



**California Regional Water Quality Control Board**  
**Central Coast Region**



**Terry Tamminen**  
*Secretary for  
 Environmental  
 Protection*

Internet Address: <http://www.swrcb.ca.gov/rwqcb3>  
 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401  
 Phone (805) 549-3147 • FAX (805) 543-0397

**Arnold Schwarzenegger**  
*Governor*

December 19, 2003

Steve Monowitz  
 California Coastal Commission  
 725 Front Street, Suite 300  
 Santa Cruz, CA 95060

Dear Mr. Monowitz:

**APPEAL OF COASTAL DEVELOPMENT PERMIT/PLAN APPEAL NO. A-3-SLO-03-113 (LOS OSOS WASTEWATER PROJECT)**

This letter is intended to transmit documentation regarding the essential nature of timing (preventing further delay) relative to the success of the Los Osos community wastewater project. As discussed during your recent telephone conversation with Gerhardt Hubner and Sorrel Marks, of my staff, the State Water Resources Control Board State Revolving Fund (SRF) loan program has stopped entering into new commitments for loans (Attachment 1: notes from Management Coordinating Committee meeting). This means it is imperative that the Los Osos Community Services District (CSD) meet the schedule associated with its existing SRF loan commitment, so as not to lose this low-cost financing option, which is an integral part of the financing package for the wastewater project (Attachments 2 and 3 includes the project schedule). The SRF loan conditions include initiating construction by June 28, 2004 (See Attachment 4). Loss of the SRF loan will not change the requirements for Los Osos CSD to complete the project. However, such a loss would significantly increase the cost burden of the project upon Los Osos residents.

As you know, resolving Los Osos' water quality problems, caused by inadequate waste management, has been a priority for this Regional Board for many years (decades). We support the Los Osos CSD's efforts to implement a community-based wastewater management plan, and look forward to completion of the project. We also recognize the large costs associated with the project and hope to assist the District in minimizing any further cost increases. As you know, delays with this project over the years have increased the total cost of the wastewater project by several million dollars. A delay of even several months would result in hundreds of thousands of dollars additional costs to the community, and if such delay causes the Los Osos CSD to loose its SRF loan, the additional costs will be tremendous.

If we can provide assistance in this matter or you would like to discuss it in further detail, please contact Sorrel Marks at 549-3694 or Gerhardt Hubner at 542-4647.

Sincerely,

*[Signature]*  
 Roger W. Briggs  
 Executive Officer

Attachments (4)

S:/wb/coastal watershed/staff/sorrel/los osos-general/coastal appeal.ltr2

cc: Bruce Buel, General Manager, Los Osos CSD, P. O. Box 6064, Los Osos, CA 93412  
 Leo Sarmiento, Project Manager, SWRCB-DFA, P. O. Box 944212, Sacramento, CA 94244-2120

**California Environmental Protection Agency**



EO REPORT ATTACHMENT NO. 2  
 FEBRUARY 6, 2004 MEETING  
 REG. BD. LTR DTD 12-19-03 TO  
 CALIFORNIA COASTAL COMMISSION

**TITLE:** Current status of the State Revolving Fund (SRF) Loan Program and Proposed Proposition 40 and 50 Grant Order

**PURPOSE:** To inform the MCC of projected status of the SRF and the Proposition grant solicitations

**DESIRED OUTCOME:** Information exchange

**BACKGROUND:** The SRF loan program has stopped entering into new commitments for loans. The current and projected revenues to the fund (both repayments and Federal capitalization grants) will potentially leave only a small amount for distribution in the next few years. As such, communities will generally need to look to their own financing options. The SWRCB is hoping to sell additional revenue bonds to increase the SRF amount available, but the sale timing may not occur until later in FY 2004/05 or 05/06. Regional Boards need to be aware of this situation in the SRF program and encourage communities to prepare. The SWRCB asked for an information item on their December 15, 2003 agenda to discuss the status in a public forum as well.

The Division of Financial Assistance (DFA) is proposing that any limited SRF funds available in 2004/05 (estimated to be \$38 million) be specifically targeted to small communities (less than 20,000 population, 80% Mean Household Income), in conjunction with small community wastewater grant efforts. Our funds can be used in conjunction with USDA small community (under 10,000 population) funds to provide financial packages. This will allow some of the least able communities to move ahead in their water quality efforts.

This proposal affects both the use of limited SRF funds as well as the grant order. DFA has proposed that grant programs be rolled out in the following order:

1. Agricultural Water Quality Grants (preliminary meetings with Regional Boards, UCD and advisory board (mandated by legislation) have begun)
2. Small Community Wastewater Grants (using limited 2003/04 and 04/05 SRF funds to package with USDA funds)
3. Small Community Groundwater Grants (legislation targeted to migrant farm camps)
4. Water Recycling Facilities Construction Program Grants (expected to be packaged with SRF funds more readily available in FY 2005/06)
5. Consolidated Watershed and Nonpoint Source Pollution Control Programs (first Board awards for the current grant selection for these programs under Proposition 13 and 319 grants will begin in February and March 2004)
6. Clean Beaches (round III)
7. Regional Water Management Program (must be coordinated with DWR staffing and timing)
8. Clean Beaches (round IV)

Actual projected schedules for these grants have been in flux as staffing and budget have been unknown or changed since July 1, 2003. DFA has recently finalized the necessary position cuts

to the Underground Storage Tank Claims program and is in the process of moving staff into needed contracts and grant solicitation positions for the Propositions. DFA has proposed that Region 1 loaned staff (2 positions) lead the small communities wastewater grant solicitation effort. We will also be receiving California Watershed Counsel input to the timing, consolidation and criteria for these grants.

**ESTIMATED TIME FOR MEETING DISCUSSION:** 15 minutes

**CONTACT PERSON:** Barbara L. Evoy, 916-341-5632

berhardt



JAN 14 PM 3:32  
SAN LUIS OBISPO, CA 93401

January 13, 2003

**President**  
Rosemary Bowker  
**Vice-President**  
Stan Gustafson  
**Director**  
Frank Freiler  
Gordon Hensley  
Sylvia Smith

James D. Kuykendall, Chief  
Loans and Grants Branch  
SWRCB Division of Clean Water Program  
P. O. Box 944212  
Sacramento, CA 94244-2120

**SUBJECT:** Los Osos Wastewater Project; SRF Loan #C-03-4140-110

Dear Mr. Kuykendall

**General Manager**  
Bruce S. Buel  
**Utilities Manager**  
George J. Milanés  
**Administrative Services Manager**  
Lynne L. Corenbaum  
**Fire Chief**  
Bruce D. Pickens

The Los Osos Community Services District (LOCSO) respectfully requests that the SWRCB extend LOCSO's SRF Loan "Project Milestones" set forth in the SWRCB's September 28, 2001 Facilities Plan Approval and in the SRF Loan Resolution adopted by the SWRCB on January 23, 2002. LOCSO is submitting this request because our project was delayed for approximately fourteen months as a result of two lawsuits filed against the District. These lawsuits prevented LOCSO from issuing the municipal bonds required to fund the final design of our wastewater project. As detailed below, LOCSO has won each of the lawsuits, issued bonds, and engaged the design engineer to move forward with our project.



LOCSO's efforts to form our Wastewater Assessment District were challenged in a state court action, *Coleman v. Los Osos Community Services Dist.* (San Luis Obispo County Superior Court Case No. CV 10500) in May 2001. Petitioner Cinthea Coleman sought a writ of mandate and temporary restraining order prohibiting the LOCSO from counting the mailed ballots that had been returned regarding the wastewater assessment. The Petition alleged that the assessment violated Proposition 218 (Cal. Const. art. XIII D). The LOCSO was able to demonstrate, and the Court found, total compliance with the requirements of Proposition 218 (Cal. Const. art. XIII D). The Petition for Writ of Mandate was denied in July of 2001, and no appeal followed.

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

A second lawsuit was filed in the United States District Court for the Central District of California (Case No. CVOL-5880TJH (JWJx)) in August 2001. The Complaint alleged four causes of action against the LOCSO -- grounded in 42 U.S.C. § 1983 -- for violations of procedural and substantive due process and imposition of an excessive fine in violation of the 8<sup>th</sup> Amendment. The LOCSO responded to the Complaint with a Motion to Dismiss under rule 12B of the Federal Rules of Procedure. Following a full briefing, the District Court

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

January \_\_, 2003 LOCSD Letter to SWRCB (Cont.)

granted the LOCSD's motion to dismiss the lawsuit in its entirety. Plaintiffs then sought relief in the Ninth Circuit Court of Appeal. After full briefing and oral argument, the Ninth Circuit Court issued an unpublished Memorandum of Opinion affirming the District Court's ruling. Plaintiffs/Appellants then filed a Petition for Rehearing, which the 9<sup>th</sup> Circuit denied on June 6, 2002. The Plaintiffs/Appellants retained the ability to seek U.S. Supreme Court review of the 9<sup>th</sup> Circuit Decision through September 6, 2002. The Plaintiffs/Appellants choose not to file the Writ, thus ending the litigation.

With the litigation over, the LOCSD Board authorized the sale of municipal bonds on September 19, 2002. The Bonds were sold on October 31, 2002. LOCSD then authorized Montgomery Watson Harza (MWH) to prepare the final design for LOCSD's Wastewater Project on October 31, 2002.

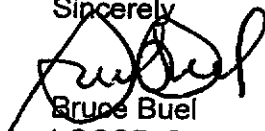
Attached is the Project Schedule from the MWH contract. As detailed in the attached schedule, MWH is required to submit Phase I and Phase II Final Plans and Specifications to LOCSD by March 1, 2004. LOCSD expects to start Phase I construction no later than June 28, 2004 and finish Phase I construction no later than December 30, 2005. LOCSD expects to start Phase II construction no later than January 2, 2006 and finish Phase II construction not later than June 29, 2007.

LOCSD has reviewed the revised schedule with Central Coast RWQCB staff and understands that the Central Coast RWQCB will submit a letter indicating their concurrence with LOCSD's request under separate cover.

LOCSD requests that the SWRCB amend the FPA and the Loan Resolution to recognize this revised timeline.

Feel free to contact me if you have any questions at 528-9375 or e-mail me at [bbuel@lososocsd.org](mailto:bbuel@lososocsd.org).

Sincerely



Bruce Buel  
LOCSD General Manager

CC: Board  
Wayne Pierson, Diana Robles, & Leo Sarmiento @SWRCB  
Roger Briggs, Gerhardt Hubner, & Sorrel Marks @ RWQCB  
Steve Hyland @ MWH  
Gary Grimm  
File

## Project Schedule

<b>Description</b>	<b>Date</b>
Start Design Services	October 31, 2002
Complete Surveying (a)	March 21, 2003
Submit Prelim. Design (30 Percent)	April 28, 2003
Re-initiate §7 Consultation w/USFWS	May 1, 2003
Initiate CEQA review (if necessary)	May 1, 2003
SWRCB / RWQCB Presentation (b)	May 2, 2003
Conduct VE Study	May 5 - 9, 2003
Receive VE Report	May 16, 2003
Submit Draft VE Response Report LOCS D 30 Percent Review Comments	May 23, 2003
Conduct Community Workshops	May 27 - 29, 2003
Conduct VE Coordination Meeting (c)	May 30, 2003
Debrief LOCS D Board	
Approve VE Disposition	June 05, 2003
Resume Detailed Design	
Submit Final VE Response Report	June 13, 2003
✂ Coastal Development Permit Planning Commission Hearing	June Hearing Date (TBD)
Submit 50 Percent Submittal	September 15, 2003
SWRCB / RWQCB Presentation (b)	September 22, 2003
LOCS D 50 Percent Review Comments	September 29, 2003
★ Coastal Development Permit Coastal Commission Hearing	November Meeting
Submit 90 Percent Submittal	January 5, 2004
SWRCB / RWQCB Presentation (b)	January 12, 2004
Conduct Community Workshop	January 14, 2004
LOCS D 90 Percent Review Comments	January 19, 2004
Debrief LOCS D Board	
Authorize Eligibility Determination	January 22, 2004
Submit 100 Percent Submittal	February 16, 2004
SWRCB Approval of Documents	February 27, 2004
Advertise for First Phase Bids	March 01, 2004
Open First Phase Bids	April 14, 2004
Submit ATA Package to SWRCB	May 10, 2004
SWRCB ATA Construction Contract	May 24, 2004
Start First Phase Construction (NTP)	June 28, 2004

(a) Predicated on resuming and completing second phase of septic tank surveying on October 07, 2002 and March 21, 2003 (24 weeks), respectively.

(b) Presentation of design submittal documents by MWH to SWRCB and RWQCB staff.

(c) Coordination meeting with LOCS D, SWRCB, RWQCB, and VE staff to finalize disposition of VE recommendations.



# State Water Resources Control Board



Winston H. Hickox  
Secretary for  
Environmental  
Protection

**Division of Financial Assistance**  
1001 I Street • Sacramento, California 95814 • (916) 341-5700 FAX (916) 341-5707  
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120  
Internet Address: <http://www.swrcb.ca.gov>

Gray Davis  
Governor

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at [www.swrcb.ca.gov](http://www.swrcb.ca.gov).*

JUL 22 2003

Chair and Commissioners  
San Luis Obispo County Planning Commission  
County Government Center  
San Luis Obispo, CA 94308

Dear Commissioners:

**COASTAL DEVELOPMENT PLAN/PERMIT NO. D02083D; LOS OSOS COMMUNITY SERVICES DISTRICT (DISTRICT); WASTEWATER COLLECTION, TREATMENT AND DISPOSAL PROJECT (PROJECT)**

The purpose of this letter is to confirm that the State Resources Control Board (SWRCB) has committed \$65.4 million in financial assistance to the District's proposed Project through the State Revolving Fund (SRF) loan program (see attached SWRCB's Resolution No. 2002-0020 and Item No. DFA-2003-20). This low interest SRF loan will provide financial assistance for the design, engineering and construction of the District's proposed Project.

If you have any questions regarding the SRF funding program, please contact Mr. Leo Sarmiento at (916) 341-5830 or [sarmienl@swrcb.ca.gov](mailto:sarmienl@swrcb.ca.gov).

Sincerely,

Darrin Polhemus, Chief  
Project Development Regions 2 & 5

Enclosures

cc: Mr. Gerhardt Hubner  
Ms. Sorrel Marks  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

Mr. Bruce Buel  
General Manager  
Los Osos Community Services District  
P. O. Box 6064  
Los Osos, CA 93412

Attachment 3



# State Water Resources Control Board

## Division of Financial Assistance

1001 I Street • Sacramento, California 95814 • (916) 341-5700 FAX (916) 341-5707  
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120  
Internet Address: <http://www.swrcb.ca.gov>

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*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at [www.swrcb.ca.gov](http://www.swrcb.ca.gov).*

JUL 15 2003

Mr. Bruce Buel  
General Manager  
Los Osos Community Services District  
P. O. Box 6064  
Los Osos, CA 93412

Dear Mr. Buel:

**DIVISION OF FINANCIAL ASSISTANCE APPROVAL OF SUNSET DATE EXTENSION AND RECOMMITMENT OF THE STATE REVOLVING FUND (SRF) LOAN; LOS OSOS COMMUNITY SERVICES DISTRICT (DISTRICT); WASTEWATER COLLECTION, TREATMENT AND DISPOSAL PROJECT (PROJECT); SRF PROJECT NO. C-06-4014-110**

The Division of Financial Assistance approved Item No. DFA-2003-20 on July 11, 2003, approving the extension of sunset date and recommitment of \$65.4 million SRF loan for the construction of the District's project. Item No. DFA-2003-20 includes a sunset date of June 28, 2004. The District is required to initiate construction by the sunset date, or the Division of Financial Assistance will withdraw the preliminary loan commitment. A copy of the Item is enclosed.

If you have any questions concerning this Item or this project, please call me at (916) 341-5830.

Sincerely,

Leo Sarmiento  
Project Manager

Enclosure

cc: Mr. Gerhardt Hubner

~~Ms. Sonia M...~~  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

2003 JUL 22 PM 9:15  
81 HERRING ST. #200  
SAN LUIS OBISPO, CA 93401

CENTRAL COAST REGIONAL  
WATER QUALITY CONTROL BOARD

Attachment 4