



County of El Dorado

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Master Report

File Number: 09-0139

***File ID #:** 09-0139

Agenda Item Type:

Status: Approved

Version: 1

Reference:

Gov Body: Board of Supervisors

Created: 01/26/2009

Agenda Title: EMD 02-03-09 AB 885 Information

Final Action: 02/03/2009

Title: Environmental Management Department recommending the following pertaining to Assembly Bill 885 (AB 885):

- (1) Authorize Chairman to sign letter for submittal to the State Water Resources Control Board by February 9, 2009 regarding AB 885 onsite wastewater treatment systems (OWTS) proposed regulations and Draft Environmental Impact Report, citing issues as described in the analysis of the impacts;
- (2) Direct Environmental Management staff to continue to work with Regional Council of Rural Counties (RCRC), California State Association of Counties (CSAC), California Conference of Directors of Environmental Health (CCDEH) and State Water Resources Control Board (SWRCB) with the goal of developing a reasonable set of minimum standards for onsite wastewater treatment systems that provide public health and water quality protection;
- (3) Direct the Environmental Management staff to provide periodic updates to the Board as this issue is addressed;
- (4) Authorize other actions that the Board deems appropriate, possibly including the presence of interested members of the Board of Supervisors or designees who may wish to appear February 9, 2009 at the SWRCB to speak on behalf of the entire Board of Supervisors on this issue.

Notes:

Agenda Date: 02/03/2009

Agenda Number:

Sponsors:

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Attachments: BOS Attachment B.doc, AB 885.ppt, Attachment B - BOS ltr to Gov att'd 2-4-09.doc, Attachment B - BOS ltr to Pres pro Tem att'd 2-4-09.doc, Attachment B - BOS ltr to Speaker att'd 2-4-09.doc, Attachment B - BOS ltr to SWRCB att'd 2-4-09.doc, AB 885 BOS 02.03.09 att'd 2-4-09- Updated Slide.ppt, Attachment A, Letter from Michael Kuehn 2-6-09.pdf

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Contact: Gerri Silva x6653

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Approval History

Version	Date	Approver	Action
1	01/26/2009	Greg Stanton	Approved
1	01/26/2009	Gerri Silva	Approved
1	01/26/2009	Agenda Coordinator	Delegate
1	01/27/2009	Laura Schwartz	Delegate
1	01/27/2009	Mike Applegarth	Approved
Notes	Department Matters		
1	01/27/2009	Gayle Erbe-Hamlin	Approved

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Board of Supervisors	02/03/2009	Approved				Pass
	Action Text:	After hearing testimony, a motion was made by Supervisor Sweeney, seconded by Supervisor Knight, as follows:					
		1) Authorize Chairman to sign letter for submittal to the State Water Resources Control Board by February 23, 2009 regarding AB 885 onsite wastewater treatment systems (OWTS) proposed regulations and Draft Environmental Impact Report, citing issues as described in the analysis of the impacts;					
		2) Direct Environmental Management staff to continue to work with Regional Council of Rural Counties (RCRC), California State Association of Counties (CSAC), California Conference of Directors of Environmental Health (CCDEH) and State Water Resources Control Board (SWRCB) with the goal of developing a reasonable set of minimum standards for OWTS strictly applicable to jurisdictions where the degradation of water quality has been scientifically proven to be caused by OWTS, while recognizing that many jurisdictions already have adequate OWTS regulations;					
		3) Direct the Environmental Management staff to provide periodic updates to the Board as this issue is addressed;					
		4) Authorize other actions that the Board deems appropriate, possibly including the presence of interested members of the Board of Supervisors or their designee to appear when the SWRCB holds the public hearing; and					
		5) Support legislation to repeal AB 885. (See next page for second motion.)					
Mover:	James R. Sweeney	Yes: 5 - Supervisor Knight, Supervisor Sweeney, Supervisor Nutting, Briggs and Santiago					5
1	Board of Supervisors	02/03/2009	Approved				Pass

Action Text: Agenda Item #14 09-0139 (See prior page for first motion.)

A motion was made by Supervisor Knight, seconded by Supervisor Briggs to authorize the Chairman to sign letter for submittal to the Governor of the State of California, President Pro Tem of the Senate, and the Speaker of the Assembly by February 23, 2009 regarding AB 885 onsite wastewater treatment systems (OWTS) proposed regulations and Draft Environmental Impact Report, citing issues as described in the analysis of the impacts.

Mover: John R. Knight

Yes: 5 - Supervisor Knight, Supervisor Sweeney, Supervisor Nutting,
Briggs and Santiago

5

Text of Legislative File 09-0139

Environmental Management Department recommending the following pertaining to Assembly Bill 885 (AB 885):

- (1) Authorize Chairman to sign letter for submittal to the State Water Resources Control Board by February 9, 2009 regarding AB 885 onsite wastewater treatment systems (OWTS) proposed regulations and Draft Environmental Impact Report, citing issues as described in the analysis of the impacts;
- (2) Direct Environmental Management staff to continue to work with Regional Council of Rural Counties (RCRC), California State Association of Counties (CSAC), California Conference of Directors of Environmental Health (CCDEH) and State Water Resources Control Board (SWRCB) with the goal of developing a reasonable set of minimum standards for onsite wastewater treatment systems that provide public health and water quality protection;
- (3) Direct the Environmental Management staff to provide periodic updates to the Board as this issue is addressed;
- (4) Authorize other actions that the Board deems appropriate, possibly including the presence of interested members of the Board of Supervisors or designees who may wish to appear February 9, 2009 at the SWRCB to speak on behalf of the entire Board of Supervisors on this issue.

Fiscal Impact/Change to Net County Cost: NA

Summary: The State Water Resources Control Board (SWRCB) has proposed regulations that will establish new statewide requirements for the siting, permitting, construction, permitting, maintenance and performance monitoring of all new and existing onsite wastewater treatment systems (OWTS) including septic tank systems with leach fields. Implementation of the regulations as proposed will negatively impact all existing and future property owners with OWTS and will potentially restrict future development within El Dorado County.

Based on case studies for Merced and Los Angeles County, the SWRCB estimates that implementation of the proposed regulations will cost California homeowners and businesses somewhere between \$350 and \$400 million per year, of which 91% to 98% of the cost would be incurred by homeowners. Because the case studies they used did not include smaller counties in more rural areas of the State, it is believed that actual costs could be considerably more than projected and unit costs for individual property owners in rural areas could be disproportionately higher than forecast.

Background: Assembly Bill 885 was adopted in 2000. It directed the State Water Resources Control Board (SWRCB) to consult with the then State Department of Health Services, the California Coastal Commission, the California Conference of Directors of Environmental Health (CCDEH), counties, cities and other interested parties, on or before January 1, 2004, to adopt regulations or minimum standards for the permitting and operation of OWTS throughout the state.

Although AB 885 required adoption of regulations before January 1, 2004, this regulatory

development process was delayed several times in response to concerns about draft regulations that were previously released for review by local government agencies and others. Over the past 7 years, the SWRCB have held stakeholder meetings attempting to develop regulations. County of El Dorado Environmental Management Department (EMD) staff participated in these stakeholder meetings. A copy of the letter Environmental Management sent to the SWRCB following public review of the previous set of draft regulations is included as Attachment A. This letter, dated December 15, 2005, was written following formal release of the Notice of Preparation for the current rule-making process.

Two years ago a final draft of the regulations was posted on the SWRCBs website. Much of the input provided by the stakeholders was not considered. The stakeholders were advised this was the last draft, the Environmental Impact Report (EIR) was to be prepared, and there would be no further stakeholder meetings. The CCDEH made attempts to initiate additional stakeholder workshops because they recognized the proposed regulations exceed the authority of the original legislation and are a detriment to the homeowners of the State of California. Their attempts for additional workshops were unsuccessful. No further input was accepted by the SWRCB.

In November 2008, the SWRCB released the proposed AB 885 Regulations and Draft Environmental Impact Report (DEIR) for the 90 day public review and comment rulemaking process. Workshop and hearing meetings were scheduled by the State. None of the stakeholders were allowed input concerning location or timing of the workshops. The EMD, in conjunction with CCDEH, immediately began meeting and reviewed the EIR and developed a strategy to attend the workshops and formulate a written response to the DEIR and proposed regulations.

The County of El Dorado Environmental Management Department is strongly opposed to the proposed regulations. Working in collaboration with other stakeholders such as Regional Council of Rural Counties (RCRC), CCDEH and Surveyors, Architects, Geologists, Engineers (SAGE), EMD has prepared a response to the proposed regulations and DEIR (Attachment B). Comments on the DEIR are due February 9, 2009.

After the final hearing in Sacramento, the SWRCBs EIR consultant will need to respond in writing to all comments that have been received and issue a Final EIR. This document will then be considered for certification by the SWRCB and the proposed regulations will be considered for adoption. If adopted, the regulations will go into effect six months thereafter.

The subsequent anticipated timeline is as follows:

- November 7, 2008: Release documents for public review and comment
- November 7, 2008 - February 9, 2009: 90 day public comment period with 12 public meetings
- December 2008 thru April 2009: SWRCB Staff prepares responses to comments and makes appropriate revisions to proposed regulations, statewide waiver and DEIR.
- August 2009 - 30 day comment period ending with adoption of EIR, regulations and waiver
- November 2009: Completion of Office of Administrative Law (OAL) review
- January 1, 2010 - Effective date of regulations

- July 2010 - Implementation date of regulations (AB 885 stipulated a six month delay)

There are several requirements in the proposed regulations that may adversely impact current and future El Dorado County property owners with OWTS. We have placed information on the Environmental Management Department website at http://www.co.el-dorado.ca.us/emd/envhealth/AB_885.html or <http://www.co.el-dorado.ca.us/emd/index.html>.

If stakeholders are unsuccessful in their opposition and the regulations are adopted in January 2010, assuming no changes to the anticipated timeline, EMD will be holding workshops for the public and contractors to educate them on the requirements of the new regulations prior to their implementation in July of 2010.

Action to be taken following Board approval: Forward letter to EMD for processing.

Contact: Gerri Silva, MS, REHS, Director of Environmental Management

Concurrences:

COUNTY OF EL DORADO

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SUZANNE ALLEN DE SANCHEZ
Clerk of the Board



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February 3, 2009

State Water Resources Control Board
Division of Water Quality
Attn: Todd Thompson, P.E.
1001 I Street, 15th Floor
P.O. Box 2231
Sacramento, CA 95812

Re: Comments on the AB 885 Onsite Wastewater Treatment Systems (OWTS) Draft
Environmental Impact Report (DEIR) and Proposed Regulations

Mr. Thompson:

The County of El Dorado appreciates the opportunity afforded by the State Water Resources Control Board (SWRCB) to comment on the DEIR and the current proposed onsite wastewater treatment system regulations developed pursuant to the passage of Assembly Bill 885 in September of 2000. El Dorado County staff actively participated for the past eight years in stakeholder meetings, workshops, and various efforts to contribute to the development of reasonable, practical, and science based regulations that will be equally protective of both the public health and the environment. Given that the County of El Dorado has over 35,000 private OWTS within its boundaries, the residents, business community, County staff and government leaders have grave concerns regarding the regulations currently being proposed (note Attachment A, citizen correspondences regarding AB 885).

El Dorado County is respectfully requesting that the SWRCB work with the State Legislature to repeal AB 885. Should the repeal process fail, El Dorado County is requesting that the legislation be amended to revert back to the original intent to protect the coastal zones or other known areas of impaired surface water or groundwater where it has been scientifically proven that OWTS are the source of water quality degradation. It has not been scientifically proven that the OWTS' in El Dorado County have impaired the State's waters. El Dorado County's current OWTS ordinance and resolution, which are in compliance with the Central Valley Regional Water Quality Control Board's Basin Plan, are effectively protecting the public and environmental health. Therefore, should legislation move forward with no repeals or

amendments, El Dorado County shall seek legislative relief through an exclusion to the proposed regulations. In addition, El Dorado County supports the concerned position taken by the Regional Council of Rural Counties (RCRC) regarding the proposed regulation and the need to make significant changes to protect groundwater quality without imposing costly prescriptive regulations that will have minimal benefit to water quality (Attachment B).

The proposed regulations exceed the original intent and statutory authority of AB 885. The proposed regulations are overly prescriptive, constitute a one size fits all approach, and are not flexible enough to accommodate California's diverse geology and site specific conditions. The proposed regulations are largely "self-implementing," meaning that actions are required to be completed by the property owner in order to comply with these regulations, which will ultimately result in the need for oversight by local agency staff resulting in an unfunded State mandate. The proposed regulations will result in significant increased costs to property owners dependent upon OWTS, and may limit future land development that would currently be acceptable under existing local and state requirements for OWTS.

There are three basic categories of concerns that the County would like to share with you:

- The current proposed regulations far exceed the original goals and intent of Assembly Bill 885;
- The lack of scientific evidence for the extent of the regulations as proposed; and
- The analysis of impacts and specific elements of the proposed regulations that are of greatest concern to the County of El Dorado and its citizens.

Background

Original Goals and Intent of Assembly Bill 885

Assembly Bill 885 was introduced into the State Assembly February 25, 1999 by Assemblymember Hannah-Beth Jackson, the Chair of the Assembly Committee on Environmental Safety and Toxic Materials. The Bill, as originally introduced, was titled, "Coastal onsite sewage treatment systems." Assembly and Senate analyses over the ensuing eighteen months, prior to the approval of the Bill in September of 2000 by Governor Davis, repeatedly stated that the intent of the legislation was to protect the coastal zone with respect to pathogen and nutrient impacts. A summary of the April 13, 1999 committee hearing regarding AB 885 states that,

"California's coastal resources have been receiving more attention in recent years. Beach closures due to high bacterial counts have become a chronic problem. At the same time, awareness has been increasing rapidly that nonpoint sources of pollution are a significant contributor to contamination. The importance of California's coast to the states economy and recreation is clear."

"Sponsors point to beach closures and results of beach monitoring programs which indicate that contamination of coastal waters from leaking or poorly functioning onsite systems is a serious problem in many coastal communities."

The proposed legislation was specifically attempting to address chronic OWTS problems in the Malibu area that frequently resulted in beach closures in that area due to high bacteria loads along the shore and tidal waters, resulting in a rallying cry for change by the surfing community and environmental organizations. It should come as no surprise that the only registered opposition to AB 885 at the time was the Malibu Town Council and the Malibu Realtors Association.

As late as the beginning of August 2000, one month prior to passage of the Bill, the proposed regulation language was still specific to the coastal zone throughout the state. However, in late August of 2000, sponsors of the Bill made the case that the potential for septic systems to negatively impact waters of the state may not be limited to just the coastal zone, and that the Bill should encompass the entire state. AB 885 was subsequently amended in the Senate on August 18, 2000 whereby the "coastal zone" verbiage was eliminated.

On August 25, 2000, during a hearing by the Senate Rules Committee, The California Association of Realtors (CAR) voiced formal opposition to the Bill and stated that the CAR, "...believe that the Legislature must call for a statewide survey that reveals the extent of the septic problem, before taking action on legislation like AB 885." The County of El Dorado concurs with CAR's position. Enacting legislation that applies to the entire state prior to investigating whether or not there is a state-wide problem is a problematic and flawed approach. This is important to note because rather than allowing the State and local agencies the opportunity to investigate whether or not OWTS are negatively impacting other surface or groundwaters of the state, not just the coastal zone, it set the stage for the SWRQB staff to only pursue evidence that would justify the proposed legislation.

In addition, the intent of AB 885 was to establish minimum requirements for OWTS. The proposed regulations go well beyond establishing minimum standards for an appropriate level of protection for public health and groundwater quality, exceed the statutory authority of the original legislation, are overly prescriptive, and lack the necessary flexibility to accommodate California's diverse geology such as highly permeable sands and gravels to low permeability granitic rock with fracture flow properties.

Lastly, AB 885 makes a statement of "legislative intent" relating to monetary assistance to private property owners with onsite sewage treatment systems where compliance with the regulations exceeds one-half of one percent of the current assessed value of the impacted property. The DEIR estimates the statewide cost to OWTS owners/users over the next 5-year period (2009-2013) to be between \$287.0 million to \$339.7 million annually, with California households incurring 91%-98% of these additional costs. The DEIR does not attempt to estimate how many households will need financial assistance. Given the declining real estate values throughout the state the number will likely be significant.

Question: What is the anticipated number of households where the cost to comply with the proposed regulations will exceed one-half of one percent of the current assessed value of their homes?

The DEIR states that “The state, in cooperation with EPA has set aside funds from its State Revolving Fund Program that can be made available to local qualified agencies who can then provide low-interest loans to homeowners to install, repair, replace or upgrade their OWTS. The homeowner would still bear the financial responsibility for these improvements, but could potentially tap into lower interest rates.”

California OWTS owners may not have the financial ability to comply with the proposed burdensome regulations that were originally intended to meet minimum standards to address known OWTS issues and failures.

Question: With the current State fiscal crisis it is unlikely that adequate loan funding will be available. Therefore, will adequate loan funding be available to local agencies to assist homeowners who must meet the intent specified within AB 885?

Lack of Scientific Evidence for the Proposed Regulations

The opposition voiced by CAR and their recommendation to conduct a state-wide survey to determine the extent of septic system impacts on ground and surface waters ultimately resulted in the SWRCB, Division of Water Quality (DWQ) initiating the, “Voluntary Well Assessment Project” (Hereafter referred to as the Project) as part of the State’s, “Groundwater Ambient Monitoring Program” (GAMA). Private well owners in selected counties, which included El Dorado, were offered free well water testing in an effort to determine whether or not septic systems were negatively impacting groundwater, although this purpose was not communicated to participants or County staff when the Project began in 2002. The real intent behind the GAMA Project was made clear during an AB 885 workshop hosted by the SWRCB in December 2003. DWQ staff presented an “Issue Paper” which included the preliminary water well testing results for El Dorado County. DWQ staff communicated to the workshop participants that based upon the preliminary testing results in El Dorado County, septic systems negatively impact groundwater with fecal and total coliform bacteria, nitrates and other pollutants of concern. Analysis of the GAMA Project results in El Dorado County do not support DWQ’s assertion, and actually provide data to the contrary; properly sited and constructed systems under current standards *do* protect groundwater quality.

El Dorado County’s analysis of the GAMA Project’s results was communicated to the SWRCB at an AB 885 workshop held on December 9, 2005, and submitted in writing on December 15, 2005. Please see Attachment C for the full content of this analysis. To date, the SWRCB has failed to provide compelling evidence that properly sited and constructed OWTS negatively impact groundwater in El Dorado County.

Analysis of Impacts and Specific Elements of Greatest Concern to El Dorado County

Fiscal Considerations

Property Owners

1. Property owners with septic systems will be required to monitor septic tanks for solids accumulation every five (5) years and the regulations recommend pumping the septic tank if the scum and solids layer exceed 25% of the tank. This cost is estimated at \$325 for septic inspections and an additional cost if the septic tank requires pumping. In addition, if major repairs or a new septic system is warranted, there would be a significant cost to comply with the proposed regulations. The DEIR states, "Any person owning a septic tank shall obtain a report on inspection from a service provider a minimum of once every 5 years." This proposed requirement is self-implementing according to the proposed regulations.

Question: How will local jurisdictions be informed that homeowners are conducting the required septic tank monitoring?

Question: Service providers are identified throughout the proposed regulations, but they are vaguely defined. What is the intent of the SWRCB to further define and/or define a qualified service provider.

Question: How will the SWRCB relay pertinent information to the local jurisdictions?

Question: How will the SWRCB enforce a self-implementing program?

2. Property owners that have an OWTS and well on their property must also monitor and sample the well water every 5 years for a wide array of constituents by a State-Certified laboratory. The correlation, by the SWRCB, that a problem exists between a properly sited and constructed septic system and groundwater integrity has not been proven and is fundamentally flawed. Groundwater sampling is estimated to cost \$300-\$500. Once the regulations are implemented, homeowners will have 5 years from the effective date of the regulations to complete the first monitoring, and must have groundwater sampling completed every 5 years thereafter. The SWRCB is charged with groundwater monitoring oversight however, the proposed requirement is self-implementing.

Question: How will local jurisdictions be informed that homeowners are conducting the required ground water monitoring?

Question: Why is the SWRCB requiring the sampling of constituents that do not reflect septic system effluent?

Question: How will the SWRCB relay pertinent information to the local jurisdictions?

Question: How will the SWRCB enforce a self-implementing program?

3. Nitrogen is listed in the DEIR as creating a significant impact on the environment when discharged from a conventional OWTS. Mitigation measures have been recommended to change the proposed regulations to require supplemental treatment on all new and replacement systems (repairs). The DEIR indicates that the cost per OWTS will range from \$26,000 to \$50,000 plus additional annual monitoring costs.

Question: Is this proposed regulation practical and feasible based upon the extremely high cost associated with nitrogen reduction and the minimal benefit it will have to water quality?

El Dorado County Union Mine Facility

4. The proposed septic tank pumping requirement will increase the amount of septic tank effluent taken to Union Mine Wastewater Treatment Plant (WWTP) with the potential for waste disposal to exceed the capacity of the current Waste Discharge Requirement limits.

The required facility upgrade to increase the capacity and to revise the current permit will be costly. In addition, operational costs will be significantly higher to meet the increased septage disposal volume.

Question: Did the SWRCB conduct a feasibility study regarding the septic tank effluent storage and treatment capacity throughout the state to determine whether or not the existing WWTP facilities have the capacity to accommodate the increased septage volume that will be generated based upon the proposed regulations?

Question: Will it be necessary for El Dorado County to allow the importation of septic effluent from adjacent counties due to limited WWTP facilities?

Question: Will the State provide funding to assist with the necessary upgrade of the Union Mine WWTP Facility to accommodate the additional septage volume?

El Dorado County Environmental Management Department

5. The County Environmental Management Department has regulatory oversight of the current on-site sewage disposal systems. While the proposed regulations are self-implementing, it is unrealistic that regulatory compliance will be achieved through a self-implementing process. However, it is consistent that the implementation and enforcement of the proposed regulations will wholly fall on the local jurisdiction which is the Environmental Management Department. The DEIR does not address the impact to local jurisdictions.

Question: Will the SWRCB provide adequate funding to the local jurisdictions to administer the proposed regulations?

The County Environmental Management Department estimates that over \$25,000 of staff time has been expended since the release of the DEIR and in excess of \$200,000 since the introduction of the legislation in 1999. El Dorado County will seek recovery of costs for the

total amount of the County public funds expended to date on the proposed unnecessary minimum statewide standards for OWTS.

OWTS Requirements

6. The proposed regulations for all conventional septic tank systems require that the dispersal system to be at a depth no greater than 3 feet, and that the bottom area only be considered in the calculation of the overall size of the dispersal system. Currently the County allows for deep trench systems, with dispersal system trenches deeper than 3 feet. Utilizing the sidewall area in the calculations allows for the overall size of the dispersal field to have a smaller horizontal land area or, "foot print." In addition to trench sidewall, the current standards consider soil percolation rate, and average estimated daily flows to determine the size of a dispersal field. The new regulations would set a "surface application rate" based on soil texture, or a modified percolation rate, along with the bottom trench area to determine the needed dispersal field area. These new standards for calculating the dispersal area size would effectively double the area a parcel would need for an OWTS. It should be noted that deep trench systems, sized according to percolation rate and estimated daily flows, have functioned adequately in El Dorado County for over 30 years [Section 30014 (b)(i)]

Question: If the proposed regulations are implemented, how will local agencies address parcels approved for development utilizing OWTS under the current RWQCB Basin Plan, yet under the new regulations are no longer able to develop?

Question: Does the scenario referenced above conflict with AB 885 Section 13291.7, which states that, "Nothing in this chapter shall be construed to limit the land use authority of any city, county, or city and county?"

7. The definition of "soil" for sewage disposal in the proposed regulations limits the infiltrative material to less than 30% particles greater than 2 mm and must have at all times during operation at least three feet of continuous unsaturated, undisturbed, earthen material. This differs from the current definition of effective soil depth which allows for weathered, decomposed bedrock to be considered as adequate infiltrative material and at least five feet of continuous unsaturated earthen material.

Question: The proposed definition of infiltrative material that is adequate for OWTS effluent treatment does not allow for areas that have very deep infiltrative surfaces but may be composed of more than 30 % particles greater than 2 mm. The definition above appears to consider only areas that have a high water table and does not consider the conditions that are prevalent throughout El Dorado County where deep soils of decomposed bedrock provide permeable infiltrative surfaces, but are not single grains of sand, silt or clay. How will these conditions be addressed in the new regulations?

8. The DEIR identifies soils that favor denitrification as silts and clays as they would have higher percolation rates. However, the regulations do not support installation of OWTS in soils with higher percolation rates. Per the DEIR, deeper soils and slower percolation rates may be better for denitrification and the impact on nitrogen, yet the proposed regulations

require the installation of OWTS in shallow soils with relatively faster percolation rates, 120 minutes per inch (mpi) maximum compared with the current limit of 240 mpi.

Question: Please explain the contradiction between the proposed regulations and the DEIR regarding soil depth and percolation rates as it pertains to denitrification?

Administrative Issues/Enforcement

9. It is unclear from the proposed regulations if the County will need to enter into a Memoranda of Understanding or other agreements with the Regional Water Quality Control Boards for the effective implementation of the proposed regulations.

Question: Will El Dorado County be required to enter into a Memoranda of Understanding or other agreements with the Regional Water Quality Control Boards for implementation of the proposed regulations?

10. Currently, local jurisdictions implement the OWTS standards. The proposed regulations would not allow the review and approval of supplemental OWTS by local jurisdictions, and do not indicate what agency will review and approve these systems.

Because the regulations do not identify who or how supplemental OWTS systems will be permitted and regulated this will create confusion, long delays in the building permit process and a burden on the land developer. Development in certain areas of the county may not occur, or may face significant project delays if supplemental treatment system permits cannot be issued at the local level.

Question: Which agency will approve supplemental treatment systems? If the SWRCB is the approving agency, what is the anticipated turn around time for design approval of supplemental systems?

11. Any corrective action necessary to address surfacing effluent must be initiated within 30 days and completed in 90 days, unless the SWRCB grants an alternative time period not to exceed 180 days.

Question: Is this timeframe adequate for the protection of public health from pathogenic organisms contained in surfacing effluent?

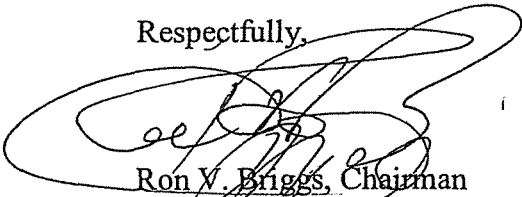
Question: Will this extended time period for correction allow surfacing effluent to enter surface waters?

Conclusion

El Dorado County is respectfully requesting the repeal of AB 885. Should the repeal process fail, El Dorado County is requesting that the legislation be amended to revert back to the original initial intent of the legislation and not be administered throughout the State of California. El

Dorado County is strongly opposed to the implementation of the proposed statewide minimum standards for the siting, construction and performance standards for OWTS. The correlation, by the SWRCB, that a problem exists between a properly sited and constructed septic system and groundwater integrity has not been proven and is fundamentally flawed. The OWTS requirements set forth in the Central Valley Regional Water Quality Control Board (CVRWQCB) Basin Plan, and the El Dorado County Ordinance Code, Chapter 15.32 and accompanying Board Resolution, which is consistent with the CVRWQCB Basin Plan, already meet the State's water quality objective of protecting the groundwater and surface water as evidenced by the results of the State Voluntary Well Assessment Project. Should legislation move forward with no repeals or amendments, El Dorado County shall seek legislative relief through an exclusion to the proposed regulations.

Respectfully,



Ron V. Briggs, Chairman
Board of Supervisors
County of El Dorado

Cc: Mr. Todd Thompson, P.E., State Water Resources Control Board

Enclosures: Attachment A – Citizens Correspondence
Attachment B – RCRC Letter dated February 9, 2009
Attachment C – Environmental Management Letter dated December 15, 2005