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1515 Stony Point Road
Petaluma, CA 94952

October 30, 2011

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

Dear Clerk of the Board:

Our family has owned the property on Stony Point Road since the mid-1950s. We enjoy living in rural Petaluma and experiencing the joys and challenges of country living. However, the recent release of a "Water Quality Control Policy for Siting, Design, Operation and Maintenance of Onsite Wastewater Treatment Systems (OWTS)" regulation presents a serious threat to us maintaining our lifestyle. The following comments address our main concerns about the OWTS regulation. The comments are focused on the boundaries for impaired waters, financial assistance, testing requirements and reference citations.

Impaired Waters

According to the draft OWTS regulation, impaired waterways will be subject to Tier 3 monitoring requirements. After looking at your mapping tool, the impaired water designated as the 'Petaluma River' runs through our property (the creek on our property is over 4 miles upstream from the navigable portion of the Petaluma River and is dry for the majority of the year, only flowing during rain events). We feel, as currently drafted, the boundaries of impaired waterways for the Petaluma River are arbitrary.

According to Title 14, California Code of Regulations, Chapter 1, the definition of stream (and creeks and rivers) is "a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation."

As indicated by the definition for river, there must be evidence that aquatic life exists and the flow supports riparian vegetation. From our perspective, the creek that runs through our property does not have a riparian vegetative boundary nor does it support aquatic life. As discussed here, the impaired water designation for this part of the Petaluma River is unfounded. Further research should be conducted to conclusively determine what conditions of an 'impaired water' need to be met before it can be considered a river as defined in California Code of Regulations. Our recommendation would be to modify the

Petaluma River impaired water boundary further downstream as it would then be more representative of and more consistent with the definition of a river.

Compliance Financial Assistance

Included in the chaptered language of Assembly Bill 885 (AB 885) is a legislative intent to give assistance to private property owners who are subject to the regulation. In the current draft policy and supporting document there are not any references (to the best of our knowledge) to financial assistance options. AB 885 suggests that assistance be given to landowners whose cost of implementation would be greater than 0.5 percent of the current assessed property value.

Unlike other entities that the Water Board regulates, private property owners like ourselves cannot pass on the cost of the regulation to its customers. The Water Board should be conscious of the current economic conditions in the state and should make a good faith effort to include provisions for financial assistance to private property owners in their draft OWTS regulation. The language in AB 885 supports this recommendation.

Compliance Testing Requirements

As currently written in the draft regulation, the landowners subject to Tier 3 requirements would be required to demonstrate compliance with the OWTS regulation by a \$5,000 septic test (details not provided, see 'References' comment in this letter). We believe the septic test is overly burdensome on the property owner. We recommend developing an alternative method to the septic test for Tier 3 compliance demonstration that is less burdensome (i.e., less costly) to the property owner.

References

On page 236 of the staff report, there is a reference to Means, 2007, which is the reference that describes the Tier 3 costs for the septic test that is needed to demonstrate compliance with the OWTS regulation. However, when we searched in the reference section (section 9), this reference was omitted. Please include this reference to improve the transparency of the documentation.

We thank you for reading our comments and look forward to discussing them with you. Please contact Sue Edwards at suedwards@comcast.net for any questions or follow-up discussions.

Sincerely,



George Bacigalupi Jr.
Proprietors



Sue Edwards

cc: Water Board Members
California Senator Mark Leno

California Assemblyman Jared Huffman