

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Martha Goldin

Mailing Address: P.O. Box 6007

City: Los Osos

Zip Code: 93412-6007

Phone: 805-528-0987

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County Board of Supervisors

2. Brief description of development being appealed:

Los Osos Waste Water Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

LOWWP: Prohibition Zone collection to Giacomazi Property (adjacent to cemetery) for treatment.

4. Description of decision being appealed (check one.):

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

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

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OCT 19 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-510-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

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

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

6. Date of local government's decision: 9-29-09

7. Local government's file number (if any): DRC2008-00103

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

San Luis Obispo County
976 Osos Street
Room 300
San Luis Obispo, Ca. 93408

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

(1)

(2)

(3)

(4)

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

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

I'm appealing the Board's final CDP, but the Planning Commission also failed to add a condition for a Basin-wide plan.

Seawater intrusion in the Los Osos Valley Water Basin appears to be accelerating and the viability of the Los Osos Wastewater Project depends on a viable water basin which will require a basin wide management plan, the only effective means of controlling advancing seawater intrusion.
LCP Coastal Watershed Policy #5

A basin wide building moratorium must be in place in order to prevent additional pumping of groundwater until seawater intrusion is stopped or until aggressive benchmarks in reducing the pumping causing seawater intrusion are achieved. This is necessary for orderly coastal development.

CZLUO 23.04.430

LCP Coastal Watershed Policy #1

LCP Coastal Watershed Policy #3

CZLOU 23.01.010

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SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: 10-19-09

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date: _____

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Reason for Appeal

As the following LCP policy states, a basin-wide water management program is needed to protect Los Osos groundwater resources and it is particularly important now. Seawater intrusion in the Los Osos Valley Water Basin appears to be accelerating and the viability of the Los Osos Wastewater Project depends on a viable water basin. The requirement for a basin-wide management plan to stop seawater intrusion within the near future should be made a condition of the LOWWP Coastal Development Permit.

LCP Coastal Watershed Policy #5: "Los Osos Groundwater Management"

The county Planning and Engineering Departments should work with communities, property owners and the Regional Water Quality Control Board to develop and implement a basin-wide water management program for the Los Osos groundwater basin which addresses:

- existing and potential agricultural demand
- urban expansion in relation to water availability
- groundwater quality
- possible need for alternative liquid waste disposal
- protection of aquatic habitats including coastal waters, streams and wetlands.

The Resource Management System of the Land Use Element provides a framework for implementing this policy and an interim alert process for timely identification of potential resource deficiencies, so that sufficient lead time is allowed for correcting or avoiding a problem."

Only a basin-wide water management plan will be effective in controlling seawater intrusion. Water purveyors control less than two thirds of the water in the basin. Therefore, a basin management plan developed through the water purveyor adjudicated cooperative process (referred to as an interlocutory stipulated judgment, or ISJ) cannot solve the seawater intrusion problem. Private well use (residential and farm use) accounts for the other one-third or so (although this usage is not well documented), and private use must be managed as a part of a comprehensive plan also.

An effective plan must include provisions for on-going seawater intrusion assessment, as called for in the 2007 County *Resource Capacity Study*, monitoring all water use within the basin, including private well use (as provided for in the LDP Policy 5), and placing a building moratorium basin wide until seawater intrusion has stopped (or aggressive benchmarks in reducing the pumping causing seawater intrusion are achieved, e.g., 900 AFY). It should also be implemented with a basin-wide ordinance with the expressed goal of stopping seawater intrusion and call for an intensive, integrated conservation program that integrates LID to achieve multiple water quality and supply benefits.

The Coastal Zone Land Use Ordinance section and LCP policies (below) provides for stopping building until the basin is balanced and seawater intrusion stops, as well as on going monitoring of wells.

CZLUO 23.04.430: "Availability of water supply and sewage disposal services.

A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is

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adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section.

LCP Coastal Watershed Policy #1: "Preservation of Groundwater Basins"

"The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted."

LCP Coastal Watershed Policy #3: "Monitoring of Resources"

In basins where extractions are approaching groundwater limitations, the county shall require applicants to install monitoring devices and participate in water monitoring management programs.

The LCP (*Coastal Plan Policies*) states "In the critical groundwater basins, management programs must be completed" (9-8) (emphasis added). The Level II of Severity resource deficiency declared in 1992 and the above LCP policies, in place since 1995, have given ample time for these critical management measures to be implemented. Thorough resource assessment and monitoring—along with a basin-wide management program—are essential to basin sustainability, the viability of the project, and orderly coastal zone development. The promotion of orderly development is a key purpose of the CZLOU: "To regulate land use in a manner that will encourage and support the orderly development and beneficial use of lands within the county..." [(Section 23.01.010 "Title and purpose" (4)].

A County administered plan is needed partly because purveyors have shown they will not support an intensive water use efficiency program. Although water use efficiency is the fastest, surest, and most cost-effective way to curb seawater intrusion, it can also reduce revenue for purveyors in the short term. Past purveyor agreements have failed to produce a strong cooperative program, and a letter submitted to the Planning Commission by a local water purveyor confirms the company's reluctance to pursue strong conservation measures.

Condition 34, a condition set on the prior Los Osos project by the Coastal Commission, requires a "comprehensive water management plan for the Los Osos Groundwater basin that identifies management strategies for achieving a sustainable water supply." The SLO County Board of Supervisors added a reference to Condition 34 to Development Permit Condition 86, which is designed to avoid "growth that cannot be sustained by available water supplies." However, Supervisor Gibson (Board Chair) made it clear at the September 29, 2009, LOWWP appeal hearing he considers the "comprehensive" plan to be developed by water purveyor within the ISJ process, and he said any moratorium on building would be limited to new development within the Prohibition Zone.

Condition 86, with the reference to Condition 34, does not go far enough to ensure an effective basin-wide effort to stop seawater intrusion. A basin-wide comprehensive plan with specific requirements and objectives is needed to help ensure seawater intrusion stops, the project is viable, and the area has ample sustainable water supplies to protect, maintain, and restore where possible, vital coastal resources.

Attachment #2**Sample language for a basin-wide management plan ordinance to stop seawater intrusion (SWI) within two years of LOWWP final approval (Draft)****Purpose/Objective:**

The purpose of the ordinance is to stop SWI intrusion in the Los Osos Valley Water Basin within two years of start up of the Los Osos Wastewater Project. SWI is rapidly destroying the freshwater Los Osos Valley Water Basin. It has progressed through at least one-third of the available freshwater capacity of the basin since the 1970's, permanently destroying much of the freshwater in the basin for beneficial uses. Recent data indicates it is apparently accelerating and the basin grown less stable. The sustainability of the sole source of water for the community of Los Osos and overlying farms and properties is in jeopardy without immediate and aggressive action.

The basin provides freshwater to highly valued ecosystems in the area, including Morro Bay Estuary, and it is the sole source of water for the community of Los Osos and farms overlying the basin. Desalinated and imported alternative water sources are economically and technically infeasible for the community for a number of reasons. Furthermore, predicted sea level rises (five feet in this century) will add SWI pressure to the basin, requiring that aquifer levels are brought up to match sea levels (i.e., five feet above the levels needed to prevent SWI; in some areas 15 feet or more). Finally, the Los Osos Valley Water Basin is a relatively small coastal basin. Therefore, urgent action is required to 1) stop the progress of SWI and preserve as much of the basin as possible 2) to prepare the uncertainties of climate change, e.g., sea level rises and changing weather patterns.

Provisions:

1. All pumping contributing to SWI will stop within two years of final approval of enactment of this ordinance, and water levels in aquifers vulnerable to SWI will be allowed to rise to levels needed to prevent SWI with sea level rises. This will require reducing the pumping from wells tapping the lower aquifers in the Western Compartment of the Los Osos Valley Water Basin (LOVWB) by about 900 AFY. The approximately 900 AFY of reduced pumping will be replaced by the following water sources:

An water-use efficiency program integrating LID, graywater reuse, and rainwater harvesting strategies—550 -700 AFY

Increased pumping of the upper aquifer and creek alluvium—200-350 AFY

2. Conservative safe yield estimates protective of the finite resource will be used for all water sources (e.g., upper aquifer, lower aquifer, and creek alluvium) to avoid harm to these resources, restore them where necessary, and ensure their long-term viability.
3. Because water use efficiency (conservation) provides the most cost effective source of supplemental or "new water" and reduces lower aquifer pumping, indoor and outdoor conservation programs will be implemented within one year of the enactment of this ordinance to achieve at least 550 AFY of reduced pumping from the Western Compartment within two years of LOWWP project approval enactment of the ordinance. The conservation program will have the following general components/provisions:

- A program to retrofit homes, commercial buildings and public facilities with high-efficiency water saving fixtures and appliances (and to stop leaks as needed) in all homes, commercial and public buildings using the basin as a water source, targeting an average 25% reduction in indoor water use basin wide.
 - A program to install xeriscape measures and other measures and devices (e.g., rainwater harvesting and graywater reuse systems) to reduce outdoor potable water use an average of 50% basin wide among non-farm users. (Potable water-use reduction on farms will be set at appropriate achievable levels.)
 - Total indoor and outdoor potable water use targets shall be set at 60 gallons per capita per day (gpcd) for residential use monitored monthly by meter (with water use levels set for commercial and institutional that achieve at least a 33% reduction where feasible).
 - Homes and private wells without meters shall have meters installed.
 - Adequate retrofit options, and appropriate incentives and consequences will be included in the ordinance to ensure compliance and to meet water use targets within one year of the LOWWP start up.
4. Urban reuse and ag exchange programs shall be implemented to reduce the pumping of the aquifers by supplying a supplemental water source for outdoor urban and agricultural uses. The ag exchange program will provide supplemental water in the form of well water from portions of the basin (Creek Compartment) not currently affected by SWI, also allowing a net reduction in the water pumped from those parts of the basin (because less well water is pumped than recycled water exchanged). Both programs will be developed concurrent with LOWWP development, so they can be implemented at start up of the LOWWP to provide at least 350 AFY of reduced pumping from the Western Compartment within one year of project start up.
 5. On-going seawater intrusion monitoring and assessment will be part of a program to managed the basin, measure progress toward goals and benchmarks, and ensure the sustainability of the resource.
 6. To preserve the health of aquatic ecosystems dependent upon the basin at pre-LOWWP levels an LID program shall be implemented using on-site and community recharge/infiltration systems to support freshwater subsurface flows to aquatic ecosystems. Highly treated recycled water may also be used as a secondary source of water, where safe and appropriate, to supply flows to sensitive aquatic ecosystems.
 7. No further development within the basin shall be allowed until SWI stops (or until 900 AFY of reduced pumping occurs in the lower aquifers of the Western Compartment).
 8. All applicable grants, rebates, and low cost funding options shall be sought and used to reduce costs for property owners and water purveyors.
 9. All costs to property owners not covered by the options in #7 shall be funded by available means, including assessments, to ensure timely implementation of the plan.
 10. All costs shall be shared basin-wide according to SWI mitigation and/or other appropriate benefits.