To: Jeffrey Young, Chairman
Central Coast Water board

STATE OF CALIFORNIA
CENTRAL COAST WATER BOARD
Received
APR 3 2006
895 Aerovista Place, Ste. 101
San Luis Obispo, CA 93401-7906

Subject: CDO hearing for Los Osos

From: Lawrence F. Bishop
1808 8th St.
Los Osos
APN 38572032
Cease and Desist Order No. R3-2006-1027

Mr. Young,

Please consider the fact that this action by the Regional Water Board is the **first contact made by the board to the property owners**. We have not been given any opportunity to correct the situation. January 27,2006 was our first contact and since that date we have been trying to learn all the information that has been previously hidden from us or has been distorted.

We are appealing to you directly to intervene so that we can work together with the board staff to provide a solution to the CDO problem, instead of more delays. The **unwillingness of the board staff to listen to our solutions and concerns** has considerably hindered the process.

The only information that we have is the local government responses that the Regional Water Board staff is uncooperative in working toward a solution.

We need the town to work together to promote a solution rather than trying to stop further action from the water board.

The prosecution-listed documents have provided more rumors and misinformation to be disseminated throughout the community causing more people to join against the sewer, where in fact, the sewer installation is the required solution rather that an option. The problem lies with the fact that the documents can be interpreted that a nitrate problem from the septic tank has never existed.

**We have been unable to find any documentation that the water board has ever mailed or communicated to the property owners that a problem exists.** We have been working diligently to provide proof of our case to the prosecution.

Is it the Chairman of the Board's decision to issue CDOs to all Los Osos residents, which will only lead to further delays of the sewer and continued lawsuits? Are you willing to waste your time, the boards time, and staff time to promote a solution that will only lead to further delays and lawsuits? How much time has been allotted to processing 5000 CDOs and for the board members just to listen to the 5000 names, addresses, and even a short statement by each property owner to provide an appearance that a fair hearing is in progress.

**We are willing to work with the Regional Water Board and staff.** Please help us start the process of working toward a timely, cost-effective solution for all parties involved. I am prepared to discuss a plan that will achieve the goals of the water board and the community of Los Osos and only take a couple of months. **This needs to be resolved before the November elections.**

I presented the prosecution staff with a proposal to eliminate all black water waste from my property. Answer from staff "not good enough".

(Example of misinformation)

Letter to the editor; Regional Water Board requires pumping septic tank every two month. This is cheaper than a sewer project. We should just pump and forget about the sewer.

Sewer pipe was to be located 4' under ground, should be 12' under ground. (Voted against the sewer)

Sewer pipe was to be located 12' under ground, to deep for Los Osos. (Voted against the sewer)

Plans for plant at tri-w had too many pages. Therefore the cost was too high. (Voted against the sewer)

Septic tanks don't pollute. (Voted against the sewer)

Regional water board is trying to determine site location and design of plant.

Regional water board has no intention of providing a fair hearing.

Regional water board has said (fill in the blank)

Defense of cease and desist order against the following property

Lawrence F. Bishop
1808 8th St.
Los Osos
APN 38572032
Subject: Cease and Desist Order No. R3-2006-1027

Request immediate removal of all requirements to Cease and Desist and all requirements to pump the septic tank.

The following reasons why the CDO requirements should be removed:

- **No prior notice** of any violation has been issued to my property or myself. First notice of violation January 27, 2006.
- The prosecution **failed to notify me** by an enforcement letter or a notice of violation per the Regional Water Board enforcement procedures. Why did the prosecution bypass the procedures of the Regional Water Quality Control Board? The first step should have been to contact the individual by phone and letters with a communication on if the discharger was discharging into the water basin or what could be done to rectify the problem. Such as making it known to each individual that a sewer was required. The individuals have had no dealing with the water board until this time. The water board has been dealing with the county and the LOCSD. Proceeding directly to the CDO would indicate the Regional Water Quality Control Board has reach a frustration level with the government agencies and wish to punish the individual without the courtesy of communicating with the individual property owners.
- The Regional Water Board **should be working toward helping the homeowners force the sewer installation** instead of forcing the town to come together to fight the Regional Water Board.
- We purchased property two years ago with understanding sewer project was in work and would be finished in a timely manner.
- The previous owner paid the initial assessment for the sewer project.
- **Connection to the sewer system was always intended.**
- I have read all the documents listed on the prosecution case and cannot find any reference of violations directed at my property.
- Prosecution documents provided information that the nitrate levels in the water supply have not increased significantly to warrant the immediate issuance of CDOs to individuals. April 2005 Ground Water Monitoring indicates that **13 out of 25 wells tested are within drinking water levels** and that the **average totals** of the wells tested are **only .4 mg/l above** drinking water standards. Consider the addition of 1100 new homes since 1983.
- Testing well closest to **my property indicated a nitrate level of 2.4 mg/l** in the latest Ground Monitoring Report provided by the prosecution. Acceptable nitrate limits are 10 mg/l.

- Prosecution documents indicate separation to ground water of more than 30 feet provides sufficient removal of nitrates. The location of **my house about 60 feet above the ground water.** If Los Osos has a water quality problem, then if should not matter if the tank is inside or outside of the prohibition zone. I believe that my septic system is working properly and that no nitrates are reaching the ground water. The prosecution has no information that nitrates must be getting through to the ground water. The recent nitrate Ground Monitoring Document (Ref. Prosecution documents) indicates the testing well two blocks away and downhill from my house has a reading of 2.4 mg/l. Hundreds of homes are located around this well. This indicates these homes are not contributing the nitrate problem. How will pumping every 60 days have any effect? Not all discharges from septic tanks are polluting the Los Osos ground water. (Ref. Prosecution Documents).
- The assumption has been made that I am polluting because I am within the prohibition zone. With this assumption all properties within the water basin are polluting the ground water. Why are properties outside of the prohibition zone allowed to continue to pollute with the water boards full knowledge? If clean water is the goal of the water board, why do you allow homes within the water basin to continue pollute?
- (Regional Water Board Memorandum dated September 27, 1988 subject Basin Plan Amendment, resolution 83-13) This memorandum indicated that the county requested that the prohibition line be the same as the urban line. The board staff recommended the urban line because the water flow could not be determined and that it would provide control over the discharges from the existing and future development. The water board decided to move the line to the present location. The results indicate that the discharge from that development may be causing higher levels of nitrates to be recorded at that end of Los Osos. The results of moving the prohibition line caused a social and economic line to be drawn dividing the town for and against the sewer. The voters outside of the prohibition zone have in their best interest to vote against and delay the sewer project. The property values will increase for every action the water board takes against the town. The properties outside of the prohibition zone would have been required to help pay the cost of the sewer project. The recall of the CSD board members passed by 70 votes and measure B passed by 20 votes.
- The prosecution team is trying to stop the sewer project from moving forward. They must realize that the 3000+ voters outside the prohibition zone can easily stop progress and financially benefit with all delays and be allowed to continue to pollute. The issuance of individual CDOs again will cause the perception that we are not in favor of a sewer project. I am being forced to decide between wastewater treatment and my living in Los Osos. If I support the CDO I may lose my house due to the financial burden placed upon me as an individual. If I resist the CDO I give the appearance that I am against the sewer.
- The prosecution team has submitted a large quantity of evidence that is not readily available to the public. They are not in a PDF format so that individuals would have the opportunity to read them. The documents are only available to those that have the time to sit at the Regional Water Board office during business hours. **These documents are important because they provide more information for the defense than the prosecution.** The limited access to these documents prevents the individuals

from preparing their own defense. I would be interested to know if the board members judging this case has read the documents recently or if they have been provided a summary by their staff.

- **Prosecution case did not provide any scientific or logical justification for the CDO.**
- **Prosecution concept of pumping the septic tanks.** To achieve a 22% decrease in nitrate loading of the ground water every person must use only 30.3 gallons or less of water per day. During February 15th meeting with the Prosecution staff, they indicated the number of 100 gallons per day was used for the calculations. The 100 gallons per day only provides 16% decrease. Pumping cost $300 to $450 each time now. We have no control about the future cost. Supply and demand drives the cost of the product. Example, gas prices increased drastically just because the plants stop production during the hurricane. The cost of pumping will increase because of the threat of $1000.00 a day fine if not pumped. The estimated water usage at my property would indict a reduction of only 10% by pumping every two-month. This would mean **a reduction of .24 mg/l. at a cost $225.00 per month.** Approximately 400 homes are located around this well. The nitrate level should drop by .048 mg/l at a cost beginning at $960,000.00 to $1,440,000 each year. The prosecution also stated in previous meetings that 10mg/l is drinking water standard and they would accept a level of 7mg/l. The 2.4mg/l is the latest report of nitrates in the water from this well. The well has had results of higher levels in the past. The review of past data indicates 6.7 mg/l as being the most consistent reading from this well.
- The banks have indicated that a 50% decrease in value of the properties could happen. The **lost of about $250,000 in home equity** may cause the bank end my credit line causing me to lose my home.
- Information about septic tank operation indicates that the tank will take two to three months to recover from pumping. This would mean a larger quantity of solids leaving the tank and polluting the ground. If I follow the water board requirements I would be causing more damage to the water supply. Why would the water board require me to pollute the ground water?
- We do not need a CDO to force us to connect to the sewer. That determination was made with 83-13. To continue processing individual CDOs would indicate that 83-13 is not valid or does not apply to the individual lots.
- The first action of the prosecution team should have been to correct the problems with the original basin plan and 83-13. They could have included all areas within the urban line. This would have eliminated most of the votes against the sewer and that support the recall. The Regional Water Quality Control Board could have been communicating with the property owners and eliminated incorrect information that has been repeatedly spread on why we do not need a sewer project.
- The property owner prior to myself paid the assessment to be part of the sewer project. I intend to connect when available.

Request To the Chairman of the board that I would like a **subpoena to be issued to** the following individuals: The **economic and business advisors to the board** that provided information in regards to the CDOs and the **staff members assigned to work with the LOCSD board** to rectify the nitrate problems.

This request will provide information on how the removal of at least 11 million dollars per year will affect the economy of the Los Osos valley, and the effect on the price of pumping the septic tanks will have when 5,000 properties are to be pumped or face a $1000.00 day fine. The cost of pumping will rise due to the short supply of trucks and the potential of the $1000.00 a day fine, and the short term of investment by the businesses of only three years to recover the cost of new trucks and employees.

The request for the staff member that worked with the LOCSD will determine what the role of the water board was to help solve this problem. I have been unable to locate any documents to support positive actions between the water board and the LOCSD.

The prosecution team has assured us that we will be receiving a fair hearing and that the board has not been previously briefed on the content of their case. During the February 15 meeting prosecution was asked what their case was and we were told that the information provided to us was the case. I would hope that the prosecution did not change the case based on the comments and defense that others and I have provided. We are restricted by not being able to add to the case after the deadline. I would hope the prosecution also would not be allowed to make additions or deletions to their case after it was presented to us.

The following information was part of the prosecution documentation.

- The nitrate level under my house **does not exceed** recommended levels for **drinking water**.
- Nitrate levels recorded in July 1982 averaged 9.53 mg/l with an increase to an **average of 10.4 mg/l in April of 2005**. Reports have indicated a higher nitrate level during Dec. thru April compared to the summer months. Documents also show staff estimated nitrate levels in 1983 were 600% higher than 1982. This data was used to justify 83-13. How did the nitrate level increase by 600% and then decrease twenty-two years later to average increase of only 1.4 mg/l?
- Having **more than 30 feet** to ground water removes nitrates.
- **Pumping every two-months will results in very little to no decrease in the reduction of nitrates**. (Even accepting 22% lowers 2.4 mg/l down to 1.87mg/l)
- **Not all the septic tanks are polluting.**
- **Not all of the septic systems that are polluting are included in the prohibition zone.**

The following list is why the prosecution should not proceed with their case.

- **No documented proof** on water usage or discharge.
- **No documented proof** that pumping will reduce nitrates in our area.
- **No environmental impact plan** to cover this type of wastewater treatment program.
- **No evidence** if this wastewater treatment program will even work.

- **No written verification** that Santa Maria waste treatment will be able to handle 30,000,000 gallons of wastewater per year and dispose of it at the same level the water board has required LOCSD.
- **No written verification** of how the pumping companies will handle the charge for pumping and the limited time of three the four years to recoup the cost of doing business.
- **No written report on the cost** of issuing 5000 CDOs and the cost of monitoring the compliance of 5000 tank owners.
- **No report** on whom or how the verification of waste water ever makes it to the treatment plants.
- **No consideration** of the loss of home equity because of the requirement to pump.
- **No consideration** on how the original basin plan and 88-13 divided the town economically and politically.
- **No consideration** on how this round of CDOs has divided the town and may end the LOCSD. Ending the LOCSD will put installation of a wastewater treatment plant even further behind. Staff indicated to us on Feb.15 that the county has no plans for a wastewater treatment plant.
- **No consideration** of the amount of **TDC** (total dissolve solids) that will increase into the ground water due to septic tanks not working properly during the recovery period. Data has indicated that the septic tank does not properly reduce the TDC until the tank becomes properly balanced. The nitrate level is only part of the water quality problem. We should not be causing one pollutant to increase to lower another.

In summary I would like the thank the prosecution staff for providing the documents needed to show that my property is not polluting to a point that pumping would have any significant decrease in the nitrate level. The prosecution has failed to notify the property owners that problems exist and what we need to do about it. The prosecution is relying on the validity of the original water basin plan and 83-13. However, the documentation provided by the prosecution brings that validity into question. The prosecution hopes that the board accepts the mistakes of the 1988 water board in regards to the cause of the ground water pollutants. The board should not continue the individual CDO against all septic users. Better and more efficient ways bring the people of Los Osos together to achieve the goal of a wastewater treatment plant have been suggested but the prosecution staff has refused to listen or to work with us. This plan has no hope of working toward a solution. The documents also indicated that the water board is aware that areas that were excluded by the original basin plan and 83-13 are polluting the bay. The water board has determined that it is okay for these locations to pollute without any restrictions. The water board has used the assumption that we are polluting because of our proximity to the polluted water and yet determined others septic systems within the basin are not.

I did not vote for measure B. I did not vote to recall the CSD board. I was in favor of a wastewater treatment plant and intend to connect when it becomes available.

What does the water board really hope to obtain by this action? This is the most frequently asked question. The answer is that nobody knows. We do know that deceasing

the nitrate level to an acceptable level is not it. The prosecution as stated that the 22% decease still will not being water quality to an acceptable limits. More effective ways have been suggested and prosecution rejected the ideas because it would eliminate the need for individual CDOs.

Public opinion now believes that the Regional Water Board will require pumping every two-month instead of connecting to a sewer. This proves that information from the board reaches the public correctly.

We hope that the board members will stop the CDO's and be willing to proceed with plans that will allow the Regional Water Board and the property owners of Los Osos to work together to solve the pollution problem.

All documents referred to have been listed in the prosecution document list.