

1/28/09

COMMENTS ON ENVIRONMENTAL JUSTICE IN THE DEIR FOR THE LOS OSOS WASTEWATER PROJECT:

"Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons across this Nation. It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work."

The DEIR, and CEQA plus, do not address the Financial Capability Analysis (FCA) requirement. In 1990 the FCA was performed for San Luis Obispo County Service Area #9 upon consideration of an SRF loan to fund the Los Osos project. The project exceeded four of the five financial criteria used and fell into the "high-cost category." This current County project is also considering the SRF loan to fund the Los Osos project, yet no FCA was done or mentioned prior to, or in the DEIR or CEQA plus. There are serious community concerns over the estimated costs of the County's preferred project, including potential effects on the high percentage of low-income residents.

An FCA should be conducted using recent costs that include total annual cost per household, taking into account ALL capital and operations and maintenance, according to the USEPA's 1994 letter to the County.

A 1994 EPA pilot study on holistic sustainable development concluded that studies to date in Los Osos ... had been inconclusive, and that further research is necessary ... on the area's hydrogeology, sources of nitrogen and denitrification ..." This was never considered by the County.

Also noted in the USEPA letter was that a source of funding for further studies were grants awarded by the EPA to states for water quality management planning under the authority of section 205(j) of the Clean Water Act, and that program states are responsible for selecting projects that, among other things, identify "MOST COST-EFFECTIVE AND LOCALLY ACCEPTABLE FACILITY AND NON-POINT MEASURES TO MEET AND MAINTAIN WATER QUALITY STANDARDS" AND "DETERMINING THE NATURE, EXTENT, AND CAUSES OF WATER QUALITY PROBLEMS IN THE STATE." This opinion also stated that a comprehensive approach incorporating conventional as well as alternative technologies and ideas holds the most promise for a satisfactory long-term solution. To date, this approach has not been seriously considered by the County to help make the project affordable to the low-income residents of Los Osos. To

date, the County has stated that they will consider only the most expensive option.

The same USEPA letter also stated that the project would "appear to be affordable" if there was "wide community acceptance." There was not wide community acceptance. The County's Prop 218 vote showed that 30% of the homeowners did not vote and that school, County and CSD properties were included that do not fall into the "homeowners" vote; these wrongfully counted entities, subtracted from the results of a homeowner vote, reveal a lack of wide community acceptance. Also, and no less important, many voted yes ONLY because the RWQCB threatened homeowners with CDOs and NOV's, stating that the voters/homeowners would not be able to use their water (or live in their homes) if the County's wastewater Prop 218 vote were to fail. This act of coercion is possibly a felony on the RWQCB's part.

The County's process has denied fair treatment to the targeted project payees -- the people living exclusively in Los Osos' "Prohibition Zone." The "Prohibition Zone" singles out the least advantaged and puts the entire cost of an unaffordable project on them while other residents in the entire district benefit from the project with clean water that the project has promised to deliver, yet not substantiated how, why, or at what final cost. This goes against California constitutional law, giving the burden to only some residents who are low-income and leaving out other residents in the district, as well as state and federal agencies who also benefit and who are NOT exempt under the Prop 218 law.

The County of San Luis Obispo has failed to follow the Environmental Justice law by protecting some from paying anything towards the wastewater project while allowing homeowners who can least afford it to bear the entire cost (costs that have not been made clear or final), causing homeowners to lose their homes. The DEIR doesn't address the core financial issues associated with the Los Osos Wastewater Project, but rather attempts to circumvent them by not including them as necessary for meeting state, EPA and Disadvantaged Community guidelines.

These errant actions by the County define "Eminent Domain by Taxation."

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