Friday, November 17, 2006

Michael Thomas
Assistant Executive Officer
Central Coast RWQCB
895 Areovista Place, Ste 101

RE: Response to Proposed Cease and Desist Order

Dear Mr. Thomas:

I have not responded previously to the notices or attended hearings. I was unable to both attend to personal issues and prepare an adequate defense. However, I am very concerned that my rights to due process, self incrimination, and property rights may be violated through the enforcement actions proposed against me.

I am not guilty of the violations as accused, and my septic system is legally authorized and permitted by the County of San Luis Obispo and properly operated.

I have not been presented with individual evidence of pollution from my property. Further as the definition of a discharger is based on the meaning within the water code, I object to a CDO being proposed against me individually when the responsibility rests with regulated and permitted agencies such as the County and Los Osos Community Services District.

I have been denied an individual hearing before the board which will determine my fate, and will only be given about 15 minutes to convince the hearing board not to devalue my property through its decision for a CDO. I understand the objection based on bias by the LOCSD and I join in their objections as contained in their October letter. I believe any appeal is to a parent water board (SWRCB) that is similarly biased. I also join the other designated parties in their presentation of all document evidence, exhibits, objections and testimony, given our common proposed CDOs and the en masse hearing.

The process to find me "guilty" and impose enforcement resulted based on the Hearing board chairman's request for individuals to be prosecuted after the water board's inability to gain satisfaction with $11 million in fines in the administrative civil liability against the Los Osos CSD in January 2006. The record holds numerous references to the need to overturn "measure B vote", "need to change the will of the community", to "wake up the voters", and to otherwise influence future votes and teach the citizens a lesson. This occurred after the Los Osos CSD stopped the mid town sewer project. I did not stop that project, and should not be singled out as an example nor prosecuted for the actions of the Los Osos CSD or voters in the community. In fact, I voted in support of the project.

As I was preparing for the hearing, I learned of the lack of access or "discovery" for reports and key witnesses, which is the basis for the charges. I object to this lack of discovery. The new case was posted by the prosecution Sept 8 and documents were not available to review in a timely manner before Roger Briggs left town. I was denied deposition of Briggs. I recognize that Mr. Briggs is the author and architect of the enforcement, the basin plan, and all the supporting evidence is connected directly to him. It is essential he is subpoenaed and appear for me and others to have a chance at a fair hearing.

I also learned that CDOs have the potential of resulting in regulatory takings, lowering property values, creating economic disadvantage to home businesses, and could eventually result in condemnation of our homes. I believe from what I have learned that the water board has been unfair in its application of the enforcement policy, randomly targeting 45 individuals, yet not targeting businesses.

Most recently there have been many changed conditions in Los Osos that the water board originally relied upon to justify enforcement, i.e., the lack of a project in sight, dissolution, no funding, no plan, no process to deliver a project, lack of will by the community for compliance, no implementation plan, etc. Since those findings, "reasonable progress" has been made toward a project considering the short time frame. The prosecutions lack of consideration of changed conditions since the CDO was conceived over a year ago should be reviewed and the enforcement reconsidered.

Changed conditions: water conservation implemented Water management plan -resource level 3 requested,(reduces water discharged) upper aquifer supply study, (to utilize high water and increase depth to groundwater) ; the reapplication for SRF loan and County involved with implementation plan-timeline and major milestones identified, and Los Osos CSD completed the alternative report and facility plan (Ripley Report) (July); AB2701 provides funding and capacity for project completion, No dissolution - debt reorganization chapter 9 protection(Aug); Governor signs AB 2701 (Sept); CSD resolution to support and encourage compliance with RWQCB CDO conditions(Oct); cooperative efforts of all agencies to arrive at a negotiated settlement (ongoing); cooperative residents/owners demonstrated with hundreds of septic tanks pumped-with records submitted. (to date); homeowners willingness to support & connect to sewer evidenced in the assessment payments paid, recipients of proposed CDOs willingness to enter into a written settlement agreement (Oct).

I am facing your long and arduous enforcement process because the government agencies (at all levels) failed to succeed in delivering a wastewater solution to Los Osos. As a taxpayer, who pays the salaries and costs for the very services to deliver a wastewater project, committed through the sewer assessment to connect to a sewer, have done all I am able to do as an individual. Yet ironically, I am also burdened to pay for the enforcement against me through my taxes. I am willing to participate in an equitable settlement, and I have made this commitment to your staff through PZLDF.

Last, I request that if in my hearing, I am unable to fully express myself or if I freeze up and am unable to perform in this setting, that you please allow assistance. This is not the job of an attorney, and I am not able to afford an attorney. It is, however, the job of a good neighbor and I ask you to allow citizens who face this trial together to help one another.

I ask that you reconsider enforcement and look to notification and voluntary compliance by individuals, and work with lead agencies for developing plans and schedules that will assure Los Osos solves the issues you are concerned about.

Sincerely,