

CITIZENS FOR CLEAN WATER

PROHIBITION ZONE LEGAL DEFENSE FUND

DEDICATED TO CLEAN WATER, REGULATORY COMPLIANCE
AND PROTECTION OF PROPERTY RIGHTS

CCW-PZLDF
PO BOX 6095
LOS OSOS CA 9341

April 7, 2008

CCRWQCB
895 Aerovista Pl. Suite 101
San Luis Obispo, Ca 93401

RE: General Comments CCRWQCB-Basin Plan Triennial Review Projects;
Amending the Water Quality Control Plan; Revising the Onsite Wastewater System Criteria-Basin Plan Chapters 4 and 5 (onsite sections only); and the Rescission of Resolution R3-83-12.

Dear Chairman Young and Honorable Board Members:

Citizens for Clean Water is a watershed wide group of concerned professionals and private citizens. We are submitting these written comments, and respectively requesting detailed information and documents, and well as written responses and copies of other comments and questions. We are also requesting your staff's list of all system regulators and interested parties along with their contact information. Please also provide all documents related to the amendment process, the scoping meetings, and discussions in addition to other requests within this document. ①

The line by line analysis of the changes to the Basin Plan is not complete at this time. However, we plan to submit additional written testimony prior to, and at the May 9, 2008 hearing.

Lack of Notice: The Public and Stakeholder Process have been inadequate. Although *Citizens for Clean Water* generally supports update the Basin Plan for onsite treatments systems, the Central Coast Regional Water Quality Control Board must comply with all public process requirements, and is not allowed to deprive the citizens of information and review, and thereby abuse its regulatory powers. ②

Affected Parties are the Property Owners: Even if the minimum legal requirements are met, the lack of notification to the actual property owners affected by the Regional Board's proposed regulations denies the public the opportunity to challenge the RWQCB actions. The Public Notice provided by staff was only to a very select group of agencies and groups that are no more than delegated "third parties" to administer the private onsite system requirements. *Citizens for Clean Water* is on the list for notices, yet received none. Other individuals under the proposed amendment will not be eligible for waivers, and are directly affected, yet were not noticed. ②

Lack of Adequate Time for Written Response: The actual affected parties on private property that inadvertently learned of the RWQCB actions are now faced with the lack of adequate time to respond, inadequate specificity in reports and resolutions, an absence of defined outcomes, no cost analysis, vague language throughout, and possibly very onerous consequences that require critical information and a legitimate public process for participation. ②

Staff Says it needs to Eliminate Vague Language: There have been global complaints of abbreviated staff reports that are presented without proper references or links to important information or statutes. Many statements appear to be the opinions of staff and the use of "fuzzy" explanations and assertions abound without being anchored in facts. Just one example of the lack of definitions and vague statements can be seen in the Staff report statement justifying the need for the Triennial Review 'project'. Staff states the number of onsite systems "exceed 100,000" and the number that is designed properly and performing adequately as "many". The public should know if the RWQCB staff has this information and, if so, the RWQCB should supply it to the public.

- What is the accurate number of septic systems the RWQCB is seeking to regulate?
- What is the accurate number of systems that are failing?
- What are the affected water bodies, and the onsite systems responsible?
- What is the accurate number of wells and their locations that are impacted by pathogens from onsite sources?

(3)

(Other detailed comments and questions concerning vague language are in Attachment A that reviews the individual staff documents and amendments to be submitted.)

Pending Litigation: *Citizens for Clean Water* formally objects to the proposed amended Basin Plan in that it seeks to strengthen enforcement powers in order to apply the enforcement tactics against individual property owners throughout the region that were used against Los Osos homeowners. These actions are currently being challenged in Superior Court (CV 070472 *Citizens for Clean Water-PZLDF vs. Central Coast Regional Water Quality Control Board*)

(4)

Expanded Authority without Oversight or Accountability: The regional water board seeks to expand its discretionary power in every resolution. While making claims that the current WQCP is confusing because it is left open for conflicting interpretations, the language remains unclear, and the consequences undefined. The attitude that it can be "figured out later" is unacceptable and contradicts the stated intent and justification given for the hasty update. The likelihood that RWQCB revisions to onsite will be especially onerous to individual property owners throughout the entire region requires facts and specificity.

Ca Water Code 13263 does not mention 'onsite' or authorize regulation of waste discharge "including discharges from Onsite systems" as stated in the RWQCB staff report. *Citizens for Clean Water* do not deny that the RWQCB has such authority, but that this code is misquoted.

(5)

Ca Water Code 13263. (a) The regional board, after any necessary hearing, shall prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge, except discharges into a community sewer system, with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of **Section 13241**. (See below)

(b) A regional board, in prescribing requirements, need not authorize the utilization of the full waste assimilation capacities of the receiving waters.

(c) The requirements may contain a time schedule, subject to revision in the discretion of the board.

(d) The regional board may prescribe requirements although no discharge report has been filed.

(e) Upon application by any affected person, or on its own motion, the regional board may review and revise requirements. All requirements shall be reviewed periodically.

(f) The regional board shall notify in writing the person making

or proposing the discharge or the change therein of the discharge requirements to be met. After receipt of the notice, the person so notified shall provide adequate means to meet the requirements.

(g) No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.

(h) The regional board may incorporate the requirements prescribed pursuant to this section into a master recycling permit for either a supplier or distributor, or both, of recycled water.

(i) The state board or a regional board may prescribe general waste discharge requirements for a category of discharges if the state board or that regional board finds or determines that all of the following criteria apply to the discharges in that category:

(1) The discharges are produced by the same or similar operations.
(2) The discharges involve the same or similar types of waste.
(3) The discharges require the same or similar treatment standards.

(4) The discharges are more appropriately regulated under general discharge requirements than individual discharge requirements.

(j) The state board, after any necessary hearing, may prescribe waste discharge requirements in accordance with this section.

The reference in Ca Water Code 13263 indicates that "reasonable protection of beneficial uses" and factors to be considered.

Ca Water Code 13241. Each regional board shall establish such water quality objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses and the prevention of nuisance; however, it is recognized that it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses. Factors to be considered by a regional board in establishing water quality objectives shall include, but not necessarily be limited to, all of the following:

- (a) **Past, present, and probable future beneficial uses of water.**
- (b) **Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.**
- (c) **Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.**
- (d) **Economic considerations.**
- (e) **The need for developing housing within the region.**
- (f) **The need to develop and use recycled water.**

Exceed Water Code Authority and Affects Land Planning: The entire multi-county region will find the proposed amendments will provide the regional water board's with powers to act as the final authority on land planning. There are many unintended consequences, including incentives for high growth and unsustainable development in rural areas, and discouragement for affordable housing. In areas that contain the best soils, or valuable riparian zones, development may be incentivized. Further, urbanization, and growth for high end housing through energy intensive centralized treatment is promoted.

- What is the justification for requiring a 5 unit parcel development that now will be required to have a community system with permits, monitoring, and reporting burdens?
- Explain why granny units are no longer allowed without adding another acre to the property footprint for onsite?

- How will this affect the affordable housing stock and future of housing in the 4 counties affected by the WQCP?

Note the Water Code referenced below:

Ca Water Code 13291.7. Nothing in this chapter shall be construed to limit the land use authority of any city, county, or city and county.

Economic Disparity for Affected Communities: How will the amendments specifically affect the targeted communities of San Martin, San Lorenzo Valley, Carmel Valley, Carmel Highlands, Prunedale, El Toro, Shandon, Templeton, Santa Margarita, Garden Farms, Los Osos, Baywood Park, Arroyo Grande, Nipomo, Upper Santa Ynez Valley, Los Olivos and Ballard? Certainly property owners in targeted communities should have been noticed with an analysis of the costs, benefits and consequences provided to them.

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②

Anti-Property Rights:

The line between private onsite systems as private property, and the public nature of community programs that manage onsite treatment system is blurred. Access to private property and regulation of private treatment systems, with resultant enforcement that can lead to possible criminal liability is unacceptable. The retroactive liability for past pollution levels in adjacent water is incompatible with private property laws. OAL review is needed.

②

Forecloses on Environmentally Sound Green Solutions:

The amendments add unacceptable liability for properties with onsite treatment systems, and discourage such energy efficient wastewater systems. These systems are compatible with SB 32 goals for greenhouse gas (GHG), emissions, yet the amendments ignore the importance of low or zero carbon footprint treatment systems, such as onsite systems, that are compatible and supportive of EPA guidance for GHG. The full range of environmental impacts created by the amendments needs to be studied, evaluated, and disclosed.

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⑩

Amendment Process Violates CEQA: The Triennial review and amendments and resolutions represents a project which requires CEQA. RWQCB Staff indicated they are exempt, but, the proposed language changes and resolutions are NOT minor, and the consequences lack scrutiny. The staff reports indicate that staff held a scoping meeting with county representatives pursuant to CEQA.

⑩

- Provide the scoping report
- Provide the list of county representatives with whom you met
- Provide documents and notes from the meetings with county representatives

①

The staff has provided no cost/benefit information or analysis. The environmental review process consists of denying that they have a duty under CEQA to provide information and yet a environmental checklist is included. Staff states that no scientific findings are required, and cavalierly note that enough already has been done and the impacts are minimal. (A separate response to the checklist will be submitted)

⑩

Affordability and Environmental Justice: SWRCB requirements to review affordability and environmental justice are completely ignored. Further, the uncertainty about the financial effects of the proposed amended WQCP to private property as the private systems are subject to a new quasi-public ownership- are not addressed. The issues "inverse condemnation" or "regulatory takings" of private property that may result are not addressed either.

⑪

- What assurance can a property owner have in the value or future value of their property, when the onsite system is granted a waiver, only to be later required to have a WDR permit--(all waivers are conditional and no guarantee they will continue)
- How has the RWQCB handled the statutory requirement to evaluate the economic disparity for areas with waivers vs. those with WDR's or Urban vs. Rural economic impacts?

⑦

- If the water boards discretionary findings later require a property owner to hook up to a community system, yet one is not available, what are the anticipated outcome, costs, and enforcement issues? (12)

Unfunded Mandates: Proposed Amendment to WQCP institutes mandatory compliance programs that represent an unfunded mandates on already strapped government agencies for yet another costly local program. The proposed resolution violates Article XIII B of the California Constitution which requires that "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government; the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service". The proposed resolution is unconstitutional as it mandates a higher level of services, regulation, monitoring and enforcement of septic maintenance without providing any funds to implement same. (see costs and funding questions raised elsewhere) (13)

There is Insufficient Evidence That the Amendment is needed(as written): Until questions can be answered and statutory requirements met, the adoption hearing is premature. Among these are questions are those raised by the National Onsite Wastewater Association posted on the California Onsite Wastewater association white paper on statewide standards (AB 885) (14)

Please respond to each of them in detail in written responses.

- What is the desired level of risk reduction?
- What are other contributors to the problem?
- What part of the problem is attributable to onsite systems?
- Will the contemplated rules achieve the objective?
- Will the surface and subsurface waters meet the standard of beneficial use after implementation?
- Will the public and private cost be reasonable and politically sustainable? (Costs include money, time and citizen's ability to use their land.)
- Will the regulatory community be able to implement the provisions reasonably - equitably, technically and politically?
- Will the agencies have sufficient resources?
- Will the onsite service provider community be able to implement the rules – sufficient trained personnel with the tools and treatment components necessary to do the job?
- To what extent, if any, do the rules represent a mixed motive, such as rural land use control?

Resulting Fees and Charges are Undefined and Unapproved: The amendments fail to address the requirements of proposition 218, as local agencies will be required to fund onsite programs. The justification by local agencies requires analysis of the services, the cost/benefits or anticipated outcomes, and must be sufficient for such voter approvals. To fail to supply any information it can be assumed the amendments place an unfair burden on the property owners and local agencies without adequate justification for the changes. (13)

Water Quality Benefits are Unknown: There is no reason to anticipate that this amendment will result in any water quality protection or improvements of any kind. There is no scientific data; no studies are referenced, no independent expert review of the amendment, no stakeholder's development process, and no peer review. The costly revisions are simply unfounded and nothing indicates such changes will better protect or improve water quality in any way. (15)

Assumptions must be backed by Science: The Central Coast is largely rural, and onsite impacts and the contribution to pollution by failing Onsite wastewater *treatment* systems is not quantified in any real defensible scientific studies by the RWQCB. The State Water Resources Control Board (SWRCB) and EPA both state that "Technically sound regulatory policy is based on assumptions supported by science". (15)

Onsite represents but a Fraction of the Non Point Source Pollution: *Citizens for Clean Water* believes that greater control of non-point source pollution is long overdue. The control of

point source pollution is well established; however, the continued examples of harmful pollutant loadings from preventable sanitary sewer overflows, storm water contaminants, and agricultural runoff pose the greatest threat. These sources comprise the majority of contamination to the ground water, streams, beaches and bay, is clearly unacceptable. The status of the 303 (d) listing of water bodies is directly impacted by the continued uncontrolled pollution from these non-point sources, and the proposed changes ignore the relationship to onsite waivers and impacts to private properties for pollution from sources other than onsite systems.

(16)

Waivers Denied ---Impaired Water Bodies: Amended language and new resolutions do not allow waivers if property is proximate to impaired water bodies, (303 (d)) and require burdensome requirements for private properties. The basis for impairment is NOT (in most all cases) due to onsite treatment systems, but from historically major pollutant sources such as sanitary sewer overflows, storm water and agricultural runoff. The retroactive burden to owners of private property with onsite systems (that did not contribute to the historic impairment of the water body) is inconsistent with the law.

NA

Failure in Non-Point Pollution Programs: The RWQCB lack of meeting their program goals for non-point source control and the improvement goals in water quality, now places the burden on private properties with onsite treatment systems. As stated these systems are proportionally insignificant in most areas. Information on each affected property and demonstration that the proposed actions will protect and improve such water bodies needs to be demonstrated. Ignoring pollutant loadings from other sources, while failing to estimate loads from onsite systems, actually places the cart ahead of the water shed horse. Onsite pollution represents but a fraction of the water shed pollution, and it is well known that Water Quality programs designed to protect precious drinking water supplies are compromised. These programs abandoned onsite, and now in historically sewered communities, such as Morro Bay, have Nitrates that are not from onsite systems at all. In Morro Bay, and elsewhere, such nitrate contamination is common, and has actually increased and renders their drinking water wells unfit.

(14)

(15)

Provide the Proportion of Pollutants from all Sources: The basis for the added expense of RWQCB amendments is said to achieve water quality, however the majority of pollution (well established based on scientific information) is from sources other than onsite septic systems. While the onsite treatment systems need to be addressed, the first step is to properly quantify the extent of the problem to be solved. Onsite treatment systems should have some program for monitoring and reporting performance after construction, however the cost and benefits in placing a huge bureaucratic program in place without any foundation for scientifically defensible process to assure (measurable) beneficial outcomes is specious.

(14)

The staff report by the Water Board is silent on the proportional contaminates from onsite systems, and the loadings from other sources, however staff has stated they believe programs concerning onsite systems has been ineffective based on faulty interpretation. It is well established that funding for local programs is the chief constraint. The delegated tasks through various County Memorandums of Understanding (MOU's) building permit criteria, building moratoriums, and planning departments' criteria for onsite have actually worked quite well at assuring minimum standards for onsite systems. The RWQCB has SWRCB's statewide minimum standards and consistency under AB 885, however the RWQCB has moved swiftly to amend, revise and replace its onsite rules. Concern that the lack of proportional pollutant findings presents undue hardship placed on onsite treatment discharges and needs to be addressed in a public forum.

(14)

The effectiveness of implementing programs to control non-point pollution must be quantified and resources expended proportionally. The obvious budget issues and "water quality" urgency requires selection of programs that provide "more bang for the buck". If it is really about water quality the need to step up the Storm water and agricultural runoff pollution prevention programs promise to have the greatest impacts on protection and improvement to water quality in streams and beaches.

- Please provide a list of non-point source programs
- Provide status on non-point programs and enforcement actions

NA

- Provide the proportional pollution for each source of non-point pollution, and the specific watershed areas affected, and the specific relationship to onsite impacts.
- Provide models of nonpoint source water shed loadings from all sources
- What are the anticipated reduction in the loadings from onsite to impaired water bodies?

NA

Conditional Waivers and Inherent Uncertainty: *Citizens for Clean Water* agrees that reviewing established minimum standards for onsite systems is an important part of proper water shed management. According to the *Onsite Treatment in California and Progression Toward Statewide Standards*, (Cal State Chico Research Center, June 2004), provides a history of the water boards local approach to onsite systems. "Generally, the regional boards delegate direct regulatory authority for individual onsite sewage treatment systems to local agencies. Delegation is through a waiver process, which waives the requirement for WDRs for onsite systems."

- How do the proposed resolutions and amendments to the basin plan, which change the current status to "mandatory programs" affect delegation through waivers?
- What is the exact number of onsite systems, zones or areas that will not be eligible for waivers? (such as any property with onsite systems adjacent to a 303(d) listed water body)
- What permit fees and charges will the local agency pay to the RWQCB for their program review and approvals?
- What is the risk for fines, enforcement, establishment of prohibition zones, and added cost to homeowners for WDR and monitoring under the proposed changes?
- When is the property owner to learn of the status of their property and costs associated with the amendments?
- Why hasn't an EIR for your triennial project been prepared?
- How does the WQCP (Basin Plan) amendments and resolutions differ or deviate from Waivers within AB 885-the statewide plan?

Triennial Review Process: The Staff report references Water Quality Control Plan, Triennial Review backlogged projects the basis for the current urgency and action now. A review of the Central Coast Regional Water Quality Control Board's (RWQCB) Water Quality Control Plan, Triennial Review Priority List, Dec. 7, 2001, and attachment "A" proposed and final issues lists indicated the proposed "projects" to update the WQCP (basin plan) and is dependent on the **AB 885** process by the SWRCB. The RWQCB reports defer efforts, request funding, and state that the RWQCB is dependent on the State timetable for AB 885 Onsite standards.

NA

Compare WQCP with AB 885: *Citizens for Clean Water* objects to the RWQCB preemptive revisions without a side by side comparison, for the public to view, of the proposed statewide standards established by AB 885. With the efforts by the SWRCB well underway, consistency and analysis is a key concern, and an EIR process required to provide guidance for local agencies, such as the RWQCB, and information for the public.

17

How does Water Code 13291 (a) differs from (AB 885)? And which is being used in formulating the amendments and triennial review process? AB 885 requires: The adoption of statewide standards or regulations for existing, construction, and performance of onsite sewage disposal systems by the State Water Resources Control Board by January 1, 2004. The standards to apply to any onsite sewage disposal system that:

NA

- is constructed or replaced on or after July 1, 2004 (or six months after the adoption date of the regulations, whichever is sooner)
- is subject to a major repair
- pools or discharges to the surface of the ground
- in the judgment of the Regional Water Quality Control Board or the authorized agency has the reasonable potential to cause a violation of water quality objectives, to impair present or future beneficial uses of water, to cause pollution, nuisance, or contamination of waters of the state.

- The provision of financial assistance to assist private property owners with existing systems whose cost of compliance with these regulations exceeds one-half of one percent of the value of their property.

Amendments are Fiscally Irresponsible: To promulgate regulatory requirements, and consequences, without full knowledge of what, why, and how they will be implemented has high likelihood of wasting taxpayer monies, and fails to hold public agencies, such as the RWQCB accountable. A stepped approach to revisions preserves resources and targets the problems, and provides measurable results.

- What is the estimated cost for program compliance?
- How many of the affected property owners will be eligible for financial assistance?
- Will the RWQCB make financial assistance available through requests to the SWRCB?
- Is funding currently available for this purpose?
- How much funding is available for assistance?
- How much funding is the RWQCBN receiving for development of onsite standards in region 3?

(18)

Evaluate and Disclose Property Owners Costs NOW: Quoting from the AB 885 scoping report: *"Compliance costs versus the environmental benefit should be evaluated; a cost/benefit analysis is needed on a regional basis, not just from a statewide perspective"*.

- The regulations do not address the legislative intent of AB 885 with respect to assisting private property owners with funding assistance.
- Quantify the increased costs for homeowners
- Quantify the increased costs for agencies
- The 303(d) provisions will force people with existing systems from their homes. In many cases there is no suitable area to install systems that meet the dispersal system area requirements, even with supplemental treatment (e.g., Malibu, Russian River).

(18)

13291.5. It is the intent of the Legislature to assist private property owners with existing systems who incur costs as a result of the implementation of the regulations established under this section by encouraging the state board to make loans under Chapter 6.5 (commencing with Section 13475) to local agencies to assist private property owners whose cost of compliance with these regulations exceeds one-half of one percent of the current assessed value of the property on which the onsite sewage system is located.

- Has affordability been considered and an analysis conducted?
- How many private property owners are eligible for assistance, and how will be assisted?

Unintended Consequences: Los Osos is a real world example of unintended consequences, and excessive regulatory costs that resulted from the misunderstood and unchallenged water board resolutions 83-12 and 83-13. That 83-13 was developed, seeking to purposely ignore resolution 83-12, it sacrificed opportunities for onsite management altogether. This was in violation of Ca Water Code, but "strongly encouraged" by the RWQCB. Resolution 83-13 sought funding for a centralized treatment plant, replacing onsite, and resulted in degradation to water quality. Further, 83-13 blatantly violated SWRCB resolution 68-16 (Antidegradation) with SWRCB approval of the provision of 1150 additional housing units and established a prohibition zone. Further discussion of 83-13 is probably not helpful, but suffice it to say that the often dire and costly unintended consequences of resolutions and amendments must be acknowledged.

NA

Efforts for Voluntary Compliance: The justification for the resolutions and amendments is to make voluntary programs that have not been instituted now mandatory. Los Osos records (over the last 5 years) show that unlike the government predecessor, San Luis Obispo County, Los Osos was one of the best recent examples of a community development of onsite management plans instituted on a voluntary basis.

The record also show that in 2004-08 the LOCSD worked toward offering work-plans and assistance in updating and strengthen the onsite regulations in Los Osos voluntarily, and in lieu of the adverse punishment.(ACL fines the CDO's and settlement CAO's). These sincere efforts, based on RWQCB report and proposed actions to amend the basin plan would result in actual water quality protection and improvements, but were repeatedly rejected.

Santa Cruz County successfully avoided a building moratorium and punitive enforcement through the use of onsite management in 1986. Funding and adoption of the wastewater plan in 1994 certainly differs from the Los Osos example of "regulations gone wrong." Unfortunately, all efforts from the community's property owners and the Los Osos Community Services District to work cooperatively with Water Board Staff have been thwarted to date. We are hopeful this can change in the near future. However, the amendments and resolutions will not assist in providing a fair and consistent program for Los Osos, and the prohibition zone with all its failures will remain. Please explain:

- How will Conditional Waivers Affect Los Osos:
- Will waivers be applied in Los Osos outside the probation zone?
- Under what circumstances will waivers be applied inside the prohibition zone?
- What is the cost for the WDR, monitoring, and reports?
- What is the estimated program costs estimated for the local agency?
- Is the Co or the LOCSD to administer the mandatory program?

Conclusions:

Citizens for Clean Water opposes this segmented and shotgun approach to water shed protection. As stated, the timing of the amendments and resolutions with the pending lawsuit (CV 070472) makes such amendments to WQCP suspect. It is the existing Basin Plan resolutions that have been used to justify imposition of harsh individual enforcement, and violated constitutional protections, yet these are now being replaced. There is no reason for private property owners to believe that they will be treated differently than Los Osos, under the proposed amendments. The changes to replace and strengthen resolution 83-12 appear to be no more than subterfuge for the ill-founded Los Osos enforcement at best, or added power over others in the region without adequate justification. I ask the board to question the staff motives. Based upon the lack of statutorily required application of criteria for assessing economic impacts, environmental justice, current science, hard facts and sound analysis requires a process restart at a minimum.

The central coast is largely rural and onsite treatment systems and their contribution to pollution from failing systems are simply unknown at this time. The local programs are expected to supply such data for the RWQCB. However, it is well known that onsite contributes a very small percentage of the total non point source pollutant loadings, and proportional responsibility poses an unfair burden on private property owners.

Management programs to assist in quantifying impacts are an estimable effort, but other elements of the amendments are premature to impose on property owners without first providing impact information to affected parties.

Recommendations:

Citizens for Clean Water recommends that the staff develop a stakeholders program that is convened to reviews current policies, criteria, and implementation plans. Current voluntary efforts should be reviewed and further action encouraged. Funding should be sought by the RWQCB to provide the assistance to local agencies and private property owners, as this is the major reason for inaction by local agencies. (2)

The intent is increase the knowledge and understanding of impacts from onsite treatment systems, to improve protection of water quality based on this information, yet the amendments contain unintended consequences, and lack any third party review. By postponing adoption of the

amended basin plan and resolutions, and using the staff's efforts to date to bring together the true stakeholders, (property owners with septic systems) in a working group forum will provide a fully vetted process, with necessary changes, based on fully defined program goals.

It is disingenuous to imply onsite systems causes widespread pollution, or that this effort is urgent, or to propose that onsite owners shoulder the largest portion of the costly burden of non point source programs and water shed monitoring through their local agencies. If local agencies are to assume the entire burden for non-point source pollution monitoring and control, the SWRCB must provide comprehensive programs that assess costs fairly and programs that cross jurisdictions, and provide the necessary funding as well.

Only through a truly public process (properly noticed and informed public participants) will a credible water shed protection program emerge. By proceeding in a thoughtful and deliberative approach, with provisions for regional oversight and accountability can prevent wasteful expenditures, and abuses of the public process.

Referenced Documents

1. EPA Handbook for Managing Onsite and Clustered Wastewater Treatment Systems, NO 832-B-05-001 December 2005
2. Voluntary National Guidelines for Management of Onsite and Clustered (Decentralized) wastewater Treatment Systems, March 2003
3. Onsite Sewage Treatment In California and the Progression Toward Statewide Standards, Chico Research Foundation, June 2004
4. National Decentralized Water Resources Capacity Development Project, Lombardo Associates, Aug 2004
5. Proposed regulations to add to CCR Title 27, Division 2, subdivision 1 Chapter 7. Onsite WWTS Article 1. Definitions -22900
6. WQCP Triennial Review Priority List, Dec. 7, 2001 and attachment A proposed and final issues lists
7. AB885 Status discussion <http://www.swrcb.ca.gov/ab885/index.html>
8. AB 885 CEQA
9. AB 885 project Scoping report, and Summary of Comments SWRCB Onsite Wastewater Treatment Systems Regulations, Oct. 2005
10. Chico Onsite Management Plan
11. NOWRA White Paper on the Ca Onsite Rules under AB 885, May 5, 2004
12. LOCSD Septic Management Plan, July 2003-2006
13. LOCSD Voluntary Onsite Program 2004
14. LOCSD Onsite SMMP resolutions, LOCSD onsite work plan in lieu of enforcement, Oct. 2006
15. LOCSD WWAC Onsite Management plan draft

Web sites:

<http://www.waterboards.ca.gov/centralcoast/index.htm>

<http://www.waterboards.ca.gov/centralcoast/Permits/Index.htm>

<http://www.ndwrcdp.org>

Other Suggested References:

Arenovski, A. L. and F. C. Shephard. 1996. *A Massachusetts Guide to Needs Assessment and Evaluation of Decentralized Wastewater Treatment Alternatives*. Marine Studies Consortium & Waquoit Bay National Estuarine Research Reserve.

Bounds, T. R. 2001. "Management of Decentralized and Onsite Wastewater Systems," *Proceeding of the Ninth National Symposium on Individual and Small Community Sewage Systems*. ASAE.

California Conference of Directors of Environmental Health (CCDEH). 1992. *Model Onsite Sewage Disposal Code*. CCDEH Technical Advisory Committee, Sacramento, CA.

CCDEH. 1998. *Guidelines For The Design, Installation, And Operation Of Mound Sewage Disposal Systems*. CCDEH Technical Advisory Committee, Sacramento, CA.

California Environmental Quality Act (Public Resources Code §21000 *et seq.*), Div 13, Environmental Protection.

California State University, Chico. 1999. *Final Draft Model Ordinance for Onsite Sewage Disposal Systems*. Model Ordinance Committee. California State University, Chico, CA.

California State Water Resources Control Board. 1977. *Rural Wastewater Disposal Alternatives—Final Report—Phase 1*. The Governor's Office of Planning and Research, Office of Appropriate Technology, Sacramento, CA.

California State Water Resources Control Board. 1980. *Guidelines for the Design, Installation, and Operation of Mound Sewage Disposal Systems*. State Water Resources Control Board, Sacramento, CA.

California State Water Resources Control Board. 1980. *Guidelines for the Design, Installation, and Operation of Evapotranspiration Systems*. State Water Resources Control Board, Sacramento, CA.

California State Water Resources Control Board. 1994. *Report Of The Technical Advisory Committee For Onsite Sewage Disposal Systems, November 1994*. State Water Resources Control Board, Sacramento, CA.