

CALIFORNIA COASTAL COMMISSION

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F19g

Prepared March 8, 2021 for March 12, 2021 Hearing

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager

**Subject: Additional hearing materials for F19g
CDP Number A-3-SLO-21-0008 (Robertson Second Unit, Los Osos)**

This package includes additional materials related to the above-referenced hearing item as follows:

Additional correspondence received in the time since the staff report was distributed

Written Comments for Hearing: Notice received of Important Public Hearing New Appeal from the Coastal Commission for hearing that will take place for March 12, 2021 starting at 9am agenda Item # 19g.

Appeal Number: A-3-SLO-21-0008

Local Government Permit: PMTR 2020-00639

Applicant: Ronald Robertson

Appellant(s): Commissioners Howell and Escalante; The Los Osos Sustainability Group

Decision Being Appealed: San Luis Obispo County Decision granting a permit to Ronald Robertson for construction of a one-story 1,000 sq.ft. **Accessory Dwelling Unit** on a **1.01 Acre** property with an existing single-family home at 1648 Los Osos Valley Road (APN 074-363-030) within the **eastern outskirts** of the unincorporated community of Los Osos, San Luis Obispo County.

Our goal is not to create a source of income, but to create better scenario for both the current resources and environmental footprint, as well as a safer environment for our elderly family members who already live on the property; currently two of the three bedrooms are located on the upper level of our existing home. No additional persons will be added to living on the property.

Response to Comments to Staff Report Substantial Issue Determination F19g (SRSID F19g) Letter

The SRSID F19g, 2A States: 'No conditions of approval were placed on the approved project [by the county]. This is incorrect and is shown on SRSID F19g's Exhibit 2, which includes but is not limited to a "2:1 water off-set" .

2:1 water offset requirements would not only negate the inadequate water issue for the proposed ADU, with our application it would more than negate it as the number of people living on the property will not change thus improving the current demand on the local water supply.

We are located on the easternmost edge of the Los Osos community that is supplied by Golden State Water, of whom has stated that they can supply our existing property and the additional ADU if needed. We are currently using the well on the property that pulls from the upper aquifer.

Bruce Gibson, San Luis Obispo County Board of Supervisors District 2 & Los Osos Basin Management Committee Board Member, stated that the 2:1 water offset was more than adequate to address the water issue for our project.

Commission Imposed Special Condition 6 Response: In the prior studies for the Los Osos Wastewater Reclamation Plant (LOWWRP) areas for hookup, our pre-existing SFR 1.01-acre lot location was deemed safe and outside the required zones for replacing the septic systems with sewer hookups, thus nullifying the Commissions concerns on Special Condition 6 as we would not be hooking up to the local wastewater service. Our onsite wastewater system has been recently verified as an excellently maintained, 1,500-gallon onsite wastewater system capable of a 4-bedroom, 8-person occupancy rate; above what is needed for our project and meets the County's **Onsite Wastewater Treatment Systems Local Agency Management Program (LAMP), dated May 2020**. We will not be adding any additional persons living on the property. Our system is in excellent working condition and does not present a hazard for our local environment. Remaining on our approved, more than capable onsite system nullifies Commission concerns of our need to hook up to the LOWWRP, including concerns of impacts to water supply for which sustainable pumping/use limits would be required. This proposed project is already served by adequate and sustainable water and wastewater services and approving our project will also decrease the load factor on our current system with the 2:1 water offsets creating a better outcome than what is required by the LCP; therefore Special Condition 6 is not applicable to this project.

The habitat footprint will not be an issue as the footprint area for the project is the same footprint area where we recently acquired and finalized a demo permit which removed an existing horse barn, chicken coup, and horse corrals. It is currently flat compacted sand with zero vegetation up to the fence lines of the neighbor's yard immediately to the east side and Los Osos Valley Road to the south, our driveway to the primary residence to the west, and up to the landscaped portion of the yard to the north. The project will follow construction site recycling, safety, and environmental protocols. This project clearly does not disrupt any habitat values noted in the Habitat Conservation Plan (HCP) or Environmental Sensitive Habitat Area (ESHA) noted of concern by the Commission and is therefore not applicable to this project.



It is our understanding that the CA State ADU Laws indicate that we can have an ADU up to the size of 1200sf, and the current LCP rules indicates 800sf. Currently our approved plan submitted to the county falls between these two sizes at 1,000 sf and was approved on the county based on the new CA State ADU laws; however if it is a determining factor, we are willing to scale down 200sf to meet the 800sf LCP size requirement if that is needed for permit approval.

Response to SRSID F19g, Exhibit 3- Appellant Los Osos Sustainability Group:

Item I: References LCP last amended in 2018, rather than the LCP amended April 2019.

Item II: *Title references & discusses a project that often is not ours (PMTR2020-01207)*

Section B: Negated each item. Property is over one acre, can be served by community water or well water, and has 1,500-gallon onsite wastewater in place. A contingency can be placed on the approval to downsize the ADU by 200 sf, if deemed necessary.

GFA Last paragraph 'additional sheet 4 of 6: states contradictions. States "square footage of lot 44,431sf", (which exceeds one acre), and then states that "the lot size must be at least one acre", and then goes on to state that "not enough information was given regarding lot size", and then states "If it is not one acre (net), the proposed ADU is not allowed". Those assumptions are incorrect. The proposed ADU lot size is just over an acre.

Section C: The county has already vetted this item and deemed it falls under the approval status: Per San Luis Obispo County, The ADU will be attached by a common wall and is considered a dwelling. No minor use permit is necessary.

Section D: The county has already vetted this item and is an appropriately labeled 'barn'.

Since we are limited in our response this concludes the response to the Exhibit 3 from Appellant Los Osos Sustainability Group skipping past the 7 pages of introduction and just addressing the 'Grounds for this Appeal' section.

Response to E: SRSID F19g 'Substantial Issue Determination'

SUMMARY

The County analyzed the water supply and deemed a 2:1 water offset for this project would be an offset in the benefit of the current water load from this property.

The County confirmed that the 1500-gal onsite wastewater system on this site was more than adequate for the project and would also benefit from the 2:1 water offset requirement for the project. The County confirmed footprint of the project is filling in an already established footprint and would not affect the ESHA.

We were assured San Luis Obispo County Planning department has taken a combination of all of these items into account for this specific project. San Luis Obispo County Planning has clearly stated that our permit was granted by them based on the above information as well as their review and application of the new **CA ADU Laws/requirements**; the **Los Osos Community Plan (LOCP) EIR by John F Rickenbach Consulting dated June 2020**; the **Los Osos Habitat Conservation Plan (LOHCP) Final EIR, by Rincon Consults, Inc. dated July 2020**; the **Local Coastal Program(LCP) Title 23 of the San Luis Obispo County Code Revised April 2019**, as well as the **Los Osos Basin Plan (LOBP) by Cleath-Harris Geologists dated June 2020**.

Considering the addition of an ADU on this site is reusing an existing footprint of a prior building location and will not affect the existing habitat, add any additional water usage or need to hook up to the LOWWRP, and would actually improve the impact upon the two latter items; as well as the plan to decrease our environmental footprint with solar panels on the roof of the proposed project, all this along with the new California ADU laws taken into account shows substantial logic to allow our project to proceed.

CONCLUSION

We would appreciate an approval on our project.

- We will not be using more water but less with the 2:1 water offset with the same number of souls living here.
- With the 2:1 water offset we will also inherently decrease pressure on the current 1500-gal onsite wastewater disposal system.
- We will be using the same footprint as a recent removal of a pre-existing chicken coup, horse barn, and corral area and site disturbance will be nil. We will not disrupt any ESHA.
- We will be installing solar panels, thus lowering our environmental impact even more.
- We will not be increasing the number of people already living on the property. Our goal is to create a safer environment for our elderly family members and currently two of the three bedrooms are located on the upper level of our existing home.

If you are still strongly considering a No vote for our project:

Clearly something can be negotiated as we have noticed in Los Osos a recently built new carwash on a previously vacant lot; as well as two new homes on vacant lots, just two and four lots east from ours, both in the same designated zones as we are; one with a footprint that takes up almost the entire property and the other very near to the same. Additionally, there are projects just completed (Expansion of Baywood Inn) as well as some moving forward within yards of the bay in the Baywood area of Los Osos.



Sources:

Local Coastal Program (LCP) Title 23 of the San Luis Obispo County Code Revised April 2019

[https://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Ordinances/Coastal-Land-Use-Ordinance-\(Title-23\).pdf](https://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Ordinances/Coastal-Land-Use-Ordinance-(Title-23).pdf)

Los Osos Basin Plan (LOBP) by Cleath-Harris Geologists dated June 2020

[https://www.slocounty.ca.gov/Departments/Public-Works/Forms-Documents/Committees-Programs/Los-Osos-Basin-Management-Committee-\(BMC\)/Annual-Reports/2019-LOBMC-Annual-Report.aspx](https://www.slocounty.ca.gov/Departments/Public-Works/Forms-Documents/Committees-Programs/Los-Osos-Basin-Management-Committee-(BMC)/Annual-Reports/2019-LOBMC-Annual-Report.aspx)

Los Osos Community Plan (LOCP) EIR by John F Rickenbach Consulting dated June 2020

[https://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Plans-and-Elements/Community-Plans/Los-Osos-Community-Plan-Update-Files/Final-Environmental-Impact-Report-\(FEIR\)-for-the-L.aspx](https://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Plans-and-Elements/Community-Plans/Los-Osos-Community-Plan-Update-Files/Final-Environmental-Impact-Report-(FEIR)-for-the-L.aspx)

Los Osos Habitat Conservation Plan (LOHCP) Final EIR, by Rincon Consults, Inc. dated July 2020

https://slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Environmental-Forms-and-Documents/Los-Osos-Habitat-Conservation-Plan/LOHCP-Final-EIR_2020-0826.pdf

Onsite Wastewater Treatment Systems Local Agency Management Program(LAMP), dated May 2020 [County-of-San-Luis-Obispo-LAMP-2020.pdf \(ca.gov\)](#)

The Land Use Element And Local Coastal Plan Of The San Luis Obispo County General Plan, Estero Plan Area 1988 Revised Jan 2009 <https://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Plans-and-Elements/Area-Plans/Coastal-Zone/Estero-Area-Plan.pdf>



March 5, 2021

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

Subject: Los Osos Project Appeals (A-3-SLO-21-0004, A-3-SLO-21-0005, A-3-SLO-21-0007, A-3-SLO-21-0008)

Dear Commissioners,

On behalf of the Los Osos Sustainability Group (LOSG), I would like to thank the Commission Staff for your thoughtful and detailed review of our appeals of San Luis Obispo County's approval of these and several other proposed Accessory Dwelling Unit (ADU) projects in Los Osos. We support the Staff Report's recommended findings that the projects will threaten endangered resources in the area, including the Los Osos Water Basin, and request that the Commission make a positive "substantial issue" determination and formally take over the appeal of these projects. When all the evidence is considered, we believe the Commission will ultimately conclude that these ADUs should be denied until the County has formulated an adequate basin management plan that will ensure reliable water supplies to protect environmental resources and for consumption by the current residents of Los Osos.

As the Staff Report indicates, approval of the proposed projects as well as any future ADUs, affordable housing, or any other development should be contingent upon the Commission's review and approval of an updated Los Osos Community Plan or LOCP. As the Staff Report explains, to avoid unsustainable development, the Coastal Development Permit for the Los Osos Wastewater Project (2010 CDP) includes Special Condition 6, which requires the LOCP to identify build out limits and mechanisms to stay within those limits based on "conclusive evidence" of an adequate water supply. Accordingly, approval of ANY new development, even ADUs, must be deferred until the Commission has reviewed and approved the LOCP.

We also agree with the Staff Report's analysis and conclusion that compliance with Title 19, the County's retrofit-to-build ordinance, doesn't ensure that the water demands created by new ADUs are fully mitigated.

The County has not adequately monitored the retrofit program and there is not evidence to show that retrofit opportunities still exist. Moreover, the County has not demonstrated the

extent to which the retrofit program has actually succeeded in reducing the water demand in Los Osos.

I have attached hereto the latest status report on seawater intrusion conditions in the Los Osos Basin, which indicates deteriorating seawater intrusion conditions (steeply rising Chloride Metric levels). On Page 2, the report states:

The Chloride Metric rose from 163 mg/L to 205 mg/L between Fall 2019 and Fall 2020, and is close to the Fall 2016 record high of 225 mg/L. The metric has been rising through 2020, which represents a deterioration of basin conditions.

Later in the report, it states: "... the increasing Chloride Metric trend in 2020 shows that seawater intrusion has not yet been mitigated."

We believe this latest monitoring report supports LOSG's and Staff's belief that the County's current plan for managing the basin is inadequate and that approval of any development in Los Osos must be deferred until the seawater intrusion problem has been adequately addressed. In closing, I would like to express our appreciation to Commission staff for its ongoing efforts to protect and preserve the threatened Los Osos Groundwater Basin and area resources including ESHA. Staff's deep knowledge of the issues and ongoing concern for the health and sustainability of the area is reflected in its carefully considered analysis and recommendations.

Sincerely,

Patrick McGibney

Patrick McGibney, Chair
Los Osos Sustainability Group

Attachment: "Preliminary Results of the Fall 2020 Lower Aquifer monitoring results" and the "Chloride and Water Level Metric" graph

DRAFT

Cleath-Harris Geologists, Inc.
75 Zaca Lane, Suite 110
San Luis Obispo, CA 93401
(805) 543-1413



Memorandum

Date: January 15, 2021

From: Spencer Harris, HG 633

To: Dan Heimel, PE, Executive Director
Los Osos Basin Management Committee

SUBJECT: Preliminary results of Fall 2020 Lower Aquifer water quality monitoring.

Dear Mr. Heimel:

As is customary, Cleath-Harris Geologists provided the BMC with a table of preliminary results for the Fall 2020 Lower Aquifer water quality monitoring, along with a draft water level and chloride metric graph for 2020 (attached). Typically, this information would be further interpreted in the Annual Report. Per your request, this memorandum provides a brief discussion of the Chloride Metric results and trends through 2020.

The Chloride Metric rose from 163 mg/L to 205 mg/L between Fall 2019 and Fall 2020, and is close to the Fall 2016 record high of 225 mg/L. The metric has been rising through 2020, which represents a deterioration of basin conditions.

Chloride Metric Trends

Fluctuations in the Chloride Metric since 2014 have been largely driven by chloride results at Lower Aquifer well LA10, which is double-counted in the metric calculation to add sensitivity for that location. As discussed in Appendix J of the 2018 Annual Report, reductions in annual production at LA10 have magnified the effects of Upper Aquifer influence (due to borehole leakage) on water quality. Upper Aquifer influence at LA10 decreases chloride concentrations and increases nitrate concentrations of the produced water. LA10 draws water from Lower Aquifer Zones D and E, each of which have different chloride concentrations.

Well construction makes it difficult to manage the blend of water entering LA10 and provide “apples to apples” sampling results for understanding metric trends. Nevertheless, the overall trend of a rising Chloride Metric through 2016, followed by declining metric through 2018, and then renewed rise in the metric through 2020 is also supported by data from metric well LA12, which is a monitoring well.

Seawater Intrusion Mitigation

With respect to the Los Osos Basin Plan (LOBP) goal of seawater intrusion mitigation and verified progress toward this goal, the increasing Chloride Metric trend in 2020 shows that seawater intrusion has not yet been mitigated. However, the anticipated trendline for the

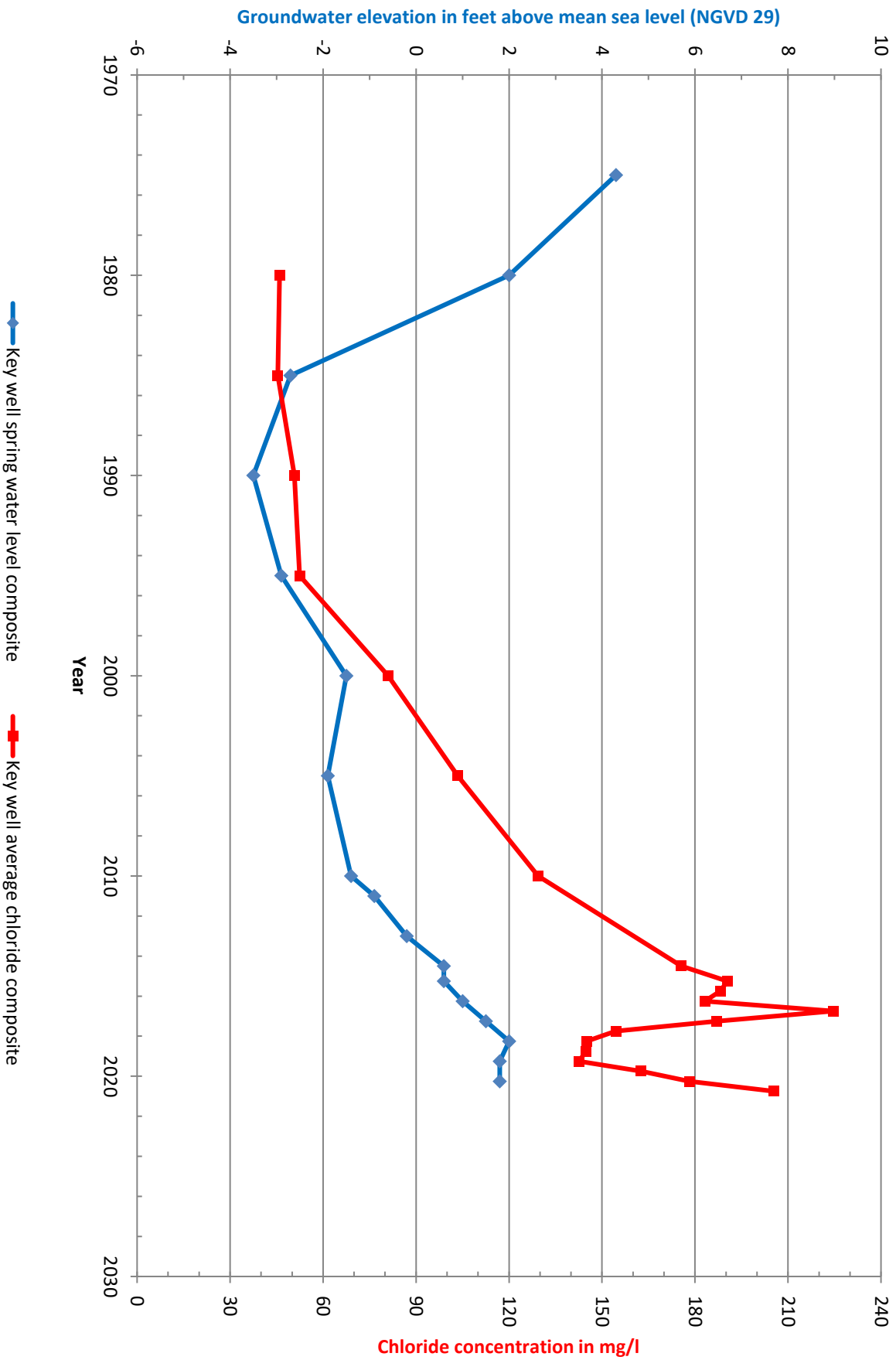


Chloride Metric as presented in the LOBP was a continued rise in the metric for a period of 10 years following completion of the sewer project and implementation of the various management programs. Development of the groundwater mound beneath the Broderson disposal site is continuing through 2020 and is expected to raise water levels in the Lower Aquifer that will lead to stabilization and reversal of seawater intrusion.

This year, additional water level transducers are proposed to be installed to help track the progress of the groundwater mound. The Chloride Metric will also be further evaluated to address the problem of obtaining representative results from LA10. **Until field verification of mitigation is observed, however, there should always be a cautious level of concern with respect to the rising Chloride Metric and seawater intrusion.**

DRAFT

Chloride and Water Level Metric Lower Aquifer



From: Santa Lucia Sierra Club <sierraclub8@gmail.com>

Sent: Thursday, March 4, 2021 2:29 PM

To: CentralCoast@Coastal <CentralCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Friday 19c - Appeal No. A-3-SLO-21-0004
(Wise Second Unit, Los Osos)

Re: Items 19a-g, New Appeals: SUPPORT

Dear Commissioners,

The Santa Lucia Chapter of the Sierra Club represents the Club's 2,500 members in San Luis Obispo County. We support the appeals of the proposed projects, for the following reasons.

- The projects do not conform with the Local Coastal Policy (LCP) 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."

- The projects do not conform with Special Condition 6 of the Los Osos Waste Water Project's Coastal Development Permit, which states that "wastewater service to undeveloped properties within the service area shall be prohibited unless and until the Estero Area Plan is amended to identify appropriate and sustainable buildout limits, and any appropriate mechanisms to stay within such limits, based on conclusive evidence indicating that adequate water is available to support development of such properties without adverse impacts to ground and surface waters, including wetlands and all related habitats."

- The projects do not conform with CZLUO Section 23.04.430: Availability of Water Supply and Sewage Disposal Services, which requires that "A land use permit for development to be located between an urban services line and urban reserve line shall not be approved unless the approval body first finds that the capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development, and allowed development on presently-vacant parcels within the urban services line."

In addition to the County's failure to apply the "conclusive evidence" standard in approving CDP for each of these projects, and the ESHA issues and lack of Habitat Conservation Plan discussed in the staff report, the evidence shows that seawater intrusion has been rapidly advancing over the last two years and is near the point of no return in the deep aquifer (2500 mg/l of chlorides). Per the 2019 monitoring report, water levels ranged from sea level to eight feet below sea level, in contrast to the Basin Plan's target of aquifer levels at eight feet above mean sea level as necessary to halt and reverse seawater intrusion.

We join with the concerned residents of Los Osos who have long urged that new development over the Los Osos Groundwater Basin not be approved until such time as it can be conclusively shown that the basin is capable of serving new development while continuing to meet the water needs of existing homes and businesses and sustain the habitat and wildlife that rely on it.

We urge you to find that the appeal raises substantial LCP conformance issues and take jurisdiction over the CDP application and proposed projects.

Thank you for your attention to this issue,

Sue Harvey,
Chair, Conservation Committee
Sierra Club - Santa Lucia Chapter