

31 January 2009

To: El Dorado County Board of Supervisors  
Fair Lane  
Placerville, CA 95667

Reference: AB 885, Implementation by the State Water Resources Control Board

I first became aware that the State Water Resources Control Board (SWRCB) was "seeking public comment on proposed septic regulations" from an article in the January 14<sup>th</sup> issue of the Mountain Democrat. This is another unnecessary power grab and empire building scheme by the State of California

According to the Mountain Democrat article, December workshops were "sparsely attended" and the deadline for comments from county environmental departments and the public is Jan. 28<sup>th</sup> yet AB 885 was signed into law in 2000. Yes the workshops were "sparsely attended", the public didn't know about them and it was the holidays! If the (SWRCB) really wanted comments, they could have asked the public for comments much earlier. In El Dorado County we had only two weeks from the first published notice to think about this and get our comments in. This is such a significant taking of property rights that all property owners with septic systems should have been notified by mail or conspicuous public postings and news releases at least 90 days prior to closing the comment period.

Furthermore the whole premise for these regulations is bogus! Fred Sanford of the El Dorado County Environmental Management Department said "This issue was generated by the coastal communities where they had trouble with some of their surface water." "There was a five percent chance that the leach lines might have contaminated a stream nearby." Pay particular attention to the words "a five percent chance" and "might have contaminated". First of all in a controlled study five percent is the lowest level of statistical significance and in a drive by study like this one, five percent is insignificant, even if you don't add the adjective "might".

I was the Forest Hydrologist for the Eldorado National Forest from 1975 to 1989. One of my jobs was to survey all 900 plus recreational residents along with the ski areas, and municipal and group camps, under Forest Service Special Use Permits. It was very easy to determine if septic system leachate was surfacing or worse contaminating surface and/or ground waters. One's nose along with a specific conductance meter and a portable water quality kit could do the job in a matter of minutes. Also at this time the SWRCB worked with other government agencies and the public in a cooperative manner and even considered alternative systems. In 1978 Sim Van der Ryn worked with the State and published a book The Toilet Papers to help promote creative and green solutions. He states:

*Throughout this book you will find the word "waste" used to refer to those raw materials – feces and urine – your body passes on to make energy available to some other form of life. This is what you give back to the earth. The idea of waste, something unusable, reveals an incomplete understanding of how things work.*

As proposed for implementation AB 885 will cost hundreds of dollars in fees if you are on a septic system and tens of thousands of dollars if your system "might" have a potential for failure. Given the States and hence taxpayers current economic crisis, this would be a good program to permanently abolish. But instead after ignoring the implementation of AB 885 for 8 years, the arrogant SWRCB is forcing this unconstitutional tax on rural property owners and requiring county officials to carry out their dirty work.

Submitted by Michael Kuehn  
#14  
at Board Hearing of 2/3/09

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Under sections 208 and 319 of the Clean Water Act, individual septic systems are by definition nonpoint sources (NPS) of pollution. Therefore, Best Management Practices (BMPs) are the appropriate method under the Clean Water Act to manage them. It appears the SWRCB is attempting to manage the tried and proved recycling technology of NPS onsite systems, with point source based regulations. Also has the DEIS properly considered the cumulative effects of its proposed actions and has the required no action alternative been fully displayed?

Only in rare cases where septic systems are improperly located and/or constructed are they sources of pollution to surface or ground waters. As Danny Merkley of the California Farm Bureau Federation stated;

*“Why would the state up these requirements on everyone rather than paying attention to specific areas where there are known concerns with contamination of ground or surface water. There’s something wrong with priorities when the City of San Francisco is allowed to knowingly dump sewage into the bay following heavy rain events and the state instead goes after all of these individual property owners.”*

Could it be they can extort a fee (tax) to keep the SWRCB bureaucracy funded? The pollution from septic systems is insignificant when compared to the allowed and accidental raw sewage spills from municipal treatment plants, which also contain significant amounts of harmful industrial chemicals.

Please take action to stop the implementation of these onerous SWRCB regulations and initiate legislation to repeal the misguided AB 885. Both the State and the taxpayers cannot afford anymore excessive and/or redundant government regulations and employees.



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