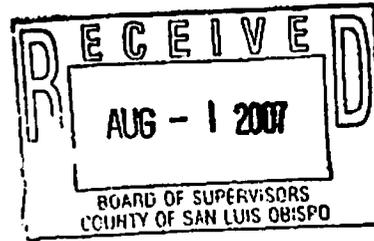


**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(408) 427-1863  
HEARING IMPAIRED: (415) 904-5200



July 30, 2007

Matt Janssen, Coastal Supervising Planner  
Department of Planning and Building  
County Government Center  
San Luis Obispo, CA 93408

Subject: *Status of CDP A-3-SLO-03-113 for the Los Osos Wastewater Treatment Project*

Dear Mr. Janssen:

This letter responds to your letter of May 11, 2007 regarding the status of the above referenced permit (CDP). As stated in your letter, it is the County's opinion that "the CDP is valid until August 10, 2007, and any extension of the CDP can only approved by the Coastal Commission." Your letter also states that "since 'development' was commenced on the project within two years of the date of approval, the CDP has been 'exercised' and continues to be valid".

As detailed by this letter, the Commission staff has determined that the CDP will expire on August 11, 2007, unless extended by the Coastal Commission. In order to consider an extension of the permit, the Commission staff must receive an extension application, completed by the permittee, prior to the close of business on August 10, 2007. If the County, rather than the Los Osos Community Services District (LOCSO), intends to submit an extension application, the application should be accompanied or preceded by an application to transfer the permit from the LOCSO to the County.

This determination is based, in part, on Special Condition number 78 of the CDP, which specifies that the CDP is valid for 36 months. (The Commission approved the CDP on August 11, 2004. 36 months from this date is August 11, 2007). Special Condition 78 states:

This permit is valid for a period of 36 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050.

Another relevant condition is Standard Condition 2 of the permit, which states:

Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

As you know, construction of the project approved by the CDP, including the removal of major vegetation, grading, and installation of collection pipelines, commenced within the two year window established by Standard Condition 2. Normally, the extent of development that was

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undertaken within this two year period would exercise a permit and prevent its expiration under Standard Condition 2. In this case, however, we must also consider the terms established by Special Condition 78, which points to Section 23.02.050 of the County's Coastal Zone Land Use Ordinance as the standard that must be applied to any proposed extension of the permit beyond 36 months. As you note, and as provided by subsection (4) of this Ordinance, a time extension on a coastal development permit issued by the Coastal Commission shall only be granted by the Coastal Commission.

In addition to providing standards for the extension of permits, Section 23.02.050 includes provisions that address whether the extent of work that has been completed to date has exercised the permit and thereby prevented its expiration, subject to Section 23.02.052 (Lapse of Land Use Permit). Specifically, Section 23.03.050 states:

When substantial site work (Section 23.02.042) on a project authorized by an approved land use permit has not occurred within the time limits set by Section 23.02.040, a maximum of three 12-month extensions to the initial time limit may be granted as provided by this Section.

The applicable cross-referenced portion of Section 23.02.042 states:

When all required construction permits have been obtained and construction of an approved use has begun, substantial site work toward establishing the authorized use shall be deemed to have been performed, and project construction may be completed subject to Section 23.02.052 (Lapse of Land Use Permit) when:

- a. Building construction projects: Site work has progressed beyond grading and completion of structural foundations, and construction is occurring above grade within: 18 months of Plot Plan or Site Plan approval; 24 months of Minor Use Permit or Development Plan approval; or within 12 months of the date of final local action (including an appeal to the Board of Supervisors) on an extension of land use permit, and construction continues with reasonable progress and no interruption greater than 180 consecutive days, provided that:
  - (1) Single construction period projects. When no extended project phasing schedule has been authorized through Development Plan approval (Section 23.02.034c(1)(ii)), substantial work shall be performed for all proposed buildings.
  - (2) Phased projects. Where a project phasing schedule has been approved, construction permits shall be obtained and substantial work shall be performed on at least one approved building.

Since there has not been any work on buildings, the construction that has been completed to date does not meet the LCP definition of "substantial site work". As a result, the CDP will expire on August 11, 2007, unless it is extended by the Commission.

**Matt Janssen**

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It is important for all interested parties to recognize that, irrespective of the status of the permit, the permittee and/or future landowners are bound by terms of the permit that require mitigation for the impacts associated with the development activities that have occurred to date. For example, in the event that the CDP does expire, the owner of the Tri-W site will be required to either restore the site to an equivalent or better natural condition than existed prior to the commencement of the project, or obtain a new permit that provides equal or better mitigation when compared to the existing permit for the impacts that have occurred to date, as necessary to ensure that these impacts are offset in a manner that is consistent with the requirements of the San Luis Obispo County certified Local Coastal Program.

Thank you for consulting with the Commission staff regarding this issue. Please feel free to contact me if you have questions or would like to discuss these matters further.

Sincerely,



Steve Monowitz

District Manager

Central Coast District Office

Cc: Paavo Ogren, SLO County Department of Public Works  
Annajane L. High, LOCSD Interim General Manager  
Bruce Gibson, District 2 Supervisor