

CALIFORNIA COASTAL COMMISSION

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August 28, 2015

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Re: Basin Plan for the Los Osos Groundwater Basin (January 2015) – Interlocutory Stipulated Judgement (“ISJ”)

Dear ISJ Parties:

In anticipation of the upcoming Superior Court hearing on a proposed interlocutory stipulated judgment that we understand would involve judicial approval of a proposed Basin Plan for the Los Osos Groundwater Basin (the “Basin”), we are writing to highlight the relationship between the requirements of any such plan and the regulatory requirements of the California Coastal Act and San Luis Obispo County’s Local Coastal Program.

The California Coastal Act was enacted by the State Legislature in 1976 to provide long-term protection of California’s 1,100-mile coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation and development of coastal resources. The California Coastal Commission (“Commission”) is the state agency created by and charged with administering the Coastal Act of 1976. In making its permit and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other goals, seek to protect and restore

sensitive habitats, marine resources, and the biological productivity of coastal waters; prevent depletion of groundwater supplies, maintain water quality, and encourage wastewater reclamation; protect natural landforms; protect scenic landscapes and public views; and provide maximum public access to and along the coast.

As the Los Osos Groundwater Basin (as well as the community of Los Osos) is located entirely within the Coastal Zone, development within the Basin (or otherwise within Los Osos that affects the Basin) is subject to the requirements of the Coastal Act and San Luis Obispo County's Local Coastal Program ("LCP"), including the LCP's Estero Area Plan. Commission staff submitted public review comments to San Luis Obispo County planning staff on the proposed Basin Plan for the Los Osos Groundwater Basin ("Basin Plan") and has remained involved as the Basin Plan has developed. We are generally supportive of the Parties' efforts to develop a Basin Plan as a framework for the allocation and management of water resources within the Basin; however we understand and share the concerns of the Parties and the community regarding the effectiveness of the Basin Plan (once implemented) to protect coastal resources, including with respect to protecting water quality and ensuring adequate water quantity, as well as protecting against seawater intrusion.

Critical to the ISJ Parties, the ISJ itself, and the proposed Basin Plan, it is important to note that the Coastal Commission approved Coastal Development Permit ("CDP") No. A-3-SLO-09-055/069 on June 11, 2010, to authorize the construction and operation of the Los Osos community sewer system, subject to terms and conditions directly related to water management within the Basin. In particular, Special Condition 5 of that CDP required the County to develop and implement a Basin Recycled Water Management Plan (not to be confused with the proposed subject Basin Plan, although there is some obvious overlap) designed to maximize the long-term health and sustainability of ground and surface waters and related resources (including wetlands, streams, creeks, lakes, riparian corridors, marshes, etc.), including by offsetting seawater intrusion as much as possible, within the Los Osos Groundwater Basin. That Basin Recycled Water Management Plan was approved in 2012, and is currently being implemented. Further, Special Condition 6 of CDP No. A-3-SLO-09-055/069 requires that wastewater service to undeveloped properties within the service area shall be prohibited unless and until the LCP's Estero Area Plan is amended to identify appropriate and sustainable buildout limits, and any appropriate mechanisms to stay within such limits, based on conclusive evidence indicating that adequate water is available to support such development of such properties without adverse impacts to ground and surface waters, including wetlands and all related habitats. The County is currently developing its Estero Area Plan update, but it is not yet complete.

We are writing to make clear our position that any actions that constitute "development" (as defined in the Coastal Act or the LCP) taken to implement the Basin Plan are subject to Coastal Act/LCP requirements and that any court-approved Basin Plan/stipulated judgment in the pending litigation cannot relieve the parties subject to the stipulated judgment of the requirement to comply with the Coastal Act, the LCP, or the requirements of existing and future CDPs (for example, Special Conditions 5 and 6 of CDP No. A-3-SLO-09-055/069). The terms and conditions of CDP No. A-3-SLO-09-055/069 are enforceable, and any changes to those terms and conditions require an amendment to that CDP or a new CDP. We believe the Basin Plan should have an explicit statement highlighting these facts, but we also wish to emphasize that these statements are true regardless of whether the Basin Plan so indicates.

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Furthermore, as mentioned in the Basin Plan, aspects of its implementation require Commission certification of an amendment or amendments to the county's certified LCP. We recommend that any court-approved Basin Plan/stipulated judgment recognize this planning and regulatory framework so it is clear that the Basin Plan can only be implemented if the parties subject to the stipulated judgment and court-approved Basin Plan comply, along with compliance with other applicable regulatory frameworks, with the Coastal Act/LCP coastal development permitting and planning process, and can only be implemented in ways that are consistent with the terms and conditions of future and existing CDPs including, critically, CDP No. A-3-SLO-09-055/069.

We understand that the ISJ and proposed Basin Plan are scheduled to be heard in San Luis Obispo County Superior Court on September 1, 2015. We look forward to working with the Parties to implement the Basin Plan through the Coastal Act/LCP coastal development permitting and planning process.

If you have any questions regarding this letter or if I can be of assistance in this process or in the future, please do not hesitate to contact me.

Sincerely,

 FOR:

Dan Carl
Deputy Director
California Coastal Commission

cc: Wade Horton, Director, San Luis Obispo County Department of Public Works
John Waddell, Los Osos Wastewater Treatment Project Manager, San Luis Obispo County Department of Public Works
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