Condition 7	Permits-Corps
Prior to construction, an application for a Nationwide or Individual Permit shall be submitted by the County to the United States Army Corps of Engineers (USACE) pursuant to Section 404 of the Clean Water Act (CWA). If required, the County shall obtain a Nationwide or Individual Permit from the USACE for any impacts, temporary and permanent, to any areas within the proposed project which are determined to qualify as jurisdictional waters and wetlands of the U.S. The County shall implement all required conditions and special considerations stipulated within the Nationwide or Individual Permit during all relevant phases of development / construction.	
Evidence of compliance: No Corps permit required (reference 2010-04-12 letter).	

Condition Satisfied

Jason H. Miller

Director, SLO County Planning

April 3, 2012

Date

DEPARTMENT OF THE ARMY
VENTURA REGULATORY FIELD OFFICE
2151 ALESSANDRO DRIVE, SUITE 110
VENTURA, CA 93001

April 12, 2010

REPLY TO
ATTENTION OF

Regulatory Division

Paavo Ogren, Director
County of San Luis Obispo, Department of Public Works
County Government Center, Room 207
San Luis Obispo, California 93401

SUBJECT: Determination regarding requirement for Department of the Army Permit

Dear Mr. Ogren:

Reference is made to your request (Corps File No. SPL-2009-00159-BAH) for a determination whether a Department of the Army Permit is required for the Los Osos Wastewater Project located within the unincorporated town of Los Osos, San Luis Obispo County, California. The project entails construction of a mid-town collection site and conveyance by pipeline to facultative ponds, oxidation ditches, and storage facilities on the Cemetery, Giacomazzi, Branin and Tonini properties east of the town.

The Corps' evaluation process for determining whether or not a Department of the Army permit is needed involves two tests. A permit is required if both tests are met. The first test determines whether or not the proposed project is located in a water of the United States (i.e., it is within the Corps' geographic jurisdiction). The second test determines whether or not the proposed project is a regulated activity under Section 10 of the River and Harbor Act or Section 404 of the Clean Water Act. As part of our evaluation process, we have made the determination below.

I conducted a site visit to the Cemetery and Giacomazzi properties on 21 December 2009 with Eric Wier and Kate Ballantyne of your staff to determine the presence of and potential extent of jurisdictional waters of the United States on those two properties. The Giacomazzi property includes two incised drainages that eventually connect with Los Osos Creek off of the property. The drainages appeared to be the result of tilling practices that prevent establishment of a suitable cover crop to hold the soil in place, allowing it to be eroded with seasonal rainfall events. It is determined that these two drainages on the Giacomazzi property within the project boundaries do not constitute waters of the U.S. and as such, are not subject to regulation by the Corps of Engineers under Section 404 of the Clean Water Act. Note that this determination applies only to the project boundaries as was understood on the date of the site visit. Jurisdiction may be present as the drainages approach the tributary to Los Osos Creek to the east and northeast of the facultative ponds anticipated for the Giacomazzi property. Furthermore, we examined an additional drainage that exited the northeastern corner of the Cemetery property. It was observed that this drainage did not exhibit an ordinary high water

mark indicative of the extent of Corps jurisdiction in many channels, nor did it appear to have the three factors necessary to determine the area is a wetland potentially under Corps jurisdiction. Therefore, it was determined that this drainage did not constitute a water of the U.S. and a Section 404 permit would not be necessary for construction of the proposed treatment and storage facilities associated with the Los Osos wastewater project, or the road necessary to access the project facilities in this area.

Also discussed was the pipeline over Los Osos Creek along Los Osos Valley Road. Mr. Wier informed me the expectation was to affix the new pipeline to or suspend it from the existing bridge structure. Because this method would not result in a discharge of fill material into Los Osos Creek, a near perennial creek directly tributary to Morro Bay and thence to the Pacific Ocean, a navigable water of the U.S. and otherwise subject to Corps jurisdiction, a Corps permit would not be required for the proposed work at this location.

Therefore, in closing and to reiterate the above, we have determined your proposed project is not subject to our jurisdiction under Section 404 of the Clean Water Act and a Section 404 permit would not be required from our office if the activity is performed in the manner described.

If you have any questions, please contact me at 805-585-2145 or via e-mail at Bruce.A.Henderson@usace.army.mil. Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: http://per2.nwp.usace.army.mil/survey.html.

Sincerely,

Bruce Henderson

Bruce Henderson
Sr. Project Manager
North Coast Branch
Regulatory Division