

Response to Comments on the Central Coast Water Board Basin Plan Amendments regarding Onsite Wastewater System Criteria and Implementation Program.

Comment due date: August 25, 2011

No.	Commenter
1	Los Osos Sustainability Group, Keith Wimer
2	Monterey County Department of Health
3	Sullivan Associates
4	Water Quality Association

No.	Author	Comment	Response
1.1	Los Osos Sustainability Group	The Los Osos Prohibition Zone and other prohibition zones should be eliminated from the Basin Plan. Prohibition zones violate law, mandate centralized projects, violate CEQA and NEPA, and eliminate alternatives using onsite systems. The comment is followed by description of issues regarding the Los Osos Community Wastewater Project.	The Basin Plan Amendment does not include revisions to the Los Osos onsite discharge prohibition area or community wastewater project. The comment is not relevant to the action before the State Water Board.
1.2	Los Osos Sustainability Group	The onsite provisions of the Basin Plan set some standards but the Water Board can override and modify them as desired. It can even set total prohibitions. What other agency has this much discretion in what it approves and doesn't approve. And the Board will defer to the Executive Director on this topic. This continues to allow bias and unequal application. Consider the contrast between San Lorenzo River Watershed and Los Osos. Why not a management plan for Los Osos.	The Regional Water Quality Control Board has the authority under California Water Code section 13243 to specify in a Basin Plan certain conditions or areas where the discharge of wastes, or certain types of waste, will not be permitted and under Water Code section 13242 to establish implementation programs. Consistent with the Water Code, the Basin Plan Amendment revises minimum criteria for onsite systems and sets forth the contents of management plans to meet standard minimum requirements. The Basin Plan Amendment provides the option for local

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			<p>permitting agencies to develop management plans and allows them to take into account the unique conditions of each area. Wastewater management in the San Lorenzo River Watershed and Los Osos reflect the different nature and needs of the areas (hydrogeology, development, water quality impacts, etc.). The Basin Plan Amendment does not allow for bias or unequal application on the part of the Water Board or the Executive Director. The details of onsite management plans (described in VIII.D.2.b) are intentionally flexible, and each plan will vary according to local needs, resources and site conditions. In this manner effective water quality protection efforts will correspond with identified needs and local agency discretion.</p>
1.3	Los Osos Sustainability Group	<p>Any provision limiting onsite system discharge based on lot size is not based on current science and should be removed or modified in favor of standards. Nitrates are the only constituent of concern with functioning septic systems. Rainwater has low concentration of nitrates, irrigation return flow and recharge from horse farms have high nitrates. Integrated management is more effective than focusing solely on septic systems. Prohibition VIII.D.3.b.21 limits onsite discharge to 40 grams per day total nitrogen, and is equivalent to one system per acre unless upgraded treatment is provided.</p>	<p>Impairment of groundwater by nitrate-rich leachate is one of the most common (along with other salts and pathogenic bacteria) water quality issues addressed in this chapter of the Basin Plan. Prohibition VIII.D.3.b.21 is based upon providing adequate space for onsite system components, adequate soil to perform treatment processes, and adequate assimilative capacity of underlying groundwater. The prohibition was adopted by the Central Coast Water Board in 1983 and approved by the State Water Board in 1984. This Basin Plan Amendment does not revise the size limitations. This amendment allows for alternative measures implemented through local agency management</p>

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1.4	Los Osos Sustainability Group	In appealing these provisions, I incorporate by reference all past submittals and comments challenging the Basin Plan onsite provisions, prohibition zones, Los Osos enforcement actions, Los Osos Wastewater Project, and Waste Discharge Requirements for the Los Osos Wastewater Facility.	<p>plans, and thus provides opportunity for integrated management requested by the commenter.</p> <p>Response to comments submitted to the Central Coast Water Board during its consideration of the Basin Plan Amendment are included in the record for this matter and available on the Central Coast Water Board web-page at the following link.</p> <p>http://www.waterboards.ca.gov/centralcoast/water_issues/programs/septics/index.shtml</p> <p>Comments regarding Los Osos or the Los Osos Wastewater Project are not relevant to the Basin Plan Amendment under consideration by the State Water Board.</p>
2.1	Monterey County Department of Health	The definition of certified professional should be revised as follows: Certified professional is a person who demonstrates <u>to the jurisdiction having authority</u> special qualifications (through education, experience, exam, etc.) needed to successfully perform the task at hand.	The Basin Plan calls for systems on slopes greater than 20% (VIII.D.3.a.12) and alternative systems (VIII.D.3.c.2) to be designed by a certified professional. The suggested additional language is accurate, though unnecessary since all of the requirements must be demonstrated to the satisfaction of the jurisdiction having authority.
2.2	Monterey County Department of Health	Will there be a grace period after State Water Board approval of this amendment to allow for local agencies to amend ordinances to reflect the new Basin Plan criteria? If not, the Central Coast Water Board could be swamped with actions normally assigned to local agencies.	The provisions become effective after approval by the State Water Board and Office of Administrative Law (Resolution No. R3-2011-0004, Finding 24). After that date, potential applicants for new onsite system discharges may be eligible for a waiver of waste discharge requirements and/or a waiver of the report of

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2.3	Monterey County Department of Health	Section VIII.D.2.a “The Water Board, on March 20, 2009 (OAL approval date), adopted a Basin Plan implementation...” should be updated to include the date.	The OAL approval date is not the date of the Central Coast Water Board action, but the date is not correct. The Executive Officer has proposed a nonsubstantive revision to the Basin Plan Amendment to delete the date. The sentence with the Executive Officer correction would read: “The Water Board adopted a Basin Plan Implementation Program ...”
2.4	Monterey County Department of Health	Requirement VIII.D.3.b calls for residential onsite systems to be designed using 375 gallons per day (gpd) for a 3-bedroom home and 75 gpd for each additional bedroom. This will drastically increase square footage required per system, as Monterey County uses 300 gpd. Is the Water Board assuming four people per 3-bedroom home, or more people? One residential system (375 gpd, based upon	The values are intentionally conservative to provide for a margin of safety. With regard to flow, systems designed for average residential flows would be overloaded half of the time, since by the nature of averages half of the flows would exceed that value. Design criterion of 375 gpd is higher than the average home so that all “average” homes will fall within that capacity. With regard

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		<p>VIII.D.3.b.7) does not correspond to 40 grams nitrogen (VIII.D.3.b.21) on one acre (VIII.3.a.13). Typical nitrogen concentrations in residential wastewater range from 35 to 45 mg/L. Using the values stated (40 grams nitrogen and 375 gpd) the nitrogen concentration would be 28 mg/L, which is not consistent with literature. Using these values, the minimum lot size should be 1.25 to 1.6 acres. However, 375 gpd appears excessive and Monterey County uses 300 gpd as design criteria for a 3-bedroom house. At 300 gpd and a corresponding nitrogen concentration of 35.2 mg/L, these criteria correspond with the one-acre minimum lot size. The Basin Plan should be amended to either increase the minimum lot size or decrease the amount of sewage flow.</p>	<p>to nitrogen concentration, residences with higher volume of discharge are likely to have lower nitrogen concentration, since higher flows result in more dilution. With these factors in mind, the values stated in the Basin Plan criteria are not inconsistent. No assumptions are made regarding the number of people living in each house. The comment provides excellent examples of alternative criteria that can be implemented in local agency management plans. The proposed amendments provide a legal mechanism for local agencies to implement such alternatives, without these amendments no such mechanism exists.</p>
3.1	Sullivan Associates	<p>Commenter participated in the Central Coast Water Board's public workshop and hearings, and submitted comments regarding these amendments. Many of the previously submitted comments were ignored or responses were inadequate. Inadequate time (3 minutes) was provided during the hearings to raise comments after inaccurate or misleading statements were made by Water Board staff.</p>	<p>All timely submitted comments and response to those comments submitted to the Central Coast Water Board during its consideration of the Basin Plan Amendments are included in the Central Coast Water Board's record for this matter available on the Central Coast Water Board webpage at the link in No. 1.4, above. The comment does not provide any specific information as to how the responses to comments were ignored or inadequate. The Central Coast Water Board provided several opportunities for submittal of written comments and provided an opportunity to request additional time to speak at the hearings.</p>

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3.2	Sullivan Associates	Do not approve these amendments until the statewide plan required under AB885 has been fully vetted and subjected to environmental review and public comment. Statewide regulations should not be replaced by piecemeal actions such as this.	The Central Coast Water Board first adopted a Basin Plan implementation program in 1983 to set forth criteria for onsite systems and has had in place a waiver of waste discharge requirements since April 15, 1983. The Basin Plan Amendment revises and clarifies the 28-year old Basin Plan criteria and reestablishes a conditional waiver for onsite systems, which have not been authorized in accordance with State law since 2004. The amendment language, adopting resolutions, staff reports, and responses to comments to the Central Coast Water Board repeatedly state that the Basin Plan will be updated to reflect State Water Board onsite policy, once it has been adopted. In the meantime, the Basin Plan Amendment will provide a mechanism for individual dischargers to be in compliance with the Water Code.
3.3	Sullivan Associates	CEQA requires response to written and oral comments submitted to the Water Board. Our comments have been ignored or inaccurately restated with non-responsive comments. We object to any attempt to circumvent environmental. Statewide regulations	The Central Coast Water Board provided responses to all timely and relevant comments submitted regarding the CEQA documents for the Basin Plan Amendment. Substitute Environmental Documents specifically developed according to the Water Board’s certified regulatory program, are included at the web link listed in response to comment No. 1.4, above. The commenter’s prior submittals and oral comments during the hearings, along with corresponding responses to comments are also included at the link above.

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3.4	Sullivan Associates	Concern raised in 2008 regarding environmental justice has not been addressed.	The onsite system criteria and implementation program (these amendments) apply throughout the Central Coast Region regardless of economic status. Accordingly, these provisions are consistent with the State’s policies regarding environmental justice. The commenter previously provided similar comments to the Central Coast Water Board, which, along with corresponding responses to comments are also included at the web link in No. 1.4, above.
3.5	Sullivan Associates	The 2008 resolution states there are over 100,000 existing onsite systems in the Central Coast Region. Public notice of the 2008 amendment was inadequate to inform these property owners that their onsite systems would be subject to stringent Regional Board mandates of monitoring, enforcement and a wide variety of regulations overriding local control.	The Central Coast Water Board complied with public notice requirements that apply to Basin Plan amendments and certified regulatory programs. Public notice was provided to known interested persons and published in newspapers throughout the Central Coast Region in compliance with the applicable public notice requirements. This comment was submitted in 2008 and corresponding response is included at the web link in No. 1.4, above. The Basin Plan criteria do not mandate monitoring except that which might be included in a local agency management plan (which would be implementing rather than overriding local control).
3.6	Sullivan Associates	These amendments will impact more than 100,000 homes, therefore they have significant effect on the environment and warrant environmental review. If there is no significant effect on the environment, why are they proposed? Costs were not adequately	The Basin Plan Amendment revises criteria that have been in existence since 1984 and provide a waiver of waste discharge requirements where systems are designed to be protective of water quality. The Substitute Environmental

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		addressed and these unfunded mandates violate Article XIII(B) of the California Constitution.	Documents adequately evaluate the environmental impacts of the revisions to the criteria and the waiver. Cost impacts, primarily cost savings, resulting from implementation of the Basin Plan Amendment is described to the extent required by law, in the staff report for Resolution No. R3-2009-0012 and is one of several benefits of these amendments. The conditional waiver established in these amendments constitutes a permit streamlining rather than an unfunded mandate. There is no requirement for any local agency to expend funds.
3.7	Sullivan Associates	The amendments give authority to the Water Board to create, interpret and enforce rules and regulations without any objective statewide standard. For example, what basis exists to require a community system to serve more than five units? How will this work if the parcels are not clustered? Are those rules applicable to existing systems installed prior to 2008. The 2008 resolution will authorize a waiver only if public agencies enter into MOUs, which imposes an unfunded mandate on the local agencies.	Water Code section 13260 requires any person who discharges waste or proposes to discharge waste that could impact the quality of the waters of the state to submit a report of waste discharge and obtain waste discharge requirements prior to discharge. Water Code section 13269 authorizes the Central Coast Water Board to waive the requirement to submit the report of waste discharge and/or the requirement to obtain waste discharge requirements. Water Code section 13243 authorizes the Central Coast Water Board to establish prohibitions and Water Code section 13242 requires the Central Coast Water Board to include implementation programs. The Basin Plan Amendment, which updates the Implementation Program for onsite systems and reestablishes a conditional waiver of waste

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			<p>discharge requirements is consistent with the Water Code and the authority of the Water Board. For purposes of establishing criteria, the Basin Plan Implementation Program in place since 1984 defines a community system as one that serves more than five units. There is no requirement for a community system to serve more than five units. Community systems may serve clustered or unclustered residences. This comment was submitted in 2008 and corresponding response is included at the web link in No. 1.4, above.</p> <p>Water Code section 13001 designates the state and regional boards as the principal state agencies with primary responsibility for protection of water quality. Therefore, the Central Coast Water Board has primary responsibility to regulate onsite systems. Local agencies also have jurisdiction under their police powers to regulate onsite systems within their jurisdiction. One of the purposes of the Basin Plan Amendment is to ensure that water quality is protected according to region-wide criteria by granting a waiver of waste discharge requirements where the local agency implements the region-wide criteria taking into account their localized concerns. If the local agency chooses not to implement the region-wide criteria by entering into an MOU with the Central Coast Water Board, individual dischargers will be required to obtain waste discharge requirements or</p>

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			<p>a waiver from the Central Coast Water Board. Because the local agencies can choose to enter into the MOU or not, there is no unfunded state mandate. Generally local agencies already implement onsite system regulation according to the region-wide criteria. The Basin Plan Amendment will provide for more efficiency and clarity between the Central Coast Water Board and the local agencies and will reduce costs and duplication on individual dischargers.</p>
3.8	Sullivan Associates	<p>Alternative systems are prohibited unless consistent with a locally implemented onsite management plan approved by the Central Coast Water Board executive officer. We object to transferring such unbridled discretionary powers to the executive officer or Water Board. No one person or board should be allowed to have such powers that affect so many.</p>	<p>The Porter-Cologne Water Quality Control Act authorizes and requires the Regional Water Quality Control Boards to regulate discharges of waste that could affect the quality of the waters of the state. Any person proposing to discharge waste is required to submit a report of waste discharge and seek waste discharge requirements prior to discharge. The Water Boards may waive the requirement to submit the report of waste discharge and the requirement to obtain waste discharge requirements. The Basin Plan Amendment waives the requirement to obtain waste discharge requirements and to submit reports of waste discharge for some discharges using onsite systems, but not all. The Basin Plan Amendment waives the requirement to obtain waste discharge requirements if the local agency develops and implements a management plan approved by the Central Coast Water Board. That</p>

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			condition does not create unbridled authority, but rather, is a reasonable condition to ensure protection of water quality with minimal duplication by regulatory agencies.
3.9	Sullivan Associates	If adopted, these amendments require all public entities with septic tanks in their jurisdiction to enter into whatever MOU is acceptable to the Water Board. This constitutes a very expensive unfunded mandate	No such language is included in the Basin Plan Amendment.
3.10	Sullivan Associates	The amendment states “for the purpose of this prohibition, secondary units are considered ‘de facto’ lot splits and shall not be constructed on lots less than two acres in size.” This land use decision to disallow granny units violates state laws that encourage such units.	This comment was submitted in 2008 and corresponding response is included at the web link in No. 1.4, above. Existing Basin Plan criteria limit onsite wastewater systems to one acre per residence unless the site is particularly favorable, in which case one half acre is acceptable. The proposed revision includes clarifying language, but does not change the underlying one acre per residence standard. The proposed revision (Site Suitability Prohibition VIII.D.3.a.13) also provides for exception to the one-acre limitation in areas covered by onsite wastewater management plans. As with many of the existing and proposed Basin Plan criteria, the conservative nature of the requirement (one acre per residence) is intended to ensure long-term water quality protection where onsite wastewater management is not implemented.
3.11	Sullivan Associates	These CEQA violations and those set forth in the May 9, 2008, comment letter to the Central Coast	It is not clear from the comment in what way the responses were not adequate. The comments and

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		Water Board are incorporated by reference and have not been adequately addressed by staff.	responses to comments on the Basin Plan Amendment are included in the record for this matter and available on the Central Coast Water Board web-page at the link in No. 1.4, above.
3.12	Sullivan Associates	The Central Coast Water Board created piece meal phases to adopt amendments without allowing both criteria and implementation to be addressed in the same resolution. On May 5, 2011, the public was limited to comments regarding the 2011 amendments. We submit that criteria and implementation amendments should be revisited to reconsider public comment.	The Central Coast Water Board held several hearings leading to the adoption of the final Resolution and Basin Plan Amendment in May 2011. The public had the opportunity to provide written and oral comments on the Basin Plan Amendment. Comments and responses to comments submitted to the Central Coast Water Board during its consideration of these amendments are included in the staff report for each amendment resolution (Resolution Nos. R3-2008-0005, R3-2009-0012 and R3-2011-0004) available on the Central Coast Water Board web-page at the link in No. 1.4, above.
3.13	Sullivan Associates	This action violates Water Code section 13246 which calls for State Water Board action on water quality control plan not later than 60 days from the date of submittal by the Regional Board, or 90 days after re-submittal of the plan.	The timeframes called out in Water Code section 13246 are intended to require timely consideration of Regional Board submittals. Due to limited staff resources and time needed for public notice and comment, 142 days will have elapsed between the Regional Board submittal (May 13, 2011) and State Water Board action.
4.1	Water Quality Association	Due to late notification, the Water Quality Association has not presented its comments to the Central Coast Water Board. A process should be in place to notify key industry stakeholders when changes impact the industry, and the Water Quality	Timely notice of opportunity for public comment was provided for this item, as evident by timely receipt of this comment letter. The Central Coast Water Board implemented a robust public outreach process during its consideration of these

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		Association should be added to the interested parties list.	Basin Plan Amendments; including two public workshops, publication in newspapers throughout the Central Coast Region on five occasions, distribution to over one hundred interested persons, and three hearings before the Central Coast Water Board. By this letter, the commenter has been added to the interested persons list for onsite issues within the Central Coast Region.
4.2	Water Quality Association	We oppose the prohibition of water softener brine discharge to septic systems because it does not provide a realistic solution to any issue that is allegedly attributed to water softener discharge.	The Basin Plan has recommended against discharging brine to onsite systems since 1983. These Basin Plan Amendments include a prohibition against such brine discharges, unless consistent with an onsite management plan. This provision is intended to provide flexibility in areas where onsite discharge of brine will not be problematic, but also support protection of groundwater resources where needed. Similar comments were submitted to the Central Coast Water Board in 2008 and are addressed at the web link in Response No. 1.4 above.
4.3	Water Quality Association	If the prohibition is based upon groundwater or surface water degradation, diverting softener discharge will not change this issue. Sodium and chloride would continue to discharge to the same waters regardless of whether they go through a septic system. The impact to receiving waters may be worse, due to less interaction with soil microbes that may utilize some of the contaminants.	The comment appears to be based upon misinterpretation. The Basin Plan Amendment does not authorize water softener brine to be diverted and discharged to surface water. No discharge to surface water is authorized or anticipated through this Basin Plan Amendment.
4.4	Water Quality	Water softeners provide benefits beyond aesthetics.	The Basin Plan Amendment does not address

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	Association	Reduced water hardness improves home energy efficiency (57% reduction of appliance energy use); allows for less detergent to be used (70% less in dishwashers, 50% less in laundry); reduces scale in pipes; and reduces most heavy metals (arsenic and chromium-6 captured by cation exchange resin).	water softener benefits. The comment references ion exchange resin softeners, which are a common alternative to self-regenerating softeners. In areas where the brine discharge prohibition is implemented, use of resin-type softeners is likely to replace at least some use of self-regenerating softeners.
4.5	Water Quality Association	Banning water softeners will result in new problems such as increased buildup of appliances in landfills, increased heavy metals, and increased concentrations of detergents in waste discharges.	The Basin Plan Amendment does not include a ban of water softeners.
4.6	Water Quality Association	If the prohibition is due to septic system failures, two robust studies support properly set water softeners and their discharge to septic systems. Studies by the University of Wisconsin-Madison and NSF International found that water softener waste stimulates biological action, flow rates are not problematic, and the brine discharge does not interfere with percolation.	The brine discharge criteria are not due to septic system failures, but are intended to prevent salts from impacting groundwater.
4.7	Water Quality Association	The water treatment industry is funding a new study at Virginia Tech to further evaluate residential applications. Subsequently, operational guidelines will be developed to eliminate negative impacts on septic systems.	Information from the Virginia Tech study, and any guidelines that may be developed, may be a useful source of information for local agency management plans.
4.8	Water Quality Association	Regulations should focus on installer education and enforcement of salt-setting requirements to optimize efficiency.	The Basin Plan Amendment focuses on waste discharge where such discharges may impact water quality. Education within the water softening industry is not a component of the Basin Plan.

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4.9	Water Quality Association	Science has not fully characterized the implication of softener discharge in septic systems as a cause for system failure.	The Basin Plan criteria regarding brine discharges focus on protecting groundwater from salts migrating with the discharge, and does not imply that such brines cause failure of the system itself. Significant salts concentrations can reduce microbial activity, but that issue is not addressed in these amendments.
A late comment letter was received from the Los Osos Sustainability Group containing a corrected version of the group's original submittal. The contents of the late letter are not materially changed from the original (timely) letter, summarized above.			