



July 2, 2004

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Mr. Jeffrey S. Young, Chairman  
California Regional Water Quality Control Board,  
Central Coast Region  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

**Re: Consideration of Enforcement Alternatives for Baywood  
Park/Los Osos Board Meeting – July 9, 2004**

Dear Chairman Young and Members of the Board

At the May Regional Board meeting you requested that your staff prepare a summary of possible alternatives for enforcing the 21-year old discharge prohibition in Baywood Park/Los Osos. Your staff has prepared a comprehensive Staff Report that addresses the alternatives. My Board of Directors reviewed this Report at its July 1, 2004 Board Meeting and directed President Gustafson and me to present these comments for the Regional Board's consideration. President Gustafson and I will also attend the July 9<sup>th</sup> Regional Board meeting to answer Board member questions and to possibly make further comments.

The Los Osos Community Services District Board and I share your concern and frustration with the repeated delays and set-backs that have confronted the wastewater treatment project over the years - the most recent of which is the California Coastal Commission action of April 15<sup>th</sup> agreeing to hear the appeal of the Coastal Development Permit for the wastewater project. As you know, construction of the Los Osos Wastewater Project was expected to commence on July 1 of this year. Not only has the Coastal Commission action delayed the commencement of construction, but valuable grant funding assistance has been lost as well.

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## 7/2/04 LOCS D LETTER TO RWQCB (Cont.)

One of the clearest conclusions of the Staff Report is that the District has done everything within its reasonable control to move the wastewater project forward and commence construction in a timely manner. Staff notes that the "Los Osos CSD has gone to great lengths to address each and every question and objection raised by project opponents. Los Osos CSD has rigorously and successfully responded to each appeal of discretionary approval and each court challenge. Project delays, and noncompliance with the Time Schedule Order, are clearly beyond Los Osos CSD's ability to control." We appreciate this acknowledgment and will continue to do all that is possible to construct the wastewater project so as to address the serious groundwater degradation and threat to Morro Bay. Your staff has been instrumental in the District's successes.

The Staff Report provides analysis of enforcement alternatives against the District. We strongly believe that enforcement of the Time Schedule Order<sup>1</sup> or imposition of administrative civil liability would be counter productive and would impose unwarranted and serious consequences on the District and its ability to proceed with the wastewater project. The current spirit of cooperation and coordination between the District and Board staff would instead unfortunately become adversarial in such enforcement actions. Furthermore, the District would be unable to pay such penalties if imposed, and if penalties were imposed, it cannot be assured that such penalties could be returned and used to further the construction of the wastewater project.

While we believe that it may be appropriate in the near future to amend the Time Schedule Order due to "circumstances beyond the reasonable control" of the District, new dates for the Order will relate to the disposition of the appeal by the Coastal Commission. If the Board desires to go forward with an amendment to the Time Schedule Order at this time, it could include a date for "commence construction" within a specified time following final disposition of the Coastal Development Permit action.

The District strongly urges the Board not to take punitive enforcement action against the District or property owners in Los Osos. District staff has submitted the lengthy and detailed information requested in the Coastal Commission's letters so that the Commission hearing can proceed as soon as possible. This is the District's top priority. Successful resolution of the issues with the Coastal Commission will remove the major obstacle to this project moving forward. We urge the Board and staff to do whatever is possible to support the expedited and successful resolution of the permit appeal with the Commission.

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<sup>1</sup> It should be noted that on November 20, 2000 the District filed a petition for review of the Time Schedule Order with the State Board. The District requested that the petition be held in abeyance pending possible resolution of the underlying issues. The State Board is currently holding the petition in abeyance. If the Regional Board were to seek enforcement of the Time Schedule Order, it would be necessary for the District to activate this petition and request a stay of the Time Schedule Order from the State Board.

7/2/04 LOCSD LETTER TO RWQCB (Cont.)

Please feel free to call me at 805-528-9375 or e-mail me at [bbuel@lososocsd.org](mailto:bbuel@lososocsd.org) if you have any questions.

Sincerely

A handwritten signature in black ink, appearing to read 'Bruce Buel', written in a cursive style.

Bruce Buel  
General Manager

CC: LOCSD Board  
Gerhardt Hubner, RWQCB  
Sorrel Marks, RWQCB  
Gary Grimm  
Jon Seitz,  
File