



COUNTY OF MODOC
Department of Health Services
Environmental Health Division
202 W. 4th STREET
ALTURAS, CALIFORNIA 96101

KAREN STOCKTON
Director of Health Services
WARREN G. FARNAM
Environmental Health Director

(530) 233-6310 office
(530) 233-6342 FAX

11/1/11

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

RE: Letter of Comment regarding AB 885 Draft Policy for Siting, Design, Operation and Management of Onsite Wastewater Treatment Systems (OWTS)

Honorable Board,

These comments are submitted on behalf of Modoc County Environmental Health Division, and are supported by the Modoc County Board of Supervisors.

Modoc County has never supported AB 885 due to lack of sound scientific reasoning and increasing the bureaucracy of a program that has successfully protected public health and water quality for many years in Modoc County. Over a decade of frustration and countless personnel hours have been spent on the issues surrounding this one piece of legislation with little gained. However, now is not the time to create an open-ended policy that will create economic hardship on Onsite Waste Treatment System (OWTS) owners and local agencies with no potential reduction to risk for public health and the environment.

The Supplemental Environmental Document (SED) fails to explain or demonstrate how the proposed policy will better protect public health or the environment. The State Water Resources Control Board (SWRCB) fails to demonstrate how a "risk" based tier system in conjunction with additional burdensome administrative oversight (required by the local agency and Regional Boards) will reduce risk to public health or the environment. The proposed policy does meet the intent of AB 885, but the underlying missions of the SWRCB, Regional Boards (RB), and Local Agencies are to protect public health and the environment. Neither this policy or the SED demonstrate how additional restrictive administrative oversight will positively aid in adhering to our mission.

Modoc County realizes the position the SWRCB is in and regrettably accepts that some type of regulation or policy will be adopted from the legislative direction of AB 885. A consideration of how this policy will affect the underlying mission of our agencies is warranted. The SWRCB SED concludes increased local agency administration requirements for implementation of the proposed policy is insignificant. Nothing could be further from the truth for many rural local agencies. The proposed policy contains specific parameters for Tier 1, however, Tier 2 contains requirements that are loosely defined and unjustified. The lack of specific parameters addressing the requirements in 9.3.8 through 9.3.9 will allow Regional Boards to "create" requirements that could be unreasonable and/or unjustified for a particular watershed. Even though the SWRCB is striving to allow local flexibility, the one size fits all

standard will likely be applied at the Regional Board level. Sections 9.3.8 through 9.3.9 could easily be addressed in Tier 3 and still meet the intention of AB 885 monitoring requirements. Allowing the increased administrative and unsubstantiated monitoring requirements to remain in Tier 2 increases the potential for an increased burden for Modoc County.

The OWTS program in Modoc County had been operated for many years at extremely cheap fees (\$25 new permit, \$12.50 replacement permit) while being subsidized by realignment monies. This process worked for many years in a positive matter for public economics, protecting the environment, protecting public health, and allowing the Environmental Health Department to operate at a positive public service status. By 2005 the Modoc County Environmental Health was being inundated with increasing full time equivalent (FTE) requirements from many programs, the loss of the State Local Public Health Program and increased permitting. With the shift from a State contracted program to County maintained, many fiscal and mandated requirements were evaluated for budget solvency. In 2008 fees were adjusted for many programs, and the OWTS was increased to \$180 for a new permit and \$60 for a replacement. This adjustment still required the program to be subsidized from realignment monies. For the program to be self sufficient at twenty year historical permitting averages the fees would have needed to be \$850 for either a new or replacement system. Politically, the later adjustment was not attainable.

Currently, the largest fiscal hurdle for Modoc County Environmental Health is budgeting for individual program solvency. The low numbers of the regulated and permitted entities require subsidies from other sources, rather than large fee increases. The fact of economy of scale becomes a pressing problem when more and more requirements are mandated to local agencies. For example, the last three year annual average for OWTS permits is 27. Low permitting numbers are difficult stats to budget and has led to a trend of spending more time on program administrative requirements and less time doing direct public health and environmental protection due to FTE limitations.

If Modoc County Environmental Health continues the OWTS program the potential is great for the SWRCB proposed OWTS Policy and additional RB requirements to be the weight that tips the scale for current staffing. To meet the ever increasing FTE requirements from multiple State programs, Modoc County Environmental Health will be faced with two choices concerning the OWTS program: 1) Raise fees significantly in all programs to cover a third full time FTE. 2) Reduction of non-mandated Local/State program/s to meet current FTE and fiscal resources.

Considering option one, the low numbers of the regulated and permitted entities, a fee increase of 400% to 1000%+ would be a monumental public and political hurdle unlikely to happen. The less desirable route would result in utilizing option two. Since the OWTS program in Modoc County is a non-mandated program the possibility of moving all or a portion of permitting of OWTS to the respective Regional Board is a likely possibility. The cons of this decision would be less to no local oversight of OWTS, decreased permitting efficiency for the public, less direct local protection of public health and the environment, and an increase in illegal OWTS activity. The pros of this option would entail relieving FTE pressure in the local agency (no FTE expansion required), fees for other programs would not see exorbitant fee increases, realignment monies will go further, direct public service in other programs would increase, and direct public health and environmental health protection in other programs will be increased. Similarly, the future permitting fees for OWTS would likely be same at the Regional Board level as the local level.

In short, the decision to keep any State non-mandated program will be first fiscal, second political, third public input, and lastly (unfortunately) protecting public health and the environment.

Considering Modoc County has three Regional Boards, low staffing, minimal fiscal solutions, sparse population, one of the lowest household incomes in the State, and projected 85% of new/replaced OWTS will be in Tier 2, this proposed policy that has likely potential to jeopardize our core mission of protecting public health and the environment. I would implore the SWRCB to reconsider requiring burdensome administrative reporting and unsubstantiated monitoring requirements. Tier 2 was originally viewed as a risk tier equal to Tier 1, only a design or siting characteristic separated the two. Move the burden to Tier 3 where the potential risk is higher.

Sincerely,

A handwritten signature in black ink, appearing to read 'Warren Farnam', written in a cursive style.

Warren Farnam, Director
Modoc County Environmental Health