

# LAFCO

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**Santa Barbara Local Agency Formation Commission**  
105 East Anapamu Street ♦ Santa Barbara CA 93101  
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May 6, 2021 (Agenda)

Local Agency Formation Commission  
105 East Anapamu Street  
Santa Barbara CA 93101

## **Consider Request for Time Extension for the Los Olivos Community Services District to Implement a Proposition 218 Assessment to Fund Wastewater Treatment Facilities**

Dear Members of the Commission:

### RECOMMENDATION:

That the Commission grant the Los Olivos Community Services District a two-year extension for the implementation of a Proposition 218 assessment to fund wastewater treatment facilities.

### DISCUSSION:

The Los Olivos Community Services District has requested that the Commission extend the time limit contained in Commission Resolution 17-04 to implement a Proposition 218 assessment to fund planning and construction work necessary to build a wastewater treatment system for the Los Olivos community. The assessment was due one year after the effective date of the District's Formation. The condition of formation is set forth in Paragraph B(vii) is as follows:

"The District shall implement a Proposition 218 assessment within one year of the effective date as necessary to fund the wastewater treatment facilities for the area, including CEQA and other planning analysis, assessment study and necessary election. Santa Barbara LAFCO may otherwise extend such deadline, or other LAFCO approved arrangements are made for funding such construction."

The effective date of the District's formation was April 5, 2018; hence the assessment was originally due by April 5, 2019. The District's first request for a one-year extension

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**Commissioners:** Roger Aceves ♦ Cynthia Allen ♦ Jay Freeman ♦ Craig Geyer ♦ Joan Hartmann ♦ Steve Lavagnino  
Holly Sierra ♦ Shane Stark ♦ Etta Waterfield, Chair ♦ Roger Welt, Vice-Chair ♦ Das Williams **Executive Officer:** Mike Prater

was made on November 14, 2018 and approved by the Commission on December 6, 2018. The District made a second extension request on March 20, 2020 and approved by the Commission on September 3, 2020. The District has submitted a third request in a letter dated March 19, 2021, attached. **(Attachment A.)**

The letter outlines the work done by the District to move forward with the wastewater treatment project. The District is requesting a two-year extension to complete the Proposition 218 assessment process which, if approved, will run through April 5, 2023.

Comment letters have been submitted regarding this two-year time extension request. **(Attachment B.)** The purpose of forming the Los Olivos Community Service District in part was to allow local control to address groundwater quality problems created by septic systems and implement a wastewater management system that would comply with the State Water Board's Water Quality Control Policy. Several governance options were considered before forming the Community Service District, which included but not limited to annexing to the Santa Ynez CSD, forming a new CSA, lastly, annexing into the Santa Ynez River Water Conservation Improvement District No. 1 as alternative options. LOCSO is comprised of 441 acres in the unincorporated area of the County of Santa Barbara within the Santa Ynez Valley. The estimated population is 1,132 people with approximately 346 dwelling units. The LOCSO was formed with 42.5 percent of the registered voters signing the petition to form. The Election vote in 2018 was 73.4% in favor of forming. In light of the District's efforts and goals for the formation to address the area concerns, Staff recommend the request be approved.

#### Attachments

Attachment A - Request for Two-Year Extension letter from Los Olivos CSD dated 3/19/21

Attachment B - Heal the Ocean Comments dated 4/15/21 (Attachments available via Link at [www.sblafco.org](http://www.sblafco.org))

Attachment C - Los Olivos CSD Response Letter dated 4/27/21

Please contact the LAFCO office if you have any questions.

Sincerely,



Mike Prater  
Executive Officer

Lisa Palmer, President  
Tom Fayram, Vice President  
Mike Arme, Director  
Brian O'Neill, Director  
Brad Ross, Director



March 19, 2021

**Local Agency Formation Commission**

Attention: Mike Prater, Executive Officer  
County of Santa Barbara  
105 East Anapamu Street, Rm 407  
Santa Barbara, CA 93101

**SUBJECT: Los Olivos Community Services District Project Progress and Request for Prop. 218 Extension**

Dear Commissioners:

As you may recall, LAFCO officially issued a Certificate of Completion in the formation of the Los Olivos Community Services District on April 5, 2018, following the successful County certified vote on January 30, 2018. The District was created to be the governance structure for Los Olivos to address wastewater treatment requirements and the implementation of a septic to sewer conversion.

The District reports the following progress since August 12, 2020 report to you (a copy of that letter is attached). Progress is based on the District's adopted [Project Description](#).

Project Goals:

1. Development of Residential Onsite Wastewater Treatment System (OWTS) Requirements
2. Financial Outreach and Assistance for Program Development, Construction and Operation
3. Implementation of a Local Groundwater Monitoring Program; and
4. Phased Collection and Treatment

**Goal 1: Development of Residential Onsite Wastewater Treatment System (OWTS) Requirements**

1. Developed resident guidance for immediate assistance in maintaining their existing systems while Phase 1 is being implemented.
2. The District is working with Santa Barbara County Environmental Health Services (EHS) to update the Los Olivos Local Area Management Plan in accordance with State Guidelines, establishing appropriate requirements that allow continued residential OWTS use while implementing septic-to-sewer phased development. The District has contracted Coastal Onsite Design Services to assist with this effort.

**Goal 2: Financial Outreach and Assistance for Program Development, Construction and Operation**

1. The District currently collects a special district tax is \$500 (increased annually by growth index) per parcel until the permanent assessment vote.

Los Olivos Community Services District, P.O. Box 345, Los Olivos, CA 93441, (805) 946-0431  
[losolivoscscsd@gmail.com](mailto:losolivoscscsd@gmail.com), [www.losolivoscscsd.com](http://www.losolivoscscsd.com)

2. In preparing for the Proposition 218 compliant permanent assessment vote, Water Consultancy Inc. is preparing the Engineers Report, scheduled to be complete August of 2022. Preliminary studies, design, and environmental work are also underway with various consultants; completion of these studies is expected by June 2022.
3. The District has successfully obtained some grant funds for "soft costs" (preliminary design, studies and environmental work, etc.).
  - a. Current Project Funding
    - i. District Funds - \$30,080 funding for specific project elements in support of Goals 1, 2 & 4.
    - ii. County Environmental Health Special Funds - \$180,000 funding for specific project elements in support of critical tasks supporting Goals 3 & 4.
    - iii. State Water Board SRF Water Recycling Funding Program – 50% match on all studies, Design and Environmental tasks required to "determine Feasibility" of the project. Maximum Grant: \$150,000 match for \$300,000 in studies and design.
4. Future Construction Funding
  - a. Future Grants considered with a good probability of success
    - i. SRF Design-Build Matching (to Match Loans) Funding
    - ii. Bureau of Reclamation Funds
  - b. Future Low Interest Loans
    - i. Low interest loans are available through USDA, CSDA, SDRMA, and SWB resource entities.
5. O&M, Administrative and Debt Service Costs
  - a. A fair share assessment, as determined by the Assessment District Engineer in his report will be complete by August 2022. This report, prepared by Water Consultancy, will provide the assessment bases.

**Goal 3: Implementation of a Local Groundwater Monitoring Program**

1. This project defines "background" nitrates entering the District from upgradient sources and provides a network of sampling wells to facilitate measurement and analysis of project success.
  - a. GSI hydrogeologists are developing a Ground Water Monitoring Plan, to include modeling, and recommended implementation requirements. Draft plan will be complete by April 30, 2021. This plan will interpret sample data over time to determine groundwater improvement effort effectiveness and guide the development of future project phases beyond Phase I.

**Goal 4: Phased Collection and Treatment System Implementation**

1. Phase 1 Implementation
  - a. An agreement was reached with the County of Santa Barbara in October 2020 for a potential site easement within excess County Road right-of-way.
  - b. Siting and site procurement of a Wastewater Treatment Plant Location study is underway by Urban Planning Concepts with completion expected in March 2021.
  - c. Preliminary Environmental Assessment is under preparation, also by Urban Planning Concepts; expected completion June 30, 2021.

As demonstrated above we continue to make substantial progress toward implementing a community wastewater solution. Yet we still have significant work to do in order to get to an informed and successful Prop. 218 benefit assessment vote. We therefore respectfully request that the LAFCO Board of Director's receive this progress report and extend the LAFCO Resolution deadline to conduct

the District's Prop 218 proceedings for two years. During this time we will continue to submit biannual updates to your Board. We ask for this extension to maximize the probability of a successful Prop 218 proceeding for the District.

Thank you for your consideration and continued support of the Los Olivos CSD and our efforts to improve our groundwater quality with the implementation of a community wastewater management solution. If you have any questions, please contact me at (805) 680-2336 (or [lisa@lpalmerconsulting.com](mailto:lisa@lpalmerconsulting.com)) or Douglas Pike, Interim General Manager, at (805) 331-3553 (or [dpike@mnsengineers.com](mailto:dpike@mnsengineers.com).)

Sincerely,



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Lisa Palmer  
Board of Directors, President

cc: Joan Hartmann, 3<sup>rd</sup> District Supervisor  
Lars Siefert, County EHS Director



1430 Chapala St. Santa Barbara, CA 93101; Mail: PO Box 90106, Santa Barbara, CA 93190

April 22, 2021

Mike Prater, Executive Officer  
Santa Barbara County LAFCO  
105 East Anapamu Street, Room 407  
Santa Barbara, CA 93101

**Re:** (LAFCO Agenda May 6, 2021) *Los Olivos Community Services District Request for Time Extension to Implement a Proposition 218 Assessment to Fund Wastewater Treatment Facilities*

Dear Mr. Prater:

Heal the Ocean is grateful for the opportunity to provide comment regarding the request of the Los Olivos Community Services District (LOCSA) to LAFCO for a third extension to its original one-year deadline to implement a Proposition 218 Assessment to fund a wastewater collection, treatment, and disposal system or systems to service the community. The original deadline as outlined in LAFCO's Certificate of Completion was **January 30, 2019** ([Attachment #1](#)).

LOCSA has received two extensions of that deadline, and its current request is now for an additional TWO years, which would move the deadline to **January 2023**, and there is no guarantee that this deadline will be met, for reasons outlined in this letter.

Heal the Ocean asks that this request for deadline extension be denied, and that LOCSA be dissolved, for the following reasons:

- LOCSA has failed to find a suitable location to develop a proposed wastewater treatment plant (WWTP) in their three-year extension period already granted;
- LOCSA has not conducted any CEQA analysis or obtained any other permits;
- LOCSA is still looking for a grant, or another way to pay for the project, when it does not yet know the cost;
- LOCSA has been collecting fees from District residents (\$200,000 per year) and continues to conduct one study after the other. **There is still no Plan, which had been promised during LAFCO's last extension hearing.**

In addition to the reasons listed above, we are troubled by what appears to be an active effort by LOCSA to obfuscate the reasons for having to fund a wastewater collection, treatment and disposal system or systems to serve the community, as outlined in its original petition to LAFCO in April 2017. This letter outlines LOCSA activities that reveals an intent that goes against the reason for LOCSA formation – and may possibly be the reason the District has **failed to come up with a Plan.**

ATTACHMENT B

## LOCSD REASON FOR FORMATION – A REVIEW

In 2013, Santa Barbara County Environmental Health Services (EHS) prepared the **Los Olivos Wastewater System Preliminary Engineering Report (Aecom/2013) and its 2016 addendum (Attachment #2 & Attachment #3)**, a sewer engineering study to hook up all residents of Los Olivos as well as the Downtown. After public meetings and debates, a group of Los Olivos downtown businessmen formed a group, Los Olivos Wastewater Management, and applied to LAFCO to form a CSD ([Attachment #4](#)).

The group’s original petition to LAFCO, in April 2017, promised:

“The District, if formed, ***shall cease to exist*** if an assessment to fund a wastewater collection, treatment, and disposal system or systems to serve the community is not approved ***within one year of the effective date***, or Santa Barbara LAFCO otherwise extends such deadline, or other LAFCO approved arrangements are made for funding the District.” (Page 2, paragraph 13c [emphasis added].)

In the ensuing years, the communications between LAFCO and LOCSD have become inconsistent about the meaning of this “deadline,” raising the question of what these one-year deadlines are for if they are not given effect.

Nevertheless, there was a County-certified vote on January 30, 2018, and LAFCO officially issued a Certificate of Completion for the formation of the Los Olivos Community Services District on April 5, 2018. Other documents indicate an understanding that environmental review, the CEQA permitting process, funding etc. had to lead to a Proposition 218 vote to approve an assessment for a wastewater treatment system **by January 30, 2019**.

In December 2018, LOCSD requested its first time-extension, to **March 2020**. A second extension request was apparently made in March 2020, but due to extenuating circumstances, this second request was not brought to the LAFCO Commission until August 10, 2020, whereupon, on September 3, 2020, in the absence of a director, Interim Director William Dillon (County lawyer) notified the LAFCO Commissioners of receiving a LAFCO report of progress, and recommended an extension to **April 5, 2021** ([Attachment #5](#)).

The current extension request is for TWO additional years (which would take this project well into 2024).

## MORE STUDIES BUT NO PROGRESS

Santa Barbara County Environmental Health Services (EHS), under the directorship of Rick Merrifield — published the 2009 *Los Olivos Wastewater Management Plan (LOWWMP)* ([Attachment #6](#)) “for use as a tool to address an existing groundwater quality problem in the Los Olivos Special Problems Area of the Santa Ynez Uplands Groundwater Basin. As stated, the goal of the LOWWMP is to protect public health and safety by recommending a process to mitigate the negative effects of existing onsite wastewater treatment systems (OWTS) on groundwater quality under and around Los Olivos.”

There is also the above-mentioned *Los Olivos Wastewater System Preliminary Engineering Report (Aecom/2013)* and its *2016 addendum* as well as the recommendations of the 2003 EHS Questa Sanitary Survey. There is also the **Santa Ynez Community Plan** (2009), which explicitly states:

*Within the Santa Ynez Valley Community Plan Area, the communities of Los Olivos, Ballard, Janin Acres, and east of Santa Ynez Township have been designated Special Problem Areas due to constraints and/or historic problems with the use of onsite wastewater disposal systems*

*(Figure 17). The onsite sewage disposal system constraints predominant in the Special Problem Areas not only raise public health and safety concerns regarding the potential threat of impacts to both surface and groundwater resources, but also represent land use and economic constraints limiting the development of both residential and commercial uses in the townships.*

There have been groundwater studies and other studies. Yet LOCSD continues to commission studies – including some performed by MNS Engineering in contracts awarded by LOCSD, whose Interim General Manager all this time is an MNS engineer, a potential conflict of interest (See [Attachment #7](#) & [Attachment #8](#)).

## THE QUESTION OF INTENT

The latest study LOCSD has commissioned is one by **Coastal Onsite Design Services**, which was awarded a \$19,200.00 contract by LOCSD ([Attachment #9](#)) to prepare a document (originally proposed to take the form of a Los Olivos-specific LAMP) to present to the Regional Water Quality Control Board, to argue that the impact of septic systems on the Santa Ynez groundwater basin is not subject to LAMP regulations.

The LAMP (Local Area Management Program) for Santa Barbara County was established under AB 885 (Jackson), which became law in 2000 and with AB885 regulations for septic systems promulgated in 2012. Under AB 885, each county developed a Local Area Management Program (LAMP) ([Attachment #10](#)) to address individual County issues.

The Santa Barbara County LAMP has particular pages devoted to Los Olivos septic pollution of groundwater on page 25 ([Attachment #11](#)), as well as the applicable procedure for OWTS are failing (pages 41-42 of Tier 4 ([Attachment #12](#))). The owner is not allowed to wait for a Wastewater Treatment Plant (WWTP) to be built; instead, there must be immediate remedial action taken. In fact, the County LAMP has a full discussion on p. 32, under the heading “**Santa Ynez River Groundwater Basins,**” that describes the Santa Ynez Uplands Groundwater Basin as adversely impacted by OWTS, stating that the use of OWTS in the townships of Los Olivos and Ballard “is problematic due to a combination of poor soils, high groundwater and small parcels.” ([Attachment #13](#)).

Nevertheless, the Coastal Onsite Scope of Work ([Attachment #14](#)) is now attempting to show how Santa Ynez groundwater is not listed as 303(d)-impaired as defined by the LAMP, nor is it on the Attachment 2 list of the AB 885 regulations that distinctly focuses on impaired water bodies.

**The most deeply troubling part of the Coastal Onsite Design Services work for the LOCSD** is that it is a consulting firm established by former Santa Barbara County EHS employee Paul Jenzen, who was a long-time career employee with EHS. Among his prime duties was septic system inspection and regulation, both before and after AB 885, and Jenzen actually supervised the year-long Santa Barbara County stakeholder process in writing the Santa Barbara County LAMP. Now he is being paid to prove the LAMP does not apply to Los Olivos.

Jenzen formed Coastal Onsite Design Services in April 2017, at the same time the Los Olivos Wastewater Management group petitioned LAFCO to form a CSD. The work he is now doing, for pay from LOSCD, is being done with David Brummond, another former EHS employee now retired.



In the Coastal Onsite Design project proposal to LOCSD, these two former EHS employees are now working to disconnect the LOCSD septic pollution of groundwater from the LAMP, based on technicalities they see as a way to free LOCSD from the LAMP.

The present EHS director, Lars Seifert, has counseled the LOCSD group that amending the County LAMP to provide particular details in the LAMP for septic system maintenance in Los Olivos might be permissible, *depending on lot size*, but that creating a separate LAMP for Los Olivos is not permissible. This conversation about Seifert's advice is reflected in a LOCSD memo ([Attachment #15](#)).

Nevertheless, The LOCSD group is clear in stating their objective is to rush the Jenzen/Brummond/Coastal Onsite Design Services document to the Regional Water Quality Control Board, in order to prepare the way to **remove Los Olivos from the Special Problems Areas List** for Santa Barbara County. As recorded in LOCSD minutes of December 9, 2020 ([Attachment #8](#)):

- *Director Fayram indicated this is the "most critical task".*  
*Director O'Neill indicated that a key goal is removal of the Special Pronlem [sic] Area (SPA) designation.*

**The Special Problems Areas List was established in 1974 by County Ordinance No. 3665, Section 10-21**, to delineate certain areas of the County where inherent physical constraints are recognized to affect development and building activity – including “historic problems with the use of onsite sewage disposal systems.” Los Olivos is on this list. So is Ballard, Janin Acres, and areas adjacent to the town of Santa Ynez.)

The effort to alter this list before any meaningful progress has been made on the design, siting, permitting and/or funding of a WWTP for los Olivos is deeply concerning. So is the fact that LOCSD is attempting to bypass the Santa Barbara County Board of Supervisors to alter this Ordinance by going straight to the Regional Board with its petition to be removed from the List.

That these former County EHS employees, whose job was to enforce County-adopted health and safety standards, would devise a plan to dismantle County groundwater standards in the Los Olivos area is highly problematic. The effort to remove itself from the Special Problems Areas List before any meaningful progress has been made on the design, siting, permitting and/or funding of a WWTP for Los Olivos is also problematic.

Further, contrary to Jenzen and Brummond's contract and scope of work proposal, the Santa Barbara County LAMP *does* have language specifically addressing the pollution of groundwater as stated above, in this letter. While Jenzen and Brummond are focused on Tiers 1-3 not applying to Los Olivos, they seem to be disregarding that pages 41-42 of Tier 4 addresses the applicable procedure when OWTS are failing, as indicated above.

They seem to be ignoring even the Santa Ynez Community Plan (2009), which explicitly states:  
*Within the Santa Ynez Valley Community Plan Area, the communities of Los Olivos, Ballard, Janin Acres, and east of Santa Ynez Township have been designated Special Problem Areas due to constraints and/or historic problems with the use of onsite wastewater disposal systems (Figure 17). **The onsite sewage disposal system constraints predominant in the Special Problem Areas not only raise public health and safety concerns regarding the potential threat of impacts to both surface and groundwater resources, but also represent land use and economic constraints limiting the development of both residential and commercial uses in the townships.***

Heal the Ocean finds all this diversionary work to be an act of questionable ethics and casts doubt upon the legitimacy and good faith of LOCS D to build a wastewater treatment plant as it promised to do when it petitioned LAFCO in April 2017. There has been the collection of \$200,000 per year from Los Olivos residents, to fund studies and more studies – including this Coastal Onsite Design study – but the bottom line is that LOCS D still has **no plan**.

## **REASON TO DISSOLVE THE LOCS D**

The actions of the LOCS D reveal its intent: to remove Los Olivos from restrictive designations and — acting with questionable conflicts of interest — to avoid its original mandate to have a WWTP ready for a Prop 218 vote within a year, as promised to and as approved by LAFCO. An audit of LOCS D expenses would reveal how much funding the community has given this group — with no results. The residents are, in fact, trapped in the confines of a CSD that is failing to produce results. **LAFCO must deny another extension.**

## **A POSSIBLE SOLUTION - LET SANTA BARBARA COUNTY TAKE OVER THE PROJECT, AS FOLLOWS:**

After interviewing reputable wastewater treatment plant managers, HTO respectfully suggests the following solution, based on research we have undertaken in an effort to solve this stalemate – and non-assurance that LOCS D can deliver:

- **Establish a County Service Area to encompass Los Olivos** (and perhaps in the future, Ballard and other Santa Ynez Valley communities);
- **Engage a *Professional Recycled Water Plant Builder***. There are several that make high-end recycled water systems that are being installed all over California — Avila Beach, Pasadena foothills, wineries, etc., and at least one of these companies is in the immediate area, and at least one will operate on a *lease to buy arrangement*. Such companies include:
  - **CLOACINA** (In Arroyo Grande)
  - **SUEZ** (New Jersey)
  - **SIEMENS USA** (Washington)
  - **CLEAR BLU ENVIRONMENTAL** (Monterey, CA)
- By taking over this project, possibly with the **Laguna Sanitation District** to operate, the County can eliminate continual studies, and the arrangement would be far less expensive than what LOCS D is doing by repeatedly going around in circles, doing more studies and time-wasting;
- **Dust Off the EHS/AECOM Wastewater Preliminary Engineering Report (2013) and its Addendum (2016)**, which was designed to accommodate and benefit ALL Los Olivos residents — both downtown interests and residents alike.

## **A CAUTION FROM THE REGIONAL BOARD REGARDING DELAY**

In a February 14, 2017, letter to Mark Herthel (Los Olivos group)/LAFCO/and Jeff Hodge, formerly of the Santa Ynez Community Services District, the Central Coast Regional Water Quality Control Board warned:

The Water Board recognizes that current efforts may or may not result in implementation of a project in a timely manner. As such, the Water Board will continue to move forward with the development and implementation of a process to evaluate the Santa Ynez River Valley (Upper area) groundwater basin. As a result of this evaluation, if data confirm the degraded groundwater conditions documented in the 2003 (Questa) Septic System Sanitary Survey for Santa Barbara County, **the option for local agencies to develop and implement a project at their own pace will be replaced by a set of conditions requiring action and a timeline confirming implementation of those actions.**

The Regional Board's warning has proved to be prescient, and the time has come to replace the LOCSD's dilly-dallying with real action to address the Los Olivos groundwater problems. For all the reasons stated above, we ask LAFCO to please deny the LOCSD's requested extension, to dissolve the LOCSD, and to let the community — with all the residents represented — to move forward as they should have back in April 2017.

Thank you.

Respectfully submitted,

A handwritten signature in black ink that reads "Hilary Hauser". The signature is written in a cursive, flowing style.

CC:

Lars Seifert, Santa Barbara County Environmental Health Services Director  
Matthew Keeling, Executive Officer Regional Board – Central Coast Region 3  
Thea Tryon, Assistant Executive Officer Regional Board – Central Coast Region 3  
Hannah-Beth Jackson



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April 27, 2021

**VIA ELECTRONIC MAIL ONLY**

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E-Mail: [lafco@sblafco.org](mailto:lafco@sblafco.org)

Re: ***Response to Opposition from Heal the Ocean for Extension of Time Requested by Los Olivos Community Services District to Implement Proposition 218 Assessment for Wastewater Treatment Facilities***

Dear Mr. Prater:

Aleshire & Wynder, LLP represents the Los Olivos Community Services District (“LOCSD” or “District”) as District Counsel. This correspondence responds to two letters submitted in opposition to the request of LOCSD for an extension of time to implement a Proposition 218 assessment for funding of the community’s wastewater treatment facilities. The first letter is dated April 15, 2021 from attorneys for Heal the Ocean. The second, largely duplicative, letter is dated April 22, 2021 and signed by Heal the Ocean President and Executive Director Hilary Hauser.

Ultimately, the Commission’s granting of another extension is more than warranted by the District’s progress toward a *successful* Proposition 218 Assessment. Since its creation, the District has diligently kept LAFCO apprised of its progress, and in recognition of these efforts, the Commission has provided extensions of time. Further, the extension serves the public interest for Los Olivos and the region by addressing the Special Problems Area designation that has existed since the 1970s because it is the fastest path to a successful Proposition 218 Assessment that paves the way to implementing a community wastewater solution and protecting ground water quality. Additionally, it is consistent with the charge of LAFCO in ensuring the efficient provision of municipal services to all residents of the County of Santa Barbara; without LOCSD, the community’s residents would be thrown backward in time to a status quo that helps no one.

The Los Olivos community spoke in 2018: they chose local control to implement a cost-effective, environmentally responsible local solution that addresses a decades-old problem that

neither the County of Santa Barbara, nor any other public agency, private company, or nonprofit group has managed to resolve.

The District's extension request should be granted.

### **Both Letters Fail to Recognize the District's Accomplishments**

Whether by accident or intentionally, both letters demonstrate ignorance of what LOCSD has accomplished, what it continues to do, and what it seeks to do moving forward—all of which has regularly been reported to LAFCO on at least a yearly basis, and often more frequently. Perhaps this is due to the absence of Heal the Ocean from the regular and frequent public meetings held by the District since its first meeting in May of 2018.

If Heal the Ocean had had a representative present at District meetings, or reached out to District staff or Directors, it would have firsthand knowledge of District activities. From that very first meeting in May of 2018, and every month thereafter without exception, the District's Board of Directors has held public meetings to carry out the District's purpose of implementing a wastewater treatment solution to correct years of environmental neglect as the community sought to prosper and grow.

Now, on the cusp of real, lasting, and permanent change, Heal the Ocean asks LAFCO to shut down everything due to a "lack of progress."

In less than three years' time—as has been reported to the Commission regularly—LOCSD's Board of Directors has accomplished the following and is moving toward a successful Proposition 218 target in 2022:

#### **November 2018 Update Letter to LAFCO:**

- Hiring legal counsel, calculating and submitting assessments to the County for FY18-19
- Securing insurance
- Approving agreements with the County Auditor for use of FIN for the District finances
- Hiring an Interim General Manager
- Completing a "Dry Period Funding Agreement" with the County Treasurer's Office
- Six months after creation, the Board requested an extension to continue and complete start-up operations and position itself to move forward

#### **April 2019 Update Letter to LAFCO:**

- Formation of a Standing Financial Subcommittee for oversight of expenditures
- Refinement of the District's assessment rolls and exclusion of exempt parcels, for accuracy in revenue projections and transparency
- Adoption of essential District policies for purchasing and accountable government

- Public outreach and education with District residents on a variety of septic system questions and District planning goals for implementation of wastewater treatment system
- Ethics (AB1234) and Harassment Avoidance (SB 1661) training
- Fair Political Practices Commission Form 700 compliance

Additionally, the Board has made progress toward the technical wastewater treatment solution by accomplishing the following steps:

- Creation of, and regular meetings by, an ad-hoc Technical Committee comprised of industry and technical professionals (Directors Arme and O'Neill) to create, consider, and approve RFPs, bid responses, and suggesting policy directions
- Mapping out draft preliminary technical options, including a strategy for moving forward (Powerpoint presentation, to be sent under separate cover)
- Development of short- and medium-term project plans and schedule mapping, including identifications of initial accomplishments:
  - Preliminary regulatory agency input to guide and efficient decision-making process
  - Discussions and decisions on options for a Local Area Management Program that fits the unique characteristics of the Los Olivos area
  - Development and pursuit of funding options to lower property assessments;
  - Creation of environmental scoping
  - Compilation of option cost estimates with leading vendors in the wastewater treatment industry
  - Revisions and advancement of a draft Financial Plan for various solution options
  - Identification of no- and low-cost potential funding sources
  - Preparation of a formal public presentation for community outreach and education
  - Continuing public outreach planning via public workshops
- After initial implementation, revamping the District website in preparation for public workshops (See [www.LosOlivosCSD.com](http://www.LosOlivosCSD.com)) (future public workshops dates are pending)

#### **March 2020 Update Letter to LAFCO:**

- Completion of three community workshops to obtain public input in the development of a detailed project description for bid document creation and project scoping
- Awarded consultant contracts for:
  - Grant preparation for a State Revolving Fund application to the State Water Resources Control Board
  - Hiring of an Assessment Engineer tasked with drafting the Engineer's Report, a prerequisite for the proposed assessment
    - **Note:** This effort produced a draft report and identified gaps in data required to complete an accurate, competent, and fair assessment; the District has prioritized acquiring missing data to fill these gaps

- Preparation of a “Los Olivos Supplement to the Local Area Management Plan (LAMP)” to provide focused answers to questions that have been brought forward regarding application of the LAMP within the boundaries of the District during development of the new wastewater collection and reclamation facilities
- Close coordination with the Regional Water Control Board and County Environmental Health Services Department to ensure consistency with sound principals and good practice
- Coordination with County EHS to procure cooperation and funding for the following efforts via contract within the next several months:
  - Loading Study to determine the expected flows and extent of commercial and residential BOD loading to determine appropriate system capacities
  - Groundwater Monitoring Plan to determine an acceptable strategy for defining baseline groundwater quality within the District, quantify the effectiveness of remedial measures associated with Phase 1 improvements in groundwater quality and form the basis for subsequent phases of the project as needed
  - Preliminary Environmental Report including an initial review of the environmental baseline of the project area to include, as a minimum, identification of regulatory limitations, prerequisite environmental, consideration of the engineering approach and other factors necessary complete regulatory compliance (federal, state, regional, local)
- Continuing refinement to cost estimates and schedule, and communicating with key partners in the Phase 1 project area, where heaviest loads are expected

**August 2020 Update Letter to LAFCO:**

- Secured, in partnership with County Environmental Health Services, \$180,000 in funding for:
  - Preliminary design services, including a Wastewater Load Study, estimating anticipated volumes and wastewater strength
  - Development of a Groundwater Monitoring Plan and Preliminary Soils/Geotechnical Report
  - Preliminary environmental services to determine potential impacts and mitigations required
  - **Note:** These three efforts are in the consultant selection and contract award process. District expects work for all three efforts to begin in August and September
- Vetting and narrowing of wastewater treatment plant siting options, including low- and no-cost options
- Retention of expert consultants to assist in preparation of Draft Assessment Engineer’s Report for project cost estimates, and generation of recommend financial plan for assessment derivation
  - **Note:** This is the foundation document for an equitable calculation of fair share assessments and will be subject to public hearings and a districtwide vote. This

Report will be completed when design, construction, and siting assumptions are solidly defined

- Continued coordination with the County, the Regional Water Quality Control Board, and community partners including the Santa Ynez River Water Conservation District – ID1 and Mattei’s Tavern representatives
  - **Note:** monthly meetings with the RWQCB staff
- Engagement of qualified consultant to in development of clear guidelines for on-going operation and maintenance of residential systems during Phase 1 development and implementation
- Initiation of grant funding application with the State Water Board
- Continuing evaluation and pursuit of available funding programs and grant sources (e.g. Proposition 68) to leverage no-cost and low-cost funding options against total solution cost for assessment
- Reform of District election years to coincide with County and other special districts as a cost-saving measure

### **March 2021 Update Letter to LAFCO**

The most recent update letter to LAFCO sets forth in detail the District’s goals and proposed plans for reaching those goals. For convenience, the letter is attached again. (Attachment)

However, in summary, the Board of Directors has identified four project goals:

1. Development of Residential Onsite Wastewater Treatment System (OWTS) Requirements
2. Financial Outreach and Assistance for Program Development, Construction and Operation
3. Implementation of a Local Groundwater Monitoring Program; and
4. Phased Collection and Treatment

**For Goal 1**, the District will focus on providing guidance for immediate assistance in maintaining existing residential systems while Phase 1 is being implemented, and continuing to work with EHS to update the Los Olivos LAMP in accordance with State Guidelines to support this effort.

**For Goal 2**, District contractor Water Consultancy Inc. is preparing the Engineers Report, a critical component of a successful Proposition 218 assessment vote, while preliminary studies, design, and environmental work are also underway with various consultants. To offset costs to property owners, the District has successfully obtained some grant funds for some of these “soft costs.” Currently, grant/program funding outweighs District funding by approximately 2:1. The District continues to focus on all other reasonably available funding sources to further minimize property owner impacts from a future assessment. Anticipated completion dates for currently running contracts are June – August 2022.

**For Goal 3**, the District needs current data to understand current “background” nitrate levels entering the District’s boundaries from upgradient sources, to be accomplished by



implementation of a network of sampling wells for measurement and analysis. A draft Ground Water Monitoring Plan, including modeling and recommended implementation requirements will be complete by April 30, 2021. This plan also measure groundwater improvement effectiveness over time, to guide the development of future project phases.

**For Goal 4**, the District has elected a phased approach to implementation, starting with the heaviest loads in the commercial core. Desirable siting options continue to be identified (and impracticable options eliminated); preliminary procurement plan parameters are ready; a preliminary environmental assessment is scheduled for completion in June of 2021.

Any contention that LOCSO has not been pursuing wastewater treatment options simply is not based in reality.

**Both Letters Deceptively Claim the Existence of Conflicts of Interest Where None Exist**

Further, both letters deceptively argue for the existence of conflicts of interest.

The April 15, 2020 letter from attorneys for Heal the Ocean makes nonsensical arguments that former County employees—who have since retired and started a private consulting business—somehow continue to be public employees, even though the same letter calls them independent contractors and those independent contractors are completing work on an independent contract basis via the consulting business, all pursuant to District public bidding requirements, and consistent with California law. In fact, it is their vast past experience that serves the residents of Los Olivos best.

Consider the following excerpts from the April 15, 2020 letter from Heal the Ocean’s counsel:

- “Paul Jenzen and David Brummond were career employees for the Santa Barbara County Environmental Health Services (EHS) . . .” (p. 1)
- “After Jenzen and Brummond official retired from the Santa Barbara County payroll, they were hired back and independent contractors . . .”
- “In April 2017 . . . Jenzen and Brummond formed a consulting company, Coastal Design Services, and in that capacity are being paid by LOCSO . . .”
- “That these County employees . . . whose job it is to enforce County-adopted health and safety standards, would devise a plan to rush to the Regional Board with the goal of dismantling County groundwater standards in the Los Olivos area is highly problematic.”

- “That Jenzen and Brummond (through Coastal Onsite Design Services), at the same time they are working as County EHS inspectors and employees, would be paid by ...”

It is an act of questionable ethics to make arguments calling independent contractors employees when the very same correspondence acknowledges their independent contractor status, as well as the fact that the actual independent contractor rendering services is a corporate entity. To the extent that Heal the Ocean makes these mistakes in its own letter might be overlooked due to a lack of sufficient legal training. That *attorneys* for Heal the Ocean make such mistakes cannot be overlooked, and supports an inference of a bad faith effort and motive to sabotage the continued efforts and existence of LOCSO, which is dedicated to improving the environment and water quality in and around the Los Olivos community.

Further, the April 15, 2021 letter raises the specter of a conflict by County ***Deputy Public Works Director*** and District Vice President Tom Fayram. Heal the Ocean’s counsel very conveniently fails to point out that Public Works and Environmental Health Services are *completely separate County departments, with completely separate areas of responsibility and control*. Moreover, if Heal the Ocean attended District meetings, it would know that Vice President Fayram always raises his personal concerns of potential conflicts of interest, seeks and acts in accordance with advice of counsel, and, if any doubt exists, he recuses himself from the discussion and voting.

No legal, actual, or good faith perception of any conflicts of interest exist regarding the District’s contractor, or Vice President Fayram.

### **Both Letters Fundamentally Misunderstand the District’s Efforts Regarding a LAMP**

Both letters go to great lengths to argue that LOCSO is “rushing” to “dismantle” a LAMP, ostensibly under the preposterous idea that LOCSO does not want one. Nothing is further from the truth and—again—if Heal the Ocean actually attended District meetings or engaged in productive conversations directly with staff, it would understand the District’s efforts in this regard, namely for application of LAMP *revisions* that address the characteristics and current problems of the Los Olivos Special Problems Area in an efficient and financially sound manner for property owners.

The District has worked diligently and cooperatively with County Environmental Health Services and the Regional Water Quality Control Board to discuss the appropriateness of amending the language in the County LAMP to make it consistent and relevant to the unique efforts of LOCSO. The District has consistently stated its goal of working *within* the parameters of the RWQCB and EHS standards. Accordingly, LOCSO has encouraged residents to maintain their systems in good order, in accordance with these requirements, until such time as they can connect to a centralized wastewater collection system.

The LAMP notably has focused sections addressing issues unique to the communities of Montecito and Isla Vista, and the District believes a specific discussion in the LAMP regarding Los Olivos and its emerging project is appropriate and necessary. The Director of County EHS has suggested appropriate language that is generally congruent with the District's efforts and has graciously offered to work with the District in the currently scheduled 5-year LAMP update. All suggested additions to the LAMP are subject to RWQCB review.

In the end, such efforts—which involve the same environmental concerns and goals that Heal the Ocean purports to share—take time to complete due to regulatory complexity and the involvement of several overlapping authorities at the state, county, and local levels.

If a cut-and-paste solution were viable, it would have been implemented by now. LOCSD wants oversight that makes sense and does not cost District taxpayers more money than absolutely necessary and sets the stage for a *successful* Prop 218 proceeding, which is fully compatible with addressing the broader environmental challenges.

### **The District is Proceeding with All Deliberate Speed to Act Where No One Else Has**

Finally, the letters purport to argue that LOCSD has been too slow in carrying out its purpose, while also arguing that it is rushing through matters like consideration (or “dismantling,” which is not true) of a LAMP. This blatant contradiction begs the question as to what Heal the Ocean seeks to gain by interfering with the will of Los Olivos residents and property owners in addressing a decades-old problem that no public agency or entity has yet to address. Heal the Ocean argues that the County of Santa Barbara should address the groundwater concerns, yet fails to explain how the County could do so in light of the fact that the County has not done so since the Los Olivos community was designated as a Special Problems Area in the 1970s.

The Commission is well aware and has previously approved of the substantial progress made by the District on a complex project **in less than three years**. The quick pace of the District's progress has not changed. The District has never wavered from its pursuit and implementation of a local solution for the entire community—from initial start-up operations, through retention of supporting staff and contractors; in pursuing all available grant dollars so as to minimize the taxpayer burden and support a successful Prop 218 assessment proceeding; to relying upon, incorporating, and updating prior studies for use in today's much-changed regulatory environment; to procuring a County parcel for a potential facility site subject to environmental review and project approval. **No other public agency, private corporation, or nonprofit special interest group has accomplished in decades what LOCSD has accomplished in less than three years of existence.** Moreover, all Directors receive zero dollars in compensation for their service on the Board.

## Conclusion

It is easy for a non-resident organization (and its attorneys) to hurl criticisms of a complex public process in which no member of the organization has actually participated, and to decry non-existent, legally dubious “conflicts of interest.” It is easy (if nonsensical) to argue that LOCSO is not moving fast enough and also rushing through its responsibilities.

Actual governing is harder. It is much harder—and time consuming—to follow the law and sound public policy under the constant scrutiny of the public body politic in addressing a longstanding political, economic, environmental, and financial problem. In less than three years, the District has gone from an idea to a tightly run, high-functioning organization committed to implementing a cost-effective wastewater treatment solution that benefits residents, property owners, the business community, and the region.

The District approached Heal the Ocean immediately after District formation in 2018 and invited its staff to help the District achieve the mutual goal of improving and protecting water quality in Los Olivos. Heal the Ocean has considerable expertise to offer in water quality projects. Instead of helping, Heal the Ocean has opted out of any direct ongoing dialog and instead only makes efforts to hinder District’s success via baseless attacks.

The District again invites Heal the Ocean to take part in the process to assist the District in solving the wastewater infrastructure problems that concern both organizations, rather than simply attempting to obstruct those efforts.

The District thanks the Commission for its consideration and respectfully requests that it approve the extension request and allow the District to get back to the work of developing a community wastewater solution that has the best possible chance of approval in the Proposition 218 Assessment process.

Sincerely,

ALESHIRE & WYNDER, LLP

A handwritten signature in blue ink, appearing to read "GRT", with a horizontal line extending to the right.

G. Ross Trindle, III  
Partner

GRT

Mike Prater  
April 27, 2021  
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cc: Lisa Palmer, President - Los Olivos CSD  
Doug Pike, Interim General Manager - Los Olivos CSD  
Joan Hartmann, Santa Barbara County 3<sup>rd</sup> District Supervisor  
Meighan Dietenhofer, 3<sup>rd</sup> District Supervisor Field Representative  
Lars Siefert, Santa Barbara County Environmental Health Services Director  
Cecile Blancarte, Water Resources Control Engineer, Central Coast Regional Water  
Quality Control Board  
Monique Gaido, PG, Engineering Geologist, Central Coast Water Board  
Matthew Keeling, Executive Officer Regional Board – Central Coast Region 3  
Thea Tryon, Assistant Executive Officer Regional Board – Central Coast Region 3