



February 9, 2009

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Todd Thompson, P.E., Program Manager
State Water Resources Control Board
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RE: Letter of Comment on the Proposed Rule-Making Package for AB 885
Regulation of Onsite Wastewater Treatment Systems (OWTS)

Dear Mr. Thompson:

The California State Association of Counties (CSAC), an organization that is governed by elected officials from all 58 counties, continues to remain extremely concerned with the proposed AB 885 Regulation. We also share the disappointment expressed by the Regional Council of Rural Counties (RCRC) that the proposed regulations fail to meaningfully address the concerns and comments previously raised by our member counties. Given the adverse impacts that these regulations will have on counties and their residents, CSAC urges you and members of the board to work with our organizations in developing an alternative approach that appropriately recognizes the unique conditions, climates and needs of California's counties and moves away from the proposed one-size-fits-all approach.

With that said, CSAC echoes the comments and concerns expressed by RCRC and our member counties, including but not limited to the following:

- AB 885 requires the State Water Resources Control Board (SWRCB) to adopt "regulations or standards" for the permitting of OWTS. The Draft Environmental Impact Report (DEIR) ignores the second option, the adoption of standards. This approach would be more flexible and provide a more appropriate and cost – effective means of achieving the objectives of AB 885.
- The proposed regulations are overly prescriptive and fail to incorporate scientific justification for many design prescriptions. Further, the specific standards prescribed by the proposed regulations preclude any flexibility by the Regional Boards and local enforcement agencies in responding to unique local conditions and needs.
- The DEIR ignores the flexibility inherent in AB 885 with respect to the discretionary authority given to the SWRCB to establish "siting, construction, and performance" standards.
- The economic analysis is an understatement of the economic conditions in the rural areas of California and the conclusions reached in the DEIR are not reflective of the economic and social impacts of the proposed regulation. In

addition, the DEIR very weakly addresses the legislative intent of AB 885 to provide financial assistance to homeowners.

- The DEIR fails to comply with the State's directives concerning environmental justice by advancing a regulation that ignores the cumulative financial impacts on low-income families and cash-strapped local governments charged with providing assistance to these disadvantaged groups.
- The DEIR fails to adequately analyze the costs and impacts of the implementation by continually referring to the regulations as "self-implementing." This premise ignores the fact that local agencies will at a minimum have to expend considerable resources to meaningfully implement the proposed regulations.
- The DEIR does not identify an objective correlation between septic tank effluent and water well quality. The data relied upon in making the correlation is dated and fails to provide clear evidence of a statewide problem of well contamination from OWTS dispersal fields, beyond those specific areas permitted prior to 1970.

This short summary of comments is by no means all-inclusive of the comments submitted by RCRC and individual counties. As such we urge your serious consideration of those comments and recommendations as well. Again, CSAC would welcome the opportunity to meet with you and members of the Board to discuss an alternative approach that is more flexible yet remains protective of local groundwater and public health.

Thank you for your consideration.

Sincerely,



Karen A. Keene
CSAC Legislative Representative

cc: Chairperson, State Water Resources Control Board
Members, State Water Resources Control Board
CSAC Board of Directors
Patricia Megason, Regional Council of Rural Counties
Justin Malan, California Council of the Directors of Environmental Health