

Central Coast Regional Water Quality Control Board

June 19, 2015

Lawrence D. Fay
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Santa Barbara County
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TRANSMITTED VIA EMAIL ONLY

Dear Mr. Fay:

COMMENTS ON Santa Barbara COUNTY'S PROPOSED LOCAL AGENCY MANAGEMENT PROGRAM FOR ONSITE WASTEWATER TREATMENT SYSTEMS (OWTS)

On January 6, 2015, the Santa Barbara County Board of Supervisors approved Santa Barbara County's Local Agency Management Program (LAMP) for onsite wastewater treatment systems. The Water Board received the LAMP on January 20, 2015. Water Board staff reviewed the LAMP and met with County Environmental Health Services (EHS) staff on March 5, 2015. Since the March 5 meeting, Water Board and County staffs have discussed numerous edits to the proposed Santa Barbara County LAMP. Below is a summary of issues that must be addressed in this iteration of the LAMP and additional issues that will be addressed in future updates of the LAMP, County ordinance, and the OWTS Policy:

1. **LAMP Completeness Checklist** - On April 6, 2015, Water Board staff shared a LAMP Completeness Checklist with Santa Barbara County staff and asked County staff to provide additional information regarding their LAMP. Information requested included cross-referencing the LAMP with the County ordinance, the OWTS policy, and other relevant codes relied on by the County for OWTS regulation.

On April 14, 2015, County staff provided a draft of the completed checklist and revised LAMP sections. Additional revised sections and updated checklists were provided to Board staff on April 21, May 8, and May 13, 2015.

The LAMP addresses most of Section 3 (Local Agency Requirements and Responsibilities) and Section 9 (Tier 2 - Local Agency Management Program (LAMP)) of the OWTS policy and proposes a Tier 2-compatible program. The LAMP does not address Section 3.5¹ of the OWTS policy nor are there provisions in the County ordinance that address Section 3.5; however, the county does not allow the placement of municipal wells in close proximity to OWTS.

¹ 3.5 A local agency shall notify the owner of a public well or water intake and the California Department of Public Health as soon as practicable, but not later than 72 hours, upon its discovery of a failing OWTS as described in sections 11.1 and 11.2 within the setbacks described in sections 7.5.6 through 7.5.10.

The Santa Barbara County LAMP conforms with all of the applicable Tier 2 criteria listed in Section 9 of the State Policy including adherence to the prohibitions contained in section 9.4.

2. **Onsite Wastewater Treatment Systems in Degraded Basins** - The current County ordinance and LAMP do not specifically address degraded groundwater basins as discussed in Section 9.1 of the OWTS Policy. Please amend the LAMP, Section V, Requirements for Existing Onsite Wastewater Treatment Systems to include language to address these issues. Following is an example of acceptable language which we would recommend the Central Coast Board approve:

- a) Section V, page 37, new sub-section:

Onsite Wastewater Treatment Systems in Degraded Basins

If the Central Coast Regional Water Quality Control Board identifies a groundwater basin or sub-basin in the County where the use of OWTS is causing or contributing to exceedances of nitrate or pathogen maximum contaminant levels (MCLs), Santa Barbara County will develop an Advanced Groundwater Management Program (AGMP) in close consultation with and approved by the Central Coast Regional Water Quality Control Board. The AGMP will require supplemental treatment for all new and replacement systems in such areas; mandatory, routine inspections and maintenance; connection to public sewers; shallow groundwater monitoring; or other appropriate actions. The supplemental treatment standards will be equivalent to Tier 3 requirements to the greatest extent practicable. The requirements for existing systems will be consistent with Tier 4 of the Policy. The County will require conformance with current standards, including supplemental treatment standards, to the greatest extent practicable or as specified in the AGMP. Variances are not allowed for the requirements stated in sections 9.4.1 through 9.4.9 of the Policy.

See the section titled "Advanced Protection Management Plan" for additional requirements that apply to areas subject to Tier 3 of the Policy.

- b) Section V (page 38, revised sub-section, second paragraph (changes ~~strikeout~~/underlined)):

ADVANCED PROTECTION MANAGEMENT PLAN

If a water body in the county is designated as "impaired," Santa Barbara County will develop an Advanced Protection Management Program (APMP) in accordance with the established TMDL. In the absence of an approved TMDL, the APMP will be developed in close consultation with the Central Coast Regional Water Quality Control Board and may include, but not be limited to, requirements for supplemental treatment for existing systems; mandatory, routine monitoring inspections as specified determined by the Central Coast Water Board in order to be consistent with the Policy; and/or shallow groundwater monitoring. In the absence of a TMDL or an APMP approved by the Central Coast Water Board, the provisions of Tier 3 of the Policy shall apply to OWTS adjacent to water body segments listed in Attachment 2 to the Policy.

3. **County-Wide Groundwater Monitoring** - Water Board staff recognizes that development and implementation of the LAMP is an iterative process that will continue after adoption and with future LAMP revisions. Water Board staff encourages the County to consider

implementation of a county-wide shallow groundwater monitoring program consistent with sections 9.3.2 through 9.3.9 of the OWTS Policy.

As proposed, the County's groundwater monitoring program will use data collected by state small water systems and local small water systems (operating under the authority of a Domestic Water Supply Permit issued by California Department of Public Health) located beneath areas with a large number and/or a high density of OWTS. The County proposes to utilize these data, specifically, bacteria, nitrate and nitrite results, to measure OWTS impacts on groundwater.

The use of public water system wells for monitoring could allow degradation of groundwater to go undetected in conflict with State Resolution No. 68-16, Statement of Policy with Respect to Maintaining High Quality of Waters in California (Anti-Degradation Policy). The use of public water system wells may not provide appropriate spatial and temporal scales that would be protective of shallow and deep groundwater and existing drinking water wells (reference AGUA Decision, November 6, 2012).

Typically, water supply wells are purposefully located in areas of high quality water and are placed at depths that minimize human-induced impacts and maximize production. Moreover, when public water system wells become polluted, the use of those wells is generally discontinued by the water purveyors. Using these wells to collect monitoring data will bias the data collected toward deeper and cleaner groundwater and not be representative of shallower groundwater more directly under the influence of OWTS.

To avoid degradation of water supply wells, the County should consider installing and monitoring additional wells that are more representative of shallow groundwater. Monitoring shallow groundwater will allow the County to identify problem areas before deeper groundwater supplies are impacted. Protection of groundwater quality and its beneficial uses is required by law and is in the best interest of the people of the state. Protection of groundwater and beneficial uses is consistent with the requirements of the OWTS Policy, ongoing Salt and Nutrient Management Plan (SNMP) development, and the Sustainable Groundwater Management Act (SGMA).

Another available source of shallow groundwater-quality data is private domestic wells serving individual residences that also have an OWTS. Local small and state small water system wells may provide data more characteristic of shallower groundwater in areas of relatively high OWTS densities. The County should consider revising OWTS permit requirements to include submittal of water quality data from private domestic well owners on parcels where the new, upgraded, repaired, and/or abandoned systems are proposed. Well location (latitude and longitude), depth, screening depth, screening intervals, pumping volume, soil types, depth to bedrock, and analysis (including sample date) of the well water for nitrogen series (e.g. organic nitrogen, ammonia, nitrite, and nitrate, all as nitrogen), bacteria, total dissolved solids, sodium, and chloride should be included in the information provided to County. The data should be uploaded into the state's Geotracker database.

As stated in Section 9.3.2 of the OWTS policy, there are additional sources of data that the County should use to assess groundwater quality. Those data sources include but are not limited to:

9.3.2.1. Random well samples from a domestic well sampling program.

9.3.2.2. Routine real estate transfer samples if those are performed and reported.

- 9.3.2.3. Review of public system sampling reports done by the local agency or another municipality responsible for the public system.
- 9.3.2.4. Water quality testing reports done at the time of new well development if those are reported.
- 9.3.2.5. Beach water quality testing data performed as part of Health and Safety Code Section 115885.
- 9.3.2.6. Receiving water sampling performed as a part of a NPDES permit.
- 9.3.2.7. Data contained in the California Water Quality Assessment Database.
- 9.3.2.8. Groundwater sampling performed as part of Waste Discharge Requirements.
- 9.3.2.9. Groundwater data collected as part of the Groundwater Ambient Monitoring and Assessment Program and available in the Geotracker Database.

Staff of the Water Board's Groundwater Assessment Program (GAP) is willing to work with the County to monitor groundwater in Santa Barbara County. One of the primary goals of GAP is to coordinate with local efforts to build on and develop regional monitoring programs. If the County works closely with GAP staff to develop a comprehensive monitoring program that addresses Salt and Nutrient Management Plan, Local Agency Management Program, and Sustainable Groundwater Management Act requirements, the Water Board may be able to secure funding to support some County groundwater monitoring efforts. Water Board staff are willing to collaborate with the County to develop a timeline for development and implementation of a Santa Barbara County Groundwater Assessment Program and to incorporate the timeline into the Water Board's resolution adopting the Santa Barbara County LAMP.

4. **Areas Not Covered by the LAMP** - There are cities, CSDs, and other local agencies with jurisdictional boundaries within the County LAMP area. These local agencies may have or seek authority to approve OWTS in jurisdictional boundaries independent of the County. Accordingly, these local agencies must develop a LAMP, incorporate OWTS Policy Tier 1 criteria into their permitting by May 13, 2018, or obtain coverage for their jurisdictional areas through a signed agreement with a separate local agency (e.g., County) that has an approved LAMP. Coverage means a separate local agency (e.g., county) shall implement the LAMP requirements and provide oversight to all OWTS within a defined area (e.g., city boundary).

We encourage the County to work with local agencies to obtain coverage for the areas managed by the local agency through a signed agreement with the County as a component of the County's LAMP implementation process.

5. **Revision of the County Ordinance** – There is information in the Santa Barbara County LAMP that may need to be incorporated into Santa Barbara County Code to support County LAMP implementation consistent with the OWTS policy. Conversely, existing parts of the Santa Barbara County Code may need revision to support County LAMP implementation. We encourage the County to revise and present edits to the ordinance in parallel with review and consideration of edits to the LAMP to avoid questions concerning the consistency of the Code and the LAMP. The Water Board suggests the following edits and has some questions regarding the ordinance to support LAMP implementation:

- Section 18C-2, Definitions – please include definitions for Advanced Groundwater Management Program (AGMP) and Advanced Protection Management Program (APMP)
- Section 18C-3, General Provisions, sub-section (A) (4) (b) please add a specific reference to AGMPs in this sub-section.
- Section 18C-3, General Provisions, sub-section (A) (4) (b) please modify this section to include the following: “Areas identified by the Regional Water Quality Control Board as having groundwater basins or sub-basins where the use of OWTS is causing or contributing to exceedances of nitrate or pathogen maximum contaminant levels.”
- Section 18C-3, General Provisions, sub-section (A) (4) (b), please add a new sub-section that specifically refers to APMPs.
- Section 18C-3, General Provisions, sub-section (G) (1), states, “The Administrative Authority may suspend or revoke a permit whenever it is determined that the permittee has violated any provisions of this article; has misrepresented any material fact in the permit application or supporting documents for such permit; and/or performed any work under the permit that has resulted in a nuisance.” In the last sentence we suggest you delete “under the permit.”

We also have the following questions about the ordinance:

- Is the term “Special Problem Area” used consistently throughout document?
- How will the designation of AGMPs influence Section 18C-3, General Provisions, sub-section (A) (4) (a) (iv)? Will these areas now need to install supplemental treatment?
- Section 18C-3, General Provisions, sub-section (D) (4), states: “(4) Sewage dispersal shall not be permitted in fill material unless it is specifically designed by a Registered Civil Engineer to accommodate the discharge without creating a nuisance or public health hazard as approved by the Administrative Authority.” Is this supposed to read “...discharge without creating a nuisance or public health hazard or as approved by the Administrative Authority.”?
- Section 18C-3, General Provisions, sub-section (F) (3), states, “When the system is installed outside the permitted/approved area, additional testing will be required, or approved by the qualified professional that designed the OWTS. The previously approved plans shall be revised to reflect the new location or design change.”

This statement implies that the qualified professional that designed the OWTS can approve installation of the system outside the approved area. Is this the intent of this paragraph or does the County maintain oversight and approves the changes during the construction process?

Does the qualified professional make the determination and approval regarding additional testing or does the County make this determination and approval? The way the paragraph is worded it appears that the qualified professional can act independently of the County.

With respect to plan revision, the statement implies that the qualified professional can make and approve field modifications during installation independent of County oversight and is only obligated to amend plans to show that there was a change during installation. Is this the intent of this paragraph or does the County maintain oversight, approves the changes during the construction process, and the qualified professional amends and submits the plans to the County to document the "as built" installation?

- Section 18C-5 New System Standards (A)(1) states: "At a minimum, the site evaluation information shall include but is not limited to the following:" This is followed by item (a) that says the Administrative Authority **may** require a geologic report. Please clarify, is this report mandatory or discretionary?
- Section 18C-5 New System Standards (C)(1), similar use of the term "may." The question here, are wet weather borings discretionary or mandatory?

We appreciate the County's willingness to be a leader in LAMP development and we are committed to working with the County to develop and implement a management plan protective of water quality. It is clear that the Santa Barbara County LAMP is a model that other counties may use as a framework for LAMP development. As such, the County's efforts to develop a LAMP that fully addresses the provisions established in the OWTS policy sets the stage for the protection of water quality region-wide. Water Board staff will recommend approval of the LAMP to our Board once the County considers and incorporates the changes discussed above into the County LAMP. If you have any questions, please contact **Howard Kolb at (805) 549-3332 or at Howard.kolb@waterboards.ca.gov**.

Sincerely,

Kenneth A. Harris Jr.
Executive Officer

cc:

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