

To: RWQCB
From: CDO #R3-2006-1041
Re: Public Comment regarding Proposed Amendment R3-2008-0005 to the Basin Plan criteria for onsite wastewater systems and Proposed Amendment R3-2008-0006 to the Basin Plan criteria for onsite wastewater system discharges
Date: April 6, 2008

This document constitutes our public comment for the above-noted proposed amendments to the Basin Plan.

Because the agenda for the meeting to be held on May 9, 2008, does not appear on the web site, we are unable to direct our comments to an agenda item number but trust that you are able to discern the items we refer to by the description above.

Given that the general public has had minimal notice of the proposed changes to the Basin Plan referenced above, we respectfully request that the RWQCB consider postponing the discussion and decision until the public receives adequate notice to allow for effective comment. We understand that, in addition to the notice on the RWQCB web site, a single announcement regarding the amendments was buried in the local county newspaper in early March. Such notice is hardly fair warning for the significant number of citizens who may be affected by the proposed changes. It is impossible to know how many or how few citizens have seen either notice. It is unclear how many of those who know about the proposed amendments have access to the documents.

Giving the board the benefit of the doubt that a notice may have appeared more than once in the county newspaper, the fact remains that Chairman Young at the CDO hearing on April 28, 2006, admonished the defendants that a newspaper is not a reliable resource. The water board needs to hold itself to its own standard in working with the public and providing notice. These proposed amendments have so many possible significant outcomes for such a wide range of individuals countywide that the RWQCB ought to rely less on chance and more on direct contact with county residents who could be affected by the proposed actions.

As members of the Prohibition Zone group randomly chosen for individual enforcement in 2006, we have a particular interest in seeing that others do not face the same experience unawares. We are especially concerned about those who are elderly, disabled, ill, incompetent, or otherwise defenseless. These citizens are least likely to know about and have access to RWQCB notices and least able to examine and comprehend the documents. The RWQCB has an obligation to help and not harm citizens who may face individual enforcement actions through these proposed Basin Plan amendments.

Chairman Young said on April 28, 2006, that due process involves two things: notice and the opportunity to be heard. Individual enforcement against private citizens could be an outcome of these Basin Plan amendments should the board enact them. The RWQCB has an ethical obligation, therefore, to provide adequate notice and reasonable access to unambiguous documents to allow interested parties to air suggestions and objections.

Many who have read the documents related to the proposed amendments have found them confusing and open to interpretation at best. If the RWQCB and its staff are truly interested in public input and in providing a fair and open process, their primary objective ought to be an informed public.

Respect and cooperation do not derive from furtive manipulation of the letter of the law and clever camouflaging of consequences in documents too difficult for the average citizen to comprehend. In failing to provide fair notification and clarity in the documentation staff risks alienating yet another group by creating the impression that they have more regard for power and control than for the public they serve.

From our own years of serving the public we are well aware of the benefits of open communication. When people feel included and heard, collaboration is possible. When they feel left out of the process, thwarted, abused, duped, coerced, belittled, dismissed, or demeaned, they respond with resentment, indignation, anger, and legal action. The RWQCB's most recent efforts, rather than fostering cooperation through mutual respect, seem to lay the groundwork and encourage the conditions for more conflict and still more unnecessary expense to taxpayers, such as the legal actions in which it is currently engaged with regard to the random enforcement in the Los Osos Prohibition Zone.

We respectfully submit that the Chairman withhold these proposed amendments from any RWQCB meeting agenda until the public has had sufficient notice of RWQCB actions and has received adequate explanations of the meaning and ramifications of these proposed amendments. Individuals will then be informed and more likely to participate in public comment. As participation is the cornerstone of a democracy, public agencies that adhere to policies and practices that encourage participation model democracy at its best.