



# California Regional Water Quality Control Board

## Central Coast Region



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February 3, 2004

Mr. Steve Monowitz  
California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, CA 95060-4508

Dear Mr. Monowitz:

### APPEAL OF COASTAL DEVELOPMENT PLAN/PERMIT NO. D020283D, LOS OSOS COMMUNITY WASTEWATER PROJECT, LOS OSOS COMMUNITY SERVICE DISTRICT, SAN LUIS OBISPO COUNTY

**Background:** Resolving the Los Osos wastewater management problem has been one of this Regional Board's highest priorities for many years. In 1983, the Regional Board issued Resolution 83-13, which established a prohibition of discharges from on-site systems in the community of Los Osos based upon water quality impairment caused by high-density septic system use.

In 1997, the Coastal Commission postponed decision regarding appeal of the County's community wastewater project, in order for the residents of Los Osos to form a Community Services District (CSD) and direct development and implementation of this important community infrastructure. In 1998, at the urging of the Coastal Commission, the community of Los Osos formed its own governing body (Los Osos CSD). Since then the Los Osos CSD has undertaken the monumental task of developing a wastewater project, which meets the goals and standards of a multitude of State and Federal resource agencies as well as community priorities. This project and alternatives to it were rigorously evaluated and examined through a very public process of workshops and meetings. Through this public process, the Los Osos CSD has developed a technically, environmentally and economically sound project to address water quality issues in a manner, which meets the community's goals as well as the goals of this Regional Board.

In August 2002, the Coastal Commission unanimously approved a Local Coastal Plan Amendment approving the rezoning of the proposed treatment plant location at the Tri-W property. With that approval in hand, the Los Osos CSD proceeded forward with the design and permitting of the project. In November of 2002, bonds were sold to pay for a portion of the wastewater project and repayment of those bonds began appearing on Los Osos resident's property tax bills last fall. During 2003, the San Luis Obispo County Planning Commission and the San Luis Obispo County Board of Supervisors unanimously supported the project (by approving the Coastal Development Plan/Permit and denying appeal of that approval respectively).

Implementing the wastewater project is vital in order to protect the coastal resources, including Los Osos ground water basin, Morro Bay State and National Estuary, the shellfish industry in the Bay, and other marine resources by eliminating discharges from septic systems. Degradation of ground and surface waters from high-density-use of septic systems in Los Osos will continue until the sewer system is built. Every day that the problem is not resolved approximately one million gallons (356 million gallons a year) of partially treated wastewater is being discharged to the community's sole source of drinking water. Therefore it is essential that the project proceed as soon as possible.

**California Environmental Protection Agency**



EO REPORT ATTACHMENT NO. 1  
MAY 13-14, 2004 MEETING  
FEBRUARY 3, 2004 REG. BOARD  
LETTER TO STEVE MONOWITZ

**Applicable Laws and Regulations**

**Water Code Section 13142.5:** In addition to any other policies established pursuant to this division, the policies of the state with respect to water quality as it relates to the coastal marine environment are that: (a) Wastewater discharges shall be treated to protect present and future beneficial uses, and, where feasible, to restore past beneficial uses of the receiving waters. Highest priority shall be given to improving or eliminating discharges that adversely affect any of the following:

- (1) Wetlands, estuaries, and other biologically sensitive sites.
- (2) Areas important for water contact sports.
- (3) Areas that produce shellfish for human consumption.
- (4) Ocean areas subject to massive waste discharge.

**Coastal Act Section 30412:** (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.

**Coastal Act Section 30603:** (a) **After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:** (1) **Developments approved by the local government 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 tideline of the sea where there is no beach, whichever is the greater distance. (2) developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff. (3) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource area. (4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500). (5) Any development which constitutes a major public works project or a major energy facility. (b) (1) The grounds for an appeal pursuant to subdivision (a) 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 this division. (2) The grounds for an appeal of a denial of a permit pursuant to paragraph (5) of subdivision (a) 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 this division. (c) Any action described in subdivision (a) shall become final at the close of business on the 10th working day from the date of receipt by the commission of the notice of the local government's final action, unless an appeal is submitted within that time. Regardless of whether an appeal is submitted, the local government's action shall become final if an appeal fee is imposed pursuant to subdivision (d) of Section 30620 and is not deposited with the commission within the time prescribed. (d) A local government taking an action on a coastal development permit shall send notification of its final action to the commission by certified mail within seven calendar days from the date of taking the action.

**Coastal Act Section 30625:** (a) Except as otherwise specifically provided in subdivision (a) of Section 30602, any appealable action on a coastal development permit or claim of exemption for any development by a local government or port governing body may be appealed to the commission by an applicant, any aggrieved person, or any two members of the commission. The commission may approve, modify, or deny such proposed development, and if no action is taken within the time limit specified in Sections 30621 and 30622, the decision of the local government or port governing body, as the case may be, shall become final, unless the time limit in Section 30621 or 30622 is waived by the applicant. (b) **The commission shall hear an appeal unless it determines the following:** (1) With respect to appeals pursuant to subdivision (a) of Section 30602, that no substantial issue exists as to conformity with Chapter 3 (commencing with Section 30200). (2) With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603. (3) With respect to appeals to the commission after certification of a port master plan, that no substantial issue exists as to conformity with the certified port master plan.

#### **REVIEW OF DOCUMENTS SUBMITTED BY APPELLANTS**

Specific issues identified in the appeal documents pertaining to water quality issues and/or our authority, Applicable Laws and Regulations including: Water Code Section 13142.5 and Coastal Act Sections 30412, 30603 and 30625 are addressed below.

#### **A. Review of CCLO/Tacker Appeal**

**General Comment:** This appeals fails primarily on the basis the appellant(s) failed the standard of review, as prescribed in Section 30603 of the Coastal Act. The appellant(s) have not demonstrated why this Coastal Development Permit is not consistent with the San Luis Obispo County Local Coastal Plan, LCP (within the meaning of Section 30625(b)(2) of the Coastal Act). The focus of this submittal appears to question compliance with various Coastal Act Sections vs. the appropriate and relevant question of

whether there is compliance with LCP. The appellant's attached arguments, reports and miscellaneous documents appear to support their general opposition for the wastewater project, its location and a request for further delay. In addition, the appellant has included dozens of questions that are not pertinent to this appeal.

1. **Issue:** Decisions regarding the Coastal Development Permit should be suspended until the California Cities Water Company vs. Regional Water Quality Control Board litigation is concluded.

**Response:** Approval of the Coastal Development Plan/Permit is not contingent upon resolution of the referenced litigation. The State Attorney General's Office is vigorously pursuing defense of this matter on behalf of the Central Coast Regional Board. The appellant's allegation that Regional Board staff are not pursuing or defending this lawsuit is false. Staff have prepared a 10,000+ page administrative record, which has been lodged in San Luis Obispo Superior Court. Staff and its attorneys believe they will be successful in having this writ (lawsuit) dismissed and/or resolved in favor of the Regional Board. Waste Discharge Requirements (Order No. R3-2003-0007) and Findings of Mitigation and Mitigation Monitoring (Resolution No. R3-2003-0006) were adopted by the Regional Board on February 7, 2003. The Order and Resolution are included as Attachments 1 and 2 to this letter. The Staff Report for Resolution No. R3-2003-0006 and Order No. R3-2003-0007 is included as Attachment 3. Order No. R3-2003-0007 was upheld by the State Water Resources Control Board (Attachments 4 and 5) and requirements specified in the Order and Resolution are protective of water quality and coastal resources. The actions described in the Resolution and Order, in conjunction with the completion of the Los Osos CSD wastewater project, will begin the process of restoring Los Osos' ground water basin. As Coastal Commission staff is well aware, litigation has been previously used by project opponents (and appellant CASE) to delay this project, with the only result being increased project costs.

2. **Issue:** The Los Osos CSD does not provide an Emergency Response Plan to address mechanical malfunction or natural disaster.

**Response:** The Los Osos wastewater project will include safety features as well as emergency and spill prevention and response plans, as specified in Waste Discharge Requirements Order No. R3-2003-0007 and associated mitigation monitoring program. Such plans are standard requirements for wastewater facilities throughout our region and statewide. After the December 22, 2004 San Simeon Earthquake, Regional Board staff inspected and contacted wastewater facilities that may have been affected by the quake. Fortunately, most facilities had little or no damage and damage that did occur was repaired quickly and without public health or water quality incidents. The absence of damage at most of these facilities is the result of good engineering and construction. It also demonstrated that the standard Regional Board requirements (for equipment redundancy, contingency measures, etc.) as implemented by local communities, result in effective emergency response.

3. **Issue:** Sanitary sewer overflows pose a public health and environmental risk.

**Response:** The Los Osos wastewater project is needed to address serious water quality and public health and safety issues associated with surfacing and inadequately treated wastewater from existing septic systems (current ongoing problem). A DNA study completed in 2002 identified human sources as the origin of the majority of coliform bacteria in water seeping to the bay along the Los Osos shoreline (Attachment 6). Health and safety issues associated with potential sewage spills from the community wastewater project are addressed by the spill prevention and response plans described in Response to Issue 2 above.



4. **Issue:** If the overflow/drainage retention basin is used, its proximity (500') to a water supply well will jeopardize water quality. Also, use of recycled water to irrigate landscaping around the treatment facility essentially makes that area an effluent disposal site.

**Response:** Use of the overflow basin and irrigation of the treatment facility landscaping will be by wastewater that is highly treated (tertiary level) and disinfected. Accordingly, there is sufficient horizontal and vertical separation so that water quality is not jeopardized in water supply wells. Water supply wells will be protected by the project to a significantly greater degree than the current situation (surrounded by ongoing septic system discharges, primary treated and undisinfected).

5. **Issue:** The appellants are proud to submit a feasible, less controversial, and land use compatible wastewater alternative for Los Osos.

**Response:** The "alternative" project summary included with the appeal documents does not meet the goals or requirements of the Los Osos CSD or this Regional Board. In short, no viable, feasible alternative has been presented. There is no evidence submitted showing any other location or project would be "less" controversial, or would not have its own land use incompatibility. On the contrary, every proposed wastewater project for the last three decades has been shown to be controversial (depending on the group then opposing it).

6. **Issue:** Odors from the wastewater facility are of concern due to its location in the hub of the community.

**Response:** Odors are, of course, an issue for consideration with any wastewater project and particularly wastewater projects located in urban or suburban settings. Accordingly, specific odor management features (such as process containment, air collection and treatment) are an important component of the Los Osos project. Prevention and mitigation of odors is also addressed in Order No. R3-2003-0007 (regulated by this Regional Board), associated mitigation monitoring program (Attachments 1 and 2), and Coastal Development Plan/Permit for the project.

7. **Issue:** The project will create eight truckloads of unclassified, toxic sludge (a hazardous material) per week, which will be hauled through the business district of Los Osos.

**Response:** This is a mischaracterization of an already existing condition. Sludge (solids removed from sewage) is currently pumped from existing septic tanks and hauled through town to appropriate disposal facilities. Toxic or harmful materials can be present in sludge (from treatment plants or septic systems), if such materials are discharged down residential or commercial drains. The significant advantage of the wastewater project relative to the existing septic tank use is that the resulting sludge will be more highly treated (stabilized and drier) than solids produced by septic tank pumping(s). Furthermore, if toxic materials are discharged down the drain, they would (under current conditions) seep directly into ground water. With a community sewer, such materials have a significantly better chance of being removed in the treatment processes and detected through monitoring, resulting in better water quality protection.

8. **Issue:** Local schools are included in the EIR Project Description as potential sites for recycled water use. The appellants oppose any use of recycled water for school grounds irrigation.

**Response:** The appellants state their opposition to recycled water without any scientific basis to substantiate such opposition. As part of its ongoing efforts to protect, preserve and properly utilize California's water resources, this Regional Board and the State Water Resources Control Board, wholeheartedly support use of recycled water for landscape irrigation. California Department of



Health Services also promotes the use of recycled water that meets its requirements. Such recycled water use may be authorized by the Regional Board if specific reuse projects (and locations) meet requirements specified in Title 22 of the California Code of Regulations (implementing DHS requirements). Conditions and use of recycled water are addressed in Order No. R3-2003-0007 for the Los Osos wastewater project (Attachment 1) and DHS concurs with those requirements.

9. **Issue:** Will individual NPDES (National Pollutant Discharge Elimination System) permits be required for each homeowner lateral connection?

**Response:** Individual NPDES permits (construction storm water permits) are not required for soil disturbances less than one acre; therefore individual permits are not required for each homeowner's lateral connection. A general storm water construction NPDES permit will need to be obtained by the Los Osos CSD for the overall project (as stated in the Coastal Development Plan/Permit conditions and RWQCB Order No. R3-2003-0007).

10. **Issue:** Treatment Plant Location and Environmental Sensitive Habitat Areas (ESHA)

**Response:** The issue of ESHA and any impacts at the treatment plant were extensively described and addressed in the July 26, 2002 Coastal Commission staff report and LCP Amendment (Attachment No. 7) that designated a site for the Los Osos Wastewater Treatment facilitating and incorporating standards for facility development within the Estero Area Plan (LCP Amendment No. SLO MAJ-3-01). The Los Osos CSD has developed a draft Habitat Conservation Plan (HCP), and provided mitigation at the Broderson site to address any ESHA concerns. Both these requirements are contained as conditions in the Coastal Development Plan/Permit for the wastewater project.

11. **Issue:** The appellant(s) express concern regarding blending, treatment and disposal of shallow ground water harvested through hydraulic management efforts.

**Response:** As part of the current wastewater project development, the Los Osos CSD has evaluated potential changes in shallow ground water characteristics due to project implementation. Such evaluation indicates that strategic ground water pumping may be necessary after the project has been operational for several years. In order to address this potential, the Los Osos CSD has included in its wastewater project, ground water harvesting facilities (should hydraulic maintenance in this manner become necessary). Ground water pumped from these facilities will be utilized in a variety of ways, with preference given to water conserving methods. For example, shallow ground water may be blended with water supply (as is currently done), treated for use (if constituents exceed use standards), used for landscape irrigation, or discharged to a variety of locations. It should be noted that a primary goal of the wastewater project is to eliminate septic system discharges so that the shallow ground water resources will be restored to historical drinking water supply.

12. **Issue:** Will low-income assistance be available for those who cannot afford on-site costs?

**Response:** Yes. However, low-income assistance may be jeopardized if the Los Osos CSD wastewater project is delayed. Available low-income financial assistance programs include:

- **USDA Rural Development Grants and Loans**
- **Community Development Block Grants (CDBG) from the County of San Luis Obispo**
- **Assembly Bill 706 – funding for local district managed loans to property owners**
- **Banks Offering Loans – Mid-State Bank & Trust, Washington Mutual, Bank of America, Coast National Bank and others are willing to offer conventional loans directly to homeowners.**



The Los Osos CSD has been successful in securing several million dollars in State and Federal grants to reduce project costs. However, some of these important financing opportunities, including local block grant for low-income funding assistance, have specific project schedules and will be jeopardized by project delays.

13. **Issue:** What agency has overseen the septic system maintenance mandate of 83-12 since its adoption in 1983?

**Response:** The Central Coast Regional Board. Regional Board Resolution No. 83-12 is incorporated into the Water Quality Control Plan, Central Coast Basin (Basin Plan) and specifies requirements and recommendations for siting and design of on-site wastewater disposal systems. Accordingly, Resolution No. 83-12 is implemented by the Regional Board and cooperating local agencies (cities and counties throughout the Central Coast Region). As part of Order No. R3-2003-0007, the Los Osos CSD is required to develop a Septic System Management Program for those areas outside of the wastewater project service area (such action is recommended in Resolution No. 83-12). Currently the CSD is seeking Special State Legislation to fully implement its septic system management program.

14. **Issue:** The project has significantly changed from that evaluated in the EIR and a new EIR should be prepared.

**Response:** We do not believe that the preparation of a new EIR is necessary, and insufficient information is provided by appellants to demonstrate otherwise. The Los Osos CSD has now completed 90% design of its wastewater project. This level of project development has detailed, refined and in some cases modified information summarized in the project EIR. Accordingly, the responsible party adopted an addendum to the EIR on June 5, 2003. However, the major elements and components of the project have not changed. We did not find that the project is significantly altered from that evaluated in the EIR and discharge authorized by Order No. R3-2003-0007, as noted in our letter dated May 22, 2003 (Attachment 8). Project opponents did not challenge the Addendum to the EIR and the statutory time frame for such challenge has expired.

**Conclusion regarding CCLO/Tacker appeal:** We have reviewed the documents provided by the appellant(s) and do not find substantial basis to deny or alter the Coastal Development Plan/Permit.

#### **B. Review of CASE/Barrow Appeal**

**General Comment:** The Citizens for Affordable and Save Environment (CASE) appeal document is a disjointed assimilation of multiple objections bound together without clear focus of why this Coastal Development Plan/Permit is not in compliance with the San Luis Obispo County LCP. In addition, many of the statements are not collaborated by supporting documents or evidence. However, the general issues of concern appear to be related to alternative project analysis, effluent vs. water supply considerations, LCP and Coastal Act applicability, recycled water use, potential odors, spill response plans, project costs, sludge hauling, exotic chemicals and the Cal Cities litigation. Each of these issues is addressed below or a previous response is cited. In addition, this appeal document indicates the applicant has some misunderstanding of the project components, which make some comments/concerns mute as they relate to components not included in the proposed project or are mischaracterizations of the project components. For example, the appellant states "reused water is not designed for human contact." In fact, recycled water will meet human contact standards (which are the same as unrestricted irrigation standards). The appellant states "Sludge production will be enormous compared to suggested alternative, 80% higher." In fact, as described in Response A7 above, sludge (solids removed from wastewater) would only be incrementally higher than an alternative treatment project if the effluent were cleaner. In other words, the

solids are either separated from the waste stream (and called sludge) or they remain in the effluent (rendering it poorer quality). Many of the issues listed below and contained in this appeal are the same as issues contained in the CCLO/Tacker appeal and addressed above.

1. **Issue:** The appellant expresses concern over long-term protection of water supply (ground water) resources, and believes that most ground water discharge/recharge projects include advanced treatments such as reverse osmosis, ultra violet light, hydrogen peroxide, micro-filtration, ozone or oxidation.

**Response:** See Response to Issues A3 and A11 above. Also, it should be noted that the proposed project discharges to ground (leachfields) not to directly ground water. However, several of the treatment methods listed are included in the project. Typically, a facility using one form of disinfection (ultra violet light for example) does not also install ozone disinfection. The proposed project includes appropriate treatment to dependably meet criteria specified by the Regional Board and DHS for oxidation, nitrogen reduction, filtration and disinfection.

2. **Issue:** California Cities Water Company Litigation and threats to drinking water.

**Response:** See Response to Issues A1 and A4, above and C4, below.

3. **Issue:** The appellant believes that alternatives have not been adequately evaluated and that a preferable project alternative is available.

**Response:** During the past few decades, numerous project methods, collection and treatment technologies, and disposal and reuse alternatives have been evaluated. In fact some of those alternative evaluations are referenced in the documents included in the appeal submittal (listed below). The appellant's preferred alternative is addressed in Response to Issue A5, above. However, many components of the appellant's alternative project were evaluated and rejected due to increased cost or inability to meet project requirements and community goals.

4. **Issue:** The appellant expresses concern regarding project costs and community impacts of such costs.

**Response:** See Response to Issue A12 and B3, above. We understand cost (reduction of project costs) was one of the many factors (and objectives) used by the Los Osos CSD to evaluate the various project alternatives. Any additional project delays, and including litigation will significantly increase project costs.

5. **Attached Documents:** Several documents are included in the CASE appeal, without reference to their pertinence. However, brief discussion of those documents follows:

- a) *Comprehensive Comparative Analyses of Alternative Wastewater Treatment Plans for Los Osos, San Luis Obispo County* by Questa Engineering Corp., June 5, 1998. This report was prepared at the request of the Coastal Commission to assist its consideration of appeal of the Coastal Development Plan/Permit for the 1990's San Luis Obispo County's Los Osos community wastewater project. However, this report does highlight the numerous evaluations of alternative technologies and approaches to resolving water quality problems in Los Osos, and the Los Osos CSD in its evaluation of project alternatives considered this report.
- b) *IWA Specialist Group on Water Reuse: January 2003 Newsletter.* The international organization's newsletter addresses a variety of water recycling projects around the world, but does not appear to address issues specifically related to Los Osos or its wastewater project. No



known relevance since it is not linked to any specific condition of this Coastal Development Plan/Permit for the Los Osos wastewater project.

- c) *Ground Water Recharge Reuse Draft Regulations* dated 8-2-02. The most recent draft of proposed regulations addressing ground water recharge using treated wastewater. These regulations have been in the process of revision/development for more than ten years. Draft regulations are just that draft, and have no effect by law. DHS did evaluate the Los Osos wastewater project, and determined that this project, by definition, is not a ground water recharge project. DHS has implemented its requirements through Regional Board Order No. R3-2003-0007. Therefore draft regulations referenced and included by the appellant are irrelevant.
- d) Excerpt from *Drinking Water Source Assessment and Protection* program documents prepared for the Los Osos CSD in response to DHS requirements. No known relevance since it is not linked to any specific condition of this Coastal Development Plan/Permit for the Los Osos wastewater project.
- e) *Alternative Wastewater Project for Los Osos, Concept Description* by Dana Ripley, November 14, 2003. As indicated in Response to Issue A5 above, the alternative project described by Mr. Ripley was incomplete (vague/lacked specifics) and does not meet the goals or the requirements of the Los Osos CSD or this Regional Board.
- f) Comments/opinions posted on the CASE website regarding collection and treatment technologies included in the "Alternative" project described above. These comments/opinions are incorrect since the alternatives referenced were evaluated in development of the Los Osos CSD community wastewater project.
- g) *Coastal Commission Staff Report: Substantial Issue Determination and De Novo Review of the Lee Linsley Subdivision* December 16, 1999. Unknown subdivision with unspecified connection to Los Osos project. Not relevant since it is not linked to any specific condition of this Coastal Development Plan/Permit for the Los Osos wastewater project.
- h) Excerpt from the *Preliminary Report Periodic Review of the San Luis Obispo County Certified Local Coastal Program* by the Coastal Commission, July 12, 2001. An excerpt from a preliminary report is just that.....one portion of a larger document without its discussion placed into the overall content of the entire document. Nevertheless the excerpt is irrelevant since the County of San Luis Obispo currently has a Certified Local Coastal Plan from the Coastal Commission.
- i) *Human Viruses Found in Groundwater Recharge Sites* by Kelly Reynolds, Ph.D. Article summarizes potential concerns regarding viability of viruses in drinking water supplies. See Response to Issue C4, below. The community wastewater project will significantly reduce the existing potential for harmful substances and pathogens being discharged to the environment. Harmful substances discharged into residential and commercial drains are more likely to be removed by the tertiary treatment processes (of the community sewer) than from septic systems. Furthermore, such substances could be identified in effluent monitoring so that follow-up action (if necessary) can be implemented. This is a general reference document not linked to any specific condition of the Coastal Development Plan/Permit for the Los Osos wastewater project.
- j) *Introduction to Pharmaceuticals, Personal Care Products, and Endocrine Disruptors in Water* by Shane Snyder. Research article summarizing potential environmental and public health issues, research needs, regulation, and sources of endocrine disrupting compounds. See Response to

Issue C4, below. The community wastewater project will significantly reduce the existing potential for harmful substances being discharged to the environment. Harmful substances discharged into residential and commercial drains are more likely to be removed by the tertiary treatment processes (of the community sewer) than from septic systems. Furthermore, such substances could be identified in effluent monitoring so that follow-up action (if necessary) can be implemented. This is a general reference document not linked to any specific condition of the Coastal Development Plan/Permit for the Los Osos wastewater project.

- k) Excerpt from *Draft California's Groundwater Bulletin 118, Hydrologic Region Central Coast, Los Osos Valley Groundwater Basin*. Summary of hydrologic groundwater basin characteristics. This is a general reference document not linked to any specific condition of the Coastal Development Plan/Permit for the Los Osos wastewater project.
- l) *Affidavit of Wade D. Brim, P.E.* Mr. Brim's affidavit summarizes his opposition to a community wastewater project and his contention that septic systems do not contribute to ground water contamination in Los Osos. Similar comments prepared by Mr. Brim were submitted to the Regional Board by Citizens for Affordable Wastewater Systems representatives in 2001, to which we responded by letter dated November 26, 2001 (Attachment 9).
- m) Numerous personal correspondence, emails, anonymous statements and articles from Internet searches are also included in the appeal document. These are general and miscellaneous correspondence not linked to any specific condition regarding the Coastal Development Plan/Permit for the Los Osos wastewater project.
- n) *Petition for Writ of Mandate for Review of Action by Respondent California Regional Water Quality Control Board, Central Coast Region*. See Response to Issue A1, above.
- o) *List of Environmental Consultants*. General list, with unknown relevance and not linked to any specific condition regarding the Coastal Development Plan/Permit for the Los Osos wastewater project.
- p) *Affidavit of Alfred C. Barrow*. The document appears to be a draft (fill in the blanks needed) statement from Mr. Barrow describing his contention that the wastewater project is part of a conspiracy between Los Osos CSD Directors, former Directors, CSD Legal Counsel, CSD Engineer, Regional Board Members and developers. No documented or substantiated evidence is provided to back Mr. Barrow's contentions. Similar allegations were investigated by a grand jury in San Luis Obispo and District Attorney's office and found to be without merit. No relevance or link to specific conditions regarding the Coastal Development Plan/Permit for the Los Osos wastewater project.
- q) *Petition for Writ of Mandate in Citizens for Affordable and Safe Environment vs. California Coastal Commission*. Irrelevant to issues and conditions before the Coastal Commission regarding this specific Coastal Development Plan/Permit since this lawsuit was dismissed by the Superior Court in January 2003.

**Conclusion regarding CASE/Barrow appeal:** We have reviewed the documents provided by the above appellant(s) and do not find substantial basis to deny or alter the Coastal Development Plan/Permit.

**C. Review of Bhuta Appeal**

**General Comment:** This appeal fails primarily on the basis the appellant(s) failed the standard of review, as prescribed in Section 30603 of the Coastal Act. The appellant(s) have not raised any issues of Local Coastal Plan (LCP) consistency, or provided specific reasons, or documents why this Coastal Development Plan/Permit is not consistent with the San Luis Obispo County LCP (within the meaning of Section 30625(b)(2) of the Coastal Act). Rather the focus of this letter is to state a general opposition for the location of wastewater project, and quality of effluent from the treatment facility.

1. **Issue:** The appellant objects to the Coastal Development Plan/Permit due to blocked views of Morro Bay and Morro Rock from Los Osos Valley Road.

**Response:** Visual impacts associated with the wastewater project have been evaluated through the FEIR certified for this project, and extensive public hearings before the Los Osos CSD, the San Luis Obispo County Planning Commission and the County Board of Supervisors. A substantial portion of the treatment facilities will be buried (below ground surface) in order to minimize visual impacts.

2. **Issue:** The appellant objects to the Coastal Development Plan/Permit due to storm water drainage concerns at the treatment plant site.

**Response:** Currently storm water is being allowed to flow uncontrolled from upgradient residential areas onto the Tri-W site (treatment plant site). With the completion of facilities at the Tri-W site, storm water drainage entering the treatment plant site will be controlled through several drainage basins. Thus the existing uncontrolled storm water drainage will be improved. Drainage issues are also addressed on pages 44 and 115 of the FEIR for the wastewater project, pages 2 and 5 of the conditions for approval of the Coastal Development Permit, and page 7 of Order No. R3-2003-0007.

3. **Issue:** The appellant objects to the Coastal Development Plan/Permit due to concerns over power outages and potential sewage spills.

**Response:** See Response to Issue A2, above.

4. **Issue:** The appellant objects to the Coastal Development Plan/Permit due to concerns regarding discharges of harmful substances that are not removed in the treatment processes.

**Response:** The community wastewater project will significantly reduce the existing potential for harmful substances being discharged to the environment. Harmful substances discharged into residential and commercial drains are more likely to be removed by the tertiary treatment processes (of the community sewer) than from septic systems. Furthermore, such substances could be identified in effluent monitoring so that follow-up action (if necessary) can be implemented.

5. **Issue:** The appellant objects to the Coastal Development Plan/Permit due to the treatment facility's proximity to the Catholic Church.

**Response:** Similar concern was expressed to the Regional Board directly by the Diocese of Monterey, to which we responded by letter dated December 1, 2003 (Attachment 10). It should be noted that alternative locations proposed by project opponents have similar difficulties (for example the Episcopal Church is located across the street from the Andre site). As indicated in Response to Issue A6, above, specific odor management features (such as process containment, air collection and treatment) are important components of the Los Osos project. Prevention and mitigation of odors is

also addressed in Order No. R3-2003-0007 (regulated by this Regional Board), associated mitigation monitoring program (Attachments 1 and 2), and Coastal Development Plan/Permit for the project.

6. **Issue:** The treatment facility location will create a nuisance and poses a threat to Morro Bay.

**Response:** The location for the wastewater treatment facilities has been under discussion/evaluation for many years (at least since 1997) and potential impacts are addressed in the FEIR adopted for the project. A significant and current ongoing threat (vs. a speculative nuisance) to Morro Bay Estuary is the discharge of inadequately treated wastewater. Such discharges (and associated threat to coastal resources) will be eliminated with implementation of the community wastewater project. The appellant submitted similar comments to the Regional Board, to which we responded by letter, dated August 27, 2003 (Attachment 11).

**Conclusion regarding Bhuta appeal:** We have reviewed the documents provided by this appellant, and do not find substantial basis to deny or alter the Coastal Development Plan/Permit.

**Summary:** The appellants in this matter have failed the standard of review, as prescribed in Section 30603 of the Coastal Act. The appellant(s) have not properly demonstrated, or provided adequate documentation on why this Coastal Development Plan/Permit is not consistent with the San Luis Obispo County Local Coastal Plan (LCP). Rather the focus of each appellants' submittal with attached arguments, reports and miscellaneous documents is directed to their general opposition for the wastewater project, its location and/or the need for the project.


We do not believe there is a viable alternative project that would meet community goals, protect coastal resources and water quality, and be more cost effective. Furthermore, delays will add to the cost of the project, as has been demonstrated repeatedly over the past decades, and contribute to further degradation of coastal resources.

It is also important to note the Los Osos Community Wastewater Project is supported by the State Water Resources Control Board with a low interest low funding commitment (Attachment 12), the Morro Bay National Estuary Program (Attachment 13), and the United States Environmental Protection Agency (Attachment 14).

Finally, we believe it is impossible to find a project upon which every community member will agree, and it is not reasonable to expect the CSD could develop such a project. This project meets our requirements and when fully operational will begin the process of restoring the degradation that has occurred to the Los Osos ground water basin and coastal resources. We urge you to support this important environmental and public health protection project **by making a no substantial issues determination; thereby denying the appeal of Coastal Development Plan/Permit No. D020283D for the Los Osos Wastewater Project.**

If there is any information our staff can provide (from the 30 year history and dozens of studies performed in Los Osos) please contact **Gerhardt Hubner at 805-542-4647 or Sorrel Marks at 805-542-3695.**

Sincerely,

  
Roger W. Briggs  
Executive Officer

**ATTACHMENTS:**

1. Order No. R3-2003-0007
2. CEQA Resolution No. R3-2003-0006
3. Staff Report (with Supplement Sheet) prepared for February 7, 2003 Regional Board meeting regarding Order No. R3-2003-0007 and CEQA Resolution R3-2003-0006
4. March 19, 2003 Memo to State Water Resources Control Board regarding Cal Cities petition
5. June 18, 2003 letter from State Water Resources Control Board denying Cal Cities petition
6. Morro Bay DNA Study-*Identifying the Sources of Escherichia coli Contamination to the Shellfish Growing Areas of the Morro Bay Estuary*
7. July 26, 2002 Coastal Commission staff report and LCP Amendment (LCP Amendment No. SLO MAJ-3-01)
8. May 22, 2003 letter to Bruce Buel from Roger Briggs regarding EIR Addendum
9. November 26, 2001 letter to Roger Shields and Toby Sacher (with attachment)
10. December 1, 2003 letter to Susan Mayer, Diocese of Monterey
11. August 27, 2003 letter to Pravin and Mary Bhuta
12. July 22, 2003 letter from State Water Resources Control Board
13. Morro Bay National Estuary Program project support letter
14. June 12, 2002 letter from U.S. EPA

cs/without Attachments

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