

From: Michael Thomas
To: Rhian Gulassa; Sorrel Marks
Date: 4/7/2008 5:38:20 PM
Subject: Fwd: Response to Resolutions R3 2008-0006 & R3 2008-0006

Ms. Gulassa

I am forwarding your comments to Sorrel Marks.

Thank you,
Michael Thomas

>>> "Rhian Gulassa" <rgulassa@atas.k12.ca.us> 4/7/2008 3:01 PM >>>
Mr. Thomas:

I have tried sending this to Sorrel' e-mail, but is returned as undeliverable. Would you please see that my response is received by today's deadline.

Thank you
Rhian Gulassa

>>> Rhian Gulassa 4/7/2008 2:47 pm >>>

I am very concerned with the Central Coast Regional Water Quality Control Board's proposed resolutions 2008-0005 & 2008-0006. With over 100,000 homes using septic systems, I fear that they will have a profound effect on many lives in the Santa Barbara, San Luis Obispo, and Monterey Counties. Please read my attached comments.

Rhian Gulassa

April 7, 2008

Central Coast Regional Water Quality Control Board
995 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Re: Resolutions R3 2008-0005 & R3 2008-006

Dear Central Coast Regional Water Quality Control Board Members:

Purpose: The intention of this letter is to show why the CCRWQCB should not be granted additional powers over onsite systems until a system is put in place that will ensure fair treatment of all individuals.

Although onsite system management plans are needed in the Central Coast region, the Resolutions 2008-005 & 2008-0006 proposed by the Central Coast Regional Water Quality Control Board have some serious flaws. They appear to be an attempt to correct the mistakes by the CCRWQCB in Los Osos over the last 25 years with Resolutions 83-12 and 83-13, but they do not correct the individual onsite wastewater system owner from CCRWQCB abuse of power. Until the Waterboards incorporate a set of checks and balances, including oversight by an independent body where individuals can seek immediate arbitration, the CCRWQCB should not be given any addition powers over the rights of individual citizens.

My Experiences with the CCRWQCB

As a homeowner in the Prohibition Zone since 1992 and one of the 45 residents that the CCRWQCB randomly selected for prosecution, I speak from experience. When I bought my home in 1992, I was informed that I was buying in a zone with a BUILDING PROHIBITION. I respected the prohibition; worked hard as a special education teacher in North County, saved up my money for an expected community wastewater system, and hoped that one day I would be able to add an upstairs bedroom to my small home.

In January of 2006, my world was turned upside down when I received a proposed CDO from the CCRWQCB for DISCHARGING ILLEGALLY since 1988, with fines of \$500 to \$5,000 a day if I was unable to connect to a sewer by 2010. This was the beginning of a long series of undemocratic and abusive action by the CCRWQCB against the 45 defendants. (Matt Thompson of the prosecution staff has since informed us, during the January hearing, under oath, that we can be fined retroactively to 1988. This adds up to a total a possible fine of about 40 million dollars levied on my home on the first day of the deadline if a hook up is unavailable. This amount exceeds the value of my home by approximately \$39,600,000.)

Honestly, my first reaction to the proposed CDO was shock that I could be polluting. I naively believed that all environmental agencies entrusted with the protection of our planet must be beyond reproach. I immediately went to the EPA website for AB885 to look for methods of alternative

compliance and decided on a composting toilet, as this alternative was also mentioned in CCRWQCB documents. I e-mailed Matt Thompson, prosecution staff, fully expecting to receive encouragement for this alternative. A week later he replied that the county would not allow composting toilets in Los Osos. When I contacted the county for an explanation, they said that the Waterboard told them to say this. Why would the WB obstruct my efforts to comply? Isn't their mission to protect the waters of California?

The Waterboards have been given divine powers for the purpose of protecting the state waters from wealthy corporate offenders, but using those powers to destroy individual home owners is unconscionable. The CCRWQCB selected 45 homes for a practice persecution. These new resolutions are designed to cover their mistakes and extend their power as they identify their next target.

At this point I was understandably angry. Obviously I could not afford these fines on a teacher's salary and would quickly lose my home. Why did Executive Director, Roger Briggs, single out 1% of the population to stand alone against the power of their agency for circumstances over which his own hand welded an incalculably greater control than me? I felt alone and isolated, branded as an obstructionist and carrying the burden of the community alone. I decided to fight back, not to stop a wastewater system, but prevent this mistreatment from happening to any other individuals.

The History

I, along with other members of this small group, under threat of losing their homes, spent the next four months reviewing 25 years of documents, trying to understand how we got to this state of affairs. Since most defendants had full time employment with bills to pay and families to support, our meetings took place in the evenings and weekends. Many of us did not even live in the area when this saga began, so we had a lot of catching up to do.

We found that the beginning a small number of homes near the bay had failing septic systems due to frequent direct contact with the perched aquifer. The evidence for pollution from septic discharge throughout Los Osos was questionable at best so the CCRWQCB in 1983 came up with two resolutions; 1) 83-12, a research based resolution, called for study of the onsite systems and development of a septic management district, and 2) 83-13, a pollution producing resolution, called for the building of 1150 new homes within the zone (over 30% increase in population), and then in 1988 prohibiting all new discharges until a sewer system was built. The 1150 homes were quickly built, some with septic systems that clearly violated all regulations due to direct contact with the perched aquifer. A septic management district was never established for Los Osos and no attempt was made to determine the integrity of the individual onsite systems. **Who was protecting the water?**

Method of Compliance

Los Osos citizens have to pay for poor decisions made by government officials. The people have twice approved a 218 to pay for a wastewater treatment system, but many are wary of a gravity

system in sand soil, next to a national estuary, with fault lines nearby. The CCRWQCB has consistently pushed for a gravity system as originally planned in 1983, obstructing all alternative STEP systems. The Waterboards are not supposed to dictate method of compliance.

The new resolutions give the CCRWQCB the power to dictate method of compliance for onsite systems. Rather than establish a measurable criteria for compliance, the proposed resolutions give the CCRWQCB complete control over selection of onsite alternative systems, and power to terminate waivers at any time. These resolutions give an agency **-with no checks and balances-** ultimate control over the location and the cost of development. **Of the over 100,000 onsite systems in this district, how many will be out of compliance if these resolutions are passed?** How many new gravity systems is Roger Briggs going to require? How many people will be forced to vacate their homes? (When asked what we were supposed to do if a sewer was not available by the deadline, vacating our homes was an option given to CDO recipients by Matt Thompson, under oath.)

Individuals vs CCRWQCB

It has been over two years since the proposed CDOs first arrived in the mail. We started first day of hearings, shocked that we needed to explain to the CCRWQCB staff and board how a septic system worked, what a vadose zone was, and how many of us had homes with an acceptable vadose zone. After that first day's fiasco, the CCRWQCB called for a do-over, pulled in a new attorney from Sacramento, and Executive Officer, Roger Briggs, the man who has been involved in this saga from early days, was sent away on his boat into international waters.

We, the defendants, tried to regroup, but our numbers started to dwindle. Attrition was due to many factors including failing health and failing marriages, children exhibiting behavior problems, and increased risk to loved ones created when CCRWQCB failed to consistently honor redacted status. Chairman Young actually had the audacity in the December hearing to say that an elderly couple, both in the hospital from the stress created by the CDOs, had lost their right to a hearing by not attending on the scheduled day. He did eventually see the error in his ways, but this was with cameras rolling and the world watching. How can we expect a fair hearing when an individual from Pozo or California Valley truly stands alone? We in Los Osos have had the support of the CSD, a local law firm, and many other citizens in the community, but the individual cost has still been great; thousands of dollars spent in compliance with CDO requirements and individual defense, many days of work missed to attend hearings and meetings, countless hours spent reading documents and preparing my defense, and many, many sleepless nights spent worrying. Who will be looking out for the individuals in the outlying areas of Santa Barbara, San Luis, and Monterey Counties when they alone are called before the Royal Water Court? Will they be required to stand alone? Will they individually have to pay for the years of lawyer costs needed to work through the regional board and the state board before receiving a hearing before an impartial judge?

The CCRWQCB has treated the citizens of Los Osos as pawns to be manipulated in order to meet their desired outcome. For example, early on the lines delineating the PZ fluctuated depending on the power brokers of the day; the lines redrawn to move Cabrillo Estates, an affluent area of town, outside the zone. The CCRWQCB (Roger Briggs 18 years at the helm) was a player, but the

pawns are expected to pay for the consequences.

Now the game has started for the rest of the Tri County region. I have not met any residents in North County (SLO) with onsite wastewater systems that have been notified of these resolutions. They are the stakeholders, the ones who will ultimately pay the associated costs for implementation, compliance, and enforcement. They are the ones who may one day have to stand before the Royal Water Court, alone, with no one to protect them from abuse. Our government "of the people, by the people, and for the people" seems to have forgotten its people. **My goal is not to destroy the agencies that protect our environment, but to make sure that checks and balances are in place to hold the agencies accountable for their decisions and ensure that the people under their jurisdiction are treated fairly.**

Rhian Gulassa
CDO R3-2006-1034

cc Monterey County Supervisors, Santa Barbara County Supervisors, San Luis Obispo County Supervisors