

August 25, 2011

State Water Resources Control Board 1001 I Street Sacramento, CA 95814
Via E-Mail to Charles R. Hoppin, Chair (smacali@waterboards.ca.gov)
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Re: Requested modifications to on-site provisions in the Central Coast Regional Basin Plan and related actions (with corrections/clarification)

Honorable Board Members:

Please consider the following comments and make appropriate changes in the Central Coast Basin Plan provisions for on-site systems. Also, please take recommended actions.

1. The LO prohibition zone and other prohibitions zones should be eliminated (i.e., all of VIII.D.3.g “On-site Wastewater Prohibition Zones” p. 17) from the Basin Plan and not implemented for any reason in the future. Prohibition zones violate law because they mandate a centralized project contrary to Water Code, which prevents the CCRWQCB from prescribing alternatives to address water quality issues. They also violate CEQA and NEPA because these laws require the consideration of a range of reasonable options, in order to determine the most protective feasible option. CEQA and NEPA also require serious consideration of the “no project” option and decisions must be science-based applying the best available information. Prohibition zones effectively eliminate any alternative using on-site systems, e.g., a mix of cluster and on-site systems, often the least expensive, and preclude the other requirements. On-site systems are important for recharging groundwater and they reduce energy use and GHG emissions by reducing pumping of wastewater and recycled water. These important benefits must be factored in a fair evaluation of alternatives to determine the most protective feasible alternative. The centralized project mandated for Los Osos, as evidence indicates, will do more harm than good to the water supply by removing and disrupting an important source of recharge to the basin. This preselected centralized alternative will degrade the water supply by worsening the critical seawater intrusion problem and causing salt build up in aquifers via a recycling program that applies effluent with high salt due to seawater intrusion. Further, evidence indicates it will lower the water levels of wells, and cut off flows to sensitive aquatic habitat. Finally, it is the most expensive possible option—and the least cost-effective. For \$238 per month per household on average (not counting overruns and unfunded mitigations), the people of Los Osos may see average nitrate levels in test wells go down about 2 mg/l over 30 years, per the project EIR. Nitrate levels in shallow test wells now average about 10.5 mg/l, and the water quality objective for the basin is 10 mg/l (N03-N). Available evidence shows the project will provide no increased beneficial use in the foreseeable future (if at all), no seawater intrusion benefit (that couldn’t be achieved with only a conservation program) and no

measurable benefit for the estuary, contrary to popular myth. The minor improvement in nitrates possible from the project could be achieved with septic system and nitrate management programs, never implemented in the area. Also, the way prohibition zone language is written (e.g., “Where it appears that total leachate..., under fully developed conditions, will cause ...damage to public or private property...ground or surface water degradation...”) does not even require proof of a problem or science-based decisions (e.g., that other measures are not more effective and affordable). Elevated nitrates in the groundwater for instance, could be mainly from sources other than septic systems, as they are in Los Osos. This entire page should be eliminated and the Los Osos project should be stopped in favor of a septic system management plan, in conjunction with integrated stormwater (LID) management, nitrate management, and conservation, similar to San Lorenzo River Watershed Plan.

2. The on-site provisions of the basin plan as written—broken down --essentially say “Here are some standards (recommendations, requirements, and prohibitions) but the Water Board can override or modify them as desired. It can even set total prohibitions if something “appears” to be a problem or seems to pose a “threat.” What other agency has this much discretion in what it approves and doesn’t approve? A much more specific and standardized plan is essential. Since the Board will defer to the Executive Director, especially on this topic, the Executive Director is still calling the shots. Therefore, I repeat my original concern that this continues to allow bias and unequal application. Consider the contrast on Page 17 between Prohibitions 2 and 3, Los Osos and San Lorenzo River Watershed. Why not a management plan for Los Osos?
3. Any on-site provisions that limit septic system use based on lot-size are not based on (current) science, and they effectively set land use policy (e.g., p. 14, #21). They should be removed or modified in favor of other standards. Since nitrate pollution (Nitrates are invariably the only constituent of concern with functioning septic systems.) is a matter of concentration, whether or not water quality objectives are met depends on the amount of total recharge occurring on site, and the sources. Rainwater is very low in nitrates, while irrigation return flows are usually high. Recharge from properties with livestock has some of the highest nitrate concentrations. In Los Osos nitrate concentrations in recharge from neighborhoods outside of the prohibition zone are higher than from neighborhoods within the prohibition zone. Low impact development in combination with nitrate management can reduce nitrate concentrations in recharge. Septic systems are not the only source of discharge; they must be considered as part of the total recharge from properties and the area. If a home or community captures and infiltrates rainwater effectively, this should be factored as part of the entire picture. Integrated management is more effective than focusing solely on septic systems.

[Note: As I calculate the nitrate limits in #21 on Page 14, 40 grams of total N would allow only 250 gallons per day of discharge per one-acre lot from a septic system (250 gal X 3.78 l/gal x 45 mg/l of nitrate/ 1000 mg/g). This is about what a three-person household would use without conservation and a five-person household would use with conservation. Therefore , it sets a limit of one system per acre—unless the system is upgraded.]

Documents on file with the SWRCB support the points I make above, including documents submitted by Citizens for a Sustainable Community (CSC) and Angel Law (dated March 1, 2011), and the Los Osos Sustainability Group (LOSG) appeal of the LOWWP Waste Discharge Requirement (WDR) (dated June 5, 2011).

In appealing these provisions, I incorporate by reference all the past submittals and comments of people, organizations, and agencies challenging the Central Coast Regional Basin on-site provisions, prohibition zones, Los Osos enforcement actions related to the prohibition zone, and the Los Osos Wastewater Project, including the appeal of the Waste Discharge Requirement (WDR) for the LOWWP submitted by the LOSG to the SWRCB but not considered.

Sincerely,

Keith Wimer

Los Osos Sustainability Group