

Where AB 885 Is Headed?

Concept and Reality

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- Created in 1973 to represent rural county legislative and regulatory interests
- Includes 30 of the State's 58 counties
- RCRC Board is comprised of one locally elected Supervisor from each member County
- Membership represents over 40% of State's area, but less than 5% of California's population
- Active in AB 885 regulatory development processes since 2000

Overview of AB 885

- Introduced by Assemblymember Hannah Beth Jackson in February 1999 to control discharges from onsite wastewater treatment systems (OWTS) in her District
- Response to pathogens in Malibu Bay
- Bill was originally limited to coastal areas
- Amended to require statewide regulations
- In 2000, AB 885 was codified as Water Code Section 13290, *et seq.*

AB 885 Requirements

- Required SWRCB to adopt statewide regulations by January 1, 2004 in consultation with key stakeholders
- New OWTs statewide regulations to include:
 - Minimum siting and operating standards
 - Provisions for local county implementation
 - “Corrective active” requirements
 - Minimum monitoring requirements
 - Criteria for “major repairs”
 - Requirements for 303(d) listed impaired surface water bodies

OWTS Overview

- Approximately 1.4 million OWTS in California
- Primary method of treatment in most rural counties
- Over 60% of the homes, for example, in Mariposa, Amador and Butte Counties rely on OWTS
- Most OWTS are standard septic tank systems (anaerobic digestion) with gravity leach fields that rely on microbial soil activity to remove pathogens
- “Non-standard” OWTS include mound systems, seepage pits, evapo-transpiration beds, and various types of engineered systems for disinfection or nitrogen removal
- All OWTS disperse effluent and discharge to groundwater

What's the Big Deal with OWTS - Part 1

- When properly sited and operated, OWTS have minimal impact to groundwater quality
- Septic tanks have been used successfully since the mid-1880s
- OWTS are already tightly regulated by local jurisdictions in accordance with Regional Water Quality Control Board Basin Plans
- US EPA recognizes that OWTS provide a safe and cost-effective treatment alternative for folks living outside areas served by sewer systems

What's the Big Deal with OWTS – Part 2

- Septic tank effluent contains nitrates, phosphates, pathogens and other pollutants
- If improperly sited there is the potential for pathogen contamination of nearby water supply wells and surface water bodies
- OWTS can contribute to high nitrate levels in groundwater
- OWTS eventually fail unless properly maintained
- There are “problem areas” in the State where legacy OWTS have contributed significantly to surface and groundwater pollution.

Regulatory Implementation of AB 885

- Long, difficult and contentious 9-year process
- Many stakeholder meetings, numerous drafts, little or no consensus amongst stakeholders and the SWRCB
- Final proposed regulations and Draft EIR were eventually issued by SWRCB for public review on November 7, 2008

What the Proposed Regulations Required

- Stringent prescriptive standards for siting and design of OWTS including soil type and depth, separation to groundwater, infiltration rates, etc.
- Expensive engineered systems in areas which did not meet prescriptive criteria for standard OWTS
- Rigorous monitoring of engineered system effluent
- Extensive water quality testing of domestic wells
- Mandatory 5-year pumping of solids accumulation
- Requirements for OWTS adjacent to impaired water bodies

Criticisms of the Proposed Regulations

- Unnecessarily restrictive beyond the intent of AB 885
- Implementation would cost \$1.4 billion+ over 5 years with minimal benefit to water quality
- Inflexible “one-size-fits-all” prescriptive standards that fail to recognize the diversity of California and would unnecessarily create many unbuildable lots & shift growth patterns. Not science-based.
- Fail to target “problem areas” & not risk-based
- Unfunded cost increases to counties with dwindling resources and limited staff
- Property rights issues
- No available funding to assist impacted homeowners
- DEIR was grossly inadequate in many areas

Public Reaction and SWRCB Response

- Thousands showed up at eleven public hearings throughout the State to protest the regulations
- Hundreds of written protest letters were received by the SWRCB with virtually no support voiced for the regulations as proposed
- In February of this year, the SWRCB withdrew their regulatory proposal and announced that regulations would be reviewed and re-written in consideration of public input received.
- Various legislative proposals were also put forward by rural legislators to rescind or amend AB 885 (AB 268, AB 916, and AB 580).

Current Status of AB 885 Implementation

- SWRCB staff is now reviewing and assembling public comments and have begun looking at a revised approach to AB 885 implementation.
- A revised set of draft regulations is anticipated by the end of 2009 with public hearings planned for 2010 (maybe 2011 depending on CEQA issues).
- AB 580 (Huber) passed the State Assembly early this month and has been referred to the Senate likely as a two-year bill.

Follow-Up Opportunities

- Monitor status of revised regulations; submit written comments to the SWRCB on the regs and draft EIR; and, testify at upcoming AB 885 Public Hearings
- Monitor status of AB 580 (Huber) and contact your State Senator and/or Assemblyperson before scheduled hearings
- Review your existing local zoning codes regarding parcel size/density requirements for new OWTS
- Review local Env. Health ordinances regarding OWTS siting, design, construction requirements

Thank you