

Timothy L. Rochte, TRE ETAL
1400 17th Street
Los Osos, CA 93402

April 3, 2006

Lori Okun and John Richards (via email, with hard copy and attachments to follow)
Senior Staff Counsel
State Water Resources Control Board
Office of Chief Counsel
P.O. Box 100
Sacramento, CA 95812

RE: Submittal of Formal Comments in Response to proposed CDO NO. R3-2006-1015

Dear Ms. Okun, Et Al,

The purpose of this letter is to submit formal comments including site specific evidence in exempting my property at the above address (APN 38332001) from the proposed Cease and Desist Order's interim compliance requirements (CDO NO. R3-2006-1015) for the reasons listed in the body of this letter. However, before I do that, I have specific matters to call to your attention:

First, based on the unique characteristics and circumstances of property use by my family and me, I request that my case be heard, considered and responded to individually on April 28, 2006 by your Board and its' staff, and not as part of a group of property owners who received the proposed CDO's.

Secondly, I request that all previously issued proposed CDO's be immediately withdrawn and issued to **all** property owner's and businesses in Los Osos at once. The method of randomly selecting 50 property owner's only serves to single out one group for prosecution thereby forcing them to pay higher costs for a longer period of time. I ask that you provide me with a detailed explanation of your reasons and methodologies for using the random sampling approach.

Further, proposed CDO's must be issued to all dischargers into the basin, or no proposed CDO's should be issued at all. The decision to issue 50 proposed CDO's is eminently unfair, arbitrary and capricious and I ask that they be rescinded immediately. The issuance of proposed CDO's by your Board against individual property owners is a case of "using a howitzer to ring a doorbell." It is an unnecessary and illegal use of your powers and I again ask that they be rescinded immediately in favor of a more reasonable approach available to you by law. I will have more to state on this further in this letter.

Third, as stated in his power point presentation at the public information meeting on February 15, 2006 in the CCRWQCB's conference room, Mr. Matt Thompson of your staff indicated that the primary cause of the upper aquifer pollution is due to the housing densities in Los Osos and their attendant septic systems. I call to your attention that the building densities in Los Osos,

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including my specific property built and permitted by the County of SLO on March 11, 1983 (see attachment # 1) were authorized by the County of San Luis Obispo and executed by their Planning Department. As such, rather than hold individual property owners' responsible for this situation, I request that the CC RWQCB find the County of SLO directly responsible for the pollution levels in the prohibition zone and that you order them by nexus, to pay for any and all costs of carrying out the proposed CDO's caused by their land use policies.

Fourth, in response to the following question from one of the Designated Parties at the February 15, 2006 Public Informational Meeting, "won't the pumping of 4800 septic tanks in Los Osos create a situation in the lower and upper aquifers that will allow increased volumes of seawater intrusion to enter our water supply?" to which Mr. Thompson of your staff replied (for exact wording, please reference the video recording done that night by Charter Community Cable Channel 20) "we are not in the business of providing the services of a water purveyor, we are in the business of providing water pollution control services."

Ms. Okun and Mr. Richards, both the two of you and I know that Mr. Thompson's above statement is not in keeping with the mission of the Board "to preserve, enhance and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations."

I trust your staff's response is not indicative of the Board's position on the issue of seawater intrusion from the pumping of 4800 septic tanks, and would request that you address this question in your response to my letter. A more measured approach, I submit for your consideration and response, is to only pump those septic tanks that are loading nitrates directly into the high groundwater areas. I have to ask, that if your Board and staff thinks we have a problem now, what will happen to our long term water quality and supply if your Board's actions result in increased seawater intrusion in the Los Osos Basin? I point to the irrefutable Law of Unintended Consequences for your consideration.

A more reasonable approach would be to work with the current CSD (which has only been in office a mere 6 months) to establish a Septic System Management Program. Before any proposed CDO's are put into effect, if at all, I urge you to work in good faith with the new CSD to develop the SSMP as an interim measure, while they work concurrently with your staff to establish the much needed sewer system. They are ready, willing and able. I request that you both pursue this course of action to your Board rather than spend your time prosecuting individual property owners.

Fifth, based on regulations of the California Environmental Quality Act (CEQA) I request that your Board undertake an Environmental Impact Report in order to assess the effects of the actions from the proposed CDO. This EIR must assess whether the proposed CDO actions have a **significant impact on the environment** through the depletion of groundwater recharging from pumping 4800 septic tanks, the effect on the quality of air from the high number of pumping trucks **and** the noise produced thereby, and the safety to the public from the high number of

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pumping trucks coming from throughout the region and traveling on rural and suburban streets. Additionally, it is essential that an EIR be done in order to quantify the socio-economic affects on the community as a result of the proposed CDOs.

The definition of “significant impact on the environment” is contained in California Code Regulations, tit.14, Section 15382 which states: “a substantial, or potentially substantial, adverse change in any physical conditions within any area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.” The proposed CDO actions, if implemented, must be approved by going through the CEQA process. To do otherwise is a violation of CEQA regulations.

I will now list the following specific reasons, with supporting documents either by attachment or by reference, of why my property should be exempted by the proposed CDO:

1) Per attachment # 2, please find expert written analysis from Mr. Jeff Grover, Professionally Registered Geologist with the State of California, and Geology Instructor at Cuesta Community College that attests to my property being well above the upper aquifer in the Los Osos Water Basin.

As found in Mr. Grover’s letter, the distance between the bottom of my leach pit and the upper aquifer provides for the successful removal of nitrates, given the 40 foot depth-to-ground water level. The maps that confirm the location of my property on the contour maps are referenced in the July 2005 “Water Management Plan on the Los Osos Groundwater Basin,” done by Cleath and Associates for the Los Osos Community Services District (LOCSO) as well as the LOCSO Website:
http://www.losososcsd.org/pdf/PP_Nitrate.pdf

2) My property is on the corner of El Moro Avenue and 17th Street, with a lot size of 50’ x 125’ (see Attachment #1). There are single family residential properties directly to the east and south of my property with similar lot sizes. The sole occupant of the property to the east is an elderly person and the property to my south is occupied by a single mom with two small children. The nearest land use to the north of my property is the County’s newly built El Moro Bike/Pedestrian Path. The Path was built on top of the El Moro dirt road and sits within an 80 foot right of way corridor. The nearest property to my north (beyond the Path) is undeveloped and vacant, consisting of four, 25’ x 125’ lots. This level of housing density is sparser than the majority of the prohibition zone densities.

The nearest Nitrate Monitoring Well to my property, 8N2, shows a very acceptable level of <.5mg/l. Again, I reference the maps and data from item 1 above. As such, my lot size, and the uses of the lots directly adjacent to my property strongly indicate that the proposed CDO issued with an interim compliance requirement of pumping six times per

year is unnecessary and should be eliminated or very substantially reduced.

- 3) The number of occupants residing in our house is 4 including myself, my wife, son and daughter. I work full time for Caltrans as a Senior Planner in San Luis Obispo during the week, my wife works as an Adult School teacher part time in SLO during the week, my son attends Cuesta College full time and my daughter is a student at Morro Bay High School. We spend a majority of our waking hours away from home and make use of the bathrooms at work or at school, thereby reducing the nitrogen loading in the L.O. basin.

My first job with the State of California in 1977 was as an Environmental Instructor with the California Conservation Corps. I taught staff and corpsmembers throughout the state about how to live and work in harmony with their environment. Conservation of natural resources was, and still is a primary focus of the CCC program.

As you would expect from one who “walks the talk” of natural resource conservation, we apply these same conservation values in our household for the benefit of our community and region. We separate our kitchen waste into dry and wet systems never putting anything solid down the garbage disposal.

Ever since we moved into the house in 1989, we installed and used devices in the toilet tanks which require less water to flush. We flush immediately if it's brown (and use white toilet paper), but if it's yellow, we wait. We have low flow shower heads and water our mostly native outdoor plant landscaping via a timer and a drip system that applies water in the cool of the morning before the Los Osos winds pick up and the sun comes out.

Because of our long-standing conservative water use, one can clearly see that a proposed CDO with an interim compliance requirement of pumping six times a year is unnecessary for our home and property and should be eliminated or substantially reduced.

- 4) Our septic tank has a 1000 gallon capacity and was permitted by the County of SLO on 3/11/83. (See attachment #1).
- 5) On September 9, 1992, I had a Zabel A-100 Septic Tank Filter installed through Advanced Septic (See Attachment #3 - copy of paid Invoice and copy of brochure).

By its' patented design, the Zabel Filter prevents the majority of solids from entering my leach pit thereby allowing the clarified liquids to pass through without clogging the system. Regular maintenance of the filter consists of removing the filter from its' cylindrical housing unit attached to the outflow pipe on the liquid side of the tank, and hosing it off so that the materials wash into the solids side. Because of the size of my tank, and the long standing use of a high-tech filter system (14 years), the CDO's interim

compliance requirement of pumping six times a year is unnecessary and should be eliminated or substantially reduced.

- 6) On October, 26th, 2001, after 16 years of use (including 5 years by previous owners with 6 occupants, including 4 teenagers) we installed a new leach pit. (See attachment #4, copy of paid Invoice from Strole's Tri-Service and copy of cancelled check including permit fee to the County of SLO. For copy of permit, refer to SLO County Planning and Building Department).

Ms. Okun and Mr. Richards, as mentioned at the outset, this letter represents my formal comments, which comments will be explained in full at the Hearing(s) by me and/or by my counsel or representatives. In addition, I am under the belief that the Los Osos Community Services District ("CSD") is submitting a number of documents in support of its comments on this matter. I hereby reserve the right to comment on those documents. Also, the RWQCB information sent to me informed me that the RWQCB prosecution team would rely on a list of documents in its presentation. While the RWQCB team claims that it has made its documents available for my review, they have only been available at RWQCB offices during the work day. Because it poses an undue hardship, I am unable to get to the RWQCB offices during the work day and have not had a chance to review the documents. I reserve the right to comment at the Hearing on the documents and/or on any arguments based on them.

Based on the evidence provided above, it is my contention that the RWQCB has completely failed to investigate my property, knows nothing about the working of my septic system, has made no effort to determine whether and to what extent my system is operating illegally, and therefore lacks the proper foundation to issue a CDO against me. In addition, the manner in which this prosecution has been conducted violates my rights under both California law and the Constitutions of the United States and the State of California. In light of all of this, the RWQCB cannot legally issue a CDO against me.

I. This Prosecution Violates Both California Law and My Due Process Rights Under the State and Federal Constitutions

In researching the State Water Resources Control Board ("SWRBC") and each Regional Water Quality Control Board in the State, I can find no instance in which a CDO was ever issued against an individual homeowner. The SWRCB's own Enforcement Policy states that CDOs regularly involve "*extensive capital improvements*" beyond the scope of a single property. After looking at the SWRCB Policy as a whole, it is clear that the SWRCB does not consider a CDO to be an appropriate prosecution tool against private citizens, because citizens hold no discharge permits and have no control over sewage or stormwater collection and treatment.

In addition, the RWQCB, through the CDO process, is specifying the manner of compliance with it by essentially forcing me to pump my septic tank. This is a clear violation of the Porter-Cologne Act, which forbids the RWQCB from issuing mandates about the method of

compliance. According to Water Code § 13360 no “waste discharge requirement or other order of a regional board or the state board . . . shall specify the design, location, type of construction, or particular manner” of compliance with the Boards’ requirements or orders. (Cal. Water Code § 13360(a)). I am certain that the RWQCB prosecution team will contend that the CDOs allow Los Osos residents to propose alternative means of compliance. But I, like most ordinary citizens, lack the technical sophistication of the RWQCB, so it should be incumbent upon the RWQCB to explain to me what options I have, instead of making me search, in my free time, for ways to comply with the CDO. In failing to do this, the RWQCB’s proposed Order is a *de facto* prescription of the manner of compliance. Further, the Porter-Cologne Act **does** specify that it is the duty of the RWQCB to assist entities in finding solutions to community water quality issues. I and others receiving the proposed CDOs do not see that support from the CCRWQCB.

Also, it is my understanding that there were comments at the RWQCB’s Administrative Civil Liability hearing for the CSD which make it clear that the RWQCB is *not* an unbiased, neutral forum for this Hearing. At the CSD’s hearing, Chairperson Young stated the intention of the RWQCB to pursue individual enforcement actions. Other members of the RWQCB joined Chairperson Young in stating, for the record, their opinion that individual enforcement actions needed to be taken. I understand that Board Member Shallcross went so far as to state that individual enforcement actions would change the political will of the people. This statement shows that the RWQCB has an improper purpose to the entire CDO process. Prosecution, even administrative prosecution, undertaken to bend the political will of the electorate is so clearly improper that it is difficult to imagine how any CDO issued pursuant to such prosecution could be upheld by a court.

It is clear, both in light of the evident bias on the part of the RWQCB and the manner in which the prosecutions were initiated, that the issuance of CDOs will violate my legal and constitutional rights. I therefore ask that the RWQCB cease this prosecution, or, in the alternative, recuse itself from hearing this matter and allow a truly neutral party to render a decision.

II. The CDOs are Based on Faulty Scientific and Environmental Analyses

It is my understanding that the CSD is challenging the scientific underpinnings of Resolution 83-13 and the issuance of CDOs to me and to others based on Resolution 83-13. I join in their challenge to Resolution 83-13 and this prosecution based on Resolution 83-13. In the interest of not being duplicative, I will not submit documents in support of my joinder, but instead reserve the right to comment on the CSD’s documentation and to comment on the RWQCB’s documentation.

It is worth noting, however, that at the time Resolution 83-13 was adopted, it was recognized that the Prohibition Zone was not a scientifically precise area of discharge/pollution, but the RWQCB

Staff's best guess based solely upon information available at that time. That means that there is no actual scientific evidence supporting the current prosecutions, just a guess from 1983.

Most importantly, and as stated briefly above, there is absolutely zero evidence offered by the WQCB to show that my septic tank has violated Resolution 83-13. It is abundantly clear that the RWQCB has failed completely to develop any scientific evidence with regard to my property or any other individual property. In the more than 20 years since Resolution 83-13 was adopted, the RWQCB never collected site-specific or property-specific information, but it now seeks to prosecute based not on site-specific information but based on some presumption that the prosecution team's evidence must apply equally to every property targeted for prosecution. Without actually studying the individual properties, the RWQCB instead is initiating a new form of prosecution in the State of California – prosecute by implication. This runs counter to the Prosecution Team's claim that the purpose of the CDOs is the actual protection of groundwater and instead serves to support the idea that the RWQCB has politically-motivated reasons for prosecution me and other Los Osos residents.

Specifically, my septic system and other septic tanks currently in use in Los Osos are approved, legal, septic systems. Most of our systems were placed in use prior to Resolution 83-13. At no time has the RWQCB, the County of San Luis Obispo, or the CSD ever inspected my septic system to determine whether it is faulty or whether it is working as it is designed to work and leaching liquids into a leach field in the upper aquifer for additional natural treatment. If my septic system and other septic systems are working as designed and permitted by the government, then they cannot be the subject of this enforcement hearing. Yet the RWQCB initiated this action without even trying to find out whether the environmental characteristics – depth of aquifer, proximity of leach field to streams, proximity of leach field to other leach fields, etc. – of my property or my septic system lead to the need to revoke my septic permit and to require pumping.

III. The RWQCB Violated My Due Process Rights Throughout the CDO Process

In addition to these scientific concerns and the probability that this entire process is of questionable validity because of them, specific actions taken during the process increase the illegality of the prosecutions and the probability of invalidation. Specifically, the manner in which the prosecution team went about initiating the prosecution was designed to intimidate, harass, and confuse me and the other residents of Los Osos. This flies in the face of our American system of justice and any conception of governmental fairness.

In the letter dated Friday, January 27, 2006, the RWQCB illegally demanded that I turn over specified information to the RWQCB within 5 business days of receipt of the letter or face \$1000 per day fines. The request for information was purportedly made pursuant to Water Code Section 13267. But that Section deals with technical or monitoring program reports, not general information like the tenant reports requested by the RWQCB. Therefore, and contrary to

what the RWQCB indicated in that first letter, there was no legal ground to assess or threaten to assess a \$1000 per day fine pursuant to Section 13268. Clearly, the RWQCB, with its vast knowledge of the Water Code, had to know that Section 13267 and Section 13268 could not apply to the information it sought. Just as clearly, the RWQCB made reference to the statutes in its letter as a means by which to frighten and confuse me as a property owner and make my resistance to the CDOs a seemingly ineffective formality. If, for some unknown reason, this wasn't the RWQCB's outright intent, it nevertheless had that impact on me and my family.

Resolution 83-13, the basis of this prosecution, was drafted with a local population of nearly 27,000 persons as the presumption for its scientific analysis. Yet Los Osos has only grown to ~15,000 persons. This raises some problems. Primarily, Resolution 83-13 is either based on scientifically indefensible positions with regard to the permissible growth in the area, or in the alternative, it relies on *outdated* science which has no practical application to the facts in the Los Osos area. In either the case, the Resolution cannot possibly be the basis for the RWQCB issuing legally-defensible CDOs against me and the other 44 residents being prosecuted.

Resolution 83-13 also permitted the construction of 1150 new housing units in the Los Osos/Baywood Park area until the discharges prohibited in that Resolution are ceased. Yet the RWQCB never explained why, if 1150 additional units were to be built, how the additional units would not negatively impact the environment. This results in an incomprehensible position by the RWQCB – first the RWQCB states that pollution is rampant, then the RWQCB states that more building will be allowed, and now the RWQCB is prosecuting both those persons who were here when Resolution 83-13 was put into place and those who were allowed to build despite what the RWQCB now states are massive problems with the groundwater.

Recently, I and a majority of the voting public of Los Osos became frustrated with prior CSD leadership. That leadership, apparently acting in good faith, moved forward with plans to satisfy the requirements of Resolution 83-13 and subsequent documents issued in light of the Resolution through a sewage treatment facility and ponding system. I supported these moves, and indeed, I and most residents have always supported the construction of *some* sewer system and treatment facility in Los Osos. But in a betrayal of our trust, the former CSD leadership also moved forward with plans to build a sewage treatment facility at a location in the middle of Los Osos, upwind of the town and right next to a school, churches, and parks. I and other residents, exercising our rights to free speech and to recall elected officials, did recall three CSD board members who favored the in-town sewage treatment plant and adopted an initiative to prohibit the siting of such a plant in the middle of the town.

Nearly four months later, the RWQCB initiated this prosecution of individual property owners. The RWQCB did not attempt to determine which properties, if any, *actually pollute* the groundwater or surface water in Los Osos or which properties are the most egregious polluters. Instead, the RWQCB acted irrationally and without substantial justification in randomly choosing property owners to be the subject of this Hearing. Also, and as stated above, the first letter I received included an illegal attempt to force me to turn over information to the RWQCB

to assist the RWQCB in its prosecution of me and of others. This attempt was supported by the RWQCB's threat of a \$1000 per day fines which the RWQCB had no power to assess. The information that was demanded of me is subject to the Fifth Amendment privilege against self-incrimination.

Not only did the RWQCB attempt to fine away the Fifth Amendment, but the threatened fines, massive for an individual like me, instilled fear in the community. That fear was multiplied by the manner in which the RWQCB manipulated the information available to the individuals. The RWQCB did so in three ways: (1) failure to provide any list of the persons targeted for prosecution; (2) the dissemination of a list of thirty-four (34) documents supporting the RWQCB's prosecution without granting ready access to these documents to people like me who cannot get to the RWQCB offices during the business day; and (3) the approximately five-week time period in which I and other citizens, acting with very limited and rudimentary scientific knowledge, were required to respond to the RWQCB.

The first manipulation by the RWQCB – failing for over a month to provide a list of the other residents targeted for prosecution – violated my rights in two ways. First, I had no means by which to determine whether the CDO procedure is actually “random” or whether prosecution is being undertaken as a means by which to get back at me and other residents of Los Osos for exercising our Constitutional rights in an election. Also, the RWQCB's failure to release the identities made it impossible or highly-difficult for us to jointly represent our interests. It is only in the last few weeks that we have found each other and started trying to work together. Before this, we were left without any way to share funds and resources and create any meaningful rebuttal to the RWQCB's prosecution. This strongly has the appearance of a “divide and conquer” strategy. No wonder the people of Los Osos strongly oppose the proposed CDOs.

The Prosecution Team sent out the list of 34 documents that support its position in this matter. While the documents have supposedly been available for review at the RWQCB offices during normal business hours, I and other individuals targeted for enforcement have not had copies of or unfettered access to the documents to try to understand them and find a way to counter them on our own time. Unlike the RWQCB, this is not our job, and I for one cannot spend all day, every day, looking at this kind of information or take time off to go to the RWQCB offices and sit and look at the documents there. Because the RWQCB has failed to let me review its evidence in a reasonable fashion (e.g. evening or weekends when I am not at work), I have had no chance to have that evidence or the conclusions based on it subjected to any testing or analysis. In essence, the RWQCB has told me that I have to rebut scientific information without knowing what evidence I must rebut.

Conversely, the RWQCB has granted itself the privilege of receiving all comments made by the Designated Parties – as well as all of the evidence those parties can collect in their own behalves – approximately one month before the Hearing. The Prosecution Team will therefore have access to all of the relevant information, while I and the other citizens will only know what information each of us provided. It is indisputable that this unequal access to information will

result in a Hearing which is prejudiced in favor of the prosecution team. This violates due process and equal protection and casts further doubt on this entire prosecution.

Even if the RWQCB gave each of us all of the scientific and technical information it had at the outset of this matter, I would have had a mere nine weeks to attempt to understand it and respond to it, and I would have had to do so using all of my free time and quite a bit of my own money. Conversely, the RWQCB is a government agency with state resources and a large staff dedicated to prosecuting me and others. Still, it took them nearly four months – following the election, at which time Mr. Briggs indicated a desire to begin enforcement – to start this prosecution. Once again, this is a violation of my due process and equal protection rights.

As I pointed out earlier in this letter, the prosecution team never attempted to target the most egregious violators of Resolution 83-13. Indeed, the RWQCB has never actually made any scientific study of my property or any other property in Los Osos. RWQCB personnel have admitted that they have no experience in dealing with a large group of targeted persons and that they are going through “on-the-job” learning. This on-the-job learning may well result in I and some other members of the community facing immediate orders to begin septic pumping at a cost of thousands of dollars per year. Meanwhile, other residents will face no such order for months or years to come. Indeed, if the on-the-job learning by the RWQCB results in a shift in enforcement mentality, some residents could wind up not being subject to any order – while the targeted residents continue to face thousands of dollars in mandated costs per year.

In addition, the fact that I and 44 other residents will be subject to a single hearing with a single presentation by the prosecution team is evidence of the RWQCB’s intent to treat this as a “one-size-fits-all” enforcement. How can this possibly be equitable, when each property has a different septic system, has different environmental factors at play, and must be treated as a stand-alone case? Once more, a violation of the due process and equal protection principles espoused by our federal and State constitutions exists to cast doubt on the legality of this enforcement process in general and this hearing in particular.

As a final matter, Section 4477 of the California Government Code prohibits all state agencies from entering into contracts of \$5000 or more for the purchase of supplies, equipment, or services from *any nongovernmental entity who is the subject of a CDO*. It is very clear that the CDOs are not meant to address individual homeowners but entities in the business of stormwater or sewage treatment – of course, as stated elsewhere in these comments, the use of CDOs against individuals is unprecedented.

In this case, use of CDOs will cause financial havoc for at least one resident of Los Osos whose home-based business depends in large part on governmental contracts – and possibly more residents and property owners. The extraordinary use of CDOs to compel us to vote in a manner consistent with the RWQCB’s thinking results, in these instances, in not only massive costs to all of us, but an extreme detriment to those with businesses that contract with the State. This amounts to government compulsion, and cannot be sustained by any court.

IV. “Master List of Documents” and “Witness List” Incorporated By Reference

I hereby Incorporate By Reference (IBR) the complete “Master List of Documents” and “Witness List” for the CDO Hearings– prepared on April 2, 2006 submitted by the LOCSD as a designated party (see <<http://www.losososcsd.org/>> and click on “Documents for CDO Defense”) and all LOCSD’s documents submitted as part of both the ACL hearings in Dec-Jan 2005-2006, and all documents from the RWQCB’s files.

V. Summary

Like most of us who received proposed CDO’s, I personally do not have a great understanding of the scientific evidence at issue here. It is incumbent on the Water Board staff to have been provided that information in a manner understandable by the layperson receiving the proposed CDO. I do know that Resolution 83-13 was based on limited science, and the RWQCB has made no efforts to update that science to reflect the current reality in Los Osos. I know that the RWQCB has never properly investigated my property by conducting an onsite inspection to determine whether I am actually violating the law. In addition, the due process and equal protection violations by the RWQCB cast further doubt on the intentions of the RWQCB in prosecuting me – particularly when viewed in the context of the weak science supporting the prosecution team’s position. In light of what I have been told about the RWQCB’s statements at the CSD hearing, I can only presume that this prosecution is politically-motivated and that the RWQCB cares less about regional water quality than it does about carrying out its own agenda.

Ms. Okun and Mr. Richards, in light of the several points listed in detail above, with supporting attachments or references, I request that you cancel the proposed CDO for my property effective immediately.

If this matter goes to Hearing, I see it as an opportunity to fully and fairly be heard and rebut the Prosecution Team’s misguided efforts.

I look forward to receiving your responses by April 19, 2006. In the meantime, I remain

Sincerely yours,

Original signed by Timothy L. Rochte
Timothy L. Rochte

Attachments

cc: Michael Thomas, CC RWQCB (via email, w/9 hard copies w/attachments for Bd. Members to follow)
Roger Briggs, Executive Officer CCRWQCB (via email, with hard copy & attachments to follow)