

## LOS OSOS GROUNDWATER BASIN, BASIN MANAGEMENT COMMITTEE

### NOTICE OF MEETING

**NOTICE IS HEREBY GIVEN** that the Los Osos Groundwater Basin, Basin Management Committee Board of Directors will hold a **Regular Board Meeting at 1:30 P.M. on Wednesday, May 18, 2022** at the **Los Osos Community Services District Boardroom**, located at 2122 9th Street Suite 106, Los Osos, CA 93402 Members of the public may participate in this meeting in person or via teleconference and/or electronically.

For quick access, go to <https://us04web.zoom.us/j/778762508>

(This link will help connect both your browser and telephone to the call)

**If not using a computer**, dial 1 (669) 900-6833 or 1 (346) 248-779 and enter **778 762 508**

All persons desiring to speak during any Public Comment can submit a comment by:

- Email at danheimel@ConfluenceES.com by 5:00 PM on the day prior to the Committee meeting.
- Teleconference by phone at 1 (669) 900-6833 and enter **778 762 508**
- Teleconference by phone at 1 (346) 248-7799 and enter **778 762 508**
- Teleconference meeting at <https://us04web.zoom.us/j/778762508>
- Mail by 5:00 PM on the day prior to the Committee meeting to:

Attn: Dan Heimel (Basin Management Committee)  
2122 9th St.  
Suite 110  
Los Osos, CA 93402

*Directors: Agenda items are numbered for identification purposes only and may not necessarily be considered in numerical order.*

*NOTE: The Basin Management Committee reserves the right to limit each speaker to three (3) minutes per subject or topic. In compliance with the Americans with Disabilities Act, all possible accommodations will be made for individuals with disabilities, so they may participate in the meeting. Persons who require accommodation for any audio, visual or other disability in order to participate in the meeting of the BMC are encouraged to request such accommodation 48 hours in advance of the meeting from Dan Heimel at danheimel@ConfluenceES.com.*

### BASIN MANAGEMENT COMMITTEE BOARD OF DIRECTORS AGENDA

#### 1. CALL TO ORDER

#### 2. ROLL CALL

#### 3. PLEDGE OF ALLEGIANCE

#### 4. BOARD MEMBER COMMENTS

Board members may make brief comments, provide project status updates, or communicate with other directors, staff, or the public regarding non-agenda topics.

#### 5. SPECIAL PRESENTATION

None

## **6. CONSENT AGENDA**

The following routine items listed below are scheduled for consideration as a group. Each item is recommended for approval unless noted and may be approved in their entirety by one motion. Any member of the public who wishes to comment on any Consent Agenda item may do so at this time. Consent items generally require no discussion. However, any Director may request that any item be withdrawn from the Consent Agenda and moved to the "Action Items" portion of the Agenda to permit discussion or to change the recommended course of action. The Board may approve the remainder of the Consent Agenda on one motion.

- a. 2022 Budget Update and Invoice Register**
- b. Approval of Minutes from April 20, 2022 BMC Meeting**

## **7. PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA**

The Basin Management Committee will consider public comments on items not appearing on the agenda and within the subject matter jurisdiction of the Basin Management Committee. The Basin Management Committee cannot enter into a detailed discussion or take any action on any items presented during public comments at this time. Such items may only be referred to the Executive Director or other staff for administrative action or scheduled on a subsequent agenda for discussion. Persons wishing to speak on specific agenda items should do so at the time specified for those items. The presiding Chair shall limit public comments to three minutes.

## **8. EXECUTIVE DIRECTOR'S REPORT**

## **9. ACTION ITEMS**

- a. Presentation of Draft 2021 BMC Annual Monitoring Report**

Recommendation: Receive a presentation from Basin Management Committee staff on the Public Draft 2021 Annual Monitoring Report and confirm schedule for BMC to consider approval of the Final Draft 2021 AMR and submission to the Court.

- b. Permitted Development in Los Osos**

Recommendation: Receive information regarding correspondences between the California Coastal Commission and County of San Luis Obispo Planning & Building Department on the current permitting and approval processes for development (i.e. remodels, additions, guest houses, new residential development, ADUs) in the Los Osos Basin and direct staff to coordinate with County Planning and Coastal Commission on the identified concerns or provide alternate direction to staff.

## **10. ADJOURNMENT**

**TO:** Los Osos Basin Management Committee

**FROM:** Daniel Heimel, Executive Director

**DATE:** May 18, 2022

**SUBJECT:** Item 6a & B – Approval of Budget Update/Invoice Register and Meeting Minutes

**Recommendations**

Staff recommends that the BMC review and consider approval of Budget/Invoice Register and Meetings Minutes or provide alternate direction to Staff.

**Discussion**

BMC Staff has prepared a summary of costs incurred as compared to the adopted budget and a running invoice register for Calendar Year 2022 and Meeting Minutes from previous BMC Meetings (see Attachments).





**BASIN MANAGEMENT COMMITTEE BOARD OF DIRECTORS**

**Agenda Item 6b: Minutes of the Meeting of April 20, 2022**

The following is a summary of the actions taken at the Basin Management Committee Board of Directors Meeting.  
The official record for the meeting is the recording that can be found at:

<https://slo-span.org/static/meetings-LOBMC.php>

Agenda Item	Discussion or Action
<b>1. Call to Order</b>	Chairperson Ochylski called the meeting to order at approximately 1:30 PM.
<b>2. Roll Call</b>	Daniel Heimel, Executive Director, called roll to begin the meeting. Director Charlie Cote, Director Reely, Director Zimmer, Chairperson Marshall Ochylski
<b>3. Board Member Comments</b>	None
<b>4. Special Presentation</b>	None
<b>5. Consent Agenda</b>  <b>5a. 2022 Budget Update Invoice Register</b>  <b>5b. Approval of minutes from April 20, 2022 BMC Meeting</b>	<b>5a &amp; 5b Board Action</b> Approve Consent Agenda <b>Motion:</b> Director Zimmer <b>Second:</b> Director Cote <b>Ayes:</b> Director Cote, Director Reely, Director Zimmer, Chairperson Ochylski <b>Nays:</b> None <b>Abstain:</b> None <b>Absent:</b> None
<b>6. Public Comments on Items Not Appearing on the Agenda</b>	<b>Public Comment</b> Linde Owen Patrick McGibney Jeff Edwards Robin McPeak  <b>Staff Direction</b> 1. Majority of the BMC Directors are not in favor of investigating jurisdiction under the Sustainable Groundwater Management Act (SGMA) at this point in time
<b>7. Executive Director's Report</b>	<b>Staff Direction</b> 1. BMC Staff or purveyors to coordinate on a letter or other action expressing concern regarding concern regarding additional water use associated with development within Los Osos 2. Report BMC Staff event attendance in the Executive Director's Report  <b>Public Comment</b> Linde Owen Jeff Edwards Patrick McGibney
<b>8. Action Items</b>	
<b>8a. Presentation of Draft 2021 Groundwater Production Estimates, Recycled Water Deliveries and Basin Metrics</b>	<b>Recommendation:</b> Receive an update on preliminary findings from 2021 Annual Report and provide direction to staff.  <b>8a. Public Comment</b> Linde Owen Jeff Edwards Larry Raio

<p><b>8b. Third Program C Well Implementation Status</b></p>	<p><b>Recommendation:</b> Consider authorization of use of Technical Support/Adaptive Management Services to evaluate re-inclusion of the 3<sup>rd</sup> Well into Program C or provide alternate direction to staff.</p> <p><b><u>Public Comment</u></b> Linde Owen</p> <p><b><u>8b. Board Action</u></b> Authorize use of technical support adaptive management services budget to perform the re-evaluation of the 2<sup>nd</sup> and 3<sup>rd</sup> Program C Wells. <b>Motion:</b> Director Reely <b>Second:</b> Director Cote <b>Ayes:</b> Director Cote, Director Reely, Director Zimmer, Chairperson Ochylski <b>Nays:</b> None <b>Abstain:</b> None <b>Absent:</b> None</p>
<p><b>8c. WRFP Study and Transient Model RFP</b></p>	<p><b>Recommendation:</b> Receive a draft of the WRFP Study and Transient Model RFP and provide direction to staff.</p> <p><b><u>Board Action</u></b> Approve the RFP with the following modifications: 1) Modification of project schedule to include BMC Technical Staff participation in review of proposals, participation in consultant interviews and recommendation of award; 2) Approval release of RFP contingent on award of funding from the State Water Resource Control Board. <b>Motion:</b> Director Cote <b>Second:</b> Director Zimmer <b>Ayes:</b> Director Cote, Director Reely, Director Zimmer, Chairperson Ochylski <b>Nays:</b> None <b>Abstain:</b> None <b>Absent:</b> None</p>
<p><b>8d. BMC Legal Counsel RFP</b></p>	<p><b>Recommendation:</b> Receive a draft of the BMC Contract Legal Services RFP and provide direction to staff.</p> <p><b><u>Board Action</u></b> Accept the RFP and solicit dedicated BMC Legal Counsel. <b>Motion:</b> Director Cote <b>Second:</b> Director Zimmer <b>Ayes:</b> Director Cote, Director Reely, Director Zimmer, Chairperson Ochylski <b>Nays:</b> None <b>Abstain:</b> None <b>Absent:</b> None</p>
<p><b>9. ADJOURNMENT</b></p>	<p>Meeting adjourned at approximately 3:30 pm The next regularly scheduled meeting is May 18, 2022</p>

**TO:** Los Osos Basin Management Committee

**FROM:** Dan Heibel, Executive Director

**DATE:** May 18, 2022

**SUBJECT:** Item 8 – Executive Director’s Report

## Recommendations

Staff recommends that the Committee receive and file the report and provide staff with any direction for future discussions. Sections of the Executive Director’s Report that have been updated or significantly changed from the previous meeting’s version are underlined.

## Discussion

This report was prepared to summarize administrative matters not covered in other agenda items and to provide a general update on staff activities.

### Funding and Financing Programs to Support Basin Plan Implementation

**SGM Implementation Grant:** Applications for Round 2 of the Sustainable Groundwater Management (SGM) Implementation Grant are anticipated to be due in September 2022. This grant program is administered by the California Department of Water Resources to provide funding for projects that encourage sustainable management of groundwater resources that support Sustainable Groundwater Management Act (SGMA) and/or invest in groundwater recharge projects for surface water, stormwater, recycled water, and other conjunctive use projects. Round 1 funding was provided to Critically Overdrafted (COD) Basins and final awards were recently announced. Round 2 solicitation is anticipated in September 2022. Eligible applicants for this funding include Groundwater Sustainability Agencies or agencies within adjudicated basins, which would include Los Osos Purveyors. However, the Round 2 solicitation is limited to applicants that are located in Medium, High and COD basins. The Los Osos Basin is currently prioritized as Very Low priority as a result of conditions being met under sub-component C of the Draft SGMA 2019 Basin Prioritizations (i.e. non-adjudicated pumping is less than 9,500 acre-feet per year) and thus is not eligible for Round 2 SGM Implementation Grant Funding.

**Prop 1 GWGP:** The Prop 1 GWGP Round 3 solicitation was released on July 6<sup>th</sup>, 2021 with Concept Proposals due September 7<sup>th</sup>, 2021. However, as indicated in the January 2018 BMC meeting, the State Board confirmed that seawater intrusion mitigation projects under Program C are eligible for low interest loans but are not currently eligible for grants under the Proposition 1 Groundwater Grant Program (GWGP). New wells in the upper and lower aquifer are viewed as aquifer management, not aquifer clean-up as defined by the State, therefore we will need to look for future funding rounds and other opportunities. Aquifer clean-up projects (e.g. Community Nitrate Facility, Upper Aquifer Capture



and Treatment) could be considered for pursuing grant funding through this program. Unfortunately, this is the 3rd and last round for this Program and they are only looking to fund implementation projects (i.e. projects that have design, CEQA and other planning components completed and are ready for construction), not planning projects.

**IRWM:** The Program A upper aquifer well at 8th Street was submitted by Los Osos CSD to the local IRWM process in 2019 as part of the Round 1, Prop 1 Implementation Grant cycle and was subsequently selected to be a part of the application for the current funding opportunity. The application for this grant was submitted in December 2019 and the Project was included in the Department of Water Resource's July 2020 Final Funding Award List for the full grant request (\$238,000). Prop 1, Round 2 Implementation grant cycle has been initiated and the Call for Projects opened on April 7<sup>th</sup>, 2022 and closed April 28<sup>th</sup>, 2022. The BMC did not submit any projects as it was determined that there were not projects that were sufficiently far enough along to be competitive for this grant opportunity.

**Prop 1 SWGP:** The concept of urban storm water recovery at 8th and El Moro was ranked in the County Stormwater Resource Plan. The Project is labeled as "Capture and Reuse of Storm Water" and listed as a Los Osos Community Services District project. The Stormwater Resource Plan can be found here: <https://www.slocounty.ca.gov/Departments/Public-Works/Committees-Programs/Stormwater-Resource-Plan.aspx>. The Project is additionally described in the following locations:

- It is **described** here in our SWRP Appendix 4B under "Capture and Reuse of Storm Water" at 9<sup>th</sup> and El Morro: <https://www.slocounty.ca.gov/Departments/Public-Works/Forms-Documents/Committees-Programs/Stormwater-Resource-Plan/Documents/SWRP-Appendix-4-B-Identified-Project-and-Program-D.pdf>
- It is **ranked** here on our SWRP website on the **SWRP Project List** link under "Capture and Reuse of Storm Water": <https://www.slocounty.ca.gov/Departments/Public-Works/Forms-Documents/Committees-Programs/Stormwater-Resource-Plan/Documents/SWRP-Program-Master-Project-Info-2020-04-16.pdf>
- It is also on the **IRWM Project list** under "Capture and Reuse of Storm Water": [https://www.slocounty.ca.gov/Departments/Public-Works/Forms-Documents/Committees-Programs/Integrated-Regional-Water-Management-\(IRWM\)/IRWM-Plan/2019-IRWM-Plan/Appendices/App\\_F\\_Project-Lists.pdf](https://www.slocounty.ca.gov/Departments/Public-Works/Forms-Documents/Committees-Programs/Integrated-Regional-Water-Management-(IRWM)/IRWM-Plan/2019-IRWM-Plan/Appendices/App_F_Project-Lists.pdf)

Grant funding may be available through the Prop 1 Storm Water Grant Program (SWGP). However, the application period for Round 2 of SWGP funding has closed. Information about the Storm Water Grant Program can be found here:

[https://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/swgp/prop1/](https://www.waterboards.ca.gov/water_issues/programs/grants_loans/swgp/prop1/)

**WRFP:** The State Water Resource Control Board (SWRCB) increased the amount for Water Recycled Program Planning (WRFP) grants from \$75k to \$150k. This could provide a grant funding opportunity to

advance Basin Plan initiatives, with a reduced cost to the community of Los Osos, through preparation of a Recycled Water Facilities Planning Study (RWFPS). Potential scope items for the RWFPS could include:

- Transient Groundwater Model Development
- Soil Aquifer Treatment (SAT) Assessment
- Broderson/Creek Discharge Scenario Analysis
- Stormwater and Perched Water Recovery Project – Feasibility Study
- Adaptive Management Groundwater Modeling
- RWFPS Report Development

Recent communication with the SWRCB Representatives confirmed that this funding program is still fully funded and WRFPS grants are available. On 2/11/2022 the Los Osos Community Services District (Los Osos CSD) submitted an application for a WRFPS grant to develop a transient model and analyze recycled water and supplemental water projects to improve the sustainability of the Los Osos Basin (WRFPS Study) and is still waiting for notification. At its May 5<sup>th</sup>, 2022 Meeting the Los Osos CSD approved the RFP for the WRFPS Study and is waiting on approval of the grant before releasing it.

### Status of BMC Initiatives

**Sustainable Yield:** At its October 27<sup>th</sup>, 2021 Meeting, the BMC unanimously approved a Sustainable Yield estimate of 2,380 AFY for Calendar Year 2022 and these actions will be documented in the 2021 Annual Report.

**Lower Aquifer Transducer Installation:** In March, Cleath-Harris Geologists (CHG) initiated requests for permission to access and install transducers in several County monitoring wells, a private well, and a purveyor well. The purveyor well (LA 9) was equipped with a transducer. Due to the uncertainty in accessing County wells, two additional purveyor monitoring wells (LA 40 and LA41) were equipped with transducers. Permission was subsequently received to access County wells, and four County monitoring wells have been equipped with transducers (LA11, LA14, LA16, and LA19). This completes the planned transducer expansion program, with 7 added units.

**Basin Metric Evaluation:** Analysis of potential modifications to the Basin Metric's is currently on hold. Proposed modifications to the metrics were provided to BMC Party Staff for review. However, BMC Party Staff requested that potential improvements to the existing BMC Monitoring Program (i.e. modifications to an existing wells or a new monitoring well) be evaluated prior to modifying the Basin Metrics. Recommendations regarding potential improvements to the Basin Monitoring Network will be brought to the BMC at a future meeting, followed by potential modifications to the Basin Metrics.

**Recycled Water Beneficial Use Evaluation:** This effort is currently on hold and is anticipated to be included in the Water Recycling Funding Program Planning Grant initiative.

**Transient Groundwater Model:** At its October 27<sup>th</sup>, 2021 Meeting, the BMC authorized the preparation of a Water Recycling Funding Program Grant Application and to request access to the \$150,000 of funding that the County budgeted for a transient groundwater model for Los Osos. The Los Osos CSD

will be the lead agency for the grant on behalf of the BMC. The grant application was submitted to the SWRCB by Los Osos CSD on 2/11/2022 for \$150k in grant funds and the County approved providing \$150k to the Los Osos CSD for a Transient Model for the Los Osos Basin. After receiving approval from the SWRCB, the Los Osos CSD will solicit proposals from consulting firms through an RFP process to procure the necessary services to develop the model and complete the WRF Study.

**Wellhead Survey:** At its October 27<sup>th</sup>, 2021 Meeting, the BMC authorized Twin Cities Surveying to survey additional wells in Los Osos Basin and for BMC Staff to request that the County survey the wells in their monitoring program. Both Twin Cities Surveying and the County completed their wellhead surveys in November and December. BMC monitoring network wellhead elevations are now up to date.

**Lower Aquifer Monitoring Evaluation:** At its October 27<sup>th</sup>, 2021 Meeting, the BMC authorized CHG to evaluate the feasibility and cost of modifying existing wells or construction a new monitoring well(s) to improve monitoring of Zone E water quality. CHG will be providing BMC Party Staff with recommendations for modifying wells to improve the BMC Monitoring Program and these recommendations will be brought to the BMC at a future meeting. BMC Party Staff evaluated the potential to fund a new monitoring well in 2022, but there is not sufficient budget. BMC Party Staff will target including a new monitoring well in the Calendar Year 2023 Budget.

## Status of Basin Plan Implementation and Funding Plans

The BMC has requested an integrated funding plan for project implementation and BMC monitoring and administration. BMC Staff and BMC Party Staff have formed a Funding and Organizational Working Group to identify and evaluate potential future funding and organization structures for the BMC and implementation of the Basin Plan. Consistent with the Basin Plan, the Working Group is identifying and evaluating funding and organizational structures that will provide a long-term mechanism for funding BMC Administration and Basin Plan Implementation costs and that allocate costs equitably amongst all who benefit from the Basin's water resources.

The Working Group reviewed previously completed analysis on BMC funding and organization structures, documenting the different alternatives and identifying data/information gaps that may require outside technical support. At its October 27<sup>th</sup>, 2021 Meeting, the BMC approved a proposal from SCI Consulting Group to provide an updated funding options analysis and assessment evaluation. SCI has prepared a draft report, that includes their evaluation of funding alternatives and findings from the funding model, that is being reviewed by BMC Party Staff. SCI will be presenting their findings for funding for water resource management and Basin Plan implementation in the Los Osos Basin to BMC at a future meeting.

**JPA Formation:** Staff level discussions continue to focus on the need for, and benefits of, forming a JPA, see table below, to assist with implementation of the Basin Plan.

Table 1. JPA Formation Considerations

Pros	Cons
• Common ownership of basin assets	• Complexity and community perception
• Ability to contract for services as an entity	• Potential for difficulty in formal proceedings - less nimble
• GSWC can participate as a director	• More difficult to exit/change if needed
• Could cover entire limits of basin for funding	
• If carefully done, incremental costs could be limited to insurance and up-front legal expenses	
• Ability to carry-over funds from one budget year to another	

As indicated in previous meetings, it was determined that GSWC could serve as an appointed JPA director without forming a separate Mutual Water Company entity, which would simplify the process.

Discussions with BMC Party Staff indicate that the BMC Parties would like to execute the Implementation Plan initiative to first develop a roadmap for the BMC and then evaluate the potential formation of a JPA or other governance structure once there is a more defined plan for future BMC initiatives.

**BMC Legal Counsel** – At the December 15, 2021 BMC Meeting, the BMC included in the authorization of the Calendar Year 2022 Budget \$20,000 for Legal Counsel Contingency to be included in Executive Director’s Budget. The BMC additionally authorized the Executive Director to utilize up to \$5,000 before requiring BMC approval and for the Executive Director to provide updates on legal counsel spending in the Executive Director’s Report. An RFQ was approved by the BMC at its April 20<sup>th</sup>, 2022 Meeting and subsequently released to solicit legal counsel representation for the BMC.

**Program B Implementation Process and Funding:** The existing nitrate removal facility owned by GSWC is intended to serve existing development, so it is likely that a Program B facility intended for future development would be jointly owned by either a JPA or by one of the public agencies.

- Likely next steps for the implementation of Program B projects include:
  - Technical Studies to validate and update cost estimates
  - Siting Studies to identify project locations
  - AB 1600 analysis to evaluate funding options relative to future development in coordination with the Los Osos Community Plan
  - Environmental Review (CEQA)
  - Land Use Permitting (e.g. Coastal Development Permits, etc.)

## Land Use Planning Process Update

### **Guide to Planning Information for Development in Los Osos:**

This website is intended to provide planning information outlining what type of development is currently allowed within Los Osos: [Los Osos - County of San Luis Obispo \(ca.gov\)](#).

Topics covered include but are not limited to:

- [Which types of permit applications are currently being accepted for processing](#)
- [Status of the building moratorium and waitlist for undeveloped parcels in the sewer service area \(still in place\)](#)
- [Status of the Communitywide Habitat Conservation Plan](#)

### **Los Osos Retrofit-to-Build Program (Title 19 Water Offset Requirement) Update:**

Maddaus Water Management Inc. is preparing a study to update water usage estimates for urban and rural residences sourcing water from the Los Osos Groundwater Basin, propose new water conservation measures for the retrofit-to-build program, and estimate remaining water savings potential for the community. They are currently reviewing provided data. Scheduling updates will be posted at: [Los Osos Water Offset Study - County of San Luis Obispo \(ca.gov\)](#).

### **Los Osos Community Plan:**

The Los Osos Community Plan is being reviewed by the California Coastal Commission and a hearing date has not yet been scheduled. In the meantime, the County is meeting with BMC staff to discuss potential policy changes considering ongoing basin monitoring and Basin Plan program implementation efforts. On December 15, 2020, the County Board of Supervisors adopted the Los Osos Community Plan ("LOCP") update and Final Environmental Impact Report ("FEIR"). The LOCP policies are still subject to change based on California Coastal Commission review. The LOCP and FEIR considered by the Board on December 15 are available at: [Los Osos Community Plan Update - County of San Luis Obispo \(ca.gov\)](#).

### **Background**

The Board authorized preparation of this update on December 11, 2012. A series of community outreach meetings to unveil the Community Plan were conducted in the Spring of 2015. The plan was prepared to be consistent and coordinated with the draft groundwater basin management plan and the draft Habitat Conservation Plan ("HCP"). The draft Environmental Impact Report was released on September 12, 2019; comments were due December 11, 2019. A Community Meeting on the Draft Environmental Impact Report for the LOCP, HCP, and associated Environmental Documents was held on October 28, 2019. The Final Environmental Impact Report and Public Hearing Draft were released on June 8, 2020. The Planning Commission held hearings on July 9, 2020, August 13, 2020, and October 8, 2020. At the October 8, 2020 hearing, the Planning Commission recommended approval of the Plan to the Board of Supervisors.

### **Accessory Dwelling Unit (ADU) Ordinance:**

On May 17, 2022, the County Board of Supervisors will consider accepting the California Coastal Commission's suggested modifications to the Coastal ADU Ordinance, including not allowing ADUs

within the Los Osos Groundwater Basin boundary and/or within the Los Osos Groundwater Basin Plan Area. Coastal’s suggested modifications approved at their February 11, 2022 meeting are available at: <https://www.coastal.ca.gov/meetings/agenda/#/2022/2> (Agenda Item # 16a).

**Los Osos Vacation Rental Ordinance:**

On June 7, 2022, the County Board of Supervisors will consider accepting the California Coastal Commission’s suggested modifications to the Los Osos Vacation Rental Ordinance, including requiring hosts post signage encouraging water conservation. Coastal’s suggested modifications approved at their February 11, 2022 meeting are available at: <https://www.coastal.ca.gov/meetings/agenda/#/2022/2> (Agenda Item # 16b).

**Los Osos Wastewater Project Flow and Connection Update**

The following table summarizes flows from the LOWRF based on the available data. Cells highlighted in yellow indicate data that was not available at the time the Executive Director’s Report was developed.

LOWRF Wastewater and Recycled Water Flows

Year	Month	Influent	Broderson	Bayridge	Sea Pines	Giacomazzi	Construction Water	Ag Users	Discharge/ Recycled Water Delivery Total (AF)
2022	Jan	55	53	1.5	1.5	0.0	0.0	0.1	56
2022	Feb	49	39	1.5	6.9	0.0	0.0	0.2	48
2022	Mar	54	37	1.8	4.8	0.0	0.0	0.2	44
2022	Apr								
2022	May								
2022	Jun								
2022	Jul								
2022	Aug								
2022	Sept								
2022	Oct								
2022	Nov								
2022	Dec								
Total									

**Enforcement:** A list of properties that were not connected were transferred to County Code Enforcement and Notice of Violations were issued last year in Feb. 2019. That list was about 70 properties. As of 5/12/2021, the sewer service area has a 99.4% connection status with a total of 36 properties not yet connected. Of those, one is not required to connect because there is no structure (demolished), 18 have expired building permits, and the rest have an open Code Enforcement case.

The County has assigned staff in code enforcement to Los Osos. Expired permits did not receive a Code Enforcement case because those properties have their own noticing process through the Building Department which, if not corrected, could result in a Notice of Violation.

**Recycled Water Connections:** The County approved \$350,000 in funding from the American Rescue Plan Act of 2021 for connecting new users to the LOWRF Recycled Water System. Additional funding was approved for improvements at the LOWRF and the Broderson Leach field.

## Water Conservation Update

**Rebate Update:** Average indoor water usage for 2019 was estimated to be 40 gpd per person and remains at that number currently.

## The Sustainable Groundwater Management Act (SGMA)

**SGMA Overview:** SGMA took effect on January 1, 2015.<sup>1</sup> SGMA provides new authorities to local agencies with water supply, water management or land use responsibilities and requires various actions be taken in order to achieve sustainable groundwater management in high and medium priority groundwater basins. Los Osos Valley Groundwater Basin (Los Osos Basin) was subject to SGMA based on the 2014 Basin Prioritization by the California Department of Water Resources (DWR) that listed the Los Osos Basin as high priority and in critical conditions of overdraft.<sup>2</sup>

**Basin Prioritization:** On December 18, 2019, DWR released the SGMA 2019 Basin Prioritizations. Basins or subbasins reassess to low or very low priority basins or subbasins are not subject to SGMA regulations. A summary of DWR's Final SGMA Prioritizations for the Los Osos Area Subbasin and Warden Creek Subbasin are listed below:

- Los Osos Area Subbasin is listed as **very low** priority for SGMA<sup>3</sup> and in critical conditions of overdraft<sup>4</sup>
- SGMA does not apply to the portions of Los Osos Basin that are adjudicated provided that certain requirements are met (Water Code §10720.8).
- Warden Creek Subbasin is listed as **very low** priority for SGMA<sup>3</sup>

For more information on DWR's basin boundary modification and prioritization process, please visit: <https://water.ca.gov/Programs/Groundwater-Management/Basin-Prioritization>

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<sup>1</sup> On September 16, 2014, Governor Jerry Brown signed into law a three-bill legislative package, composed of [AB 1739 \(Dickinson\)](#), [SB 1168 \(Pavley\)](#), and [SB 1319 \(Pavley\)](#), collectively known as SGMA

<sup>2</sup> SGMA mandates that all groundwater basins identified by DWR as high- or medium-priority by January 31, 2015, must have groundwater sustainability agencies established by June 30, 2017. The act also requires that all high- and medium-priority basins classified as being subject to critical conditions of overdraft in Bulletin 118, as of January 1, 2017, be covered by groundwater sustainability plans, or their equivalent, by January 31, 2020. Groundwater sustainability plans, or their equivalent, must be established for all other high- and medium-priority basins by January 31, 2022.

<sup>3</sup> As noted by DWR, the priority for the subbasin has been set to very low (0 total priority points) as a result of conditions being met under sub-component C of the Draft SGMA 2019 Basin Prioritizations.

<sup>4</sup> Critical conditions of overdraft have been identified in 21 groundwater basins as described in Bulletin 118 (Water Code Section 12924). Bulletin 118 (updates 2003) defines a groundwater basin subject to condition of critical overdraft as: "A basin is subject to critical conditions of overdraft when continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts."

## Additional Attachments:

1. Updated Status of Basin Plan Programs



**Update on Status of Basin Plan Infrastructure Projects**

Program Name	Project Name	Parties Involved	BMC Budgeted Amount	Funding Status	Anticipated Planning/Pre-Construction Cost	Anticipated Capital Cost	Status/Notes
<b>Program A</b> – Shift groundwater production from Lower Aquifer to Upper Aquifer	Water Systems Interconnection	LOCS D/ GSWC	NA	NA	NA	NA	<b>Completed</b>
	Upper Aquifer Well (8 <sup>th</sup> Street)	LOCS D	NA	Fully Funded	NA	\$250,000	<u>The piping and other improvements for the wellhead are complete. The electronic/control equipment is scheduled to be delivered the week of May 9th. Completion of the project is anticipated by the end of May 2022.</u>
	South Bay Well Nitrate Removal	LOCS D	NA	NA	NA	NA	<b>Completed</b>
	Palisades Well Modifications	LOCS D	NA	NA	NA	NA	<b>Completed</b>
	Blending Project (Skyline Well)	GSWC	NA	NA	NA	NA	<b>Completed</b>
	Water Meters	S&T	NA	NA	NA	NA	<b>Completed</b>
<b>Program B</b> - Shift groundwater production from Lower Aquifer to Upper Aquifer	LOCS D Wells (Upper Aquifer)	LOCS D		Not Funded	TBD	BMP: \$2.7 mil	Project not initiated
	GSWC Wells (Upper Aquifer)	GSWC		Not Funded	TBD	BMP: \$3.2 mil	Project not initiated
	Community Nitrate Removal Facility	LOCS D/GSWC/S&T	TBD	Partial, GSWC portion funded	TBD	GSWC: \$1.23 mil	GSWC’s Program A Blending Project might be capable of expanding to be the first phase of the Program B Community Nitrate Removal Facility.
<b>Program C</b> - Shift production within the Lower Aquifer from the Western Area to the Central Area of the Basin	Expansion Well No. 1 (Los Olivos)	GSWC	NA	NA	NA	NA	<b>Completed</b>
	Expansion Well No. 2 (Lower Aquifer)	LOCS D		LOCS D	TBD	BMP: \$2.1 mil	<u>The Minor Use Permit application was approved by the County of March 4<sup>th</sup>. LOCS D received two bids for drilling the well on May 9<sup>th</sup> and is in the process of reviewing those bids and considering award.</u>
	Expansion Well 3 (Lower Aquifer) and LOVR Water Main Upgrade	GSWC/LOCS D		Cooperative Funding	TBD	BMP: \$1.6 mil	This project has been deferred under Adaptive Management.
	LOVR Water Main Upgrade	GSWC		May be deferred	TBD	BMP: \$1.53 mil	Project may not be required, depending on the pumping capacity of the drilled Program C wells. It may be deferred to Program D.
	S&T/GSWC Interconnection	S&T/ GSWC		Pending	TBD	BMP: \$30,000	Currently on hold, pending the completion of S&T’s water meter cellular updates.
<b>Program D</b> - Shift production within the Lower Aquifer from the Western Area to the Eastern Area of the Basin							Currently being considered for deferment through Adaptive Management. BMC to review on an annual or semi-annual basis.
<b>Program M</b> – Groundwater Monitoring Plan	New Zone D/E lower aquifer monitoring well in Cuesta by the Sea	All Parties	NA	NA	NA	NA	<b>Completed</b>

Program Name	Project Name	Parties Involved	BMC Budgeted Amount	Funding Status	Anticipated Planning/Pre-Construction Cost	Anticipated Capital Cost	Status/Notes
Program U - Urban Water Reinvestment Program	Creek Discharge Program	All Parties				TBD	These activities are currently on hold.
	8 <sup>th</sup> and El Moro Urban Storm Water Recovery Project	All Parties				TBD	These activities are currently on hold.

**TO:** Los Osos Basin Management Committee

**FROM:** Dan Heimel, Executive Director

**DATE:** May 18, 2022

**SUBJECT:** Item 9a– Presentation of Public Draft 2021 Annual Monitoring Report

**Recommendations**

Receive a presentation from Basin Management Committee (BMC) Staff on the Public Draft 2021 Annual Monitoring Report (AMR) and confirm schedule for BMC to consider approval of the Final Draft 2021 AMR and submission to the Court.

**Discussion**

Section 5.8.3 of the Final Judgment requires the preparation of an AMR for the Los Osos Basin by June 30 of each year. The AMR describes activities related to the Los Osos Basin Plan, groundwater monitoring program, and the results and interpretations of these findings. The BMC retained Cleath-Harris Geologists (CHG) to prepare the sixth AMR for Calendar Year 2021. The Public Draft 2021 AMR is available at the following link or at the BMC’s website and a staff summary will be provided at the meeting.

[Click here to view the Public Draft 2021 Annual Report](#)

**Financial Considerations**

Budget items 5 and 6 in the adopted calendar year 2022 budget address monitoring and preparation of the Annual Monitoring Report.

**TO:** Los Osos Basin Management Committee

**FROM:** Dan Heibel, Executive Director

**DATE:** May 18, 2022

**SUBJECT:** Item 9b – Permitted Development in Los Osos

### **Recommendations**

Receive information regarding correspondences between the California Coastal Commission (Coastal Commission) and County of San Luis Obispo Planning & Building Department (County Planning) on the current permitting and approval processes for development (i.e. remodels, additions, guest houses, new residential development, ADUs) in the Los Osos Basin and direct staff to coordinate with County Planning and Coastal Commission on the identified concerns or provide alternate direction to staff.

### **Discussion**

On April 19, 2022, Coastal Commission staff sent a letter to the County Planning staff expressing concern regarding permitting of development within the community of Los Osos. Subsequently, on April 29, 2022, County Planning released a memorandum to clarify and affirm how it applies the current approved Local Coastal Program when permitting development within Los Osos. Both correspondences are attached to this agenda item.

Summaries of Coastal Commission's Letter and County Planning's Memo are provided below. These summaries are not intended as an interpretation of the correspondences between the two land use authorities regarding permitting of development in Los Osos, but are provided as a synopsis of the main points included in each communication to aide in the Basin Management Committee's (BMC) review. If there are any discrepancies between these summaries and the attached communications, please defer to the attached communications.

### **Summary of 4/19/22 Coastal Commission Staff's Letter to County Planning**

Coastal Commission is concerned about permitting of new development in Los Osos for the following reasons:

- Availability of water to support the existing population without harm to coastal resources
- Potential impacts of development on environmentally sensitive habitat area (ESHA)
- Providing wastewater service to new development on existing lots that causes significant intensification of use and significant expansion on already-developed properties

To address these concerns Coastal Commission staff requests that County Planning:

- Not accept any Coastal Development Permit (CDP) applications for filing that cannot demonstrate that they have both legal access to a sustainable water source and wastewater treatment services

- Coastal Commission does not consider a will serve letter from a local water supplier sufficient to satisfy this requirement and that this finding is the County’s independent responsibility
- Coastal Commission considers guesthouses, hotel/motel expansions and large use/structural intensifications as “new water-using” development and until conclusive evidence is provided showing that these types of development do not lead to increased water use onsite CDPs for these types of development should not be approved
- Coastal Commission considers small home additions and renovations as not likely to increase water use on a property
  - To demonstrate that development doesn’t increase water use, Coastal Commission states that pre- and post-monitoring reports on water use should be considered as a condition of approval
- Coastal Commission’s view is that brand new water-using development (such as a new-family dwelling or an Accessory dwelling unit (ADU)) cannot meet Local Coastal Plan water supply tests
  - Coastal Commission differentiates that development that will not increase water use onsite differs from development that tries “to demonstrate that one can ‘back out” or “offset” new water use through some sort of offsite mechanisms”

Coastal Commission requests that County Planning discontinue approving CDPs that do not meet its water supply, wastewater service and ESHA criteria and focus on updating the Local Coastal Plan Estero Area Plan through certification of the Los Osos Community Plan

**Summary of County Planning’s Memo regarding Permitted Development in Los Osos**

County Planning will continue to accept applications for specific development types in Los Osos

- Coastal Commission retains appeal jurisdiction in certain areas and over certain types of development in Los Osos
- County Planning encourages applicants for development projects in Los Osos to review and consider attached Coastal Commission staff letter

County Planning does not currently intend to implement interim changes to how it processes applications for development in Los Osos

- County Planning will continue to **not** accept applications for the following types of development in Los Osos:
  - New development on undeveloped lots in the Los Osos Sewer Service Area
  - ADU development in Los Osos
- County Planning will continue to accept applications for the following development types in Los Osos, subject to the County’s water offset requirement and/or water fixture retrofit requirement:
  - New residential additions, remodels, guesthouses, and other water-neutral development / land uses on lots with existing single-family dwellings within the Los Osos Sewer Service Area

- New residential development (except ADUs) on undeveloped and developed lots outside of the Los Osos Sewer Service Area
  - New residential development outside of the Los Osos Sewer Service Area are required to retrofit plumbing fixtures in existing structures within the Los Osos Groundwater Basin area to achieve water savings at a ratio of two to one

County Planning shares Coastal Commission's concerns regarding groundwater sustainability in Los Osos. County Planning will continue to coordinate with Coastal Commission on the Local Coastal Plan Update (Los Osos Community Plan), which proposes to:

- Reduce potential buildout
- Tie future buildout to infrastructure improvements
- Attempts to bring several regulatory layers into harmony for the long-term benefit of County residents and important coastal resources, including ongoing implementation of the Los Osos Groundwater Basin Plan (Basin Plan) and oversight by the Basin Management Committee, obtaining final approval of and implementing the Los Osos Habitat Conservation Plan, and strengthening the County's water conservation program in Los Osos with updated retrofit calculations and remaining conservation capacity.

Neither of these correspondences is directed to the BMC, however, as the entity responsible for the implementation of the Basin Plan and managing water resources for the benefit of the entire Los Osos Community it is important that the BMC stay informed of development policies and their potential impacts to water usage in the Basin and provide input to the land use authorities on the sustainability of basin water supplies. BMC staff requests that the BMC consider the information provided in the two attached correspondences between the Coastal Commission and County Planning and direct staff to coordination with County Planning and Coastal Commission on the identified concerns.



**COUNTY OF SAN LUIS OBISPO**  
**DEPARTMENT OF PLANNING & BUILDING**  
**TREVOR KEITH, *DIRECTOR***

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**MEMO**

DATE: April 29, 2022  
TO: Interested Parties  
FROM: Department of Planning and Building  
SUBJECT: Permitted Development in Los Osos

The purpose of this memorandum is to clarify and affirm how the County Department of Planning and Building (Department) applies the County's Local Coastal Program (LCP) to development in Los Osos, considering recent correspondence from Coastal Commission staff. While the Department will continue to accept applications for specific development types in Los Osos (as explained in this memorandum), applicants are advised that the Coastal Commission retains appeal jurisdiction in certain areas and over certain development types in Los Osos. As such, the Department encourages applicants for development projects in Los Osos to review and consider the attached Coastal Commission staff letter and conduct due diligence prior to applying for a permit for development in Los Osos.

In a letter dated April 19, 2022, Coastal Commission staff asked the Department to "...not accept any CDP (coastal development permit) applications for filing that cannot demonstrate that they have legal access to both a sustainable water source and wastewater treatment services." The letter goes on to state that this requirement cannot be met for any new development that would increase water demand on the Los Osos Groundwater Basin and because undeveloped lots are prohibited from connecting to the Los Osos Wastewater Recycling Facility (LOWRF) until appropriate and sustainable buildout limits for Los Osos and any mechanisms to stay within such limits are identified as part of the Los Osos Community Plan.

Department staff has conducted an initial review of the recent concerns raised by Coastal Commission staff and, considering these concerns, examined the relevant provisions of the County's LCP as well as the Department's permitting practices for development in Los Osos. As described below, based on Department staff's preliminary review, the Department's current permitting practice is consistent with the County's LCP, as certified by the Coastal Commission, and ensures that the limited new development allowed in Los Osos will have a neutral to positive effect on the Los Osos Groundwater Basin. As such, while the Department continues to review and coordinate with Coastal Commission staff regarding their concerns and how best to address them in light of the current LCP provisions and pending Los Osos Community Plan, the Department does not currently intend to implement any interim changes to how it processes applications for development in Los Osos under the County's LCP.

The Department will continue to **not** accept applications for the following development types in Los Osos:

- *New development on undeveloped lots in the Los Osos Sewer Service Area*

The Department will continue to prohibit all new development on undeveloped lots in the Los Osos Sewer Service Area, in accordance with the County's Growth Management Ordinance and conditions of the LOWRF coastal development permit (CDP), until appropriate and sustainable buildout limits for this area and any mechanisms to stay within such limits are identified as part of the Los Osos Community Plan.

- *Accessory dwelling unit (ADU) development in Los Osos*

On May 17, 2022, the County Board of Supervisors will consider the Coastal Commission's suggested modifications that would prohibit ADU development in Los Osos and Cambria. Based on the Coastal Commission's suggested modifications, the County is currently not accepting permit applications for ADUs in Los Osos.

The Department will continue to accept applications for the following development types in Los Osos, subject to the County's water offset requirement and/or water fixture retrofit requirement:

- *New residential additions, remodels, guesthouses, and other water-neutral development / land uses on lots with existing single-family dwellings within the Los Osos Sewer Service Area*

The Department will continue to accept permit applications for new residential additions, remodels, and guesthouses on developed lots within the Los Osos Sewer Service Area. In addition to compliance with current requirements of the California Green Building Standards and Department of Water Resources, additions and remodels may be required to replace plumbing fixtures for the entire structure. The Department will also continue to process applications for other types of allowed development / land uses within the Los Osos Sewer Service Area, provided they are located on a developed lot and do not increase water demand onsite.

- *New residential development (except ADUs) on undeveloped and developed lots outside of the Los Osos Sewer Service Area*

The Department will continue to accept permit applications for new residential development (except ADUs) on undeveloped and developed lots outside of the Los Osos Sewer Service Area. New dwellings (only allowed outside of the Los Osos Sewer Service Area) are required to retrofit plumbing fixtures in existing structures within the Los Osos Groundwater Basin area to achieve water savings at a ratio of two to one.

The Department appreciates and shares the Coastal Commission's concerns regarding groundwater sustainability in Los Osos. County staff continues to coordinate with Coastal Commission staff regarding their ongoing review of the County's proposed LCP amendment, the Los Osos Community Plan, which



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proposes to (a) reduce potential buildout, (b) tie future buildout to infrastructure improvements, and (c) attempts to bring several regulatory layers into harmony for the long-term benefit of County residents and important coastal resources, including ongoing implementation of the Los Osos Groundwater Basin Plan and oversight by the Basin Management Committee, obtaining final approval of and implementing the Los Osos Habitat Conservation Plan, and strengthening the County's water conservation program in Los Osos with updated retrofit calculations and remaining conservation capacity.

The Department will provide further public updates should there be any changes in permitting procedures in Los Osos, including after further review and coordination with Coastal Commission staff.

For questions regarding this memorandum, please contact Cory Hanh, Senior Planner, at [chanh@co.slo.ca.us](mailto:chanh@co.slo.ca.us) or 805-781-5710.

Attachment:

1. California Coastal Commission Letter Regarding Development in Los Osos, dated April 19, 2022

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877  
WEB: WWW.COASTAL.CA.GOV

**April 19, 2022**

Trevor Keith, Director  
San Luis Obispo County Department of Planning and Building  
976 Osos Street, Room 200  
San Luis Obispo, CA 93408

Subject: **New Development in Los Osos**

Dear Mr. Keith:

The purpose of this letter is to highlight issues of mutual concern as they relate to proposed development in the community of Los Osos. As the County is well aware, including from the County's designation of an LCP Resource Management System Alert Level III for water supply (i.e., where demand exceeds existing supply, and still does) and from the 2015 designation by the California Department of Water Resources of the Los Osos Valley Groundwater Basin as a high priority basin due to its "condition of critical overdraft", there is insufficient water supply to serve even existing development in Los Osos without coastal resource harm (including where an over-drafted groundwater basin can adversely impact sensitive natural resources such as wetlands and marshes, coastal streams and adjacent riparian areas, and marine habitats, as well as adversely impact coastal priority uses such as agriculture and lower-cost visitor-serving development), let alone adding to it new water using development. In addition, much of Los Osos is considered environmentally sensitive habitat area (ESHA) by the LCP within which most development, including residential development, is prohibited. This alone trips up most all residential development in Los Osos at varying levels. And finally, the County's wastewater treatment plant is prohibited from providing wastewater service to anything but existing development (and not to new development on existing lots)<sup>1</sup> unless and until the 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 development of such properties without adverse impacts to ground and surface waters, including wetlands and all related habitats" as required by the Commission in Special

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<sup>1</sup> As we have previously noted, the County is prohibited by CDP A-3-SLO-09-055/069 from providing wastewater services to new development on vacant lots, and that prohibition extends to intensifications of use. Specifically, the Commission has found that the CDP's prohibition on new wastewater service does not only apply to new development on completely vacant parcels, but also to projects that include significant intensifications of use and significant expansions on already-developed properties. The Commission has verified this understanding in multiple Los Osos appeal cases (see adopted findings for A-3-SLO-19-0180 (Shear Development LLC SFDs), A-3-SLO-21-0005 (Kimbell Second Unit), A-3-SLO-21-0004 (Wise Second Unit), A-3-SLO-21-0007 (Bodine Second Unit), and A-3-SLO-21-0008 (Robertson Second Unit)). In short, the County is prohibited by the CDP from providing wastewater services to such development, including intensifications of use, and if the County were to provide such services, the County would be in violation of that CDP and subject to potential Commission enforcement action.

## **New development in Los Osos**

Condition 6 of CDP A-3-SLO-09-055/069. We are currently reviewing the Los Osos Community Plan that the County has submitted for this purpose and hope to bring that to hearing and Commission action by this summer. In the meantime, and with the goal of avoiding any additional appeals of County CDP actions in Los Osos and ultimately better protecting the Los Osos Groundwater Basin and related resources, we have the following observations and suggestions for the County.

First, please do not accept any CDP applications for filing that cannot demonstrate that they have legal access to both a sustainable water source and wastewater treatment services. To be clear, such applications should not be accepted for review unless and until such water and wastewater is available for use, as availability of these public services reflects a fundamental prerequisite for considering proposed development and must be considered at the filing stage. On this point, we do not believe that a will serve from a local water purveyor satisfies LCP and CDP requirements, including as the LCP finding that is required on this point is not for water purveyors to make, rather it is the County's independent responsibility. To this point, recent Commission's adopted findings on this issue state:<sup>2</sup>

*The County, as the initial CDP decision-making body for CDP applications that include new water use in Cambria [same as Los Osos], needs to consider these perhaps inconvenient facts, and stop approving or even considering such projects unless and until measurable steps are taken that improve water supply issues in Cambria [same as Los Osos]. The County should not be even accepting applications for development in Cambria [same as Los Osos] that cannot show evidence of an adequate water supply. A will-serve letter does not provide such evidence, and the County under the LCP is required to make its own finding that an adequate water supply is available to serve a proposed development, and cannot abrogate that responsibility to the CCSD [or here in Los Osos to any of the water purveyors]. The County is giving applicants a sense of 'false hope' when it does, and is doing a disservice to these applicants and the broader community. It is also leading to a significant number of appeals to, and subsequent CDP denials by, the Commission, each of which require an expenditure of scarce public resources to process.*

Unless development can meet the water and wastewater tests above, please do not make any CDP decisions where water supply, wastewater access, and ESHA are issues unless and until the LCP's Estero Area Plan is updated (via the pending Los Osos Community Plan) and those changes are certified by the Coastal Commission. Importantly, those LCP changes are at their core required to provide direction on sustainable growth and buildout in Los Osos as it is affected by these constraints, and it is not appropriate to be making CDP decisions that aren't based in that sort of assessment. As is, Los Osos-area water purveyors are raising their own questions about the sustainability of the Los Osos Groundwater Basin to serve development, and sustainable buildout has not been determined and certified into the LCP, including as it relates to ESHA (and the USFWS Habitat Conservation Plan that is currently in draft

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<sup>2</sup> See adopted Commission findings at <https://documents.coastal.ca.gov/reports/2022/3/F15b/F15b-3-2022-report.pdf>.

## **New development in Los Osos**

form and still under development). In fact, the Commission has repeatedly determined that LCP consistency cannot be found for any new water using development in Los Osos at the current time, irrespective of any will-serve letter, finding most recently that:<sup>3</sup>

*...the LCP includes a series of provisions which require adequate water and wastewater services for new development, yet the community still does not have an adequate water supply at this time, including as evidenced by the Los Osos Basin Plan 2020 report. Until and unless there is conclusive evidence that adequate water services exist, public services remain a constraint to new development in Los Osos under the LCP.*

On this point we would note that in the last few years there have been ten appeals to the Coastal Commission of County CDP approvals for new residential projects in Los Osos. Of those appeals, the Commission took jurisdiction over the CDP applications for five of them (and denied one such application thus far) and five others withdrew their CDP applications after appeal, all for issues having to do with the water supply, wastewater service, and ESHA issues described above. We do not believe it is good planning or good public policy for the County to continue to take in and process CDP applications for projects that lead to an increase in water use on a site, and/or that require County wastewater services that cannot be provided, especially when the outcome is appeal to the Commission. This is exactly the sort of ‘false hope’ that the Commission alludes to in its findings quoted above. We believe that some certainty on these issues will be coming when the Commission considers the County’s proposed Los Osos Community Plan in the near term, and that it is appropriate to wait for that outcome.

In order to provide as much clarity as possible in the meantime, please note that we consider guesthouses, hotel/motel expansions, and large use/structural intensifications associated with existing development to constitute such “new water-using” development. Unless and until conclusive evidence is provided showing that these types of development do not lead to an increase in water use on a given site, we believe that the precautionary principle should be applied, and that CDP applications for such development should not be accepted (because they cannot demonstrate the availability of an adequate and sustainable water source). At the same time we believe that it is likely that small home additions and renovations are not likely to increase water use on a property. Toward this end, we would suggest that an important threshold concept to be applied to the latter such CDP applications is to require applicants to demonstrate, with actual evidence, that the development they propose will not lead to an increase in water use at the site in question.<sup>4</sup> Such an evaluation demands water-use data and

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<sup>3</sup> See recent adopted Commission findings for an appeal of a County CDP decision in Los Osos from November 17, 2021 at <https://documents.coastal.ca.gov/reports/2021/11/W14a/w14a-11-2021-report.pdf>.

<sup>4</sup> To be clear, this is different than trying to demonstrate that one can “back out” or “offset” new water use through some sort of offsite mechanisms, and rather is focused on ensuring that the development in question, by itself, will not lead to the need for additional water use at a site.

## **New development in Los Osos**

evidence to support any conclusions drawn, and it will be important to collect such information before any applications are filed.<sup>5</sup>

In sum, in our view brand new water-using development (such as a new single-family dwelling or an ADU) cannot meet LCP water supply tests, and CDP applications for such development should not be accepted for processing nor approved. Similarly, CDP applications for development that increases water use on a site (including explicitly guesthouses, hotel/motel expansions, and large use/structural intensifications (at least until a body of evidence is provided to demonstrate that such development does not actually lead to additional water use on such sites)) should also not be accepted for processing nor approved for similar reasons. We would expect that any County approvals of CDPs for such development are likely to be appealed to the Commission, which would likely lead to the Commission taking CDP jurisdiction or denying such applications, based on past recent cases. And finally, any CDP applications for other development needs to clearly demonstrate that such development will not lead to increased water use on the site in the manner described above. In sum, our intent with these observations is not to suggest that no CDP applications for development in Los Osos be accepted; rather, with respect to water, and in the interim as more community-scale water supply improvements are pursued, we believe it is important that proposed new development (whether on vacant or developed lots) does not exacerbate water supply-related problems.

Further, and with all due respect, please be advised that the terms and conditions of Commission-issued CDPs are enforceable. The County needs to take its continuing obligations, commitments and requirements from CDP A-3-SLO-09-055/069 more seriously. The Commission has thus far exercised restraint as it has tried to work with the County as it relates to cases where the County has committed to providing wastewater service to new development when to do so is prohibited by the CDP. However, the ten recent aforementioned appeals where this is and was an issue makes it clear that there is a pattern of disregard as pertains to the requirements of CDP A-3-SLO-09-055/069. Moreover, the County was previously informed of these issues in a letter to Mark Hutchinson dated August 3, 2017 (enclosed). Thus, it appears that the County's disregard of permit requirements is "knowing and intentional." Therefore, going forward, we will have to consider County intent to serve in such cases, including approval of CDPs for projects that require such wastewater service from the County, to be knowing and intentional violations of the CDP, to which the Coastal Act's enforcement provisions could be applied. If there are any questions of CDP interpretation in that regard, the County is advised to discuss such issues with our staff well before taking action that would provide such wastewater services.

In conclusion, it is clear to us that the constraints to development in Los Osos require an honest assessment of the ways in which such development can and cannot be sustainably accommodated in terms of water supply, wastewater service, and ESHA.

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<sup>5</sup> And, where the evidence provided demonstrates that the development will not lead to new water use on a site, pre- and post-monitoring reports for water use on the site should also be considered as a condition of approval, and if the development results in an increase in water use on-site, mitigation measures to bring water use on the site to the pre-development level should also be implemented.

## **New development in Los Osos**

This is not a new conclusion, and simply continues to reflect the Commission's 2010 action in approving the County's wastewater treatment plant and system, and the terms and conditions pertaining thereto. These issues demand a planning solution that can provide clear LCP direction to all parties moving forward, and we recommend that the County allow that LCP process to be brought to conclusion and completion through the proposed Los Osos Community Plan. When, instead, the County accepts CDP applications and approves them under the current set of circumstances as described above, it simply leads to appeals of such actions to the Commission, each of which takes scarce staff resources away from moving that planning decision forward to fruition. We respectfully request that the County discontinue this practice, including so that we can collectively focus our limited time and resources on the LCP planning task at hand.

Thank you for your attention to these matters, and your requested assistance. I hope that you will share our view that it is simply not good public policy or good planning for there to be any more appeals of County CDP approvals for such development in Los Osos. We strongly believe that our mutual goals associated with adherence to the LCP and the coastal resource protections it requires are better served by recognizing and squarely addressing the issues described through the LCP, as opposed a continuing series of CDP approvals and appeals. I welcome a discussion on these issues when it is convenient for you.

Sincerely,

DocuSigned by:  
  
E6E6330F9F9C4F4...

Dan Carl, Director  
Central Coast District  
California Coastal Commission

Enclosure: August 3, 2017 Letter to Mark Hutchinson

cc: Bruce Gibson, San Luis Obispo County Second District Supervisor  
John Diodati, San Luis Obispo County Public Works Director  
Stephen P. Henry, USFWS  
Ron Munds, Los Osos Community Services District  
Mark Zimmer, Golden State Water Company  
Charlie Cote, S&T Mutual Water Company