

## ATTACHMENT 1

Gerald W. Bowes

March 8, 2012

### ATTACHMENT 1: SUMMARY OF THE PROPOSAL

On September 27, 2000, Assembly Bill 885 (**AB 885**) was chaptered into law, adding Chapter 4.5 (Sections 13290 to 13291.5) to Division 7 of the California Water Code (**CWC**). This law requires the State Water Resources Control Board to adopt regulations or standards for the permitting or operation of specified categories of onsite wastewater treatment systems (**OWTS**). In reference to the statute, the regulations or standards are to include, but are not be limited to:

1. **Minimum operating requirements;**
2. **Requirements for OWTS adjacent to water bodies listed as impaired pursuant to Section 303(d) of the Clean Water Act;**
3. **Requirements for authorizing local agencies to implement the State regulations or standards;**
4. **Requirements for corrective action;**
5. **Minimum requirements for monitoring to determine performance, as applicable;**
6. **Exemption criteria to be established by the Regional Water Boards;**
7. **Requirements for determining when a system is subject to major repair.**

California has approximately 1.2 million OWTS that serve as sewage treatment and disposal systems for approximately 10% (3.4 million people) of the State's population. In several counties, more than 40% of the housing units use OWTS. Statewide, approximately 50% of housing units with OWTS rely on a domestic well for drinking water. Given such facts, the proper treatment and disposal of this wastewater is important because the majority of it will pass through the soils underlying the OWTS to recharge groundwater.

OWTS is a permanent solution for solving existing and future sewage service needs. In the past, this view was not widely supported, as many believed that it was only a matter of time until most homes were served by a centralized collection system. However, history shows that many of the sewer lines were never built. Also, many OWTS were built to service vacation properties that have since become full-time residences.

Therefore, to assure protection of water quality at sites that rely upon OWTS, the State Water Board proposes a Policy that requires several regulatory scheme options to protect water quality and waives the requirement to apply for waste discharge

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requirements for systems in compliance with the terms of the Policy. It also allows OWTS regulated through means other than the Policy and accompanying waiver in specific cases. The appropriate regulatory option depends upon the involvement of the local agencies and the regional water boards, the OWTS's proximity to an impaired water body, the condition of the OWTS and the date when the OWTS was constructed. A general description of the schemes is detailed below:

OWTS allowed outside the Policy: OWTS are allowed when directly regulated by the state through waste discharge requirements. Also, OWTS are allowed outside the scope of this Policy when not regulated through waste discharge requirements but, instead, issued a separate waiver by the state.

Tier 0: Existing OWTS that are properly functioning, and do not meet the conditions of failing systems or otherwise require corrective action (for example, to prevent groundwater impairment) as specifically described in Tier 4, and are not determined to be contributing to an impairment of surface water as specifically described in Tier 3, are automatically included in Tier 0.

Tier 1: Tier 1 contains prescriptive requirements for siting and design of OWTS. New or replacement OWTS that are subject to this Policy and in areas where there is not an approved Local Agency Management Program per Tier 2 are required to meet the prescriptive requirements. These prescriptive requirements, contained in Section 7 and Section 8 of the Policy, will be the majority of the elements requiring peer review.

Tier 2: This management option allows local agencies to operate a local management program in lieu of the strict Tier 1 standards. The Tier 2 management program is subject to approval by the state. Upon its approval, the local agency manages the installation of new and replacement OWTS under that program.

Local Agency Management Programs approved under Tier 2 provide an alternate method from Tier 1 programs to achieve the same policy purpose, which is to protect water quality and public health. In order to address local conditions, Local Agency Management Programs may include standards that differ from the Tier 1 requirements for new and replacement OWTS contained in Sections 7 and 8 of the Policy. As examples, a Local Agency Management Plan may authorize different soil characteristics, usage of seepage pits, and different densities for new developments. Once the Local Agency Management Program is approved, new and replacement OWTS that are included within the Local Agency Management Program may be approved by the Local Agency. A Local Agency, at its discretion, may include Tier 1 standards within its Tier 2 Local Agency Management Program for some or all of its jurisdiction. However, once a Local Agency Management Program is approved, it shall supersede Tier 1 and all future OWTS decisions will be governed by the Tier 2 Local Agency Management Program until it is modified, withdrawn, or revoked.

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Tier 3: OWTS that are near impaired water bodies may be addressed by a TMDL and its implementation program, or by special provisions contained in a Local Agency Management Program. If there is no TMDL or special provisions, new or replacement OWTS within 600 feet of impaired water bodies listed in Policy Attachment 2 (as distinguished from Attachment 2 of this request for Peer Review) must comply with specific requirements stipulated to reduce OWTS pollutant contribution to the impaired water body.

Tier 4: OWTS that require corrective action or are either presently failing or fail while this Policy is in effect are automatically included in Tier 4 and must follow the requirements as specified in the applicable tier that specify the requirements for new or replaced OWTS.