

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
788 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4908

VOICE (831) 427-4863 FAX (831) 427-4877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Rinde Owen

Mailing Address: 1935 10th B

City: LOS OSOS

Zip Code: 93402

Phone: (805) 528-6403

SECTION II. Decision Being Appealed

- 1. Name of local/port government:
San Luis Obispo County
- 2. Brief description of development being appealed:
Los Osos Waste Water Project

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

- 3. Development's location (street address, assessor's parcel no., cross street, etc.):
Prohibition zone and treatment location, potential AG disposal sites.
- 4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

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5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision:

9/29/09

7. Local government's file number (if any):

DRC 2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
976 Osos St. Room 300
San Luis Obispo, CA 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Refer to 17 appellants please, from Sept. 29 BOS hearing.

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**SECTION IV. Reasons Supporting This Appeal****PLEASE NOTE:**

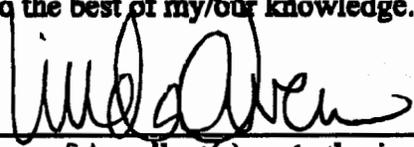
- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

→ Attached, w/one Exhibit (A) attached.

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SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date:

10/19/09

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

_____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date:

California Coastal Commission
725 Front Street
Santa Cruz, CA

October 19, 2009

Attention: Jonathan Bishop

Subject: Appeal of Los Osos Wastewater Project / County File No. DRC2008-00103

I respectfully submit just three of my concerns, though every phase of the SLO County approved project, minus the new location and disposal using Ag exchange, are troubling. Having been involved for the past 8 1/2 years, I have seen a consistent battle over fair process and a failure to allow new technology to compete, thus leaving a fumbled and flawed project proposal for your review. I am a member of LOCAC, LOCAC Land Use Committee, LOCAC Tree Committee, and the LOCSD Water Operations Committee but I address you as a private citizen.

1) AFFORDABILITY. Section 30001 Legislative findings and declarations; ecological balance

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of the state and especially to working persons employed within the coastal zone.

Section 30001.5 Legislative findings and declarations; goals

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of this state.

Section 30604 Coastal development permit; issuance prior to certification of the local coastal program; finding that development in conformity with public access and public recreation policies; housing opportunities for low and moderate income persons

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

The only way to responsibly address Affordability would be to condition the project with a legitimate Design/Build bidding competition process as promised through out the current EIR and 218 election analysis. The County proposed project admits that STEP collection is more affordable:

Following is a direct quote from the Final Fine Screening Analysis (page 1-9) that addresses installation costs as well as additional treatment costs:

"If a STEP/STEG collection system is selected it is anticipated that there will be minimal I/I since the system is sealed and under pressure. If a gravity collection system is selected, only a system that was constructed of fusion-welded PVC piping could be operated with as little I/I as a STEP/STEG

system. However, fusion welded PVC sewers are a new technology with little long-term operating history, and can be significantly more costly to install than traditional bell-and-spigot gravity sewers.

Properly installed bell-and-spigot sewers will be watertight at first, and then slowly lose their integrity as the surrounding soils shift, compressing the pipes, and compromising their seals at the joints."

It appears that fusion-welded PVC is the only solution that will make gravity sewer a "viable project." This cost is un-accounted for and to further complicate the gravity sewer collection challenges, the final Fine Screening did not reflect the true cost impacts of sea/ground water infiltration into the gravity sewer line, which can adversely impact treatment costs, beneficial reuse, sea water intrusion mitigation, and crop irrigation.

Directionally bored, shallow (4-5 ft) STEP collection piping will go in the 'right of ways' vs the Gravity piping's needs to be located in the 42 miles of paved roadways. Cost of trenching, dewatering, cultural burial grounds disturbance and street repair/replacement has received little cost analysis.

That is why I ask that you condition the project to reopen the bidding process with an outside evaluation team. Currently the only STEP construction bidder (Lyles Construction) was questionably eliminated by a team made up of the same consultants and County staff working on preparation of the EIR.

I also ask for your consideration to request to the RWQCB for a Waiver to support a phased project design due to the un-fundable costs of sewerage the entire Prohibition Zone in a falling economy. Overall nitrate levels in the upper aquifer are 1 mg over drinking water standards, therefore do not constitute the perceived threat to health and safety. Collecting the low lying areas in a community Sewer/Septic District would significantly address nitrate levels as well as provide a treatment facility for septic pumpings that currently must be driven to Santa Maria. A Septic Management program for areas with adequate distance to groundwater would address the RWQCB's Resolution 83-12 which has never been enforced. San Diego couldn't afford to improve their ocean outfall pollution stream due to cost...and last week were allowed to continue with their pollution Waiver.

Issue 2) Unmitigated impact on landscape dependent on 5000 leach fields. Section 30101 Coastal-dependant development or use "Coastal-dependant development or use".

Los Osos Groundwater Basin currently provides 1 million gallons per day of leachfield water for a wide variety of mature trees and shrubbery, native and non-native, as well as several areas of wetlands. Attached letter (attachment A) from Fish & Wildlife notes concern over a lack of mitigation and inconsistency with CEQA.

County's Response to Comment A8-9, (my bolding)

"This comment stated that the Draft EIR did not consider the loss of habitat associated with the elimination of the septic water leaching from the existing septic tanks. As described on page 5.2-19 in Appendix D-1, the implementation of the proposed project would reduce septic effluent discharge into the perched aquifer. However, the exact quantity of reduction within the perched aquifer is unknown, and the potential impact on groundwater flow to surrounding surface water features is

speculative given the amount of perched groundwater currently flowing to surface water features is not known. As a good faith effort to obtain measurement data, groundwater levels will be monitored to understand potential changes in groundwater levels. Therefore, as a project design feature and previously agreed to by the California Coastal Commission, the County will review and approve a Groundwater Level Monitoring and Management Plan detailing methods for measuring and responding to changes in groundwater levels that could affect wetland hydrology and habitat values. In accordance with the monitoring and action plan proposed by the LOCSD, the Plan shall include provisions for monitoring groundwater levels, surveys for wetland plant and animals, monitoring wetland hydrology and water quality, appropriate response procedures should impacts be identified, annual reporting, and an education program to encourage property owners to convert septic systems into areas capable of groundwater recharge."

The negative impact on all landscaping and wetland areas is of extreme concern and is NOT adequately addressed.

Requesting a waiver from the RWQCB for a phased project approach could best assure that there is not a total die-off of community tree and plant colonies.

3) AIR Quality - Sludge Removal. Current questionable project bidding outcome has also produced no alternative bidder for the Ponding Treatment vs conventional. Air Quality and toxic disposal issues alone would question why anyone would ignore a treatment process that, besides energy and operation/maintenance savings, eliminated sludge removal for TWENTY to THIRTY years. Over a 20 year period comparison of cost and air quality impact is substantial when 2-3 sludge loads per week are multiplied out. Ponding treatment ELIMINATES this transport.

Thankyou,

Linde Owen

1935 10th B
Los Osos
(805) 528-6403

Exhibit A



State of California - The Resources Agency
DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005

ARNOLD SCHWARZENEGGER, Governor



A7
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January 30, 2009

Mark Hutchinson
Environmental Programs Manager
San Luis Obispo County Department of Public Works
County Government Center, Room 207
San Luis Obispo, CA 93408

Subject: Los Osos Wastewater Project
Draft Environmental Impact Report
State Clearinghouse No. 2007121034

Dear Mr. Hutchinson:

The Department of Fish and Game has reviewed the Draft Environmental Impact Report (DEIR) received by the Department on December 22, 2008, for the County's Los Osos Wastewater Project (LOWWP). The Project consists of construction and operation of a collection and conveyance system; a wastewater treatment process and site; and effluent disposal process and locations, of differing technologies in different configurations. In addition, the DEIR describes some Project components which are identified in the alternatives section which would further the Project's goals and objectives.

The Department supports the construction of a Wastewater Treatment Facility for the community of Los Osos; we believe that the Project is necessary to alleviate groundwater contamination of the aquifer underlying the community and to curtail runoff of pollutants into Morro Bay, including the Morro Bay Wildlife Area, managed by the Department. We do not recommend one combination of required elements of the proposed Project over any other; however, we do have comments on content, as well as procedural issues, as laid out in the document. Our intent in submitting this detailed analysis and comments for your consideration is to continue our constructive support of a robust planning and permitting process, hopefully resulting in the best possible Project.

In general, the DEIR appears to defer surveys and identification of specific mitigation to a later date, which would not be consistent with the intent of the California Environmental Quality Act (CEQA) to disclose to the public and to decision makers, the potential impacts and feasible mitigation measures associated with the Project; nor does it allow the County to determine which potentially significant effects would be mitigated to a level of less than significant. Additionally, the DEIR does not completely characterize the regulatory framework or aspects of the permitting process for the proposed Project. This letter outlines the Department's authorities and provides comments regarding the DEIR, including whether the document has adequately characterized the type, extent and significance of effects; whether proposed mitigation measures would reduce potentially significant effects to less than significant; and if not, what additional measures would be required to do so. Additionally, we have attempted to clarify what subsequent permitting would be needed from the Department and the optimal manner to incorporate those requirements into this process.