

## **Proposed AB 885 Septic and Well Testing Requirements Burdensome and Costly**

The California Association of REALTORS® (C.A.R.) released a Red Alert January 7, 2009, regarding regulations for Onsite Wastewater Treatment Systems (OWTS) being proposed in AB 885. C.A.R. is concerned that, if enacted, these regulations will make it too costly and burdensome to own a property with a septic system. In Madera County, we have almost 20,000 housing units on septic.

The state is in the process of holding several workshops and hearings where members of the public may give written and/or oral input regarding the State Water Board's proposed regulatory actions and content of the Draft Environmental Impact Report (DEIR). This is your chance to let the State Water Resources Control Board (SWRCB) know that the proposed regulations are too costly and burdensome and that the DEIR falls short of adequately evaluating the true financial impact of the proposed regulations on California homeowners.

District 5 Supervisor Tom Wheeler shared with the Yosemite Gateway Association of REALTORS® on January 8 that he has requested an additional workshop to be held in our area prior to February 9; the deadline set for comments to be provided to the SWRCB regarding the proposed regulations. However, at the time this article was written, there has been no confirmation of an additional hearing to be held in Eastern Madera County.

The Fresno workshop is January 22 at the Fresno Unified School District Board Chamber on 2309 Tulare Street. I'll be at our C.A.R. meeting in Monterey and will be unable to attend. I would encourage all those that can attend to be there. The remaining workshops are January 27 at 7 p.m. in Santa Rosa, January 28 at 7 p.m. in Eureka, and February 9 at 1:30 p.m. in Sacramento at the Byron Sher Auditorium, Cal EPA Building, on 1001 I Street.

If you plan to attend one of these meetings and provide testimony, be prepared to follow through with providing your written comments and concerns to the SWRCB. Written comments can also be emailed to the SWRCB at [AB885@waterboards.ca.gov](mailto:AB885@waterboards.ca.gov) or mailed to State Water Resources Control Board Division of Water Quality, ATTN: Todd Thompson, P.E., 1001 I Street, 15<sup>th</sup> Floor, P.O. Box 2231, Sacramento, CA 95812.

The most useful site I've found for information on AB 885 is:  
[http://www.swrcb.ca.gov/water\\_issues/programs/septic\\_tanks/](http://www.swrcb.ca.gov/water_issues/programs/septic_tanks/).

C.A.R. is opposing the current draft of the proposed regulations for many reasons.

- The cost of achieving compliance is too burdensome and costly and hurts housing affordability.
- Groundwater testing and routine inspections will be required whether there is evidence of septic-related problems or not, adding an unnecessary cost burden to property owners—many of whom are low income.
- The separation to groundwater standard and loss of sidewall infiltration will require new and existing homebuyers to install tremendously expensive “alternative systems” if they are even locally allowed.

- The regulations need to allow for an effective, pragmatic variance process, where local government regulators can make site-specific exceptions to the regulations and determinations of “functional equivalency” for local conditions.
- The owners of existing septic systems with supplemental treatment systems will now be required to maintain and transfer technical documents at point of sale. This is a problem because thousands of systems would already be out of compliance due to lost or misplaced documents and real estate professionals will be required to purchase additional lost instrument bonds and will be exposed to increased liability.
- The requirement to install groundwater-monitoring wells for new systems is too costly and will prevent building on otherwise usable lots.
- The groundwater testing requirements are overkill. Testing should be changed to fecal and bacteria sampling, which shows a direct nexus to a failing system.

C.A.R. has the following concerns about the DEIR.

- The DEIR does not give adequate proof that all septic systems are causing water quality problems.
- The DEIR does not adequately consider the true financial impact of these regulations on property owners, especially those who are low income.
- The DEIR does not adequately address the impact of the new disclosure responsibility, increased liability exposure, and added uncertainty on real estate transactions created by the proposed regulations.
- The DEIR failed to adequately address funding options available for low-income property owners to allow them to comply with the proposed regulations. Instead, it asks this population to rely on a fund which may not have enough money available to help all those who will need it.
- The DEIR failed to recognize that the proposed regulations will, in fact, curtail the ability for property owners to develop their lots and therefore will slow or stop growth in some areas. The report also failed to evaluate the impact of the proposed regulations on the ability for local governments to achieve the Regional Housing Needs Allocation (RHNA) goals.
- The DEIR failed to quantify and analyze the increased green house gas (GHG) emissions that will be generated from all the well testing, tank inspections, and septic waste hauling, contrary to AB 32.

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