

**MEMORANDUM
PLACER COUNTY HEALTH AND HUMAN SERVICES
Environmental Health Division**

TO: Honorable Board of Supervisors

FROM: Richard J. Burton, M.D., M.P.H.
Placer County Health Officer and Director of Health & Human Services
Jill Pahl, R.E.H.S., Environmental Health Director

DATE: January 27, 2009

SUBJECT: Statewide Septic System Regulations Proposed by the State Water Resources Control Board

ACTION REQUESTED

The Department is requesting the Board of Supervisor's consideration of the following:

1. Authorize the Chairman of the Board of Supervisors to provide written comments by February 9, 2009 to the State Water Resources Control Board citing the issues as described in the below analysis of the impacts.
2. Authorize staff to coordinate with our Placer County state lobbyist and the state legislative delegation requesting their assistance with regulatory and/or legislative relief.
3. Authorize staff to coordinate with the Regional Council of Rural Counties.
4. Authorize other actions that your Board deems appropriate possibly including the presence of interested members of the Board of Supervisors who may wish to appear February 9, 2009, and speak on behalf of the entire Board of Supervisors on this issue to the State Water Resources Control Board.
5. Provide periodic updates to your Board as this issue is addressed.

BACKGROUND

In 2000 coastal areas' legislation was proposed to address pathogen and nutrient impacted water bodies. That legislation was expanded to statewide consideration of septic systems. Legislative changes to the State Water Code (AB 885, Jackson) required the promulgation of regulations to establish the following:

- New minimum operating requirements for onsite waste treatment systems (septic systems) that may include siting, construction and performance requirements.
- New requirements for onsite sewage treatment systems adjacent to Burton and Ward Creeks, and Lake Tahoe.
- New requirements authorizing Placer County Environmental Health to implement those requirements if they request that authorization.
- New requirements for corrective action when onsite sewage treatment systems fail to meet the requirements or standards.
- New minimum requirements for monitoring used to determine systems performance, if applicable.
- New exemption criteria to be established by the regional boards.
- New requirements for determining a system that is subject to a major repair.

PUBLIC OUTREACH

The following outreach has been or will be completed by February 9, 2009:

- Staff presentations will be made at twelve of the thirteen Municipal Advisory Committees with over 700 attendees; all but the North Tahoe Regional Advisory Committee which will not have a quorum.

- State Water Board workshops throughout the State including Nevada City on December 10, 2008 and Sacramento on February 9, 2009.
- Public Information Officer press release dated December 31, 2008.
- Newspaper coverage by the Auburn Journal on January 4 and the Loomis Journal on January 15, 2009.
- Placer Architects, Geologists, Engineers and Surveyors presentation on January 28, 2009.
- Placer County Waste Advisory Committee on January 6 and 22, 2009.
- Placer County Water Agency presentation on January 22, 2009.

Letters received concerning this topic are attached to this item.

ANALYSIS OF IMPACTS

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 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.

The environmental review is inadequate. It states that the regulations will be 'self-implementing'. 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.

Staff has conducted a detailed analysis and developed comprehensive comments on the documents that oppose the adoption of the documents as currently proposed. Comments are due to the State Water Resources Control Board on February 9, 2009. Staff foresees numerous impacts from any implementation of the proposed regulations:

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. Additional septage disposal capacity will need to be developed. 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 providing assistance to property owners. The Department of Facility Services will incur additional costs for the septic systems it operates.

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 On-site Wastewater Treatment Systems (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 the 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 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 loan funding would be available.

The Draft Environmental Impact Report (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 huge potential need, and 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.

OTHER INTERESTED PARTIES

Several other parties have been participating in the development of the regulations:

- Regional Council of Rural Counties: Placer is a member and Supervisor Holmes serves on its Board. They have strongly opposed the regulations as proposed and will be commenting prior to February 9, 2009.
- California Association of Realtors: Submitted a letter dated December 8, 2008 to the State Water Board expressing concerns relating to disclosure and the costs to existing and new homeowners.
- California Conference of Directors of Environmental Health: Preparing comments that express the regulations are fundamentally flawed as proposed.

FISCAL IMPACTS

Property Owners:

Property owners with septic systems will be required to conduct testing every five years on their septic tank and onsite domestic wells. This cost is estimated to be \$325 for septic inspections and an additional \$325 for well testing. Additional costs would be incurred if the septic tank is pumped.

In addition, major repairs and new septic systems will be significantly more costly. The proposed regulations are more restrictive than current local ordinance concerning available soil depth which may restrict the development of existing parcels. There is potential that recent parcel splits may no longer have adequate septic conditions to allow development due to prescriptive standards proposed in the regulations.

Septage disposal capacity is limited. Currently only one privately-owned facility is available in Placer County. Municipal capacity is nonexistent due to restrictions placed on sewer treatment plants. Additional capacity development will be costly to accommodate the necessary increase. Capital and operational costs will be significantly higher to provide septage disposal in order to cover the full cost of provision of these services.

Placer County Department of Facility Services:

The County Department of Facility Services has oversight of a few septic systems. Additional costs to meet the requirements will be experienced.

Placer County Health and Human Services Department – Environmental Health Division:

While the proposed regulations are self-implementing, it could be predicted that the implementation will be levied on the local jurisdictions. Until that time the public will be contacting the Environmental Health Division to determine the status of their compliance. It is uncertain how the conflicts in the existing local ordinance should be addressed.

The proposed regulations strip the Division's ability to review designs for supplemental systems with our current Registered Environmental Health Specialists. This function will need to be contracted to other Departments or contractors. The current state registered professionals employed by the Division will no longer be allowed to provide design services for supplemental systems. This will also limit the options that property owners have when contracting for their septic system design, likely increasing the design costs. This will also impact the Division's ability to provide oversight with these existing staff. This will result in delays and require additional costs for contracting for these services. County supplemental treatment systems plan reviews would need to be contracted out or assigned to other County departments such as the Department of Facility Services or the Engineering & Surveying Department.

In regard to BILL 885

RECEIVED

JAN 14 2008

CLERK OF THE BOARD OF SUPERVISORS

< WASTEWATER & WELL WATER DISCHARGE >

1. Do we have a problem in Forest Hill YES OR NO
2. IF YES when was the TEST conducted?"
3. WHAT WAS THE RESULTS IN THIS AREA
4. IF so why weren't we inform?"
5. Why didn't we vote on this issue?"
6. We are in a recession people are losing there business, homes, jobs, cutting there hr's. To survive while the bureaucrats are getting there bonus for screwing things up.
7. Don't create problems solve problems this is why you were selected for your job. Be a leader not a follower. Do what is right for the people. they need you're help.
8. Remember we pay your wages.

TAX PAYER

[Handwritten Signature]

Facility Services

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BOARD OF SUPERVISORS
Sales Recd _____
Other _____

JAN 15 2008

Sun D1	Sun D4	Mon D1	Mon D4
Sun D2	Sun D5	Mon D2	Mon D5
Sun D3		Mon D3	Mon D6

A

Catherine Williams
16375 Loretta Lane
Meadow Vista, California 95722
530/878-6843

RECEIVED

JAN 14 2008

CLERK OF THE
BOARD OF SUPERVISORS

January 10, 2009

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

Re: Assembly Bill 885

Facility Services

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5/10/08	12/10/08	11/10/08	10/10/08
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Sup D3		Abv D3	*

Dear Sir,

This is a follow-up letter to the January 8th Meadow Vista MAC meeting regarding California State Water Resources Control Board's septic system new unfunded mandated legislation. Jill Pahl, Director, Placer County Environmental Health presented the current AB885 proposal. The meeting was also attended by Jennifer Montgomery, Placer County Supervisor 5th District.

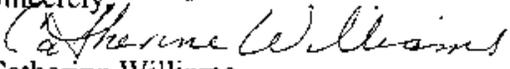
I am a 20 year resident of Meadow Vista and have owned my current residence for 9 years. As a senior property owner on a fixed income, and with a septic system, I have the following concerns regarding AB885:

1. What is the reason for testing every septic tank in the state, especially when they are not near bodies of water?
2. If a Placer County inspection is done on a new septic system when installed, why is another deemed necessary at 5 year intervals? Seems like some agency is in need of \$325 per system.
3. When was the last time the State Resources Board or Placer County Environmental Health actually tested the creeks, streams, ditches and canals surrounding Meadow Vista? Were the test results made public? At the MAC meeting, a representative of PCWA stated that the water arriving to their treatment plants is very safe. Is AB885 more meddling by the state in things that are not broken? Or is the state trying, once again, to "protect" us?
4. If this proposal is adopted and a septic system fails the inspection (at a cost of \$325 to the property owner), who is to pay for the repairs? Does AB885 provide assistance for those of us on a fixed income?
5. It is my understanding that AB885 came into existence in the 1990's after a Southern California community (Malibu) dumped untreated sewage into the Pacific Ocean.

Why not direct this unfunded mandated piece of legislation to the communities/counties that need regulation? Our Foothill community doesn't need this legislation. The old adage, "IF IT ISN'T BROKEN, DON'T FIX IT!" seems very applicable.

I expect a prompt reply to the above mentioned concerns.

Sincerely,


Catherine Williams

CC:

✓ Jennifer Montgomery, Supervisor, Placer County
Jill Phal, Director Placer County Environmental Health
Ted Gaines, California Assemblyman, 4th District
Dave Cox, California Senator, 1st District
Tom McClintock, US House of Representatives, 4th District

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CLERK OF THE BOARD OF SUPERVISORS

6585 Longridge Ct
Foresthill, CA 95631-9622
January 8, 2009

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

Dear Mr. Thompson:

Regarding AB 885 (Onsite Wastewater Treatment Systems), the monitoring system is backwards. Start inspections with a river to see if there is a water issue. Then, **only** require further septic tank testing and monitoring at the tributaries where the pathogens are causing a quality problem. Get to the violators but do NOT punish everyone with hundreds of dollars of costs. I am a retired teacher; in the classroom the first rule is to not punish an entire class when only one or two are the culprits.

This behemoth plan will line people's pockets. How will it be enforced? Home inspections during home sales vary greatly according to inspector. Repairs that should be taken care of may be overlooked. The same will occur with this plan.

There needs to be a ceiling on repair costs, varying with the size of the tank. I'm concerned!

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And what about people with gray water systems? Will those systems surface during this monitoring? There are people who will attempt to beat the system.

I hope the consumer will be kept in mind before implementing this bill. We don't need more laws that can't and won't be enforced.

Thanks for reading about my concerns.

Sincerely,

A handwritten signature in cursive script that reads "Janice J. Jerabek". The signature is written in black ink and has a long horizontal flourish extending to the right.

Janice J Jerabek
530-367-5960

cc: Assemblyman Ted Gaines, 4th District
Senator Dave Cox, 1st District
Supervisor Jennifer Montgomery
✓ Supervisor F.C. Rocky Rockholm
Supervisor Robert Weygandt
Supervisor Jim Holmes
Supervisor Kirk Uhler

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CLERK OF THE BOARD OF SUPERVISORS

PLACER COUNTY BOARD OF SUPERVISORS

ATTN: JENNIFER MONTGOMERY

RE: AB 885

RE: PUTTING OUR LAND IN THE ONSITE WASTEWATER TREATMENT PLANT (OWTS) (OWTS OUTHOUSE)

THIS THING STINKS AND IT LIKE OUR OTHER FEES ARE GOING TO PUT US OUT OF CALIF. FOR SURE. I CAN NOT AFFORD THIS AS I AM RETIRED/DISABLED AND MY WIFE IS ON S.S. ALSO LIMITED FUNDS WE ALSO ARE RAISING OUR 2 GRANDCHILDREN WITH MINOR HELP FROM PLACER COUNTY WELFARE, 1 GRANDSON 1-9 MO 1- GRAND DAUGHTER 3 YR 9 MO. FULL TIME WITH NO HELP FROM THEIR PARENTS I HAVE LIVED IN PLACER COUNTY FOR 30 YEARS AND AT 64 YRS OLD DO NOT WANT TO MOVE OR LOSE WHAT LITTLE I HAVE LEFT!

PLEASE DONOT LET THEM PASS THIS CRAP!

- 375.00 PRE TANK
 - 500.00 PUMP
 - 75.00 COUNTY DISPOSAL FEE ?
 - COUNTY INSPECTOR ? FEE
 - COUNTY INTERCEMENT FEE ?
 - WATER WELL INSPECTION FEE ?
- * ON MY TAX BILL ?
*
*
*

YOU ARE GOING TO START OFF WITH
EVERYONE IN FORESTHILL WATCHING TO
SEE WHAT YOU DO ON THIS RIGHT
FROM THE START. YOU WONT DISAPPOINT ~~US~~
BEST OF LUCK IN YOUR NEW JOB

Day & Gayle Nickell
Po Box 792
Forest Hill CA 95631-0792
530 367-3118

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BOARD OF SUPERVISORS			
Dist. 1	Dist. 2	Dist. 3	Dist. 4
Dist. 5	Dist. 6	Dist. 7	Dist. 8
Dist. 9	Dist. 10	Dist. 11	Dist. 12
Dist. 13	Dist. 14	Dist. 15	Dist. 16
Dist. 17	Dist. 18	Dist. 19	Dist. 20
Dist. 21	Dist. 22	Dist. 23	Dist. 24
Dist. 25	Dist. 26	Dist. 27	Dist. 28
Dist. 29	Dist. 30	Dist. 31	Dist. 32
Dist. 33	Dist. 34	Dist. 35	Dist. 36
Dist. 37	Dist. 38	Dist. 39	Dist. 40
Dist. 41	Dist. 42	Dist. 43	Dist. 44
Dist. 45	Dist. 46	Dist. 47	Dist. 48
Dist. 49	Dist. 50	Dist. 51	Dist. 52
Dist. 53	Dist. 54	Dist. 55	Dist. 56
Dist. 57	Dist. 58	Dist. 59	Dist. 60
Dist. 61	Dist. 62	Dist. 63	Dist. 64
Dist. 65	Dist. 66	Dist. 67	Dist. 68
Dist. 69	Dist. 70	Dist. 71	Dist. 72
Dist. 73	Dist. 74	Dist. 75	Dist. 76
Dist. 77	Dist. 78	Dist. 79	Dist. 80
Dist. 81	Dist. 82	Dist. 83	Dist. 84
Dist. 85	Dist. 86	Dist. 87	Dist. 88
Dist. 89	Dist. 90	Dist. 91	Dist. 92
Dist. 93	Dist. 94	Dist. 95	Dist. 96
Dist. 97	Dist. 98	Dist. 99	Dist. 100

Jill Pahl
Environmental
Health