

# BOARD OF SUPERVISORS



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May 3, 2007

Mr. Jeffrey Young, Chair  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place #101  
San Luis Obispo CA 93401

RE: Agenda Item #6, for May 10, 2007  
Other Future Enforcement Proceedings in the Los Osos Prohibition Zone

Dear Mr. Young:

Your staff's report for the above referenced item offers several alternatives for future enforcement actions against residents of the Los Osos Prohibition Zone. The San Luis Obispo County Board of Supervisors strongly recommends that the Regional Water Board adopt the "No Action" alternative for the time being for the reasons noted below.

We agree with the assertion noted in the staff report that some believe "further individual enforcement is counterproductive to the County's process." As you know, the Regional Water Board's previous enforcement actions against 45 randomly-selected individuals has produced a vocal and angry response from some in the community and has resulted in at least one ad hoc group organizing to oppose those actions on legal grounds.

While the County does not dispute the Regional Water Board's authority to pursue these individual enforcement actions, we believe that further such actions would hinder the County's extensive efforts to develop wastewater treatment alternatives in the following ways:

1) The enforcement actions distract the community at a time when full attention should be given to careful consideration of a large volume of technical, financial,

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and environmental information that we are preparing ahead of the Proposition 218 vote this fall. County staff and elected officials have stated publicly on numerous occasions that the community's energy should be spent on pursuing a successful project, which would render moot the possible penalties outlined in previous actions.

2) Previous Regional Water Board actions have been alleged by some to constitute "electioneering" in an effort to favorably influence the Prop 218 vote outcome. Please note that the County does not see evidence of legally-defined electioneering in previous Cease and Desist Orders, the associated Settlement Agreements, or the recently-issued Notices of Violation. We are concerned, however, about the perception of Regional Water Board electioneering becoming an ever-increasing distraction and impairing the Prop 218 vote, if active enforcement actions or hearings are underway this fall.

3) Further individual enforcement actions increase the likelihood of litigation against the County and the Regional Water Board. We speculate that further individual actions would encourage many recipients to seek legal relief, again distracting attention from the County's process. As noted above, we understand that the Regional Water Board has legal enforcement responsibilities under existing law, however, any new litigation would risk further delay of a project already long overdue. The cost increases and environmental damage resulting from further delay would be seriously detrimental.

In summary, we recommend that the Regional Water Board hold further enforcement actions in abeyance while the County process under AB 2701 is underway. We believe the Regional Water Board has shown clear intention to pursue enforcement if the property owners in Los Osos reject the County efforts by defeating the Proposition 218 assessments. Enforcement actions undertaken now would be premature and counterproductive, since the County process is reaching a critical stage.

Some have also suggested that the Regional Water Board must proceed now with enforcement against the balance of the Prohibition Zone in order to retain the right to do so later. If this is accurate, the County and the community should receive a clear summary of the relevant legal issues that necessitate further enforcement action at this time.

Let us emphasize that the County greatly appreciates the support that the Regional Water Board and your staff have given in our efforts to pursue both State and Federal grant funding for a community wastewater project. Your staff

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provided a letter of support to the Proposition 50 (Integrated Regional Water Management) grant efforts with the State Water Board and we appreciate their comments on the need for grants when the cost of complying with regulatory mandates exceeds affordability criteria established by regulatory agencies. Your staff also exceeded expectations in our meetings with Congresswoman Lois Capps and Congressman Peter Visclosky (Indiana), when they toured Los Osos on April 12<sup>th</sup> and took first-hand water quality samples from freshwater seeps that exist on the edge of the bay. We will continue to work cooperatively with your agency to seek extension of the State Revolving Fund payback schedule beyond 20 years and to secure other funding essential to a successful project in Los Osos.

We believe that deferring enforcement actions will allow your Board, your staff, the County and the community to concentrate on the myriad issues needing resolution in the near future. The San Luis Obispo County Board of Supervisors has the highest level of respect for your Board and your responsibilities. We hope you recognize that our support of Assemblyman Sam Blakeslee, and the efforts he led for approval of AB 2701, indicate the County's commitment to help resolve the wastewater dilemma in Los Osos.

We believe that the County efforts, initiated voluntarily under the authority of AB 2701, provide the best opportunity for resolving the wastewater problem. After numerous meetings in the community, the creation of a project Technical Advisory Committee, and weekly updates by staff to our Board, we are increasingly hopeful that the community and property owners recognize that this final opportunity for a local agency solution will prevail and that State enforcement and/or implementation actions can be prevented.

We would be glad to provide a presentation to the Regional Water Board in the near future on current County efforts. Please don't hesitate to contact Project Director Paavo Ogren (781-5252) or County Supervisor Bruce Gibson to arrange that presentation or if you need further information.

Sincerely,

Jerry Lenthall  
Chairman, Board of Supervisors

Bruce Gibson  
Supervisor, District Two

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