



BOARD OF SUPERVISORS COUNTY OF MADERA

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TANNA G. BOYD, Clerk of the Board

November 9, 2011

OWTS Policy
State Water Resources Control Board
P.O. Box 2231
Sacramento, CA 95812

Re: Comment Letter – Draft OWTS Policy Documents

To Whom It May Concern:

On behalf of Madera County, I am writing to provide comments on the State Water Board's Draft OWTS Policy Documents. As you are aware, Madera County was adamantly opposed to the proposed regulations that were released in 2008. Overall, we believe the Draft Policy represents a more reasonable approach to implementation of AB 885, the legal mandate that required the State Water Board to develop statewide OWTS regulations.

Madera County is appreciative that the Draft Policy recognizes the importance and effectiveness of local government resources. Furthermore, we support the proposed risk-based approach that focuses attention on known problem areas of the State and allows the County flexibility for new septic systems. As the 2008 proposal applied uniformly across the state, making it overly restrictive, unreasonably costly and extremely problematic, we were pleased to see that many of the stakeholders' previous suggestions are reflected in the Draft Policy.

While the County acknowledges the improvements, a number of significant concerns remain unresolved. Therefore, we would like to see the following concerns addressed prior to adoption of the final Policy:

- Include a mechanism to ensure Regional Boards do not arbitrarily and unnecessarily impose excessively stringent, across-the-board regulatory restrictions on local government. The State Water Board must ensure that future Regional Water Board actions are consistent with the Policy objectives.
- The proposed requirements for "Tier 2" Local Agency Management Programs are excessive and will be costly to local governments. To establish a regional and localized monitoring program across our "entire jurisdictional area" is potentially burdensome and intrusive. Local governments should be allowed to rely on extensive existing data networks as a basis for assessing water quality impacts. Additionally, the process for approving Local Agency Management Programs should be efficient, rational and streamlined to avoid additional costs to the County.
- The proposed 600-foot setback requirement from nitrate and nutrient impaired water bodies is excessive and will have adverse financial impacts on property owners. Allowing a 100-foot setback similar to the requirement for pathogens would be more reasonable and align with local 100-foot setback requirements.

- “Tier 3” Policy must recognize that many existing homes adjacent to impaired water bodies are located on property with limited site conditions. In these instances, the “Tier 3” Policy must clearly allow for existing repair and replacement even if site constraints make it impossible to comply with proposed new system standards.
- The Draft Policy should ensure that Regional Water Boards substantiate, through verifiable data, any determination to disqualify a system from the “Tier 0” classification.
- Homeowners with “de minimus” discharge contributions should not be forced to implement costly remediation programs which will not significantly improve water quality.

Madera County is a predominately rural county with approximately 20,000 properties utilizing septic systems. Consequently, our residents will be impacted in some fashion by the final Policy regulations. As most of our rural communities are small and disadvantaged, they cannot afford expensive assessment costs and retrofit measures to bring their systems into compliance. To enforce regulations without financial assistance would lead to the potential displacement of property owners from their homes. As AB 885 clearly states that the Legislature intended to provide financial assistance to qualified homeowners, the State Water Board must adequately address this in its final Policy.

In closing, I want to acknowledge the State Water Board’s willingness to listen and address the concerns of our County. The Draft Policy is a vast improvement over the 2008 proposal. We hope to continue working with you in the development of a final Policy document that is pragmatic and provides a workable framework for our County and our residents.

Respectfully,



Frank Bigelow
Chairman

Cc: RCRC
CSAC
Advocation, Inc.