

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

DRAFT STAFF REPORT FOR REGULAR MEETING OF MARCH 31, 2000

Prepared on February 29, 2000

ITEM NUMBER: 16

SUBJECT: Adoption of General Waste Discharge Requirements for Residential On-site Wastewater Systems within the Bayview Heights and Martin Tract Areas of Los Osos, San Luis Obispo County

KEY INFORMATION

Location:	Bayview Heights and Martin Tract Areas of Los Osos, San Luis Obispo County
Type of Waste:	Domestic
Design Capacity:	375 gallons per day
Treatment:	Conventional septic systems
Disposal:	Percolation
Existing Order:	None
Reclamation:	None

SUMMARY

At its September 8, 1999 meeting, the Regional Board approved guidance for issuing exemptions to the Basin Plan prohibition of discharge within the Baywood Park/Los Osos area of San Luis Obispo County. Proposed is a general waste discharge requirements order implementing those guidelines. Adoption of the proposed General Order will provide a tool for authorizing and regulating new residential discharges in the Bayview Heights and Martin Tract areas of Los Osos.

Much of the following background information was provided in the September 8, 1999 meeting agenda. It is repeated here to provide a complete background or basis for the proposed action.

BACKGROUND

Discharge Prohibition – In 1983, the Regional Board adopted Resolution No. 83-13, which amends the Water Quality Control Plan, Central Coast Basin (Basin Plan) and prohibits, effective November 1, 1988, discharges of waste from individual and community sewage systems within portions of the Baywood Park/Los Osos area of

San Luis Obispo County (Basin Plan prohibition area).

At the time the Regional Board adopted Resolution No. 83-13, the County represented that it could design and complete a wastewater collection and treatment system that would eliminate the need for individual and community on-site sewage systems by the prohibition date of November 1, 1988.

In 1989, the County formed an assessment district to finance design and construction of the sewer system. However, from 1990 to 1994, the County fought a lawsuit challenging the assessment district through the trial court and Court of Appeal. That litigation was finally resolved in favor of the County.

San Luis Obispo County's Sewer System Plan - On October 10, 1995, the County Board of Supervisors voted unanimously to proceed with the community sewer project for Los Osos. This major public works project included a collection system, treatment facility and disposal/reclamation facilities, and would take approximately six years to complete. However, the sewer system serving the most acutely problematic areas was scheduled to be completed by December 1999.

At its December 8, 1995 meeting, the Regional Board adopted a Time Schedule Order as a means of holding the County to its project schedule. The Time Schedule Order includes task-specific compliance dates for implementation of an acceptable community sewer project. The Time Schedule Order was later revised and includes the following:

<u>Task</u>	<u>Completion Date</u>
Begin Design	March 2, 1996
Complete 60% Design	March 1, 1997
Complete 100% Design	July 17, 1997
Acquire Treatment and Disposal Site Property	December 7, 1997
Begin Construction (Segment I)	December 17, 1997
(Segment II)	July 1, 2003
Complete Construction (Segment I)	December 28, 1999
(Segment II)	July 8, 2004
Report on compliance (Per California Water Code Section 13267)	Two weeks after each above date, as well as quarterly reports beginning January 15, 1996.

The Order specifies potential liability of \$10,000 per day of violation of the above time schedule.

As indicated by the scheduled tasks, the sewer system was proposed to be constructed in two phases and collect all discharges within the discharge prohibition boundary, with the exception of the Bayview Heights and Martin Tract areas. These two areas were not proposed to be sewered in the initial two phases of the project, because they had adequate separation to ground water, the overall density of development met the Basin Plan criteria of one acre per residential septic system and connecting homes in larger lot areas would be disproportionately expensive.

Basin Plan Exemptions - Resolution No. 83-13 established the prohibition of new and existing discharges of waste from subsurface disposal systems within the Los Osos/Baywood Park area, effective January 1988.

The Basin Plan states (page IV-67):

“Subsurface Disposal Exemptions”

“The Board or Executive Officer may grant exemptions to prohibitions for: (1) engineered

new on-site disposal systems for sites unsuitable for standard systems; and, (2) new or existing on-site systems within the specific prohibition areas cited above. Such exemptions may be granted only after presentation by the discharger of sufficient justification, including geologic and hydrologic evidence that the continued operation of such system(s) in a particular area will not individually or collectively, directly or indirectly, result in pollution or nuisance, or adversely affect water quality.

“Individual ...systems shall not be approved for any area where it appears that the total discharge of leachate to the geological system, under fully developed conditions, will cause: (1) damage to public or private property; (2) ground or surface water degradation; (3) nuisance condition; or, (4) public health hazard. Interim use of septic systems may be permitted where alternate parcels are held in reserve until sewer systems are available.”

In order to grant an exemption, the Board must make several findings regarding the requirements in the Basin Plan for an exemption. One of these findings is that the proposed septic tank discharge will not “individually or collectively, directly or indirectly” adversely affect water quality. Another required finding is that in the area where the exemption is being considered the total discharge of leachate to the geological system, under fully developed conditions, will not cause property damage or water quality problems. Because of the water quality conditions that led to the septic tank prohibition, in most cases, the Board could not find that a new septic tank discharge would not adversely affect water quality. In the past ten years, the Board has granted only two exemptions to the Los Osos discharge prohibition. However, if a proposed septic tank discharge met other Basin Plan exemption criteria (for example, geologic and hydrologic conditions are acceptable, it complies with the general septic tank criteria in the Basin Plan, and/or the system is engineered to minimize nitrogen loading), and the discharge from septic systems after full development of the area in which it is located will not cause property damage or water quality problems, the Board could make a finding that the discharge will not adversely affect water quality.

Accordingly, in December 1996, the Regional Board approved guidelines for granting exemptions

to the Baywood Park/Los Osos discharge prohibition. The guidelines were intended to provide clear direction to Regional Board staff, the County and the public on what is likely to be acceptable for exemption. The guidelines also provided criteria for the County's use in evaluating and issuing building permits within the Los Osos prohibition area. The 1996 guidelines allow for certain exemptions to the Basin Plan discharge prohibition based upon milestones of progress on the County's sewer project.

On November 3, 1998, the voters in Los Osos approved a Community Services District (CSD) to replace San Luis Obispo County as the governing body for community services. The CSD has voted to not continue/implement the County's sewer project. Instead, the CSD is pursuing implementation of an alternative project. The CSD's project is significantly different in many aspects from the County's project, but most notably the schedule for sewerage the community has been pushed back several years, compared to the County's Segment I, which was to be completed last December. However, like the County's project, the CSD's proposed sewer project does not include providing sewer service to the Bayview Heights and Martin Tract areas, for the same reasons mentioned above.

Since the Regional Board approved the exemption guidance in 1996, delays in the construction of the county sewerage project caused by the Coastal Commission's inaction prevented property owners from meeting the exemption criteria. Therefore, no exemptions to the Los Osos discharge prohibition have been granted. Property owners remain unable to build even in areas expected to remain unsewered after completion of the community sewer system. The community and staff remain interested in allowing exemptions within the Los Osos area, to provide relief for property owners prior to completion of the sewer system (e.g., for remodels, new homes, etc.). Individual or group exemptions would be based on specified conditions, such as compliance with Basin Plan criteria for on-site systems (depth to ground water, slope, nitrogen loading, etc.).

DISCUSSION

Basis for Exemption – Coverage of projects under the proposed General Order provides exemption to the prohibition of wastewater discharge in the

Baywood Park/Los Osos area. There are 38 vacant lots in the Bayview Heights and Martin Tracts, which might be affected by the proposed General Order. Water quality impacts caused by discharges associated with development of these lots (even if all 38 proceed) are unlikely to be significant, because of the overall one-acre density and adequate depth to ground water that exists in both tracts.

Conventional septic systems would be allowed on existing lots that have adequate separation to ground water (as defined by the Basin Plan). Although some lots within these areas are less than one full acre (required by the Basin Plan for use of septic systems), the overall density of the entire tract is more than one full acre per residence. In order to retain the one-acre density however, no further subdivision of larger lots in these areas will be allowed.

Any proposed on-site system which cannot demonstrate adequate separation to ground water shall require individual consideration and approval of the District Engineer and Regional Board Executive Officer. Such consideration would include evaluation of any proposed nitrogen removal system but in all cases must meet separation criteria specified in the Basin Plan.

At its September 8, 1999 meeting, the Board approved revisions to the 1996 guidance for granting exemptions to the Baywood Park/Los Osos discharge prohibition and directed staff to develop a General Waste Discharge Requirements Order (General Order) for implementing the revised guidance. Following is a summary of the proposed General Order and how it can be implemented. The provisions allow for projects to proceed in Los Osos subject to demonstration that such projects will not create, contribute to or exacerbate water quality problems in the area.

Eligibility Requirements - Beginning immediately after adoption of the proposed General Order, construction in the Bayview Heights and Martin Tracts (depicted on Attachment A) would be authorized provided projects meet certain eligibility criteria, as follows:

- a) Projects must be on lots of one acre or more, existing on September 8, 1999, or lots less than an acre existing on or before September 16, 1983 (date of Basin Plan requirement for one-acre minimum lot size for septic systems);
- b) Projects using approved conventional septic systems must have at least 30 feet separation between ground water and the bottom of the leach field or pit, or greater separation when required by the Basin Plan;
- c) New septic systems must comply with siting and design criteria specified in the Basin Plan;
- d) Projects where site conditions indicate less than 30 feet separation between ground water and the bottom of the leach field or pit shall require individual consideration and approval by the District Engineer and the Regional Board Executive Officer; and
- e) Discharger (lot owners or project proponents) must submit a complete Notice of Intent (NOI) and first annual fee for each discharge.
- f) Remodels of existing units within the Bayview Heights and Martin Tract areas are authorized without filing a NOI providing onsite wastewater systems serving such remodels comply with the Basin Plan Criteria for such systems and are appropriately regulated by the County. Addition of secondary dwellings (granny units) is not authorized.

Upon receipt of a complete NOI, and the first annual fee (\$200), Regional Board staff shall review the submitted information to assure compliance with the General Order requirements. Coverage under the General Order shall be confirmed or denied in writing to the applicant and reported to the Board in the Executive Officer's report.

Discharge Requirements – The proposed General Order includes discharge prohibitions, effluent limitations and ground water limitations to protect water quality from impacts caused by the

discharge. Specifically, discharge is limited to appropriately sited and designed leach field or pit, without bypass, surfacing, seepage or overflow to adjacent properties or drainageways. Discharge is limited to 375 gallons per day of domestic wastewater only.

Provisions – The proposed General Order also includes provisions similar to orders throughout our region, requiring compliance with Standard Provisions and Reporting Requirements, compliance with Monitoring and Reporting Program (included as part of the General Order), and prohibiting discharges from self-regenerating water softeners. Also included is a provision requiring written notification of subsequent owner of these requirements and notification to the Regional Board of the change in ownership.

ENVIRONMENTAL SUMMARY

Adoption of the proposed General Order is a “project” subject to environmental review in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) However, in accordance with Section 15301, Chapter 3, Title 14 of the California Code of Regulations, adoption of Waste Discharge Requirements is a categorically exempt action because it is a regulatory action which will maintain environmental quality (specifically water quality), and includes procedures to protect the environment.

COMMENTS

The draft staff report and proposed General Order was mailed to potentially affected property owners and interested parties. A few minor editorial type comments were received and have been incorporated into the text of the staff report and proposed General Order. The following issues were discussed during several telephone conversations with interested parties.

1. The draft General Order circulated for public comments inadvertently listed the annual fee as \$400. The fee, based on threat to water quality and complexity of the wastewater treatment/disposal systems (septic systems) should be \$200. This fee is consistent with similar systems statewide. The proposed Order is revised accordingly.

2. Several existing homeowners in the Bayview Heights and Martin Tract areas inquired whether remodels would require coverage under the proposed General Order. Clarifying language is included in Eligibility and Applicability requirement A.l.f. of the proposed General Order.

Jeff Edwards recommended expanding Eligibility requirement A.l.d. to include discretionary approval for issues other than depth to ground water, such as lot size less than one acre when overall density exceeds one acre. Alternately, Eligibility requirement A.l.a. could be revised to read: “The project is within the Bayview Heights and Martin Tract areas (shown on Attachment A) on existing lots of one acre or more **average density** with an approved tentative subdivision map....”

Staff Response: Mr. Edwards represents two property owners who proceeded with County approval of tentative subdivision maps consistent with the Regional Board’s 1996 Guidelines for Exemptions described above in paragraph 2, page 3 of the staff report. One of the projects includes subdivision of 4.81 acres into 4 lots clustered to maximize open space. The other project includes subdivision of 4 acres into 8 half-acre lots. Although these projects were pursued consistent with the Board’s 1996 Guidance for Exemptions, neither project complies with the General Order as proposed. Also, renewed subdivision of these parcels would force them into noncompliance with the September 8, 1999 deadline for formation of “existing lots”. Staff believes reasonable solutions to such issues can be evaluated on a case-by-case basis. For example, development of only 4 of the 8 half-acre parcels until such time as the entire parcel can be connected to the community sewer system. Therefore, the Board might consider expanding the language of Eligibility requirement A.l.d. to allow for evaluation and approval of projects or unusual circumstances on a case-by-case basis but not be limited to depth to ground water criteria. Revised wording is shown in italics in the proposed General Order A.l.d.

Frederick Novy – A note was received from Dr. Novy expressing his desire to be able to subdivide his 2.65 acre parcel in Bayview Heights to two 1+ acre parcels. Dr. Novy objects to the proposed conditions which limit further subdivision of large acreage parcels.

Staff Response: Many multi-acre parcels exist alongside smaller parcels in the Bayview Heights and Martin Tract areas. Proposed exemptions to the discharge prohibition are based on the overall one-acre density of development in these areas. However, such density depends upon large parcels remaining unsubdivided. Further subdivision of the multi-acre parcels would be allowed a) if connected to the sewer system, or b) after rescission of Resolution 83-13 (prohibition of discharge).

RECOMMENDATION

Adopt General Order No. 00-012 as proposed.

ATTACHMENTS

Proposed General Waste Discharge Requirements Order No. 00-12 with Notice of Intent (Application) and Monitoring and Reporting Program.

SJM\H:\lososos\logeneral.itm