantages of Gorby Property

(Los Osos Valley Equine Farm, 1869 Los Osos Valley Rd.)

Gorby is 50 acres in total area with approximately 20 acres of usable flat land presently occupied by an equestrian facility in the box canyon at the South west corner of the Los Osos Valley. A number of unique hydrogeologic characteristics are present at or near this location. The site abuts Los Osos Creek, overlies the creek compartment and the Los Osos Groundwater Basin. Also, the site is outside of the clay aquitard and is near outcroppings of the lower groundwater basin. The site is accessible from Los Osos Valley Road approximately six-tenths (0.6) of a mile to the South. The conversion of the horse ranch to a wastewater treatment facility and distribution hub for the beneficial reuse of treated effluent represents an adaptive reuse of the site and optimizes water resource management. Please note that the Gorby site is already developed, impacts to biology, archeology, and prime ag (6 acres identified in the DEIR) are impacts already realized. The use of the Gorby site in a redevelopment/Brownfield scenario for a wastewater treatment facility and treated effluent distribution hub is the highest and best use of the site all things considered. Please see Treated Effluent Distribution map attached, the Gorby site represents a "small footprint" project with associated cost savings. The National Water Resource Institute failed to analyze a surface water discharge disposal option into Los Osos Creek nor did they review the Gorby site as a potential treatment location and effluent distribution hub on a seasonal basis.

* *Gorby currently boards dozens of horses with their associated waste stream; which would be removed, further protecting Los Osos Creek and Morro Bay from these point and non-point pollution sources. Ideal Brownfield redevelopment site.*

* *Nearest receptors (homes) are upwind and across the creek from the site. This is low density Residential Suburban zoning with parcels ranging from 1-10 acres in size.*

* *Adjacent to the Los Osos Urban Reserve Line and LOCSD boundary. This location addresses potential "growth inducing" arguments that plague sites further removed from the urban reserve line.*

** Gorby overlies the Los Osos Groundwater Basin and lies adjacent to Los Osos Creek for potential dry weather creek discharge. The Paso Robles Formation (lower aquifer) "daylights" or surfaces at Los Osos Creek in this vicinity. Also, the site strategically overlies the creek valley alluvial aquifer, also known as Creek Compartment. The Creek Compartment has been identified as having additional storage capacity of approximately 600 AFY (CHG 2009). This concept of a surface water discharge and creek outfall during dry weather has been endorsed by the Coastal San Luis Resource Conservation District. The primary test in considering an NPDES permit for a surface water discharge from the CCRWQCB is whether, or not an entirely land disposal project is feasible. A cursory review of the history of LOWWP's and the current dry weather effluent disposal plan proposed project would indicate that it is not feasible. SLO County has considered a surface water discharge during the summer time in the vicinity of the Gorby site. See Morro Group August 1987 FEIR and Appendices; and Morro Group September 1989, SEIR.*

** Proximate to the Broderson winter time disposal site (approximately 1.5 miles from Gorby). Please see the Treated Effluent Map for treated effluent disposal distribution from Gorby. With adequate disposal options for treated effluent, limited to no storage of treated effluent would be necessary.*

** Nearby agricultural interests overlying the Los Osos Groundwater Basin have been willing to consider participation in an ag in-lieu program. Treated effluent would be conveyed to agricultural properties overlying the basin in exchange for reduced groundwater extractions by agriculture. Please see Treated Effluent Disposal map (Exhibit 5). It is important to note this disposal option provides minimal seawater intrusion mitigation.*

** The wastewater facilities would be out of site, hidden in the canyon and out of the scenic view corridors.*

** The site has excellent solar access for installation of solar panel arrays.*

** Limited to no impact to prime Ag soils and not under Williamson Act contract.*

** Construction of the collection system can begin and the treatment facility may be phased subsequently to allow the horse ranch business(s) time to discontinue operations over a 1-year period before treatment facilities begin construction.*

** In combination with the various disposal options outlined here the overall wastewater project with Gorby as a treatment site location is contained within a small "footprint" and optimizes the length of collection system and transmission of treated wastewater pipelines ultimately reducing costs. Please see Treated Effluent Disposal map.*

* *With effective seasonal disposal options (winter and summertime discharge strategies) a balance between supply and foreseeable demand for water within the basin may be achieved without the need for imported water.*

* *The development of a wastewater project at this location is consistent with the Certified Local Coastal Plan and Coastal Act.*

The FEIR diminishes the potential for Gorby site for a number of reasons. Most notable is the statement of unwillingness to sell on the part of the property owners. Other misplaced reasons include the potential presence of the Los Osos Fault (Strand A), Los Osos Creek is subject to flooding, sensitive receptors nearby, potential impacts to archaeological resources, potential biological impacts (Red Legged frog and Steelhead trout), Los Osos Creek setbacks and impacts to prime soils.

Strand A of the Los Osos Fault is shown to bisect the property in the DEIR. In fact, this is an inferred fault because the fault line as shown is not located accurately and is based upon questionable fault traces. At the Gorby site a break-in-slope (bis) is of uncertain origin, this bis may have seismic implications; however it may also be an errosional feature. The only way to verify the origin of the bis and the potential presence of a fault is to conduct field testing. This field testing has not been done to date. The Gorby site has a moderate potential for liquefaction in contrast to the very high potential at the Giacomazzi site for example. Ground movement during a seismic event would have comparable effects on all of the treatment sites considered in the Los Osos Valley. (See Treated Effluent Distribution Plan). The most important seismic consideration is that related to a ground rupture which may be fully assessed by field testing as referenced above. The source document for the depiction of faults in the DEIR is the PG&E report of July 1988 (portion of plate 16). Maps of Faults, Scarps and Lineaments along the Los Osos Fault Zone, South-Central California, Morro Group, September 1989, SEIR.

The Gorby site is shown to be affected by being partially within the 100-Year Flood Hazard map. Most, if not all facilities would be located outside the affected area given a minimum 50 foot setback/buffer from Los Osos Creek would be required. The usable area of the site is shown as an "Area of Minimal Flooding" in the FEMA Map revised July 18,1985. Any reported soil erosion in the vicinity has occurred on the west side of Los Osos Creek where the soil is sandy.

The only homes in the vicinity are part of a low density neighborhood that lies upwind from the Gorby site. The Los Osos Creek also separates the Gorby site from the nearby receptors. Also, an additional buffer is achieved because of the elevational differences (i.e. Gorby is in the valley below most of the homes in the vicinity). The Giacomazzi site, for instance, has dozens of residential neighbors in the immediate area and they have formed an opposition group (Bear Valley Alliance) and retained legal counsel.

Potential impacts to archeological resources will be addressed with monitoring and creek setbacks following surface surveys that should be conducted.

Potential biological impacts may only be determined following appropriate surveys which have not been completed to date.

Transcription of Board of Supervisors September 29, 2009 Discussion of Gorby
Live stream video time: 7:42:25

Supervisor Frank Mecham: ...and then also I've heard from some folks about, I think Mr. Edwards, was talking about the Gorby site and from what I understand from letters I think the Board has received and the folks out there are not interested in any way, shape or form in relinquishing that property so, that would be an eminent domain issue that I don't think we'd want to be getting into.

Environmental Mark Hutchinson: Yeah it would, that was interestingly not one of the criteria in the rough and fine screening report, just because it wasn't appropriate at the time. But there are issues with prime soils, although used for a horse facility. Most confident authorities agree there is a trace of the Los Osos fault either on or very near to the property. It's a long linear, which we might be able to deal with. But, Los Osos Creek does come out of the mountains and does run down the long side of the property that bank is eroding and subject to mass relocating the creek during a significant event and there are residences overlooking the site. So, quite a few constraints that moved it down the priority list.

Supervisor Bruce Gibson: I emphasize that, the questions of eminent domain we don't want to exercise that it f we don't have to but there are other environmental issues that were very plainly at play there as well as prime soil underlying the current equestrian facility?

Environmental Mark Hutchinson: Yes, and all of those issues were discussed relative to that site at the Planning Commission.

*The Gorby site did not receive co-equal analysis by the applicant. County staff misrepresents Gorby to the County Board of Supervisors in their discussion.

Appeal Contention No. 3: Unaddressed Growth Inducing Impacts

The Giacomazzi site raises significant growth inducing questions, as it is located approximately one half mile from the Los Osos Urban Reserve Line (URL). New public facilities outside of the URL, specifically sanitary sewer service is potentially available to serve development around the facility yet outside of the URL. On the other hand, the Gorby site being contiguous to the URL and LOCSD boundary raises no growth inducing impacts. The Gorby site represents a feasible alternative at the URL which is analogous to a feasible alternative location within the urban or village reserve lines.

Coastal Act policies require that the maximum amount of prime agricultural lands be maintained in production and that conflicts between agricultural and urban land uses be

minimized. To carry out the goals of the Coastal Act, the Local Coastal Program delineates long-range urban/rural boundaries to support long-term agricultural use free from urban encroachment.

There are no Conditions of Approval or Findings to address this concern. Siting of the wastewater treatment facility at the Giacomazzi site is at cross purposes with the Coastal Act and its protection of agricultural resources and issues relative to growth inducement.

Appeal Contention No. 4: Los Osos Groundwater Basin is Coastal Dependant

Section 30101 Coastal-dependant development or use "Coastal-dependant development or use".

The use of the Los Osos Groundwater Basin is Coastal Dependant and as such the current project must fully address impacts from seawater intrusion occurring in the lower confines of the basin. Once the County collects the wastewater it becomes incumbent upon them to return that water in a replenishment scheme in a manner that protects the lower basin from further seawater intrusion. The interface between the Los Osos Groundwater Basin and the sea is well documented.

Appeal Contention No. 5: Tertiary Treatment

Modify Condition of Approval, 6, for disinfection to delete chlorination/dechlorination and substitute Ultraviolet (UV) disinfection. UV disinfection is a physical process rather than a chemical disinfectant, which eliminates the need to generate, handle, transport, or store toxic/hazardous or corrosive chemicals. Please see Wastewater Technology Fact Sheet Ultraviolet Disinfection, USEPA, September 1999, EPA-F-99-064.

Appeal Contention No. 6: Inadequate Statement of Overriding Considerations

The Planning Commission approved project finds project impacts are outweighed by the benefits of the project via a Statement of Overriding Considerations. In fact the applicant's project and the Planning Commission's alternative project neglected to analyze all feasible alternatives, specifically adjacent to or within the URL. To comply with CEQA, the LCP and Ag Policy 24 the project must exhaust all feasible alternatives as discussed in the above appeal.

Appeal Contention No. 7: Further CEQA Analysis Necessary

Under CEQA, there are viable alternatives to the proposed project that would likely reduce impacts to Land Use and Planning; Groundwater Resources; Drainage and Surface Water Quality; Geology; Biological Resources; Cultural Resources; Public Health and Safety; Traffic and Circulation; Air Quality; Noise; Visual Resources,

Environmental Justice and Growth Inducing potential. We believe further environmental review be performed for inclusion in the project.

1. Treatment site locations including site specific project review of the Gorby site.
2. Effluent disposal options, summer time or dry weather approved by Planning Commission and shown on Attachment 4, page 3-170. Surface water discharge into Los Osos Creek via an NPDES permit at the AT&T crossing as per 1987 Final EIR, Morro Group.
3. Miscellaneous other refinements.

The appellant requests that further CEQA requirements for review be performed by the California Coastal Commission as the functional equivalent of either a Supplemental or Subsequent EIR.

Throughout the course of the review of the applicant's proposal at the local level much was heard about what is feasible, in terms of time and money, yet the applicant misspent $7 million and over one year on a fatally flawed "Preferred Alternative". A preferred alternative that was decided upon prior to any meaningful analysis, let alone a true comparison of potentially viable alternatives for disposal of treated effluent with high seawater intrusion mitigation and a treatment site location that can effectively serve as a distribution hub to effectuate that disposal plan.

The County applicant has advanced the community of Los Osos $7 million and repayment will occur only if the County accepts the project following receipt of all discretionary permits. I submit a conflict of interest has arisen during the process and at this juncture the applicant is motivated more by an interest in being repaid and do what is expedient rather that what may be in the best long-term interest of the community of Los Osos.

The appellant requests that the California Coastal Commission determine:

1. The subject appeal raises Substantial Issue with regard to the project's compliance with the Coastal Act.
2. Hold a de Novo hearing on the matter.
3. Examine a scheduled or seasonal surface water discharge of treated effluent into a creek outfall at upper Los Osos Creek.
4. Review the viability of the redevelopment of the Gorby site for purposes of siting a wastewater treatment plant and seasonal distribution hub for disposal of treated effluent.

J. H. Edwards Company Appeal Exhibits

Exhibit 1 ISJ Work Program

Exhibit 2 Approved Urban and Ag Reuse Map
List of Urban and Ag Reuse Prospects

Exhibit 3 Broderson Prototype Drywell test data
Map
Well Schematic
Photographs

Exhibit 4 Giacomazzi Site Layout

Exhibit 5 Appellant Proposed Treated Effluent Distribution Map

Exhibit 1

ISJ Participants Work Program
For Los Osos Groundwater Basin

Task 1

- Update Steady State Hydraulic Model
- Adjust Build-out Projections of the Basin Water Demand, including water conservation
- Preliminary Evaluation of Nitrate Removal Unit
- Assess the potential of the upper aquifer before and after wastewater project

Task 2

- Evaluate and Determine Creek Compartment Safe Yield
- Perform Sampling Analysis for Water Quality of Creek Compartment

Task 3

- Prepare Groundwater Basin Infrastructure Master Plan
- Evaluate Groundwater Recharge Opportunities
- Evaluate Options for Beneficial Re-Use of Reclaimed Water
- Prepare a Draft Basin Management Plan

Task 4

- Prepare a Transient, Dual-Density Hydraulic Model of the Groundwater Basin

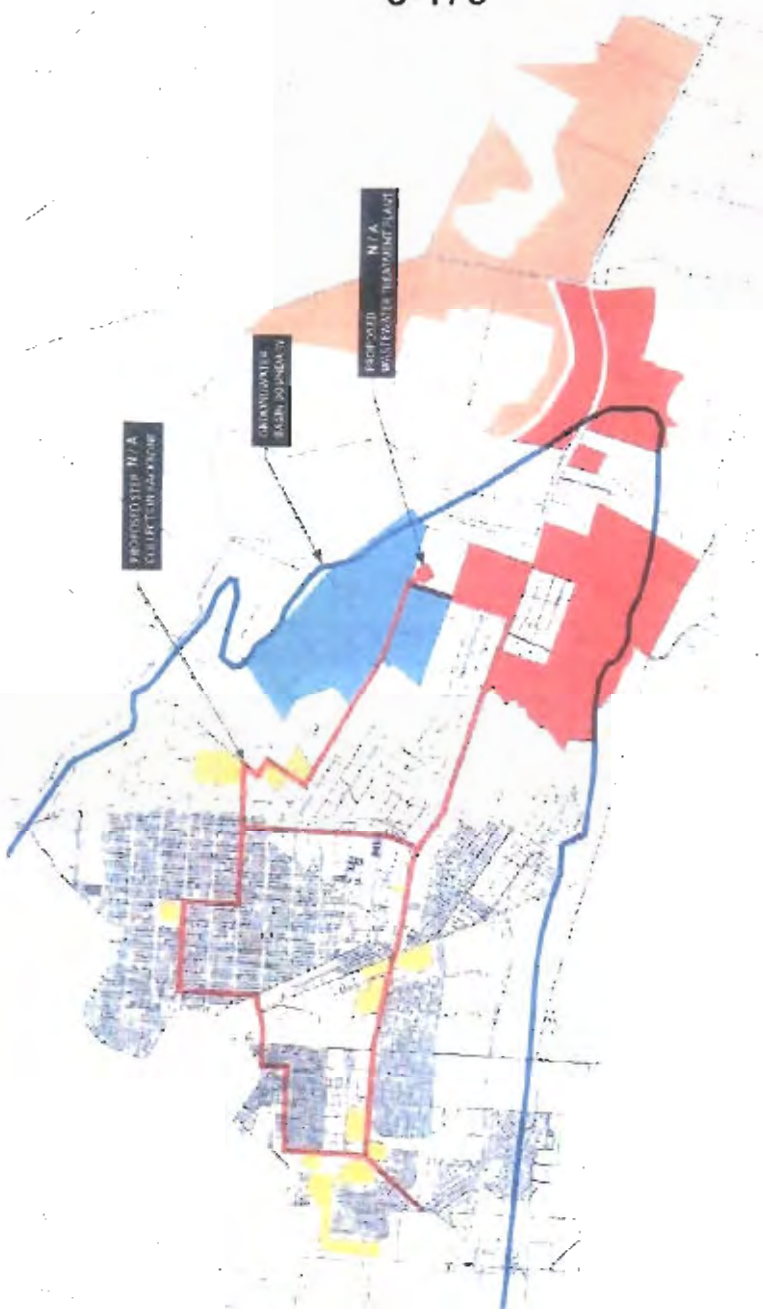
Task 5

- Annual Groundwater Monitoring
- Transient Model Updates Every Two Years

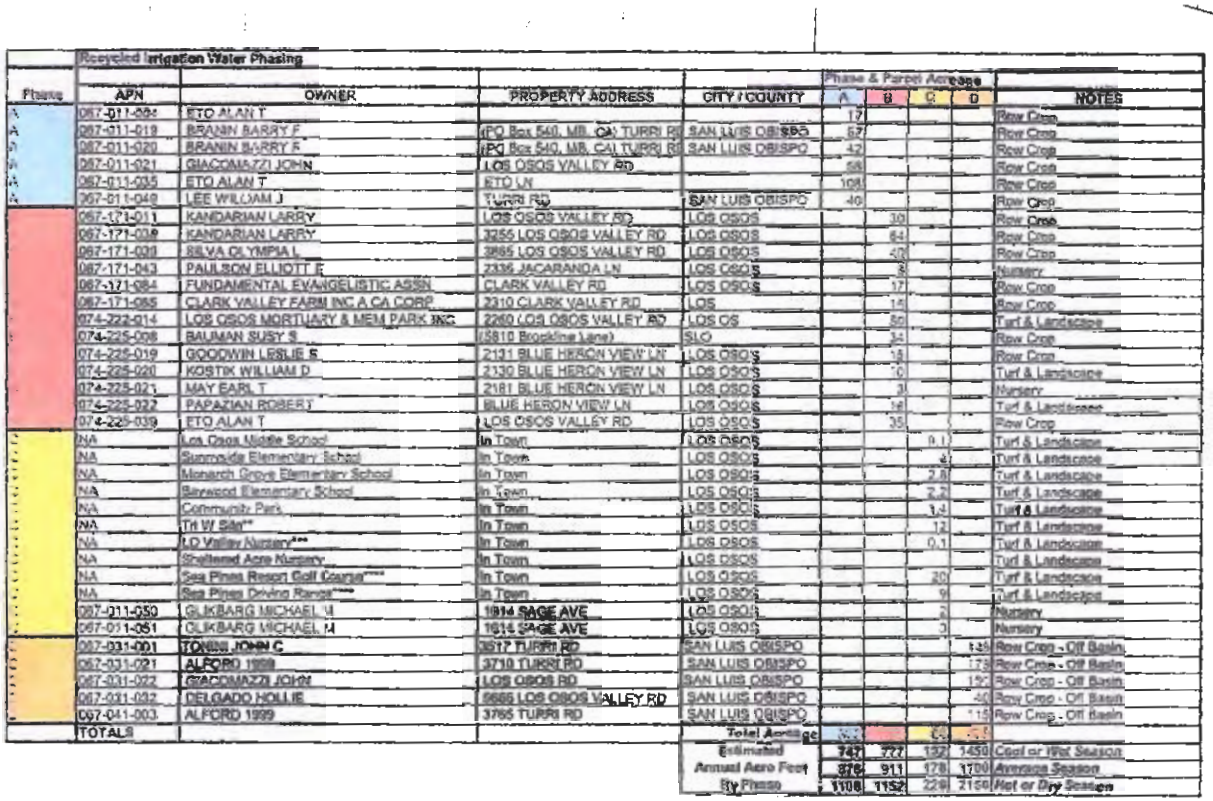
3-170

Exhibit 2

ATTACHMENT 4



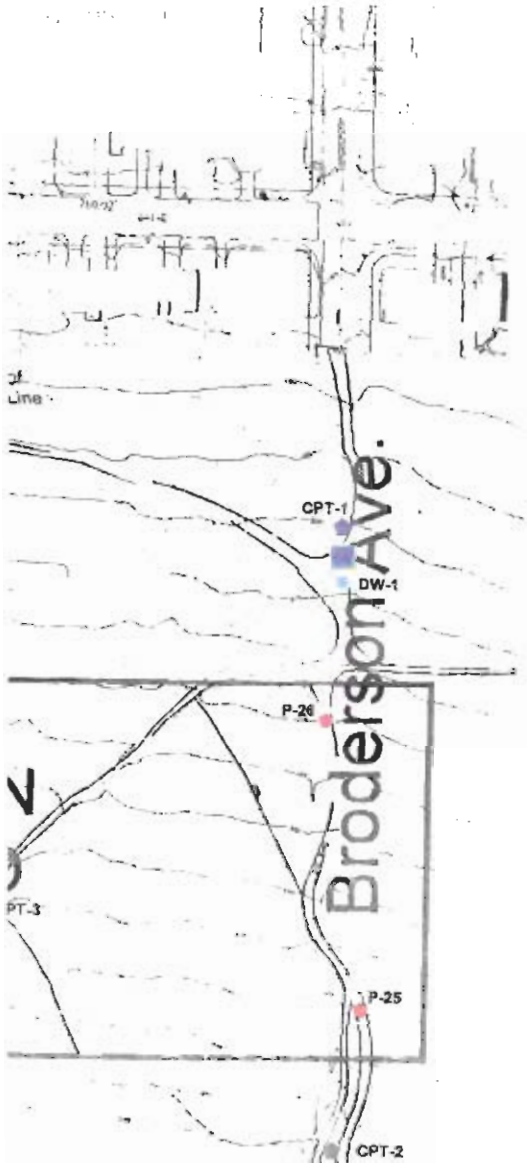
LEGEND



Recycled Irrigation Water Phasing

Phase	APN	OWNER	PROPERTY ADDRESS	CITY / COUNTY	Phase & Parcel Acreage A	B	C	D	NOTES
A	067-011-004	ETO ALAN T			17				Row Crop
A	067-011-019	BRANIN BARRY F	(PO Box 540, MB, CA) TURRI RD	SAN LUIS OBISPO	67				Row Crop
A	067-011-020	BRANIN BARRY F	(PO Box 540, MB, CA) TURRI RD	SAN LUIS OBISPO	42				Row Crop
A	067-011-021	GIACOMAZZI JOHN	LOS OSOS VALLEY RD		68				Row Crop
A	067-011-035	ETO ALAN T	ETO LN		108				Row Crop
A	067-011-048	LEE WILLIAM J	TURRI RD	SAN LUIS OBISPO	40				Row Crop
	067-171-011	KANDARIAN LARRY	LOS OSOS VALLEY RD	LOS OSOS		30			Row Crop
	067-171-038	KANDARIAN LARRY	3255 LOS OSOS VALLEY RD	LOS OSOS		64			Row Crop
	067-171-039	SILVA OLYMPIA L	3985 LOS OSOS VALLEY RD	LOS OSOS		40			Row Crop
	067-171-043	PAULSON ELLIOTT E	2336 JACARANDA LN	LOS OSOS		8			Nursery
	067-171-084	FUNDAMENTAL EVANGELISTIC ASSN	CLARK VALLEY RD	LOS OSOS		17			Row Crop
	067-171-085	CLARK VALLEY FARM INC A CA CORP	2310 CLARK VALLEY RD	LOS		14			Row Crop
	074-222-014	LOS OSOS MORTUARY & MEM PARK INC	2260 LOS OSOS VALLEY RD	LOS OS		50			Turf & Landscape
	074-225-008	BAUMAN SUSY S	(5810 Brookline Lane)	SLO		34			Row Crop
	074-225-019	GOODWIN LESLIE S	2131 BLUE HERON VIEW LN	LOS OSOS		18			Row Crop
	074-225-020	KOSTIK WILLIAM D	2130 BLUE HERON VIEW LN	LOS OSOS		6			Turf & Landscape
	074-225-021	MAY EARL T	2181 BLUE HERON VIEW LN	LOS OSOS		3			Nursery
	074-225-022	PAPAZIAN ROBERT	BLUE HERON VIEW LN	LOS OSOS		14			Turf & Landscape
	074-225-039	ETO ALAN T	LOS OSOS VALLEY RD	LOS OSOS		35			Row Crop
	NA	Los Osos Middle School	In Town	LOS OSOS			9.1		Turf & Landscape
	NA	Sunnyside Elementary School	In Town	LOS OSOS			4		Turf & Landscape
	NA	Monarch Grove Elementary School	In Town	LOS OSOS			2.8		Turf & Landscape
	NA	Baywood Elementary School	In Town	LOS OSOS			2.2		Turf & Landscape
	NA	Community Park	In Town	LOS OSOS			14		Turf & Landscape
	NA	Tri W Site**	In Town	LOS OSOS			12		Turf & Landscape
	NA	LO Valley Nursery***	In Town	LOS OSOS			0.1		Turf & Landscape
	NA	Sheltered Acre Nursery	In Town	LOS OSOS					Turf & Landscape
	NA	Sea Pines Resort Golf Course****	In Town	LOS OSOS			20		Turf & Landscape
	NA	Sea Pines Driving Range****	In Town	LOS OSOS			9		Turf & Landscape
	067-011-050	CLIKBARG MICHAEL M	1914 SAGE AVE	LOS OSOS			2		Nursery
	067-011-051	CLIKBARG MICHAEL M	1914 SAGE AVE	LOS OSOS			3		Nursery
	067-031-001	TONISS JOHN C	3917 TURRI RD	SAN LUIS OBISPO				126	Row Crop - Off Basin
	067-031-021	ALFORD 1999	3710 TURRI RD	SAN LUIS OBISPO				173	Row Crop - Off Basin
	067-031-022	GIACOMAZZI JOHN	LOS OSOS RD	SAN LUIS OBISPO				192	Row Crop - Off Basin
	067-031-032	DELGADO HOLLIE	3665 LOS OSOS VALLEY RD	SAN LUIS OBISPO				40	Row Crop - Off Basin
	067-041-003	ALFORD 1999	3765 TURRI RD	SAN LUIS OBISPO				115	Row Crop - Off Basin
	TOTALS			Total Acreage	[illegible]	[illegible]	[illegible]	[illegible]	
				Estimated Annual Acre Feet By Phase	747 / 876 / 1108	777 / 911 / 1152	132 / 178 / 229	1450 / 1700 / 2156	Cool or Wet Season / Average Season / Hot or Dry Season

Exhibit 3



LEGEND

M&E (1997) Prototype Drywell

CPT and/or Boring Site (Fugro 1996, M&E 1996)

Boring Site (Fugro 1997)

Monitoring Well for Prototype Percolation Testing

P-1 Percolation Test Location

L-1 Percolation Test Location at Prototype Percolation Line Site

M&E (1997) Prototype Percolatic

Section C-C' extends to approximately 150' north of Los Osos Valley Road

NORTH

0 200 400

FEET

FIELD EXPLORATION PLAN
Prototype Test Site at Broderson
Los Osos Wastewater Project
Los Osos, California

PLATE

C'
MW-4
Approximate Locat
Prototype Percolati
CPT-5
MW-2
MW-3
MW-1
L-1
L-2
CPT-3
DW-2
DH-202
DH-201
DH-203
P-27
Alexander
BRODERSO
810,000 GP
370'x1200'
CPT-4
DH-204
P-26
CPT-6
CPT-7
C

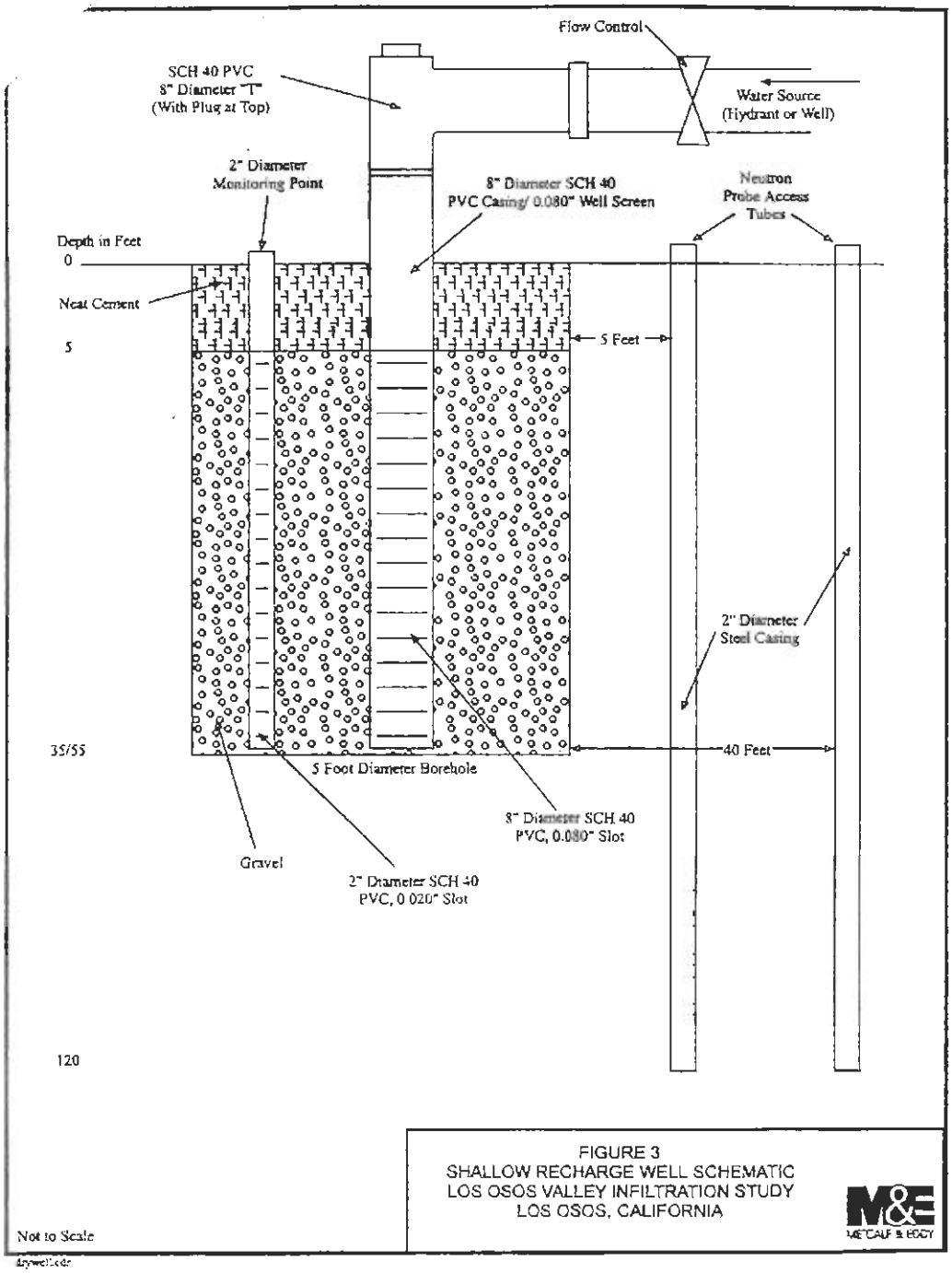


FIGURE 3
SHALLOW RECHARGE WELL SCHEMATIC
LOS OSOS VALLEY INFILTRATION STUDY
LOS OSOS, CALIFORNIA

ATTACHMENT 2

Exhibit 4

Exhibit 5

Exhibit 5.2-2
Los Osos Surface Water Features
COUNTY OF SAN LUIS OBISPO - LOS OSOS WASTEWATER PROJECT
GROUNDWATER QUALITY AND WATER SUPPLY EXPANDED ANALYSIS SECTION

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Elaine Watson

Mailing Address: 1287 5th Street

City: Los Osos Zip Code: 93402 Phone: 805-528-3995

SECTION II. Decision Being Appealed

RECEIVED
OCT 19 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County Board of Supervisors

2. Brief description of development being appealed:

Los Osos Waste Water Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

LOWWP: Prohibition Zone collection to the cemetary (Giacomazi Propery) for treatment

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: 9-29-09

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
976 Osos Street
Room 300
SLO, Ca. 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Project mitigations appear to be inadequate to protect and maintain coastal wetlands, riparian habitat and other environmentally sensitive habitats in the area.
LCP Environmentally Sensitive Habitat Policy #2
LCP Environmentally Sensitive Habitat Policy #7

The proposed project treatment site is located within or adjacent to an environmentally sensitive habitat. Sites have not been evaluated nor have maximum mitigation measures been determined.
CZLUO Section 23.07.174

The collection system selected for the project does not provide the 'maximum feasible mitigation measures' for protecting environmentally sensitive habitats including Morro Bay Estuary, a protected State Marine Reserve.
CZLUO 23.08.288

A stronger conservation program is needed to maximize funding, provide the greatest possible seawater intrusion mitigation and protection of environmentally sensitive habitat.
Also, a stronger reuse program is needed to provide the greatest possible seawater intrusion mitigation and protection of environmentally sensitive habitat.
In addition to the Coastal Act/LCP/CZLUO policies/sections cited above, the project fails to conform/comply with Coastal Act Sections 30004, 30007.5., 30412, 30230, 30244, 30253, 30254; LCP Environmentally Sensitive Habitats Polices 1-8, 11, 12, 16, 17-23, 26-30, 36-39; LCP Coastal Watersheds Policies 1-3, 5, 10, 11; LCP Public Works Policies 1, 2, and 5-10; CZLUO Sections 23.01.010, 23.04.403, 23.07.172, 23.07.174, 23.07.176, 23.07.178, 23.08.288.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 10-19-09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Reason for Appeal

The Los Osos Wastewater Project (LOWWP) Coastal Develop Permit finds that there are no impacts to environmentally sensitive ecosystems—or that impacts have been reduced to insignificance with the mitigations provided in the Development Plan and Plan Conditions.

However, mitigations are inadequate to protect and maintain coastal wetlands, riparian habitat, and other environmentally sensitive habitats in the area. Spencer Harris, consultant for the LOWWP EIR, stated at the Planning Commission meeting on June 30, 2009, that hundreds of acre feet of flows to Willow Creek Drainage (a riparian habitat) would dry up when the project is implemented and that the area would revert to conditions closer to predevelopment. This was reiterated by Commissioner Christianson on August 13, 2009, and Rob Miller (a consultant for the LOWWP, Los Osos water purveyors, and the LOCSD) at a LOCSD meeting on July 30. .

Willow Creek Drainage supports Willow Creek, Eto Lake, Los Osos Valley Creek, Los Osos Valley Creek Estuary, and Morro Bay Estuary. Other sensitive ecosystems potentially impacted include Third Street Marsh, Baywood Marsh, and Third Street Point Spring. Broderson leach fields are not likely to supply subsurface flows to these systems. Furthermore, Permit Conditions 56-70, 86, 87, 88, and 101 designed to mitigate for biological impacts and address the reduction in groundwater flows fail to conform to mitigation/protection standards as provided in the following policies and sections

> LCP Environmentally Sensitive Habitat Policy #2 "As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat.
>
> LCP Environmentally Sensitive Habitat Policy #7: "Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored."
>
> CZLUO Section 23.07.174 "Streams and riparian vegetation"
> The provisions of this section apply to development proposed within or adjacent to (within one hundred 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.
> (1) Application Content. A land use permit application for a project on a site located within or adjacent to an environmentally sensitive habitat shall also include a report by a biologist approved by the environmental coordinator that:
> (A) 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;
> (B) Recommends conditions of approval for the restoration of damaged habitats, where feasible...

The applicant has not demonstrated that there will be no significant impact on sensitive habitats or that activities will be consistent with the biological continuance of these habitats. Sites have not been evaluated nor have maximum mitigation measures been determined. To determine the potential impacts on these systems and the effectiveness of mitigations requires measuring and analyzing how much groundwater is flowing to the systems and the most effective options for replacing these flows. Condition 87 provides for a "Groundwater Level Monitoring and Management Plan," but the plan will be implemented after project installation. Avoiding harm to ecosystems requires putting effective measures in place prior to impacts. Groundwater movement is slow, and avoiding impacts to these vital systems requires proactively replacing flows.

An integrated system of strategically located community and on-site LID systems provide a higher level of mitigation, and on-site system can be implemented as part of an integrated water-use efficiency program. A phased project, with the first phase collecting wastewater only from homes along the bay and in high groundwater areas (with most septic systems upgraded and left in place) also alleviates most of the impacts to wetlands and other environmentally sensitive ecosystems.

Impacts from the collection system: The collection system selected for the project also does not provide the "maximum feasible mitigation measures" for protecting environmentally sensitive habitats, including Morro Bay Estuary, a protected State Marine Reserve. Thus, this component of the project does not conform not to CZLUO 23.08.288 and other sections cited below.

The *Fine Screening Report* and EIR assume the "hybrid gravity" collection system selected for the project will allow about 100 AFY of water into the system per year more than the system it was compared to (STEP). This is due to leaks in the system, which become worse over time. The leaks allow what is known as inflow and infiltration or I/I. The Planning Commission added Condition 98 (sealing portions of the system in high ground water and near the bay) recognizing the need to reduce I/I into the system, which results in increased wastewater flows, increased treatment needs, incomplete treatment, contamination of effluent with seawater (preventing its beneficial reuse), and reduced ground water recharge. I/I, especially during storms, is a leading cause of overflows and pollution of aquatic ecosystems. Exfiltration, or leaks out of a non-sealed system, is also a major cause of pollution of beaches and other marine environments.

STEP will completely eliminate I/I and related problems when laterals are sealed (as called for in Condition 98) and it avoids the need to locate pump stations near sensitive ecosystems as required with the hybrid gravity system (e.g., at Third Street and Pismo Streets). STEP pipelines are installed entirely in shallow, narrow trenches or by horizontal drilling, rather than deep open trenching as needed for gravity line installation. This significantly reduces impacts to soils, existing infrastructure, areas of archeological significance, and water resources. (Deep trenching in roadways requires more water for dust control and soil compaction, and it causes greater impacts to water resources from dewatering, e.g., removal and disposal of groundwater.). STEP reduces or alleviates the need for many conditions on the project designed to mitigate for the gravity system (e.g., 10, 24, 25, 46, 76, and 98). STEP also reduces sludge handling and hauling by 75-90% reducing associated problems (see below).

Furthermore, John Waddell, Project Engineer, indicated (at a Planning Commission meeting on July 24) that the hybrid gravity system is designed for 70-80 gpcd flows, and requires redesign of

the system to accommodate conservation flows. On August 13. Mr. Waddell said redesign could be performed as part of a request for proposal (RFP) process. However, design review and analysis of potential impacts for a redesigned system is required to ensure the system protects resources. Impacts from a poorly designed system could include 1) installation impacts due to very deeper trenching, 2) greater blockage and overflows due to inadequate slope or pipe diameters, 3) large amounts of water needed to flush and clean the system, and/or 4) persistent odors. These potential impacts are inconsistent with LCP provisions and violate the CZLUO (e.g., Section 23.08.288). The collection system must perform optimally (e.g., with conservation flows) to protect and maintain sensitive ecosystems and other valuable resources. The STEP system maintains optimal performance with low flows from conservation, so it protects and preserves scarce water resources and provides maximum protection for environmentally sensitive habitat and other coastal resources consistent with LCP policies and CZLUO requirements.

Additional Reasons for Appeal

A stronger conservation program is needed to maximize funding, provide the greatest possible seawater intrusion mitigation and protection of environmentally sensitive habitat: The project's current conservation program does not maximize the benefits of integrated planning or the potential of an intensive water use efficiency program including indoor and outdoor options, as well as LID and graywater reuse. An integrated approach emphasizing water use efficiency is recommended in the *California Water Plan,* and water use efficiency is now widely considered the most-cost effective way to provide a supplemental water source for thirsty communities. This approach also provides the fastest and surest way to develop the supplemental water needed to substantially reduce pumping of the lower aquifer and stop seawater intrusion. LID options are recognized as low-cost ways to enhance groundwater flows and reduced surface water pollution. As part of an integrated program, they will reduce water use, provide flows to sensitive ecosystems, mitigate for on-lot disturbance, and increase grant opportunities, among other benefits.

At the project appeal hearing on September 29, the SLO County Board of Supervisors substantially weakened the conservation condition set by the Planning Commission (Condition 99). The new language effectively delays program implementation and removes a definite funding source (i.e., LOWWP project funding), replacing these provisions with indeterminate timelines and funding sources. The new language also limits measures to only indoor retrofits and it eliminates a provision for water auditors. Even with the original Planning Commission language, the project's conservation element could be much stronger, providing significantly greater benefits to residents and and the basin An aggressive water use efficiency program, targeting about a 30% reduction of total water use in the basin, is achievable and likely the only way to establish a sustainable basin (see suggested conservation language attached).

A stronger reuse program is needed to provide the greatest possible seawater intrusion mitigation and protection of environmentally sensitive habitat: The SLO County Board of Supervisors weakened the SLO County Planning Commission conditions relating (originally Conditions 97 and 103, combined into Condition 97) designed to prioritize reuse options to achieve the greatest seawater intrusion benefits and to protect sensitive ecosystems. The condition, as now written, allows the purveyor adjudicated (ISJ) process to determine the uses of recycled water. Only

recycled water not negotiated as part of that process is subject to the seawater intrusion priority language in the current conditions. This change does not ensure recycled water will be used to maximize seawater intrusion benefits or provide important mitigations for reduced groundwater flows. The original Planning Commission measure could be made stronger by eliminating language that limits urban reuse options in the "Reuse" technical memorandum (i.e., the parenthetical phrase should be removed). Also, ag exchange and urban reuse should be specifically mentioned as options with the greatest seawater intrusion benefits.

(In addition to the Coastal Act/LCP/CZLUO policies/sections cited above, the project fails to conform/comply with Coastal Act Sections 30004, 30007.5., 30412, 30230, 30244, 30253, 30254; LCP Environmentally Sensitive Habitats Polices 1-8, 11, 12, 16, 17-23, 26-30, 36-39; LCP Coastal Watersheds Policies 1-3, 5, 10, 11; LCP Public Works Policies 1, 2, and 5-10; CZLUO Sections 23.01.010, 23.04.403, 23.07.172, 23.07.174, 23.07.176, 23.07.178, 23.08.288).

New Conservation and Reuse Conditions
(transcribed wording and analysis)

New 103—Prior to individual property owner hook up to the wastewater project, each property owner shall provide proof to the satisfaction of the Planning Director that all toilets, shower heads, and faucets have been replaced with high efficiency versions of the same.

New 99—Within on year of the adoption of a due diligence resolution by the BOS electing to proceed with the 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 LO that meets the goal of 50 gpcd of indoor water use. The applicant shall provide $5 million toward the water conservation program. Incentives shall be provided to home owners and other property owners who install conservation measures within the first year.

Old 99—Upon final approval of the Los Osos Waste water Project (LOWWP) including any appeals to the Board of Supervisors and/or the California Coastal Commission, the applicant shall implement a water conservation program, in consultation with the local water purveyors, within the prohibition zone for the community of Los Osos. The applicant shall provide 5 million dollars of funding towards the water conservation program. Water conservation measures including but not limited to high efficiency toilets, showerheads, and faucet aerators (not to exceed $1000 per dwelling including installation) shall be provided and installed within the prohibition zone in consultation with the recommendation of a water auditor, prior to hook-up to the sewer system. If homeowner(s) choose to install water conservation measures within the first year of project approval (from the date of final action), then homeowners will be eligible for reimbursement of water conservation equipment (not to exceed $1000 per dwelling) and free installation of said retrofits.

Paavo—made it clear his interpretation of how the money should be spent does not limit its use to retrofits or early implementation. He thinks it can go toward administration, water auditors, and operations down the road and be paid for with rates and charges or the revenues raised from selling recycled water. He also indicated the program would be developed within the ISJ process.

Bruce—ignored Anne's recommendation that incentives for early participation include covering the cost of retrofits and installation. He continued to try to make the language less specific and mentioned that the BOS would develop the program in subsequent meetings. He made sure the new 103 (hook up upon connection) language was stated—and emphasized that indoor use provided the only nexus to the project because it reduced flows and made the disposal plan feasible (also stated by Paavo). He ignored Patterson who at first said graywater use was a way to reduce flows (so had a nexus to the project), then backed off. When I talked to Gibson during a brief break as the language was being written, he was adamant he would not consider a nexus to SWI mitigation.

Jensen—said the program did not constitute a gift of public funds, so long as it provided an identifiable public benefit.

Problems:

1. The new language says a conservation program "shall be developed" within one year; whereas the old language says the applicant "shall implement" the program within one year. Therefore, the new language does not preserve the PC's intent to maximize SWI benefits within the first year. If the program is developed within the ISJ process and/or if the Board must review and approve the program (as Bruce said), it will undoubtedly take more than a year to implement.
2. Paavo believes the $5 million can come from rates and charges in the future and the money doesn't have to pay for retrofits. Thus, early incentives are not likely to be strong incentives (i.e., cover all of the costs of retrofits as provided in the PC condition).
3. Richard is correct: This is basically the same program as the original one. Under this language Paavo can use the original $1 million for "early incentives," and the rest can be used for whatever he wants it for. Also, incentives do not technically have to be monetary, so Paavo wouldn't have to spend any money on conservation the first year.
4. The cost burden under this language falls on those who can't afford the retrofits. Despite Katcho's efforts, no special provisions were added to pay for low income household retrofits. (The new language seems to respond to the biggest complaint I heard about the old 99—from my conservative friends—that those who had already retrofitted would be paying for people who hadn't (socialism, you know).

5. The 50 gpcd is not a 20% reduction. It is more like a 12% reduction (like the original program) since the current per capita water use is overestimated. If Paavo or others change the way indoor use is estimated, the program can achieve the 50 gpcd goal on paper. This would leave Paavo $4 million to play with—fund County positions or activities (ISJ negotiations) with little or no conservation benefits.
6. 50 gpcd is not a true conservation target. All recent studies say it should be 45 gpcd—with high efficiency washers, leak detection, and water auditors as part of the program.
7. The 50 gpcd can't be measured with any certainty. To be measured accurately (with meters), the target must be an indoor-outdoor target or a total purveyor production target. (The first is easier to justify.)
8. The program doesn't include outdoor measures. An integrated indoor-outdoor program, with LID options (recommended by LOSG), can double the water use reduction, increase grant funding opportunities, and help ensure outdoor water use doesn't go up when septics are taken off line and vegetation begins to dry up. Integrated LID measures have multiple benefits including helping to restore flows to sensitive ecosystems. OUTDOOR MEASURES HAVE A NEXUS BECAUSE THEY MITIGATE FOR 1) SWI, 2) REDUCED FLOWS TO ECOSYSTEMS, AND 3) ON-LOT IMPACTS INCLUDING INCREASED RUNOFF FROM LATERAL (OR STEP TANK) INSTALLATION.
9. At project start up, flows will be below the 50 gpcd (due to inaccurate indoor use estimates and continuing graywater reuse). The County could use these reduced flows as a sign further conservation is not needed.

The following is some sample draft language for a stronger plan. Basically, more direction is needed for the County not to misuse the money. A program referring to indoor-outdoor use (and other language below) can reduce water use by about 500 AFY within the prohibition zone, whereas the revised 99 and 103 language can only reduce it from 0 AFY to about 200 AFY.

> Within on year of the adoption of a due diligence resolution by the BOS electing to proceed with the wastewater project, the applicant shall implement an integrated indoor-outdoor water use efficiency (conservation) program, in consultation with local water purveyors, within the prohibition zone of Los Osos. The applicant will provide 5 million dollars of funding towards the program. The program will be implemented with an ordinance that targets 1) a 45 gallon per capita per day (gpcd) average for residential indoor use, 2) a 60 gpcd average for

indoor-outdoor use, 3) a 33% reduction in Class II indoor-outdoor potable water use, and 4) a 30% reduction in overall water use within the Prohibition Zone (based on 87% of the total purveyor production figures, e.g., 1906.4 acre feet in 2008). The program shall be designed to maximize funding and achieve targets within the first two years of program implementation. Property owner participation will be a condition of hook up to the wastewater project. However, incentives, including generous rebates and free installation will be offered to assure early participation in the program. Grant funding shall be pursued to augment program funding, and funding may be used as matching funds to leverage grants. Administrative and personnel costs will be limited to no more than 15% of program costs. Measures and funding will be applied where they can achieve the greatest water saving benefits and the program will include water auditing services to maximize funding and program effectiveness. Provisions for low income households to receive free retrofits and installation shall be provided. Indoor strategies shall include a range of the most cost-effective retrofits, e.g., high efficiency toilets, washers, faucet aerators and shower heads. Outdoor strategies shall include the most cost-effective Xeriscape options and appropriate technologies, including LID systems and graywater reuse. Leak detection and repair will also be included in the program. Other best management practices may be considered if they can be demonstrated to provide greater benefits for the cost. The water savings from the program will be applied to reduce the pumping causing seawater intrusion. The above program components, along with other program provisions consistent with this condition, shall be provided for in the program ordinance.

New Reuse Lanaguage

Re: New Condition 97 language—the most important change, which Supv. Gibson was careful to get on the public record, is that the court (as part of the ISJ process) shall have final say on how the recycled water is used. All other provisions in the language apply only after the judge determines how purveyors will use the water. (Of course, this means how the County negotiates use of the water within the ISJ process. The County will own the recycled water.) Thus, even the "no less than 10%" language applying to environmental and ag use (10% each) applies to the recycled water not controlled by the ISJ process. Therefore, if the ISJ applies to 90% of the recycled water, just 1% can be applied for ag or environmental uses. (This is how I read it and Richard agrees)

The previous Condition 97 dealt with the ISJ and ag and environmental uses, and Condition 103 dealt with recycled water uses prioritized to achieve the greatest SWI benefits. Thus, the conditions were co-equal and 103 would likely have been interpreted to exert influence over 97 (i.e.,

help guide the ISJ process). Since 103 comes after 97 in the Development Permit, I believe it may even be considered to have greater importance. The new language makes it clear that the ISJ controls all recycled water—so the first line could render the rest of the language virtually useless (as I understand it).

The language also provides for recycled water use within the Los Osos Valley. I'm not completely sure why Supv. Gibson was so adamant about this point. It may be that the County plans to sell the recycled water and could conceivably obtain a higher price outside of the basin. Also, if Broderson doesn't work as expected, the language would allow disposal outside of the basin. In any case, this language should be taken out because there are adequate sites and opportunities for reuse within the basin.

Also, the parenthetical in the urban reuse line referring to the "Reuse TM" should be deleted since it potentially limits urban use to a few very large users only, e.g.., no large properties (1/2-5 acre parcels).

Katcho kept asking Gibson if the language limited application of the Water Code cited, and Gibson said no but I think it greatly reduces application. The code essentially says that, if recycled water is available, outdoor use of potable water is considered a waste. Thus, some of the large properties with wells might be subject to the law—if the language doesn't limit urban uses to only certain sites.

I recommend the original wording with specific mention of ag exchange and urban reuse as the most effective measures in reducing SWI, with the parenthetical referring to the "Reuse TM" taken out of that line.

Comparison of wording of Conditions for the LOWWP from the Planning Commission Appeal (August 13, 2009) and Board of Supervisors Appeal (September 29, 2008)

Planning Commission Conditions:

97. Treated Effluent Reservation. Except as otherwise may be required by a court judgment arising from the current groundwater litigation involving the Los Osos Groundwater Basin, all treated effluent not required to be returned to the Los Osos Groundwater Basin or otherwise utilized to satisfy the judgment of the court shall be reserved to satisfy environmental and agricultural needs in the Los Osos Valley, except that such reservation may not be less than ten percent of the treated effluent for the environment and not less than ten percent for agricultural uses. 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.

BOS Findings and Conditions:

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 448AFY on average annual basis),
b. Urban re-use within the urban reserve line (as identified in the Effluent Re-Use and Disposal Tech Memo, July2008)
c. Agricultural re-use overlying the Los Osos Groundwater Basin,
d. Environmental reservations (not less than 10% of the total 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.

Planning Commission Conditions:

99. Upon final approval of the Los Osos Waste Water Project (LOWWP) including any appeals to the Board of Supervisors and / or the California Coastal Commission, the applicant shall implement a water conservation program, in consultation with the local water purveyors, within the prohibition zone for the community of Los Osos. The applicant shall provide 5 million dollars of funding towards the water conservation program. Water conservation measures including but not limited to high efficiency toilets, showerheads, and faucet aerators 9not to exceed $1000 per dwelling) shall be provided and installed communitywide in consultation with the recommendation of a water auditor, prior to hook-up to sewer system. If the homeowners(s) complete installation of said retrofits at their own expense, then the cost savings for installation may be applied to other water conservation measures.

BOS Findings and Conditions:

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.

Planning Commission Conditions:

103. Treated effluent disposal shall include Broderson (not to exceed 448 AFY on an average annual basis), urban re-use (as identified int the Effluent Re-use and Disposal Tech Memo, July 2008), and agricultural re-use (as

identified in Attachment 4). Disposal / re-use sites and options shall be prioritized to reduce seawater intrusion and return /retain water 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.

BOS Findings and Conditions:

103. (BOS combined Planning Commission #103language into Condition #97)
BOS New 103:
Prior to individual property connections to the waste water system, each property owner shall provide verification to the satisfaction of the Planning Director that all toilets. showerheads and faucets have been replaced with high efficiency versions of the same.

Recommended Project Conservation Condition Language

Within on year of the adoption of a due diligence resolution by the BOS electing to proceed with the wastewater project, the applicant shall implement an integrated indoor-outdoor water use efficiency (conservation) program, in consultation with local water purveyors, within the prohibition zone of Los Osos. The applicant will provide 5 million dollars of funding towards the program. The program will be implemented with an ordinance that targets 1) a 45 gallon per capita per day (gpcd) average for residential indoor use, 2) a 60 gpcd average for indoor-outdoor use, 3) a 33% reduction in Class II indoor-outdoor potable water use, and 4) a 30% reduction in overall water use within the Prohibition Zone (based on 87% of the total purveyor production figures, e.g., 1906.4 acre feet in 2008). The program shall be designed to maximize funding and achieve targets within the first two years of program implementation. Property owner participation will be a condition of hook up to the wastewater project. However, incentives, including generous rebates and free installation will be offered to assure early participation in the program. Grant funding shall be pursued to augment program funding, and funding may be used as matching funds to leverage grants. Administrative and personnel costs will be limited to no more than 15% of program costs. Measures and funding will be applied where they can achieve the greatest water saving benefits and the program will include water auditing services to maximize funding and program effectiveness. Provisions for low income households to receive free retrofits and installation shall be provided. Indoor strategies shall include a range of the most cost-effective retrofits, including high efficiency toilets, washers, faucet aerators and shower heads. Outdoor strategies shall include the most cost-effective Xeriscape options and appropriate technologies, including LID systems and graywater reuse. Leak detection and repair will also be included in the program. Other best management practices may be considered if they can be demonstrated to provide greater benefits for the cost. The water savings from the program will be applied to reduce the pumping causing seawater intrusion.

To: Central Coast Coastal Commission

Re: Appeal: Los Osos Waste Water Project

Date: 10-19-09

Fax: 831-427-4877

Pages: 17

From: Elaine Watson
Phone: 805-528-3995

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COASTAL COMMISSION
CENTRAL COAST AREA

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Martha Goldin

Mailing Address: P.O. Box 6007

City: Los Osos Zip Code: 93412-6007 Phone: 805-528-0987

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County Board of Supervisors

2. Brief description of development being appealed:

Los Osos Waste Water Project

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3. Development's location (street address, assessor's parcel no., cross street, etc.):

LOWWP: Prohibition Zone collection to Giacomazi Property (adjacent to cemetary) for treatment.

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☒ Planning Commission
- ☐ Other

6. Date of local government's decision: 9-29-09

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County
976 Osos Street
Room 300
San Luis Obispo, Ca. 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- **Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.**
- **State briefly your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I'm appealing the Board's final CDP, but the Planning Commission also failed to add a condition for a Basin-wide plan.

Seawater intrusion in the Los Osos Valley Water Basin appears to be accelerating and the viability of the Los Osos Wastewater Project depends on a viable water basin which will require a basin wide management plan, the only effective means of controlling advancing seawater intrusion.
LCP Coastal Watershed Policy #5

A basin wide building moratorium must be in place in order to prevent additional pumping of groundwater until seawater intrusion is stopped or until aggressive benchmarks in reducing the pumping causing seawater intrusion are achieved. This is necessary for orderly coastal development.
CZLUO 23.04.430
LCP Coastal Watershed Policy #1
LCP Coastal Watershed Policy #3
CZLOU 23.01.010

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 10-19-09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Reason for Appeal

As the following LCP policy states, a basin-wide water management program is needed to protect Los Osos groundwater resources and it is particularly important now. Seawater intrusion in the Los Osos Valley Water Basin appears to be accelerating and the viability of the Los Osos Wastewater Project depends on a viable water basin. The requirement for a basin-wide management plan to stop seawater intrusion within the near future should be made a condition of the LOWWP Coastal Development Permit.

> LCP Coastal Watershed Policy #5: "Los Osos Groundwater Management"
> The county Planning and Engineering Departments should work with communities, property owners and the Regional Water Quality Control Board to develop and implement a basin-wide water management program for the Los Osos groundwater basin which addresses:
>
> -existing and potential agricultural demand
> -urban expansion in relation to water availability
> - groundwater quality
> -possible need for alternative liquid waste disposal
> -protection of aquatic habitats including coastal waters, streams and wetlands.
>
> The Resource Management System of the Land Use Element provides a framework for implementing this policy and an interim alert process for timely identification of potential resource deficiencies, so that sufficient lead time is allowed for correcting or avoiding a problem."

Only a basin-wide water management plan will be effective in controlling seawater intrusion. Water purveyors control less than two thirds of the water in the basin. Therefore, a basin management plan developed through the water purveyor adjudicated cooperative process (referred to as an interlocutory stipulated judgment, or ISJ) cannot solve the seawater intrusion problem. Private well use (residential and farm use) accounts for the other one-third or so (although this usage is not well documented), and private use must be managed as a part of a comprehensive plan also.

An effective plan must include provisions for on-going seawater intrusion assessment, as called for in the 2007 County *Resource Capacity Study*, monitoring all water use within the basin, including private well use (as provided for in the LDP Policy 5), and placing a building moratorium basin wide until seawater intrusion has stopped (or aggressive benchmarks in reducing the pumping causing seawater intrusion are achieved, e.g., 900 AFY). It should also be implemented with a basin-wide ordinance with the expressed goal of stopping seawater intrusion and call for an intensive, integrated conservation program that integrates LID to achieve multiple water quality and supply benefits.

The Coastal Zone Land Use Ordinance section and LCP policies (below) provides for stopping building until the basin is balanced and seawater intrusion stops, as well as on going monitoring of wells.

> CZLUO 23.04.430: "Availability of water supply and sewage disposal services.
> A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is

adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section.

LCP Coastal Watershed Policy #1: "Preservation of Groundwater Basins"
"The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted."

LCP Coastal Watershed Policy #3: "Monitoring of Resources"
In basins where extractions are approaching groundwater limitations, the county shall require applicants to install monitoring devices and participate in water monitoring management programs.

The LCP (*Coastal Plan Policies*) states "In the critical groundwater basins, management programs must be completed" (9-8) (emphasis added). The Level II of Severity resource deficiency declared in 1992 and the above LCP policies, in place since 1995, have given ample time for these critical management measures to be implemented. Thorough resource assessment and monitoring—along with a basin-wide management program—are essential to basin sustainability, the viability of the project, and orderly coastal zone development. The promotion of orderly development is a key purpose of the CZLOU: "To regulate land use in a manner that will encourage and support the orderly development and beneficial use of lands within the county..." [(Section 23.01.010 "Title and purpose" (4)].

A County administered plan is needed partly because purveyors have shown they will not support an intensive water use efficiency program. Although water use efficiency is the fastest, surest, and most cost-effective way to curb seawater intrusion, it can also reduce revenue for purveyors in the short term. Past purveyor agreements have failed to produce a strong cooperative program, and a letter submitted to the Planning Commission by a local water purveyor confirms the company's reluctance to pursue strong conservation measures.

Condition 34, a condition set on the prior Los Osos project by the Coastal Commission, requires a "comprehensive water management plan for the Los Osos Groundwater basin that identifies management strategies for achieving a sustainable water supply." The SLO County Board of Supervisors added a reference to Condition 34 to Development Permit Condition 86, which is designed to avoid "growth that cannot be sustained by available water supplies." However, Supervisor Gibson (Board Chair) made it clear at the September 29, 2009, LOWWP appear hearing he considers the "comprehensive" plan to be developed by water purveyor within the ISJ process, and he said any moratorium on building would be limited to new development within the Prohibition Zone.

Condition 86, with the reference to Condition 34, does not go far enough to ensure an effective basin-wide effort to stop seawater intrusion. A basin-wide comprehensive plan with specific requirements and objectives is needed to help ensure seawater intrusion stops, the project is viable, and the area has ample sustainable water supplies to protect, maintain, and restore where possible, vital coastal resources.

Attachment #2
Sample language for a basin-wide management plan ordinance to stop seawater intrusion (SWI) within two years of LOWWP final approval (Draft)

Purpose/Objective:

The purpose of the ordinance is to stop SWI intrusion in the Los Osos Valley Water Basin within two years of start up of the Los Osos Wastewater Project. SWI is rapidly destroying the freshwater Los Osos Valley Water Basin. It has progressed through at least one-third of the available freshwater capacity of the basin since the 1970's, permanently destroying much of the freshwater in the basin for beneficial uses. Recent data indicates it is apparently accelerating and the basin grown less stable. The sustainability of the sole source of water for the community of Los Osos and overlying farms and properties is in jeopardy without immediate and aggressive action.

The basin provides freshwater to highly valued ecosystems in the area, including Morro Bay Estuary, and it is the sole source of water for the community of Los Osos and farms overlying the basin. Desalinated and imported alternative water sources are economically and technically infeasible for the community for a number of reasons. Furthermore, predicted sea level rises (five feet in this century) will add SWI pressure to the basin, requiring that aquifer levels are brought up to match sea levels (i.e., five feet above the levels needed to prevent SWI; in some areas 15 feet or more). Finally, the Los Osos Valley Water Basin is a relatively small coastal basin. Therefore, urgent action is required to 1) stop the progress of SWI and preserve as much of the basin as possible 2) to prepare the uncertainties of climate change, e.g., sea level rises and changing weather patterns.

Provisions:

1. All pumping contributing to SWI will stop within two years of final approval of enactment of this ordinance, and water levels in aquifers vulnerable to SWI will be allowed to rise to levels needed to prevent SWI with sea level rises. This will require reducing the pumping from wells tapping the lower aquifers in the Western Compartment of the Los Osos Valley Water Basin (LOVWB) by about 900 AFY. The approximately 900 AFY of reduced pumping will be replaced by the following water sources:

   An water-use efficiency program integrating LID, graywater reuse, and rainwater harvesting strategies—550 -700 AFY
   Increased pumping of the upper aquifer and creek alluvium—200-350 AFY

2. Conservative safe yield estimates protective of the finite resource will be used for all water sources (e.g., upper aquifer, lower aquifer, and creek alluvium) to avoid harm to these resources, restore them where necessary, and ensure their long-term viability.

3. Because water use efficiency (conservation) provides the most cost effective source of supplemental or "new water" and reduces lower aquifer pumping, indoor and outdoor conservation programs will be implemented within one year of the enactment of this ordinance to achieve at least 550 AFY of reduced pumping from the Western Compartment within two years of LOWWP project approval enactment of the ordinance. The conservation program will have the following general components/provisions:

- A program to retrofit homes, commercial buildings and public facilities with high-efficiency water saving fixtures and appliances (and to stop leaks as needed) in all homes, commercial and public buildings using the basin as a water source, targeting an average 25% reduction in indoor water use basin wide.
- A program to install xeriscape measures and other measures and devices (e.g., rainwater harvesting and graywater reuse systems) to reduce outdoor potable water use an average of 50% basin wide among non-farm users. (Potable water-use reduction on farms will be set at appropriate achievable levels.)
- Total indoor and outdoor potable water use targets shall be set at 60 gallons per capita per day (gpcd) for residential use monitored monthly by meter (with water use levels set for commercial and institutional that achieve at least a 33% reduction where feasible).
- Homes and private wells without meters shall have meters installed.
- Adequate retrofit options, and appropriate incentives and consequences will be included in the ordinance to ensure compliance and to meet water use targets within one year of the LOWWP start up.

4. Urban reuse and ag exchange programs shall be implemented to reduce the pumping of the aquifers by supplying a supplemental water source for outdoor urban and agricultural uses. The ag exchange program will provide supplemental water in the form of well water from portions of the basin (Creek Compartment) not currently affected by SWI, also allowing a net reduction in the water pumped from those parts of the basin (because less well water is pumped than recycled water exchanged). Both programs will be developed concurrent with LOWWP development, so they can be implemented at start up of the LOWWP to provide at least 350 AFY of reduced pumping from the Western Compartment within one year of project start up.

5. On-going seawater intrusion monitoring and assessment will be part of a program to managed the basin, measure progress toward goals and benchmarks, and ensure the sustainability of the resource.

6. To preserve the health of aquatic ecosystems dependent upon the basin at pre-LOWWP levels an LID program shall be implemented using on-site and community recharge/infiltration systems to support freshwater subsurface flows to aquatic ecosystems. Highly treated recycled water may also be used as a secondary source of water, where safe and appropriate, to supply flows to sensitive aquatic ecosystems.

7. No further development within the basin shall be allowed until SWI stops (or until 900 AFY of reduced pumping occurs in the lower aquifers of the Western Compartment).

8. All applicable grants, rebates, and low cost funding options shall be sought and used to reduce costs for property owners and water purveyors.

9. All costs to property owners not covered by the options in #7 shall be funded by available means, including assessments, to ensure timely implementation of the plan.

10. All costs shall be shared basin-wide according to SWI mitigation and/or other appropriate benefits.

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: The Surfrider Foundation San Luis Bay Chapter (Jeff Pienack, Chair)

Mailing Address: P.O. Box 13222 San Luis Obispo, CA 93406

City: San Luis Obispo, CA Zip Code: 93406 Phone: 805-709-1905

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COASTAL COMMISSION
CENTRAL COAST AREA

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Luis Obispo

2. Brief description of development being appealed:

Los Osos Wastewater Project DRC2008-00103 as amended:
A wastewater project for the town of Los Osos, CA consisting of conveyance, treatment and disposal facilities.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos, CA (See attachment for map)

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

DATE FILED: 12/21/2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: September 29 & November 24, 2009

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County Department of Public Works (attn: Paavo Ogren, Director)
County Government Center, Room 207
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Don Bearden 1411 7th Street Los Osos, CA 93402

(2) Steven Paige 1554 Ninth Street Los Osos, CA 93402

(3) Vivian and Barry Branin P.O. Box 540 Morro Bay, CA 93442

(4) Bruce Corelitz 1920 Tapidero Ave Los Osos, CA 93402

(5) S.E. Acquisition of Los Osos Mortuary and Memorial Park, Inc.
DBA Los Osos Valley Memorial Park
C/O Andre, Morris & Buttery
1102 Laurel Lane
San Luis Obispo, CA 93401

(6) J.H. Edwards Company P.O. Box 6070 Los Osos, CA 93412

(7) Piper Reilly 691 Woodland Drive Los Osos, CA 93402

(8) Linde Owen 1935 10th B Los Osos, CA 93402

(9) Keith Wimer, Los Osos Sustainability Group 1101 14th Street Los Osos, CA 93402

(10) Martha Goldin P.O. Box 6007 Los Osos, CA 93412

(11) Elaine Watson 1287 5th Street Los Osos, CA 93402

(12) Al Barrow (Citizens for Affordable & Safe Environment and Coalition for Low-Income Housing)
1250 4th Street B
Los Osos, CA 93402

(13) Sierra Club Santa Lucia Chapter (attn: Andrew Christie) P.O. Box 15755 San Luis Obispo, CA 93406

(14) Chuck Cesena 591 Ramona Ave. Los Osos, CA 93402

(15) Sarah Damron 809 Browns Valley Rd. Watsonville, CA 95076

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The Surfrider Foundation, San Luis Bay Chapter ("Surfrider") submits this document as substantiation for its appeal of the San Luis Obispo County Board of Supervisor's September 29 decision regarding the Development Plan DRC2008-00103 for the Los Osos Wastewater Project ("LOWWP") and its subsequent decision on November 24, 2009 amending Condition of Approval 97. The Surfrider Foundation is a non-profit environmental organization dedicated to the protection and enjoyment of the world's oceans, waves and beaches, for all people, through conservation, activism, research and education.

In appeal, Surfrider asserts that the project as approved does not conform with several Coastal Act and LCP policies, and that the EIR analysis is deficient in that it inadequately identifies and fails to mitigate environmental impacts to coastal resources protected by the Coastal Act. Because of project non-conformance with policies over which the California Coastal Commission has jurisdiction, and because the CEQA analysis does not appropriately identify coastal resources (i.e. wetlands per the Commisson's criteria) and, thus, the project does not adequately avoid or mitigate impacts to these resources, Surfrider requests that the Commission hear this issue based on the substantial issues raised in this appeal.

Protection of Significant Coastal Resources

"Balancing" Provision in Coastal Act Section 30007.5

> The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

This policy allows for balancing to occur between two different conflicting policies within the Coastal Act. In approving this project ("CDP Findings" B(3) and H(3)), presumably the San Luis Obispo County Board of Supervisors is justiying the development of ESHA and other policy non-conformance because the Board feels that, on balance, the project as approved will protect more coastal resources than it destroys. Regardless of whether or not this finding is accurate, the policy in Section 30007.5 does not preempt mitigation of avoidable adverse impacts to the maximum extent as required by resource protection policies (such as Section 30240). If there are feasible mitigation measures or project

alternatives that would serve to bring the project in closer conformance with such Coastal Act policies, these measures or alternatives must first be incorporated as part of the project prior to applying this "balancing" provision for policy conflicts.

Surfrider finds that significant environmental impacts to coastal resources have not been mitigated to the maximum extent feasible and points to the following areas of deficiency:

Impermissible Development of Wetlands:

The Coastal Act expressly prohibits siting coastal-dependent development in wetlands except in limited circumstances that do not apply to the proposed project (Coastal Act Sections 30233 and 30255). LCP Coastal Plan Policy Chapter 6, Section 7 recognizes coastal wetlands as environmentally sensitive habitat area (ESHA), and states that the "natural ecological functioning [...] of wetlands [...] shall be protected, preserved and where feasible restored" (emphasis added). LCP Coastal Plan Policy Chapter 6, Policy 13 requires that diking, dredging and filling activities for wetlands shall conform to provisions set forth in the Coastal Act. Section 30233 of the Coastal Act only allows diking, filling or dredging of wetlands where there is no feasible less environmentally damaging alternative, and only in specific instances, such as incidental public services (Section 30233(a)(4). This policy further limits disturbance of wetlands to specific instances, including incidental public service purposes, and in the case of Morro Bay wetlands (which, according to the Wetlands Policy in the LCP Coastal Plan Policies, includes Los Osos Estuary), only "very minor" incidental public facilities (per Coastal Act Section 30233(c)).

Additionally, development adjacent to wetlands must not significantly disrupt the resource, per LCP Coastal Plan Policy Chapter 6, Policy 1. CZLUO 23.07.172 (4)(A) provides that the buffer distance to avoid significant disruption to the resource is 100 feet, and can only be less than 100 feet (but no less than 25 feet) in limited circumstances described in CZLUO 23.07.172 (4)(B).

Based on the Coastal Zone Land Use Ordinance, Coastal Act and Coastal Plan policies regarding wetlands, as enumerated above, it is clear that permissible development on wetlands is very limited, and that the LOWWP does not meet the limited criteria for such development. Therefore, to appropriately mitigate impacts to wetlands, development on wetlands must be avoided and the 100 foot buffer mandated by the CZLUO must be observed.

The Environmental Setting in the EIR needed to consider wetlands as interpreted under the Coastal Act, as opposed to limiting the definition of wetlands as defined by Section 404 of the Clean Water Act. The California Coastal Commission's regulations establish a one parameter definition for delineating wetlands, where only one of the three criteria for soils, vegetation, and hydrology needs to be met to determine wetland conditions:

> Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. (14 CCR Section 13577)

Conversely, Clean Water Act Section 404 requires that all three criteria need to be met to consider an area a wetland. As such, the EIR undoubtedly underestimates the number and extent of wetlands in the project vicinity very significantly and, therefore, the BOS approved project does not adequately avoid development of wetlands, which is inconsistent with the LCP and Coastal Act policies that protect wetlands. To appropriately identify wetlands under the Coastal Commission standards, a qualified biologist needs to be retained to identify qualifying soils, plant species and hydrologic conditions so that wetlands can be appropriately delineated. In absence of such a delineation, significant impacts to wetlands can not be and have not been adequately analyzed or mitigated.

Impermissible development of ESHA:

In regard to ESHA, the Planning Commission--and the Board of Supervisors through approval--applies a low threshold for development on ESHA, citing that the proposed project will have no significant impact to ESHA and, therefore, the threshold for protecting ESHA has been met. However, Section 30240(a) of the Coastal Act takes a two-pronged approach that requires no significant disruption of habitat values AND approves only uses dependent on the ESHA resources. Given that the wastewater project does not depend on use of ESHA, any disturbance of ESHA would be significant and require avoidance or full mitigation of unavoidable adverse impacts. As approved, the project has multiple components that would be sited on ESHA. For example, as part of the gravity collection systems, pump station developments are proposed within terrestrial ESHA lands. As described in the EIR, these impacts would be significant and permanent (p 5.5-36; Impact 5.5 E):

> CZLUO Section 23.07.176: Terrestrial Habitat Protection. As part of the collection systems for Proposed Projects 2 through 4, pump station developments are proposed within potential ESHA lands containing terrestrial habitat associated with the Mid-town property and other parcels located within developed portions of the community of Los Osos. Impacts resulting from pump station developments would be permanent. Terrestrial habitats within these areas contain suitable habitats for the Morro manzanita, Morro Bay blue butterfly, and Morro shoulderband snail.

Surfrider finds that the project impermissibly impacts ESHA because there appears to be a feasbile alternative that avoids these impacts. Although a STEP collection system (as outlined in Project Alternative 1 in the EIR) does not entirely avoid impacts to ESHA, it does avoid permanent impacts to ESHA where the gravity collection system does not, therefore avoiding significant impacts to the maximum extent feasible.

Protection of Groundwater and Surface Waters

Coastal Plan Chapter 6, Policy 7, requires that the natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored. ESHA Policy 20 requires riparian vegetation and the natural hydrological system and ecological function of coastal streams be protected and preserved. Additionally, Coastal Act Section 30231 protects water quality through, amongst other means, minimizing adverse effects of wastewater discharges and preventing depletion of groundwater supplies. Section 30232 further requires that protection against hazardous substance spills be provided and effective containment procedures to be implemented. Arguably, the

most effective means of protection against spills and leaks is to start by implementing a system that is designed to minimize infiltration and inflow ("I/I") as well as exfiltration.

Peaks in I/I can lead to sanitary system overflows ("SSOs"), while significant exfiltration can pollute ground water and surface waters (through subsurface percolation and seeps). SSOs and exfiltration are leading causes of ground and surface water pollution in the United States (California Regional Water Quality Control Board, Central Coast Region Staff Report for Special Meeting of November 19, 2004.).

Gravity sewers utilize bell and spigot joint construction. Properly installed bell-and-spigot sewers will be watertight at first, and then may slowly lose their integrity as the surrounding soils shift, compressing the pipes, and compromising their seals at the joints (SLO County LOWWP Development. Technical Memorandum: Flows and Loads. Final Draft, February 2008, p. 6). Only a sealed-pipe solution would act to minimize I/I and exfiltration. Thus, to adequately protect against spills, Surfrider contends that the project must make use of a feasible 100% fusion-welded pressurized effluent collection alternative.

Sludge Production and Biosolids Hauling:

The volume of biosolids created by a gravity collection system estimated solids volume is estimated at 4,000 lbs/day dry weight or 730 tons/yr dry weight, compared to an estimate of 1,000 lbs/day dry weight or 182.5 tons/yr dry weight that would be produced by a STEP collection system (SLO County LOWWP Viable Project Alternatives Fine Screening Analysis August 2007, p. 5-4, Table 5.1). Biosolids that would result from use of a gravity collection system, therefore, are 75% greater in mass than those resulting from the STEP collection alternative; this additional mass of course has associated impacts for hauling, greenhouse gas emissions, and coastal resource protection.

Assuming that biosolids will be hauled away, failure to minimize the creation of biosolids is inconsistent with Coastal Act Section 30253(4) which requires new development to minimize energy consumption and and vehicle distances traveled. However, Surfrider believes it is not safe to assume that landfills will continue to accept sludge over the entire economic life of the project, nor is it safe to assume that there will not be other forces (i.e. economic) that result in land-based application locally. In the event that sludge would be applied to land locally, it would be desirable for sludge creation to be minimized; given that sludge produced by the treatment process proposed would still contain hazardous chemical compounds, applying the sludge to land could have significant adverse impacts on coastal resources.

Flows needed for proper system function:

The absence of analysis which considers the minimum flows needed to maintain collection system functionality renders the project description incomplete. This lack of information prevents adequate comparison of collection alternatives' relative functionality in a range of flows, and also prevents avoidance or mitigation of significant impacts that may occur due to system malfunction in cases where adequate flows are not maintained. In the absence of this information to facilitate comparison and impacts analysis, the project cannot claim to be consistent with Coastal Act policies that protect coastal resources from adverse impacts (including but not limited to Section 30231 (riparian and groundwater protection), Section 30231 (water quality), and Section 30240 (ESHA). The Estero Area Plan Chapter 6, Section IV A.3 also requires that pollution impacts from new development to the watershed be avoided.

These concerns are further elevated by the additional increases in water conservation approved by the Board of Supervisors. Condition of Approval, Item 1(k) sets a maximum water usage target of 50 gpc/d—roughly equivalent to a 25% reduction from current usage. Additionally, in August 2009, the state of California adopted new standards for the construction, installation and alteration of graywater systems for indoor and outdoor uses. These new standards will make it easier for homeowners to get permits to install these technologies for their own homes and may result in increased water conservation for outdoor water usage, in addition to the savings that the Planning Commission's condition would achieve. Our concerns are substantiated by published findings from Ronald Crites and George Tchobanoglous which state: "The minimum flows required for gravity-flow sewers to operate make them problematic where...water conservation reduces the wastewater flows significantly. In many cases, the water used to flush conventional gravity-flow collection systems for the removal of accumulated solids far exceeds the water saved through water conservation measures" (Ronald Crites and George Tchobanogrous, Small and Decentralized Management Systems. New York: McGraw-Hill, 1998, p. 8). Although Surfrider supports the Board of Supervisor's decision to pursue aggressive water conservation, as we feel it is necessary in the effort to balance the groundwater basin, the impacts of this level of increased water conservation have not been considered.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Jeff Pienack

Signature of Appellant(s) or Authorized Agent

Date: December 21, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Sarah Damron
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Jeff Pienack

Signature of Appellant(s)

Date: December 21, 2009

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Elaine Watson
Mailing Address: 1287 5th St.
City: Los Osos Zip Code: 93402 Phone: 805-528-3995

SECTION II. Decision Being Appealed

1. Name of local/port government:
   San Luis Obispo County
2. Brief description of development being appealed:
   Los Osos Waste Water Project (LOWWP)
3. Development's location (street address, assessor's parcel no., cross street, etc.):
   Los Osos

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4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
- ☒ Approval with special conditions:
- ☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069
DATE FILED: 12/21/2009
DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: Sept. 29, 2009

7. Local government's file number (if any): DRC 2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County
County Government Center
San Luis Obispo, CA

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Seawater intrusion in the Los Osos Valley Water Basin appears to be accelerating and the viability of the Los Osos Wastewater Project depends on a viable water basin which will require a basin wide management plan, the only effective means of controlling advancing seawater intrusion.
LCP Coastal Watershed Policy #5

A basin wide building moratorium must be in place in order to prevent additional pumping of groundwater until seawater intrusion is stopped or until aggressive benchmarks in reducing the pumping causing seawater intrusion are achieved. This is necessary for orderly coastal development.
CZLUO 23.04.430
LCP Coastal Watershed Policy #1
LCP Coastal Watershed Policy #3
CZLOU 23.01.010

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: December 21, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

Reason for Appeal

The Los Osos Wastewater Project (LOWWP) Coastal Develop Permit finds that there are no impacts to environmentally sensitive ecosystems—or that impacts have been reduced to insignificance with the mitigations provided in the Development Plan and Plan Conditions.

However, mitigations are inadequate to protect and maintain coastal wetlands, riparian habitat, and other environmentally sensitive habitats in the area. Spencer Harris, consultant for the LOWWP EIR, stated at the Planning Commission meeting on June 30, 2009, that hundreds of acre feet of flows to Willow Creek Drainage (a riparian habitat) would dry up when the project is implemented and that the area would revert to conditions closer to predevelopment. This was reiterated by Commissioner Christianson on August 13, 2009, and Rob Miller (a consultant for the LOWWP, Los Osos water purveyors, and the LOCSD) at a LOCSD meeting on July 30. .

Willow Creek Drainage supports Willow Creek, Eto Lake, Los Osos Valley Creek, Los Osos Valley Creek Estuary, and Morro Bay Estuary. Other sensitive ecosystems potentially impacted include Third Street Marsh, Baywood Marsh, and Third Street Point Spring. Broderson leach fields are not likely to supply subsurface flows to these systems. Furthermore, Permit Conditions 56-70, 86, 87, 88, and 101 designed to mitigate for biological impacts and address the reduction in groundwater flows fail to conform to mitigation/protection standards as provided in the following policies and sections

> LCP Environmentally Sensitive Habitat Policy #2 "As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat.
>
> LCP Environmentally Sensitive Habitat Policy #7: "Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored."
>
> CZLUO Section 23.07.174 "Streams and riparian vegetation"
> The provisions of this section apply to development proposed within or adjacent to (within one hundred 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.
> (1) Application Content. A land use permit application for a project on a site located within or adjacent to an environmentally sensitive habitat shall also include a report by a biologist approved by the environmental coordinator that:
> (A) 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;
> (B) Recommends conditions of approval for the restoration of damaged habitats, where feasible...

The applicant has not demonstrated that there will be no significant impact on sensitive habitats or that activities will be consistent with the biological continuance of these habitats. Sites have not been evaluated nor have maximum mitigation measures been determined. To determine the potential impacts on these systems and the effectiveness of mitigations requires measuring and analyzing how much groundwater is flowing to the systems and the most effective options for replacing these flows. Condition 87 provides for a "Groundwater Level Monitoring and Management Plan," but the plan will be implemented after project installation. Avoiding harm to ecosystems requires putting effective measures in place prior to impacts. Groundwater movement is slow, and avoiding impacts to these vital systems requires proactively replacing flows.

An integrated system of strategically located community and on-site LID systems provide a higher level of mitigation, and on-site system can be implemented as part of an integrated water-use efficiency program. A phased project, with the first phase collecting wastewater only from homes along the bay and in high groundwater areas (with most septic systems upgraded and left in place) also alleviates most of the impacts to wetlands and other environmentally sensitive ecosystems.

Impacts from the collection system: The collection system selected for the project also does not provide the "maximum feasible mitigation measures" for protecting environmentally sensitive habitats, including Morro Bay Estuary, a protected State Marine Reserve. Thus, this component of the project does not conform not to CZLUO 23.08.288 and other sections cited below.

The *Fine Screening Report* and EIR assume the "hybrid gravity" collection system selected for the project will allow about 100 AFY of water into the system per year more than the system it was compared to (STEP). This is due to leaks in the system, which become worse over time. The leaks allow what is known as inflow and infiltration or I/I. The Planning Commission added Condition 98 (sealing portions of the system in high ground water and near the bay) recognizing the need to reduce I/I into the system, which results in increased wastewater flows, increased treatment needs, incomplete treatment, contamination of effluent with seawater (preventing its beneficial reuse), and reduced ground water recharge. I/I, especially during storms, is a leading cause of overflows and pollution of aquatic ecosystems. Exfiltration, or leaks out of a non-sealed system, is also a major cause of pollution of beaches and other marine environments.

STEP will completely eliminate I/I and related problems when laterals are sealed (as called for in Condition 98) and it avoids the need to locate pump stations near sensitive ecosystems as required with the hybrid gravity system (e.g., at Third Street and Pismo Streets). STEP pipelines are installed entirely in shallow, narrow trenches or by horizontal drilling, rather than deep open trenching as needed for gravity line installation. This significantly reduces impacts to soils, existing infrastructure, areas of archeological significance, and water resources. (Deep trenching in roadways requires more water for dust control and soil compaction, and it causes greater impacts to water resources from dewatering, e.g., removal and disposal of groundwater.). STEP reduces or alleviates the need for many conditions on the project designed to mitigate for the gravity system (e.g., 10, 24, 25, 46, 76, and 98). STEP also reduces sludge handling and hauling by 75-90% reducing associated problems (see below).

Furthermore, John Waddell, Project Engineer, indicated (at a Planning Commission meeting on July 24) that the hybrid gravity system is designed for 70-80 gpcd flows, and requires redesign of

the system to accommodate conservation flows. On August 13, Mr. Waddell said redesign could be performed as part of a request for proposal (RFP) process. However, design review and analysis of potential impacts for a redesigned system is required to ensure the system protects resources. Impacts from a poorly designed system could include 1) installation impacts due to very deeper trenching, 2) greater blockage and overflows due to inadequate slope or pipe diameters, 3) large amounts of water needed to flush and clean the system, and/or 4) persistent odors. These potential impacts are inconsistent with LCP provisions and violate the CZLUO (e.g., Section 23.08.288). The collection system must perform optimally (e.g., with conservation flows) to protect and maintain sensitive ecosystems and other valuable resources. The STEP system maintains optimal performance with low flows from conservation, so it protects and preserves scarce water resources and provides maximum protection for environmentally sensitive habitat and other coastal resources consistent with LCP policies and CZLUO requirements.

Additional Reasons for Appeal

A stronger conservation program is needed to maximize funding, provide the greatest possible seawater intrusion mitigation and protection of environmentally sensitive habitat: The project's current conservation program does not maximize the benefits of integrated planning or the potential of an intensive water use efficiency program including indoor and outdoor options, as well as LID and graywater reuse. An integrated approach emphasizing water use efficiency is recommended in the *California Water Plan,* and water use efficiency is now widely considered the most-cost effective way to provide a supplemental water source for thirsty communities. This approach also provides the fastest and surest way to develop the supplemental water needed to substantially reduce pumping of the lower aquifer and stop seawater intrusion. LID options are recognized as low-cost ways to enhance groundwater flows and reduced surface water pollution. As part of an integrated program, they will reduce water use, provide flows to sensitive ecosystems, mitigate for on-lot disturbance, and increase grant opportunities, among other benefits.

At the project appeal hearing on September 29, the SLO County Board of Supervisors substantially weakened the conservation condition set by the Planning Commission (Condition 99). The new language effectively delays program implementation and removes a definite funding source (i.e., LOWWP project funding), replacing these provisions with indeterminate timelines and funding sources. The new language also limits measures to only indoor retrofits and it eliminates a provision for water auditors. Even with the original Planning Commission language, the project's conservation element could be much stronger, providing significantly greater benefits to residents and and the basin An aggressive water use efficiency program, targeting about a 30% reduction of total water use in the basin, is achievable and likely the only way to establish a sustainable basin (see suggested conservation language attached).

A stronger reuse program is needed to provide the greatest possible seawater intrusion mitigation and protection of environmentally sensitive habitat: The SLO County Board of Supervisors weakened the SLO County Planning Commission conditions relating (originally Conditions 97 and 103, combined into Condition 97) designed to prioritize reuse options to achieve the greatest seawater intrusion benefits and to protect sensitive ecosystems. The condition, as now written, allows the purveyor adjudicated (ISJ) process to determine the uses of recycled water. Only

recycled water not negotiated as part of that process is subject to the seawater intrusion priority language in the current conditions. This change does not ensure recycled water will be used to maximize seawater intrusion benefits or provide important mitigations for reduced groundwater flows. The original Planning Commission measure could be made stronger by eliminating language that limits urban reuse options in the "Reuse" technical memorandum (i.e., the parenthetical phrase should be removed). Also, ag exchange and urban reuse should be specifically mentioned as options with the greatest seawater intrusion benefits.

(In addition to the LCP/CZLUO policies/sections cited in the above section of this appeal, the project fails to conform/comply with LCP Environmentally Sensitive Habitats Polices 1-8, 11, 12, 16, 17-23, 26-30, 36-39; LCP Coastal Watersheds Policies 1-3, 5, 10, 11; LCP Public Works Policies 1, 2, 5, 6 and 8-10; CZLUO Sections 23.01.010, 23.04.403, 23.07.172, 23.07.174, 23.07.176, 23.07.178, 23.08.288).

STATE OF CALIFORNIA – THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Linde Owen
Mailing Address: 1935 10th B
City: Los Osos Zip Code: 93402 Phone: (805) 528-6403

SECTION II. Decision Being Appealed

1. Name of local/port government:
San Luis Obispo County

2. Brief description of development being appealed:
Los Osos Wastewater Project

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CENTRAL COAST AREA

3. Development's location (street address, assessor's parcel no., cross street, etc.):
Prohibition Zone to Giacomazzi treatment site (also disposal on AG, etc.)

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions
☑ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069
DATE FILED: 12/21/2009
DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☒ Planning Commission
- ☐ Other

6. Date of local government's decision: 9/29/09

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
976 Osos St., Room 300
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Please refer to the 17 appellents from the Sept. 29, 2009 BOS hearing.

(2) Attorney Generals Office
California Department of Justice
Attn: Public Inquiry Unit
P.O. Box 944255
(3) Sacramento, CA 94244-2550

Civil Fraud Dept.
U.S. Department of Justice
950 Pennsylvania Ave., NW
(4) Washington, DC 20530-0001

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I have evidenced mismanagement and malfeasance in the SLO County's management of the Los Osos Wastewater project design process from start to finish. Their Technical Task Force documents don't match up with their final design, much of the data remains incorrect, their EIR is exhorbitant and non-comprehensible, and the Design/Build process was manipulated to only allow Gravity collection and chemical/energy treatment technology to compete for final design.

This removes competitive options, all of which were promised in the 218 literature, the County's literature, and obviously necessary for Step/Ponding technology to have a cost review and energy analysis.

This has produced a flawed outcome. It is your job to review and reject these obvious dark questions and demand excellance.

Urgency is not a true excuse:
1) RWQCB must consider a Waiver to Res. 83-13 due to the unbearable cost. Nitrate levels have not increased in 29 years and remain at only 1 mg over drinking standard. Far more urgent is the addressing of sea water intrusion, currently at a critical level. We may lose our drinking basin supply before nitrates ever pose a true threat.

2) Federal assistance applications from the County aren't based on the greeness of the project but instead, the perceived project cost. The County was tasked with choosing the most affordable green sewer. The current proposal meets neither criteria and insteads searches out assistance funding on perceived cost of a mega sewer. This is the wrong approach and is being investigated.

My three issues are
1) Affordability. Options have not been pursued properly.

2) Impact on wetlands and landsape currently dependent on leach field waters, if you terminate that in a 3 year period.

3) Treatment options based on sludge generation and disposal. Ponding treatment produces NO sludge for 20 years, BioLac/chemical/energy treatment generates a minimum of 2 truckloads weekly to Santa Maria. This amounts to more than 2000 truckloads that could be avoided using better technology (Ponding). Air Quality comparisons have not been evaluated because Ponding technology was not included in the Design/Build process because of the hostile nature of this project's design team's 'invite to compete'.

(1)

California Coastal Commission
725 Front Street
Santa Cruz, CA

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COASTAL COMMISSION
CENTRAL COAST AREA

December 21, 2009

Attention: Jonathan Bishop

Subject: Appeal of Los Osos Wastewater Project / County File No. DRC2008-00103

I respectfully submit just three of my concerns, though every phase of the SLO County approved project, minus the new location and disposal using Ag exchange, are troubling. Having been involved for the past 8 1/2 years, I have seen a consistent battle over fair process and a failure to allow new technology to compete, thus leaving a fumbled and flawed project proposal for your review. I am a member of LOCAC, LOCAC Land Use Commiittee, LOCAC Tree Committee, and the LOCSD Water Operations Committee but I address you as a private citizen.

Issue 1) AFFORDABILITY. Section 30001 Legislative findings and declarations; ecological balance

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of the state and especially to working persons employed within the coastal zone.

Section 30001.5 Legislative findings and declarations; goals

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of this state.

Section 30604 Coastal development permit; issuance prior to certification of the local coastal program; finding that development in conformity with public access and public recreation policies; housing opportunities for low and moderate income persons

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

The only way to responsibly address Affordability would be to condition the project with a legitimate Design/Build bidding competition process as promised through out the current EIR and 218 election analysis. The County proposed project admits that STEP collection is more affordable:

Following is a direct quote from the Final Fine Screening Analysis (page 1-9) that addresses installation costs as well as additional treatment costs:

"If a STEP/STEG collection system is selected it is anticipated that there will be minimal infiltration since the system is sealed and under pressure. If a gravity collection system is selected, only a system that was constructed of fusion-welded PVC piping could be operated with as little I/I as a STEP/STEG

(2)

system. However, fusion welded PVC sewers are a new technology with little long-term operating history, and **can be significantly more costly** to install than traditional bell-and-spigot gravity sewers.

Properly installed bell-and-spigot sewers will be watertight at first, and then slowly lose their integrity as the surrounding soils shift, compressing the pipes, and compromising their seals at the joints."

It appears that fusion-welded PVC is the only solution that will make gravity sewer a "viable project." This cost is un-accounted for and to further complicate the gravity sewer collection challenges, the final Fine Screening did not reflect the true cost impacts of sea/ground water infiltration into the gravity sewer line, which can adversely impact treatment costs, beneficial reuse, sea water intrusion mitigation, and crop irrigation.

Directionally bored, shallow (4-5 ft) STEP collection piping will go in the 'right of ways' vs the Gravity piping's needs to be located in the 42 miles of paved roadways. Cost of trenching, dewatering, cultural burial grounds disturbance and street repair/replacement has received little cost analysis.

That is why I ask that you **condition the project to reopen the bidding process with an outside evaluation team.** Currently the only STEP construction bidder(Lyles Construction) was questionably eliminated by a team made up of the same consultants and County staff working on preparation of the EIR.

I also ask for your consideration proposing a request to the RWQCB for issuance of a Waiver to support a <u>phased project</u> design due to the unfundable costs of sewering the entire Prohibition Zone in a failing economy. Overall nitrate levels in the upper aquifer are 1 mg over drinking water standards, therefore do not constitute the perceived threat to health and safety.

Collecting the low lying areas in a community Sewer/Septic District would significantly address nitrate levels as well as provide a treatment facility for septic pumpings that currently must be driven to Santa Maria. The current proposed sewer design admitedly will show **no improvement in nitrate reduction for 30 years.**

A Septic Management program for areas with adequate distance to groundwater would address the RWQCB's Resolution 83-12 which has never been enforced and go further at probsafe basin supply.

A phased project will give landscape and wetlands a chance to adjust much more reasonably and safely.

San Diego **cannot afford to improve their ocean outfall pollution stream <u>due to cost</u>...** the RWQCB recently voted to renew their Outfall Waiver, continuing to allow secondary treated waste to be dumped in the ocean there.

A RWQCB Waiver would make the project more affordable, especially if STEP collection and Ponding treatment technologies are fairly vetted.

(3)

Issue 2) Unmitigated impact on landscape dependent on 5000 leach fields. Section 30101 Coastal-dependant development or use "Coastal-dependant development or use".
Los Osos Groundwater Basin currently provides 1 million gallons per day of leachfield water for a wide variety of mature trees and shrubbery, native and non-native, as well as several areas of wetlands. Attached letter (attachment A) from Fish & Wildlife notes concern over a lack of mitigation and inconsistency with CEQA.

County's Response to Comment A8-9, (my bolding)

"This comment stated that the Draft EIR did not consider the loss of habitat associated with the elimination of the septic water leaching from the existing septic tanks. As described on page 5.2-19 in Appendix D-1, the implementation of the proposed project would reduce septic effluent discharge into the perched aquifer. **However, the exact quantity of reduction within the perched aquifer is unknown, and the potential impact on groundwater flow to surrounding surface water features is speculative given the amount of perched groundwater currently flowing to surface water features is not known.** As a good faith effort to obtain measurement data, groundwater levels will be monitored to understand potential changes in groundwater levels. Therefore, as a project design feature and previously agreed to by the California Coastal Commission, the County will review and approve a Groundwater Level Monitoring and Management Plan detailing methods for measuring and responding to changes in groundwater levels that could affect wetland hydrology and habitat values. In accordance with the monitoring and action plan proposed by the LOCSD, the Plan shall include provisions for monitoring groundwater levels, surveys for wetland plant and animals, monitoring wetland hydrology and water quality, appropriate response procedures should impacts be identified, annual reporting, and an education program to encourage property owners to convert septic systems into areas capable of groundwater recharge."

The negative impact on all landscaping and wetland areas is of extreme concern and is NOT adequately addressed.

Requesting a **waiver from the RWQCB for a phased project approach** could best assure that there is not a total die-off of community tree and plant colonies.

Issue 3) AIR Quality - Sludge Removal. Current questionable project bidding outcome has also produced no alternative bidder for the Ponding Treatment vs conventional. Air Quality and toxic disposal issues alone would question why anyone would ignore a treatment process that, besides energy and operation/maintenance savings, eliminated sludge removal for TWENTY to THIRTY years. Over a 20 year period comparison of cost and air quality impact is substanial when 2-3 sludge loads per week are multilpied out. Ponding treatment ELIMINATES this transport.

Thankyou,

Linde Owen, 1935 10th B, Los Osos (805) 528-6403

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 12/21/2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Please accept the application form and attach my appeal documents.

My apologies for forgetting to re-submit my app. form.

Thankyou, Happy Solstice and have a restful holiday break.

I hope that our appeals can be heard in March or at the location most accessible. I work 5 days a week and would have a difficult time attempting to attend in Long Beach. Monterey would be far less stress for most of us. SLO would be wonderful.

Thanks,
Linda Owen

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CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Steven Paige

Mailing Address: 1554 Ninth Street

City: Los Osos Zip Code: 93402 Phone: 805-528-4738

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CENTRAL COAST AREA

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Luis Obispo

2. Brief description of development being appealed:

Los Osos Wastewater Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos Prohibition Zone wastewater collection system and LOWWP Wastewater Treatment Facility

4. Description of decision being appealed (check one.):

☒ Approval; no special conditions

☐ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

DATE FILED: 12/21/2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☒ Planning Commission

☐ Other

6. Date of local government's decision: November 24,2009

7. Local government's file number (if any): Resolution 2009-385

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
976 Osos Street Rm. 300
San Luis Obispo, Ca
93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Surfrider Foundation
San Luis Obispo Chapter
PO Box 13222 San Luis Obispo, Ca.
93406

(2) Mike Saunders
Orenco Systems, Inc.
814 Airway Ave
Sutherlin, Oregon 97479

(3) Attorney General's Office
California Department of Justice
Attn: Public Inquiry Unit
P.O. Box 944255

(4) Sierra Club
Santa Lucia Chapter Office
547-B Marsh Street,
San Luis Obispo, CA 93401

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I, Steven Paige am appealing resolution 2009-385 that attempts to amend DRC2008-00103. I am appealing that board findings 3-a,3-b,3-c are not based on fact and that the FEIR does need an SEIR modification to be in compliance with CEQA and the Costal Act.

My complaint is based on the fact that there has been little or no enviormental review or review of impacts of the new adjustment to agricultural (or landscaping) re-use of water over the LO water basin nor review of better mitigations. This ruling affects my claims in Costal appeal A-3-SLO-09-055.

This directly affects issue 3 of my previous appeal. I claim that giving economic credits to homeowners for use of on site greywater systems to water landscaping is a superior mitigation to recycle water into the Los Osos water basin. It requires no off property management, treatment, shipment or disposal and is diffuse over the ground water basin. It reduces estimated disposal plant sizing, GHG impacts and energy requirements. State lawmakers in August approved SB1258, greywater use changes, as part of a statewide emergency action. Los Osos residents have rights and privleges associated with that action that cannot be ignored as this Resolution does. SB1258 directly affects California Constitutional law in that it changes 'special benefit' (Article 13D) estimates related to sewage collection and management. If not addressed now, it could result in lengthy tax law litigation or set off the requiring a of a new 218 vote. A new SEIR will settle most of these issues.

I incorparate my previous appeal into the appeal of Resolution 2009-385 and incorprate by reference all submissions of documents in appeal A-3-SLO-09-055:

I, Steve Paige, am claiming the CSLO's CEQA filing is incomplete because of CEQA Section 21091 d (2) (B) inconsistencies. Simply, there was no written responses to my several challenges to the SLOPC claim of "maximum affordability mitigation". This creates an incomplete and tainted filing to the Coastal Commission due to violations of my right to due process. Further, I sent a 25 minute request for time (see attachment) certified mail, two weeks before hearing on seven specific and complicated issues (see BOS filing) and was denied 15 minutes of 25 minutes of the time requested and rebuttal time at CSLO-BOS 9/29/09 hearing. My right to do process was violated a second time.
No mitigation is proposed for REO properties and properties in foreclosure. A new SEIR on Enviormental Justice and affordability mitigation is required that includes a independent study of recycling existing septic tanks to mitigate total project costs. Further, the Enviormental Justice FEIR impact study for CEQA is flawed. The CSLO FEIR EJ APPENDIX statistical methodology does not specifically delineate the Prohibition Zone Population but falsely includes wealthier homeowners outside the PZ to justify a 'negative declaration' for low income impacts and is inconsistant with Costal Act

Sec.30253 (e). The present sewer project reduces low and middle income access to costal 'resources', including habitation, by economic attrition and lack of reasonable Enviormental Justice mitigation.

Issues ignored at the CSLO hearing but required to be addressed under CEQA include:

Issue 1--No written response by CSLO to my claim that the County assumption of a presumptive right to remove existing septic tanks is a "regulatory taking" in violation of the Costal Act "Sec. 30010: Taking of private property". Existing tanks can be used as STEP/STEG component without challenging property rights and creating assessment irregularties. No mitigation has been proposed using existing on site septic tanks as an affordability and enviormental mitigation. Primary waste treatment (see my County BOS Powerpoint) is not a "special benefit" under Article XIII D. It is occuring on site already. No regulatory takings study was done by either the RWQCB3 or the CSLO. The County has no right to demand the removal of the septic tank waste processing component from my property. It has zero discharge when tied to the project collection system. The CSLO gravity LOWWP as proposed, is an act of 'inverse condemnation' given that treated wastewater leaving the existing septic tank can go into a STEP collection system with beneficial enviormental results for a lessor cost to homeowners.

Issue 2--No written Response by CSLO, 23.02.035 Additional information required: Gravity collection I and I expands wasterwater system sizing to greater than the needs generated by existing home inventory. Added capacity may be used for justification of urban development after CC approval justifies added capacity for I and I impacts. LCP Public Works Policy states: "Policy 2: New or expanded public works facilities shall be designed to accommodate but not exceed the needs generated by projected development within the designated urban reserve lines." "Projected development" cannot include infill lots without a water source, HCP findings, a 218 vote, and stoppage of salt water intrusion.
Gravity pipe 'infiltration' is a fresh water recharge removal of 300,000 GPD during the rainy season. STEP collection is an obvious mitigation. STEP collection retains recharge at the 'site' by not having any infiltration potential (pressure gradient). STEP collection is more consistant with 'on site provisions' Costal Watersheds-Policy-11. In gravity collection the county ROW is the 'site'. Gravity pipe infiltration removes recharge water from the 'site', pollutes it, transfers it to the wastewater plant, treats it then sends it back to a point source (Broderson) for release with questionable results. This process does not represent the best mitigation when gravity pipe infiltration can be avoided entirely. Costal Watersheds policy 11: "Preserving Groundwater Recharge In suitable recharge areas, site design and layout shall retain runoff on-site to the extent feasible to maximize groundwater recharge and to maintain in-stream flows and riparian habitats."

Issue 3--No written response by CSLO as per CEQA Act, 23.02.035 Additional information required: Grewater usage is given no economic credit as an incentive. Greywater is a non-point basin recharge benefit. Greywater reuse creates water conservation. Highly efficent conservation is related to gravity collection low flow impacts of odor and sulfide gas corrosion. No Grewater GHG reduction analysis was done.

Issue 4--No written response by CSLO as per CEQA Act, Costal Act 23.02.022 Determination of completeness, 23.02.035 Additional information required.
The CSLO failed to adequately review Environmental Justice impacts and did not minimize life cycle costs and mitigate affordability by omitting reference to and mitigation for the suspension of Senior Citizens' Property Tax Deferral Program used to garner votes in the 218 voting process. Petitioner claims the action is discrimitory aginst seniors and denies seniors the right to due process.

Issue 5-- Affordablity mitigation No response, Costal Act 23.02.022 Determination of completeness, 23.02.035 Additional information required.
The Planning Commission and CSLO failed to adequately review Environmental Justice impacts and did not minimize life cycle costs and mitigate affordability by the act of not acknowledging that the County of San Luis Obispo Broke Community 218 vote Contract for the inclusion of the STEP/STEG Option in the design bid build process. County claims paralegal advisory vote trumps constitutionally required engineer's report and assessment vote giving itself permission to break community contract that was to include STEP/STEG in design/build process. Petitioner claims the action is discriminatory.

Issue 6--Costal Act 23.05.140 Archeological resources discovery and impact study incomplete. SEIR for STEP using existing septic tanks is required. CSLO uses a 'heresay' evaluation based on a false assumption. The CSLO LOWWP EIR claimed Step and Gravity piping systems have the same archeological impacts by avoiding considering recycling of existing septic tanks. Where trenching is needed with STEP collection it seldom requires a depth of over 5 feet. For gravity trenching 14,784,000 cu ft of soil up to 22 feet deep and 4 feet wide is subject to archeological investigation and impacts. Dewatering makes archeological investigation impossible in low lying areas. For STEP collection in Los Osos, 369,000 cu ft are subject to investigation based on using directional boaring. On site STEP laterials are typically 1 1/2 " diameter HDPE pipe 18 inches below grade minimum without slope considerations. Petitioner claims CSLO ignored existing septic tank recycling to justify their own claims of co-equal mitigation. Petitioner will submit contrary evidence and engineering to back this claim by a licenced engineering firm knowledgable in step collection. END.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: ~~10/13/09~~ 12/16/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize None
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: ~~10/13/09~~ 12/16/09

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SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Chuck Cesena

Mailing Address: 591 Ramona Avenue

City: Los Osos Zip Code: 93402 Phone: (805) 534-1436

SECTION II. Decision Being Appealed

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COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos wastewater treatment project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Throughout the community.

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

DATE FILED: 12/21/2009

Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo Public Works
976 Osos Street
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I appeal this decision primarily because potentially significant impacts upon archaeological, biological and groundwater resources have not been mitigated to the maximum extent feasible, as claimed by the applicant. The specific LCP policy violations are detailed in the attached appeal that was first filed with the County of San Luis Obispo, and will be supplemented with additional material in a timely manner. I also appeal on the basis of the County's refusal to consider alternatives that would reduce biosolids (sludge) production, as requested in the Coastal Commission staff's guidance letters to County Public Works.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Claudia Cesena

Signature of Appellant(s) or Authorized Agent

Date: ~~October 14, 2009~~ 12/19/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____

Signature of Appellant(s)

Date: _____

TO: San Luis Obispo County Board of Supervisors

RE: Appeal of Coastal Development Permit, Los Osos Wastewater Project, DRC2008-00103

CC: Sara Christie. Chair, SLO Planning Commission
Jonathan Bishop, California Coastal Commission

I, Chuck Cesena, a resident of the Los Osos "prohibition zone", do hereby appeal the August 13, 2009 decision of the SLO Planning Commission regarding the above referenced project. The basis for the appeal is as follows:

Development Plan/Coastal Development Permit Findings

B-6
One of the goals of Coastal Act watershed policies is to protect groundwater basins. The proposed project must include an agricultural exchange/reuse program as the primary means of effluent disposal for this finding to be true. The previously proposed spray fields were a criminal waste of water. As detailed in the appeal from the Los Osos Sustainability Group, reliance upon the Broderson leachfields and the water purveyors' existing groundwater adjudication will not provide a balanced basin.

B-8
The proposed project **does not** avoid Environmentally Sensitive Habitat (ESHA) to the extent feasible. The proposed gravity collection system requires waiving wetland setbacks for pump stations and would probably construct pump stations in ESHA. The extent of this impact was not detailed in the EIR. There is no definitive statement regards the exact locations of the pump stations and no calculations regarding impacts upon sensitive resources, only vague statements alluding to the minimization of impacts to the extent feasible. But the STEP/STEG collection system would not require wetland setback variances or ESHA destruction as there would be no pump stations required. Regarding ESHA resources, the STEP/STEG collection system is the Environmentally Superior option.

B-10
The proposed project **does not** avoid impacts to archaeological resources to the maximum extent feasible. The proposed mitigation for the installation of deep gravity collection system trenches in sensitive areas calls for monitoring of mechanical backhoe trenching through these areas. But according to CEQA and Local Coastal Plan policies, avoidance is the first mitigation strategy, not the careful recordation of the destruction of the resource. Micro-tunneling, as would be used for installation of a STEP/STEG collection system, allows for the avoidance of the resource as the grade and route of the pipe can be easily changed during construction. Since the system is under constant low-pressure, there is not need to maintain preset grades to ensure the functioning of the system. The grades (profiles) for pipes that rely on gravity for conveyance cannot be

easily changed when unexpected resources are encountered. It becomes necessary to destroy the resource by trenching through it and all the careful monitoring in the world will not avoid the impact upon Native American grave sites.

C – 3, 4
For the reasons given above the project is not in conformance with the following Sections of Title 23 of the County Code and Local Coastal Plan:

23.107.04 Protection of Archaeological Resources,

23.07.170 (4) (B) New development in ESHA must be resource dependant,

23.07.172 Wetland Setbacks

23.07.176 (1) 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,

23.07.176 (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.

H-1, J
Again, the project **does not** avoid sensitive resources to the extent feasible as it favors a gravity collection system with pump stations within ESHA. The use of a STEP/STEG collection system would avoid these resources.

R-Y
There would be no need for a wetland setback variance for pump stations with a STEP/STEG collection system as there would be no pump stations.

Z
The proposed project **does not** acceptably and adequately provide for the protection of archaeological resources as it does not provide for the avoidance of those resources. It calls for the destruction of the resource and recordation of the destruction as mitigation.

<u>Development Plan/Coastal Development Permit Conditions</u>

24-26

Is it really possible to condition a project to prepare a report addressing geologic hazards and predetermine the findings of that report? What happens if the insignificant finding cannot be made? Isn't that why the EIR was written in the first place, to determine the risks?

A gravity collection system with bell and spigot connections is much more susceptible to rupture and displacement during a seismic event than a fuse-welded STEP/STEG collection system. Is it adequate to call for "soft-fixes" (a repair plan) rather than to require the construction of a collection system that would be better able to withstand seismic events in the first place?

28 -31

These measures call for the careful recordation of the destruction of archaeological resources, not the avoidance of those resources.

98
This condition needs to be amended to require fusion welded collection system pipes in all areas of historic high groundwater. Groundwater levels such as those present during the winter of 1995 will be much higher than those present when the project is likely to be constructed. Allowing these determinations to be made in the field during construction will not provide adequate protection against unnecessary infiltration of the collection system, especially if construction occurs during the summer months of a drought cycle. And these field determinations open the door to expensive change orders, which the design build process was supposed to prevent. Suggested language is attached.

101
The disposal of 33 acre feet per year of treated effluent will not mitigate the effect upon sensitive habitat resources dependent upon the existing discharges from this leach field. The Willow Creek drainage supported by this leach field, and other neighborhood septic tanks, will be adversely affect by the removal of water from this leach field. Other sensitive habitats throughout the community will suffer the same fate.

Development Plan/Coastal Development Permit CEQA Findings

1.3.2 Findings For Determination of the Environmentally Superior Alternative

The findings that the Planning Commission approved project is the Environmental Superior Project can only be made if it is assumed that the gravity collection system is the environmentally superior collection system. It is not, for the reasons given in the Sierra Club appeal of this project and my comments on the DEIR. The County has failed to adequately compare the two collection system technologies with regard to ESHA destruction, infiltration and inflow issues, biosolids production and greenhouse gas production. Inconsistencies with ESHA policies alone should preclude the gravity system. All of the County documents have acknowledged STEP/STEG's superior performance with regard to I & I issues. The County has yet to seriously address the production of biosolids, as was requested in the July 15, 2009 letter from the California Coastal Commission. And they have yet to respond to the issues raised and data presented in the 5/27/09 letter to the Planning Commission from Michael Saunders of Orenco Systems, Inc., or to adequately analyze green house gas emissions associated with hauling of sludge to probable destinations outside of the County.

In 2006, then County Public Works Director Noel King stated that the LOWWP would feature a gravity collection system. In the 2007 review of the Carollo Fine Screening Report, the National Water Research Institute (NWRI) peer reviewer stated that he was having a hard time not using the words gravity biased to describe the report. It has been obvious that the County has intended to not allow an honest consideration of alternative

collection system technologies. So it is very difficult to see how the general findings in Section 1.8 can be supported, particularly bullet #11 regarding no previous commitment to a definite course of action prior to certification of the EIR. And the failure of the general findings leaves open the question of all of the specific findings as the true Environmentally Superior Alternative was not the project proposed for consideration by the Planning Commission.

In addition to the failure to satisfy many Coastal Policies that focus on the physical environment, the proposed project fails to satisfy county code and Coastal Plan Policy 23.04.092 which requires that housing opportunities in the coastal zone for persons and families of low or moderate income shall be protected. The STEP/STEG collection system was guarenteed (by the Lyles team) to be at least 20% cheaper than the gravity system during the County Request for Qualifications interviews. And if the project were treated as whole rather than the sum of independent parts, the savings on the treatment system would likely be as substantial. In 2006, an updated wastewater project report was commission by the Los Osos CSD (Los Osos Wastewater Management Plan Update - Wastewater Collection, Treatment, Storage, and Water Recycling: Beneficial Reuse of Water and Nutrients, Ripley Pacific Company, 12/18/2006). The schematic diagram of this proposal was so highly regarded by the NWRI that it was published in their recent textbook entitled Water Reuse. It is interesting to note that the project, as now modified by the Planning Commission, looks exactly like that 2006 project except for the lack of the environmentally superior STEP/STEG collection system and a commitment to full agricultural reuse for disposal.

The EPA recognizes the potential benefits of a STEP/STEG system for communities such as Los Osos, urging "full consideration of options to a traditional gravity sewer, which "smaller communities cannot afford," such as pressurized effluent collection systems consisting of:
"shallowly buried plastic pipes, low-cost cleanouts instead of frequent/costly manholes, and a minimum number (if any) of lift stations. They have 40 years of successful experience in the US and worldwide (less I/I [inflow and infiltration], exfiltration, construction duration and disruption). Their management requirements are equal to or lower than conventional gravity sewers (depending on the number of lift stations)."
(www.epa.gov/owm/septic/pubs/septic_technologies.ppt)

Due to the substantial reconfiguration of the project in the Coastal Development Permit/Development Plan Findings and conditions of approval, the significant new information entered into the record in the Planning Commission process, and the inadequate and conclusory nature of the EIR as detailed above, the County must recirculate a revised EIR, pursuant to CEQA Guidelines § 15088.5(a)(1); § 15088.5(a)(2); and § 15088.5(a)(3).

Chuck Cesena
591 Ramona Avenue
Los Osos, CA 93402

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: J.H. Edwards Company, Jeff Edwards

Mailing Address: P.O. Box 6070

City: Los Osos, CA Zip Code: 93412 Phone: 805-235-0873

SECTION II. Decision Being Appealed

RECEIVED
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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Wastewater Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2198 Los Osos Valley Road, Los Osos, CA, APN#067-011-022

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

DATE FILED: 12/21/2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: September 29 and November 24, 2009

7. Local government's file number (if any): DRC2008-10103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County
San Luis Obispo County Government Center,
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See appeal dated October 16, 2009 (A-3-SLO-09-055)

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- *Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act.* Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons *the decision warrants a new hearing. (Use additional paper as necessary.)*
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See J. H. Edwards Company, Jeff Edwards, appeal dated October 16, 2009 and supplimental information attached herein.

(A-3-SLO-09-055)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: December 21, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

December 21, 2009

Re: DRC2008-10103 Los Osos Wastewater Project

Edwards appeal A-3-SLO-09-055
Appeal #2

Dear Jonathan,

From a procedural stand point I take exception to the manner in which the County has modified the proposed project without a de Novo hearing. Attached please find my complaint filed with the Superior Court asking for relief. The merits of the argument were not heard by the court before the Board's recent action on November 24, 2009. I continue to believe that the County has violated the Coastal Zone Land Use Ordinance by not conduction a de Novo hearing on that date.

On a related note, there is some question as to whether or not the 49-day waiver provided by the County is still applicable. I assert their original waiver should remain in full force and effect and the clock should not be reset as the County believes it should.

Acknowledging the changes to Condition #97 by the Board on November 24, 2009, were precipitated in large part by input from your office, the changes did not go far enough. As you know, Condition #97 is basically the disposal plan for the project. This is a major project component and must be feasible to implement. The continuing advance of seawater intrusion is a major threat to the lower aquifer resulting in a deficiency of about 460AFY. Without significant changes to Condition #97 one-hundred percent (100%) of the treated effluent may have to be disposed at the Broderson site. Potential adverse impacts from such a disposal plan are documented in the Geotechnical Report, Los Osos Wastewater Project, Los Osos Community Services District, San Luis Obispo County, California, prepared for Montgomery Watson Harza, presented by Fugro West, Inc. March 9, 2004.

Moreover, complete reliance on the Broderson site may not provide optimal mitigation for seawater intrusion. Please see prior appeal (A-3-SLO-09-055) with regard to surface water discharge on a seasonal basis in Los Osos Creek. A surface water discharge and the use of the Creek Compartment represent a conjunctive use with the lower aquifer in pursuing a sound basin management plan. The use of the creek during dry weather for disposal also provides enhanced aquatic habitat for steelhead trout.

Most egregious in Condition #97 is the retention of minimum dedications of treated effluent for unidentified Agricultural and Environmental purposes. Originally, these contemplated dedications of treated effluent were to have been maximums or "ceilings". Now, the required dedications represent a "floor" and equate to approximately 240AFY. This dedication of treated effluent may have little or no seawater intrusion mitigation and may increase the existing seawater intrusion deficit by as much as 50%.

Significant changes to the projects disposal plan are needed to reduce environmental impacts. It may also be prudent to review the treatment site location as it does not represent the most ideal location as a distribution hub for treated effluent on a year round basis. Additionally, a treatment site location closer to the urban reserve line may also reduce environmental impacts.

It also appears the County has an ever-changing project description, one I am unsure they have fully related to your office. Specifically, I believe it is the County's intention to use one or more of the following real properties as part of the proposed project. The properties are; Andre (APN# 067-031-011 and 067-131-008) Robbins (APN#067-031-037 and 067-031-038). I believe the County intends to use the properties in question for access to the Giacomazzi site and potentially for purposes of sprayfields on an "emergency basis." Neither these properties nor such uses were part of the County approved project.

Finally, on November 24, 2009, in acting upon the modification on Condition #97 the County included a resolution which added language:

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 the 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.

It is unclear what the County's purpose was in crafting such language. However, I believe it is a thinly veiled bluff with respect to real changes that may be made to the project by the Coastal Commission or a Court. In other words, the County is saying "if we don't get our way, we will pick up our marbles and go home." This is a weak bluff in that the County is desperate to get back the $7.25 million they have loaned the community for the proposed project. The only way the County will be repaid is with an approved Coastal Permit and they officially "take" the project. Call their bluff they will take whatever changes are proposed because they will not risk losing the $7.25 million.

Thank you very much,

Jeff Edwards

Jeff H. Edwards
PO Box 6070
Los Osos, CA 93412
(805) 235-0873

Respondent, JEFFREY H. EDWARDS, in pro per

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN LUIS OBISPO

JEFFREY H. EDWARDS, Plaintiff/Petitioner, vs. COUNTY OF SAN LUIS OBISPO; the Board of Supervisors of the COUNTY OF SAN LUIS OBISPO; Chairman Supervisor Bruce S. Gibson, Vice-Chairman Supervisor Frank R. Mecham, Supervisor Adam Hill, Supervisor K.H. "Katcho" Achadjian, Supervisor James R. Patterson, and DOES 1-25, Defendants/Respondents.	**Case No.** APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER; MEMORANDUM IN SUPPORT THEREOF; DECLARATION OF JEFF EDWARDS DATE: TIME: DEPT: TRIAL: Not yet set

Plaintiff, JEFF EDWARDS, applies for temporary restraining order and for an order requiring defendants/respondents to show cause why a preliminary injunction should not issue to enjoin defendants and their employees, agents, and persons acting on their behalf, from modifying, superseding, or replacing, pursuant to San Luis Obispo County's Coastal Zone Land Use Ordinance ("CZLUO") Section 23.02.034c(2)(iii), one or more conditions of approval of Development Plan/Coastal Development Permit DRC2008-00103 ("Los Osos Waste Water Project" or LOWWP).

This application is made pursuant to the provisions of Code of Civil Procedure section 527 on the grounds that Defendants/Respondents have no authority under CZLUO Section 23.02.034c(2)(iii) to modify any condition to the approved Development Plan/Coastal Development Permit; rather, such authority to implement the change defendant seeks obtains only from CZLUO Section 23.02.038, which states that "a new...Development Plan approval shall be obtained."

This application is based upon this application, the memorandum in support hereof, the declaration of Jeffrey H. Edwards set forth below, the verified complaint in this action and the accompanying declaration of notice.

Dated: _____

By: _____
Jeffrey H. Edwards
Plaintiff, in pro per

MEMORANDUM IN SUPPORT OF TEMPORARY RESTRAINING ORDER

FACTUAL SUMMARY

The San Luis Obispo County Board of Supervisors took final action on Development Plan/Coastal Development Permit DRC2008-00103 ("LOWWP") on September 29, 2009, including Coastal Development Findings; Coastal Development Permit Conditions of Approval; and California Environmental Quality Act Findings.

The above approval, being subject to the California Coastal Commission Review authority, was formally appealed on or before October 19, 2009 by appellants listed in Commission Notification of Appeal, Dated October 20, 2009 (Exhibit B to Declaration of Jeffrey H. Edwards). Petitioner, Jeffrey H. Edwards, is one of the appellants under Commission Appeal No. A-3-SLO-09-055.

On November 3, 2009, the San Luis Obispo County Board of Supervisors set a hearing for November 24, 2009 to consider issues of appeal identified in a letter dated October 20, 2009, from Charles Lester, Senior Deputy Director, of the California Coastal Commission. (Pgs 8-9 of Exhibit C to Declaration of Jeffrey H. Edwards) The intent of the San Luis Obispo County Board of Supervisors is to hold a public hearing and consider a change to only Condition 97 of the LOWPP. This will be detailed in a staff report yet to be released, but available on November 18, 2009. This change to the project will apparently result in a new Notice of Final Action being forwarded to the California Coastal Commission. As with the September 29, 2009 approval by the Board of Supervisors, an appeal (window) will be opened, giving rise to a plethora of questions about the status of the 23 pending Coastal appeals. Furthermore, the pending appeals will be compromised in that any new appeals resulting from the November 24, 2009 Board of Supervisors hearing would be focused solely on Condition 97 as that is the only item to be considered.

BACKGROUND

The focus of the intended action for the November 24, 2009 hearing is to change the wording of a single condition, Condition # 97, of County's prior approval/final action in an

attempt to satisfy a Coastal Commission staff request regarding the Board's September 29, 2009 LOWWP approval. The condition prioritizes treated effluent disposal resulting from the collection and treatment of wastewater from the community of Los Osos. Condition #97 reads, in its entirety, as follows:

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 ***in the Los Osos Groundwater Basin:***

a. *Broderson (not to exceed 448AFY 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. *Agriculture 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 Lin of the community of Los Osos.

*underlined portion indicates deletion and **bold** is added language suggested by Charles Lester.

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ARGUMENT

The County has cited section 23.02.034 of its CZLUO as its authority to reconsider the project and change Condition 97. The citation is contained in both an email from acting Planning Director Kami Griffin, attached hereto as Exhibit A, and in the notice setting the matter for a November 24, 2009 public hearing. A copy of said Notice of Board of Supervisors Hearing is attached hereto as Exhibit B. The County's assertion is that their intended action is enabled by the Title 23 of the County Codes, Coastal Zone Land Use Ordinance (CZLUO); to wit, section 23.02.034 c(2)(iii). (Exhibit F).

However, as a matter of standard interpretation and practice in the County, section 23.02.034c(2)(iii) of the CZLUO is used by a Review Authority (a.k.a., the PLANNING COMMISSION) as a "clean up tool" to change conditions established by a prior approval (i.e., a PRIOR DEVELOPMENT PLAN or other approval) in a new land use permit, or Development Plan as the case may be. This method of modifying conditions imposed on a project by a previous Development Plan in practice is used after the fact for issued permits and usually vested land use permits (i.e. built out projects).

In cases like the instant one, however, where a development plan approval itself is to be modified in one or more particulars, long before any substantive permits or other entitlements have been obtained or implemented in reliance on said previously approved development plan, changes to an "approved project" are considered under CZLUO Section 23.02.038 (Exhibit G) This procedure is referred to as a "Substantial Conformity" determination. This procedure is also used in instances such as the subject case where Coastal Commission appeals are pending and minor changes are made to projects to address Coastal Commission staff concerns.

Pursuant to 23.02.038 b, where a proposed change relates to a project feature that was specifically addressed in conditions of approval (i.e. Condition 97) of a Development Plan, or that was a specific consideration by the Review Authority (County Planning Commission, in this case) in the approval of a Development Plan, a new Development Plan approval *shall* be obtained.

///

Contrary to the parameters of section 23.02.034c(2)(iii), which permits the *REVIEWING AUTHORITY* (the PLANNING COMMISSION, in this case) to modify, supersede or replace "conditions of approval imposed on the subject site or land use by a *previous* Development Plan or other land use permit and which the County cites as it's authority for this action, section 23.02.038, which controls this situation, will require the County to re-notice the entire LOWWP for public hearing. That is, using the proper ordinance as authority for the simple change sought by the Coastal Commission Staff would require setting a hearing to consider the entire matter "de Novo" instead of attempting to limit the hearing to the discussion of a single condition.

Consequently, if the County or its Board wishes to make changes to the LOWWP they heard and approved, with 111 conditions less than 2 months ago, they must set a hearing to consider the whole of their action and not simply one condition.

The motivations of San Luis Obispo County come into question in such a narrow reconsideration of the original approval on September 29, 2009. It appears that there is an interest in appeasing the Coastal Commission concerns with the prospect of a simplified or expedited appeal. The long term goal may be to circumvent the Coastal Commission appeal process altogether by prejudicing the Substantial Issue hearing before the Coastal Commission that is currently being considered for January 13-15, 2010 and before which several individual appellants may be precluded from by the County's intended action following the public hearing scheduled for November 24, 2009 on this matter.

This is complicated by the fact that the applicant in this case is also the reviewing authority which raises conflict of interest questions. Certainly, no private sector applicant could commandeer the administrative process and create shortcuts deemed advantageous to themselves as the County and its Board is attempting to do in this instance.

Respondent County should be required to leave the project as it has been approved and to allow the Coastal Commission appeal process to run its course. In the alternative, if the County wishes to make any modifications to the LOWWP, it must, and it should be required, to notice the

public hearing to accomplish said modifications pursuant to the authority bestowed up it under section 23.02.038 or the County's CZLUO.

CONCLUSION

For all the reasons aforementioned, Plaintiff respectfully submits that defendant should be prevented, through the injunctive relief sought herein, from undertaking a piecemeal amendment of an approved project, which attempt will throw into confusion legitimately begun appeals, which confusion, and resulting damage to plaintiff and other claimants/appellants can be wholly avoided by the County in one of two ways: either (1) refrain from making any changes to the LOWWP and let the Coastal Commission hear the current appeals as they stand; or (2) properly notice, with appropriate authority, a public hearing of a revised LOWWP in its entirety, as required by the County's own Land Use Ordinance section 23.02.038.

Respectfully Submitted,

_____

Jeffrey H. Edwards, in pro per

DECLARATION of JEFFREY H. EDWARDS

I, Jeffrey H. Edwards, declare:

1. I am the plaintiff in this action and have personal knowledge of the facts stated in this declaration. I have lived in Los Osos and been a practicing land use planner and consultant in the COUNTY OF SAN LUIS OBISPO ("County") for over 25 years, and am well familiar with the law and the process of approving and amending Development Plans within the County.

2. The Petition supported by this Declaration seeks to prevent defendants/respondents from attempting to improperly modify County's final action/approval of Development Plan/Coastal Development Permit DRC2008-00103 ("LOWWP"). Failure to enjoin the County's intended action will sow confusion and create ambiguity and uncertainty in an appeal process that is already underway with the California Coastal Commission following County's approval of LOWWP. Ultimately, the intended action could result in the exclusion of current appellants of the LOWWP.

3. On September 29, 2009, at a properly noticed public hearing of its Board of Supervisors ("Board"), respondents, and each of them, took final action upon LOWWP, including 111 conditions of approval, Coastal Development Findings, Coastal Development Permit Conditions of Approval, and California Environmental Quality Act Findings. A true and correct copy of the Board's Notice of Final Action and Conditions of Approval is attached hereto as Exhibit C.

4. On or before October 19, 2009, several appellants, including myself and two (2) individual Coastal Commissioners, appealed the LOWWP to the California Coastal Commission ("CCC"). I thereafter received notice that my appeal had been received and accepted by the CCC and identified as Commission Appeal No. A-3-SLO-09-055. A copy of said Notification of Appeal accepting my appeal is attached hereto as Exhibit D.

5. On November 3, 2009, at a duly noticed public hearing, the Board, among other actions, directed staff to set a public hearing for November 24, 2009, to "consider issues of appeal identified in a letter dated October 20, 2009, from Dr. Charles Lester, Senior Deputy

Director of the California Coastal Commission." A copy of the County's Agenda Item Transmittal and Staff Report is attached hereto as Exhibit E, including said letter from Dr. Lester (pages 8 & 9 of said Staff Report).

6. Dr. Lester, in his letter, told Defendant County, through its director of Public Works, Paavo Ogren, that "Commission staff would recommend to the Commissioner appellants that the[ir] appeal be withdrawn, or alternatively, that a new appeal of any subsequent action on the project not be filed" if the County "was to amend its approval of [LOWWP] to address the appeal contentions..." as proposed in the letter. (Ex E, pg. 8, 2nd paragraph) Specific changes were proposed to a single condition of the LOWWP, #97, the sole subject of the public hearing noticed for November 24, 2009 that I seek to enjoin.

7. At its November 3, 2009 public hearing, the Board directed County staff to notice a public hearing solely to incorporate the changes directed by Dr. Lester, essentially verbatim. County incorrectly cites CZLUO section 23.02.034c(2)(iii) as its authority in "modifying" LOWWP. A true and correct copy of CZLUO section 23.02.034, in its entirety, is attached hereto as Exhibit F.

8. I am informed and believe, and based upon my experience declare, that changes to an approved project within the County, like LOWWP, may only occur pursuant to CZLUO section 23.02.038, which directs that "a new ... Development Plan approval shall be obtained." A copy of CZLUO section 23.02.038 is attached hereto as Exhibit G. Under subsection "a" of this section 23.02.038, this procedure is referred to as a "Substantial Conformity" determination. This procedure is used for minor changes to projects and is often accomplished in the context of a pending CCC appeal. Respondents seek to amend LOWWP without going through the appropriate process identified in subsection "b" of 23.02.038, perhaps because it would require the issuance of a new Development Plan under the CZLUO.

9. Pursuant to 23.02.038 b, proposing a change related to a project feature that was specifically addressed in conditions of approval (i.e. Condition 97) of a Development Plan, or that

was a consideration by the Review Authority in the approval of a Development Plan elevates the matter to a public hearing that *requires* that a new Development Plan approval *shall* be obtained.

10. Unless the sought after temporary restraining order, and ensuing preliminary and permanent injunctive relief is granted, great injury will result to me and other interested parties and appellants of LOWWP to the Coastal Commission because the certainty that results from established statutory and regulatory schemes will be replaced by the uncertainty and ambiguity that results from the defendants' spontaneous creation of process to meet a desired goal relative to the LOWWP.

11. The facts set forth herein are within my personal knowledge and I am competent to testify to their truth if called as a witness to do so.

12. On November 16, 2009 at approximately 4:55 p.m., I informed defendant County, through its employee, Matt Janssen, that I intended to seek injunctive relief from the County's intent to hold a public hearing to consider the changes to LOWWP noticed in the County's Notice of Board of Supervisors Hearing for November 24, 2009. I informed Mr. Janssen that I had not yet filed the paperwork and would have to file a complaint first, but that I would keep him informed as I learned of the timing of the hearings on this matter.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

November , 2009

_____

Jeffrey H. Edwards

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Julie Tacker

Mailing Address: P.O. Box 6070

City: Los Osos, CA Zip Code: 93412 Phone: 805-528-3569

SECTION II. Decision Being Appealed

RECEIVED
DEC 2 1 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Wastewater Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2198 Los Osos Valley Road, Los Osos, CA, APN#067-011-022

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

DATE FILED: 12/21/2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: September 29 and November 24, 2009

7. Local government's file number (if any): DRC2008-10103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County
San Luis Obispo County Government Center,
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See appeal dated October 16, 2009

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- *Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act.* Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. *(Use additional paper as necessary.)*
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See Julie Tacker appeal dated October 16, 2009 and supplimental information attached herein.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: December 21, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

December 21, 2009

Re: DRC2008-10103 Los Osos Wastewater Project

Supplemental Appeal

Dear Mr. Bishop;

First let me say I object to the change in procedure triggered by the County of San Luis Obispo's action taken November 24, 2009, wherein rendering my (and 20-some other) appeal moot and necessitating re-filing during the Christmas holiday season.

Secondly, I object to a hearing in January, the appeal window has virtually closed today. Leaving Coastal staff little time to analyze each of the 20+/- appeals and be prepared for this hearing. The holiday season with intermittent Friday furloughs I am concerned that a thorough analysis of my appeal be done and considered as the only appeal of its kind. I also expect my appeal to stand alone and not "lumped" with other appeals. While some of my appeal contentions may overlap other appeal's contentions, my appeal has contentions no others have.

I respectfully request a meeting with you prior to the hearing to go over my appeal so that you can fully understand the issues raised within.

With regard to the changes in Condition #97, while they are welcome they are not enough, specifically, the dedication minimums of 10% to unidentified agriculture (this could be directed to those users overlying the basin that are not currently using water, i.e. dry farming, undeveloped, or change in crop) and 10% to unidentified environmental (only 33 AFY has been dedicated to the Bayridge leachfield/Little Willow Creek). Without further analysis these dedications may end up in low seawater intrusion mitigation factored areas, in effect "losing" the treated effluent (a significant resource).

For arguments sake;

LOWWP treats 1200 AFY at buildout
(or 1,000,000 (one million) gpd).

10 % = 120 AFY to unknown "Agriculture"
(or 100,000 (one hundred thousand) gpd)
(may include ag that does not use water currently)
10% = 120 AFY to "Environmental"
(or 100,000 (one hundred thousand) gpd)
(only 33 AFY identified to Bayridge leachfield/Little Willow Ck)

Not less than 240AFY (or 200,000 gpd) designated to these unidentified/low Seawater Intrusion mitigation strategies.

Furthermore, the passage in Condition #97 *"**Highest priority shall be given to replacing potable water uses with tertiary treated effluent consistent with Water Code Section 13550.**"* While well intentioned cannot compel the two largest irrigators (Sea Pines Golf Resort and the Los Osos Valley Memorial Park) to change course at all. Neither of these users currently use "potable water", their wells are not sealed or certified as such.

The LOWWP disposal scheme and groundwater management plan has been the Achilles heel of all project proposed in the past and is again vulnerable in this current project. The County should be directed to start at the end product and work backwards toward resolve for the community of Los Osos.

I respectfully reserve the right to further amend my appeal.

Thank you, feel free to contact me with any questions you may have and to set an appointment to go over my appeal in your office in Santa Cruz.

Julie Tacker

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Keith Wimer

Mailing Address: 1101 14th Street

City: Los Osos, CA Zip Code: 93402 Phone: 805-528-2027

SECTION II. Decision Being Appealed

RECEIVED
DEC 2 1 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Wastewater Project (LOWWP)

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos, CA

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

DATE FILED: 12/21/2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: 9/29/09 and 11/24/09

7. Local government's file number (if any): DRC 2008-00103

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Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

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- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Please see attached--10 pages (with attachments to be mailed).

Please also see my appeal dated October 16, 2009 which I incorporate by reference.

KW

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CENTRAL COAST AREA

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 12/21/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Issues

San Luis Obispo County approved a Coastal Development permit (CDP) to allow the construction and operation of a community wide wastewater system in Los Osos. The County-approved project raises Coastal Act, Coastal Zone Land Use, and Local Coastal Plan (LCP) conformance issues as follows:

Issue #1—Plans and programs (provided in the CDP and project description) to mitigate for the LOWWP's potentially adverse impacts on the groundwater basin and environmentally sensitive habitats have not been developed and may not be feasible or adequate to protect coastal resources. Thus, the CDP as approved does not conform with Coastal Act Section 30231; LCP Environmentally Sensitive Habitats Polices 1, 2, 7, & 20; LCP Coastal Watersheds Policy 1 & 2 ; or CZLUO Sections 23.04.403, 23.07. 170-178.

The LCP requires protection of coastal resources, including groundwater resources and wetlands. In the case of the Los Osos Wastewater Project, failure to adequately mitigate for the project's potential impacts may result in permanent loss of irreplaceable natural resources including the Los Osos Valley Water Basin (the sole source of water for the community of Los Osos)—also valuable wetlands, creeks, and springs, which support the Morro Bay National Estuary. A portion of the National Estuary near the project is designated a State Marine Reserve, receiving the highest level of protection under the Marine Life Protection Act (see Attachment 1).

The project will cause a major hydrologic disruption to the basin when it stops about 1000 AFY of dispersed septic return flows now contributing to groundwater recharge. This disruption, if not adequately mitigated, could make the basin's serious seawater intrusion worse (see Attachment 2). The project provides many plans and programs to address impacts. However, the plans and programs have not been developed, and—as provided in the CDP—they do not assure protection of the groundwater basin or dependent ecosystems (see Attachment 20). As a result, the approved project may adversely impact the basin's three main groundwater systems including 1) the lower aquifers (Zones D & E) providing three-fourths of the community's drinking water and seriously impacted by seawater intrusion, 2) the upper aquifer (Zone C) providing one-fourth of the community's drinking water and reported to be "relatively" stable, subject to seawater intrusion during extended droughts (see Attachment 5a), and 3) the upper zones (Zones A & B) supplying freshwater flows to area wetlands, creeks, and springs.

Reasons mitigations for groundwater impacts may not protect coastal resources.

Broderson leach fields: As approved, the CDP provides for Broderson leach fields to discharge ("dispose of") up to 450 AFY of treated effluent. The DEIR states that the leach fields will fully mitigate for the impacts on the three main basin systems caused by removing approximately 1000 AFY of return flows (see Attachment 14). However, the CDP also provides for starting effluent discharge at Broderson at 200 AFY as groundwater impacts are monitored (see Attachments 3 & 4b). Therefore, the potential of Broderson to mitigate is not considered certain, even by project applicants. The uncertainty of Broderson leach fields was confirmed by Spencer Harris at the June 30, 2009 Planning Commission meeting (http://www.slocounty.ca.gov, video: 1:40-1:50). (Spencer

Harris is the project's hydrogeology consultant and author of the primarily source document for the DEIR Groundwater section, Appendix C of Appendix D-2). Despite its uncertainty, the CDP apparently doesn't have a back up plan if the leach fields do not mitigate for septic return flows. Furthermore, the benefits of Broderson leach fields are based on basin modeling with inherent uncertainty—i.e., no tests have been done to determine exactly how discharged effluent will affect the three main basin systems. Therefore, margins of safety must be built into estimates. This might be achieved with effective reuse and conservation programs (e.g., to offset or reduce the pumping of the lower aquifers and mitigate for seawater intrusion). However, the conservation and reuse programs in the CDP, as approved, are not likely to be adequate to mitigate for potential groundwater impacts, even if Broderson performs as expected (explained under "Safe margins" below).

Recycled Water Reuse: **Condition 97** provides for returning all recycled water to the basin, and it prioritizes recycled water use to mitigate for seawater intrusion, with minimum amounts (10% or more) specified for environmentally sensitive habitat and ag reuse. However, the condition, as worded, does not assure recycled water will be applied to mitigate for the project. On November 24, 2009, at a special hearing, SLO Board of Supervisors removed a clause from Condition 97 stipulating that a cooperative court-ordered basin planning process (called a interlocutory stipulated judgment, or ISJ) will control the use of recycled water from the project. At the hearing, however, a representative for the LOCSD (one of the parties to the ISJ) stated that (as a lawyer) he was sure the ISJ would have authority over the water even with the language removed. The goals of the ISJ are not likely to coincide with required mitigations for the project, e.g., protection of wetlands. Therefore, absent specific provisions and a developed plan for how the recycled water will be used to mitigate for the project, Condition 97 does not protect coastal resources. The lack of specificity states that measures maximizing seawater intrusion mitigation will receive priority; however, it limits urban reuse options with a parenthetical phrase specifying uses will be per the LOWWP *Reuse and Disposal Tech Memo*. That memorandum identifies only a few reuse sites within the basin (see Attachment 6). Condition 97, in fact, is self-contradictory because another provision states that the "highest priority shall be given to replacing potable water with tertiary treated effluent consistent with Water Code 13550" although this section of the Water Code refers to more uses than stated in the memorandum. Also, Condition 97 fails to specifically identify ag exchange and urban reuse as measures providing the greatest seawater intrusion mitigation. Ag reuse, without the exchange of water to offset pumping from the lower aquifer, will do very little to mitigate for seawater intrusion (see mitigation factors, Attachment 7).

Conservation: **Condition 99** requires that $5 million is spent on an indoor conservation program. It targets maximum per capita indoor use at 50 gallons per capita per day (gpcd), and it provides for early participation incentives. **Condition 103** requires that property owners retrofit toilets, faucets, and shower heads prior to project hook up. These conditions will reduce water use and help mitigate for seawater intrusion (if pumping is reduced from lower aquifer wells). However, programs have not been developed or potential reductions analyzed. Furthermore, benefits are uncertain because water use estimates vary, and it is not certain how 50 gpcd of indoor use will be measured. Condition 103 is similar to the original conservation element for the project. Retrofitting toilets, faucets and shower heads may reduce water use in the prohibition zone by 10-12% (based on retrofit studies). This is because current water is likely to be under 60 gpcd due to recent drops in usage (although per capita estimates used for the CDP are as high as 66 gpcd) (see Attachments 10a & 10b). The SLO Planning Commission added Condition 99 to increase mitigation benefits on

seawater intrusion and to ensure that mitigations would take place as soon as possible. On appeal, the Board of Supervisors modified the Planning Commission's conservation condition requiring only that the program is "developed," instead of "implemented" as the Planning Commission intended, shortly after project approval. The Board also removed a specific funding source for the condition (project funds) and a dollar amount for retrofits ($1000 per property), in addition to a specific early hook-up incentive (free installation) (see Planning Commission Condition 99, Attachments 8a & 8b). As now worded, Condition 99 is not likely to provide any greater benefits than Condition 103 and could easily be abandoned in the future due to lack of funding and/or because it's reached it targets (largely on paper with a re-computation of current use) Paavo Ogren, Public Works Director, indicated at the September 29, 2009, appeal hearing that he thought the $5 million of funding for the program could come from the sale of recycled water and/or water rates and changes, adding project implementation might be spread over a "ten year period" (see Attachments 9a & 9b). Therefore, implementation of Condition 99 is uncertain, at best, while Condition 103 is likely to provide less than 100 AFY of reduction (about 10% of current indoor use) (see Attachment 10a & 10b). Reducing 100 AFY of pumping from the basin will not provide the mitigation needed to avoid and/or mitigate for potential impacts to the basin's three main groundwater systems (see "Safe Margins" below).

Bayridge Estates Leach Fields: **Condition 101** provides for discharging 33 AFY of recycled water in Bayridge leach fields to help restore groundwater flows to Willow Creek Drainage. The Planning Commission implemented this condition on June 30, 2009, when they learned that several hundred acre feet of flows would not be going to the wetlands and riparian habit. This large reduction in flows is discussed in the DEIR, and it was acknowledged by Spencer Harris, project consultant, during the June 30 Planning Commission hearing (see Attachments 11a-11e and http://www.slocounty.ca.gov, video: 1:20-1:30). Thirty-three acre feet per year of water is obviously not enough to replace the over 400 AFY not going to the drainage. Willow Creek Drainage supports Willow Creek, Eto Lake, Los Osos Valley Creek, Los Osos Valley Creek Estuary, and Morro Bay Estuary and State Marine Reserve.

Use of Abandoned On-site Leach Fields: **Condition 88** provides for the County to "assist property owners in the implementation of opportunities to reuse existing septic tank and effluent disposal systems (e.g., leach fields)" if property owners want to connect rain gutter downspouts to abandoned leach fields to help restore groundwater flows. The benefits of this condition are uncertain and likely to be minimal because it is a voluntary program and because most runoff from roofs currently percolates on site due to the sandy soils in Los Osos, per Yates and Williams study (2003) (see Attachment 12).

Groundwater Level Monitoring and Management Plan: **Condition 87** provides for a Groundwater Level Monitoring and Management Plan to mitigate for drops in water levels in the upper zones and potential harm to wetlands and other environmentally sensitive ecosystems. However, the plan is not developed and may not even be feasible. A plan by the same name for the prior project relied on multiple leach fields discharging all the recycle water from the project around the prohibition zone, with harvest wells used to regulate and maintain water levels (at 5 feet below the surface) (see Attachments 13a-13h). The approved project has only one major leach field and no harvest wells. Furthermore, recycled water may not be available if its use is controlled by the ISJ process (see Condition 97 discussion above)—and there may not be enough potable water available since if a conservation program is not adequate to reduce consumption allowing potable water to be

redirected. Therefore, it is not certain where the water will come from to mitigate for drops in water levels and potential harm to wetlands and other ecosystems. The 2003 Yates and Williams study (prepared for the prior Los Osos wastewater project) predicted water levels in upper zones (Layer 1 in the study) would drop by 10 feet and upper zones would dry up in some locations; even though that project discharged 100% of the recycled water (see Attachment 12b). Condition 20 for the prior project (the Groundwater Level Monitoring and Management Plan) indicates that drops in water levels could be significant and could adversely impact both bayside wetlands and Los Osos Valley Creek. The authors of Condition 20 express greater concerns about Los Osos Valley Creek than Willow Creek Drainage (see Attachments 13a-13h).

Safe Mitigations: Safe levels of mitigation are best estimated by considering a basic water budget for the basin. Currently, septic systems contribute about 1000 AFY of water to the budget, and it is estimated Broderson leach fields will restore up to 450 AFY if they perform as expected. The DEIR says that replacing 1000 AFY of water with 450 AFY at the Broderson site will not impact basin groundwater systems because most of the water entering the groundwater from the surface (rainwater, septic return flows, and irrigation return flows) does not recharge the upper aquifer, but instead flows to the bay and is lost. The analysis clearly oversimplifies basin processes. Within the prohibition zone, the water not entering the upper aquifer is most likely supplying wetlands and other sensitive ecosystems, or it contributes to outflows to the bay important to preventing seawater in the upper aquifer. The 2005 *Seawater Intrusion Study* points out the need for outflows (Attachment 5).

Therefore, besides the 450 AFY of recycled water returned to the basin for Broderson, the balance of recycled water (550 AFY) must be available to mitigate for reduced flows to environmentally sensitive ecosystems. This assumption is not overly conservative because reduced flows from septics to Willow Creek Drainage per the DEIR are around 430 AFY, and reduced flows to wetlands according to Condition 20 for will be a significant portion of 300 AFY (see Attachments 11a-11e and 13f).

Furthermore, there must also be a contingency plan for Broderson. If the leach fields don't work as expected, 450 AFY of conservation must be in place to reduce pumping of the upper aquifer by an equivalent amount to maintain water levels and outflows to the bay to prevent harm to the aquifer.

A contingency for the lower aquifer might be based on the estimated amount of recharge from the upper aquifer. Since 66% of lower aquifer recharge is estimated to come from the upper (see Attachment 5b), about 250 AFY of conservation should be in place (in addition to the 450 AFY for the upper aquifer) to avoid impacts to the lower aquifer. (Note: Since the recharge mechanisms/pathways between the upper and the lower are not well understood, this estimate errs on the side of caution. Exactly where the .22 seawater intrusion mitigation factor for Broderson comes from, e.g., in the *Fine Screening Report*, is not explained in any project document and remains a mystery—see Attachment 7).

Therefore, a reasonable level of mitigation with contingencies would require a total of about 1700 AFY of recycled and conserved water, with recycled water comprising about 1000 AFY and conservation about 700 AFY. This amount, with specific programs for implementation, would theoretically maintain status quo in the basin and provide a reasonable margin of safety if Broderson leach fields didn't perform as expected.

As approved the mitigations provided in the CDP (discussed above) provide about 100 AFY from conservation and about 100 AFY urban reuse, i.e., the limited reuse identified in Condition 97, or about 650 total if Broderson leach fields operate as expected. This level of mitigation is far below what is needed. Therefore, as approved the project may cause adverse impacts to coastal resources.

Note that prohibition zone property owners would not be responsible for the cost of all mitigations because most measures would provide a general benefit to the basin. Costs would be divided basin-wide based on benefits to the groundwater (and use of the groundwater). Equitable sharing of costs is one reason for a basin-wide plan implemented by the County concurrent with the project (see Issue #2).

Issue #2— San Luis Obispo County is relying on a court-ordered cooperative basin adjudication process (an interlocutory stipulated judgment, or ISJ) to implement key project conditions (Conditions 86, 97, and 99—dealing with basin management, beneficial reuse, and conservation). Effective implementation of these conditions requires a basin-wide management plan implemented and administered by the County. A County-implemented, plan is also needed to effectively manage the basin, stop seawater intrusion, and assure project viability. The ISJ process cannot effectively implement project conditions or manage the basin because it applies to only two-thirds of the water pumped from the basin. Furthermore, it will not likely support intensive conservation or significant recycled water use to protect environmentally sensitive habitat. Without a County-administered, basin-wide program, as called for in the LCP Watershed Policy 5, the project may cause adverse impacts to coastal resources, raising conformance issues with Coastal Act Sections 30001, 3001.5 & 30231; LCP Environmentally Sensitive Habitats Polices 1, 2, 7, & 20; LCP Coastal Watersheds Policies 1, 2, 3 & 5 ; LCP Public Works Policy 6; CZLUO Sections 23.04.403, 23.07.170-178.

The County is currently relying on an adjudicated cooperative agreement known as an interlocutory stipulated judgment (ISJ) to implement Conditions 86, 97, and 99 (see Issue #1 and Attachments 15a-15f for transcripts of the LOWWP Appeal to the SLO County Board of Supervisors, 9/29/09). The ISJ involves the area's four water purveyors, including the County, but the ISJ applies to only two-thirds of the water pumped in the basin (no private well use on farms or large properties), and it is not likely to support conservation or application of recycled water for environmentally sensitive ecosystems, such as wetlands. This is shown by two letters, one from the LOCSD to the Planning Commission, suggesting that language in Condition 97 limit water use for environmentally sensitive ecosystems; and the other letter from and attorney for Golden State, another purveyor, expressing the company's reluctance to implement conservation (even though an intensive, mandatory program has never been implemented in Los Osos) (see Attachments 4a-4d & 16a-16b).

Effective reuse and conservation programs require a basin-wide plan and County implementation (although the ISJ process and resulting management plan will undoubtedly be an important part of the plan). Effective ag and urban reuse programs, for instance, require managing private well use, which is outside of the control of the ISJ. Also, the distribution of recycled water to mitigate for project impacts, such as support of Willow Creek Drainage, requires a County plan that extends beyond the ISJ. An effective conservation program, to achieve the level of conservation needed to safely mitigate for the project and manage seawater intrusion (500-700 AFY) requires a basin-wide plan. The 2007 *Resource Capacity Study* recommends that the County implement conservation

outside the Urban Services line, in addition to an ordinance to encourage purveyors to monitor well use. Also, LCP Watershed Policy 3 provides for monitoring provide well use. All of these measures require a management beyond the scope of the ISJ process (see Attachments 21b, 22a & 22b).

Cooperative agreements among purveyors have not resulted in significant progress in stopping seawater intrusion over the past fourteen years. This is largely due to purveyors' reluctance to implement aggressive conservation measures. The County Planning Department has urged purveyors to pursue cooperative conservation efforts since the 1992 *Resource Capacity Study*, when a Level of II severity was placed on the basin due to seawater intrusion (see Attachments 4b, 4c, 22b, and 23b). However purveyors have been reluctant to implement conservation, and will not likely implement an intensive program through the ISJ (e.g., Condition 99 as the Planning Commission intended it). Effective conservation will require the County to assert its authority to implement conservation basin-wide, which is best achieved with a basin-wide ordinance.

Condition 86 incorporates Condition 34 from the prior project, added by the Coastal Commission on appeal (see Attachment 19). Condition 34 requires "a comprehensive water management plan for the Los Osos Groundwater basin." In addition, Condition 86 requires a buildout target added to the Estero Area Plan indicating there is a sustainable water supply prior to undeveloped properties hooking up to the project. The intent of Condition 86 is to avoid growth inducement. However, the requirement is also tied to project funding. A significant portion of project funding is supposed to come from a second 218 on undeveloped properties. Therefore, project funding relies on implementation of an effective management plan to stop seawater—most likely achieved by a basin-wide plan.

A basin-wide management plan implemented by the County is further needed to help assure project viability. Currently, the CDP does not provide for an integrated management strategy to assure project conditions produce net benefits to the groundwater basin. Without a basin-wide program to implement and administer mitigations and manage the basin, the project might be a waste of money. If ineffective administration of the basin or project results in seawater intrusion in the upper aquifer or harm to the estuary; adverse impacts from the project may outweigh its benefits. The project's potential environmental benefits are relatively modest, as the DEIR clearly points out—about a 2 mg/l reduction in nitrates in the upper aquifer over 30 years—and the DEIR cites no potential benefits for the estuary and wetlands from the project, instead suggesting only the opposite (see Attachments 11a-11e and 17a & 17b). Effective and integrated planning, via a basin-wide program, is essential to assure the project supports a sustainable basin and water supply.

Condition 86 requires a comprehensive management to prevent unsustainable future development. However, a basin-wide plan to stop seawater intrusion is needed now, as a condition of the project, to help assure project viability. Implementation of an intensive basin-wide water use efficiency program with LID, and some shifting of pumping, may be able to stop seawater intrusion and balance the basin within a relatively short timeframe. The program will require basin-wide implementation, an ordinance, and benchmarks to measure progress toward the goal of stopping seawater intrusion. The basin-wide program is needed, also, to ensure the costs are equitably shared basin-wide.

LCP Watershed Policy 5 provides for the County Planning and Engineering Departments (now Public Works) to "develop and implement a basin-wide water management program" in cooperation with the Regional Water Board and property owners to manage the basin (see Attachment 21c). The ISJ agreement grants the County the right to implement measures and an ordinance to address seawater intrusion and manage the basin as it relates to the project (see the ISJ agreement, Attachment 18a-18i). AB 2701, the County Resource Management System (RMS), and the Flood Control and Conservation District—grant the County the authority to management the basin. Unless the County exercises its authority under these laws, polices, and provisions; it will not be able to assure protection of coastal resources or viability of the project.

Issue #3—Funding for the project relies on a second Proposition 218 assessment on undeveloped properties—and the second assessment relies on the project's meeting several conditions, including development of a Habitat Conservation Plan, a Local Coastal Plan, and a basin-wide management plan. Project funding and completion, therefore, depends on each of the plans supporting future development. Given the Level III of Severity resource deficiency in the basin causing severe seawater intrusion—future growth may not be sustainable. Thus, the project as approved may induce unsustainable growth resulting in adverse impacts on coastal resources and raising conformance issues with Coastal Act Sections 30001, 30001.5 & 30231; LCP Environmentally Sensitive Habitats Polices 1, 2, 7, & 20; LCP Coastal Watersheds Policy 1, 2, 3 & 5 ; Public Works Policy 6; CZLUO Sections 23.04.403, 23.07. 170-178.

The Coastal Act, LCP, and CZLU' require orderly coastal development to protect coastal resources, in part, by restricting projects and project components that may induce unsustainable growth. As approved, this project may cause unsustainable growth by tying capital funding for the project to future development. SLO County officials on September 29, 2009, said that, absent a successful second 218, the County will ask existing property owners to pay additional project capital costs in rates and charges. This will significantly increase project costs for existing property owners, and potential added costs will provide a strong incentive for whoever is developing plans and programs to support a foregone conclusion that future development is sustainable (although it may not be) (see transcript for LOWWP Appeal before the Board of Supervisors, 9/29/09, Attachment 15a-15c). This potential is already seen in the ISJ basin planning process (which County officials have said will be responsible for development of a basin management plan). The ISJ process is moving forward with a strategy that relies on very preliminary technical reports and no alternatives analyses. It is likely the HCP and LCP will be developed with similar haste. As approved (with the current funding strategy) the project does not support orderly coastal development, nor protect coastal resources, and may cause adverse impacts from unsustainable growth.

Issue #4—The LCP requires orderly development to protect costal resources, including groundwater supplies. Protecting groundwater supplies and the systems that depend on them requires up-to-date information and thorough, objective, and independent analysis. Such information and analysis require that different experts perform basin testing and complete basin studies and analyses. In the case of the Los Osos groundwater basin, one firm has done most of the testing and provided all but one of the primary basin studies, on which virtually all decisions about potential project impacts and basin management strategies are based. Without additional studies and analysis on the state of the basin, potential project impacts and mitigations, and basin management alternatives, by independent experts; the project as

approved may not protect costal resources, establish a sustainable basin, or ensure a viable project—raising conformance issues with Coastal Act Sections 30001, 30001.5 & 30231; LCP Environmentally Sensitive Habitats Polices 1, 2, 7, & 20; LCP Coastal Watersheds Policy 1, 2, 3 & 5 ; Public Works Policy 6; CZLUO Sections 23.04.403, 23.07. 170-178. .

Protecting vital resources, including the groundwater basin and wetlands requires up-to-date information and independent, objective analyses from different experts. These analyses should include alternatives analyses to determine the most environmentally, socially, and economically responsible and viable options to protect resources. The very serious seawater intrusion problem in the basin, the project's potential to adversely impact seawater intrusion, and the possibility the project will not be viable (achieve its objective of improving water quality) unless seawater intrusion is stopped; make such analyses extremely important to sustaining resources. These analyses should focus on the risk of seawater intrusion to the basin, the risk of the project to the basin, the best ways to mitigate for the project, and the best alternatives for establishing a sustainable basin and water supply.

Since 2000, the County and local water purveyors have relied on one hydrogeology firm, Cleath-Harris Geologists, Inc. (formerly Cleath and Associates) to perform all but two studies of the basin out of the 12 or so studies completed. The firm has performed three or four safe yield studies since 2000, the 2005 seawater intrusion assessment, the groundwater study for the LOWWP alternatives analysis (*Fine Screening Reports),* and the primary groundwater study for the DEIR. The County and purveyors also relied on the firm for the recent ISJ technical memoranda and recommendations, which will form the basis for the ISJ management plan—and County and purveyors are currently relying on the firm to do a seawater intrusion assessment.

The repeated use of one consultant for key studies, analyses, and management recommendations is not a sound scientific practice and may not lead to reliable conclusions regarding appropriate project mitigations or the best management alternatives for the basin. In fact, seawater intrusion has gotten worse since the firm as been performing studies and making recommendations.

A peer review of the July Cleath-Harris Geologist, Inc. memoranda is underway, but the review will most likely rely heavily on data that Cleath-Harris collected and analyzed, as well as earlier Cleath-Harris models, assumptions, and findings (e.g., from their 2005 *Seawater Intrusion Assessment*). As a result, the review will not likely be completely objective. Furthermore, the review will not likely present alternative management strategies, nor refute the general findings of the July TMs—that the basin is sustainable under current and buildout conditions. Without independent data collection and analyses from different firms to determine the status of the basin, the potential impacts of the project, the best way to mitigate for potential project impacts, and the best management strategies to stop seawater intrusion; coastal resources may be adversely impacted.

Issue #5—The LCP requires orderly development to protect coastal resources, including environmental, social, and economic coastal resources. For this to be possible adequate planning has to occur and predictable funding must be available to be reasonably sure the project can be completed in a manner that protects coastal resources. The current project includes many programs and plans to mitigate for and/or avoid project impacts, but none of the programs and plans are developed, and some may not be feasible. Furthermore, a large portion of project capital costs relies on uncertain future funding—a future rates and changes

assessment or second Proposition 218 assessment on undeveloped properties. The latter relies on the development of an HCP, LCP, and basin management plan (Conditions 92, 4, & 86) to establish a sustainable water supply and support sustainable growth—when neither may be possible. Without developed plans and programs to mitigate for potential project impacts, and secured funding to cover all project capital costs, the project may adversely impact coastal resources, raising conformance issues with Coastal Act Sections 30001, 30001.5 & 30231; LCP Environmentally Sensitive Habitats Polices 1, 2, 7, & 20; LCP Coastal Watersheds Policy 1, 2, 3 & 5 ; Public Works Policy 6; CZLUO Sections 23.04.403, 23.07. 170-178.

The SLO County Public Works Department and Board of Supervisors have apparently put off development, implementation, and funding of programs and plans to mitigate for the project to an indefinite point in the future to be funded with unspecified funding sources (e.g., Condition 99, the conservation program). Estimated project costs may not include the costs of these added plans/programs and there may be no secured funding for them, given that estimated project capital costs exceed secured costs. Furthermore, physical resources, such as adequate water for a Groundwater Level Monitoring and Management Plan and a Sanitary Sewer Management Plan, may not be available to support the mitigation plans and programs. Also, some of the plans rely on the uncertain outcomes of an adjudication process involving local water purveyors (e.g., Conditions 97 and 99). Absent developed plans and programs, secured funding sources, and the physical resources needed for plans and programs; the project may cause significant adverse impacts to coastal resources raising conformance issues with the LCP

Issue #6— The LCP requires orderly coastal development and the protection of coastal resources including groundwater basins, wetlands, and socio-economic resources. It also requires maximum feasible mitigations to avoid and/or mitigate for impacts to wetlands and other environmentally sensitive habitat. The capital cost of the project alternative approved cannot be funded with the secured funding for the project, and the present project alternative does not provide maximum feasible mitigations for potential impacts to environmentally sensitive habitat. Thus, the project, as approved, may adversely impact coastal resources, raising conformance issues with Coastal Act Sections 30001, 30001.5 & 30231; LCP Environmentally Sensitive Habitats Polices 1, 2, 7, & 20; LCP Coastal Watersheds Policy 1, 2, 3 & 5 ; Public Works Policy 6; CZLUO Sections 23.04.403, 23.07. 170-178.

At least two project alternatives are not included in the present project that would result in substantially fewer potential project impacts. They would also be more likely to support orderly development by being fundable with secured funding (the present Proposition 218 assessment on existing properties). These include 1) a phased, decentralized project with the first phase serving only properties in high groundwater and near the bay; and 2) a centralized STEP project with integrated cluster systems.

The first option allows incremental project components, mitigation measures, and basin/water management measures (e.g., conservation) to be implemented incrementally, so project/plan effectiveness can be monitored. The decentralized option also allows scarce public funding to be allocated as effectively as possible to secure a sustainable water supply and ensure protection of coastal resources. The option would also avoid the many potentially severe impacts to wetlands that may be difficult and costly to address, by retaining a percentage of septic systems in place with

upgrades—thus, maintaining groundwater flows. The phased option would significantly reduce contaminants from septic systems, project costs, energy use, and greenhouse gasses.

Like the first option, a centralized STEP system with integrated STEP cluster systems, would avoid many impacts to the groundwater and sensitive ecosystems likely to be caused by the proposed hybrid-gravity collection system, including depletion of significant amounts of groundwater due to relatively high levels of inflow and infiltration (I/I) (see Attachment 25). It would also reduce the considerable potential adverse environmental impacts and costs from installing and repairing a gravity collection system.

Both of these options provide greater overall protection of wetlands than a gravity system because both eliminate or greatly reduce the potential for overflows and exfiltration—affording maximum protection of the bay and groundwater. Both require a fraction of the water (recycled or potable) required to flush the gravity system during cleaning—and both eliminate the possibility of a "black sewer"—a real possibility with the proposed hybrid gravity sewer for Los Osos because it was not designed for conservation flows according to John Waddel, Project Engineer, at an SLO Planning Commission meeting on July 24, 2009 (see http://www.slocounty.ca.gov, video: 5:35-5:40). Conservation flows, whether planned or natural, are sure to occur within the life of the project potentially causing problems with the gravity system (see Attachment 24).

Secured funding will likely cover the costs of either system, including mitigations, so both of these alternatives support orderly development by having a predictable funding source. Also, both provide much greater protection of social and economic resources by being more affordable and reducing the risk of cost overruns. (Note: Paavo Ogren, SLO County Public Works Director, has said that the design build process for the gravity system will not place a cap on costs; whereas, the contractors for the STEP system have said they would provide firm costs.)

The CDP does not provide for STEP or a phased project to be part of the design-build process currently. Thus, as proposed, the current project does not assure orderly development or provide maximum feasible mitigations for potential impacts to environmentally sensitive habitat, so it may cause adverse impacts to coastal resources.

Please see LOSG's earlier appeals to the Coastal Commission and SLO County Board of Supervisors, which contain recommendations to address the above issues.

KEITH WIMER
1101 14TH STREET, LOS OSOS, CA 93402

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(831) 427-4863	(805) 528-7652
RE:	YOUR PHONE NUMBER:
Appeal of the LOWWP CDP	(805) 528-2027

X URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Jonathon,

Since this process is a little hard to follow, given the second hearing by the SLO County Board of Supervisors, I thought I should make it clear I am also resubmitting my earlier appeal and adding it to this one. Please substitute the attached Page 3 of the appeal form for one I sent earlier.

Thank you.

Keith Wimer, Los Osos Sustainability Group

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Gover.

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Martha Goldin

Mailing Address: P.O. Box 6007

City: Los Osos Zip Code: 93412-6007 Phone: 805-528-0987

SECTION II. Decision Being Appealed

RECEIVED
DEC 2 1 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County Board of Supervisors

2. Brief description of development being appealed:

Los Osos Waste Water Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

LOWWP: Prohibition Zone collection to Giacomazi Property (adjacent to cemetary) for treatment.

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

DATE FILED: 12/21/2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☒ Planning Commission
- ☐ Other

6. Date of local government's decision: 9-29-09 and 11-24-09

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County
976 Osos Street
Room 300
San Luis Obispo, Ca. 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I'm appealing the Board's final CDP, but the Planning Commission also failed to add a condition for a Basin-wide plan. I am also appealing the action of the SLO Board of Supervisors modifying condition of approval #97

Seawater intrusion in the Los Osos Valley Water Basin appears to be accelerating and the viability of the Los Osos Wastewater Project depends on a viable water basin which will require a basin wide management plan, the only effective means of controlling advancing seawater intrusion.
LCP Coastal Watershed Policy #5

A basin wide building moratorium must be in place in order to prevent additional pumping of groundwater until seawater intrusion is stopped or until aggressive benchmarks in reducing the pumping causing seawater intrusion are achieved. This is necessary for orderly coastal development.
CZLUO 23.04.430
LCP Coastal Watershed Policy #1
LCP Coastal Watershed Policy #3
CZLOU 23.01.010

see attached reasons supporting the appeal of modified condition #97.

Reference is made to my prior appeal filed by fax on 10-19-09. By this reference I am renewing that appeal.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 18 December 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Al Barrow LOs Osos Legal Defense Fund

Mailing Address: 1250 4th street unit B

City: Los Osos Zip Code: 93402 Phone: (805) 534-0800

SECTION II. Decision Being Appealed

RECEIVED
DEC 21 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos wastewater treatment project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

In the Prohibition Zone Los Osos Baywood Park

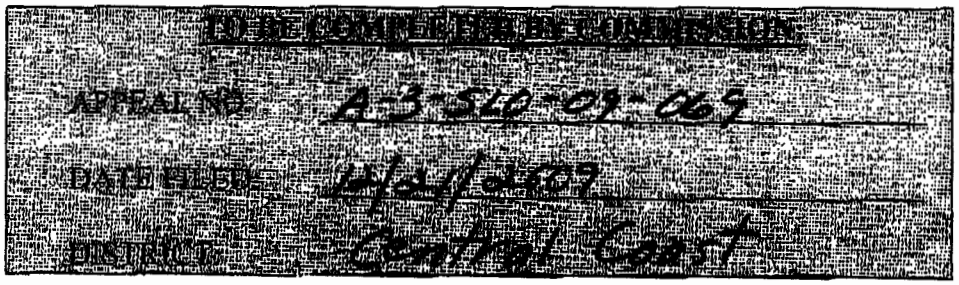
4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo Public Works
976 Osos Street
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) All appealants

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I appeal for procedural reasons and to maintain my standing in the administrative process. The project has significant avoidable impacts that are not mitigated to the extent feasible resulting in avoidable impacts. Alternative STEP/STEC can reduce these impacts to a level of insignificance. The deferred mitigations are not acceptable and must be detailed as to who and how they are implemented. The County procedure of changing a mitigation without refining the prior one is also at issue.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: October 21, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: 12/21/09

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, OA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Al Barrow CLIH/C.A.S.E.

Mailing Address: 1250 4th street Unit b

City: Los Osos Zip Code: 93402 Phone: 805 534-0800

SECTION II. Decision Being Appealed

RECEIVED
DEC 2 1 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

SLO County

2. Brief description of development being appealed:

Wastewater project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos Prohibition Zone

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

APPEAL NO: A-3-SLO-09-069
DATE FILED: 12/21/2009
DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: Septembe 29 and Nov 24 2009

7. Local government's file number (if any): DRC 2008 103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

SLo CountyPalm Street San Luis Obispo Ca

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) All the Appealants

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Dear CCC Staff here is my appeal for CLH/C A S E. in the latest SLOC County LOWWP changes. I would like to file a protest to the unique proceedings as well.

Al Barrow Los Osos Legal Defense Fund and Coalition for Low Income Housing/ C A S E.

The SLO Planning Commission findings were approved by the SLO County BOS and in so doing approved and applied for a Coastal Development Permit based on those findings which misrepresented many facts and data. The Findings on the FEIR were also and again based on misinformation provided by the Fine screening and technical memorandums. As part of this appeal against the Coastal Development permit I am adding the language in the complaint filed in SLO Superior Court. In it's present form and until these issue have been addressed accurately so as to give the public, the Coastal Commission and it's staff accurate and true information I submit that the application is premature for a number of reasons not limited to deferred mitigations of "Unavoidable Impacts" that are avoidable with the viable and more protective alternative STEP/STEG. This has been known to the applicants for many years as Orenco made a project estimate of Onsite and collection for $28 million (Bob Smith P.E. Orenco 2005) Ponds Treatment was estimated at $8 to $13 million using advanced facultative aeration ponds that would eliminate biosolids from 30 to 60 years. The total alternative project cost from a variety of wastewater collection and treatment companies is less than 1/3 the cost of the applicant's project and less than 1/3 of the environmental impact. Some reasons:

1. The Green house gasses from the heavy equipment are much higher as STE/STG uses small directional drilling sleds with much smaller staging footprints. The Gravity collection proposed by the applicant uses three areas of simultaneous deep trenching in 50 miles of existing roadway The earth movement in terms of yard is far greater and trucking soils and dewatering those trenched in the perched waters of los Osos clay lenses is a long known fact.
2. Earthquakes occur on fault. The last was 12-23-09 and although if we are not on the fault our fire department and water department damages are still being addressed. The Los Osos and Hosgri faults underly and are 10 miles of shore respectively. 6.8 and 7.3 potential will create enough ground lurching to destroy the slopes that the gravity collection require. The ground movement will break pipe connections at the manholes 3,600, over 20,000 20 foot long pipe connections will break or be pulled or pushed out of the bell housing. 4769 lateral connection will have to be fused but may still crack and leak into our aquifer. The collection zone is a mapped liquefaction zone. There is no mitigation plan to pay for or repair damage to 50 miles of collection lines. The sewage will require trucking to a functioning treatment facility. The "Soft Fixes" mitigation described in the FEIR, replacement part storage, are inadequate and lamentably irrational leaving the community with no functioning treatment of human waste for years. This will create a health hazard this community cannot address as odors from 900 manholes and lift station will be a stench throughout the community and breathing these gasses is a known health hazard especially to people with weakened immune systems. The sagging pipes will

require re-digging the collection system, staging heavy equipment while there is not funding set aside for these expenses that can be over $90 million dollars. It is more complex and expensive to remove and reinstall pipeline than to install it. This is a fatal flaw.

3. Exfiltration of the raw sewage will occur over the first ten years of the collection system as is fairly typical and well documented. After that, as is well documented 50% or more of the sewage that dumps into the collection system will never reach the treatment plant but will leak into the water supply and pollute the aquifer far more severely than the present leachfields, further degrading the waters of the state. See witness letters Bob Pickney P.E. Chief Technical Officer that runs over 100 collection systems, Jill Haas Clearford, Mike Saunders Orenco and Dean of Civil Engineering School Southern Alabama University Dr. Kevin White

Why is exfiltration ignored? The Goals of the project are not to protect the Coastal or state waters but to comply with CCRWQB order not to discharge effluent into the groundwater. These and many experts take issue with this statement from the applicants EIR:

"3.4 Exfiltration and Inflow/Infiltration

Exfiltration of treated or untreated sewage into the groundwater can occur when sewage is discharged from the collection system through damaged pipes and appurtenances or through leaks at joints and/or gaskets. The volume of exfiltration is a function of the hydrostatic pressure or head at the point of leakage, the age of the pipe, the pipe materials, and pipe condition. The higher the pressure at the point of leakage, the greater is the rate of leakage. Modern gravity sewer systems are constructed of 20-foot lengths of PVC with bell-and-spigot joints sealed with rubber gaskets. This flexible pipe has a lower potential for leakage than older brittle clay pipe that comes in shorter sections. For gravity sewers the rate of leakage is a function of the available hydraulic head. This is the difference in elevation between the water surface elevation and the elevation in the soils where the groundwater flow changes from saturated flow to unsaturated flow. Given the sandy soils, this change from saturated to unsaturated flow would occur in close to the pipe. Therefore there is limited hydraulic head. While STEP/STEG and LPGPs are not as susceptible to exfiltration as gravity sewer systems, exfiltration can still occur. STEP/STEG sewers operate under higher pressures and function more like potable water systems than gravity sewers. Because of this higher pressure, leakage (exfiltration) can occur just as leakage occurs in pressurized water systems. The exfiltration would most likely occur at fittings, valves (especially air release valves), and other appurtenances.

Other sources of exfiltration for STEP/STEG systems would include the gravity portion of the house laterals and septic tanks which operate under several feet of head."

These statements have been contested by sewer experts. If in fact we are correct then this project does not meet the goals of protecting the Ground Water as required in the Coastal Act. I include by reference to this appeal the Surfrider appeals, the Sierra Club appeals, Chuck Cesena's appeals, Steve Paige appeals, Los Osos Legal Defense Fund and Coalition for Low Income Housing/ Citizens for Affordable and Safe Environment. All of whom have concerns on the cumulative impacts the applicants project have on the environment.

The findings and conditions fall short of the bar for compliance with the Coastal Act, the LCP and the CZLUO for violations sited in the above appeals and this one. Pages in the acrobat reader version of the SLO Planning Commission Findings approved by the BOS and then modified after their NOFA that we take issue with are;

Page 2 9. Geo Hazards not addressed adequately. There will be major damage to the environment which the applicant denies Hazards Policy "... no significant impact resulting from hazardous conditions..." is false and misleading.

Page 2. 10. Impact can be avoided by STEP/STEG cultural resources will obviously be disturbed more by deep trenching than HDD for STEP/STEG alternative.
Page 2. 11. GHG reduction by Gravity collection is not true see Paige discussion The impact from driving the workforce out of their housing will increase road trips and GHG. Their will not be a "net reduction in greenhouse Gas generated by the community" another false and misleading statement.
Page 3 C 2. Another false statement the lift station required by gravity collection around the Bay and will impact as all in the PZ are ESHA.
Page 3 D 1. Is a vague statement and sewers come in a variety of basic types.
Page 3. 2 The target pollution is Nitrogen as stated in the County's own isotope study there will not be a net improvement by a gravity sewer in fact there will be a greater increase in N as leaks from untreated raw sewage enter the water of the aquifer and the bay. (Dr. Spalding U of Nebraska)
Page4 E. 2. A pond system would eliminate biosolids hauling for 30 to 60 years (see ST Helena pond history)
Page F. STEP?STEG installation and maintenance will greatly reduce traffic impacts (see Jill Haas letter)
Page 5 H. 1,2,3. Again this is assumption with no science to support them. This project will impact the Morro Bay, will not decrease saltwater intrusion (see Larry Raio Soil Scientist Cal Poly regional aquitard leakage comments) And the "On Balance" will be more protective than what? Without contract for farmers to take the sewer effluent how does the project promote farming? This is another false statement.
Page 5 K. A promise: deferred mitigation of final geotechnical report ensuring that runoff improvements will occur. Not enforceable.
Page 5 M. The promise of welded pipes in high groundwater is a pipe dream as perched waters may be found in the collection zone due to lamellae and thin clay lenses even during the dry season.
Page 8. Exhibit B "Prior to final design" The applicant comes to the commission seeking a permit that does not have a final design" ..the applicant shall provide verification . ." another vague non specific deferred mitigation.
Page 8,9 No guarantee means a no vote on the assessment to fund the project and shifts the burden on the 4769 assessed $24,999.00 while the 170 DUE's will not share that cost without a guarantee of development. Their share was $42,480,000.00 making the project over the USEPA guidelines for per capita sewer cost and out of compliance with Environmental Justice policy which the applicant recently admitted it must comply with. That make a $170,000,000.00 project (their low cost) $ 35,647.00 is the cost per household. At these exorbitant costs the low income residents will be unable to bear the burden even with an $18 million grant by USDA. Further the California State Housing goals as defined by state housing codes will be violated. For a more expensive and more impactive project than the viable alternative STEP/STEG would not do. This will have an unexplained impact on rental prices and housing values. Los Osos/Baywood will not be competitive with surrounding communities and section 8 and other low income households will be eliminated.
Page 10. 7. Prior to Construction ..more deferred mitigation promised here. The SLO County has worked on this project since 1984. 25 years and those permits should be in place before the application. 7. Makes a promise that the county shall implement while no plan exists prior to the CDP application. This project was submitted in 2004. Yes the same collection. At that time we asked that it be moved to the Andre site where it now is planned by. We had to recall and pass a ballot measure which we did. We were told by the commission to form our own government which we did. Now we are faced with the same project impacts we objected to in our de novo hearing in 2005 Almost all this projects impact can be avoided by STEP/STEG or Vacuum collection. Paavo Ogren states that his rational is to not waste the $5 million in design that Montgomery Watson Harza charged for this project. STEP/STEG estimates at $45 to 70 million are $100 million cheaper. That logic is irrational. A project must be viable and to the extent feasible affordable. It is not the ratepayer's job to float the pricy and polluting gravity wastewater

industry.
Page P 10 ,11,12 Promises prior to construction NDPES permit, Fire Safety Plan, SLO APCD permit. More promises with deferred mitigation of Unavoidable Impacts that are avoidable with STEP/STEG
Page B an Odor Map indicates expected odors that STEP/STEG will eliminate ferrous chloride and decaying sewage as not enough flow to move the solids at scouring speeds of 2 foot per second. At start up . . . A year or two/ STEP/STEG does not have that issue. Another impact that can be avoided with the lower cost STEP/STEG viable alternative.
Page 20 62,63 Biological Opinion and incidental takes are avoided with STEP/STEG to a much greater extent and USWS is begrudging of takes without serious mitigation measures with real implementation plans. As example the fence on the TR-W "Bait and Switchy" site (the 2005 treatment site) has not been given permission to remove them due to federally listed species. A monument to the stupidity of this project.
Page 25 a through m are all gravity operation Impacts eliminated largely through STEP/STEG collection. (50 miles), micro tunneling and HDD 100%.
Page p 29, 87. When the monster is in operation only then a Groundwater Level Monitoring and Management Plan will be created to see the impact to wetlands, we already know that they will be deprived of the leachate waters from the decommissioned septic tanks. The trees, flora and fauna that are feed by these water will be lost with no mitigation. This impact may be avoided by a decentralized STEP/STEP system.
Page 30 92. The section 10 permit requires Habitat Conservation Plan but there is no one to pay for it if as the findings state that the sewer does not guarantee a building permit. The other issue for vacant property owners is water will serve permits. The safe basin yield is an unmet requirement of the Coastal Act to protect Coastal resources.
New Condition 97's new language (without retiring the old condition, clouds the water supply and disposal of the project effluent. Some state individual HCP's can be issued. If that is the case, who will own and operate the land mitigation bank in perpetuity and how will it be funded to buy the appropriate habitat to mitigate the impacts? The applicant has a project with 700 pages of impacts that can be avoided. The mitigations are deferred. 92a The Coastal Commission asked the county to map all ESHA they refused to do so. I have seen some of the ESHA plant community maps and from Los Osos Creek West ESHA exist on all property as it is Baywood fine sand that supports the native plant communities. The hillside chaparral is different from the lower plant communities, Replacing unlike species is non-compliant, And how will that be addressed? C goes on to state a nexus between possible development and multiple agency permitting. The what, where, how and who questions keep emerging throughout this application. Who is the conservator? Where is the mitigation sites? Are they for sale? We know Broderson cannot be used as it is mitigation for the destroyed TRI-W site.
One of the strongest objections to STEP/STEG is the footprint. However if clustering is required as a condition of development then it is already a condition of the project. Many interceptors can be located in the roadway eliminating impacts on environment. Scoping for this task should have been done with the 7 plus agencies during the 3 year fine screening. Why is it promised later?
Page 32, 97 no contract exist from farmers to receive 100 plus acy feet a year as the County has not done due diligence in fact they lobbied against the Proposed site adjacent to AG operations in the GW basin. The GW litigation raises the questions of where and how the disposal will take place. This is not a viable project it is a long list of unresolved impacts. Broderson disposal is known to cause a problem as the waters move downslope for geo-liquefaction levels higher than presently exist. In the prior project harvest wells were required to cycle the water back into the plant. That is no longer possible with treatment East of town another third set of pipelines will be necessary to move the effluent back out to the plant. So as the water table rises downslope to Cuesta by the Sea, the golf course area and the other areas where harvest wells were found necessary to keep the water in the aquifer instead of leaking into

the bay, the question remains that ½ of the treated effluent is only exacerbating high groundwater conditions and flooding Redfield woods and below from day lighting. (see geo maps and cross sections of aquifer) The upper shallow aquifer has high table now. B Urban Reuse. does not explain how that high priority will be implemented. For example the golf course is receiving waters from the Monarch Grove homes. In the last disposal plan they received 100 acfy. That is not possible now as the subdivision opted out of the project. Schools could reuse a lot but the purveyors are making money selling them treated water3.4.3. Where is that buy in? 3.4 page 14 of the Reuse tech memo merely defines that lawns and ornamentals could be irrigated with tertiary treated disinfected effluent but has no plan that is designed and costed. Most of the potential sites 3.4.1 schools, golf course and community center have a limited potential unless an agreement is signed. The due diligence has not occurred. The cemetery has indicated an unwillingness to put sewer effluent on grave sites (odor)

To truly reduce seawater intrusion pumping reduction is required. That can be done without a project by the purveyors and water conservation requirements. 99 claims are questionable. How much water conservation can save is a question of potential left since some measure are already in place and consumption is close to 50. 60 GPD per person the target. Switching 1200 acfy of production from lower to upper was discussed in the 2005 Cleath Groundwater study it is not a project accomplishment but a purveyor agreement. At present in the IST is looking at safe well yield that won't stop the seawater intrusion. Nor will this project as claimed even mitigate 90 acfy. In fact Cleath used 200 acfy leakage through existing 19 lower aquifer wells as a benefit for recharging the lower aquifer. Well that already exist and it may as mounting evidence exist be polluting the cleaner waters of the lower aquifer.

Page 13. 105. The logistics of pumping 4769 septic tanks and removing their septage (70,000 m/l BOD) has not been done. A huge impact to any treatment plant that requires phasing to prevent discharge permit violations to the treatment train. Presently pumpers dump at Santa Maria Plant. A signed agreement needs to be in place to accommodate 6 million gallons (6,000,000x 4679) is a huge amount of BOD to supply. While this is going on the rest of the septics in the County still need a home for their septage. Now look at the biosolids challenge no signed agreement exist to take what Biolac will produce and the odiferous aroma it will create for the plant neighbors. It is the wrong treatment for this location (Graconia??/Andre/Cemetery)? An aerated pond treatment would be odor free.

In summary the project does not meet it's own goals, community values, Coastal Act, LCP, CZLOU. It will create impacts that are avoidable by a viable project alternative. Please deny this project a a permit.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 12/21/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: 12/21/09

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Linda Ward

Mailing Address: P.O. Box 726

City: San Luis Obispo Zip Code: 93406 Phone: 805-235-2739

SECTION II. Decision Being Appealed

RECEIVED
DEC 21 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo Board of Supervisors

2. Brief description of development being appealed:

Los Osos Waste Water Project.
Re-Location of Treatment Plant to 2198 Los Osos Valley Road, Los Osos.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2198 Los Osos Valley Rd. (Know as the Giacomazzi site)

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☐ Approval with special conditions:

☒ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

DATE FILED: 12/21/09

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☐ City Council/Board of Supervisors
- ☐ Planning Commission
- ☒ Other

6. Date of local government's decision: October 1, 2009

7. Local government's file number (if any): DRC 2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

San Luis Obispo County

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Barry and Vivian Branin, PO Box 540, Morro Bay, CA 93442 (PARENTS - REPRESENTATIVES)

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The San Luis Obispo County Board of Supervisors' decision to locate the Los Osos Wastewater Project at what is known as the "Giacomazzi" site is based on incorrect assumptions and misinformation. Prior to recommending the Giacomazzi site to the Board, the local Planning Commision had chosen the "Tonini" site, located miles away in a valley with different physical characteristics. In preparation for construction of the wasterwater treatment plant at the Tonini site, an extensive environmental impact report ("EIR") was prepared, the wastewater system was engineered, and architectural designs for buildings and landscaping were drawn which screened the site from the nearby road. Due to the large size of the Tonini property and the lack of surrounding neighbors the County Engineering Department chose a sewer treatment process that caused more odor and noise than the process that had been chosen for the original in-town Tri-W site. After this huge expenditure, the Planning Commission suddenly chose to re-locate the treatment plant to the Giacomazzi site with the stated reason that they did not want to remove producing Agricultural land from the County's resources. (Note: The Tonini site was not producing Ag land.)

The Planning Commision then made the decision to "squeeze" the treatment plant onto the Giacomazzi site, a small, in-town, land-locked, parcel of Agricultural land. Although the site is nowhere near the Tonini site, the previously prepared EIR report is being recycled. The Giacomazzi site is bordered by the Los Osos Valley Cemetary (the largest burial site for veterans in the County), residential housing, and producing Ag land. The Cemetary, residences and Ag Land are within a stone's throw away from where the proposed treatment plant will be located. The treatment process approved for the Tonini property with the increased allowance for odor and noise has not been revised despite the closeness of the surrounding residences. No architectural designs for buildings, landscaping or screening of the treatment plant have been prepared or approved. Further, the only current available means of ingress and egress to the Giacomazzi site is over a narrow easement which leads to an uncontrolled section of Los Osos Valley Road. This easement is not sufficient to service a wastewater treatment plant. When this issue was raised to a member of the Board of Supervisors, his response was that the County would "take" what they needed after the project was fully approved. This is true even though no traffic studies have been performed to determine what impact the traffic resulting from the treatment plant will have on the main artery into Los Osos.

In order to achieve their unfounded desire to locate the wastewater treatment plant on the Giacomazzi site, the County plans to subdivide the parcel into a size that is less than the normal County standards for Ag Land. This has never been done before and such a precedent should not be allowed.

Neighboring producing Ag land (the Branin property) contains the largest fresh water lake in Los Osos Valley. The lake is within a recognized Sensitive Resource Area and is located only 500 feet (downhill) from the Giocomazzi site. The lake feeds into a large creek, which then feeds water directly into the Bay. No studies have been performed by any Engineering firm (especially not an independent firm) to determine the potential impact of the proposed treatment plant on this environmentally sensitive area. The Branins have testified at each and every Planning Commission and Board of Supervisors' meetings about this issue. No consideration has been given to their concerns.

In its rush to approve the Giacomazzi site, San Luis Obispo County has failed to obtain the required enviromental impact report, has ignored the site's neighboring properties, has ignored ingress and egress issues, and has ignored issues relating to traffic flow on Los Osos Valley Road. In short, the County has ignored its own requirements and has rammed an inappropriate site down the throats of an unsuspecting community.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 12/20/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Santa Lucia Chapter of the Sierra Club

Mailing Address: P.O. Box 15755 San Luis Obispo, CA 93406

City: San Luis Obispo, CA Zip Code: 93406 Phone: 805-543-8717

SECTION II. Decision Being Appealed

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COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

County of San Luis Obispo

2. Brief description of development being appealed:

Los Osos Wastewater Project DRC2008-00103:
A sewer system serving the community of Los Osos, CA, including collection system, treatment plant, effluent disposal system, agricultural re-use program, water conservation program, and associated infrastructure.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos, CA

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

DATE FILED: 12/21/2009

DISTRICT: Central Coast

Dec 18 2009 8:22PM Sierra Club - Santa Lucia 805-543-8727 p.1

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: November 24, 2009

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Paavo Ogren, Director
San Luis Obispo County Department of Public Works
County Government Center, Room 207
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) J.H. Edwards Company, P.O. Box 6070 Los Osos, CA 93412

(2) Piper Reilly, 691 Woodland Drive Los Osos, CA 93402

(3) Linde Owen, 1935 10th B Los Osos, CA 93402

(4) Keith Wimer, Los Osos Sustainability Group 1101 14th Street Los Osos, CA 93402

(5) Chuck Cesena, 591 Ramona Ave. Los Osos, CA 93402

Dec 18 2009 8:22PM Sierra Club - Santa Lucia 805-543-8727 p.2

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

Dec 18 2009 8:22PM Sierra Club - Santa Lucia 805-543-8727 p.3

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Incorporating all reasons cited by appellant in appeal filed 10/15/09 in appealing the coastal permit, assigned Commission Appeal # A-3-SLO-09-055, prior to modification of Conditions of Approval #97, less our appeal of Condition of Approal #97 as inconsistent with LCP ESHA Policy 2.

Dec 18 2009 8:22PM Sierra Club - Santa Lucia 805-543-8727 p.4

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: December 18, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Dec 18 2009 8:22PM Sierra Club - Santa Lucia 805-543-8727 p.5

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Don Bearden

Mailing Address: 1411 - 7th Street

City: Los Osos Zip Code: 93402-1617 Phone: 805-528-3579

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County Board of Supervisors

2. Brief description of development being appealed:

Los Osos Wastewater Project DRC 2008-00103. Locating the treatment plant at the Giacomazzi site instead of the Mid-town site.
This appeal is a resubmittal of appeal A-3-SLO-09-055 to maintain my standing as an appellant in this matter.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Giacomazzi site APN 067-011-022.
Mid-town site APN 074-229-017

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COASTAL COMMISSION
CENTRAL COAST AREA

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☐ Approval with special conditions:

☒ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

DATE FILED: 12/21/2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: December 7, 2009

7. Local government's file number (if any): DRC 2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
Department of Planning and Building
Murry Wilson, Project Manager 805-788-2352
976 Osos Street, Room 300
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) 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, Chuck Cesena. The County has addresses for all these Planning Commission decision appellants.

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Locating a wastewater treatment plant at the Giacomazzi site when the Mid-town site is still feasible, is incompatible with the LCP. See attached sheets of my appeal #781 to the August 13, 2009 Planning Commision decision and my power point presentation at the September 29, 2009 Board of Supervisor's denial of that appeal. Additionally attached are the first three pages of 9/29/09 agenda item.

1. It converts ag land unnecessarily.
2. It disturbs archaeological sites unnecessarily.
3. Makes polution of Morro Bay more probable due to its closer proximity to waterways.
4. Requires a force main sewer pipeline with a creek crossing from the Mid-town site to the Giacomazzi site.
5. Has the potential to induce inappropriate growth.

The County of San Luis Obispo has deemed the previously approved Mid-town (Tri-W) waste treatment site as "socially infeasible". It's a political hot potato that neither the Planning Commission nor the Board of Supervisors is willing to touch. Therefore, they have selected 30 acres of Giacomazzi farmland to convert to a waste treatment site.

I believe that the Giacomazzi site, located right next to the Los Osos Cemetery is just as "socially infeasible" as the Mid-town site, if not more so. The people in Los Osos Valley, a small community just outside of town, are being asked to accept a waste treatment plant in their community which they can't connect up to and get no benefits from. They have never had a voice in any vote or survey on the Los Osos sewer project. They're even asked to accept a less costly oxidation ditch type plant instead of an MBR type plant which has more stringent odor controls. Up until August 13, 2009 nobody there complained very much because the preferred site was the Tonini site, way out of town. It's been less than two months since the Planning Commission moved the preferred site to the near-town Giacomazzi site. I don't know if the Los Osos Valley people or the Cemetery owners will file lawsuits or not, but I think locating the project at the Giacomazzi site is more "socially infeasible" than the Mid-town site.

The Coastal Commission is the last place to right this injustice by requiring the project be moved back to the Mid town site.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: December 14, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Alon Perlman

Mailing Address: 1482 4th St.

City: Los Osos Zip Code: 93402 Phone: 805 528 5102

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CENTRAL COAST AREA

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

LOWWP. File # DRC 2008-00103. A wastewater facility for a portion of the community, a recharge and reuse of wastewater system for identified and unknown beneficiaries within and without the community.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Unknown ; Currently identified as Giacomazzi site, Within the Groundwater basin APN #076-011-022
37.12 Acres, Rural Estero, 02198 LOS OSOS VALLEY RD REST

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

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TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

DATE FILED: 12/21/2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: 11/24/09, include action of 9/29/09

7. Local government's file number (if any): DRC 2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Dept. of Public Works, 976 Osos St., Rm. 300, San Luis Obispo County, SLO Co. Gov. Ctr., SLO CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) To numerous to mention, including parties abandoning the process, potential additional parties unknown to this Appellant.

(2) Coastal commission staff are requested to provide that distribution list information, ((1) above), or share the information provided herein, to interested parties to the minimal extent that is required by the rules of notification, and to satisfy 14 Cal. Admin. Code section 13111(c)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

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- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

My appeal consists of three primary sub-sections;

1. Appeal to affect of the letter of appeal sent by two CCC Commissioners

I am appealing to the specific changes in condition 97 made by the BOS on 11/24, I also will be appealing to specific language in the Coastal Commissioners appeal itself, that occasioned the changed language in condition 97. I intend to also appeal to language not changed in the condition but whose meaning, context, and environmental impacts will be altered by the changes. I will establish that. "The condition changes enacted on 11/24 do not demonstrate a coming to conformance with the coastal watershed provisions of the LCP (e.g., LUP Coastal Watersheds Policies 1, 2, and 5) to any substantial degree"

2. I am appealing all previous actions, other elements and conditions of approval that impact the flows of the private/state waters outgoing to the treatment site. I will cover several aspects of the collection, including impacts of LID, Graywater collection etc... For Graywater discussion I will reference The SLO County graywater manual. For LID I will reference The LID Center website, and my testimony before the Planning Commission COSE review regarding LID.

3. I am appealing to conditions of approval that may impact health and safety of the residents of Los Osos either directly or by unintended consequence. Including but not limited to Roadway improvements and access to Emergency vehicles that jeopardize continuation of current response times. Other significant environmental impacts or lack of impacts (False positives)

My appeal is unique, and despite similarities will not repeat appeals by others, or come to the same conclusions nor suggest the same appropriate mitigations. If another appellant notes a nexus to a particular Provision of the LCP that I may not have noted at this stage of the process, I reserve the right to incorporate that nexus within my appeal within reasonable establishment of relatedness. My general qualifications go beyond a strong applied science background, service to the community as a Los Osos Community Advisory Council member and in other ways, and full participation in the WWP process, CSD, TAC, since 2005. My qualifications to claim uniqueness and relevance include as follows; I was the first person to document that the proposed sprayfields are in fact evaporation fields, The first to note in a public meeting that the secondarily treated waters are being applied to Class Two Ag. soils, and the person who authored the following sentence in the LOWWP FEIR; "The county needs to obtain guidance from its own EIR Document. This need is hampered, by this disparity between what the EIR is stating (secondary treatment), and what will more than likely happen, after more delays (Tertiary treatment)."

So here we are again, more delays.

Section 1 of 3 in my appeal (First paragraph repeats from page 1)

":1. Appeal to affect of the letter of appeal sent by two CCC Commissioners

I am appealing to the specific changes in condition 97 made by the BOS on 11/24. I also will be appealing to specific language in the Coastal Commissioners appeal itself, that occasioned the changed language in condition 97. I intend to also appeal to language not changed in the condition but whose meaning, context, and environmental impacts will be altered by the changes. I will establish that. "The condition changes enacted on 11/24 do not demonstrate a coming to conformance with the coastal watershed provisions of the LCP (e.g., LUP Coastal Watersheds Policies 1, 2, and 5) to any substantial degree"

The primary concern is the degree of **flexibility** remaining to the county where 33 acres/ft Year (Condition 101) plus The Broaderson limitations to 448 AFY, are the entirety of currently identified and immediately available areas that have confidence of affect. The county now has a timeline to find uses to capture an equivalent volume within the basin but there is not another Broderson or another Bayridge identified.

Creek recharge is the only free access to the interior of the aquitards. The current water supply was created over a period of eight thousand years.

If we had that much time (8,000 years), the best way to return waters to the aquifer(s) is by letting them take the same path they took to get in.

There is no point to return waters if they just fall off the edge of the Bay (unless those SPECIFIC areas Micro ecologies have flora and fauna already dependant on the current flows), There is no point to return waters if they are distributed in a manner that has high evaporation ratio, or low aquifer penetration, or Rushing to find a home for every last drop will result in inefficiencies and erosion. If it takes a little longer to find a "good home" for a portion of the return flows, that that is preferable to investing in infrastructure with inefficient recharge.

Solutions that have a higher SWI mitigation should be prioritized.

This paragraph should taken in context that this author can present that Broderson application at controlled rates has high SWI impact, perhaps more than the values given, and is an immediate priority.

And this will be later demonstrated as the highest priority. Reference SWI map also reference Negative to Sea water level deficit in the aquifer (negative trough 2001 Map).

For historical note; This Author had advocated against 100% of flows going to Broderson since 2005, but was fully satisfied with (CSD District engineer Rob Miller) presenting to reduced application and increased monitoring. Additionally Salt Water Intrusion acceleration has been deduced long ago, and the position of the front (or Bulge, or Finger intrusion) is intruding into the area **directly** influenced by pumping, increasing the pressure differential over a small area thereby accelerating SWI even faster and causing potential underground restructuring. (further review before presentation).

Agricultural exchange with surrounding unattached (out of basin) properties is now prohibited. What is wrong with a potential of exchanging potable water from outside the basin with a higher volume of water that will otherwise take time and money to bring to potable use? There is even a potential SWI benefit when all factors are considered. This is not to suggest that there aren't barriers. In the language of statisticians "A degree of freedom has been removed", increasing uncertainty.

At the start of flows entering the WWTF the county will have had to have in place not only a **plan** to discharge a large volume of slightly dirty water, but will need a **Physical Distribution grid in place**. At least, mostly constructed, in advance of final PZ hookups. (The other solution is a substantial ponding reserve. which is unavailable, footprint considerations (And; a few other things such as: Permission to apply purple pipe waters to schools on the west side of town which will reduce pumping for SWI benefit but also which may discharge to an area that is unusable for ground water re-harvest and happens to overlay (but not recharge much) a portion of the deeper aquifer that is already salt water intruded (Doris Ave)))

Suggested sample language – (Political suicide, or a reasonable consideration of implementability); --At the project treatment plant final construction, an evaluation of Conservation efforts so far and 85%------A timeline of 4 years till 95% or more of waters are returned to the basin and directed to high recharge priority areas, and or high SWI mitigation areas.

The lesson of Broderson? Sometimes 100% is too much, too fast. 100% reflects ideology rather an engineering solution.

Commissioner's Appeal Language: "Subject to an unknown outcome of legal adjudication"

Public testimony on 11/24 included Mr. Ochylski, CSD Director and environmental lawyer stating to the affect of "The ISJ (decision) is superior to the language of the Appeal" (not transcribed). District Supervisor Bruce Gibson stated to the affect of "Whether the sentence is in or out makes no difference" (not transcribed)

Prior to action on appeal, Condition 97 stated ~~; "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."~~

Given the testimony, the removal of the condition was unnecessary and that component of the appeal was also unnecessary. Therefore the removal of the condition sentence was both unnecessary and obfuscatory : "The Uncertainty does not go away, simply because a sentence goes away" A.P. 11/24 (un-transcribed). The "Board of Supervisors – Adopted Findings and Conditions of Approval", now has no reference to the existence of the ISJ nor do the words "Interlocutory Stipulated Judgement" appear. Prior to removal action, the words "groundwater litigation" appeared only once.

Has the change made the groundwater outcome less "subject"? Has the change made the outcome "Known"?

It has not been shown how a determination to direct 100% of outflows back in to the basin is implementable when the carrying capacity of the (yet to be determined) infrastructure is not yet designed, funded, or calculable, nor can be reasonably implemented in a near future, (by end of construction). Nor has it been established that a configuration that uses a reasonably small amount of said waters with indirect benefits is superior to other potential uses in the basin that may not have a benefit at all, given that if there were other mitigated Brodersons or.Bayridges they would have been identified by now.Thus the actions resulting from the Coastal Commissions Appeal raise conformance Issues with the coastal watershed provisions of the LCP (e. g. LUP Coastal watershed policies 1, 2, 5)

Minor issues; the project is identified as "a community wide wastewater system"
Section II development location ; "Community wide, Los Osos" the plant location is not specified.
The term "Community" is not defined.
The term "community wide" is not defined
Development location: "Community Wide" Given that condition 97 specifically restricts the reception area for return flows, the description would had been more relevant if it was more specific; "Within and without the groundwater basin" The BOS change of condition results in "within the basin"

Condition 103 should combine with 99
103.
Prior to individual property connections to the waste water system, each property owner shall provide verification to the satisfaction of the Planning Director that all toilets, showerheads and faucets have been replaced with high efficiency versions of the same.
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.**

Is the interpretation clear that Within one year of adoption is that first year? <Check BOS Records, TYPO?>. What if a home owner undergoes expensive conservation and the due diligence resolution is delayed, What if expensive conservation is taken but is inconsistent with provisions of the yet unwritten conservation program. Why will the applicant need to consult with other purveyors when language removal has rendered the ISJ nonexistent (facetiously).
<Portion not dependant on 103>Are conservation measures adequately defined so that people can proceed to retrofit in absence of a plan. At this date there is a toilet retrofit program that is in effect by SLO County, and would conceivably **remain in affect** in areas OUTSIDE the PZ (Once the project is built). That program continues to carry mathematical Errors recognized as such by SLO COUNTY Staff and government, to this date (LOCAC, Margotsen).

2. I am appealing all previous actions, other elements and conditions of approval that impact the flows of the private/state waters outgoing to the treatment site.. I will cover several aspects of the collection, including impacts of LID. Graywater collection etc... For Graywater discussion I will reference The SLO County graywater manual. For LID I will reference The LID Center website, and my testimony before the Planning Commission COSE review regarding LID.

Those in-flows will by nature influence the amounts of the outflows (and to some extent Quality), discussed and inferred by condition 97, and its appeal and subsequent action of change.

http://slogreenbuild.org/Library/documents/general/Graywater_08_20_09.pdf

Future discussion will show that unless Graywater is ordinanced into the project, the changes in flows bypassing the WWTF in the short term will not be significant. Existing (unreported) graywater systems will need enumeration and careful inspection. An opinion as to the prevalence of unconnected existing systems is needed.

Condition

87. Concurrent with the operation of the facility,... .....an education program to encourage property owners to convert septic systems into areas capable of groundwater recharge.

This paragraph portion above is entirely nonspecific and duplicative to condition 88 (unless defined e.g. Decommissioned septic tank acting as cistern, existing leach field acting as recharge distribution system. (will seepage pits be allowed?)) It is duplicative of the language in condition 88. (Is "INTO" above actually intended "IN"?). Only specific areas recharge the aquifers. Some areas are expected to flood even without the current leachate (Septic Tank) contributions. Riparian corridors may benefit from direct historic rainwater flows, provided erosion controls are in place, and not by local retention that .

88. In order to maintain existing levels of groundwater recharge and protect coastal water quality, the County shall evaluate and, where appropriate, assist property owners in the implementation of opportunities to re-use existing septic tank effluent disposal systems (e.g., leach fields) to filter and percolate stormwater runoff. Prior to the connection of individual properties the County shall, at the consent of the landowner, evaluate whether existing on site wastewater disposal facilities have adequate capacity and depth to groundwater to accommodate and percolate stormwater runoff, and if so, provide site-specific recommendations on how to connect such a system.

www.lowimpactdevelopment.org/

LID has been a frequently misused term. Discussion to refine the proper usage of the concepts and applicability to the Proposed WWTP will be presented.

3. I am appealing to conditions of approval that may impact health and safety of the residents of Los Osos either directly or by unintended consequence. Including but not limited to Roadway improvements and access to Emergency vehicles that jeopardize continuation of current response times. Other significant environmental impacts or lack of impacts (False positives)

Emergency response times in ALL L.O. will increase due to anticipated road closures and due to unplanned contingencies inherent in collection system construction.

109.

Prior to commencing construction activities **at the** Giacomazzi site, the applicant shall submit to the Department of Public Works for review and approval a Roadway Safety Analysis (RSA) for the intersection of the treatment plant access road with Los Osos Valley Road. ...

And

d)

Evaluate Los Osos Valley Road **traffic safety a minimum of 1-mile either side of the treatment plant access road** and provide recommendations for improvements, if required;

The above is specific to the treatment site area. Community wide Emergency vehicle Access is stated in Finding F.

F.

The proposed use or project 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 Los Osos Valley Road that would serve the daily employee traffic for the wastewater treatment plant is an arterial road, capable of handling all operational traffic generated by the proposed use. **Construction traffic throughout the community will create temporary inconveniences** but has been shown in the traffic analysis contained within the **EIR to not create significant traffic or circulation** related impacts.

Multiple deficiencies in the Traffic analysis portion were reviewed and commented to FEIR by Dr. Dubbink (Multiple Reviews and personal communications). This FEIR statement is inconsistent with the letter (March 23, 2009) by North Coast Battalion Chief Phil Veneris to M. Ochylski Director CSD, Liaison ESAC (Emergency Committee) Identifying valuable access routes and unpaved areas particularly impassable during wet season. (I was a full and originating participant in those discussions. A prior originator was Mr. Margotsen (Potential appellant) The CSD, LOCAC (Chair, T&C Chair can be contacted also).

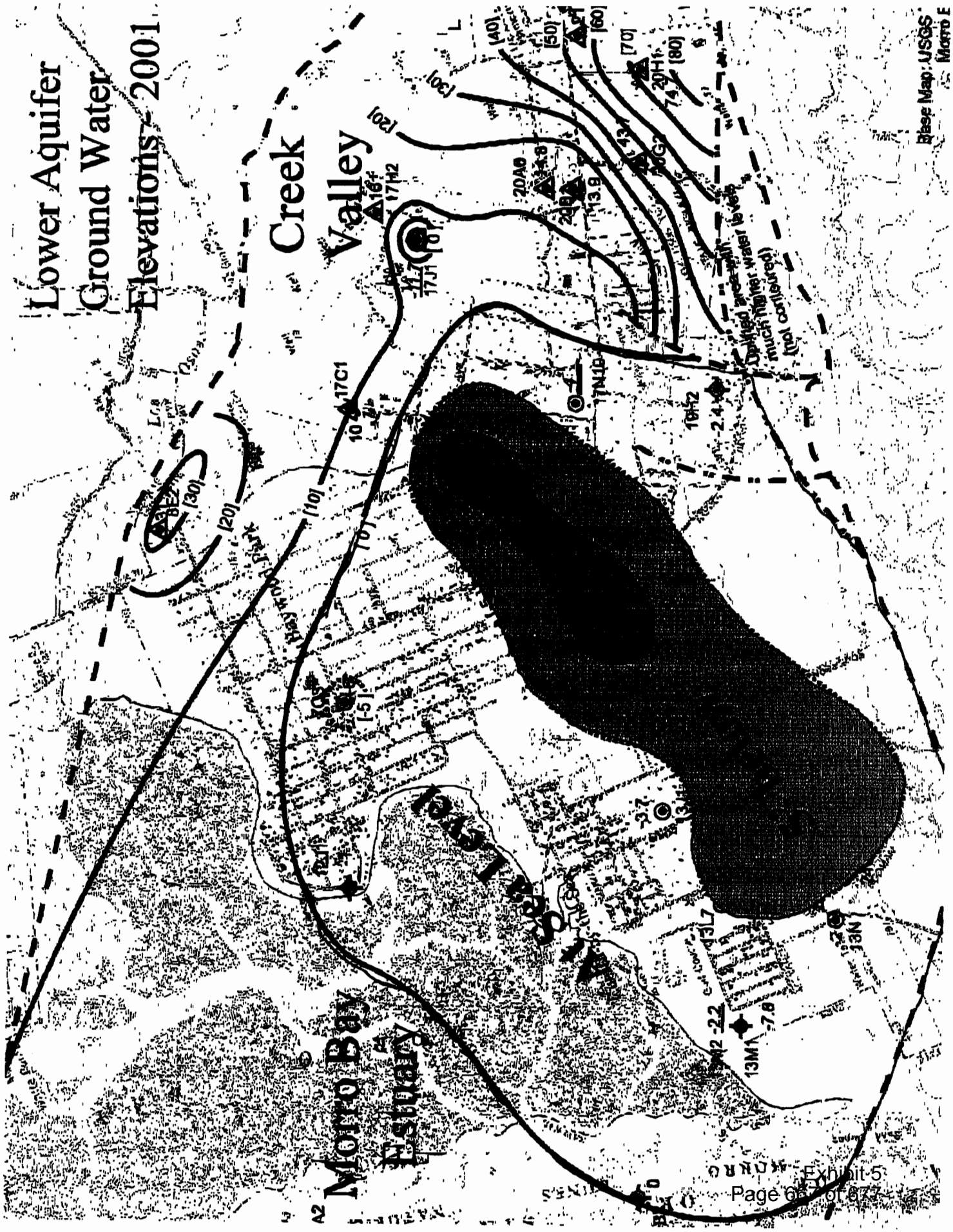
Simple mitigations (Gravel Road improvements in 3-4 locations) are available at low cost, but there is no funding source. There is a safety plan yet to finalize. 250 Thousand dollars allocated to potential L. O. road improvements are currently re allocated to ongoing LOWWP activities.

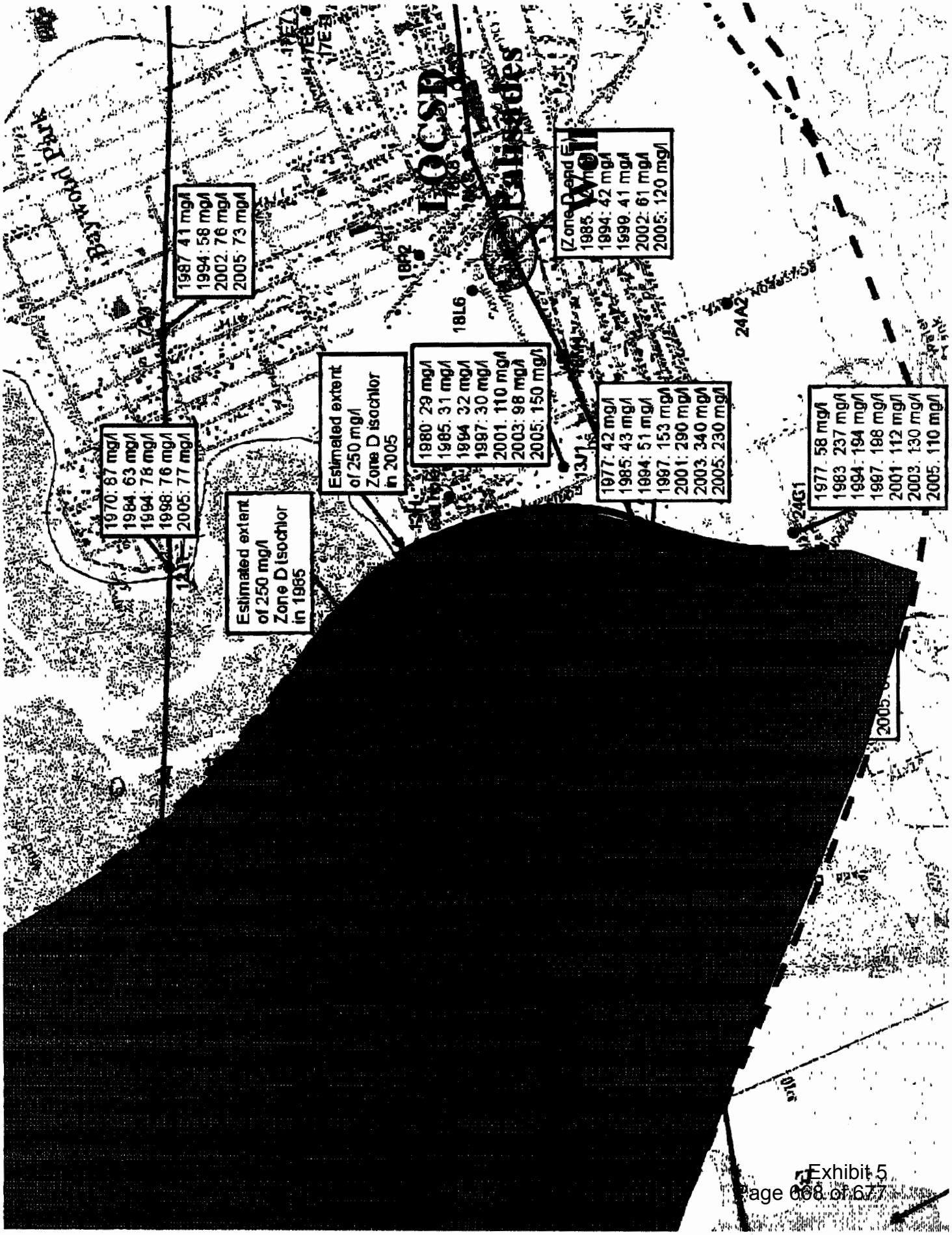
Air Quality. Personal communication with APCD Personnel regarding, EIR mitigation – Condition 75 leads me to believe that the APCD will only allow Maximal particulate filtration on ALL equipment, given that the whole town is considered Sensitive Receptors.

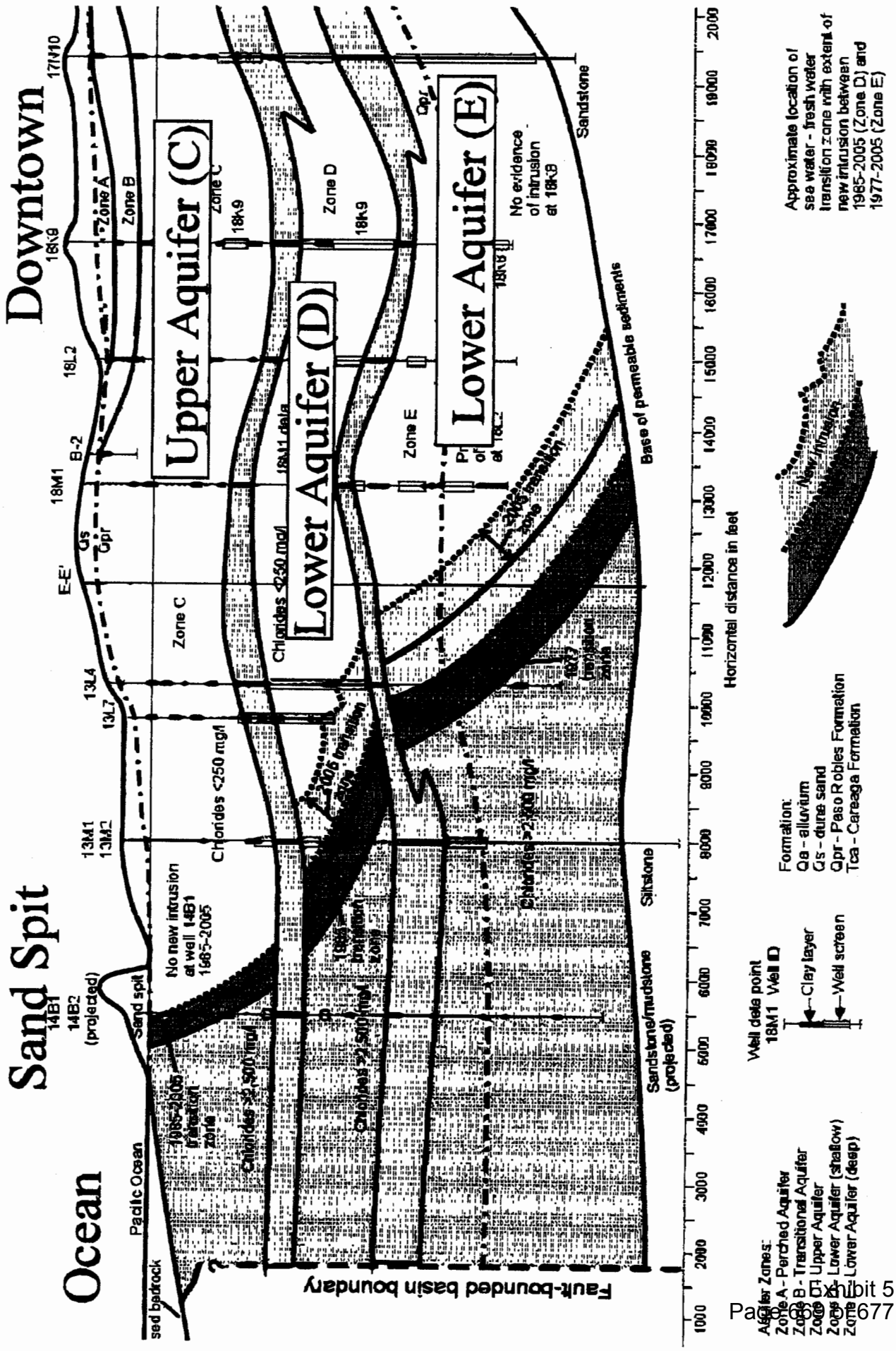
Condition

75. [Mitigation 5.9-C2] Prior to initiating grading activities, the proponent's contractor or engineer shall:
    a. Include the following specifications on all project plans: **One catalyzed diesel particulate filter (CDPF) shall be used on the piece of equipment estimated to generate the greatest emissions.** If a CDPF is unsuitable for the potential equipment to be controlled, five diesel oxidation catalysts (DOC) shall be used.

Not considered as substantial issue due to superiority of agency (APCD) plan. However why this is still in EIR is problematic.


Lower Aquifer
Ground Water
Elevations - 2001
Creek
Valley
Morro Bay
Estuary
Base Map: USGS
Uplifted area with much higher water levels (not contoured)


Baywood Park
LOCSD
Palisades
1987: 41 mg/l
1994: 58 mg/l
2002: 76 mg/l
2005: 73 mg/l
1970: 87 mg/l
1984: 63 mg/l
1994: 78 mg/l
1998: 76 mg/l
2005: 77 mg/l
Estimated extent of 250 mg/l Zone D isochlor in 1985
Estimated extent of 250 mg/l Zone D isochlor in 2005
1980: 29 mg/l
1985: 31 mg/l
1994: 32 mg/l
1997: 30 mg/l
2001: 110 mg/l
2003: 98 mg/l
2005: 150 mg/l
1977: 42 mg/l
1985: 43 mg/l
1994: 51 mg/l
1997: 153 mg/l
2001: 290 mg/l
2003: 340 mg/l
2005: 230 mg/l
1977: 58 mg/l
1983: 237 mg/l
1994: 194 mg/l
1997: 198 mg/l
2001: 112 mg/l
2003: 130 mg/l
2005: 110 mg/l
(Zone D and E)
1985: 42 mg/l
1994: 42 mg/l
1999: 41 mg/l
2002: 61 mg/l
2005: 120 mg/l
18L6
24A2
24G1
13J1


Ocean
Sand Spit
Downtown
Upper Aquifer (C)
Lower Aquifer (D)
Lower Aquifer (E)
Pacific Ocean
Sand spit
Zone A
Zone B
Zone C
Zone D
Zone E
Chlorides <250 mg/l
No new intrusion at well 14B1 1965-2005
No evidence of intrusion at 18K8
Base of permeable sediments
Sandstone
Siltstone
Sandstone/mudstone (projected)
Fault-bounded basin boundary
Horizontal distance in feet
Approximate location of sea water - fresh water transition zone with extent of new intrusion between 1965-2005 (Zone D) and 1977-2005 (Zone E)
Formation:
Qa - alluvium
Qs - dune sand
Qpr - Paso Robles Formation
Tca - Careaga Formation
Well data point
18M1 Well ID
Clay layer
Well screen
Aquifer Zones:
Zone A - Perched Aquifer
Zone B - Transitional Aquifer
Zone C - Upper Aquifer
Zone D - Lower Aquifer (shallow)
Zone E - Lower Aquifer (deep)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 12/21/2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

STATE OF CALIFORNIA -- THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5260 FAX (415) 904-5400

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, 95060
(831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Piper Reilly

Mailing Address: 691 Woodland Drive

City: Los Osos Zip Code: 93402 Phone: (805) 528-0691

SECTION II. Decision Being Appealed

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Waster Water Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Los Osos/2198 Los Osos Valley Road

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

DATE FILED: 12/21/2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I am appealing the decision to approve the LOWWP in its current form, as well as condition 97, because both will have significant impact on water quantity and quality and will harm ESHA. Please refer to my appeal of the LOWWP submitted to you on October 19, 2009 for detailed explanation and evidence as well as the points below.

The recharge scheme provided by the County will not be adequate to control Sea Water Intrusion, (SWI). As stated by, 2 Cal Poly professionals, Larry Raio and Thomas Rhor, as well as by Jeffery Young of the Central Coast Regional Water Quality Control Board, the clay aquitard at Broderson is so thick that any percolation is speculative. After 30 years of SWI, known by both the County and the Water Board and with no action taken, the Los Osos Basin is in a fragile state, not from nitrates, the sole impetuous of the project as deemed by the Water Board, but by SWI. It is noted in several places that the project may have little or no effect on nitrate levels for 30 years or more.

Evidence shows the majority of the basin may already be lost to SWI therefore all recharge must stay within the basin and steps need to be taken to ensure greatest recharge ie. low impact development, strong conservation and agricultural exchange within our basin only. An ISJ type action was taken by the same parties ten years ago and nothing was accomplished then, to hope for something to work out at some point in the future is not an solution. Future mitigation to uncertain ends is not adequate

Due to high exfiltration rates with conventional gravity technology, raw sewage will leak into the groundwater supply as well as creeks, estuaries and the protected Marine Reserve. Because of SWI and drought, Los Osos, like it's neighbor Morro Bay, may need to build desal for their wells. If sewage leeks into that water supply then desal will not be possible.

All of these issues, harm to ESHA and water, can be avoided by utilizing low pressure technology and a holistic approach. It has been proven to work and we were promised, in our 218 ballot, atleast a comparison of the conventional gravity and the low pressure systems. About six months ago the County went back on that written and spoken promise.

All of San Luis Obispo County's towns are in a water/sewage crisis of one sort or another and Los Osos is the precedent setting case. This has very much been a process of "hurry up and wait" with the County claiming, "there is no time, we must act now to get certain monies". Non of these monies have ever come to fruition and the current prospects are a very poor deal compared to what was originally promised.

Because of this issue of " haste" there was "never any time for contracts to go out to bid" and all the same engineers and consultants were hired, and more than seven million dollars was spent to sole source back to the Montgomery Watson Harza plan. This County proposal is the only project requiring recharge at Broderson and which uses the controversial Mid Town site, (next to a Marine Reserve), as a sewage collection/ hazardous chemical mixing station. The installation of the gravity system will require massive dewatering of deep trenches and disposal of said water, and then the system will be requiring water for maintenance. This will not happen with a low pressure system

The County's proposed collection and treatment methods create bio hazardous waste in the form of sludge and there is no secure long term plan to deal with it. Low preassure systems reduce sludge by atleast 75% and passive ponds can treat to tertiary while "eating" the remaining solids. The County's conventional proposal utilizes pump stations and back up generators, which fail and spill, on ESHA. This would not be the case with a low pressure system.

These more protective, less impactive, proven, low preassure options, which have been eliminated by the County for consideration, are also much less expensive as well as having a smaller over all footprint.

The County is ultimately responsible for resources. They were our water purveyor. It was through their mis management that Los Osos, as well as many other town's in SLO County, are in such a poor situation. It is bad enough that an unscientificly picked, select group of private citizen's has to pay for a Public Works project, it should at least be as promised, sustainable, and certainly do no harm.

Thank you for your careful consideration of this crucial matter.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 12/21/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Barry and Vivian Branin

Mailing Address: P.O. Box 540

City: Morro Bay Zip Code: 93442 Phone: 714.920.9226

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo Board of Supervisors

2. Brief description of development being appealed:

Los Osos Waste Water Project. Location of Treatment Plant.

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DEC 2 1 2009
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2198 Los Osos Valley Rd. (Know as the Giacomazzi site)

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☐ Approval with special conditions:

☒ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-069

DATE FILED: 12/21/2009

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☐ City Council/Board of Supervisors
- ☐ Planning Commission
- ☒ Other

6. Date of local government's decision: November 24, 2009

7. Local government's file number (if any): DRC 2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Numerous persons testified. I Barry F. Branin testified a number of times

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The proposed project has numerous faults in its design and location. The original EIR was prepared for a different location. Namely the Tonini site. When the treatment plant was relocated by the Planning Commissioners there was never an adequate study of the impacts on the plants' location and operation on the adjacent properties. There were inadequate assumptions made by staff without outside review.
The major impacts that have not been addressed in the design are as follows:
1. The location of the plant is within 500 ft of a designated Sensitive Resource Area. Warden Lake is with in this area and it is the largest natural fresh water lake in the Los Oso Valley. The plant as proposed will be at least 50 vertical feet above the lake surface. This location places the plant at the throat of a natural canyon which leads directly into the lake. No study or adequate design has been demonstrated to the public that will provide protection to this sensitive area in case of a spill or breakdown. The overflow design should be reviewed and approved by an independent Engineering firm.
2. The has been little or no proposed mitigation design for the smells, noise, and lighting impacts of the plant's operation for the adjacent residences or Los Osos Valley Cemetary. The proposed layout, access roads, fencing, and landscaping have not been completely developed and are left to the applicant to do what they deem sufficient. In that the County is the Applicant there is no fair arbiter available to require the County to perform. The Coastal Commission is the last stop to require design specifics that should be established prior to Coastal Commission Permit and commencement of construction.
3. When the County Engineering Department chose the equipment for the plant the site was to be on the much larger Tonini Ranch. This allowed them to chose a process that causes more odor than the equipment which was proposed for the original in-town plant. Now that the plant has moved to the Giacomazzi site it is appropriate that the cleaner less odor producing equipment be used. The immediate neighbors will have to deal with the smells, noise and lights with no benefits. At least we should get the same clean equipment as was originally planned for the in-town site when it was to be next to residences.
4. The location of the plant on the Giacomazzi site calls for subdividing the parcel into less than than the normal County standards for Ag land. This location will remove forever Agricultural land from production. If the original Coastal Commission approved in-town site was used no Ag land will be taken. Allowing the County to subdivide this parcel sets a bad precedent for future land development.
5. By locating the plant at the original in-town site it will require less disturbance to Sensitive Resource Areas by eliminating a creek crossing. The original location will not require as many miles of pipe to and from the plant to the future recharge wells and thus reduce the disturbance of Cultural and Natural Resources. In order to protect the Municipal water system, I predict that injection wells will be necessary to keep the Salt water from intruding into the water wells.
In summary, this plant site has been chosen because of political reasons. It is not the correct decision for environmental impact and land use reasons. Only the Coastal Commission can correct this mistake.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Barry F Branin

Signature of Appellant(s) or Authorized Agent

Date: December 19, 2009

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____

Signature of Appellant(s)

Date: December 19, 2009