Y. South Bay Site

The use of South Bay Boulevard north of Santa Ysabel Avenue for an effluent disposal site will be added. The elimination and re-rating of other effluent disposal sites requires that all available effluent disposal sites be utilized.

Environmental Considerations. Impacts associated with disposal leach field construction was discussed in the FEIR and will be mitigated by the following mitigation measures:

GEO-1, GEO-2, WR-2, C-1, C-2 TR-1, TR-2, AQ-1, AQ-2, N-1, N-2, PS-4, PS-5, BIO-1, BIO-5, BIO-7

Disposal Site Summary. The revisions to the effluent disposal sites as discussed elsewhere are summarized below.

Description	Original	Revised
Sea Pines	NA	30,000 gpd
Vista de Oro	25,000 gpd	20,000 gpd
Monarch Grove School	70,000 gpd	
LOVR/Pine	50,000 gpd	
Pine		50,000 gpd
Ziebarth Property	75,000 gpd	
Broderson Avenue		40,000 gpd
Broderson	800,000 gpd	800,000 gpd
Pismo Avenue	100,000 gpd	160,000 gpd
Santa Maria Avenue	75,000 gpd	
Santa Maria Av. / 18th Street		160,000 gpd
14th Streeet thru 17th Street	100,000 gpd	
Los Osos Middle School	Standby	Standby
El Morro Avenue	175,000 gpd	175,000 gpd
East Santa Ysabel Avenue / Scenic		45,000 gpd
South Bay Boulevard		125,000 gpd
Total	1,400, 000 gpd	1,675,000 gpd

Environmental Considerations. Since the amount of disposal remains largely the same, with the exception of Monarch Grove/Sea Pines, which is merely a trade between the package plant and the WWTP, the changes to the disposal locations are covered by the FEIR. (Cleath and Associates, *Hydrogeologic Investigation of the Broderson Property, Phase I and II, July 2000, Wastewater Disposal Sites Evaluation, October 2001)*

Z. Disposal Methodology

The use of horizontal perforated drain pipelines was identified in the FEIR as the effluent disposal methodology. The use of vertical disposal wells as an alternative methodology will be used in street ROWs. The vertical disposal wells require less surface area and reduce the potential for interference with underground utilities.

Environmental Considerations. A vertical disposal well consists of a 4-feet diameter boring up to 25 feet deep filled with gravel around a vertical 4-inch diameter perforated pipe into which a disposal main will be emptied. The vertical wells will be constructed using an auger which

FAX TRANSMITTAL

Janet Kline
309 2nd St., Los Altos CA.
FAX 267-8375

April 21, 2009

San Luis Obispo Planning Commission

Attn: Director of Planning via Ramona Fax 805-781-1242 Sheet 1 of 4

Ref: Los Osos Wastewater Project

Since I will not be able to attend the meeting on the referenced project, I want to provide the Commission with the attached comments provided earlier to the Public Works Department. I do not believe the final EIR addressed most of the issues in my letter.

It is my understanding that the County is now considering tertiary treatment of the waste water which we support. We do not object to use of the Tonni Site to dispose of this tertiary treated water. In fact My brother who co-owns our parcel visited the Monterey County treatment plant that does tertiary water treatment and he believes this would work in our area.

What we object to is the placement of the treatment plant on Turri Road. We believe the plant should be located much closer to the town of Los Osos. There are other sites which could be used for the plant which are virtually unnoticed by the public. If this is done, we would be willing to explore using this treated water on our parcel and possibly storing some of this water in on our property. Our parcel is part of the original Turri Ranch where our mother was born. Turri Road is a unique, quite, country road where our relatives walked to Los Osos School across from the ranch.

This is a serene setting and environmentally sensitive. Please do not support a treatment plant in that location.

Sincerely,

Janet Kline

Janet Kline

January 26, 2009

San Luis Obispo County
Department of Public Works
County Government Center, Room 207
San Luis Obispo, CA 93408

Attention: Mark Hutchinson

Subject: Los Osos Wastewater Project Draft Environmental Impact Report

The subject EIR addresses the Tonini Ranch as a possible location for a sewer treatment facility. We own a farm parcel 067-031-022 near the Tonini ranch (see attached parcel map) and we strongly object to using this ranch for this purpose. The following are reasons for our objections and would like to request each of these objections be addressed in the Draft EIR.

1. Although it may be necessary to initially use spray fields to dispose of the treated water, this is a waste of water that can be beneficially used for agricultural purposes.

2. Using the Tonini ranch for a sewage treatment facility takes a large agricultural property permanently out of production. There is less productive land closer to the area that is being served that should be identified for this use.

3. The Tonini ranch location will cause a significant amount of energy to be wasted in pumping the sewage a long distance to be treated and then a portion to be pumped back for disposal. This is counter to our National goal of conserving energy and less dependency on foreign oil imports.

4. Our farm and others nearby will have their values negatively affected because small farms like ours are valued more as a Residential site that the farm value, and residential sites are less attractive when located near a sewage treatment facility.

Regarding the use of properly treated water for agricultural uses, the technology for this practice is in place and there are many farmlands now

using this practice. Monterey County has been successfully using this practice for a number of years. Most recently The Pajaro Valley water Management Agency in Watsonville has completed water transmission lines in Pajaro valley and farm use for this treated water will begin in March of this year. While there are additional costs to treat this water, the overall shortage of water in California will justify this expense. We certainly would be happy to use this water on our farm if it were made available to us.

The proposed method of using spray fields to dispose of water may be necessary to take care of the immediate problem. If there are no other sites that can be found for this other than the Tonini ranch, that property could be used until the agricultural use of treated water can be developed and then the land can be put back into its present use.

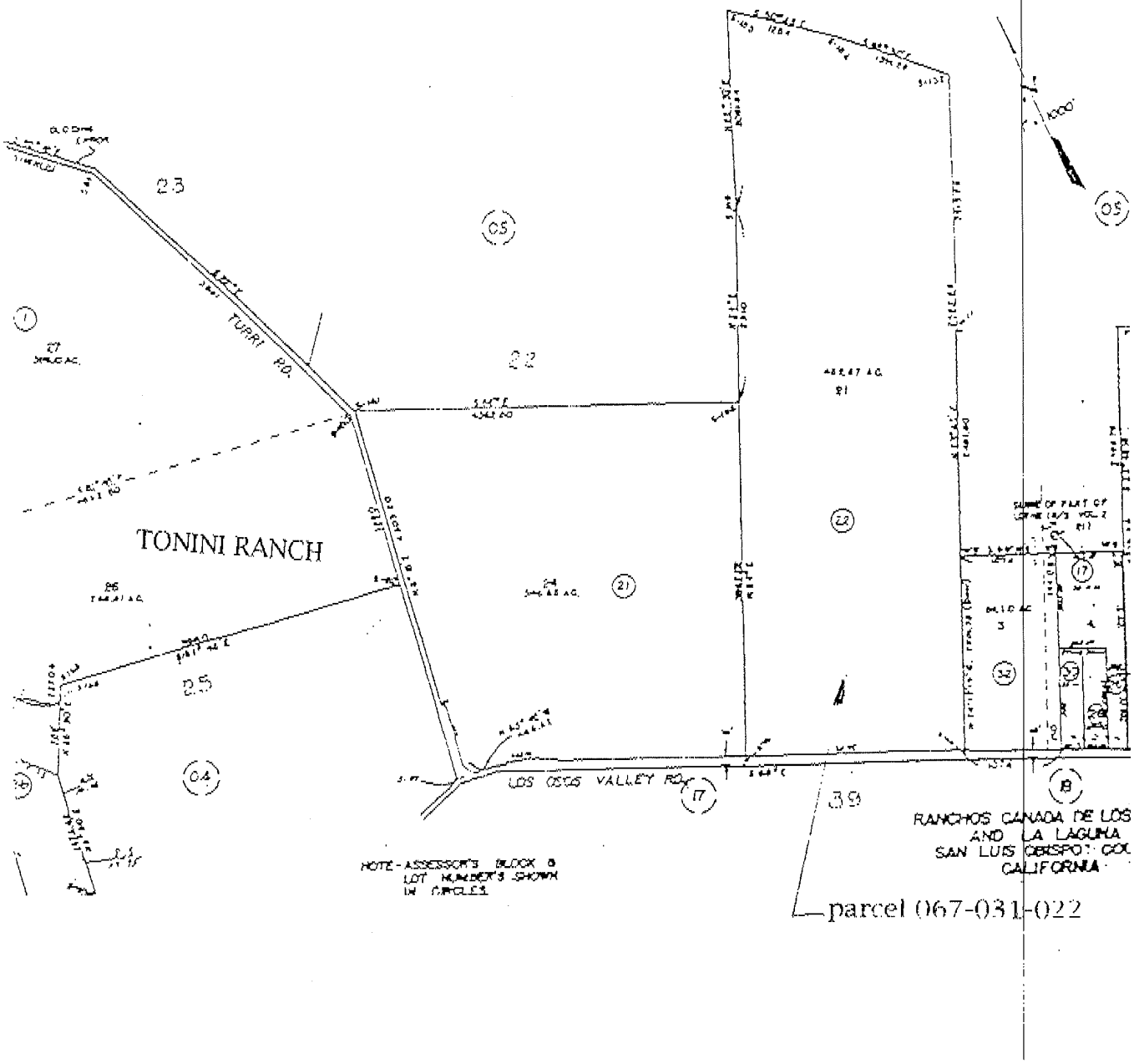
Location of a treatment plant for the town of Los Osos has been addressed many times. When the first location closest to their neighborhood was chosen, their were second thoughts and enough homeowners who did not want the project in their back yards, stopped the project. New locations were identified for the treatment plant as far east as the cemetery on the Los Osos Valley Road. On September 4, 2007, over 100 homeowners near the cemetery sent a petition to the Board of Supervisors indicating they did not want the treatment plant in their back yards. They support the Tonini location. As you consider sites as far east as Turri Road where there are only a small amount of large ranches and a small number of landowners. They too do not want the treatment plant on prime agricultural land next to their property. It is unfair to burden farm properties far from the populated residential areas with solving the sewer problems for the town of Los Osos miles away.

We respectfully request your consideration in this matter.

Sincerely,

Janet Kline

Janet Kline
Co-owner of parcel 067-031-022
309 2nd St. Los Altos, Ca. 94022
650-941-3047


TONINI RANCH
TURRI RD.
LOS OSOS VALLEY RD.
23
22
25
39
RANCHOS CANADA DE LOS
AND LA LAGUNA
SAN LUIS OBISPO COU
CALIFORNIA
parcel 067-031-022

Just four months ago, 2 seated and 1 Supervisor-elect made arguments against the Santa Margarita Ranch project. Each standing tall against the project's process, the project's numerous impacts on the environment, including but not limited to, agricultural resources, water resources, historical significance, archeological significance, visual impacts, traffic impacts, air quality, you name it, they -- along with numerous others, argued against that project.

The similarities between the Santa Margarita Ranch (The Ranch) and the proposed Los Osos Wastewater Project (LOWWP) are uncanny yet baffling. The Ranch ag-cluster project impacts some 676 acres of land that is currently in agricultural production, the LOWWP impacts some 642 acres at the Tonini Ranch (under Williamson Act contract) which will need some 347 acres of agricultural mitigation (impacting nearly 1,000 coastal ag acres in all).

The Ranch was approved despite uncertainties relating to water supply issues, the LOWWP with sprayfields proposed for the Tonini Ranch purposely loses some 750,000 gallons of treated effluent per day, further jeopardizing the Los Osos Groundwater basin which is under Severity Level III due to seawater intrusion.

The Ranch has both historic and prehistoric significance, from the Native American and Mission era periods. Equally important the Tonini Ranch has three significant Native American deposits identified on site and Mission era history dating back to the "Great Grizzly Hunt" that eradicated the grizzly bear from the Los Osos Valley in the 1770's to feed the starving missionaries in Monterey.

The Ranch and the LOWWP are both set against scenic pastoral backdrops of countywide importance. Turri Road in particular is a treat to visitors and locals alike, for bike rides, Sunday drives, exercise enthusiasts, even movies have been filmed along this scenic stretch of road. Not to mention the most significant of the Morros, Hollister Peak majestically overlooks the Los Osos valley below.

The Ranch has air quality impacts from traffic increase; the LOWWP has air pollution impacts from ongoing spray of treated effluent into the air to be evaporated.

The Ranch, a housing development has growth inducing impacts; the LOWWP has growth inducing impacts due the very location some 4 miles outside of town, inviting further subdivision of the agricultural lands adjacent to it.

The Ranch impacts prime agricultural soils, lost forever to development of some 111 homes. The LOWWP has loss of prime soils to sprayfields used to evaporate the effluent.

The Ranch impacts less than 1,500 residents in Santa Margarita, the LOWWP impacts over 15,000 residents in Los Osos.

The hearings on the Ranch went on for days and days, hours and hours, groups and organizations outraged by the project. Poetry, song and shoe throwing protests chastised the Board of Supervisors who approved that project.

Week after week, Los Ososians speak to those same Supervisors opposed to the Ranch, raising the very same issues. Supervisor's Jeckle and Hyde have turned their backs on Los Osos, turned their backs on the environment (including all the same resources they argued to oppose the Ranch) all in the name of political expediency.

Members of the Planning Commission and Board of Supervisors

The Los Osos Wastewater Project certainly involves impact issues of greater significance than noise and vibration. However, once there is agreement on the larger issues, the day-to-day experience of residence gains in importance. Work will be taking place over several years and construction will be quite close to homes, schools and natural resource areas. The Draft and the Final EIR gave only superficial attention to noise and vibration issues. There was no requirement to create a noise control plan for construction or any requirement for monitoring.

The following edits and additions provide more specific guidelines. The edits are consistent with recommendations developed by the state of California (Caltrans) and by federal agencies (the Federal Highway Administration and the Federal Transit Administration). The state and federal guidelines include threshold standards and monitoring and reporting requirements. It should be noted that pre and post project structural damage surveys are very much in the best financial interest of the county (and the community). If pile driving takes place the vibration through water saturated, sandy soils could be considerable. Documentation and monitoring is essential to substantiate structural damage claims.

Perhaps I should add that I am technically qualified to comment on noise and vibration issues. I have been a participant in the EIR's public review process.

Reword Mitigation Measure 5.10-B

Prior to initiation of construction of the collection system, the contractor/designer shall identify all areas where pile driving, or other construction methods that would result in severe ground vibrations, could occur. Deep pile foundation designs shall favor techniques that can be constructed with minimal vibration effects. Prior to construction, ***using technology and standards recommended in the Caltrans Transportation and Construction Induced Vibration Manual***, the contractor shall calculate the vibration effects of pile driving and other high vibration activities using the Peak Particle Velocity (PPV) metric, and shall ensure that the PPV does not exceed the following thresholds at any affected building: 0.5 at modern industrial/commercial or residential buildings; 0.3 for any building composed of masonry, unreinforced concrete, lath & plaster interiors or of similar construction; and 0.25 for any building identified as particularly sensitive to vibration impacts. Alternative design and/or construction methods shall be used to meet these limits. In addition, the construction contractor shall notify all property owners and tenants adjacent to the proposed pile driving or other vibration inducing activities of the days and hours of operation. Prior to construction activities associated with this type of work, the construction contractor shall inspect all structures within ~~100 feet of the proposed work~~ ***the area predicted to experience vibration in excess of .25 PPV*** to document existing characteristics of the structures. ***During construction, vibration shall be monitored and recorded and adjustments made to operations or to the radius of concern if the level of vibration differs from estimates.*** If ***a post construction survey***

indicates that damages to structures (e.g., residences, pools) occur***ed*** during the work, the property owner shall be fairly compensated for the cost of remediating damages.

Add to and Reword Mitigation Measure 5.10-C1

The project applicant shall require construction contractors to adhere to the following noise attenuation requirements:

- ***A construction noise control plan shall be developed for the project that identifies the nature and timing of operations designed to minimize noise exposure to noise sensitive receptors including natural resource areas. .***
- ***Generally,*** construction activities shall be limited to between the hours of 7 a.m. to 9 p.m. on any day except Saturday or Sunday or between the hours of 8 a.m. to 5 p.m. on Saturday or Sunday.
- ***Construction activities in the vicinity of schools should be scheduled for times when classes are not in session.***
- All construction equipment shall use noise-reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer.
- ***The noise produced by construction activities should be monitored to insure that the noise produced by construction equipment is compliant with the emission standards listed in the project EIR (Appendix L, page 5.10-4 and in the source document,*** **FHWA Construction Noise Model*****, page 3).***
- ***Measures to minimize back-up alarm issues shall be established including such techniques as; 1) use of self-adjusting ambient-sensitive backup alarms, 2) manually-adjustable alarms on low setting, 3) use of observers, 4) scheduling of activities so that alarm noise is minimized, 4) construction site access designed such that deliveries and trucks move through the site in a forward manner without the need to back up.***
- Construction staging and heavy equipment maintenance activities shall be performed a minimum distance of 300 feet from the nearest residence, unless safety or technical factors take precedence.
- Stationary combustion equipment such as pumps or generators ~~operating within 100 feet of any residence~~ ***operating near any noise sensitive use*** shall, ***if necessary,*** be shielded with a noise protection barrier. ***Leq values at the property line of receiver locations shall not exceed 65 dB.***

Prepared by David Dubbink
Los Osos
April 21, 2009

The following action minutes are listed as they were acted upon by the Planning Commission and as listed on the agenda for the Regular Meeting of April 30, 2009 together with the maps and staff reports attached thereto and incorporated therein by reference.

HEARINGS ARE ADVERTISED FOR 8:45 A.M. HOWEVER, HEARINGS GENERALLY PROCEED IN THE ORDER LISTED. THIS TIME IS ONLY AN ESTIMATE AND IS NOT TO BE CONSIDERED AS TIME GUARANTEED. THE PUBLIC AND APPLICANTS ARE ADVISED TO ARRIVE EARLY.

ROLL CALL (8:50 AM)

PRESENT: Commissioner(s) Sarah Christie, Gene Mehlschau, Anne Wyatt, Bruce White, and Carlyn Christianson.
ABSENT:

FLAG SALUTE (8:50 AM)

PUBLIC COMMENT PERIOD (8:50 AM)

Sarah Christie: explains to the public today's hearing procedures. States she has invited Darla Englis to come to the meeting to discuss low impact development opportunities.

Matt Jannsen, staff: confirms with Ms. Christie her procedure for public comment.

Eric Greening: asks Ms Christie about ceding time for speakers.

Cee Hight: speaks to Rural Community workshop. Further speaks to wholesome communities and difficulties advocating cause. Provides a brief biography about herself.

PLANNING STAFF UPDATES

CONSENT AGENDA:

HEARINGS:

1. Continued hearing to consider a request by the COUNTY OF SAN LUIS OBISPO for a Development Plan / Coastal Development Permit to allow construction and operation of a sewer system to serve the community of Los Osos, which includes a collection system, a sewer treatment facility, effluent disposal system, and all associated appurtenant infrastructure in multiple land use categories. The proposed treatment facility site is located at 3515 Turri Road, approximately 3 miles east of the community of Los Osos (known as the Tonini site) and is located in the Agriculture land use category. The infrastructure for the project is located in the county throughout the community of Los Osos and 3 miles east of the community of Los Osos, in the Estero Planning Area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, finds that there is evidence that the project may have a significant effect on the environment, and therefore a Final Environmental Impact Report (FEIR) was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) for this project. The FEIR addresses potential impacts on: Land Use and Planning; Groundwater Resources; Drainage and Surface Water Quality; Geology; Biological Resources; Cultural Resources; Public Health and Safety; Traffic and Circulation; Air Quality; Noise; Visual Resources and Environmental Justice. Mitigation measures are proposed to address these impacts and are included as conditions of approval. Overriding considerations were determined necessary based on significant and unavoidable impacts associated with agricultural resources. (CONTINUED FROM APRIL 23, 2009) County File Number: DRC2008-00103 Assessor Parcel Number(s): community-wide; Supervisorial District No. 2 sewer treatment plant site: 067-031-001 Kerry Brown, Project Manager Recommend approval (375 min) (8:59 AM)

John Diodotti, Public Works: speaks about Proposition 218 proceedings held in 2007 regarding total project estimate costs, special benefits, and analysis of Prop. 218 participation. Discusses current status of collection of Prop 218 funds, affordability efforts referencing state revolving loan funds, federal appropriation grants, and other sources of funding including federal stimulus funds. Speaks to process on applying for funds and timing of such.

Anne Wyatt: would like financial aspects explained in reference to age limitations for grants with Mr. Diodotti responding.

Paavo Ogren, Public Works: discusses tax deferral programs.

Sarah Christie: asks Mr. Diodottie if the calculated total monthly costs include grant funding and other financing with Mr. Diodottie clarifying. Asks if any county agencies have worked with the community in assisting the community to help accessing financing programs with Mr. Diodottie responding and explaining funding coming to the county which will be dispersed.

Paavo Ogren, Public Works: discusses second Proposition 218 vote and it's importance in reference to undeveloped properties, increased costs, and further speaks to the assumption the 218 vote does not pass and the effects of such.

Bruce White: asks if the 2nd 218 vote would take place prior to construction with Mr. Ogren responding. Discussion regarding lateral stubs to individual properties ensues.

Anne Wyatt: would like clarification on municipal bonds in reference to amortized financing with Mr. Diodottie responding.

Darla Inglis, Low Impact Development (LID) Center: gives a Power Point presentation on how LID may be integrated with the wastewater project.

Sarah Christie: asks about loss of parking in reference to construction of bioswales with Ms. Iglis responding. Clarifies with Ms. Inglis match grant monies in reference to leveraged funds.

Paavo Ogren, Public Works: inputs Public Works' involvement in promotion of LID and speaks to nexus issue involved in construction of a wastewater facility. Provides procedures for how Public Works uses funding and applications of such. Comments on Public Works' responsibility for stormwater protections.

Sarah Christie: would like Ms. Inglis to work with staff to promote LID and provides reasoning.

Darla Inglis, LID: states her primary goal at this time is to help municipalities and counties promote LID and integrate that into the planning process.

Anne Wyatt: would like the nexus between recharge issues further explained with Ms. Inglis responding. Asks how to come up with quantifiable numbers in reference to infiltration bioswale, with Ms. Inglis responding.

Bruce White: thanks Ms. Inglis for her presentation and asks if her firm distributes literature to communities about LID with Ms. Inglis responding and explaining LID's advocacy program.

Joyce Albright: is in favor of the Tri-W site and provides a handout and reasoning for her opinion.

Larry Raio: who drills holes states the issue that we need to deal with is Nitrates in the water and provides reasoning for such.

Al Barrow: gives presentation on various concerns for the proposed treatment facility, and provides reasoning for his concerns.

David Dubbink: discusses the Environmental Impact Report (E.I.R.) as being encyclopedic and provides reasoning for such.

Ben Difatta: discusses the gravity system proposal and financial implications to community and explains concerns for such. Would like the Gorby site examined further.

C. Hite: comments on the rights of the community, displacement of residents, and her suspicions of the process and provides reasoning for such. Speaks to concerns for impacts to public transportation.

David Broadwater: speaks to his experience and involvement in sewer research. Provides reasoning for project being unqualified for certification especially in reference to sewage sludge. Speaks to why he believes this E.I.R. fails to qualify for certification.

Bill Garfinkel: discusses collection system and roadway services, habitat conservation, hazardous materials, step collection, community preference, project cost concerns, and provides reasoning for such.

Sarah Christie: states mitigation issues will not be addressed at this hearing and provides reasoning for such.

Barry Branin: Addresses location of site by the cemetery, nearby his property. States the Giacomazzi site is also inadequate due to it's size. Provides reasoning for all.

Steve Paige: comments on archeological information in reference to septic tanks and impacts to the environment. Further speaks to aerial definitions of contaminants.

Lawson Schaller: comments on spray fields in reference to other options available, water conservation in reference to better management, and ponds in reference to multiple water purveyors and would like ponds considered. States we should take advantage of LID.

Sandra Bean: speaks to concern regarding vacant lot owners in reference to treated effluent water. Requests commission considers vacant lot owners be able to vote on the Prop. 218 vote.

Chuck Cesena: discusses nitrates concern, the Ripley system and the omission of such from the short list. Feels the E.I.R. cannot be certified.

Sarah Christie: reads James Tkach's statement into the record.

Elaine Watson: speaks to concerns for assurance of an adequate water supply in the future.

Lacey Cooper: speaks to affordablity, and funding concerns for the community and provides reasoning.

Lisen Bonnier: speaks against consideration of spray fields and provides reasoning. Asks the commission to consider other alternatives.

Beverly DeWitt-Moylan: discusses receipt of a "Cease and desist order" regarding septic tank use. Speaks to concern for an open and fair process.

Deborah Hillyard, Deptment of Fish and Game: discusses endangered listed species in reference to avoiding impacts.

Bill Moylan: speaks to cost of a step stag system as opposed to the currently proposed system. Comments on the appearance of corruption within county government and provides reasoning. Speaks to affordability and asks why this has been side stepped.

Mimi Whitney: comments on residents of Los Osos concern. Further comments on her concern for affordability.

Maria Kelly: states this is a clean water issue and supports the commission in their ability to decide this issue. Speaks to the vocal minority and states there is a silent majority who support the current system. States she looks forward to addressing the affordability of the project.

Chris Allebe: speaks to the Cease and Desist order deadline of Jan. 2011 and affordability issue.

Jack Hunter: speaks to archeological and financial impacts to project.

Jeff Edwards: speaks to water quality and addressing this issue now before the second Prop. 218 vote. States LID will not work and provides reasoning. Would like the Gorby site analysed.

Keith Wimer: discusses mitigation for water and support for ecosystems in referencing to LID.

Jerri Walsh: Comments on residents applying for aide in reference to affordability of project.

John Walsh: comments on residents applying for aide in reference to affordability of project.

Richard Margetsen: discusses impacts of losing funding options and financial aide.

Linde Owen: comments on her disagreement with funding options and asks to consider conditioning to include the Lyle step design.

Gewynn Taylor: comments on the second Prop. 218 vote implications.

Mary Fullwood, Surfrider Foundation: discusses vocal minority and co-equal analysis concerns.

Eric Greening: discusses his concerns for sludge disposal site not being identified in the E.I.R. and ability to mitigate for such. Further speaks about Ag. Policy 24.

Julie Tacker: Asks why we are looking at a 1 percent loan when a 0 percent loan can be obtained and would like this further analyzed.

Lisa Schicker: speaks to 43 topics and would like another chance to speak and urges commission to continue this hearing.

Sarah Chrisite: informs the public on how the response to comments will be organized.

Anne Wyatt: thanks the audience for coming. Comments on public comment regarding information available and received. Comments on process issues which make people frustrated. Asks what degree a centralized and decentralized approach will be analysed. Speaks to funding issues and further analysis of costs.

Paavo Ogren, Public Works: explains handout which clarifies responses to comments and also provides a format to the question and answer discussion Sarah Christie: would like a summary of why staff has changed their recommendation with Mr. Ogren responding.

Paavo Ogren, Public Works: explains original recommendation in respect to why a new recommendation has been proposed and the distinction between needing a certain amount of property.

Sarah Christie asks David Lecarro of the Regional Water Quality Control Board (RWQCB) to explain the different ranges of terrtiary treatments and how the regulations apply to the county recommended options with Mr. Lecarro responding. Asks if a leach field can be used for disposal or if this is permissible with Mr. Ogren responding.

Paavo Ogren, Public Works: explains Public Works' process and procedure in the determination of sewage treatment methods.

Sarah Christie: prompts Mr. Ogren reasonings for trying to obtain information from the RWQCB.

David Lacarro, RWQCB: discusses discharge of sewage in reference to liability.

Bruce White: directs Ms. Christie to Pg. 1-48 of the staff report in reference to the her question regarding terrtiary treatment.

John Waddel, Public Works: cites section 60304 of Title 22 which explains the use of recycled water for irrigation.

Anne Wyatt: asks about a leafy green crop ordinance agreement and if it has bearing on this proposal with Mr. Ogren responding and deferring to the representative of the county Ag. Dept.

Lynda Auchinachie, Ag. Dept.: discusses terrtiary treated water in reference to being used on eatable crops. States the leafy green agreement is not a governmental ordinance. Discusses perception by the public in reference to terrtiary treatment for crop growth and sales.

Sarah Christie: discusses feasibility of direct injection wells requiring a higher level of terrtiary treatment in reference to regulatory requirements and a lack of a standard for this with Mr. Lecarro responding.

Paavo Ogren: discusses regulatory boards in reference to direct injection treatment.

Carlyn Christianson: asks about conversion of ag. land in reference to spray fields and if terrtiary treated water being sprayed is really a conversion with Ms. Auchinachie responding and providing reasoning.

Bruce White: asks what other things can be contributors of nitrates with Mr. Ogren responding and explaining that water purveyors must meet regulatory requirements referencing other treatment options suggested.

Bruce White: asks if there is evidence that the septic tanks are the main cause for all the water pollution with Mr. Ogren deferring to the representative for the RWQCB.

David Lecarre, RWQCB: states he does not know how this was determined by the RWQCB.

Sarah Christie: asks if terrtiary treatment has an impact on nitrate levels with Mr. Waddel responding.

Anne Wyatt: references Pg. 1-48 Condition 6 regarding chlorine residual.

John Waddell, Public Works: discusses the Title 22 relationship to wastewater disinfection.

Sarah Christie: discusses Condition 6. (a) (1) and asks why this condition cannot be deleted with Mr. Hutchinson from Public Works explaining why this condition is needed.

Paavo Ogren, Public Works: speaks about the challenges of reading the regulatory requirements and would like to maintain flexibility for the regulatory requirements to be clear.

Commissioners agree terrtiary U.V. condition language would be worked on.

Paavo Ogren, Public Works: speaks to background history regarding the issue of perception of bias of the examination of the step system and explains the evaluation of the step system in reference to Measure B-05 (definition of a wastewater treatment facility). Speaks to administrative acts, potential for cost savings, environmental analysis and process of determination of participants on the short list.

Sarah Christie: asks about the evaluation for the statement of qualifications of the Lyle Group with Mr. Ogren responding. Asks why they did not score a high ranking with Mr. Ogren stating Mr. Waddell will address this in his presentation.

John Waddell, Public Works: explains the process by which the teams were ranked and what criteria is required in the RFQ.

Paavo Ogren, Public Works: explains the seven steps of the STEP/STEG collection system.

Sarah Christie: asks how come the Lyle Group cannot be allowed to make a bid for the project with Mr. Ogren responding.

Paavo Ogen: states the Board of Supervisors (BOS) were asked how to structure a design build & technical specifications for a STEP system.

Sarah Christie: contends information is needed.

Carlyn Chirstianson: asks if this commission decides that STEP is the preferred system what the implications of the recent Board vote regarding gravity are in deliberations.

Tim McNulty, County Counsel: explains the process which the commission is burdened with today which is this request for a Conditional Use Permit to which the commissioners can change/add/ or delete conditions.

Paavo Ogren: prompts the commission that the Board of Supervisors (BOS) did not act on the determination of the teams which allows Public Works and the commission the time for co-equal analysis.

John Waddell, Public Works: summarizes the criteria for an RFP in reference to the Lyle Group's rankings. Continues on with his presentation.

Anne Wyatt: asks Mr. Waddell about the individual septic tanks on individual lots in reference to the design process.

Paavo Ogren, Public Works: comment that the minor re-design of the gravity system would be relatively insignificant.

Bruce White: asks if the existing septic tanks can be utilized with Mr. Ogren explaining what the added costs are with this option.

Paavo Ogren: shows pictures of impacts/damages from horizontal directional drilling.

Mark Hutchinson, Public Works: presents graphs of Greenhouse Gas Emissions from vehicles, STEP Tanks, Chemicals, and Energy.

Sarah Christie: states Public Works' first recommendation was Facultative ponds as the preferred treatement, then Public Works switched their recommendation to biolac because of the carbon emmissions associated with methonol with Mr. Hutchinson clarifying why.

Mark Hutchinson, Public Works: explains greenhouse gas emissions in reference to Los Osos' carbon footprint.

Sarah Christie:

Sarah Christie: talks about Mr. Ripley's comments at the April 23, 2009 commission meeting. States she has a copy of the Ripley report and the report included the viability of a STEP system to which she would like him to speak about. Asks about calculating the chemical use for de-nitrification with Mr. Hutchinson responding. Asks about other options such as constructive wetlands to deal with de-nitrification.

Dana Ripley: states he is prepared to make a 10 minute rebuttal to the seven points the Public Works made.

Sarah Christie: states her intension is to have Mr. Ripley discuss his opinion on how the STEP system would work in Los Osos.

Dana Ripley, Ripley Pacific Co.: states he was retained by the LOCSD in 2006 to report. States he has become an advocate of STEP systems and provides reasoning. States whatever system goes into Los Osos should be a sealed system.

Sarah Christie: asks how come a gravity system cannot be sealed with Mr. Ripley stating they can, however, it is very costly.

Dana Ripley: discusses fuse weld pipes as an alternative for a gravity system and water conservation levels in reference to gravity sewers and provides reasoning.

Carlyn Christianson: asks about maintenance of wastewater systems in reference to the Ripley report and the costs of legalities involved with Mr. Ripley responding. Speaks to agreements with homeowners and the initialization of such in reference to financial implications and the omission of these costs in the report.

Anne Wyatt: asks if Mr. Ripley is part of the Lyle Group with Mr. Ripley stating he is an outside consultant for the Lyle Group.

Gene Mehlschau: asks Mr. Ripley his opinion of the composting toilet with Mr. Ripley deferring to Mr. Ogren.

Sarah Christie: asks Mr. Ripley if the STEP system would work in Los Osos with Mr. Ripley responding and speaking to a conservative cost estimate. Would like to know Mr. Ripley's experience of the impacts for on lot issues in reference to installation/maintenance of the tanks. Questions surface interruption issues with Mr. Ripley responding.

Dana Ripley: discusses a memorandum addressed to the Public Works Dept. in regards to greenhouse gas emissions referencing nitrates.

Paavo Ogren, Public Works: asks Mr. Ripley how does Mike Saunders from Ripley Co. guarantee obtaining easements on private properties because the Public Works Dept. has 3 options: eminent domain, establish the property owner must give up property or else face risks by enforcement actions by RWQCB - with Mr. Ripley and Ms. Christie responding. Asks Mr. Waddell about the bell and spigot sealed system pipe used for gravity systems in reference to leakage with Mr. Waddell responding.

Sarah Christie: asks Mr. Ripley how the STEP system pipes are different from the gravity system pipes. Asks what the county's position is on fused PVC pipes with Mr. Waddell stating it would be at a greater cost.

Paavo Ogren: asks Mr. Waddell what the appropriate maintenance of these pipes are with Mr. Waddell showing a video of how maintenance is

conducted. States the ASTM standards call the Bell and spigot pipes do leak over time.

Anne Wyatt: discusses building a maintenance level into the conditioning language for the project.

Paavo Ogren, Public Works: asks Mr. Waddell if he informed him about RWQCB on the Ripley plan regarding the disposal use.

Dana Ripley: discusses the Monterey Co. ag. water re-use program.

Anne Wyatt: asks if there would be issues with Mr. Ripley's contention that water & solids composition change over time referencing future opportunities for residents to buy their own gray water systems with Mr. Waddell and Mr. Hutchinson responding. Asks for clarification on the percentage of sludge being too high to flow through pipes with Mr. Ogren responding

Sarah Christie: would like further clarification from an independant wastewater systems expert on what is the maximum ratio between water and sludge.

Gail McPherson: managed Sea Mom program monitoring wastewater programs. Discusses differences between the two systems. States over time you have to clean the pipes because the solids collect on the bottom of the pipes. States roots will always be a problem and cockroaches & rats live in gravity systems and do not live in STEP systems.

Anne Wyatt: states there is then a trade off between water conservation and the use of specific pipe age.

Sarah Christie: takes a straw vote on what the commissioners think about gravity system vs. STEP system.

Thereafter, on motion of Sarah Christie, seconded by Anne Wyatt, and on the following vote:

AYES: Commissioner(s) Sarah Christie, Anne Wyatt, Gene Mehlschau, Bruce White Carlyn Christianson.
NOES: None.
ABSENT: None.

the commission agrees to conduct the meeting past 5:00 P.M.

Anne Wyatt: provides reasoning for using the gravity system.

Carlyn Christianson: provides reasoning for using the gravity system vs. STEP STEG.

Bruce White: provides reasoning for his choice of the gravity system and wants to know if there is any way to use a solvent weld on the gasket with Mr. Waddell responding.

Gene Mehlschau: states he can go either way.

Sarah Christie: states she has no confidence in the gravity system and provides reasoning. States she feels there could have been cost savings and environmental benefits of the STEP/STEG system and provides reasoning.

Bruce White: states it would be beneficial to have both systems evaluated especially if new information came to light.

Carlyn Christianson: prompts the public to deterr against implicating staff with malicious content.

Sarah Christie: provides direction on the order of president for the commission meeting with the LOWWP proposal.

Nancy Orton, staff: offers commissioners three dates to choose from for the next LOWWP hearing/meeting: May 11, 18, and the 21st clarifying May 21st hours would be from 3-10 P.M..

Commissioners agree on continuance to May 28, 2009.

Thereafter, on motion of Anne Wyatt, seconded by Bruce White, and on the following vote:

AYES: Commissioner(s) Anne Wyatt, Bruce White, Sarah Christie, Gene Mehlschau Carlyn Christianson.
NOES: None.
ABSENT: None.

the commissioners continue this item to May 28, 2009.

ADJOURNMENT: 5:20 P.M.

Respectfully Submitted,
Ramona Hedges, Secretary, Planning Commission

Minutes adopted at 6/11/09 PC.

Email address:	elaine.watson@charter.net
Subject:	Other
Comments or questions:	I want to thank and commend Sarah Christi and the other commissioners for their respectful attention and intelligent questions and comments throughout today's hearing on the Los Osos Wastewater Project. It's been confusing even for those of us who've tried to follow and make sense of the ever shifting direction this process has taken. As it now stands, the impact this project will have on our water resource, our environment and the extreme financial difficulty it will impose on many Prohibition Zone residents is potentially severe therefore I want you to know how much we appreciate your careful listening, independent thinking and probing questions. I would ask you to consider allowing public comment/questions following Pavvo Ogren's remarks on the affordability issue he will be presenting next week. Los Osos can residents bring a different perspective and can add information to the subject of affordability that would help the Planning Commission better understand and more effectively deliberate this all important issue. Again, thank you. Elaine Watson

Is it Worth the Risk?

MWH - Potential Conflict of Interest and Costly Engineering Decisions

Events and Activities for your Consideration

SLO County BOS Public Comment, Los Osos Wastewater Project April 7, 2009
Distributed to Board members in person
Submitted by Lisa Schicker, past LOCSD President, Board Member 2004-2008

Dear Honorable Board Members:

Please enter this document into the formal public record.

I have three requests.

1. Please rescind staff's decision to shortlist MWH for the LOCSD wastewater project.

2. Please include a STEP RFP today in the final project shortlist process.

3. Please hold the AB 2701 advisory vote following the full disclosure of all project costs from all teams.

I feel strongly that it is my public duty to make you aware of incidents and activities regarding the MWH history with both the LOCSD and the County that suggest Conflict of Interest and poor engineering judgment, many events of which you may not be aware.

I think it is a big mistake to consider any continued relationship with MWH, considering the illegal contract between MWH and the LOCSD, pending investigations into formal complaints against MWH, bankruptcy, lawsuits and a potential conflict of interest with your Public Works Director, Mr. Paavo Ogren.

Mr. Ogren served as the LOCSD's Interim GM in the fall of 1998 and had a relationship with MWH when an illegal contract between MWH and the LOCSD was made. Mr. Ogren must recuse himself

immediately from any further decisions regarding MWH and he may have already compromised the process by hiring them in 2006, even after the LOCSD refused to release MWH, due to pending lawsuits.

In this document, I have included a brief description of events and activities regarding Los Osos and MWH.

Any one of these items should bring you alarm and concern and question your staff's reasoning for including MWH on a short list.

All MWH past work products already belong to the citizens of Los Osos – the citizens have paid for this work and any firm chosen will have full access to this work. MWH should not have received any credit (during their interview) for this past work, as they were paid handsomely (and sometimes twice) as part of their complex, convoluted and confusing contract amendment and billing procedures made with the LOCSD.

They should have received no credit for their past work product in their evaluation. The results of all past work from all past consultants are the property of the people of Los Osos and the County.

Our history with MWH is long and remains clouded, and there are many questions about suspicious activities that still remain. Unfortunately this relationship has been damaged beyond repair and you as decision makers should not take the risk – it is simply too high.

There are other fully qualified firms who can do the work, please remove MWH from any further consideration.

Further, I request that an RFP for a STEP collection system be included in this process and that after the people see true costs and

can compare for themselves, that an advisory vote as stipulated in AB 2701 is given.

The reasons for including STEP are obvious; it is cost and the environment – and a fair process demands it. The people of Los Osos are demanding to know the "bottom line" - what are the true costs, this is what we have been asking about for years, now.

The only way to get to the true costs is to allow the process to play out. That includes removing the MWH firm with the clouded past in Los Osos, and including a STEP proposal from a qualified STEP firm such as Lyles. The people of Los Osos will be paying for the ultimate choice for years to come – perhaps one of the highest costs in the nation, just to flush, and we certainly deserve to know the full truth.

Thank you for your consideration of my comments.

Most Sincerely,

Lisa Schicker

Lisa Schicker
Past President and Board Member LOCSD 2004-2008

Is it Worth the Risk?

MWH - Potential Conflict of Interest and Costly Engineering Decisions

Events and Activities for your Consideration

Potential Conflict of Interest and Costly Engineering Decisions - MWH, SLO County and LOCSD

1. September 1998. Paavo Ogren Interim GM, LOCSD. Original contract between LOCSD and MWH was an illegal contract discovered in 2005. Interim GM Ogren did not sign, Board President did not sign, it was signed by future Manager B. Buel, who was not employed by the LOCSD at the time the contract was implemented. This illegal contract was amended several times for millions of dollars.

Document Source: December 2005 False Claims Letter and Attachments and Federal Bankruptcy Court filings 2006.

2. 1998-2005 – Two original contracts between LOCSD and MWH were both amended 6-7 times each; millions of dollars in unscoped work are added to each of the original project costs.

Document Source: December 2005 False Claims Letter and Attachments and LOCSD records and Bankruptcy Court filings.

3. 2001 Project Report and Final EIR. MWH Project Report demonstrates that an out of town project is cheaper and FEIR discloses that it is environmentally preferred. MWH's conclusions about "cheaper-out-of-town" were not disclosed in the public document, the FEIR, causing disastrous effects and a town torn apart about the cheapest project location. Many of MWH's design disposal rate info for the Broderson site caused numerous professional challenges and legal and permit challenges – all engineering decisions that were either deceitful (hiding the cost info) and proved very costly for citizens.

Is it Worth the Risk?

MWH - Potential Conflict of Interest and Costly Engineering Decisions

Events and Activities for your Consideration

Document Source: LOCSD Wastewater Project Report and FEIR, lawsuits, revocation documents, engineering challenges and permit conditions and hearings.

4. Spring 2005 - Project bids for 3 separate elements of wastewater project came in 40-57% above MWH professional Engineers Estimates.

Document Source: LOCSD Records, December 2005 False Claims Letter and Attachments and May 2006 Formal Complaint Letter sent re MWH to Construction Management Association of America.

5. Spring 2005 – A third MWH contract for Construction Management was awarded for $7.48 million - more than $10, 000 a day based on the higher bids. There was no competition, this was a sole sourced contract (3-2 vote), and the decision was based on advice received from MWH who stood to directly benefit - potential conflict of interest.

Document Source: May 2006 Formal Complaint Letter sent re MWH to Construction Management Association of America, LOCSD minutes and videos and reports spring 2005.

6. Summer 2005 - MWH makes $10,000 donation to Save the Dream, a political campaign group that was organized to fight against the recall, in order to save their lucrative contract with the LOCSD.

Document Source: County Clerk Recorder's Office – Official Forms submitted by Save the Dream re campaign donations.

7. Fall 2005 - Recall on September 27, 2005, there was a "break-in" and robbery of the MWH construction offices. This robbery occurred the following week after the successful recall - computers and files

were stolen. LOCSD never received police report after several formal requests.

Document Source: LOCSD records, Bay News report and County Sheriff's Office, fall 2005.

8. Fall 2005 - LOCSD passed several resolutions and requests for formal a investigation of MWH, the illegal contracts and false claims - DA acknowledges the illegality of the original contract between MWH and LOCSD.

Document Source: LOCSD 2005 resolutions and Letters to and From the DA, False Claims Letter and Attachments.

9. Spring 2006 - False Claims complaint filed against MWH detailing reasons – results pending due to bankruptcy.

Document Source: False Claims Letter and Attachments A-E – LOCSD to MWH 2006. Bankruptcy Filings, SB Federal Court 2006-present.

10. Spring 2006 - Formal complaint filed against MWH with Construction Management Association of the Americas - still pending due to bankruptcy. (Attached for your review).

Document Source: May 2006 Formal Complaint Letter from LOCSD to Construction Management Association of America describing allegations and conflict of interest, 2006.

11. Spring 2006 - MWH sues LOCSD, still pending due to bankruptcy.

Is it Worth the Risk?

MWH - Potential Conflict of Interest and Costly Engineering Decisions

Events and Activities for your Consideration

Document Source: False Claims Letter and Attachments, SLO Superior Court, Federal Bankruptcy Court.

12. Spring 2006 court audit reveals that MWH was improperly paid out of SRF funds in the fall of 2005, funds that had been mandated to reimburse the district for borrowed project monies.

Document Source: LOCSD Independent CPA Audit (court ordered and approved) and July 2005 LOCSD Resolutions specifying that first SRF payment was to reimburse the district, not to pay consultants.

13. Fall 2006 - Paavo Ogren requests the LOCSD Board release MWH so that County can hire them - LOCSD refuses County's request due to lawsuits and false claims in bankruptcy, Paavo tells LOCSD says that he "hired them anyhow".

Source: LOCSD Board, personal communication with LOCSD Board members, 2006.

14. Winter 2006 - Carollo Scope of Work lists MWH as subconsultants.

Document Source: Carollo Scope of Work December 2006, p.32

15. Spring 2009 - MWH selected for County short list

Document Source: SLO County Staff Report – April 1, 2009

16. Spring 2009 - Excerpt from Design Build code appears to disqualify MWH from short list

Document Source: Design Build Code of Law.

Is it Worth the Risk?

MWH - Potential Conflict of Interest and Costly Engineering Decisions

Events and Activities for your Consideration

The County uses the California Contractors Code statute 20133 as their legal basis for the design build project delivery method. Attached is an excerpt of 20133, as it relates to MWH.

20133 excerpt:

(d) Design-build projects shall progress in a four-step process, as follows:

(1) (A) The county shall prepare a set of documents setting forth the scope of the project. The documents may include, but are not limited to, the size, type, and desired design character of the public improvement, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the county's needs. The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

(B) Any architect or engineer retained by the county to assist in the development of the project specific documents shall not be eligible to participate in the preparation of a bid with any design-build entity for that project.

(2) (A) Based on the documents prepared in paragraph (1), the county shall prepare a request for proposals that invites interested parties to submit competitive sealed proposals in the manner prescribed by the county. The request for proposals shall include, but is not limited to, the following elements:

.....

17. Related - FBI and DOJ investigation of MWH in Cape Coral Florida for alleged bid tampering in wastewater projects - ongoing case.

Document Source: LOCSD Board correspondence 2005-2009.

President
Lisa Schicker

Vice-President
John Fouche

Director
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Steve Senet
Julie Tacker

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May 10, 2006

FILE COPY

Bruce D'Agostino
Executive Director
Construction Management Association of America
7918 Jones Branch Drive, Ste. 540
McLean, VA 22102

SUBJECT: **FORMAL COMPLAINT REGARDING MONTGOMERY WATSON HARZA'S CONDUCT IN MANAGING THE LOS OSOS WASTEWATER PROJECT**

Dear Mr. D'Agostino:

This letter is submitted as a formal complaint against Montgomery Watson Harza (MWH) regarding their behavior and performance related to the Los Osos Community Services District's Wastewater Project. We are requesting that the Construction Management Association of America, which MWH is a member, be investigated for their egregious behavior that completely failed their client, the Los Osos Community Services District and the Citizens of Los Osos.

MWH was hired by the District in September 1999 to be the Project Manager for a planned wastewater treatment system in the community of Los Osos, which is serviced by a Community Services District. This initial assignment was a contract for $288,000.

The first project programming step was to develop a Wastewater Facilities Plan, and the District prepared an RFP for this scope. Oswald Engineering was selected for this task in summer 1999 and MWH was the firm that was hired in the fall to manage Oswald's work. As described below, it is apparent that MWH failed in their

oversight of this portion of the work and undermined Oswald's efforts. It late 1999, less than one year after MWH was hired, MWH succeeded in taking over Oswald's portion of the work. MWH then completed the Facilities Plan under the terms of Oswald's original contract, which was amended at least six times for an additional amount paid to MWH exceeding $1.5 million. MWH had replaced Oswald in less than one year. Oswald was working on a ponding project, the scope of which was developed under MWH's management. The Central Coast Regional Water Quality Control Board (RWQCB) refused to approve the MWH managed ponding design, due to site size limitations. Instead of reworking the ponding system with Oswald or relocating the plant site, MWH assisted the District in removing and suing Oswald. Recent documentation obtained by the District clearly indicates that MWH colluded with RWQCB staff to work against the Oswald design. Furthermore, MWH inappropriately postured itself to take over the preparation of the Facilities Plan from Oswald. This is a clear ethics violation in that MWH not only failed in its responsibilities to objectively evaluate alternatives, but removed oversight controls that have resulted in significant damages to the District and citizens of Los Osos.

MWH completed the Facilities Plan for an entirely different project. The original MWH contract, which was amended at least six more times, raised the MWH's fees five-fold. MWH's efforts in recommending against the community preferred system more than doubled the estimated project construction costs. The amendments and the billings are difficult to track, and in some cases not sequential. Subsequent investigation has revealed that MWH overcharged the District and in numerous instances doubled charged the District.

When MWH completed the Project Facilities Plan (Plan), the District issued an RFP that was prepared by MWH, for the design of the project recommended in the MWH Facilities Plan. The Facilities Plan prepared by MWH was clearly biased against any technology that was different from treatment systems previously designed by MWH for other clients. MWH's selection criteria were grossly skewed towards a specific treatment process. MWH's failure to objectively and ethically evaluate all available treatment systems, as well as collection systems, significantly increased the project costs to the citizens. MWH failed to openly inform the District and citizens of other options available that would have been to the community's preferences and been the environmentally preferred option at a significant savings in capital construction and maintenance and operations.

MWH, serving in their role as the Project Manager, should not have competed for the design phase of the project. MWH clearly had a conflict of interest in developing and assisting with the design proposal phase of the project since they competed for the

design contract. MWH wrote the language for the design request for proposal. This gave them a significant advantage during the design competition. MWH's role as the Project Manager and then performing the design was not only inappropriate but clearly denied the District the object oversight of the design that a Project Manager would have provided. Investigations into the design work project clearly indicate that there was a significant amount of design work that required rework. MWH's role as the Project Manager allowed MWH to cover up these design errors and omissions. MWH clearly violated its fiduciary responsibility to the District and the citizens of Los Osos to assure that payment was only for acceptable quality work. MWH's breach of this fiduciary duty as the Project Manager was also flawed because as the Project Manager, MWH was not only responsible for the design reviews but also would review all requests for payment by the design firm to make sure the invoices were correct and reasonable. MWH clearly had a conflict of interest and their objectivity in performing these reviews at a minimum does not meet an acceptable level of performance and certainly did not provide an independent review of the design.

MWH competed with DMJM and Corrolla Engineering for the design assignment in mid 2001, and was awarded the contract in 2002. MWH developed the design, prepared bidding documents into three separate construction packages, and issued these documents to the construction community for bid.

MWH then assisted the District in conducting all phases of the pre-construction activity in the capacity as the District's technical representative. They assisted with and/or prepared the Invitation for Bid, established the contractor prequalification criteria, facilitated the contractor prequalification process, assisted in the bidding process, reviewed the bids, recommended to the District what bids should be accepted, and assisted in the construction contract awards and the Notice(s) to Proceed.

In 2004, MWH advised the District that it was necessary to pre-qualify contractors bidding on the three contract phases. The project consisted of a conventional MBR plant with micro filtration along with two contracts for the installation of a conventional gravity collection system. Although there may be some justification to pre-qualify the treatment plant contractor, there is no justification to pre-qualify the gravity collection system pipeline contractors. MWH sized the pipeline contracts to such a level that it limited the construction bid capability of prospective bidders to only larger firms. The sizing of the pipeline contracts coupled with the extraordinary pre-qualifications of the pipeline contractors clearly limited the ability of small to medium size contractors to bid the gravity collection system. This act by MWH limited bid competition and exposed the District to increased expense due to the limited competition. A similar argument regarding the pre-qualification of the treatment plant contractors also exposed the

District to limited bid competition and was a significant factor in the excessively high bids received.

As a result of the stringent pre-qualification criteria drafted by MWH, there was only one bidder on two of the construction contract packages, and two bidders on the third package. The bids received were substantially above the Engineer's Estimate that had been prepared by MWH (bids were 24% - 57% over the Engineer's Estimate).

At the bid opening, a MWH representative remarked to at least two of the District Directors (one of them being me) that the project should be re-bid, due to the lack of competition and because the bids were so high above the Engineer's Estimate. They also made these statements and prepared a report that also strongly recommended that the project should be rebid due to the high bids. This reported was formally presented to the District Board and the Citizens of Los Osos at a District Wastewater committee meeting and at a District business meeting (tapes available.) Mysteriously, only one week later, after MWH was awarded a $7.685 million (sole sourced) amendment to their design contract for construction management services (total MWH contract value was increased to approximately $14 million), MWH then reversed their opinion about rebiding the construction of the project and recommended that all construction contracts be awarded. This resulted in a total project bid price of approximately **$128.2M** (MWH =$14M; Whitaker = $24.5M; Barnard = $43.5M; Monterey Mechanical = $46.2M). The Engineer's Estimate was **$78.2M** (Whitaker = $19.8M; Barnard = $29.1M; Monterey Mechanical = $29.3M).

The cost of construction was $36M more than the Engineer's Estimate. MWH's negotiated fee for the construction management services was 18% of the Engineer's Estimate. MWH's motivation for accepting the bids was due to the fact that they would be paid more because their sole source construction management contract was based on a percentage of these higher construction bids. MWH did not compete for this lucrative and excessive Construction Management phase of the work. It is interesting to note that given MWH's sole source construction management contract and the 740 day duration of the contract this would mean that MWH would be billing at a rate of over $10,000 per day for a team of 5 MWH employees.

This brought the project cost for construction to average of over $50,000 per property owner. Other costs not reflected in the $50,000 amount did not include the decommissioning of individual septic tanks and the installation of residential lateral lines, estimated at $2000-$6000 more per household or the construct of over $30 million in deferred capital facilities. Add to that the cost of financing, real estate purchase, and operating cost, and the monthly cost to the property owner is extremely high for a

moderate income community, with 5000 households being required to hook up to the sewer. In addition, because of the land constraints (which MWH ignored), plant expansion to accommodate any additional properties outside the project area, also known as the "Prohibition Zone", would be impossible. This would likely mean that if there was any growth, or if the remaining residences who were not being sewered (approx. 800 more homes) would choose to hook up at a later date, another treatment plant would be needed at significant additional costs.

The current LOCSD Board contends that MWH colluded with the Central Coast Regional Water Quality Control Board staff, staff of the California State Water Resources Control Board and the construction contractors to accelerate the construction contract awards less than a month before a scheduled recall election that would have significant impact on the location of the treatment plant portion of the work. The project funding, in the form of a State Revolving Fund Loan, was good until December 20, 2005; so there was no reason to rush. MWH, despite no contractual provision to do so, issued an illegal "conditional" Notice to Proceed (NTP). The "conditional" NTP was issued prior to the project being funded and contractually required permit being procured. MWH failed to notify the LOCSD that its recommendation to issue a "conditional" NTP which would permit the contractor to incur significant costs, was not provided for in the contract terms, violated contractual prohibition against front loading the contract and violated state and federal laws prohibiting unauthorized commitments.

As one of two of the seated dissenting Board members at the time of issuance of this "conditional" NTP, I personally protested in writing and at public meetings in May-September 2005, alleging such illegality – I was overruled. I also have numerous email correspondences with our past General Manager Bruce Buel and Steve Hyland, MWH engineer, protesting the use of this "Conditional" NTP notice, clearly and unequivocally pointing out that MWH's actions violated the contract provisions, and State and Federal law.

Both of the minority Board members (one of them being me) were physically barred from one bidder's conference MWH conducted in February 2005 (tapes available) and two construction kick-off meetings MWH conducted that were held in late July 2005, (photos available). MWH also refused to video tape the construction meetings, although both Directors and members of the public requested this taping.

It is our Board's opinion that a violation of state law did occur when the District issued this "conditional" Noticed to Proceed (NTP) to the contractors on July 6, 2005. Because this "conditional" NTP allowed the contractors to incur costs, and because the District

did not have the funds or the funding authority it needed to cover these incurred costs. It is clear that MWH's actions wantonly violated State and Federal laws prohibiting unfunded obligations. Furthermore MWH's actions clearly violated contractual clauses that specifically prohibited the contractors from front loading construction expenditures. It is incredibly ironic that the contract language prohibiting this act was written by MWH.

It is our opinion that a violation of state and federal law did occur when the "conditional" NTP was issued by MWH to the contractors on July 6, 2005. Project funding by the SWRCB Division of Financial Assistance did not obligate the project funding until August 8, 2005, nearly one month after MWH issued the "Conditional Notice to Proceed". The required Coastal Commission permit and the site grading permit were required prior to the SWRCB funding the project. These permits were approved and the SWRCB funded the project on August 22, 2005.

The mandatory San Luis Obispo County (SLO) grading permit required that the District obtain a site restoration bond prior to the commencement of any and all grading activities. SLO County Public Works required the bond due to the pending recall election and pending voter initiative that could have halted work at the treatment plant site. Because of the County's bond requirement, the District Board authorized staff to obtain the required grading bond specifically from "Insco Dico". However, when Insco Dico refused to issue the bond (due to MWH's failure to disclose the project risks and significant environmental impacts). MWH colluded with Monterey Mechanical, the treatment plant contractor, to arrange an alternate bond that not only covered the restoration of portions of the treatment plant site but also the restoration of the pipeline contractor's sites. MWH's action was not allowed under the contract terms and was in direct violation to the District Board's authorization.

The District did not have the approved Coastal Commission permit (not issued until August 18, 2005) which was the necessary authority to allow the SWRCB to issue the funds (funds were not released until August 22, 2005) from the SRF Loan fund.

In addition to the improper bond and the illegal "conditional NTP", MWH colluded with two of the three contractors to improperly pay the contractors at least 30 and possible 60 days early. On August 22, 2005, MWH issued an NTP in accordance with the contract documents. On August 28, 2005, the District requested disbursement of the first draw of funds from the SWRCB SRF loan. The first disbursement of SRF loan funds was specifically required to reimburse the District for all pre-design work and establish a construction contingency fund, as required under the terms of the SRF Loan Agreement. MWH was directed by the District Board to immediately draw down the

full amount of the first disbursement, $10,968,984 from the SRF loan as authorized in the SRF contract documents. MWH, without cautioning the former District General Manager and in direct violation of the District Board's direction, only requested an initial disbursement from the SWRCB of $6,486,144, MWH's collusion with the former General Manager gives the perception that MWH was working with the former General Manager to cause the most financial damage to any newly elected Board, should the recall succeed.

It is worth noting that MWH worked with the contractors to accelerate the construction contractors' financial commitment to the project in an effort to influence the voter recall election and/or make the outcome of the election a moot point. It was said by District staff, who MWH was advising, that any financial obligations incurred prior to the recall election would make it too costly to "change course".

On August 24, 2005, two days after the formal NTP, the contractors invoiced the LOCSD for $1.616M. The construction contract has specific requirements that must be met before MWH could recommend approval of the invoices. In an egregious violation of the payment provisions, MWH did not require the contractors to submit the required construction schedules, certified payrolls, a work payment schedule and other mandatory required documents and certifications. Instead of using the contractually provided seven day progress payment review period provided for MWH to review the submitted payment requests, MWH immediately approved the invoice the same day and without any of the required support documentation or payment justification. In light of the recent disclosure of MWH's $10,000 contribution to the anti-recall effort and the fact that MWH would have financially benefited if termination of the project had not occurred, it is apparent that MWH seriously and egregiously breached its fiduciary responsibility to protect the citizens of Los Osos from any and all actions that could potentially or reasonably be expected to do so.

It is worth noting that MWH and one of the three contractors (Barnard Construction) also donated $10,000 each to the campaign committee called "Save the Dream" to fight against the recall election, in a further effort to influence the outcome of the vote – both would have benefited financially if the recall had not been successful.

The contractors invoiced the District for $1.616M on August 24, 2005, two days after the August 22 formal NTP was issued; and MWH immediately approved the invoices the same day, without MWH performing their contractually required review of the invoices. MWH, working in cooperation with the former General Manager, then rushed the payment through. MWH blatantly ignored the contract requirements that all invoices are due and payable no earlier than 30 days after invoice approval. The

contract documents and daily logs clearly show that the first payment clearly should have been due for payment on October 27, 2005. All of these expedited actions were done prior to the recall election held on 9/27/2005 and were intended to make termination of the project extremely costly and difficult. MWH would have benefited financially if termination of the project had not occurred. MWH's rush to get those payments through solely benefited the contractors, was grievous to the District's financial security, violated numerous contractual protections and was solely designed to influence the outcome of the pending recall election.

MWH was the only District consultant with the necessary technical expertise to assess the merits of the various technical issues that arose on the project. The District relied on MWH's professional advice and representations that they were the subject matter expert on all aspects of the project. The District morally and contractually expected MWH to act in District's best interest. As such, it is obvious that MWH has egregiously failed in their fiduciary obligation to represent the best interest of the District and the Citizens of Los Osos.

It is the District's contention that MWH had a clear conflict of interest when they made recommendations or took actions which they knew or should have even minimally known were in clear violation of contract provisions, their fiduciary responsibility and State and Federal statutes. Most of all, MWH's actions were patently not in the best interest of their "client". MWH's actions and repeated disregard for their client's best interest were knowingly and willingly designed to expedite the award of the controversial construction contracts in advance of the recall election. It was in MWH's financial interest to see the project go forward, but it clearly was to the absolute detriment of the District and the Citizens of Los Osos.

We strongly request that you investigate MWH's actions in the matter. Our staff has voluminous additional proof of MWH's shameful actions and ethics violations (correspondence, emails, board meeting tapes and minutes). I am available for additional questions at any time.

Sincerely,

Lisa Schicker

Lisa Schicker, President
Board of Directors
Los Osos Community Services District

copy TO DIRECTORS
copy to Roger / Tom
copy to legal team

CMAA
Construction Management Association of America
7918 JONES BRANCH DRIVE • SUITE 540 • McLEAN, VIRGINIA 22102-3307
(703)356-2622 • FAX: (703)356-6388 • WWW.CMAANET.ORG

RECEIVED
MAY 30 2006
BY:

26 May 2006

Ms. Lisa Schicker
President
Los Osos Community Services District
P.O. Box 6064
Los Osos, CA 93412

Dear Ms. Schicker:

Thank you for sending me your letter of 10 May 2006 regarding Los Osos Community Services District's experience with Montgomery Watson Harza (MWH). Since CMAA promotes professionalism and excellence in the management of the construction process, we are very interested to learn when one of our members doesn't meet their client's expectations.

I have asked MWH for a through response to your letter and have been informed that due to your lawsuit with them that they will be unable to comment. Please inform me when this case has concluded so that CMAA can continue with its investigation.

Thanks again for providing us with this formal complaint.

Sincerely,

Bruce D'Agostino

Bruce D'Agostino
Executive Director

President
Lisa Schicker

Vice-President
John Fouche

Director
Chuck Cesena
Steve Senet
Julie Tacker

Interim General Manager
Daniel M. Bleskey

Utilities Manager
George J. Milanés

Administrative Services Manager
Patricia J. McClenahan

Fire Chief
Phill Veneris

Offices At:
2122 9th Street
Los Osos, California 93402

Mailing Address:
P.O. Box 6064
Los Osos, California 93412
Phone 805/528-9370
Fax 805/528-9377
www.losososcsd.org

December 8, 2005

Advance Copy by FAX
Certified Mail/Return Receipt Requested

Marshall W. Davert
Vice President
MWH Americas, Inc.
3321 Power Inn Road, Suite 300
Sacramento, California 95826

Subject: NOTICE OF ILLEGAL CONTRACT AND CLAIM FOR REIMBURSEMENT: VIOLATION OF GOVERNMENT CODE §12650

Dear Mr. Davert:

This letter is the Los Osos Community Services District's (LOCSD) notification of Montgomery Watson Harza's (MWH) violation of Government Code 12650, the California "False Claims Act". Specifically the LOCSD has investigated the circumstances related to a defective contract between MWH and the LOCSD dated September 1, 1999 including all amendments (Contract). A copy of this contract is included as Attachment A.

The Contract was purportedly signed on September 1, 1999, by Bruce Buell for the LOCSD and attested to by Karen Vega purportedly on the same date. Carol Tate, a Vice President for MWH also purports to have executed the Contract on September 1, 1999. The Contract was amended eight times. The total amount paid on these contracts was $1,841,987.27.

LOCSD staff has reviewed the circumstances of the award of the Contract and determined that the Contract was not executed in accordance with the LOCSD Board action of November 4, 1999, specifically:

- On November 4, 1999, the LOCSD Board of Directors approved Agenda Item No. 13, "Consideration and approval of Montgomery Watson's contract for Wastewater Project

- Management Services in an amount not to exceed $288,145.00." Review of the November 4, 1999, LOCSD Board meeting minutes indicate that the Board authorized, by a 3 to 2 vote, the Board President to execute an agreement with Montgomery Watson upon final preparation by legal counsel, see Attachment B and Attachment C.

- The date of execution of the Contract is September 1, 1999. It appears that the date of execution of the Contract is in conflict with the date of the Board's November 4, 1999 authorization. There is no provision in the Board's authorization to back-date the Contract.

- There is no record of the LOCSD Board of Director's taking any action to ratify the Contract.

- On November 5, 1999, LOCSD received MWH's Invoice Number 262856, dated October 29, 1999 in the amount of $29,979.90 and the period of services for this invoice was August 10, 1999 through October 29, 1999, Attachment D.

- The period of the services and the date of the invoice precede the date of the Contract as well as the date of the LOCSD Board's authorization to enter into the Contract.

- On October 22, 1999, the LOCSD entered into a contract that established an employment relationship with Mr. Bruce Buel as the General Manager, Attachment E. Mr. Buel's first day of service as the General Manager was November 16, 1999.

- The only person authorized to execute the Contract was the Board President. The Contract was executed by Bruce Buel as the General Manager in violation of the LOCSD's Board November 4, 1999, action;

- Mr. Buel was not the General Manager of the LOCSD until November 16, 1999. Since Mr. Buel was not employed by the District until November 15, 1999, he was not an agent for the District and had no authority to execute the Contract and he had no authority to backdate the Contract.

Persons dealing with California public agencies are charged with knowledge of the limitations of authority of its officers and agents; contracts made without authority are invalid and cannot be the subject of ratification or estoppel. (*City of Pasadena v. Estrin* (1931) 212 Cal. 231; *Foxen v. City of Santa Barbara* (1913) 166 Cal. 77, 82 ["all persons

contracting with a municipal corporation must at their peril inquire into the power of the corporation or its officers to make the contract."].) Failure to abide by those procedures and then seek payment from that entity constitutes a violation of the "False Claims Act," specifically Government Code Section 12650.

MWH billed the LOCSD on fifty-seven separate occasions for services falsely claimed under the Contract. Government Code Section 12650 provides the LOCSD with right for reimbursement of three times the amount of the damages plus $10,000 for each false claim made, plus other damages including but not limited to legal fees, staff costs and other real and punitive damages as may have been incurred. Therefore, the LOCSD is seeking reimbursement from MWH in the amount of $5,525,961.81 plus $10,000 for every false claim submitted and attorney fees and interest for the full amounts. Therefore, the LOCSD demands that MWH immediately submit payment to the LOCSD in the amount of $6,095,961.81 as the first installment of the amounts due the LOCSD. LOCSD staff is continuing to investigate the Legal fees, putative damages and staff time incurred as a result of MWH's violations, including any other currently unidentified amounts that the LOCSD and the citizens of the Los Osos Community Services District are rightfully due.

The LOCSD reserves the right to amend this claim pending further investigation and reserves all civil and criminal remedies available resulting from MWH's violation of the California "False Claims Act"

Sincerely,

Daniel M. Bleskey,
Interim General Manager

Attachments

Cc: LOCSD Board of Directors
John McClendon, Interim District Counsel
Julie Biggs, Special District Counsel
Steve Onstot, Special District Counsel
Alexis Strauss, Director US EPA Region IX
Inspector General of the US EPA
SLO, District Attorney
Attorney General of the State of California

From: bgibson@co.slo.ca.us (bgibson@co.slo.ca.us)
To: lisa schicker
Date: Monday, March 30, 2009 6:32:43 PM
Cc: ahill@co.slo.ca.us; fmecham@co.slo.ca.us; Supervisor Jim Patterson; Kachadjian@co.slo.ca.us; Lisa Schicker-Hotmail; pogren@co.slo.ca.us
Subject: Re: Please investigate Los Osos Shortlist decsions asap

Ms Schicker -- I have forwarded your letter to Paavo Ogren for his consideration. I will also have staff forward it to the Clerk for inclusion in the record.

As indicated in the press release referenced, the project team will have comments regarding the RFQ/SOQ and short list process as part of their monthly update on April 7. They will also explain the appeal process that submitters have available to them.

Thank you for your continued interest in the LOWWP.

Bruce Gibson
Chair, Board of Supervisors
San Luis Obispo County

lisa schicker <lisaschicker@sbcglobal.net>

03/28/2009 11:50 PM

To Bruce Gibson <bgibson@co.slo.ca.us>, Supervisor Jim Patterson <jpatterson@co.slo.ca.us>, fmecham@co.slo.ca.us, ahill@co.slo.ca.us, Kachadjian@co.slo.ca.us

cc Lisa Schicker-Hotmail <lisaschicker@hotmail.com>

Subject Please investigate Los Osos Shortlist decsions asap

Dear Honorable Supervisors:

Please include this letter as formal public comment - to be submitted into the record, and included with included with the packet for the public, for the April 7, 2009 BOS meeting item regarding the Los Osos Osos waste-water project.

I ask you please to inquire of your staff, and provide to the public as soon as possible, the reasons why a why a "STEP" firm was not included on the short list of bidders for the Los Osos waste-water project. I project. I also ask you to investigate and report as to why the firm MWH, a firm with a clouded and as of as of yet unsettled history in Los Osos, was selected for two shortlists when there were five other perfectly perfectly qualified bidding firms.

Speaking as perhaps the person in possession of the most detailed written history and direct personal personal knowledge of the LOCSD's waste-water project during the days of the MWH past contracts, the the sole sourced contracts, the early destruction of the TRI-W property, the recall, the robbery and break-break-in of MWH offices one week after the recall, the project suspension, the bankruptcy, the lawsuits, lawsuits, the loan, etc. , and hearing that MWH has apparently been selected for TWO of the County's

County's shortlists, this news is most disturbing.

I have written Paavo requesting a copy of a press release that he has prepared (please see note below), but below), but I must respectfully request that you, as the responsible elected officials, look into these matters immediately.

Please request that your staff provide a complete history and explanation to you and to the public, as to as to how a firm that is still being investigated, is currently involved with the LOCSD's bankruptcy and and has formal complaints against it in several states across the US could even be considered by the the County for the Los Osos project. This is a very sensitive time for Los Osos and this project and the the people of this town do NOT have short memories when it comes to MWH.

I am writing with some urgency, because selecting the MWH firm for the Los Osos project shortlists is a is a very big mistake, due to history and events that occurred during my time as an elected official. Not official. Not including a "STEP" firm in the final short list is also a very big mistake, considering what what you have promised the public. It is also a mistake because of what you have heard from the public, public, the NWRI independent review and report, from respectable environmental non-profit agencies from SLO County and in hundreds of written pages of public comment.

Los Osos citizens and ratepayers of the project truly expect a fair process and these two decisions, if either if either are carried forward, will taint a fair process in a very big way.

Thank you very much for your time and for honoring my request to investigate this matter.

I ask that you please respond to my letter as soon as possible and let me know what you have learned and learned and how I can help.

Most Sincerely, Lisa Schicker
former LOCSD President and Board Member with direct knowledge about the MWH investigations 2004-2004-2008

Lisa Schicker
805-528-3268

----- Forwarded Message ----
From: lisa schicker <lisaschicker@sbcglobal.net>
To: pogren@co.slo.ca.us
Cc: "clcesena@charter.net" <clcesena@charter.net>; Mary Fullwood <maryf@best1.net>
Sent: Saturday, March 28, 2009 10:58:29 PM
Subject: Fw: what do you know about the short list

Hi Paavo - can you please send me the information that Mary mentions in this note.

Would sure like to hear more about the short list and who was selected and why.

Not having any "STEP" qualified firms on the shortlist is extremely disappointing for many of us, and and from the outside looking in, it makes absolutely no sense. Considering the amount of public comment comment and participation you have received on this issue from the public, Los Osos ratepayers and local

Linde Owen
<lindeowen@sbcglobal.net>
04/27/2009 02:48 PM

To planningcommission@co.slo.ca.us, Anne Wyatt <WYATTonBridge@yahoo.com>
cc
bcc
Subject Fwd: List of Commissioner questions from 4-23-09 hearing....

Begin forwarded message:

From: Linde Owen <lindeowen@sbcglobal.net>
Date: April 27, 2009 2:33:41 PM PDT
To: Anne Wyatt <Awyatt@co.slo.ca.us>, Carlyn Christianson <cchristianson@co.slo.ca.us>, Bruce White <bwhite@co.slo.ca.us>, Gene Mehlschau <gmehlschau@co.slo.ca.us>, Sarah Christie <schristie@co.slo.ca.us>, Paavo Ogren <pogren@co.slo.ca.us>, Mark Hutchinson <mhutchinson@co.slo.ca.us>
Subject: List of Commissioner questions from 4-23-09 hearing....

Dear Commissioners,
Thankyou for asking good questions at last Thursday's hearing on the EIR and project application. It still seems like the cart before the horse to be reviewing the preferred project before you approve the EIR. Anyway, I have high hopes that the STEP bid will be added into the RFP because it's essential to once and for all compare the two viable methods of collection and treatment and allow a healthy competitive process.

Here are some notes submitted by Lisa Schicker on the comments and questions the Commission left for staff to address next week. Hopefully it will keep the questions clarified. We too would appreciate some answers to your questions!

Thanks, Linde Owen ;-)

<u>These are the topics the PC said they would discuss in order, next thursday:</u>

1. secondary vs. tertiary
2. gravity or step or vacuum or a combo
3. technology of pipes
4. plant location and type
5. disposal, spray fields, leach fields, etc
6. storage options, size, type, design
7. conservation of water
8. mitigation for bio and ag
9. fed legislation, los osos grants
10. catch all category

.....

<u>NOTES I TOOK FROM INDIVIDUAL COMMISSIONERS</u>

White: spray fields - are there other alts
White: possible alts not mentioned - threshold not met
White: re the coastal commission letter - re a combo of 4 alts and that this current option is not acceptable to them

Wyatt - further analysis of tertiary treatment and how if changes the project in many ways
Wyatt - ag nitrates reuse option

Christianson - wants more info and evaluation of ponds and tertiary treatment
Christianson - liquefaction - at tonini and broderson
Christianson - recreation
Christianson - ag -urban reuse of water - options and more info
Christianson - wind conditions and their influence on spray field days of use
Christianson - more info on direct injection wells - major issues, what about orange cnty
Christianson - effluent, influent, pipe installation and type -wants more info on this
Christianson - sludge - septage issue -more analysis required
Christianson - dumping station at treatment plant = wants more info
Christianson - broderson as mitigation - previous and present history, usfws letter recvd today

Christianson - Broderson, max soil infiltration rate why 180g/d/sqft - to 3.1 g/d/sq ft why such reduction?

Christianson - water conservation measures re lawson's letter p33-4 re states 20% reduction

Christianson - archaeological resources not mentioned and why - which impact trumps which - is it bio, ag, archaeo, what?

Christianson - methane gas questions what about sealed system - she is confused wants more info

Christianson - trucks to landfill? sludge disposal

Wyatt - piping, hybrid system, pressure vacuum,?? wants more info
Wyatt - sea rise, pump stations pumping by the bay?? wants more info
Wyatt - midtown site, vs out of town?
Wyatt - biolac vs ponds - what choices do we have now that we are going tertiary pros cons

Mehlschem - ag land impacts are ceqa class 1 - at tonini but not other sites, why have class 1 impact when you don't have to?

Mehlschem - his overriding concern and what he hear today was, why spray fields - we want the water back in los osos - why spray

Mehlschem - what about gorby - want to see a plan and study of gorby and creek compartment for disposal into lower aquifer

Christie - short list but no step steg, why its in the fed
Christie - what is role of pc - is the cart leading the horse, did the bos just preempt our role?
Christie - procedurally question to staff -is step on or off?
Christie - on field trip of sites, she asked for a refresher on deep wells at broderson

Christie - vertical leach fields at broderson or other sites been considered?
Christie - gordon hensley called her up and asked why did bos approve the last cdp if mid town is not viable

Christie - can we consider leach fields in the right of way?
Christie - what is the rcd interest for partnering - want more details from staff
Christie - Q for rwqcb - county can treat whole community per 2710
Christie - Q for rwqcb - more info on green growers agreement
Christie - Q for rwqcb - is there any economic value to using tertiary reclaimed water, do these resources have an economic benefit as well as an ecological benefit that might offset cost to citizens

Christie - Q for rwqcb - ask darla inglis of your staff to tell us more about low impact development stuff

Christie - Q for dept env health - new condition for sanitary seals on the wells - more info please

Christie - Q on sea water intrusion - can it be reversed or not, she has read both, what is the reality of this?

April 27, 2009

Dear Chairperson Christie,

Enclosed is information about CEQA, affordability and funding of the Los Osos Wastewater Project.

Included are our comments on the Draft EIR, along with the County's response in the Final EIR under "Topical Response 2: Project Costs". Also included is the LOCAC Affordability report.

.

We trust that this information will help you in your decision-making process concerning this multifaceted project.

Thank you for your time and consideration,

Bo and Lacey Cooper Bo
Prohibition Zone Homeowners

P.O. Box 6104
Los Osos, CA 93402

(805)458-0740

AFFORDABILITY REPORT

Prohibition Zone – Los Osos

Notes: (Discuss Wm Act cancellation cost. Who pays? Admin costs On site costs? If on corner, or have an easement to lower street, why in front yard? Pump adds cost. Low, Very Low stats and source Charts/graphs Map ESRI and other used)

Summary

The proposed cost for the Los Osos Wastewater Project (LOWWP) presents serious affordability issues for up to 60% of the Prohibition Zone (PZ) residents.

Overview

Affordability for the LOWWP is of significant concern for a predominant majority of residents in the PZ. County preliminary estimates indicate the project may cost $165 million.[1]

Project cost for each single-family residential parcel is expected to be $25,000. This cost was published with the 218 Vote of 2007. It was explained that an assessment will be included in each property owner's Annual Tax Assessment. While one can pay the entire amount up front, it is not likely that most will do this. Thus, assessments will be $1,800 per year or $150.00 per month. Additional costs will include: monthly fees for operation and maintenance and that has been estimated to be $250.00 per month. Another homeowner expense will be the one-time cost to decommissioning a septic tank and hook up to the sewer. Since these additional costs have not been presented to the community, this analysis only considers the Assessment Fee of $25,000 per single-family residential parcel.

Affordability Guidelines

The United States Environmental Protection Agency (USEPA) provides some guidance on wastewater charges. According to the USAEPA's ***Rate Options to Address Affordability Concerns for Consideration by District of Columbis Water and Sewer Authority*** (2002), user rates should be calculated as a percentage of median household income (MHI) on a system-wide basis. Rates are considered affordable if they are less than 2 % of a MHI.

While wastewater user rates are considered affordable if less than 2% of MHI, they average much less throughout the United States. According to ***Water and Wastewater Pricing: An Informational Overview, prepared in 2003 by the USEPA Office of Wastewater Management***, combined water and wastewater rates average 0.5% of MHI in the United States. The Congressional Budget Office estimates the percentage of household income needed by 2019 to pay for infrastructure investments for water and wastewater would increase this percentage to 0.6% (on the low end) to 0.9% (on the high end) of household income.

Finally, according to the draft staff document ***Small Community Wastewater Strategy*** prepared by the California State Water Board (CSWB) in 2008, both the United States Department of Agriculture (USDA) and Department of Public Health (DPU) use 1.5% of MHI for evaluating sewer affordability. Further, this report identifies other factors for evaluating affordability, and these include: MHI, sewer rates as a percentage of MHI, population density and rate base, distance from larger regional systems, debt service and long-term operational and maintenance costs, regional cost of living, and status of the local and/or regional economy. With the recent state of the economy in the United States, no doubt this would also be a significant factor.

[1] Source: "Supes Approve Another Million" ***The Bay News***, January 22, 2009.

Analysis

This analysis assumes the $25,000 single-family assessment in the PZ will be added to property taxes at $1,800.00 per year for 30 years. Affordability is examined using several factors identified by the CSWB in its 2008 staff document.

Median Household Income and Sewer Rates as a Percentage

According to Business Analyst Online by ESRI[2], 2008 MHI for the Assessment Area is $60,234.00. Therefore, using USEPAs affordability criterion, the annual cost for the LOWWP should be $1,205.00 which is significantly less than what the LOWWP is expected to cost property owners in the Assessment Area. Using the USDAs and DPUs criterion, the annual cost for the LOWWP should be $904.00 per year, which is one-half of the LOWWPs projected cost. When considering nationwide averages, annual costs for the Assessment Area should range from $361.00 to $542.00 annually.

At $1,800.00 annually, the public works portion (collection, treatment, recharge) of the LOWWP is expected to consume 3% of the MHI which exceeds the USEPA baseline for affordability. It is double the USDA and DPU baseline. This 3% does not include long-term maintenance and operation costs or the one-time homeowner expense of connecting to the sewer lines. When these costs are included, annual cost will exceed 4% and may even approach 5% of the MHI.

This picture is much more grim for those households that earn less than the MHI of $33,500.00[3] annually. The LOWWP costs will consume a much larger share of household income, as demonstrated in **Exhibit 1**.

[2]Source: ESRI provides management and geographic information analysis and GIStechnology with 35 years of experience. ESRI creates 2008 forecasts based on 2000 US Census data.

[3]Source: "*Official State Income Limits for 2008*." Memorandum from Department of Housing and Community Development. February 28, 2008

Cost as a Percentage of Household Income **Exhibit 1**

Los Osos Wastewater Project

Households by Income	Households Number	Households Percent	LOWWP Cost As A Percentage of HI
< $10,000	220	4.2%	at least 18.0%
$10,000 - $14,999	129	2.5%	18.0% - 12.0%
$15,000 - $19,999	238	4.5%	12.0% - 9.0%
$20,000 - $24,999	309	5.9%	9.0% - 7.2%
$25,000 - $29,999	295	5.6%	7.2% - 6.0%
$30,000 - $34,999	204	3.9%	6.0% - 5.1%
$35,000 - $39,999	232	4.4%	5.1% - 4.5%
$40,000 - $44,999	329	6.3%	4.5% - 4.0%
$45,000 - $49,999	223	4.3%	4.0% - 3.6%
$50,000 - $59,999	428	8.2%	3.6% - 3.0%
$60,000 - $74,999	538	10.3%	3.0% - 2.4%
$75,000 - $99,999	1,110	21.2%	2.4% - 1.8%
$100,000 - $124,999	450	8.6%	1.8% - 1.4%
$125,000 - $149,999	141	2.7%	1.4% - 1.2%
$150,000 - $199,999	213	4.1%	1.2% - 0.9%
$200,000 - $249,999	64	1.2%	0.9% - 0.7%
$250,000 - $499,999	94	1.8%	0.7% - 0.4%
$500,000 +	26	0.5%	0.4% or less

Source: U.S. Bureau of the Census, 2000 Census of Population and Housing. ESRI forecast for 2008.

Exhibit 1 demonstrates a number of affordability concerns. At $1,800 annually:

The cost of the LOWWP will exceed 2 percent of household income for more than 60 percent of households in the Assessment Area.

The cost of the LOWWP will exceed 1.5 percent of household income for more than 80 percent of households in the Assessment Area.

Cost as a percentage of household income will be double-digits for over 10 percent of households in the Assessment Area.

Cost as a percentage of household income will be comparable to the US average for only 2 percent of households in the Assessment Area.

According to the US EPA's report ***Rate Options to Address Affordability Concerns***, when wastewater rates exceed 2 percent of household income, they are not considered affordable. It is important to point out that this will be the case for more than 60 percent of households in the Assessment Area.

According to ESRI in 2008, 49% of households in the Assessment Area are headed by an adult age 55 or older (senior households). This is expected to increase to 54% by 2013. The expected cost of the LOWWP will have a ***unique impact on senior households*** (emphasis added) because many seniors are on fixed incomes that may not accommodate a 3%, or higher increase in living expenses. Further, recent events in the financial sector have had a devastating impact on retirement funds and savings, which is already impacting senior households' ability to pay for housing, utilities, food and other essential expenses. **Exhibit 2** demonstrates the financial impact on senior households.

Cost as a Percentage of Household Income - Age 55+ **Exhibit 2**

Los Osos Wastewater Project

Households by Income	Senior Households Number	Senior Households Percent	LOWWP Cost As A Percentage of HI
< $15,000	197	7.71%	at least 12.0%
$15,000 - $24,999	347	13.58%	12.0% - 7.2%
$25,000 - $34,999	284	11.11%	7.2% - 5.1%
$35,000 - $49,999	438	17.14%	5.1% - 3.6%
$50,000 - $74,999	408	15.96%	3.6% - 2.4%
$75,000 - $99,999	524	20.50%	2.4% - 1.8%
$100,000 - $149,999	200	7.82%	1.8% - 1.2%
$150,000 - $199,999	88	3.44%	1.2% - 0.9%
$200,000 - $249,999	23	0.90%	0.9% - 0.7%
$250,000 - $499,999	35	1.37%	0.7% - 0.4%
$500,000 +	12	0.47%	0.4% or less

Source: U.S. Bureau of the Census, 2000 Census of Population and Housing. ESRI forecast for 2008.

Exhibit 2 demonstrates a number of affordability concerns for senior households. At $1,800 annually:

- The cost of the LOWWP will exceed 2 percent of household income for more than 65 percent of senior households in the Assessment Area.
- The cost of the LOWWP will exceed 1.5 percent of household income for more than 85 percent of senior households in the Assessment Area.
- Cost as a percentage of household income will be very near double-digits for over 20 percent of senior households in the Assessment Area.
- Cost as a percentage of household income will be comparable to the US average for less than 2 percent of senior households in the Assessment Area.

According to the USEPA guidelines, the LOWWP will be ***deemed unaffordable to over 65 percent of senior households***.

Long-term Operating and Maintenance (O&M) Costs

As discussed above, the $25,000 assessment does not include O&M costs, or the one-time cost to connect to the wastewater collection system. O&M costs have not yet been provided; therefore, these costs are not analyzed. However, it is worth examining utility allowances provided by the Housing Authority of the City of San Luis Obispo. Utility allowances are used when calculating affordable housing costs.

[4] Source: 2004 and 2005 Consumer Expenditure Surveys, Bureau of Labor Statistics. ESRI forecast for 2008.

Real estate and financial experts are unable to predict when housing prices will "hit bottom" though some speculate it will be in 2009 or 2010. Experts also cannot predict how low this "bottom" will go. This is significant for a number of reasons. Homeowners who had planned to use home equity to pay for the assessment and/or connection costs may find they no longer have equity. For those homeowners who have enough equity, loans may be possible, however the new regulations for borrowing have tightened. Further, if one has a low or fixed income, qualifying income and the to debt ratio must meet strick regulations. Seniors who might have considered a Reverse Mortgage may think twice before locking in current home values which have significantly been devalued.

Homeowners who are forced to move because they cannot afford the LOWWP costs may find themselves having to sell their home for less value than they owe. Or, they may be unable to sell at all and experience default or foreclosure. According to RealtyTrac, January 2009, there are approximately 40 properties in the PZ that are in default or bank-owned.

Renters will have a similar experience in that they may be forced to move due to LOWWP costs passed through from the property owner.

Estimates can be made and they can be challenged. But, the facts are fairly clear that there will be a significant financial impact on a very large portion of the Assessment Area population that the County will need to take into account. Unfortunately, no one has given this much attention and unless the sewer costs are made affordable, or grant programs established, or some creative financing programs are put into place, there will be a very difficult situation at hand.

Additionally, the EPA and the SRWCB will be looking at costs and funding options. The cost burden will not escape scrutiny.

Public Comment on the Draft Environmental Impact Report, County of San Luis Obispo, Los Osos Wastewater Project (LOWWP)

Summary

It is universally acknowledged that approximately 50-60%of the population of the Los Osos Prohibition Zone (PZ) cannot afford the cost of the proposed Wastewater Treatment Project and may be displaced from their homes by the Project.

This economic-cleansing of the lower- and middle-income residents of the PZ is in contradiction to the Core Values expressed by the Board of Supervisors, ("an agency with jurisdiction over the project"), the County's Technical Advisory Committee (TAC), the LOCSD Board of Directors, and the Catholic Church.

The Environmental Justice section of the DEIR disregards the importance of economic factors and consistently presents a faulty interpretation and misapplication of the meaning and scope of the concept of Environmental Justice with statements such as the assertion that there are no "disproportionate share of environmental effects" on low-income residents, and, therefore, no impact in regard to Environmental Justice issues.

The present public comment discussion argues that CEQA Statutes and Guidelines, EPA Guidelines and related regulations and policies require a more thorough-going analysis and examination of economic and social factors than is currently offered in the DEIR.

Agreement About the Unaffordability of the Proposed LOWWP

P37-1

There area many official statements regarding the unaffordability of the LOWWP:

---"County Brochure #3: AFFORDABILITY" states: "There are no project options that combine to create an affordable project under guidelines established by the Environmental Protection Agency." (p.2)

---1987 EIR by SLO County, Section 8, pp. 11-14, discusses the great economic hardship to be faced by both lower- and middle-income residents of Los Osos.

---John Waddell, Project Engineer, said in a public forum that we are no longer looking for "what is affordable, but what is **least unaffordable**."

---"Los Osos Affordability: EPA Affordability by 2000 Census, Household Age Category," the County's own graph which was presented to both the RWQCB and the SLO Board of Supervisors, clearly illustrates that the "estimated monthly financial burden" of up to $250/month cannot be afforded by any age group in Los Osos (the most that can be afforded is $100/month).

---The TAC's "Adopted Core Values and Criteria" Brochure was changed from the draft to the final version. Both versions began: "Affordability of any project is one of the major concerns (and probably the most important) to the community." The draft version gave the real import of the introductory statement: "The Prohibition Zone residents who will be paying for the project are predominantly middle and lower income people, and a sizable monthly payment could become a major burden for them. **For some, any increase in their monthly cash outflow will be disastrous."**

---Letter from Gordon Hensley and Stan Gustafson (both later elected LOCSD Board members) to Governor Pete Wilson of California, June 11, 1997. The letter states, "The economic impact of this sewer will devastate our community. 50% if not more of this community may be forced to sell their homes and move because of the high cost of the sewer ["$145-200monthly]...Older residents will be at risk of having inadequate resources for daily living."

Core Values

Both the lead agency, other agencies, and the Catholic Church have expressed the Core Value of Affordability.:

The County of San Luis Obispo

As the lead agency in the LOWWP, the County seems to be acting inconsistently with its own mandate as stated in the DEIR, Appendix O, p5.13-8 P37-1 CONT

"Other Thresholds

.....

"Would the Project

"(a) Conflict with any applicable environmental justice goals or policies of an agency with jurisdiction over the project?"

The answer appears to be Yes. The "Los Osos Wastewater Project Studies Update (April 24, 2007) to the SLO Board of Supervisors stated:

"Financial Working Group Core Values

"—Community socio-economic well-being and diversity. **Nobody should have to leave their home to pay for a sewer."** (p28)

Additionally, the Board of Supervisors' Mission Statement (from their website) states:

"The San Luis Obispo Board of Supervisors, the legislative arm of the County Government, is committed to the implementation of such policies and the provision of such services that will enhance the economic, environmental and social quality of life in San Luis Obispo County."

These goals and policies are not reflected in the DEIR.

The Los Osos Board of Directors

LOCSD Resolution 2007-26 states:

" (3) The County of San Luis Obispo is hereby urged to support the development of financial options for the impacted Prohibition Zone homeowners of Los Osos for the purpose of maintaining the existing social and economic stability currently found within the community of Los Osos by precluding the need for residents to sell their homes because of an inability to play the admittedly high cost of the Los Osos Wastewater Project.
"(4) The County of San Luis Obispo is hereby urged to create, enable and support a Los Osos Financial Task Force or similar entity to assist low income residents within Los Osos."

Such a Financial Task force has not been instituted by the County.

Catholic Church

"Joint Statement Concerning the Los Osos Sewer Issue—Issued by the Diocese of Monterey and St. Elizabeth Parish Council (2/6/05)
"But, our greatest concern is with the social justice issue based on the proposed cost. We oppose the expense of such a project because we feel it places an unfair financial burden on the people of Los Osos living within its assessment district, owners and renters alike. We understand the current project will cost each household approximately $200 per month to finance the building of the plant and operate it." P37-1 CONT

CEQA Statutes and Guidelines

The following CEQA Statutes and Guidelines refer to the importance and legal necessity for the EIR to consider economic and social issues as part of it's environmental review.

CEQA Statute 21083 (b)(3):

"21083. OFFICE OF PLANNING AND RESEARCH; preparation, development and review of Guidelines.
(a) The guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment." The criteria shall require a finding that a project may have a "significant effect on the environment" if one or more of the following conditions exist:
.....
"(3) The environmental effects of a project will cause SUBSTANTIAL ADVERSE EFFECTS ON HUMAN BEINGS, EITHER DIRECTLY OR INDIRECTLY." [emphasis is mine]

CEQA Guideline 15131:

(b) Economic or social effects of a project may be used to determine the significance of physical changes caused by the project. For example, if the construction of a new freeway or rail line divides an existing community, the construction would be the physical change, but the social effect on the community would be the basis for determining that the effect would be significant. As an additional example, if the construction of a road and the resulting increase in noise in an area disturbed existing religious practices in the area, the disturbance of the religious practices could be used to determine that the construction and use of the road and the resulting noise would be significant effects on the environment. The religious practices would need to be analyzed only to the extent to show that the increase in traffic and noise would conflict with the religious practices. Where an EIR uses economic or social effects to determinate that a physical change is significant, the EIR shall explain the reason for determining that the effect is significant.

"(c) Economic, social, AND PARTICULARLY HOUSING FACTORS [emphasis mine] shall be considered by public agencies together with technological and environmental factors in deciding whether changes in a project are feasible to reduce or avoid the significant effects on the environment identified in the EIR." P37-1 CONT

"Discussion: ....
"Despite the implication of these sections, CEQA does not focus exclusively on physical changed, and is not exclusively physical in concern. For example, in Section 21083 (c), CEQA requires an agency to determine that a project may have a significant effect on the environment if it will cause substantial adverse effects on human beings, either directly or indirectly. This section was added to CEQA by the same bill in 1972 (AB889, Chapter 1154 of the Statutes of 1972)that added the definition of the term 'environmental' and the term 'project'"
.....
"In Citizens Association for Sensible Development of Bishop Area v. Inyo (1985) 172 Cal. App.3d 151, the court held that "economic or social change may be used to determine that a physical change shall be regarded as a significant effect of the environment...(Economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment." In this case, the Court held that an EIR for a proposed shopping center located away from the downtown shopping area must discuss the potential economic and social consequences of the project, if the proposed center would take

business away from the downtown and thereby cause business closures and eventual physical deterioration of the downtown."

CEQA Statute 21061.1

"21061.1 Feasibility
"'Feasibility' means capable of being accomplished in a successful manner within a reasonable period of time taking into account economic, environmental, social and technological factors."

CEQA Guideline 15126.6

"15126.6
"(f)(1) 'Feasibility'. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability..."

CEQA Guideline 15382

"15382 Significant Effect on Environment
"...An economic or social change by itself shall not be considered a significant effect on the environment. A SOCIAL AND ECONOMIC CHANGE RELATD TO A PHYSICAL CHANGE MAY BE CONSIDERED IN DETERMINING WHETHER THE
PHYSICAL CHANGE IS SIGNIFICANT [emphasis mine]" P37-1 CONT

CEQA Guideline 15358

""15358 Effects
"Effects include:
.....
"(2)...Indirect or secondary effects may include growth inducing effects or other effects related to induced changes in the pattern of land use, population density, or growth rate..."

CEQA Guideline 15126.2

""15126.2 Consideration and Discussion of Significant Environmental Impacts
"(a) ...The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to the ecological systems, AND CHANGES INDUCED N POPULATION DISTRIBUTION, POPULATION CONCENTRATION, THE HUMAN USE OF LAND (INCLUDING

COMMERCIAL AND RESIDENTIAL DEVELOPMENT...)"

THE DRAFT ENVIRONMENTAL IMPACT REPORT

The DEIR includes statements that confirm the redirection of the document from the purely physical towards more human-centered considerations:

Appendix O, p.5.13.2-3:
"An environmental injustice exists when 'members of disadvantaged, ethnic, minority or other groups suffer disproportionately at the local, regional sub-national), or national levels from environmental risks or hazards, and/or suffer disproportionately from violations of FUNDAMENTAL HUMAN RIGHTS [emphasis mine] as a result of environmental factors.'"

The disproportionate burden is borne by those in the Prohibition Zone (PZ), who are paying excessive costs in regard to cleaning up the aquifer that is shared by those in the Los Osos Community who live outside the PZ.

P37-1
CONT

The proposed LOWWPis made unnecessarily unaffordable when the County adds General Benefit goals onto the financial backs of the property owners of the PZ, who agreed in a recent Proposition 218 vote to pay only for their special benefit. But in addition to the special benefit of "compliance with the Water Discharge Requirement of the RWQCB" (p.1-10 and 2-2), the residents of the PZ will also pay for the community-wide General Benefit goal "to solve the Level 3 water resource shortage and groundwater pollution" (Appendix O p.5.13-7) and "Alleviate groundwater contamination, primarily nitrates, which have occurred by the use of septic systems THROUGHOUT THE COMMUNTY OF LOS OSOS.(emphasis mine) (p.1-10 and 2-2)."

This is clearly an example of an "inequitable environmental burden borne by groups such as low income and minority populations (Appendix O, p.5.13-2)."

Internal Contradiction in the DEIR

In Appendix O, there appears to be a contradiction between 5.13.4 (Thresholds of Significance) and a statement on page 5.13-3:

"5.13.4 Threshold of Significance
"This project will have a significant adverse environmental justice impact if it will:
"Result in adverse effects of impacts that are appreciably more severe in magnitude or are predominately borne by any segment of the population, for example, household population with low income or a minority population in comparison with a population that is not low income or minority."

But this Threshold of Significance seems to have been met by low income families on page a5.13-3:

" The financial investment required bay the various families within the Prohibition Zone will have different economic effects because there will be a greater effect on low-income families compared with moderate and high-income families"

This is immediately followed by the now contradictory concept that "Although there may be a disproportionate financial effort on low-income families, the financial effect is not considered an environmental effect and, thus, cannot be considered an economic justice issue."

Miscellaneous Affordability Issues

The Porter-Cologne Act. Section 13241, states: P37-1 CONT

"13241...
"Factors to be considered by a regional board in establishing water quality objectives shall include, but not necessarily limited to, all of the following:
...
"(d)economic considerations."

Economic considerations have not been adequately considered for the LOWWP by the RWQCB or the County.

The Public Utilities Code Section 12842 only allows 20 % of the assessed value of Los Osos, in the aggregate, to be spent on a public utility. With decreased values in the current market, some have placed this 20% maximum as low as $194,000,000. If this is true, the LOWWP cannot cost more than this, perhaps including money already spent (land acquisition, Ripley's design and consultation, etc.)

Lack of Affordable Project Options

Also increasing the cost of the Project is the limited kinds of options considered in the DEIR. Certain reasonable and potentially less expensive options such as low pressure and vacuum collection systems have been dismissed without sufficient justification and with a lack of analysis. This is in contradiction to CEQA Guideline 15004 (b)(2) and 15126.6:

Conclusion

It is essential both ethically and legally to consider the human factor in the EIR, and to analyze the economic and social effects that the LOWWP will have on the citizens of Los Osos. Lack of affordability is a fatal flaw in the entire Project, and both Environmental Justice and human decency demand a closer and clearer review of the issue.

P37-1
CONT

Bo Barry Cooper
1543 7th Street
Los Osos, CA 93402

(805)458-0740

January 30, 2009

Bo Barry Cooper, January 30, 2009 (Letter P37)

Response to Comment P37-1

This comment expresses a concern regarding the affordability of the proposed project. See Topical Response 2, Project Costs, regarding the overall cost of the project.

Public Comment on the Draft Environmental Impact Report, County of San Luis Obispo, Los Osos Wastewater Project (LOWWP).

My comments will focus on the size and capacity of the LOWWP.

The Draft Environmental Impact Report (DEIR) states that the Los Osos Wastewater Project will be sized for buildout of the Assessment District---the Prohibition Zone. (DEIR---Executive Summary, p. 2-23, Sec. 2.6.2 Project Funding ..."engineering reports and associated cost estimates for the overall project are based on ultimate buildout of the Assessment District...including both the developed and undeveloped properties."

The LOWWP is estimated to cost $165 million (stated by Public Works staff, John Diodati in a pie-chart at a County Town Hall Meeting, Nov. 19, 2008). The DEIR estimates a range from $144 million-$188 million (Project Description, Cost and Funding, p. 3-65 & 3-66).

SLO County actually has access to $127 million from the first Proposition 218 Assessment of the property owners in the Prohibition Zone (PZ). Another $27 million will be assessed on the undeveloped properties by a future Prop. 218 vote. $11 million has been added as a $10 per month Capital Cost on the developed properties (Total: $165 million). It is unclear whether another Prop. 218 vote of the PZ property owners will be required to raise that additional $11 million. My question is: If needed, how will this $11 million be raised? P38-1

The issue of funds for the LOWWP is significant to the DEIR because, at the very least, the assessment for BOTH the developed and undeveloped properties in the Prohibition Zone MUST be in place in order to approve the scope of this project as described in the DEIR. Prop. 218 states, in part, that..."the amount of any (contested) assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question." [CA Constitution, Article 13D (Assessment and Property-Related Fee Reform), Sec. 4 (f)].

My understanding of this passage in Prop. 218 leads me to believe that the SLO County Works Dept. cannot size the LOWWP to accommodate total buildout (as is their stated intention in the DEIR) without assessment monies from a second affirmative Prop. 218 vote on the undeveloped properties. According to the County's own consulting engineer, even after SLO County develops a plan with the Los Osos water purveyors (which is independent of the LOWWP), there will only be access to enough water from the upper and lower aquifers combined to meet the needs of the CURRENT population of the Assessment District (Prohibition Zone). At this time, there is NO potable water supply that can be guaranteed for the undeveloped properties in the PZ. Thus, a Prop. 218 for these property owners is unlikely to occur in the near future (if a vote were held under

total valuation of the ballots was returned. The results were 20.33 percent no votes and 79.67 percent yes votes, which is commonly reported as 80/20.

Additional information regarding the 218 election can be found on the LOWWP web site at http://www.slocounty.ca.gov/PW/LOWWP.htm.

TOPICAL RESPONSE 2: PROJECT COSTS

The focus of the Draft EIR is to identify and disclose environmental effects, not project costs. Nevertheless, the Fine Screening Report (August 2007) provides detailed information regarding the overall costs of the alternatives. However, all costs are estimates and include an appropriate range, based on the level of information that is currently known about each alternative. Appendix C of the Fine Screening Report provides detailed information on how all cost estimates were developed.

Based on the information in the Fine Screening Report and Assessment Engineer's report, estimated project costs were developed. These costs are summarized in Table 3-1.

Table 3-1: LOWWP Overall Costs and Benefits

Cost Estimates for a Typical Single Family Residence	Monthly Cost Estimate ($)	Payments Due	Monthly Bill ($)	Semi-Annual Tax Bill ($)	Total Annual Cost Estimate ($)
Monthly Utility Bill for Operations and Maintenance	40	Monthly	40	N/A	480
Equivalent Monthly Assessments	150	Property Tax Bills	N/A	900	1,800
Equivalent Monthly Capital	10	Property Tax Bills	N/A	60	120
Subtotals	200		40	960	2,400
Equivalent Monthly On-Lot	50	Owner Financed Cost	N/A	N/A	600
Totals	**250**	—	**40**	**960**	**3,000**

Undeveloped properties were given an assessment of $0.00 in the 2007 Proposition 218 assessment proceedings. A second Proposition 218 assessment could address the costs of solving the current roadblocks to developing on vacant parcels in the prohibition zone (or re-developing under developed parcels). The assessment would have to address wastewater costs, water supply costs, and habitat costs. Alternatively, undeveloped properties would pay their share of project costs through hook-up fees. In the interim, if the project is built with the capacity to serve those properties, costs would be borne by existing residents, most probably as part of their monthly fees.

Capital, operating, maintenance, and replacement costs of the project were developed in the Fine Screening Report over its estimated useful life, which is often referred to as "life-cycle" costs. Generally, a 30-year period was used, which matches the expected life span of many major project components. (Although most major components of the systems may last longer than thirty years, their capital costs will have been fully paid in that time frame or shorter.) Where major components are not expected to last 30 years (such as liners in treatment and storage ponds), the component replacement costs over a 30-year period were included. This method also allows costs to include annual operations and maintenance, plus appropriate replacement costs for the various alternatives.

From a CEQA perspective, it is important that the EIR address the reasonably foreseeable impacts of the proposed project. Given that the majority of the prohibition zone is already subdivided, and that the area lies fully within the Urban Reserve Line, it is reasonable to expect that the area will build out within the lifespan of the LOWWP (50 to 100 years). Therefore, the Draft EIR evaluates the impacts resulting from constructing a project based on the buildout of the service area to the extent those impacts can be reasonably predicted.

TOPICAL RESPONSE 3: WATER RESOURCES AND THE PROJECT SCOPE

Several commentors focused on how the County is approaching water reclamation, beneficial reuse of treated effluent, and sustainability of the groundwater supplies. Several state that agricultural exchange must be a central component of the LOWWP. Several commentors also point to language in AB 2701 identifying that the County has some legislative ability to implement water resource efforts as part of the wastewater project. Several commentors assert that the Draft EIR is deficient in this respect.

These comments seek to expand the LOWWP beyond solving the wastewater issue and do not recognize the cooperative efforts between the water purveyors and the County under the Court approved Interlocutory Stipulated Judgment; which is guiding resolution of the existing groundwater litigation. Seawater intrusion is occurring and must be resolved. The LOWWP will reduce the existing rate of seawater intrusion. Nevertheless, expanding the wastewater project to incorporate other programs will repeat the LOWWP history of trying to do too much and then risking not funding and constructing the project as a result of further delays. RWQCB sanctions could also occur. Developing a wastewater project is the single most important issue to addressing the greater water resource problem, and solving the water resource issue requires completing a wastewater project.

The County's wastewater project approach is to develop a project that provides the County, the water purveyors and the community with the ability to solve the water resource issue. An approach that attempts to solve all problems with one project could delay LOWWP construction under the premise that all problems must be solved simultaneously or nothing should be done. Over the past two years, following the guidelines of the Court approved Interlocutory Stipulated Judgment; the County has met with the community, the purveyors, environmental, agricultural, and cultural groups, and each

Martha Goldin
<honmgret@charter.net>
04/27/2009 05:01 PM

To planningcommission@co.slo.ca.us, eporter@co.slo.ca.us
cc
bcc
Subject Planning commission April 30, 2009

Dear Ms. Porter - please forward my letter, below, to Chairperson Sarah Christie and the Commissioners. Thank you.

Dear Chairperson Christie and Planning Commissioners:

Thank you for providing the residents of Los Osos an opportunity to address you last week, with respect to the County's plan for a wastewater collection and treatment system. I am among the many people who appreciate the well run meeting and the respectful attention exhibited by the Commissioners. I have a concern about the meeting scheduled for April 30th. Last week, County staff took about 3 1/2 hours to present the project plan and EIR information to you. Interested groups and individuals were, basically, allotted three minutes each (although the Chair did permit time to be ceded/combined). The Chair has stated that no person who spoke or ceded time last week will be permitted to speak on April 30th.

I am informed that County staff is going to present new (financial/financing?) information on April 30th. In addition, Commissioners raised many questions and expressed concerns about various issues which need further exploration. Under the circumstances, I respectfully request that any interested person, whether or not she or he spoke last week, be permitted to address new County information and/or the particular concerns of the Commissioners. I would also urge that the Commission continue the hearings in order to provide people an opportunity fully to address the questions raised by the Commissioners. As you know, the planning/FEIR documents are approximately 6500 pages long. The project is likely cost the residents of the Prohibition Zone in Los Osos $200 million, without O&M, decommissioning septics and lateral hookups. Even though many in Los Osos are very knowledgeable and have made many written submissions about the project, it is a Herculean task to sort through all the data and present it to the Commission in a form which directly responds to its questions and concerns, or even to direct Commissioners to the right place in the submitted documents for information/answers. This takes more time than the two meetings will have provided.

In addition, I have some concern about the fairness of the process. This is so in light of the recent information and formal complaint involving the "post dating" issue, Paavo Ogren and MWH (and other matters in that formal complaint). I suggest that this creates a cloud over the County process which needs to be sorted out before further project decisions are made.

Thank you for your consideration.

Martha Goldin, Judge of the Superior Court, retired

lisa schicker
<lisaschicker @sbcglobal .net
>

04/27/2009 05:21 PM

To planningcommission@co.slo.ca.us, eporter@co.slo.ca.us, Anne Wyatt <Awyatt@co.slo.ca.us>, Carlyn Christianson <cchristianson@co.slo.ca.us>, Bruce White
cc Lisa Schicker-Hotmail <lisaschicker@hotmail.com>
bcc
Subject Please post in electronic comments: April 23-09 hearing - los osos - re: CEQA Comments and Formal Complaint Regarding Placement of MWH on the Los Osos Wastewater Project shortlist - Potential Conflict of Interest

Please post this letter (sent earlier today) in the electronic copy section. It looks like the attachment has already been posted, but this letter refers to CEQA and CDP issues, too- thanks very much from Lisa

Lisa Schicker
805-528-3268

----- Forwarded Message ----
From: lisa schicker <lisaschicker@hotmail.com>
To: planningcommission@co.slo.ca.us; eporter@co.slo.ca.us
Sent: Monday, April 27, 2009 1:31:35 PM
Subject: April 23-09 hearing - los osos - Copy of Formal Complaint Regarding Placement of MWH on the Los Osos Wastewater Project shortlist - Potential Conflict of Interest

Dear Ms. Porter: Can you please forward my letter and attachments to all Planning Commissioners for this Thursday's meeting? Thank you very much from Lisa Schicker
.....

April 27th, 2009

Dear Chairperson Christie and Planning Commissioners:

I am attaching a copy of the formal complaint I filed with the BOS on April 9th, 2009 after their April 7, 2009 decision to remove all treatment and collection alternatives from the design build project (except one). My complaint also protests the BOS vote to shortlist an engineering firm called MWH (whose collection design was selected for this project - and which is a possible violation of design-build code). MWH is a firm with a still-clouded past in Los Osos and a firm with a potential conflict of interest with the County Public Works Director. I have been told that County Counsel is still reviewing my complaint and I ask that you please continue deliberating on this project until this complaint is settled. Please continue this item on Thursday, do not vote - 6500 pages of project, a formal complaint and massive public interest is a lot to get through in only two hearings!

I also know what the County promised Los Osos when this project was transferred to them in 2007 - and that was the promise of a fair and honest process, where all feasible

alternatives would be reviewed all the way to the end. We were promised this so we could finally review all the facts and look at all impacts and all costs from all feasible alternatives, and then we were to have had an advisory vote per AB 2701 – but this fair process was abandoned on April 7th.

I was also led to believe that as part of this fair process, the project would include your Commission's detailed review of all project options at this stage of the game. I do not believe it was proper for the BOS to pre-empt the project selection and your review by choosing the treatment and collection methods early – that was never supposed to be part of the promise.

I thank you for listening last Thursday and for a very well run meeting, it was most appreciated by all.

I also have a request – in my notes from the meeting, I noticed that commissioners requested 43 items that needed further clarification from Staff. If the applicant (Public Works) presents new information, I would also request that the public have opportunity to speak again, even if it is for shorter time. As you can see from last Thursday, the public is very educated on the matter, and wants to be included in the process.

My issues are summarized in my comments on the EIR (I am number 52) and focus on groundwater, saltwater intrusion, CEQA irretrievable commitment of resources (impact not disclosed) sludge, lack of a true alternatives analysis ("variations on a theme" are not alternatives), mitigation for wetlands and trees in los osos are ignored again and environmental justice (both eco and env impacts) are not addressed. I also protest, under CEQA, the inadequate responses to citizen comments that is proposed in the FEIR by the consultants – saying that "no further response is required" when the public brings up items that are missing under CEQA, is not an appropriate response – as I stated in my verbal testimony last week.

Thank you again for all that you do – this project is certainly one heck of a challenge!

Most Sincerely,

Lisa Schicker
Past President and Board Member LOCSD 2004-2008

From: lisaschicker@hotmail.com
To: bgibson@co.slo.ca.us; fmecham@co.slo.ca.us; ahill@co.slo.ca.us; kachadjian@co.slo.ca.us; jpatterson@co.slo.ca.us
Subject: Please Respond: Formal Complaint Regarding Placement of MWH on the Los Osos Wastewater Project shortlist – Potential Conflict of Interest

Date: Thu, 9 Apr 2009 01:08:56 -0700

Dear Chairman Gibson and Honorable Supervisors:

Please enter my comments into the public record and please include them in the packet for general public comment at your next meeting.

Please consider this note as a formal complaint against the County for placing MWH on the short list for the Los Osos wastewater project.

I urge you to read my detailed concerns about a MWH conflict of interest, costly engineering decisions made by MWH, and a potential conflict of interest with MWH and Public Works Director Paavo Ogren. Attached is a PDF copy of yesterday's information about MWH that was presented to you at your April 7, 2009 meeting.

I took the government ethics class three times in my tenure as an elected official and I am convinced that my allegations have merit. According to these ethics courses, and the lawyers who taught them, even the "appearance" of impropriety or a "potential" conflict of interest is important enough to evaluate. Any one of the seventeen examples I provide should give you cause and concern.

<u>To Answer Supervisor Patterson's questions from last night regarding MWH</u>:

1. Not only are MWH "creditors" in bankruptcy, they have a lawsuit against the LOCSD that is also in bankruptcy - there is also a cross claim based on the attached false claims letter that you will find in my public comments.

2. The first contract between MWH and the LOCSD was illegal, it was signed by Buel before he was employed by the LOCSD, when Mr. Ogren was Interim General Manager. The LOCSD has letters back and forth between attorneys, the DA and this is also part of the bankruptcy lawsuit. The False Claims letter attached to my PDF comments explains it all in more detail.

I see it as my public duty to make sure that you and the public receive all information that is important to any decisions made about this project. I also see it as your public duty to take these allegations seriously and to address them.

I respectfully request that I receive written acknolwedgement of my formal complaint against the County for placing MWH on the short list for the Los Osos wastewater project and that I recieve a written response to my formal public complaint.

Thank you in advance for addressing my concerns,

Most Sincerely,

Lisa Schicker
Past President and Board Member LOCSD 2004-2008

From: lisaschicker@hotmail.com
To: fmecham@co.slo.ca.us; ahill@co.slo.ca.us; jpatterson@co.slo.ca.us; kachadjian@co.slo.ca.us; bgibson@co.slo.ca.us
Subject: A very disappointing day for Los Osos
Date: Thu, 9 Apr 2009 00:12:07 -0700

Dear Supervisors:

If you had good reasons to vote yesterday to abandon your promises to my community, they didn't come across to many of us who stayed til the bitter end to listen, you left us truly dumbfounded. Unfortunately, you appear to be on the road to repeating history again.

There is still time, please reconsider.

Even though the public speakers were well prepared (speaking 8 to 1 in favor of inclusion of a STEP team), I know how hard you were lobbied by your staff before the meeting, to go with their recommendation instead. Your staff are professionals in their fields, but they are completely naive when it comes to Los Osos as a community. Do you realize what you have done by breaking the promise? You have now created the "perfect storm" for Los Osos all over again - all plans for meeting any deadlines will vanish before our eyes.

Did you read the Coastal Commission letter? Why in the world would you want to limit our options now, after reading what they had to say?

Did you receive any actual report about the true status of stimulus money for Los Osos? We didn't, only "generalities", no reports on this subject were provided to the public, and I would really like to see one.

Do you know how many times we have chased towards the illusive promise of money, just to come out with empty pockets?

Did you hear what Supervisor Mecham had to say? He actually "got it" and managed to say it in just a few short sentences.

Dear Supervisors, we still don't have a project that is even going to pass muster with the Coastal Commission, and we need as many options as possible, and we need healthy competition for goodness sake! We wont' ever know the price and neither will you!

It would have been so easy to do the right thing, so easy, I am still baffled beyond words and obviously, I can't sleep.
Thank you for reading my comments.

Lisa Schicker
Past President and LOCSD Board Member 2004-2008 before and after the recall
805-528-3268

4-7-09 -BOS-submissions.pdf

"Michael Miller"
<vmmil@charter.net>
04/27/2009 08:33 PM

To <planningcommission@co.slo.ca.us>, <eporter@co.slo.ca.us>
cc
bcc
Subject Comments and article regarding Los Osos Wastewater Project

April 27, 2009
Dear Commissioners:

Please include the following article (Sludge Happens, Mother Jones, April 2009) in the electronic comments and record regarding the Los Osos Wastewater Project. I do not believe this subject matter has been fully explored in regard to the County's proposed project. I have highlighted and underlined the statements I believe are most pertinent.

I am also asking that you recommend that the Step/Steg system be included in the design build process so that Los Osos residents may know the full costs in a side by side analysis of Gravity vs. Step. As many others testified to, in an attempt to gain community wide support, the county gave reassurances many times both orally and in written statements that such an analysis would be provided.

I do have concerns regarding the inclusion of MWH Engineering in the short list due to ongoing litigation with the District and other detrimental information regarding this firm provided by Lisa Schicker to the County Counsel. We do not need more controversy than we already have. Thank you for your due diligence regarding this matter.

Vita Miller
1205 Bay Oaks Dr.
Los Osos, CA 93402
805-528-5926

Mother Jones

Sludge Happens

By Josh Harkinson | Tue April 21, 2009 7:00 AM PST

IN AUGUST 1987, the National Park Service tore up the White House's South Lawn and tilled in heaps of a new, locally produced fertilizer. The weedy plot's transformation into a carpet of green caught gardeners' attention, and soon there was a waiting list to buy bags of ComPRO, a compost made from nearby wastewater plants' solid effluent, a.k.a. sewage sludge. Four years later, dumping sewage into the ocean was banned, and sludge went national. The Environmental Protection Agency launched a PR push to rebrand it as an all-purpose soil conditioner and fertilizer it innocuously called "biosolids." If sludge was good enough for the first family, the agency reminded us, then surely it was good enough for the rest of America. "The Clintons are walking around on poo," the EPA's sludge chief quipped in 1998. "But it's very clean poo."

Today, more than half the 15 trillion gallons of sewage Americans flush annually is biologically scrubbed, "dewatered," and processed into products with names like BioEdge, Nitrohumus, and Vital Cycle and spread on farmland, lawns, and home vegetable gardens. (The rest is incinerated or landfilled.) Recycling sewage is big business: In 2007 the Carlyle Group paid $772 million for the

sludge-residuals company Synagro, whose products are the most popular on the market. Sludge could be the ultimate growth industry; as one trade publication observes dryly, "There will continue to be more wastewater solids to manage with every passing year."

In theory, recycling poop is the perfect solution to the one truly unavoidable byproduct of human civilization. **Turning sewage into a potent, inexpensive fertilizer means cleaner rivers and oceans. But as sludge has spread across the country, so have concerns that it may cause as many environmental problems as it solves. In communities where sludge has been used, residents have reported ailments ranging from migraines to pneumonia to mysterious deaths.** In a 1994 episode often cited by sludge foes, an 11-year-old Pennsylvania boy died of a staph infection after biking through sludge at an abandoned mine.

Sludge's dirty secret is that it may contain anything that goes down the drain—from Prozac flushed down toilets to motor oil hosed from factory floors. While sludge sold to consumers must be virtually pathogen free, sludge used on farms and industrial sites is permitted to contain low levels of human pathogens. A federal radiation task force recently warned that sludge might be contaminated with radioactive waste; in January, shipments of Canadian sludge with elevated radioactivity levels were turned back at the border. Food companies such as Del Monte and H.J. Heinz won't accept produce grown on sludge-treated land. The Netherlands and Switzerland effectively ban the use of sludge on farmland, and 37 states regulate it more strictly than the EPA.

Despite the growing stink, the EPA has remained bullish on sludge through three presidential administrations. It points out that sludge has never been conclusively linked to any serious illnesses or deaths. Critics say the agency has consistently ignored the risks. "The fight over sludge is not about sewage; it's about hiding industrial waste," says Ed Hallman, an attorney for a former EPA scientist who has accused the agency of covering up the dangers of sludge. "The chemicals absorbed in sludge don't exist anymore as far as the EPA is concerned. They are gone."

COMPLAINTS ABOUT sludge usually begin with the smell. One morning last August, a manure spreader spewed a brown pudding on a field behind Barry Kimbrough's house in Lawrence County, Alabama. "It smelled exactly like what it is—it smelled like shit," recalls Kimbrough, a retiree with a small cattle ranch. "The odor was so bad, some people had to move out of their house for a week or so." Other neighbors complained of breathing problems or pneumonia.

The EPA acknowledges that "biosolids may have their own distinctive odor," but it doesn't regulate their smell. Multiple studies have shown that severe odors can cause health problems, including depression and stress that can lead to chronic hypertension and heart disease. Jimmy Slaughter, a lawyer for Synagro, notes that smelling sludge can elicit "a visceral reaction." Yet, he says, "If we were causing health problems, we would have known a long time ago."

But the stench is just the start. A recent EPA survey of sludge samples from across the US found nearly universal contamination by 10 flame retardants and 12 pharmaceuticals and exceptionally high levels of endocrine disruptors such as triclosan, an ingredient in antibacterial soap that scientists believe is killing amphibians.

The EPA, however, hasn't assessed the safety of many of these chemicals. (The Government Accountability Office recently concluded that the agency's toxics program is "at serious risk of becoming obsolete.") Though it limits the amount of toxic substances that can be dumped into the sewers, with the exception of several heavy metals such as cadmium and lead, the EPA doesn't test for contaminants when they come out the other end of the pipes, where they may be concentrated in sludge . **Some scientists are concerned that dangerous levels of contaminants from sludge are passing into crops and groundwater as well as blowing off fields and becoming airborne. Studies have shown that some chemicals in sludge can interact with one another to become more persistent or toxic. Other research has suggested that the toxins in sludge can pass into milk and meat.**

In 1979, a Georgia dairyman named Andy McElmurray started applying locally produced sludge fertilizer to his fields. Over the next several years, nearly half his 700 cows died from severe diarrhea. The EPA didn't test his soil, but McElmurray hired his own experts, who concluded that his sludge had contained high levels of thallium. A toxic metal that is the active ingredient in rat poison, thallium rarely turns up in sewage, but it was used as a catalyst by a nearby NutraSweet factory. When McElmurray's experts sampled a local milk brand, they detected thallium at levels more than 11 times above the legal limit for drinking water.

McElmurray sued the federal government for disaster relief, claiming sludge had destroyed his farm. He finally won the case last year. "I believe that if the farmer knew the truth, he would never put sludge on his farmland," he says. "It's all a smoke-and-mirrors game that the EPA has played." His view was echoed by the federal judge who ruled in his favor, finding that "senior EPA officials took extraordinary steps to quash scientific dissent and any questioning of the EPA's biosolids program."

Whistleblowers inside the agency have made similar claims. Last year, Hugh Kaufman, a former EPA investigator, testified in a lawsuit that former administrator Christine Todd Whitman prevented him from looking into the agency's biosolids program. More than a decade earlier, David Lewis, a senior researcher at the EPA's lab in Athens, Georgia, publicly criticized the agency for not doing enough research on sludge. In response, the EPA accused him of unlawfully engaging in a partisan debate. (The Labor Department overturned the complaint.) After Lewis continued to publish alarming studies about sludge in *Nature* and other journals, the EPA scientist in charge of promoting biosolids gave a sludge-company lawyer a Synagro document that said Lewis had been conducting "uninformed, unsupported, and otherwise unsound science." (Lewis, who retired in 2003 and has since sued the EPA, declined to comment for this article.)

In 2002, the National Academy of Sciences joined the calls for more research. The EPA launched an ongoing round of studies in partnership with the Water Environment Research Foundation, the nonprofit research arm of the sewage industry's main lobbying organization. In 2006, WERF funded Steve Wing, an epidemiology professor at the University of North Carolina, to develop a standardized way to track illnesses reported near sludge sites—something most experts agree is urgently needed. Wing says WERF pressured him "to keep the industry's interest in mind" by micromanaging his work.

WERF "definitely can't be trusted as an honest broker," says John Stauber, coauthor of *Toxic Sludge Is Good for You!* , which exposed the hyping of sludge. "It's like trusting the nuclear industry to be an honest

broker when disposing of nuclear waste." Dan Woltering, WERF's head of research, denies that the group meddled with Wing's research. WERF, he asserts, does "sound, peer-reviewed research" and does not have a policy agenda.

The official response to new discoveries of contaminated sludge remains tepid. In May 2007, the EPA learned that sludge had contaminated as many as 5,000 acres of grazing land about 25 miles from Kimbrough's Alabama ranch with perfluorooctanoic acid (PFOA), a probable carcinogen used in Teflon. The chemical was traced back to a local manufacturer that had dumped contaminated wastewater straight into the sewer. The case prompted the EPA to issue its first-ever advisory on PFOA in drinking water, but it did not ban the dumping of the chemical into sewers or require sludge to be tested for it. Even though the exceedingly high PFOA concentrations in the Lawrence County fields could pose a health threat to animals or humans, as of press time, the Department of Agriculture hadn't tested local cattle for the chemical.

Why does the EPA remain so unconcerned about sludge? Much of it is expediency, maintains Stauber. "You had some individuals who decided that 'out of sight, out of mind' would be the easiest way to handle this massive toxic disposal problem," he says.

Suzanne Rudzinski, who oversees biosolids in the EPA's Office of Water, says the agency's approach has been prudent and balanced. "There's always somebody, no matter who, that doesn't like what the EPA is doing," she says. She grants that the pervasiveness of flame retardants and other chemicals in sludge is a concern, but would like to see more research before recommending whether to regulate them. "I think we agree that there's a lot more that we could learn," she says, "and that's what we're trying to do."

But Chris Nidel, the attorney for two Virginia families that recently resolved a lawsuit with Synagro, says the EPA's wait-and-see stance is nothing but wishful thinking: "This is an experiment—with the initial results being negative—that we are going to continue ad nauseam until we have a regulatory agency that has a backbone."

MIGHT THERE BE a better way to get rid of sludge? Perhaps, thanks to this nifty fact: A single American's daily sludge output can generate enough power to light a 60-watt bulb for more than nine hours a day. Sludge is rich in methane, the main component of natural gas. That means that the wastewater sector, which uses about 1 percent of the nation's electricity, could power itself with sludge and possibly have wattage to spare.

So far, however, fewer than 10 percent of the nation's 6,000 public wastewater plants have anaerobic digesters that can extract methane from sludge; of those, just 20 percent burn the gas for energy. However, other promising projects are under way. Flint, Michigan, is one of several cities worldwide to fuel buses with gas from sludge. Last summer, Los Angeles began injecting sludge into a mile-deep well, where pressure and heat are expected to release enough methane to power 1,000 homes.

Sludge power is only a partial solution. At best, methane removal cuts sludge's volume in half. Currently, leftover sludge is often incinerated, releasing heavy metals into the air and packing landfills with enough ash each year to fill more than 3,100 dump trucks. New high-efficiency poop-to-power plants can minimize those impacts. Using high-temperature or low-oxygen reactions, they covert sludge into a synthetic gas or

oil, or a char similar to barbecue briquettes. The process can produce twice as much energy as it consumes, says Brian Dooley, a spokesman for Atlanta-based EnerTech, which built the first commercial plant of its kind in Southern California last year. The plant converts sludge from about a third of Los Angeles and Orange counties into a char that replaces coal at a local cement kiln ; its ash is mixed into the cement. Such efforts, which reduce landfilling and emissions, have earned praise from some anti-sludge groups. Caroline Snyder, the founder of Citizens for Sludge-Free Land, calls it a "win-win situation."

The EPA says sludge power holds promise, but it's not quite ready to quit pushing sludge as a wonder fertilizer. This hasn't deterred the sewage industry, which sees a chance to get into the renewable energy business and put a stop to the stream of health complaints and costly lawsuits . "After almost 40 years of working in biosolids," a WERF official wrote in a recent newsletter, "I never thought I'd say this: it is an exciting time for sludge!"

To: San Luis Obispo County Planning Commissioners

From: Karen Kimura

Date: April 27, 2009

Re: Comments on the Los Osos Wastewater Project

Dear Madam Chair and Planning Commissioners:

I have a comment concerning the location of the Los Osos Wastewater project pertaining to what has been expressed from the Agricultural Commission. It appears the Ag Commission will only endorse the Tonini property for the sewer if there are no other feasible alternative sites of lesser prime ag land for the sewer. I hope this is not completely the case.

My concern on this matter is how one uses the term 'feasible'. In my mind, anything can be considered feasible, given enough money, time, politics, engineering, fortitude of eminent domain, persuasion, influences, etc. On this basis, a multitude of sites can be made feasible for the Los Osos sewer. For example, one could strive that it be built in Bakersfield.

I realize this is stretching the term 'feasible', but the point is that 'feasible' is always based on a number of criteria that are also subjective. Accordingly, what may be considered feasible to one person (or agency) may not be considered feasible (or reasonable) to another person (or agency). So, how are decision-makers to fairly weigh all of the subjective inputs?

In the minds of many, the mid-town Tri-W site is the most feasible alternative. The proven rationale is that no other site has land that is already owned for a sewer, the sewer was permitted there, it was funded, and construction was underway. On this basis, there appears to be no way that the mid-town Tri-W site cannot rise to the very top of being the most feasible alternative for the Los Osos sewer, and with being the most 'shovel ready' for project funding. All other alternative sites to Tonini and Tri-W should fall by the wayside.

On another note: The spray field at Tonini is designed to be a 'relief valve' to discharge wastewater if and when Broderson cannot accept more discharge. The spray field relief valve is to be a temporary solution. However, the length of 'temporary' is still yet to be determined, and in reality it could be on the order of 10, 20, 30+ years. Until then, Tonini is needed.

On the other hand, with tertiary treatment it would appear that there could be more sites within Los Osos to directly reuse or replenish the groundwater with the combined benefit to help slow seawater intrusion (in combination with on-lot water conservation, which is yet to be fully developed and demonstrated). In the meantime, the Broderson sediments could also likely take more of the cleaner treated wastewater before

becoming ‘clogged’. On this basis, it would only make sense to build the sewer at mid-town to be closer to where wastewater would be directly discharged to replenish the basin aquifer. This would help take the Tonini spray fields off-line, as soon as possible.

In contrast, ag reuse of wastewater for water exchange is another means to manage water to ensure Los Osos has sufficient water supplies (and to not need the Tonini spray fields). However, ag reuse/water exchange agreements will need to be based on commitments in perpetuity (an uncertainty). Under this scenario, the Tonini property with spray fields should always remain in place as a relief valve on an as needed basis, unless all of the discharge can occur within the town of Los Osos.

Karen Kimura
Los Osos Valley land owner and on-site resident

cc: County Board of Supervisors: Frank Mecham, Bruce Gibson, Adam Hill, K.H. “Katcho” Achadjian, James Patterson

County Public Works Department: Paavo Ogren, John Waddell, Mark Hutchinson

"Ricard Communications "
<grpr@charter.net>
04/28/2009 02:41 PM

To <planningcommission@co.slo.ca.us>
cc
bcc
Subject April 30 hearing re LOWWP

Dear Chair Christie and Commissioners:

The Planning Commission is right to question the cart-before-the-horse sequence of the supervisors' April 7 action re the Los Osos wastewater project. It does appear, especially in this case -- as one of the largest and costliest public works projects of its kind in the county -- to seriously pre-empt your range of choices and render mostly moot your state-mandated role to study the project's impact on the county's growth and environment. It seems yet another manifestation of a 'gold rush' (aka stimulus dollars) mentality that's being applied with increasing abandon to justify a reckless disregard for public -- and public agency -- process.

Ironically, the very technologies the April 7 decision may have excluded from your consideration are the very type of innovative technologies that the green stimulus packages are designed for … that best fit the County's sustainability and smart growth goals … and that are most in alignment with LEED and other green certification standards (which, though not directly applicable to the project, reflect current best practices). It is wholly inexplicable that leading appropriate technologies have been removed from the Planning Commission's, the Coastal Commission's and the public's consideration in finding the best and most cost-effective wastewater management solution for Los Osos. And all at a time when, from Washington to Sacramento, the call is to create infrastructure that's future based and reflects current best thinking about the environment and the social fabric.
The gravity options were not alone in wending their way through the rough-screening and fine-screening process. Alternatives to gravity were recommended by the appropriate technologies coalition of Surfrider, Sierra Club, SLO Green Build and the Los Osos Sustainability Group, among others. It does a huge disservice to the community of Los Osos and citizens of the county to have non-gravity options dismissed out of hand. *And why now* , after $7 million expended and at the very moment when ALL these major options can finally be tested … in just the kind of competition of ideas, technologies and solutions that design-build is created for.

No one, at this point, can possibly say which technology is best. The peer review by industry experts, the review by the County, Coastal Commission and others have all found that *both* gravity and STEP/STEG (and related technologies) make the grade … just as each has some drawbacks. The Coastal Commission recently said that the kind of project it's likely to approve will be a blend of these. So it seems premature and presumptuous for any of these highly viable technologies to be eliminated from the Planning Commission's, the Coastal Commission's and the community's consideration.

I hope it is not too late for the horse to be placed before the cart.

Sincerely,

Galen Ricard
Baywood Park
Tel (805) 534-0558

"BOB"
<loautobody@charter.net>
04/29/2009 05:38 AM

To <planningcommission@co.slo.ca.us>
cc
bcc
Subject Thursday meeting re Los Osos sewer plant location

I think the Gorby location would serve us best. Please give it a good look.

The TriW location would start another "fire storm" we don't need.

Tri W is where our long awaited park should be, not a sewer plant.

Thanks for listening.

Bob Robertson
Los Osos

<kwimer1@charter.net>
04/29/2009 08:54 AM

To planningcommission@co.slo.ca.us, eporter@co.slo.ca.us
cc
bcc
Subject Planning Commission Mtg April 30

Dear Ms. Porter,

Please forward the letter below and two attachments to the Planning Commission a.s.a.p., so it will be available to the commissioners before tomorrow's meeting.

Thank you,

Keith Wimer

April 26, 2009

San Luis Obispo County Planning Commission
County Government Center
San Luis Obispo, California

Subject: Los Osos Wastewater Project EIR Certification and Coastal Development Plan Approval

Dear Madam Chair and Commissioners:

The LOSG wishes to thank you for a meeting format last week that enabled us to present a coherent overview of our concerns and sustainable project recommendations.

We also appreciate the obvious value you place on hearing from members of the Los Osos community, your willingness to ask tough questions, and your desire to analyze project components in detail.

After the meeting, a few of our members expressed concern your commission would deliberate after staff’s responses this week, without our group and others having the opportunity to clarify points or answer any questions raised.

We request a chance to respond to staff’s remarks in the form of a brief point by point statement, or responses to your questions. We understand that the Planning Commission typically encourages give-and-take to enable a thorough understanding of the issues.

Given the complexity of some of the topics and the fact some of us have spent over two years and hundreds of hours researching the issues, we know we can provide substantive input—and hope you agree.

Please, also, resist a rush to decision making. The EIR has clearly failed to analyze and mitigate for some potentially significant impacts and to fairly and fully review an adequate range of viable alternatives, especially some of the least costly. These were highlighted in our DEIR comments and handouts last week, a few of which include intensive conservation, a decentralized treatment option, ag exchange, vacuum collection, the impacts of inflow and infiltration (I/I) of gravity systems, and green options, including our water management plan, which alleviates the need for both Broderson leach fields and

Tonini spray fields.

We expressed in our EIR comments that adequate analysis will likely require a supplemental or subsequent EIR, and we request that you recommend them, with changes in project parameters and assumptions (e.g., STEP/STEG design should include cluster systems and placement of tanks in easements, sizing of the system should be based on revised population estimates and a 25% reduction is water use, and ag reuse/exchange should be assumed to occur at project start up).

Again, we believe (and have presented substantial support) your decisions on the LOWWP stand between a project that will do more harm than good, and one that can help sustain vital coastal resources for this and future generations.

In the attached analyses, we explain why sustainable options are the only way to justify the large expense for the project. We also respond to the staff's presentation and your initial list of concerns, providing some further clarification of our recommendations. We ask that you carefully look these over, as they debunk some of the popular myths used to support the currently-proposed project.

Sincerely,
Los Osos Sustainability Group (LOSG) Executive Committee
Attachments

Debunking LOWWP Myths.doc.pdf LOSG Planning Commission Presentation 4.23.09..pdf

Debunking Common LOWWP Myths

Myth: ***Broderson leach fields are guaranteed to work.*** Staff and the FEIR say concerns about the potential negative impacts of Broderson leach fields are unfounded (e.g., concerns regarding percolation rates, potential for liquefaction and harm to homes and infrastructure, potential for water daylighting near the bay and contamination of the bay, uncertainty as to how well they will recharge the upper aquifer and benefit aquatic ecosystems in the areas, such as Sweet Springs). The FEIR even states Broderson will produce net benefits to the aquifers and ecosystems.

However, the LOSG is in good company when we say Broderson leach fields are not sure to work. In a conversation, Jeffrey Mosher, director of the National Water Research Institute (NWRI), told Keith Wimer on November 1, 2008, that the NWRI panel reviewing the project did not believe Broderson leach fields would achieve the benefits claimed. Even, the EIR itself states that Broderson will start out at a rate of about 250 AFY, rather than 450 AFY as system performance is monitored.

Further, the EIR's claim that the proposed reuse/disposal element, with Broderson leach fields, will produce net benefits is clearly exaggerated. Broderson leach fields cannot possibly supply subsurface flows to distant aquatic systems such as Willow Creek.

While percolation rates and potential liquefaction (etc.) concern the LOSG, our greatest concern is that Broderson will not mitigate seawater intrusion at levels adequate to offset the project's impacts on seawater intrusion, resulting in the acceleration of seawater intrusion.

Where does the .22 mitigation factor come from and how reliable is it? There are no studies to confirm a direct benefit from Broderson to aquifers 300 to 700 feet below the surface, and it is a very big leap to say it will provide benefits to the lower aquifers equivalent to all the septic systems in the Prohibition Zone (i.e., 448 AFY of water discharged at one site will provide benefits equal to 1120 AFY of water discharged at 4,500 sites).

Per the *Fine Screening Report,* both conservation and ag exchange have higher mitigation factors (.55 vs. .22). So why does the reuse/disposal element rely primarily on a strategy with a .22 factor? Recycled water is too valuable a resource to use inefficiently. Even if ag exchange were at a 2:1 ratio (two AFY to farmers for one AFY return), recycled water would used more efficiently (and a much better exchange rate is more likely).

Further, Broderson recharge is an inefficient way to improve groundwater. Both the DEIR and 2003 Yates and Williams 2003 study point out that nitrate levels in recycled water (7 mg/l) will limit the rate and amount nitrate concentrations decrease in the upper aquifer (i.e., because there is little difference between the nitrate levels of the water diluting the upper aquifer, 7 mg/l, and the average nitrate levels in the upper aquifer, 10 mg/l) (DEIR, p. 5.2-28; Yates & Williams, p. 20).

The LOSG water management plan provides two analyses (Appendices E and K) explaining why reuse/disposal approaches using Broderosn will not ultimately balance the basin at buildout due to the inefficiency of recycled water use, especially as sea levels rise (requiring

aquifer levels to be raised). As a result, they are likely to be abandoned at some point to avoid importing water.

The LOSG management plan calls for strategic use of LID rainwater recharge systems to enhance natural rainwater recharge in Los Osos and support sensitive ecosystems. This provides a more efficient and cost-effective means to improve water quality and recharge the basin.

County staff and the EIR justify the reuse/disposal element also as a way to maximize future options to enable purveyors to step in to balance the basin through the ISJ process. Mr. Ogren states this is accomplished, in part, by providing a "trunk line" for recycled water back to town. In reality, Broderson limits options.

For instance, there is no backup plan if Broderson fails? How will the project mitigate for seawater intrusion impacts? Both the upper and lower aquifers will be in overdraft without a plan.

Also, how much flexibility does a trunk line really provide? For the following reasons, the answer is "Not very much!"

1. Only 60 to 100 AFY of possible urban reuse opportunities exist in public spaces in Los Osos, while this and residential reuse (even rural residential reuse) require meeting strict regulations and installing expensive subsurface purple piping (likely to have prohibitive costs for most residential users—see Decentralized TM).
2. The trunk line can provide water for farms along the route, but the best recycled water for farms would be water high in nitrates. Water going to Broderson would be low in nitrates, so the trunk line would not provide the most cost-effective source of water, nor would it be the water farmers are likely to want.
3. A trunk line carrying recycled water to town cannot not be used to pipe potable water from farms to town in ag exchange arrangements (the other most effective way, besides conservation, to mitigate for seawater intrusion). This requires another line, not included in the project, which water purveyors may or may not agree to install at some point.
4. A trunk line will also need to have junctions and valves located along the route to accommodate ag reuse. The location of these is best determined by gauging the potential for ag reuse, and this is best determined by contacting farmers and beginning to negotiate contracts. Because the County will own the water and operate the pipeline, the County must negotiate contracts and install the connections, not purveyors. To provide flexibility, and avoid duplicated costs and stranded assets, the County should begin to negotiate contracts now.

For these reasons, the current reuse/disposal element, with Broderson, leach fields has little flexibility. Absent specific strategies to deal with uncertainties, the project will limit options in the near and more distant future, e.g., to a narrow course in which the County attempts to recharge more and more water at Broderson, as it negotiates with water purveyors over who pays for and builds other options.

A more detailed explanation for why the LOSG management plan is needed to ensure sustainable basin planning (i.e., ensure sufficient action is taken within a timeframe that can save the basin) are provided in Appendices K & L of the plan, and the attached synopsis of the appendices.

The LOSG proposes the installation of a pipeline to carry high-nitrate, recycle water to farms, and another line to carry potable water back from ag wells, via ag exchange programs. There may be justification to bring a line for recycled water back as far as the larger, rural-residential properties on the east side of Los Osos (if recycled water can be cost-effectively used for irrigation on these properties). Because Broderson leach fields are not needed, the plan achieves considerable costs savings (for Broderson construction, O&M, pipe installation, and energy costs. It also eliminates Tonini spray fields, instead calling for negotiating ag reuse/exchange contracts beginning a.s.a.p. and developing a variety of storage options (including storage on farms or leased land).

By emphasizing the most effective seawater mitigation strategies (with .55 mitigation factors), a variety of sustainable strategies in an integrated plan, and by building in a margin of safety to mitigate for project impacts—the LOSG plan is more reliable and flexible than the proposed reuse/disposal plan. Also, several LOSG plan strategies can be implemented before project start up, allowing them to be adjusted as needed. Finally, the plan optimizes the beneficial uses of all water sources, enabling a balanced basin at buildout, while minimizing energy use and costs (including stranded assets).

Myth: ***There will be no significant negative impacts to terrestrial and aquatic ecosystems with the removal of septic return flows*** This myth is easily debunked. The DEIR estimates that flows to Willow Creek will drop from about 552 AFY to 35 AFY, a reduction of 517 AFY. Willow Creek feeds Los Osos Valley Creek and the estuary. Obviously, there will be a significant potential negative impact to these aquatic systems (see attached tables from Appendix D-2 of the EIR).

Further, there are 1120 AFY entering septic leach fields in the Prohibition Zone, per the *Fine Screening Report*. The 160 AFY of conservation called for in the currently-proposed reuse/disposal element is not supposed to take full effect until 2020; however, if it went into effect at project start up, the flows would be 960 AFY. Whether 1120 or 960 AFY is eliminated with septic flows, 448 AFY per year is supposed to replace the amount. This means a minimum of 500 AFY less will be discharged below the surface within the Prohibition Zone (i.e., will not be percolating).

Basically, there are two choices for what the decreased flow will affect: 1) the upper aquifer, which is known to recharge the lower aquifers and/or overflow to the bay, or 2) the subsurface upper water-bearing zones, which supply sensitive ecosystems including sensitive terrestrial and aquatic systems within and near the Prohibition Zone. Most likely, the removal of septic systems will affect both—and the DEIR indicates reductions in flows to both (see attached tables from Appendix D-2). Therefore, the EIR indicates removing at least 500 AFY of water from the system will reduce flows; it simply—and without explanation—finds them to have "no impact." (Note that the LOSG provides evidence supporting that reductions in flows will be even greater—see Appendix K of the water management plan).

While County staff (e.g., Mark Hutchinson) have occasionally said the upper zones are overfilled now and the water is being wasted to the bay; any water flowing to the bay is contributing to the freshwater-seawater balance in the littoral zone of the estuary. Therefore, potential negative impacts can be inferred. Further the estuary is protected, so mitigation should err on the side of caution.

The EIR does not deny significant changes will occur within the basin with the project, it just denies significant negative impacts will occur. In a response to an LOSG DEIR comment, the FEIR states,

> "This comment expresses a concern regarding the potential impacts on surface water features. Commentor's estimated volumes are so noted. The identified habitat/ecosystems existed prior to Los Osos community development and were sustained by natural surface water runoff and groundwater discharges. The commentor's statement that reduced groundwater flow from this freshwater component (septic discharges) will cause significant negative impacts is considered speculative" (Response to Comment P47-7, p. 3-826).

In other words, the FEIR is asking readers to believe that the potential negative consequences of radically and rapidly altering a hydrologic balance (equilibrium) established over 30 years is speculative.

In fact, the "no impact" finding is more speculative than a finding of significant potential negative impact, especially when another fact is considered: pumping from the upper aquifer will not revert to predevelopment conditions. Thus, 800 AFY of water will continue to be pumped from the upper aquifer, which overflows to the estuary, with much less water entering the system.

The finding is not reasonable by any standard, and it appears to be a finding of convenience. This is because 1) it is not immediately clear how these potential impacts to surface ecosystems will be mitigated, short of a no-project alternative, and 2) identifying impacts will raise a red flag for agencies charged with protecting the environment. Thus, the EIR avoids the issue with a finding of "no impact."

The LOSG water management plan avoids potential impacts to surface ecosystems in several ways. It maximizes conservation, allowing pumping of the upper aquifer to be significantly reduced (i.e., from 800 AFY to 200 AFY or so, if necessary). This means less water has to enter the system for inflows and outflows to balance. It also calls for LID recharge, including a network of on-site and community systems, strategically placed to support subsurface flows to ecosystems. Finally, it calls for rainwater harvesting and storage, which can distribute collected rainwater over dry periods to support these systems. For instance, a rainwater harvesting tank at the base of Pismo Street near the bay could be used to distribute water to the marsh along 3rd Street year round.

It is important to note that recycled water is not a good source of water for the support of sensitive ecosystems, since it contains emerging contaminants, including endocrine disruptors known to cause abnormalities in marine life.

Myth: ***System costs have been evaluated adequately to make informed decisions*** This is one of the more dangerous myths regarding the current alternative because it can lead to an

unsustainable system faster than most other myths. The following are a few costs not yet sufficiently defined for the "preferred alternative"—which could lead to significant cost increases (over estimates), unforeseen economic impacts (on the community and County), and even work stoppage on the project:

1. A more precise estimate of the cost of installing gravity pipes in high groundwater areas in Los Osos (based on a more detailed review of high groundwater maps). This would include the cost of installing sealed, small-pipe components in these areas and/or sealing the system with fusion or butt welding. The costs should include estimates for sealing the system to an elevation of five feet above sea level along the bay to avoid seawater contamination.
2. The cost of O&M (including the on-going maintenance needed to keep leaks at very low levels to avoid harming ecosystems, as called for in the EIR), as well as the life-cycle costs for a hybrid gravity system, for a 60-year period.
3. The cost of the proposed reuse/disposal element, including more detailed costs for 1) the conservation element (which is now very poorly defined—see DEIR, p. 7-58), 2) the recycled water "trunk" line and/or ag well water lines (with junctions and connections), 3) tertiary treatment (including any additional treatment needed to optimize uses), 4) the Tonini site (including all visual screening and other mitigations) (Note: Tonini is more expensive than previously-reviewed sites, and cost estimates are not likely to included all mitigation, e.g., barns to house facilities.), 5) Broderson leach fields (including mitigations if they do not perform as expected, e.g., seawater mitigation options, dewatering wells, other water sources for sensitive ecosystems downhill), 6) mitigation measures to supply flows to sensitive ecosystems elsewhere in the basin, and 7) future measures to balance the basin—likely to be charged to Prohibition Zone water users. Number seven is necessary to identify potential cost mitigations (e.g., duplicated costs).

The NWRI Report states:

> "Cost estimates should be stated clearly and compared on an equivalent basis with the same degree of variability and specificity. Refined and updated cost estimates are needed for each alternative so that decision makers and stakeholders can make informed judgments" (p. 3).

To adequately compare costs and evaluate the feasibility of the preferred alternative to other options, the following costs for other systems must be analyzed in greater detail than provided in the review so far.

1. The installation/construction costs of sealed, small-pipe collection systems, using an equivalent cost basis, especially in high groundwater and near the bay. (Currently, cost estimates for sealed, small-pipe systems have a 30% contingency and gravity system costs have a 10% contingency).
2. The O&M and life-cycle costs of sealed, small-pipe systems for a 60-year life-cycle, including the repairs and upgrades needed to keep leaks and overflows at very low levels.
3. The cost of the LOSG water management plan relative to current reuse/disposal element, considering future water management costs, in order to make accurate comparisons and avoid unnecessary costs, including duplicated and stranded costs, for Prohibition Zone property owners.

The LOSG recommends that all system costs are determined through a best-value design-build bidding process—and we request that the Planning Commission supports this. It is the only way to identify true costs and potential impacts (as companies may address potential impacts in actual designs). Separate bids should be given for the on-going maintenance of collection systems, needed to keep leaks at very low levels for the life of the system, as well guarantees that insure systems operate without harming ecosystems for the life of the system.

Myth: ***The gravity system alternative is "slightly" environmentally preferred.*** The DEIR, FEIR, and County staff often refer to the "environmentally preferred" or "environmentally superior" alternative (with gravity collection) as "slightly" environmentally preferred or superior.

This indicates that findings can easily change with further analysis, different assumptions and/or changed system parameters. The LOSG points out several ways slight changes in these factors tip the scales toward STEP/STEG (assuming STEP/STEG is not already environmentally superior with a better evaluation of current assumptions and parameters).

The proposed *Development Plan* (p. 21) states, "The key environmental factors cited in the Environmental Impact Report for selecting the gravity system as environmentally superior are the greater flexibility of gravity lateral connections to avoid cultural resources over the larger STEP tank excavation, and the lower level of green house gases generated by the gravity collection system."

If it is assumed STEP/STEG tanks will be placed where existing tanks are (i.e., in locations where cultural resources have already been disturbed), or that cluster systems are possible, (reducing the number of tanks and amount of excavation); then the scales tip toward STEP/STEG. This is supported by the fact experts point out that it is much easier to flex shallow, small-diameter, pressurized pipes around obstacles than large, rigid gravity pipes (see quote from *Water Reuse* by Dr. Tchobanoglous in DEIR comments). Further, if ag reuse is assumed as the method of recycled water disposal rather than leach fields, and it is not necessary to remove nitrates from 100% of STEP effluent via a nitrification-denitrification process; then the scales tip toward STEP/STEG. Nitrification and denitrification are energy- and chemical-intensive processes that produce GHG's, in the processes themselves and during the manufacture of methanol (the assumed carbon source for nitrification). It may be that using one of the other carbon sources would also tip the scales toward STEP/STEG.

The LOSG points out a consistent bias in favor of gravity collection in the review process. One of the most significant is the County's insistence on using Broderson leach fields, as the only disposal option other than spray fields. Broderson leach fields require low-nitrate recycled water—and during the part of the year spray fields aren't used, all recycled water will disposed of at Broderson. This provides the basis for assuming 100% of STEP/STEG effluent has to be nitrified and denitrified—a main reason gravity collection has been found to be "slightly" environmentally preferred. Of course, including ag reuse as an options changes the picture considerably, since recycled water high in nitrates is preferred for ag use. Thus, the scale tips toward STEP/STEG with ag reuse.

Another telling assumption—we believe is unjustified—is that a gravity collection will keep overflows and harmful pollution of ecosystems to levels equivalent to STEP/STEG with "on-going" maintenance. We provide several reasons why this is not likely, and we point out that on-going maintenance was not estimated in the costs of a gravity system.

Myth: ***The benefits of the proposed project justify its expense*** The assessed cost of the project is about $125 million (about $25,000 per single-family residence), and the proposed project (with a gravity system) is estimated to be closer to $200 million by the time it is completed. Homeowners will pay on-lot and O&M costs, raising the estimated monthly bill to over $250 million, and it is not certain whether the reuse/disposal element will be paid for with the assessment, or with added rates and charges, because the County plans to complete it through a separate design-bid-build process.

Per the EIR, average nitrate levels in the upper aquifer—the main focus of the project—are at high drinking water levels right now (i.e., about 10 mg/l) (DEIR, p. 5.2-4). The project is estimated to reduce nitrates by an average of 1.7 mg/l to about 8.3 mg/l, or about 17% (DEIR, p. 5.2-28).

The only study dedicated to assessing the potential benefits of a Los Osos Wastewater Project on groundwater, the Yates and Williams Study in 2003, predicted a possible 20% nitrate reduction over 30 years. The study explains that reductions in nitrates are modest due to the relatively high background nitrates in the basin and the fact recycled water discharged at Broderson will contain nitrate concentrations close to those in the upper aquifer (7 mg/l) (p. 20). It points out that horse ranches contribute more nitrates per acre than residential areas in Los Osos and high-nitrate landscaping practices within the Prohibition Zone contribute substantially to the nitrates, also that local soils enable rainwater to dilute septic nitrates by at least 50% (p. 17). Most telling perhaps, the authors of the study recommend a "major overhaul and recalibration of the model to achieve reasonable confidence in its results" (p. 2).

In the EIR "Groundwater Quality" objective for the project (one of the primary objectives), the EIR acknowledges nitrate contamination in the upper aquifer is only "partially" due to septic systems…" (p. 3-8)

As the LOSG has points out (in our DEIR comments, etc), the proposed project will cause major hydrologic impacts to an overdrafted basin by transporting about 1120 AFY of water out of the basin and bringing about 450 AFY back. Broderson is not guaranteed to fully mitigate for this, so seawater intrusion may increase, while freshwater flows to sensitive surface ecosystems will decrease. The project proposes no mitigations for the potential failure of Broderson to mitigate for seawater intrusion or inadequate subsurface flows.

Referring to the combined effects of the project (i.e., removing septic return flows and implementing the reuse/disposal element) the DEIR states "…water quality impacts associated with the combined project disposal program would be less than significant or beneficial (p. 3-8 & p. 5.2-28). In other words, the project <u>might</u> not hurt the environment and it could benefit it. Thus, the odds, as reported in the EIR, appear to be a little better than even that the proposed project will do more good than harm—despite the fact that over $150 million will be spent on the project.

As the objectives of the EIR clearly show, this project is not driven by groundwater quality, as much as a water board edict (i.e., declaration of a prohibition zone due to elevated nitrate levels in the water). This edict is based on the assumption that nitrates are limiting the beneficial use of the upper aquifer as a drinking source, and the density of septic systems in Los Osos exceed safe limits and/or septic leach fields are too close to ground water. (One study showed some evidence of septic contamination of the bay (coli forms), but recent studies apparently do not.)

Recently, the CPUC approved denitrification of the water pumped from the upper aquifer for drinking; therefore, the beneficial uses of the upper aquifer are no longer limited. Further, a project could replace or upgrade only leach fields that are too close to groundwater, the bay, or that otherwise threaten water quality.

The LOSG recommended a decentralized system to the Board of Supervisors, January 6, 2009, which keeps the best-functioning septic systems in place, replacing or upgrading others, and connecting groups of homes in high groundwater areas and near the bay to cluster collection systems. The plan includes centralized administration, as recommended by the EPA, and a basin-wide nitrate management program. The LOSG believes this plan would likely achieve equivalent nitrate reductions to the proposed project at a fraction of the cost.

The LOSG also recommends higher-cost systems (recognizing the mandates of the water board), including 1) a decentralized system (with all septic systems replaced) and two treatment sites using underground wetlands, in conjunction with our water plan. This is likely the highest-value, most sustainable, system for Los Osos.

A third choice is a centralized collection system, using small-pipe, sealed collection and ponding at a site just outside of the URL (see handouts to Commissioners on April 23, 2009). We recommended a best-value system, determined by a competitive design-build process. The EIR eliminated the decentralized option and the dedicated vacuum and low-pressure systems (with very limited data), and the Board of Supervisors limited the design-build process only to "hybrid" gravity options (with the previous project's 95% gravity plan as the basic design).

We've recommend the decentralized options, dedicated sealed-pipe systems, and green options are put back into the process, with supplemental or subsequent EIRs as needed, for the many reasons we cite in our DEIR comments and submittals to the Planning Commission..

Possibly, the most important reason for our three project recommendation is that they can produce net benefits for the community, the environment, and economy—including the most rapid and significant improvements in groundwater. One way they do this is by establishing a framework for a cost-effective, integrated water management plan the maximizes existing water sources (groundwater for drinking, rainwater for recharge, and recycled water for irrigation), and which also creates cost-effective supplemental water sources (conservation and harvested rainwater) needed to make up the current total basin water deficit and ultimately balance the basin with sea level rises.

As we mentioned in our presentation, an integrated, whole-systems, long-term approach is needed to produce win-win-win solutions. We understand the reality of meeting water board mandates and have attempted to facilitate them by identifying projects whose benefits justify

their expenses—projects that cost-effectively prepare the community for the future, offer flexibility, create green jobs, keep energy use low, and provide overall best-value.

Appendix D-2 of LOWWP DEIR

Table 8 – Current Basin Balance Conditions

COMPONENT OF WATER BUDGET	PERCHED AQUIFER	CREEK VALLEY AQUIFER	UPPER AQUIFER	LOWER AQUIFER
PERCOLATION FROM PRECIPITATION AND IRRIGATION	736	430	1,489	0
SEPTIC RETURN FLOW	631	30	606	0
SUBSURFACE OUTFLOW	0	0	- 1,310	0
SUBSURFACE INFLOW	0	167	112	0
LEAKAGE OR SUBSURFACE CROSS FLOW IN	0	117	788	1,248
LEAKAGE OR SUBSURFACE CROSS FLOW OUT	- 815	- 456	- 882	0
SEAWATER INTRUSION	0	0	0	469
LOS OSOS CREEK INFLOW	0	665	0	0
LOS OSOS CREEK OUTFLOW	0	- 77	0	0
WELL PRODUCTION	0	- 870	-803	-1,717
WARDEN DRAIN	0	- 6	0	0
WILLOW CREEK OUTFLOW AND EVAPOTRANSPIRATION	- 552	0	0	0
AQUIFER INFLOW	**1,367**	**1,409**	**2,995**	**1,717**
AQUIFER OUTFLOW	**- 1,367**	**- 1,409**	**- 2,995**	**- 1,717**

ALL TABLE QUANTITIES ARE IN ACRE-FEET PER YEAR

A comparison of the septic return flow volumes in Tables 8 and 9 shows the reduction in this component in the hydrologic budget that is effectuated by the LOWWP. Roughly half of the recharge from septic system percolation is located over the perching clay layer while the remainder is located over the upper aquifer in areas not confined by the clay layer. As indicated by the reduction in this recharge component (see Table 9) the LOWWP effectively captures over 90 percent of the septage return flows within the Los Osos Basin.

Appendix D-2 of LOWWP DEIR

Table 10 – Viable Project Alternative 2b Basin Balance Conditions

COMPONENT OF WATER BUDGET	PERCHED AQUIFER	CREEK VALLEY AQUIFER	UPPER AQUIFER	LOWER AQUIFER
PERCOLATION FROM PRECIPITATION AND IRRIGATION	736	430	1,489	0
SEPTIC RETURN FLOW	36	30	44	0
SUBSURFACE OUTFLOW	0	0 -141	- 1,169	0
SUBSURFACE INFLOW	0	166	107	0
LEAKAGE OR SUBSURFACE CROSS FLOW IN	0	103	719 -69	1,205
LEAKAGE OR SUBSURFACE CROSS FLOW OUT	- 737	- 455	- 835 -47	0
SEAWATER INTRUSION	0	0	0	352
LOS OSOS CREEK INFLOW	0	665	0	0
LOS OSOS CREEK OUTFLOW	0	- 60	0	0
WELL PRODUCTION (INCLUDES CONSERVATION)	0	- 870	- 803	- 1,557
WARDEN DRAIN	0	- 9	0	0
WILLOW CREEK OUTFLOW AND EVAPOTRANSPIRATION	- 35	0	0	0
BRODERSON INFLOW -517	0	0	448	0
AQUIFER INFLOW	772	1,394	2,807	1,557
AQUIFER OUTFLOW	- 772	- 1,394	- 2,807	- 1,557

ALL TABLE QUANTITIES ARE IN ACRE-FEET PER YEAR

* Note: All of these flow estimates have a relatively high level of uncertainty. The LOSG explains why the two identified with arrows may be substantially less in reality (see EIR comments and water management plan, "Benefits of this plan over recharge at Broderson" and Appendix K)

Analysis of Water Supply Impacts

LOWWP Facilities Construction Impacts

The sewage collection system for each alternative is effectively the same with the exception of sewage pipeline route to the final location of the LOWWP. Each collection system alternative removes septic system effluent discharges from within the prohibition zone. After treatment to a secondary level, the effluent will be conveyed to spray fields proposed for location at the Tonini site and a leach field proposed for location at the Broderson property. During construction of pipelines, pump station, treatment facilities shallow groundwater may be encountered that requires disposal.

Los Osos Sustainability Group comments and requests presented to the SLO Planning Commission, April 23, 2009, by Keith Wimer

My name is Keith Wimer. I'm speaking on behalf of the Los Osos Sustainability Group.

As you know from our EIR comments, we are not happy with the LOWWP review process. We think the EIR has identified one of the least sustainable alternatives as the "environmentally preferred" project. Certainly, it is one of the least affordable.

It is energy intensive, land intensive, water intensive, cost-intensive—and it fails to safeguard the water supply it's meant to protect. In fact, we think it will most likely accelerate seawater intrusion, cut off freshwater flows to sensitive aquatic ecosystems, and pollute the bay. That is—unless your commission and reviewing agencies step in to ensure a safer and more responsible water management plan and a sealed collection system, or sealed collection system components, especially near the estuary.

The LOSG has dedicated considerable time and energy in the effort to move the LOWWP into the 21st Century—submitting EIR scoping recommendations and collection system recommendations (with a number of local environmental groups)—as well as sustainable development criteria and project recommendations—all based on extensive research.

Unfortunately, our group has been marginalized and our message ignored in this process. It is one thing to be given opportunities for input and another for that input to be seriously considered.

Nevertheless, we are persistent—so we are here today to present our sustainable project recommendations—in the sincere belief your Commission will recognize that the County cannot wait for the next project to pursue sustainable development options. The LOWWP is far too important a project, to the sustainability of coastal resources and vitality of the region, to apply 20th Century strategies and priorities.

It must apply an integrated, whole-systems, long-term, 21st Century approach that achieves both water quality and water supply benefits. It must err on the side of caution to preserve a rare, invaluable resource—the natural freshwater Los Osos Valley Water Basin. It must maximize conservation (for at least a 20% reduction in water use per the Governor's 2020 plan)—and it must address climate change uncertainties.

These are just a few of the critical requirements of a 21st Century wastewater project.

Some people have claimed the LOSG is obstructionist for criticizing the County process and the preferred project—in fact, we have attempted at every step to facilitate a project by providing sustainable solutions—solutions that are more affordable than the recommended alternative.

We have also cited government agencies, respected authorities, organizations, laws, and research in support of our recommendations—in fact, we have cited more of them than Carollo Engineers, Brandman Associates, and the County have cited for their recommendations.

Therefore—we are requesting that your Commission conditions EIR certification and approval of the Coastal Development Permit on the inclusion of our recommendations.

I'll go over them briefly. The material I've handed out provides more detail and support.

First, we recommend that Phase I of our water plan entitled "Achieving a Sustainable Los Osos Valley Water Basin" is implemented with the project in lieu of the current reuse/disposal element. Phase I alleviates the need for both Tonini spray fields and Broderson leach fields by maximizing water use efficiency, through an integrated indoor and outdoor conservation program, using green and appropriate technologies. It also calls for LID recharge, and developing ag reuse and ag exchange options beginning immediately, so all recycled water—a valuable resource—can be used beneficially at project start up.

We believe both Tonini spray fields and Broderson leach fields will be stranded assets, as both will be abandoned in the future. *Farmers will want all the recycled water the project generates, and leachfields are not an efficient use of recycled water. Why discharge recycled water in leach fields with a 22% estimated benefit on seawater intrusion, when both conservation and ag exchange produce a 55% estimated benefit, two and one-half times as much?*

Our plan calls for 25% indoor water use reduction, twice as much as called for in the proposed plan. This is consistent with current state and federal initiatives, so the plan positions the County and community well for grant funding. By also avoiding duplicated costs and the costs for Broderson and Tonini, it has the potential for significant project cost reductions.

Further, as Mr. Ogren pointed out, conservation has a direct relationship to the project. In fact, it provides the most efficient and cost-effective mitigation for seawater intrusion of the options available. Thus, the County can implement conservation with this project under AB 2701. *A 20% conservation program was implemented before the prior project, funded with a grant (I believe) from the state water board.* Also, by implementing the plan, the County will positively affect the ISJ basin planning process toward a sustainable basin.

The many benefits of the plan are listed in the plan, the Plan Overview and the summary of win-win-win benefits I provide.

Second, we recommend that the project has a sealed collection system, such as STEP/STEG, vacuum, or low pressure—or a combination of vacuum and low-pressure. We provide evidence for why these are substantially less expensive and more environmentally sound than conventional gravity systems, in conditions like those in Los Osos (hilly terrain, high groundwater, and proximity to surface waters). **We request you require a supplemental or subsequent EIR, if necessary, that more fairly and thoroughly evaluates these alternatives, and we request that you require them to be included in the design-build process.** As you know, the Board of Supervisors eliminated STEP/STEG from the process. We are requesting that you recommended

STEP/STEG is put back into that process, so firms have a chance to address potential environmental impacts with actual designs and the public can see real costs. Real competition is the best chance for affordability. A survey should be sent out to measure public opinion after design-build bids are in.

We also request you condition EIR certification and Development Permit approval on a thorough review of the on-going collection system maintenance needed to keep leaks and overflows to a minimum. We provide evidence that cost estimates for the gravity system alternative did not include on-going maintenance to keep leaks at low levels, although such maintenance is assumed in the EIR to prevent harm to ecosystems.

To arrive at true maintenance and life-cycle costs, we also request you recommend that the design-build bids include on-going maintenance contracts for the life of the system (at least 60 years), designed to keep leaks and overflows to very low levels, and that companies provide guarantees systems will perform without harming ecosystems.

If a gravity system is selected, we request that you require it is sealed with a low pressure or vacuum component in high groundwater areas and near the bay. This will help prevent overflows and pollution of the bay, as well as seawater contamination of the wastewater. It will also alleviate the need for pump stations and manholes near the bay, reducing construction impacts and the potential for harmful overflows.

We recommend that the population estimate used for sizing the wastewater system is re-evaluated. We provide evidence the current and buildout population figures, along with system sizing, is overestated by as much as 20%. This can lead to poor system performance, growth inducement, and a vicious cycle of resource depletion—and it's not justified under Proposition 218 requirements. By maximizing conservation, as we propose, the system can be appropriately sized at a cost savings.

We recommend that a decentralize system, with two treatment sites in town, is seriously reconsidered as an option. The Lombardo Associates, Scenario 2, in the Decentralized TM, which uses underground wetland treatment, will significantly reduce energy use, pipeline costs, and impacts on farmland. When underground wetlands are landscaped with native vegetation, they provide attractive community spaces, passive

recreation, and opportunities to restore degraded habitat. The public rejected the prior project largely due to costs and placement of a large industrial structure (the MBR treatment facility) in the middle of town. The public had earlier supported the ponding/wetlands treatment planned for the site.

If centralized treatment is selected, we recommend a facultative pond treatment system. It is energy-efficient, low cost, low maintenance, and reduces sludge handling to once every 20 years or so.

We also think more alternatives for the recycling of system by products, reducing fossil fuel use and the project's carbon foot print should be analyzed, including solar and wind generation and its use for system operation, along with carbon sequestering, and bio-solids recycling

These are our basic recommendations. A few others are listed in the summaries of project recommendations. More detail and supporting information is provided in our handouts, and we can provide more detailed recommendations and research from our earlier presentations, at your request.

(Just a brief explanation of why the LOSG water management plan can be implemented immediately—without further studies or water-use data: The plan is designed to be adaptable as water auditors provide feedback from the field to the plan administrator. This allows for strategies to be adjusted to maximize water-use savings and allocated funding.)

Thank you.

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Department of Planning and Building
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408

RE: Los Osos Wastewater Project Development Plan / Coastal Development Permit
County File Number: DRC2008-00103

April 29, 2009

Dear Planning Commissioners,

As you may acknowledge, the LOWWP EIR contains a very limited alternative analyses. Most glaring is the single disposal scheme that includes sprayfields and subsurface disposal at Broderson. There are four variations on what are really only two treatment site locations. The preferred project (Tonini Ranch) is entirely outside the Los Osos Groundwater basin as will be two-thirds of the treated effluent to be disposed of in sprayfields.

The Coastal Act, through our certified LCP and the Government Code, pursuant to the Williamson Act, require not only a good job of alternatives analysis, but an exhaustive study be completed. One that can support a finding of "No (reasonably) Feasible Alternative" for use of the Tonini property which is an ag preserve.

Thank you for your interest in the community of Los Osos and the proposed wastewater project. Your questions of staff at the hearing were excellent and I would like to expand upon the discussion of effluent disposal options.

Effluent disposal should be considered in a seasonal context. Summertime deployment of treated effluent in an Ag in-lieu disposal scenario would work in concert with disposal into, or percolation ponds adjacent to, Los Osos Creek where the lower basin is exposed during dry weather. A creek discharge of treated effluent would likely have a high seawater intrusion mitigation factor given the unique hydrogeologic characteristics of the lower groundwater basin. Wintertime disposal would be at the Broderson site using gravity/dry wells. Please see attached work plan (Attachment 1) and photographs (Attachment 1A) of construction by the County analyzing these wells as an alternative to rapid infiltration ponds proposed in 1997. These wells would be used instead of the leachfields proposed in the preferred project.

A key distinction relates to the use of the words "Ag-Exchange and Ag In-lieu". Ag-Exchange is a relationship where farmers receive treated effluent and they provide fresh water supplies from their wells in exchange. Given the uncertain water quality underlying agricultural uses an in-lieu program appears more desirable. An ag in-lieu program would provide treated effluent to farmers in consideration of farmers not pumping their wells overlying the Los Osos groundwater basin.

As for urban reuse, the most viable opportunity to receive treated effluent is the Sea Pines Golf Resort with the ability to use some 100,000 gallons per day on the golf course during dry weather. Other locations, including schools and the cemetery are politically charged related to children playing on turf areas and mourners on their knees at the cemetery. As a practical matter there is limited turf area in the community available for use of treated effluent. With regard to individual residences, the exterior water use in Los Osos is only 30 percent of daily water use and with drought tolerant landscaping, exterior water use will likely be reduced further in the future. The cost benefit analysis of providing purple pipe to all homes in the community is simply not justified.

I would like to reiterate my recommendation for a co-equal analysis of the Gorby site. Disadvantages presented in the DEIR and FEIR are generally misplaced or under-evaluated. The following addresses the various issues surrounding Gorby.

* **Viewshed**-limited public view from LOVR.
* **Receptors**-low density residential receptors upwind only.
* **Seismic**-geologist used a 'broad brush' approach discounting all sites south of LOVR. (See attachment 2A and 2B).
* **Floodplain**-this is an advantage due to the strategic location of the surfacing aquifer in the creek. At the creek bottom. (i.e. Zones D and possibly E).
* **Unwilling Seller**-there is a Higher Calling for the land given the needs of the community to manage the groundwater basin. Also, the horse ranch has been in operation for 40 years and a change in use would be timely.

Please note that the Gorby site is already developed, impacts to biology, archeology, and prime ag (6 acres) are impacts already realized. The use of the Gorby site in a redevelopment scenario for a wastewater treatment facility and treated effluent distribution hub is the highest and best use of the site all things considered. Please see project location map attached (Attachment 3), the Gorby site represents a "small footprint" project with associated cost savings.

Recommendations:

Direct applicant to go back and advance a project that does the following:

1. Treat raw wastewater to tertiary levels and allow for variations in nitrogen removal. Wintertime removal of nitrogen for Broderson disposal. Summertime removal of almost all nitrogen for creek disposal. Retain nitrogen in treated effluent for use in Ag In-lieu program.

2. Retain treated effluent within the Los Osos Groundwater Basin for beneficial uses.

3. Include with LOWWP construction of all necessary infrastructure that will deploy treated effluent for beneficial uses.

4. Negotiate or facilitate Ag In-Lieu and Urban Reuse contracts with property owners.

5. Fully address the 469 acre-feet per year of deficiency in the lower basin presently being displaced by seawater intrusion.

6. Complete Creek Compartment Study (Task II) and consider implications when reviewing treatment site and effluent disposal options, especially in the summertime.

7. Review use of Gravity/Dry wells at Broderson instead of leachfields.

8. Given tertiary treatment, evaluate the possibilities of a direct creek discharge in the summertime when Los Osos Creek is dry. While surface water discharges are often discouraged, the unique hydrogeologic relationship of Los Osos Creek, the Creek Compartment, and Zones D and possibly E of the lower basin presents a unique set of conditions and opportunities for summertime effluent disposal.

9. Perform additional environmental review as needed to address the above items.

If the County is sincere about moving the project along quickly, they will consider changes now or ultimately risk losing even more time.

I appreciate your continued interest and consideration with regard to the project; I will be available for questions from Commissioners at the April 30, 2009 continued hearing.

Sincerely,

Jeff Edwards

Attachments

Metcalf & Eddy
An Air & Water Technologies Company

018757.0002.012

June 4, 1997

George Gibson
San Luis Obispo County Engineering Department
County Government Center, Room 207
San Luis Obispo, California 93408

Subject: Los Osos Wastewater Project
Shallow Well Work Plan

Dear Mr. Gibson:

Four copies of the final work plan are enclosed for your files and submittal to the Regional Water Quality Control Board and State of California Department of Health Services.

The schedule has been revised to reflect the anticipated start of the drilling operation on June 16, 1997. I learned today from Chris Clark that we should receive authorization to begin the drilling operations within the next 3 or 4 working days. Please note that the anticipated date for issuing a summary report is July 25, 1997.

Please call if you have any questions.

Sincerely,

Matt A. Tebbetts, P.E.
Associate
Metcalf & Eddy, Inc.

MAT:cw
Enclosures

cc: Chuck Pound
Ron Lubke

RECEIVED
JUN 05 1997
COUNTY ENGINEERING DEPARTMENT

018757J.152

Work Plan

Evaluation of Effluent Disposal by Shallow Wells at the Proposed Broderson Recharge Site Los Osos, California

Submitted to:

County of San Luis Obispo
Engineering Department

Submitted by:

Metcalf & Eddy, Inc.

May 30, 1997

Table of Contents

SECTION ONE ● INTRODUCTION 1

SECTION TWO ● PURPOSE & SCOPE 2

SECTION THREE ● DESCRIPTION OF THE STUDY AREA 4

SECTION FOUR ● APPROACH
- 4.1 Conceptual Approach 6
- 4.2 Shallow Well Installation 7
- 4.3 Neutron Probe Access Tube Installation 7
- 4.4 Pilot Test 8

SECTION FIVE ● SCHEDULE 9

List of Figures

FIGURE 1 ● LOCATION MAP 10
FIGURE 2 ● BRODERSON SITE MAP 11
FIGURE 3 ● SHALLOW WELL SCHEMATIC 12

Section One

INTRODUCTION

The history of the Los Osos wastewater project dates back to Regional Water Quality Control Board (RWQCB) findings of increased nitrates in the groundwater in the area that subsequently led to the prohibition against individual wastewater discharges in 1988. Preliminary engineering investigations and associated Environmental Impact Report (EIR) studies performed for the County of San Louis Obispo included recommendations that wastewater treatment plant effluent be disposed of by recharging into the ground at the Broderson site, with a fraction of the effluent discharged into Los Osos Creek during the dry season. These recommendations were supported by the July 1995 Metcalf & Eddy (M&E) Los Osos Wastewater Study Task G - Report on Detailed Evaluation Alternatives. There were, however, unresolved questions associated with the Broderson site and its suitability for disposing of all of the treated wastewater effluent. The questions centered around two issues: appropriate infiltration rates for design and the adverse effects on potential liquefaction. In the Fall of 1995, an investigation was performed by M&E to answer those questions prior to any work starting on the design of the wastewater project.

The evaluation, presented in our February 26, 1996 report entitled "Hydrogeologic Evaluation of the Proposed Broderson Recharge Site, Los Osos, California" centered around data developed from pilot scale infiltration basin tests at the site, as well as basin-wide numerical modeling.

A design infiltration rate of 2 ft/day was determined for recharge operations at the site. The design rate took into consideration variations in the hydraulic properties of an estimated predominantly sandy sequence of sediments through which the applied wastewater must percolate in order to reach the water table. Localized subsurface conditions having a potential for perching infiltrates were anticipated, but were not expected to be of sufficient magnitude within the site to prevent deep percolation to the groundwater table.

The County of San Luis Obispo has approved a new wastewater project for the Los Osos Community that includes the installation of a new collection and treatment system. Treated wastewater would be discharged into rapid infiltration basins or shallow wells located on the Broderson property.

M&E has been retained by the County of San Luis Obispo to further investigate the hydrogeology of the Broderson property, specifically as it relates to the potential discharge of treated wastewater effluent through shallow wells.

Section Two

PURPOSE & SCOPE

This study is designed to collect site specific hydrogeological data at the Broderson site and its vicinity in sufficient detail to predict infiltration capacity as well as the pathway and ultimate fate of wastewater effluent discharged through shallow wells. Information obtained during this field investigation will assist the San Luis Obispo County Engineering Department in determining the feasibility of locating recharge wells at the site as an alternative to the use of infiltration basins: the development of design criteria for the sizing, layout, and operation of shallow wells for effluent discharge and evaluation of impacts on populated off-site areas downgradient of the site.

Broadly, the scope of this study comprises the design, installation, and operation of two, large diameter effluent shallow wells at the Broderson site for a pilot period of about two weeks. In addition, the soil profile will be monitored for changes in moisture content to depths up to 120 feet during the test. Specifically, the scope comprises the following elements:

- Design of the test and preparation of this work plan.
- Drilling and installation of two, 5-foot diameter, 55-foot deep shallow wells.
- Drilling and installation of four, 120-foot deep neutron probe access tubes (two at each shallow well).
- Conductance and monitoring of a 14-day infiltration test at each shallow well, utilizing nearby domestic and/or hydrant water sources at a rate of approximately 75 gallons per minute (gpm) per source.
- Regular monitoring of subsurface moisture conditions by neutron moderation techniques for the duration of the tests.
- Interpretation and reporting of results.

Five-foot diameter shallow wells have been selected for the shallow wells test because they are relatively inexpensive to install and operate. The test data will be used to evaluate dry well and injection (pressure) well installation and operation.

The special requirements for the well study are as follows:

- The study shall be completed in 60 days.
- The pilot test wells will be a minimum of 100 feet and the monitoring points will be a minimum of 50 feet away from private residential lot lines.
- Drilling and testing activities shall be in accordance with site access and operating techniques worked out with regulatory agencies to limit impacts to biological resources.

Section Three

DESCRIPTION OF THE STUDY AREA

The Los Osos Valley is a relatively small valley on the coast of central California. The valley is triangular, with a base that coincides with the coastline and its apex about seven miles inland. The valley floor decreases in width from about four miles at the coast to about 0.4 miles at the apex. The valley floor is generally flat, however, some relief exists due to relict sand dunes, a fluvial flood plain, and a broad erosional terrace (Yates & Wiese, 1988).

Los Osos Valley is bounded on the north by Park Ridge, the crest of which reaches an altitude of 1,409 feet above seal level. The valley is bounded on the south by the Irish Hills, which reach an altitude of about 1,400 feet. Morro Bay occupies the downstream end (western end) of the valley. It is separated from the ocean by a sandspit of about four miles long and 1,000 to 2,000 feet wide. A narrow inlet connects the bay and the ocean at the northern end of the spit. The inland end of the valley is defined by a broad drainage divide separating Los Osos Valley from the San Luis Valley to the east.

The population of Los Osos Valley increased from 3,485 in 1970 to 14,660 in 1985 (Yates & Wiese, 1988). Residential development is concentrated in the western part of the valley, in the unincorporated community of Los Osos. Land use in the eastern part of the valley is primarily agricultural or undeveloped.

The Broderson site occupies approximately 40 acres just south of Highland Drive as shown in Figure 1. At the site, the land slopes to the north from a maximum elevation of approximately 340 feet above mean seal level (msl) to approximately 200 feet above msl along its northern boundary. The site is currently undeveloped and largely covered with scrub-vegetation in its lower half with the upper half occupied by chaparral type vegetation that includes stands of Morro Manzanita, a federal listed threatened species that constrained site access during the Fall 1995 investigation. Soils throughout the site area are classified as Baywood find sand, a very deep, somewhat excessively drained sandy soil derived from stabilized dune deposits (Soil Conservation Service, 1983).

The Los Osos Valley groundwater basin is a relatively small, shallow basin, about 9 square miles in area, occupying the central and western parts of the Los Osos Valley. Sea floor acoustic reflection data and gravity data suggest that the valley may continue off-shore about another 5 miles with a width of at least 6 miles (Wagner, 1974; Burch and others, 1968). The basin

comprises unconsolidated sediments which are underlain by the relatively impermeable basement rocks of the Franciscan Complex and the Pliocene Miguelito Member of the Pismo Formation. The occurrence and movement of water in the Los Osos Valley groundwater basin are generally complex.

In general, groundwater in the study area moves downward from sources of recharge at the land surface and then flows horizontally to wells and to the ocean. Smaller amounts enter the basin as underflow from surrounding areas and leave the basin as seepage to streams or phreatophyte transpiration. With several isolated exceptions, fine-grained beds and layers in the basin fill are laterally discontinuous and do not separate the basin into well-defined aquifers and confining beds. Instead, the beds impede but do not entirely block vertical groundwater flow. The overall effect of numerous local confining beds is equivalent to that of an aquifer system which is homogeneous but has vertically anisotropic hydraulic conductivity (USGS, 1988).

Groundwater flow occurs primarily in the Paso Robles and Careaga Formations. Although the basement rocks of the Franciscan Complex and the Miguelito Member of the Pismo Formation are fractured and may allow inflow of some groundwater from areas south of the basin. The windblown sand deposits are permeable but are largely unsaturated. They play an important role in recharge processes, but are not a major source of groundwater supplies in the basin.

Section Four

APPROACH

4.1 Conceptual Approach

Broadly, this study aims to augment past work by demonstrating, over a two-week time period that subsurface materials at the Broderson site will accept and transmit water at a rate and volume representative of actual needs without creating public hazards, such as "day lighting" water or conditions conducive to liquification. Supplementing our prior work, this study attempts to demonstrate that vertical and downward flow of reclaimed water will dominate at the site and that horizontal flow components, which could be detrimental to the goals of the program and the community, will be minimal.

To demonstrate these characteristics, and gain data for future design efforts, M&E will install and operate two, 5-foot diameter shallow wells that are between 40 and 55 feet deep at the site. As indicated, the pilot infiltration flow will be approximately 75 gpm at both points and discharge rates and flow geometries will be estimated in the subsurface materials by use of a neutron probe which indirectly measures moisture changes.

Previous exploration at the site revealed the existence of a zone of potentially lower permeability at about 35 feet below ground surface (bgs). An important goal of this study is to evaluate how this zone influences recharge efforts. Toward this goal, the pilot shallow wells will be installed to about 40 and 55 feet bgs. Such a configuration should allow discharge both above and below this zone to be contrasted. The placement of these pilot shallow wells has been developed to provide additional site information regarding the lower permeability strata observed at the previous test sites.

The neutron probe access tubes will be strategically placed radially out from the pilot shallow wells at down slope locations (to the north) so that the anisotropic effects of horizontal water flow versus vertical can be charted.

Neutron moisture logging, also known as neutron moderation technique, uses fast neutrons emitted from an Americium 241/Beryllium source which pass into the test material where they collide elastically with atoms. The detector is responsive to slow or thermalized neutrons only. The mass of most elements greatly exceeds the mass of fast neutrons so that these collisions result in little measurable loss of momentum from the fast neutron. It takes hundreds of such