



April 27, 2017

**TO:** LOCSD Board of Directors

**FROM:** Roy A. Hanley, General Counsel

**SUBJECT: Agenda Item 11I – 5/4/2017 Board Meeting**  
Procedure for Remodel Permits During Stage Three Water  
Emergency Declaration

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Update on the status of remodel permits processed by the County of San Luis Obispo (County) but involving properties within the Los Osos Community Services District (District). Further direction may be given by the Board to staff regarding the District response to such requests.

### DESCRIPTION

At the regular meeting of the Board of Directors in April of 2017, the Board gave direction to staff to present the issue of handling requests made to the District from the County regarding the issuance of building permits for remodel projects within Los Osos for action.

### STAFF RECOMMENDATION

Staff recommends that the Board direct staff to work with the County to change their process such that instead of asking for a “will serve” from staff where a remodel of a unit that is already being served water, the County simply asks for confirmation of water service. In the meantime, staff can begin responding to requests for “will serve” letters under such circumstances with a letter confirming that service already exists for the property in question. This recommendation will be approved with the consent agenda unless this matter is removed from the consent agenda, in which case staff recommends a motion as follows:

***Motion: I move that the Board direct staff to work with the County of San Luis Obispo so the County no longer requests “Will Serves” but instead requests confirmation of existing service and begin responding to requests for “will serves” with letters confirming that service already exists where appropriate.***

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### DISCUSSION

The issue is as follows: People who have hooked up to the sewer are no longer subject to the Water Board cease and desist order. They may remodel their homes and add water fixtures without violating the order. The County processes remodel permits. When the County processes such a permit they ask the water purveyor for a “Will Serve” letter. The Code for the Los Osos Community Services Districts defines will serve letters and provides that they are issued by the Board, not by staff.

The County should really just be asking for District staff to confirm that a particular building permit applicant is an existing customer, such customers do not need "Will Serve" letters, as that concept really applies to new service connections not remodels of existing development. Staff has, in the past, issued such confirmation letters in the cease and desist area where remodels did not involve additional fixtures. This was in recognition of the cease and desist order. Since that order does not apply to properties that have hooked up to the sewer system, such properties can now be given a confirmation letter from District Staff without Board action. County staff has recently indicated to District staff that they are willing to look at their policy and change it to reflect the actual language they should be requesting from District staff. Confirmation letters can be issued administratively for properties that have hooked up to the sewer system. Then, absolutely no changes will be required to the District's code and no changes will be required to the water emergency declaration.

The Board should bear in mind the legal realities of remodel construction. The District has no planning power. The District may not restrict numbers of rooms, sizes of buildings, etc. A water purveyor can limit water use during an emergency and can base that limit on the number of persons making use of water, but the District may not regulate how many people live in a house. In fact, the County can't set such rules either. The Building Codes adopted by the State of California preempt any such regulations and govern the number of people who can occupy space. That number is quite large in fact. So, the District can penalize people for excessive water use, but cannot restrict the number of people. Staff, therefore, recommends that board action be limited to addressing the remodel processing issue alone.

#### **FINANCIAL IMPACT**

There is no direct financial impact from this action.