County of Placer Board of Supervisors

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January 28, 2009

State Water Resources Control Board Division of Water Quality Attn: Todd Thompson, P.E. 1001 I Street, 15th Floor P.O. Box 2231 Sacramento, CA 95812

SUBJECT: Comments on Proposed Amendments to the California Code of Regulation, Title 27, Division 5. State Water Resources Control Board, Rules Governing Onsite Wastewater Treatment Systems (OWTS); Conditional Waiver of Discharge Requirements for OWTS; and the Draft Environmental Impact Report (DEIR)

Dear Mr. Thompson:

The Placer County Board of Supervisors appreciates the opportunity to comment on the subject documents. The County of Placer is a rural County with 26,000 OWTS, as estimated by the DEIR, representing 17% of the County's housing units.

Summary of Placer County Comments

Placer County Board of Supervisors strongly opposes the regulations and waiver as proposed. General and specific areas of concern are noted within this letter. In summary, we find the sweeping an indiscriminate nature of the regulations as proposed will place an unnecessary burden on the citizens of Placer County and on the County itself.

In addition, the regulations as proposed would result in a severe financial impact to our residents and to our local county government. The regulations are confusing, inconsistent, severely impact Placer County's existing effective program, and may even pose a threat to public health and water quality. Therefore, the County of Placer cannot support the proposed regulations and waiver as currently written. We also find the DEIR incomplete and inadequate.

General Concerns

Overall, the proposed regulations and waiver of discharge requirements are poorly prepared and overstep the legislation's intent. The proposed septic system standards are much broader than a focus on limiting water quality impairment. The proposed regulations go beyond the purpose of protecting public and environmental health and exceed the statutory authority of the original legislation. The regulations are overly prescriptive and there is a lack of flexibility for the implementation of the standards contained in the regulations.

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The environmental review is inadequate. Unfortunately, and among other things it does not sufficiently address the impacts on septic system owners, the local authorized agencies that protect public health, the Regional Water Quality Control Boards, and the State Water Resources Control Board.

Specific Concerns of Placer County

Property Owners and Local Government

The proposed regulations will have unfunded additional requirements for property owners of both new and existing septic systems. All existing and new septic systems will be required to conduct septic tanks solids level inspections and water well testing. Statewide, additional septage disposal capacity will be needed. New septic systems and existing systems' major repairs will be required to provide supplemental treatment. New unfunded mandates will impact local governments who will be asked for assistance in determining their levels of compliance by property owners.

Implementation

Appropriate implementation guidelines have not been developed and funding to accomplish implementation has not been addressed; leaving the regulations primarily 'self-implementing'. This will result in local agency costs to assist property owners in determining their level of compliance. Real estate transactions will require additional disclosures with determinations of compliance levels.

Enforcement

Enforcement has not been addressed. No process for variance to the proposed standards is covered.

Technical Problems

After thorough review there is not appropriate scientific basis for many of the proposed requirements. Proposed well testing, use of engineered fill, groundwater separation requirements, design criteria, increased use of supplemental treatment systems, etc. are all areas subject to question about their appropriateness and necessity. As a specific example well testing does not have a direct connection to the status of an OWTS. The presumption that the well status relates solely to the septic system functionality is flawed. Many other conditions can influence the temporary or permanent adequacy of a well's condition. Septic systems are only one of many considerations in determining potential areas of concern.

There is an expected increase in septage pumping but adequate treatment capacity is lacking statewide. The capacity is not available at existing facilities in Placer County. The cost to adequately plan and permit new or expanded facilities was not considered. The increased costs potentially encourage illegal disposal in sewer manholes, as well as unpermitted system repairs. Overall, the economic and fiscal impact analysis made speculative cost estimates without basis in reasonable assumptions.

Need for further regulatory relief/clarification

The legislation required promulgation of regulations. As currently written the proposed regulations require significant revision to return to the legislative intent. Either the regulations

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should be substantially revised or legislation proposed to clarify the promulgation of the regulations.

Revenue

No appropriation for the provision of services or oversight has been addressed. Section 13291.5 of the Water Code stated the intent of the Legislature to assist private property owners with costs by encouraging loans. It is not realistic to believe that an adequate amount of currently highly sought after loan funding would be available for this program.

The DEIR states that "the state, in cooperation with EPA has set aside funds from its State Revolving Fund Program that can be made available to local qualified agencies who can then provide low-interest loans to homeowners to install, repair, replace or upgrade their OWTS. The homeowners would still bear the primary financial responsibility for these improvements, but could potentially tap into lower interest loans." Implementation of this program on a statewide scale would result in a potential need of these highly competitive funds. It is unlikely the State Revolving Fund has an adequate amount of loan funding available through the described mechanism.

The current State fiscal crisis also makes adequate loan funding unlikely. Even if loan funding were available, the homeowner would still bear the cost. Due to the national (and state) economic crisis, it is difficult to secure credit and many people are losing jobs. It is likely that many people needing loans to meet this requirement, could not qualify. Additional costs to the state and local government to process, manage, and collect on any loans through the State Revolving Fund must also be considered. It is unlikely that local agencies have the staff to provide oversight and distribution of these funds.

In closing, the Placer County Board of Supervisors strongly opposes the regulations and waiver as proposed. The impacts would be sweeping and as previously noted consist of:

- unnecessary burdens to residents and Placer County;
- severe financial impacts to our residents and to our local county government.
- Confusion and inconsistency, severely impacting our existing effective program, and possibly posing a threat to public health and water quality.

Therefore, the County of Placer cannot support the proposed regulations and waiver as currently written and also find the DEIR incomplete and inadequate.

Sincerely,

F.C. Rockholm, Supervisor, District 1

Chairman of the Placer County Board of Supervisors

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cc: State Assemblyman Ted Gaines, 4th District

State Assemblyman Dan Logue, 3rd District State Senator Sam Aanestad, 4th District State Senator Dave Cox, 1st District Governor Arnold Schwarzenegger