



AGRICULTURAL COMMISSION

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Greg Boeger, Chair – Agricultural Processing Industry
Lloyd Walker, Vice-chair – Other Agricultural Interests
Chuck Bacchi – Livestock Industry
Bill Draper – Forestry Related Industries
Dave Pratt – Fruit and Nut Farming Industry
Gary Ward – Livestock Industry
Vacant – Fruit and Nut Farming Industry

MINUTES

February 4, 2009

1:00 P.M.

Board of Supervisors Meeting Room
330 Fair Lane – Building A, Placerville, California

Members Present: Boeger, Bacchi, Draper, Pratt, Walker, Ward
(*Mr. Pratt arrived during Item IV.)

Members Absent: None

Ex-Officio Members Present: William J. Stephans, Ag Commissioner/Sealer

Staff Members Present: Chris Flores, Agricultural Biologist/Standards Inspector
Nancy Applegarth, Clerk to the Agricultural Commission

Gerri Silva, El Dorado County Environmental Management
Greg Stanton, El Dorado County Environmental Management

Others Present: Roy Austin, Paul Bush, Sheila Bush, Steven Carnett, Mary Cory, Susan Frederichs, Michele Kringel, Ray Kringel, Dennis Look, Danny Merkley, Greg Stanton, Kirk Taylor, George Wheeldon

I. CALL TO ORDER

II. APPROVAL OF AGENDA

Bill Stephans asked for an addition to the agenda for a presentation from Environmental Management staff on Assembly Bill 885

It was moved by Mr. Walker and seconded by Mr. Ward to APPROVE the agenda with the requested addition.

Motion passed.

AYES: Bacchi, Draper, Walker, Ward, Boeger

NOES: None

ABSENT: Pratt

III. PUBLIC FORUM

- No comments were received

IV. Discussion and possible action regarding the State Water Quality Control Board implementation of the Proposed Onsite Wastewater Treatment Systems Regulations (Assembly Bill 885 – Jackson, Statutes of 2000) Greg Stanton, El Dorado County Environmental Management, and Danny Merkley, Director of Water Resources, CA Farm Bureau Federation

Bill Stephans, Agricultural Commissioner/Sealer of El Dorado County, gave a brief introduction and overview of AB 885 and why the Agricultural Commission felt it was important to call a special meeting to discuss the impacts, of the proposed regulations, to agriculture and the rural areas of the county. Mr. Stephans informed the Agricultural Commission, and members of the audience, that the public comment period on the proposed regulations has been extended two weeks to February 23, 2009. He also stated that the next public workshop would be held in Santa Rosa on February 9, 2009 at 1 p.m. and 7 p.m at the Wells Fargo Center for the Arts, Ruth Finley Person Theater. The public workshop, originally scheduled for February 9, in Sacramento, has been postponed until the current regulations can be redrafted. At the direction of the Commission, staff will draft a letter from the Agricultural Commission to the State Water Quality Control Board to be submitted to the Board of Supervisors for approval.

Chair Boeger reminded everyone that individual letters can also be sent to the State Water Quality Control Board.

Greg Stanton of Environmental Management presented the following information:

Assembly Bill 885 was introduced February 25, 1999. Its original intent was to clean up and protect waterways and waters along the coastal zone of California. It referred to “Coastal onsite sewage treatment systems”. The bill was amended by the Senate on August 18, 2000. With the amendment, the verbiage “Coastal zone” was eliminated and the regulations were expanded to include all onsite wastewater treatment systems (OWTS) throughout the State. AB 885, as currently written, affects all existing and new septic systems and calls for monitoring of wells. From the Environmental Management perspective, the proposed regulations exceed the original intent and statutory authority, lacks a scientific basis, and requires unfunded mandates for property owners and local jurisdictions. It is overly prescriptive, assumes that “one size fits all”, is inflexible of California’s diverse geology, limits future land development, and is “Self-implementing” possibly resulting in oversight by local authorities. There are fiscal considerations to property owners. The regulations require that septic systems be inspected every five years, and pumped if the tank exceeds 25% solids, with an estimated cost of \$325 dollars for inspection and \$400-\$500 dollars for pumping fees. Environmental Management is concerned about the affects on the El Dorado County Union Mine Wastewater Treatment Facility. It is currently the only facility in El Dorado County that accepts septic effluent,

and is designed for a certain capacity. The proposed regulations will have a huge impact on the volume received by the plant necessitating upgrades that would be very costly. There would also be expenses incurred by the Environmental Management Department. And lastly, the Environmental Management Department is concerned about the corrective action timeframe proposed in the regulations (30 to 90 days in most cases). Mr. Stanton stated that this timeframe may be too long, especially if there was a critical public health issue.

The following is a timeline regarding AB 885:

- February 9, 2009 – Santa Rosa Workshop
- February 23, 2009 – State’s Public Hearing and comment period ends
- February to August 2009 – State prepares comment responses and revises regulations
- August 2009 – Comment period on revisions
- January 1, 2010 – Effective date
- July 1, 2010 – Implementation date.

Additional information may be obtained at:

[http://www.waterboards.ca.gov/water issues/programs/septic tanks](http://www.waterboards.ca.gov/water%20issues/programs/septic%20tanks)

Comments may be sent by February 23, 2009 to:

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

ab885@waterboards.ca.gov

Or send letters to:

El Dorado Environmental Management
2850 Fair Lane Court, Building C
Placerville, CA 95667

The EDC Environmental Management Department is opposed to the implementation of the proposed regulations as the correlation between septic systems and ground water integrity is unproven and flawed, existing local oversight provides adequate protection to groundwater within the County and meet the requirements of the Central Valley Regional Water Quality Control Basin Plan, and new statewide regulations are unnecessary and costly.

A question was asked whether or not El Dorado County already has minimum standards in place for onsite wastewater treatment systems.

Mr. Stanton explained that although the county does have minimum standards in place, if the effort fails to repeal the statewide regulations, then Environmental Management

would be working with various stakeholders and the State Water Resources Control Board to try to effectively come to an agreement on minimum statewide standards that would not be so burdensome and costly for residents and businesses of local jurisdictions throughout the state.

Bill Stephans made an additional comment regarding “standards”. He stated that within the actual text of AB 885, Section 13291.(a), the bill states that “...the state board...shall adopt regulations *or standards* (emphasis added) for the permitting and operation of all of the following onsite sewage treatment systems in the state and shall apply those regulations *or standards* (emphasis added) commencing six months after their adoptions:...” The State Water Resources Control Board has chosen the onerous regulatory route as opposed to adopting standards. He agreed that “standards” are a better approach if we are unable to have the law repeal. The DEIR states that it is mandated to have regulations; AB 885 mandates regulations or standards.

Greg Stanton added that the state has been overwhelmed with comments from local jurisdictions. The Regional Council of Rural Counties (RCRC) has compiled all of the correspondence from local municipalities, cities and counties, and is being sent to the State. This correspondence is available for review on their website: www.rcrcnet.org

The Ag Commission questioned whether the same regulations apply to both businesses and residents.

Mr. Stanton answered that at this point it would apply to any onsite wastewater treatment system, whether it is a business or a residence. Businesses would typically have a larger system.

Mr. Bacchi stated that he had researched online as to whether or not there was “impaired water” in EDC and found a couple of streams, listed as “impaired” near South Lake Tahoe. He asked if there was a definition for “impaired water.”

Mr. Stanton replied that there was one 303(d) waterway in the South Lake Tahoe Basin within El Dorado County. He explained that there is a definition for “impaired”; however, there is some debate about it. The state issues a Total Maximum Daily Load (TMDL) standard for constituents. If a waterway exceeds the given TMDL, then it is considered “impaired”.

Danny Merkley stated that an “impaired” waterway could include anything from water temperatures not optimum for fish to excess sediment, pesticides, or nutrient imbalances. A waterway could be put on the State’s 303(d) list for a variety of reasons.

Mr. Stanton added that the list includes waterways with fecal coliform, nitrates and other constituents. It should be noted that the State is not just looking at surface water, but really targeting ground water, with their assertion that septic systems do not adequately filter human waste before it enters the ground water supply. There is a lack of evidence to support this allegation and in fact, a voluntary study completed in El Dorado County proved the opposite.

Bill Stephans stated that the regulations not only require the inspection of septic systems, but require the testing of well water through, in some cases, an additional monitoring well.

There was discussion of monitoring wells and associated costs. It was stated that if you have a residential septic system within 600 feet of an impaired waterway, then the regulations would require the installation of a supplemental treatment system and along with that, a monitoring well. The cost could be \$50,000 to \$70,000.

Danny Merkley, Director of Water Resources for the California Farm Bureau Federation, gave the following presentation:

The California Farm Bureau Federation has been trying to heighten the awareness of its 85,000 members about AB 885. They have published articles in their magazine, Ag Alert, and have notified members through their Farm Team Action Alert network. Mr. Merkley gave a brief history of the bill. The initial regulations were written in part, by a group called, "Heal the Bay." Their main focus was to get rid of cesspools and old wooden septic tanks near fecal bacteria impaired water. The State Water Board expanded upon the original intent of the bill to encompass the entire State of California. Although the regulations are to be rewritten, Mr. Merkley recommended that comments be submitted based on the regulations as currently written.

Mr. Merkley noted that RCRC has been compiling comments from various stakeholders regarding AB 885 and have put them on their website for viewing. Their website address is: www.rcrcnet.org. Reading the correspondence compiled on this website may help an individual craft a letter to the State Water Quality Control Board. Mr. Merkley has heard that Assembly Member Gaines is going to offer legislation to repeal AB 885. However, he feels this effort may not be entirely necessary. The California Farm Bureau is supporting the rewrite of the regulations to be crafted in such a way that clear guidance is offered to local entities that should be, and do, regulate these types of things. All 58 counties he has dealt with have fairly stringent permitting requirements, not only for drilling wells, but also for installing and repairing septic systems. During the economic downturn we are experiencing, he feels the timing of this bill could not be worse, not only for individual families and small businesses, but also for local and state governments as these regulations will put a heavy financial burden on all concerned. The proposed regulations implementing AB 885 could provide the opportunity to address areas where there are problems; areas identified through the Irrigated Lands Program for example, or areas along the coast. The California Farm Bureau supports the fixing of problems that have been identified. Mr. Merkley explained that County and local governments are more equipped to address their own water issues, as they know the area better, the soil profiles, and nearby water bodies.

Bill Stephans spoke of the implementing cost of AB 885.

George Wheeldon, President of the El Dorado Irrigation District, spoke of the District's concerns regarding the bill, stating that their board would be discussing the topic at their next board meeting, as well. He gave a brief narrative of State Water Board regulations regarding percolation rates, imposed in the 1960's statewide based on studies completed in the Central Valley. Mr. Wheeldon spearheaded a study in El Dorado County, along with other stakeholders, submitted the data to the State Water Board, and received the first County Waiver issued by the Board. He said that the state is once again pushing a "one shoe fits all" regulation yet there are seven to nine geomorphic provinces in the state of California and every one of these provinces has unique bedrock geometry, unique climate and unique soils. Mr. Wheeldon feels it is very important not to let someone

force something on our county that was developed in some other area. He is supportive of the proposed regulations being repealed or rewritten.

There was discussion of septic system filters and the cost of having them cleaned.

A comment was made regarding water softeners and their contribution to increased saline in groundwater.

Kirk Taylor, works for El Dorado Irrigation District, and is a local grower. He suggested that everyone look at ways to get ahead of the issue in the future and be pro-active in how to deal with the wastewater issue in El Dorado County, such as workshops on how to maintain a septic tank. He also spoke of grey water systems, composting toilets, etc., and developing other options to handle waste.

Steven Carnett also spoke regarding the high implementation costs of the regulations which are not disclosed in the DEIR.. He works for a local septic tank pumping company and he believes the lower solids requirement of 25% is an issue since in his experience, approximately 40-60% solids allow the systems to operate the most efficiently. He also questions the requirement to have the filter inside the tank which will cause an increase in maintenance costs. He thinks that a "cleanout" located outside the tank would be easier to maintain.

Greg Stanton offered that Environmental Management Department does offer workshops and offers various pamphlets on maintaining septic systems and wells etc. He also mentioned that draft regulations are being proposed through Housing and Community Development and other stakeholders to address the issue of grey water systems, looking at better, more cost effective ways for homeowners to capture the valuable resource.

Several people, from the audience, asked questions and expressed their concerns.

The Commission requested that staff write a letter to the California State Water Quality Control Board with the concerns that were expressed. They will review it and suggest any changes at the next Agricultural Commission meeting, February 11, 2009.

V. ADJOURNMENT

There being no further business the meeting was adjourned at 3:20 p.m.

APPROVED: Greg Boeger, Chair

Date: March 11, 2009