

To: Ms. Tam M. Doduc  
State Water Resources Control Board: Chairwoman  
From: Scott Kimura (Los Osos)  
Subject: Concerns from those outside the LOCSD on moving the LOCSD sewer

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Dear Ms. Doduc:

Please disapprove the compromise package that would allow the opportunity for the Los Osos Community Services District (LOCSD) to move their sewer out of town. The compromise package was developed by the LOCSD and State Water Resources Control Board staff, and is now awaiting your Board's vote. The following are reasons supporting a 'no' vote on the compromise from those of us who live just outside the LOCSD.

For background, it must be emphasized that we, outside the LOCSD, never had a vote on the LOCSD board members, their decisions, and never had a voice or vote on the sewer. We are outside the LOCSD and sewer prohibition zone because we all live on acreage parcels with low-density housing. Now the new LOCSD board wants to move their sewer out of town and into our backyards. As a result, we are now forced by the LOCSD to become actively engaged in knowing more about the sewer project, and how a sewer out of town may affect us. Our only means to ask questions and convey our position is through individual comments at public meetings and letter writing. We have no representatives or lobbyists, unlike the LOCSD. So, we are looking to you for support.

To my understanding, the compromise is an effort to move the sewer project forward (and out of town) in consideration of Measure B-05. However, it appears that Measure B-05 is flawed because it crosses regulatory jurisdiction boundaries. The initiative forces new burdens on agencies that may not be able to support or approve a sewer project out of town, and those agencies did not have prior input. I have also heard that clarification is needed on whether Measure B-05 can be retroactive. Can there be an initiative to abandon a project that has been approved by all agencies and has started? Can initiatives expose taxpayers to fines and costs for construction foregone without disclosure? Also, can there be an initiative that limits the effectiveness of regulatory agencies to resolve wastewater problems? Suspiciously, Measure B-05 also appears constructed such that there is no location within the LOCSD boundaries for a sewer. Measure B-05 is very much like moving a problem to someone else's backyard when those affected never had a voice or vote, and this I feel should be considered unlawful.

Please do not accept the compromise package. It can only fail. Measure B-05, which apparently is the foundation for the compromise, appears flawed. Regardless of Measure B-05, a condition of the compromise is a two-year extension to complete the new project, which is largely to start over. With this large undertaking, lawsuits and litigation would likely result, which could easily extend the project past its due date. Therefore, the compromise should not be pursued because the likelihood of success appears extremely low, regardless of whether Measure B-05 is legal or illegal.

What is evident to me is the Regional Board has come to losing patience with Los Osos, and is using enforcement fines mainly as means to ensure an approved sewer project gets built as soon as possible, that being at the Tri-W site. On this basis, the State Board should support its Regional Board. If the State Board approves the compromise, it would delay a sewer coming into operation, and further delays are what the Regional Board has been trying to prevent. I have heard LOCSD supporters say that we should not write letters encouraging the Regional Board to fine the LOCSD should there be delays, and I am not attempting to do that here. However, relaxing fines (or alternative enforcement actions) and granting additional time in order to find a new fix while at the same time allowing illegal discharges to continue would seemingly be setting a poor precedence. It would be hard to imagine the responses of many past dischargers who violated discharge requirements and were then fined, if they found that the LOCSD was given an extended exemption without any consequence. If this was to occur, it could also open doors for future illegal discharges.

Although I have spoken mainly for myself throughout this letter, I know very convincingly that there are many others outside the LOCSD who share the same concerns and have the same beliefs. There are more contacts being made each day with neighbors outside the LOCSD who oppose moving the sewer out of town.

A large concern is the LOCSD refusing to disclose potential out-of-town locations for their sewer and potential sellers. They say this is for confidentiality reasons to protect the seller(s). While this might be true, it appears to be a strategy to deceive people in order to prevent those outside the LOCSD from mobilizing in a timely manner to protect their neighborhoods and express their concerns to State Agency decision-makers. This liken to a stall tactic. This is why you have not heard from us before.

In closing, it appears that the only pathway available for moving the sewer is down a long twisty road that comes to a dead end, and the project could derail at any turn. There is still no alternative project, or alternatives for their alternative. Unforeseen regulatory issues and constraints can also arise and be difficult to resolve. There are also many concerns from those of us outside the LOCSD that still need to be addressed. All this leads to one concluding that risking a loan on an indeterminate project would be truly gambling. Your option to reinstate the LOCSD loan should be only for the Tri-W project, as the loan was apparently project-specific for that site, and it is an approved project. There is much less gambling on that table with the fewer variables. This would keep the sewer within the LOCSD, and many new issues and wildcards will not come to light.

Respectfully,

Scott Kimura  
1981 Tapidero Ave.  
Los Osos, CA 93402

cc: Ms. Barbara L. Evoy (SWRCB: Chief of Division of Financial Assistance)  
Mr. Bob Crizer (Los Osos)  
Mr. Frank Galicia (Los Osos)