

STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF MAY 9, 2008

Prepared on April 29, 2008

ITEM NUMBER: 9

SUBJECT: Resolution No. R3-2008-0005; Amendment to the Water Quality Control Plan, Central Coast Basin, revising criteria for onsite wastewater systems

KEY INFORMATION

Location: Throughout the Central Coast Region  
Type of Waste: Domestic wastewater discharged from individual and community onsite systems  
This Action: Adoption of Resolution No. R3-2008-0005

SUMMARY

Chapters IV and V of the *Water Quality Control Plan, Central Coast Basin* (Basin Plan) specify criteria for siting, design and ongoing management of individual and community onsite wastewater disposal systems (commonly called septic systems). The proposed Resolution No. R3-2008-0005 (included as Attachment 1) will update and revise existing Basin Plan criteria for onsite wastewater systems. Most of the proposed revisions provide clarifying language to existing requirements without substantially changing such requirements. However, some revisions replace discretionary language of recommendations (e.g., "should") with mandatory language of requirements (e.g., "shall"). By adopting the proposed resolution, language in the Basin Plan will be strengthened and clarified in a manner expected to result in improved long-term water quality protection in areas served by onsite wastewater systems. The proposed revisions are also expected to improve consistency and customer service by reducing the need for subjective interpretation of imprecise language. Updating the Basin Plan criteria for onsite wastewater systems will complete a Triennial Review list priority task, which has been backlogged for more than a decade.

DISCUSSION

Background - The Basin Plan criteria for individual and community onsite wastewater disposal systems were last updated in 1983 (Resolution 83-12). Basin Plan criteria require proper siting and design of onsite wastewater systems. The Basin Plan criteria also recommend a variety of management measures intended to ensure long-term success of properly functioning systems and prevent water quality impacts from such systems. During the past 25 years, implementation of those criteria has demonstrated revisions are needed to clarify vague language and, in some cases, strengthen language from recommendations to requirements. The most noteworthy revisions proposed in Resolution No. R3-2008-0005 require local jurisdictions to develop onsite wastewater

system management plans prior to approval of alternative (non-conventional) onsite wastewater systems. Proposed revisions are addressed in further detail below.

Due to the rural nature, demographics and topography of the Central Coast Region, thousands of individual and community onsite wastewater systems treat and dispose of residential and commercial wastewater. The Central Coast Water Board implements its Basin Plan requirements for onsite systems through direct regulation (issuance of waste discharge requirements), memoranda of agreement with local jurisdictions, and in some cases simply defers regulation to the local jurisdiction. Many local jurisdictions (primarily counties) retain permitting authority for onsite systems and implement their own requirements alongside the Basin Plan requirements. In most cases of individual systems that comply with Basin Plan criteria, the Water Board does not exercise its authority as long as the local jurisdiction is enforcing the Basin Plan requirements. Because of this overlap of regulatory authority, it is imperative that Water Board staff and county/city staff work cooperatively to implement consistent requirements. To this end, Central Coast Water Board staff members have met with representatives from counties and other local agencies within our region during development of the proposed criteria, to further discuss revisions and gain input from these local jurisdictions.

Conventional onsite systems should be "fool proof." In other words, the conventional onsite system is simple: design is simple, installation is simple, and operation is simple. The Basin Plan criteria for onsite systems are intended to ensure ongoing water quality protection despite the simple nature of most onsite systems. With this simplicity in mind, the proposed revisions are intended to ensure proper siting and design of onsite systems as preventative measures, rather than accommodating unfavorable site limitations with alternative systems. Should alternative systems be necessary, such alternatives may be provided for within onsite system management plans developed and implemented by local jurisdictions.

Alternative onsite systems (including package treatment, mound, evapotranspiration, and other non-conventional systems) are specifically engineered to overcome site constraints such as shallow groundwater or slow infiltrative soils, which preclude use of conventional systems. Alternative systems must be monitored for performance. Typically, monitoring of alternative systems only occurs where such systems are regulated by waste discharge requirements or through an onsite management plan. The proposed criteria require monitoring of alternative systems, consistent with an onsite management plan approved by the Water Board Executive Officer. The proposed criteria prohibit alternative systems that are not consistent with an approved onsite management plan.

Onsite Management Plans - As stated in the Basin Plan, onsite wastewater management plans should be implemented to eliminate the cumulative impacts resulting from continued use of individual, alternative and community onsite disposal systems. The Basin Plan currently recommends that permitting agencies prepare and implement wastewater management plans to identify areas where poor conditions for onsite systems or increasing urbanization using onsite systems could lead to degradation of water quality or nuisance conditions. The management plans should specify design, installation, and monitoring requirements, including the formation of septic system maintenance districts. The Basin Plan recommends wastewater management plans for the following areas: San Martin, San Lorenzo Valley, Carmel Valley, Carmel Highlands, Prunedale, El Toro, Shandon, Templeton, Santa Margarita/Garden Farms, Los

Osos/Baywood Park, Arroyo Grande, Nipomo, Upper Santa Ynez Valley, and Los Olivos/Ballard. However, only one county within the Central Coast Region has developed an approved onsite wastewater management plan (Santa Cruz County), since the recommendation was incorporated into the Basin Plan in 1983. Consequently, water quality and public health impacts resulting from most existing and future discharges from onsite systems remain uncharacterized. The proposed criteria require development and implementation of onsite management plans to investigate and mitigate existing and potential future water quality issues resulting from continued use of onsite systems. The required components of an onsite management plan are consistent with those specified by the U.S. Environmental Protection Agency in its design manual *Onsite Wastewater Treatment and Disposal Systems*. Staff recommends (in the proposed amendment) that the Water Board require these plans as we revise memoranda of understanding with permitting agencies, as discussed below.

Statewide Regulation of Onsite Systems - In 2000, the California State Legislature passed into law Assembly Bill 885 (Section 13291 of the California Water Code). Assembly Bill 885 requires the State Water Board (in consultation with state and local health departments, California Coastal Commission, counties, cities and other interested parties) to adopt regulations or standards for onsite wastewater systems. For the past eight years, Central Coast Water Board staff members have been participating in the State Water Board's regulation development process. These regulations are not yet established and we do not anticipate that the statewide regulations will be adopted in the near future. Also, we do not anticipate that the statewide regulations (when adopted) will replace the need for Basin Plan criteria for onsite systems. Regardless of concurrent efforts to develop statewide regulations for onsite systems, updating the Basin Plan with proposed Resolution No. R3-2008-0005 is needed to provide for clear and effective guidance and water quality protection. If and when statewide regulations are adopted, we will review the Basin Plan criteria and determine if we need to revise any criteria.

MOUs with Local Jurisdictions - The Central Coast Water Board creates water quality protection policies, provides guidance, and implements region-wide programs in conjunction with local agencies. Local jurisdictions implement a variety of regulations (including Water Board requirements) through their permitting processes. In order to implement these coordinated roles, the Water Board and local jurisdictions enter into memoranda of understanding (MOUs), which describe each entity's role within formal institutional agreements. Central Coast Water Board staff have been in the process of developing and updating such MOUs over the past few years (some of which are more than 25 years old). The proposed Basin Plan revisions will clarify expectations, onsite criteria, and agency roles that will be incorporated into MOUs with local jurisdictions.

Until 2004, the MOUs served as waivers of waste discharge requirements for individual and community onsite systems. However, all such waivers expired in 2004, leaving onsite systems subject to individual waste discharge requirements (a cumbersome and redundant oversight). Resolution No. R3-2008-0006 (today's agenda item No. 10) is proposed as a replacement waiver of waste discharge requirements for onsite systems meeting Basin Plan criteria. Water Board staff believe that this approach (MOUs and waivers) will prove to be most effective in protecting water quality from impacts associated with onsite systems in a streamlined fashion (without duplicative agency oversight). Detailed information regarding the proposed waiver for onsite systems is included in the staff report for Item No. 10.

Detection of Failing Systems - Failed septic systems can degrade groundwater and cause unhealthy and nuisance conditions on the ground surface. Most failures are indicated by surfacing effluent, which can show up as a gray liquid or unusually lush plant growth. However, septic system discharges can degrade groundwater and remain undetected for years. Few regulatory or permitting agencies have active programs to monitor or inspect standard septic systems. Most failures that come to the attention of agencies are found by permit applications for replacement or repair of septic systems or complaints from neighbors. Implementation of the proposed criteria will ensure that site conditions and treatment and disposal system designs meet water-quality protective criteria. In this manner implementation of the proposed criteria will help prevent septic system failures and reduce water quality impacts caused by such failures.

Proposed Revisions - The proposed revisions to Basin Plan criteria for onsite systems consist primarily of clarifying language and strengthening recommendations to requirements. The revised criteria are included as Attachment 1A to this report. Additions are underlined and deletions are shown in strike-out. Format revisions are not identified as additions or deletions, since they do not represent substantial change in the Basin Plan content. Most of the proposed changes reflect the following issues:

1. General discussion is deleted and moved to this staff report.
2. Criteria are reorganized to ease identification of requirements, recommendations and prohibitions in a streamlined fashion.
3. Additional terms are defined for clarity.
4. Many recommendations are revised to requirements to compel compliance with specified criteria.

The significant proposed revisions and justification are summarized here.

Proposed Revision	Basin Plan Section	Justification
Streamlined definition of the term "watercourse."	VIII.D.	Existing definition (from Webster's Dictionary) led to confusion regarding alternate meanings of the term. Proposed definition is a simplified portion of the existing definition.
Narrative discussion of the benefits resulting from corrective actions for existing systems is deleted and specific criteria incorporated into revised sections.	VIII.D.1.	Narrative format made identification of specific requirements and recommendations difficult to interpret. Revised format will provide for easily identifiable criteria for existing onsite systems.
Onsite management plans (developed and implemented by local jurisdictions) are recommended in existing criteria, and required in proposed revisions.	VIII.D.1.b.	Onsite systems need to be managed and tracked, and a management plan is an appropriate vehicle. See description above.
Contents of onsite management plans are expanded from general description currently listed in the Basin Plan.	VIII.D.1.b.	Outline of onsite management plan contents is included to assist local jurisdiction in developing effective plans, specific contents based upon U.S. EPA guidance.
New requirement added for additional treatment for onsite discharges to very fast percolating soils (<1 minute per inch).	VIII.D.2.a. 11 and 24.	Very fast percolating soils do not provide for adequate biological treatment of leachate prior to disposal into underlying groundwater. Therefore nutrient reduction needed to protect groundwater must occur in the treatment unit.

Requirement added calling for onsite disposal systems on slopes greater than 20% to be designed by certified professional.	VIII.D.2.a.12	Increased development in steeper areas increases concern regarding slope stability and hydraulics. Accordingly, such systems require professional expertise.
Prohibition of onsite disposal within areas subject to 10-year flood zone is revised to 25-year flood zone.	VIII.D.2.a.14	Increased development in flood prone areas and projected long-term use of onsite disposal systems calls for a greater margin of safety.
New prohibition limiting onsite disposal in fill unless specifically designed as a disposal area.	VIII.D.2.a.25	Prohibition added to prevent leachate from onsite disposal surfacing at interface of fill and native soil.
New prohibition limiting onsite disposal of self-regenerating water softener brine unless such disposal is consistent with a salts minimization plan.	VIII.D.2.f.5.	Salts discharged to onsite systems migrate (virtually untreated) into underlying groundwater and must be minimized to protect groundwater quality.

Footnotes are included in the proposed revisions to indicate the source of the revised language. Those changes not footnoted are based upon staff's professional judgment and prior implementation policies. The footnotes indicate the following source documents

- EPA U.S. Environmental Protection Agency's *Onsite Wastewater Treatment Systems Manual* (2002)  
 UCD U.C. Davis' *Review of Technologies for the Onsite Treatment of Wastewater in California* by Leverenz, Tchobanoglous and Darby (2002)  
 LO Legal opinion provided by State Water Board Counsel, followed by the date of that opinion  
 UPC *Uniform Plumbing Code* (1991)

The shift from voluntary to compulsory actions reflects the rate of implementation of existing Basin Plan criteria. Typically (over the past 25 years), local jurisdictions have been unwilling to implement actions beyond those specifically required. As a result, thousands of onsite wastewater disposal systems have been permitted and installed without any means of evaluating resulting water quality impacts.

Sections of Basin Plan Chapter 5 pertaining to onsite wastewater systems are also proposed to be revised. The revisions strengthen recommendations to requirements and more clearly describe existing Resolution 69-01, regarding onsite systems in urbanizing areas. Proposed revisions to Chapter 5 are shown on Attachment 1B.

Economic Effects of the Amendment - The proposed amendment will change existing recommendations to requirements, which will further constrain where onsite systems may be used. For properties that are clearly suitable for conventional onsite systems, the proposed amendment will have little or no economic consequences. For properties that may not be suitable for conventional onsite systems (e.g., inadequate separation to a watercourse), the proposed amendment may require an advanced onsite system to protect groundwater despite poor site conditions. *Review of Technologies for the Onsite Treatment of Wastewater in California* (referenced above) details cost estimates for alternative treatment systems ranging from \$1,000 to \$17,000, depending upon the type of treatment used. At a small percentage of undeveloped properties where site conditions are very poor for an onsite system, the property may no longer be suitable for an onsite system and a community sewer connection may be required. Alternative onsite systems and community sewer connections are generally more expensive than conventional onsite systems, therefore the proposed amendment will result in higher costs in those cases. Additionally, the proposed amendment calls for local jurisdictions

to develop and implement onsite wastewater management plans. Onsite wastewater management plans have not (as yet) been developed by many local jurisdictions and will carry associated development and implementation costs. Costs for development and implementation of onsite wastewater management plans will vary considerably, due to the varying needs of each community. Considerable guidance and sample plans are available online, to assist agencies in developing onsite wastewater management plans and these resources will help minimize costs associated with plan development. The plans are necessary to assure protection of water quality.

### **ENVIRONMENTAL SUMMARY**

The California Resources Agency has certified the Basin Planning process as an exempt regulatory program for the purposes of complying with the California Environmental Quality Act (CEQA) and the CEQA Guidelines [§15251, Title 14, California Code of Regulation (CCR)]. The Water Board is exempt from the requirement to prepare an environmental impact report or negative declaration. Any Regional Board exempt regulatory program must satisfy the documentation requirements of §3775(a), Title 23, CCR. This Report constitutes a substitute environmental document as set forth in Section 3775(a), Title 23, CCR. It contains the following:

1. A description of proposed activity and proposed alternatives,
2. An environmental checklist and a description of the proposed activity,
3. An environmental evaluation, and
4. A determination with respect to significant environmental impacts.

The environmental analysis contained in this Report for Basin Plan Amendment and accompanying documents, including the Environmental Checklist, the staff report and the responses to comments complies with the requirements of the State Water Resources Control Board's certified regulatory process, as set forth in CCR, Title 23, §3775 et seq. All public comments were considered.

On July 30, 2004, Central Coast Water Board held a scoping meeting pursuant to the California Environmental Quality Act (CEQA)(California Public Resources Code 21083.9(a)(2) to discuss the development of proposed amendments to the Basin Plan. The meeting focused on requirements to develop onsite management plans. During the past few months, Water Board staff have met with county representatives and other stakeholders who will directly implement the revised Basin Plan criteria. Individual and telephone meetings have included onsite wastewater management staff from Santa Barbara, San Luis Obispo, Monterey, and Santa Cruz Counties; City of Atascadero; Nipomo and Los Osos Community Services Districts. Additionally, Water Board staff made presentations at public meetings for the Nipomo Community Services District and the San Luis Obispo County Water Resources Advisory Committee. These meetings provided the opportunity to discuss preliminary draft revisions and incorporate stakeholder recommendations into the proposed amendment.

A Notice of Public Hearing has been circulated (Attachment 2) and published in the newspapers with largest circulation throughout the Central Coast region. The following newspaper publications provided public notice regarding the proposed actions.

Santa Barbara News Press  
Santa Maria Times

March 12, 2008  
March 12, 2008

The Tribune (San Luis Obispo County)	March 12, 2008
The Monterey Herald	March 12, 2008
Santa Cruz Sentinel	March 12, 2008
Hollister Free Lance	March 11, 2008

Notice of Public Hearing, this staff report, and Environmental Checklist were prepared and circulated by Water Board staff to interested agencies and persons prior to consideration of the Basin Plan Amendment by the Central Coast Water Board. This process will satisfy the Basin Planning environmental documentation requirements.

## COMMENTS

**Staff corrections** – Since circulating the draft staff report for public comment, staff has incorporated the following changes.

- a) Clarifying language “shall be calculated no greater than” is added to the definition of *Application Area* (Attachment A, page 2) and similar wording is added to design recommendation VIII.D.2.b.4 (Attachment A, page 9).
- b) Site suitability criteria VIII.D.2.a.23 (Attachment A, page 8) is revised to require additional treatment of waste discharged to seepage pits in gravel soils. This addition is consistent with that proposed in VIII.D.2.a.11 to account for the fact that very fast percolating soils do not provide for adequate biological treatment of leachate prior to disposal into underlying groundwater. Therefore nutrient reduction needed to protect groundwater must occur in the treatment unit, as it is unlikely to occur in the soil. As indicated in the Economic discussion above, cost estimates for alternative treatment systems range from \$1,000 to \$17,000, depending upon the type of treatment used.
- c) Design requirement VIII.D.2.b.10 (Attachment A, page 9) is revised to state “down slope separation shall be at least 50 feet.” This revision of recommendation to requirement is intended to ensure leachate intercepted by a curtain drain is adequately treated and dispersed in the soil prior to interception.

Most agencies and individuals submitted comments on both onsite wastewater system Agenda Items 9 and 10 (Basin Plan Amendment and Waiver) combined in a single letter. Comments are addressed in the staff report for the issue to which the comment pertains. Comment letters are included with the respective staff reports and posted on the Central Coast Water Board website as agenda attachments. Due to the volume of comments unrelated to the agenda items in some of the letters, pertinent comments are identified with a number in the margin corresponding to the comment/response below.

**John Ricker (Santa Cruz Co. Environmental Health Services, Water Resources Division Director)** – Mr. Ricker provided considerable feedback and recommendations during the development of the draft criteria. Due to his experience developing and implementing the Central Coast Region’s only comprehensive onsite wastewater management plan, his assistance in updating the onsite criteria is greatly appreciated. Many of the County’s recommendations were incorporated into the proposed amendments, additional comments or those not addressed in the proposed draft are as follows (comment numbers correspond to those shown in the County’s email message, Attachment 3A).

1. Why does the application area exclude the top foot? This appears contrary to encouraging shallow disposal systems in the biologically active topsoil.

Staff response: The application area definition is provided to be consistent with the Uniform Plumbing Code and to account for the fact that an unpressurized leachfield would not consistently utilize the uppermost portion of the trench. There are a variety of methods of calculating application area (including all or part of the trench bottom and sides), the proposed definition limits such calculations to the maximum reasonable area without specifying exactly how such calculations should be made. No change recommended.

2. What is the distinction between alternative and engineered systems?

Staff response: Alternative onsite systems typically include additional treatment beyond that considered conventional. Engineered systems may include conventional treatment with some added engineered features (such as curtain drains or steep slopes) needed to overcome site limitations. In both cases, professional expertise is required for designing the system, and it is likely that the degree of difficulty in overcoming site limitations (admittedly a subjective assessment) will differentiate alternative from engineered systems. No change recommended.

3. Expansion of existing systems should be considered as a repair rather than a new system.

Staff response: In areas not yet covered by onsite wastewater management plans, expansion of existing systems may result in significant increases in waste discharge where the corresponding impacts have not been adequately assessed. Accordingly, such increased discharges should be evaluated in the same manner as new discharges. In areas covered by onsite wastewater management plans, the local agency may manage expansions in a different manner provided the agency incorporates into its management plan appropriate measures to ensure prevention of water quality impacts from expanded discharge. No change recommended.

4. It could be problematic to include the disposal trench plus surrounding 100 feet as part of the disposal area, since the area needs to be preserved without other uses.

Staff response: Set-aside areas (for future leachfields) need to be protected so that a future system can be installed. Such installation would not impact the entire surrounding area and it is not clear where conflict might arise. Preliminary draft criteria listed setback distances from the disposal area, which would (unintentionally) double the required setback. This language is revised in the proposed draft to clarify that setback distances are measured from the disposal trench rather than the perimeter of the disposal area. No further change recommended.

5. The definition of watercourse should specify duration of flow in order to preclude required setback from roadside drainage ditches.

Staff response: The watercourse definition is intended to be as broad as possible in order to preclude seepage of wastewater into any surface water, even for a short duration. Flexibility in the setback requirement, included to ensure reasonable protection



of water quality, is in the language "Where site conditions permit migration of wastewater to water." Such language has been in the watercourse setback requirement since 1983, but is often overlooked. This qualifying language is moved so that it is clearly applicable to each of the setbacks in the proposed criteria VIII.D.2.b.17. In cases where the stated setback is not provided, then the onsite system designer must document the conditions that will preclude seepage of wastewater into the surface water. The watercourse setback requirement is essentially unchanged from the existing Basin Plan criteria. No change recommended.

6. Onsite wastewater system maintenance performed by local maintenance districts is impractical, but local districts can include programs to require maintenance.

Staff response: Staff agrees and the proposed criteria provide for such maintenance programs. No change recommended.

7. It is not clear how demand and best ways to meet such demand could be projected in an onsite wastewater system management plan.

Staff response: Demand for onsite wastewater systems can be projected by comparing projected development (growth and zoning) with available infrastructure. For example, if a community is projected to develop and wastewater service is not available, then it is reasonable to project that onsite wastewater systems will be utilized. Such projections will assist planning agencies in meeting wastewater management needs for future development. No change recommended.

8. Site Suitability VIII.D.2.a.8 requires all percolation tests to be performed at the depth of the disposal trench, which precludes important evaluation of soils below the trench.

Staff response: The language proposed (and existing) calls for percolation tests corresponding to the bottom of the disposal area. Though a specific depth is not stated, that area would certainly include at least 10 feet below the drainfield (as called for in VIII.D.2.a.4). No change recommended.

9. An arbitrary 100 feet setback from >30% slopes seems excessive. Setback from slopes should depend upon the height of the cut. For example, Santa Cruz County requires four times the height, up to 25 feet or up to 50 feet if there are fractures or an impermeable layer present.

Staff response: Similar to the setback to watercourse issue described in Comment No. 5, required slope setbacks are qualified with the language "where geologic conditions permit surfacing". Accordingly, if the slope setback is not provided, then the onsite system designer must document the site conditions that preclude surfacing of wastewater out of the cut slope. Alternative approaches to such limitations may be included in local agency onsite wastewater management plans, provided they are accompanied with adequate documentation and/or effectiveness monitoring. No change recommended.

10. What is the justification for eliminating the footnoted exception for separation to groundwater in Site Suitability Requirement VIII.D.2.a.11? What is the required separation to groundwater for alternative systems?

Staff response: Wastewater plume studies (summarized in U.S. EPA's *Onsite Wastewater Treatment System Manual*) indicate that pollutants from onsite system discharges to sandy soils move in a concentrated plume in underlying groundwater for considerable distances (in excess of 400 meters/1300 feet) and that earlier setback criteria to water supply wells are unlikely to adequately protect those water supply resources. Based upon these studies, the proposed revisions delete the exception for separation to groundwater based upon distance to water supply wells and require adequate groundwater separation in all cases. Separation to groundwater for alternative onsite wastewater systems will be evaluated on a case-by-case basis depending upon the site conditions and treatment methods proposed. No change recommended.

11. What is a certified professional, why is a certified professional required to design systems on slopes in excess of 20%, what is the limit with professional design, and how is that limit determined?

Staff response: A certified professional is a person who demonstrates specified qualifications (through education, experience, exam, etc.) demonstrating proficiency in the applicable field (engineering, geology, etc.) needed to successfully perform the task at hand. The existing Basin Plan criteria recommend that disposal systems should not be placed on slopes in excess of 20%. However, staff believes that properly designed disposal systems on such slopes are unlikely to be problematic, accordingly they are allowed when designed by qualified (certified) professionals. No change recommended.

12. Santa Cruz County objects to the limitation of secondary units on parcels less than two acres.

Staff response: Existing Basin Plan criteria limits onsite wastewater systems to one acre per residence unless the site is particularly favorable, in which case one half acre is acceptable. The proposed revision includes clarifying language, but does not change the underlying one acre per residence standard. The proposed revision (Site Suitability Prohibition VIII.D.2.a.13) also provides for exception to the one-acre limitation in areas covered by onsite wastewater management plans. As with many of the existing and proposed Basin Plan criteria, the conservative nature of the requirement (one acre per residence) is intended to ensure long-term water quality protection where onsite wastewater management is not implemented. Language is added to VIII.D.a.13 to clarify that smaller lot sizes are allowed where consistent with an onsite wastewater management plan.

13. Smaller design flow rates (below 375 gpd) should be allowed for systems serving smaller one- or two-bedroom homes.

Staff response: Smaller flow rates may be appropriate for onsite systems on lots with severe site limitations. However, such cases should be evaluated individually within the context of an onsite wastewater system management plan. No change recommended.

14. Septic tank pumping every 5 years may be excessive and pumping every 7-10 years can be okay. How will such maintenance be required?

Staff response: Maintenance pumping of solids from septic tanks is based upon U.S. EPA recommendations to preserve the life of the disposal field (prevent solids pass-

through and clogging of the disposal system). Existing Basin Plan criteria recommend maintenance pumping every five years of tanks serving homes without garbage disposals and/or dishwashers. Where garbage disposals or dishwashers are present, pumping at least every two years is recommended. Many homes have both garbage disposals and dishwashers, however with good management techniques (avoiding disposing grease or excess solids to the system) pumping every five years is expected to adequately maintain the tank capacity. In lieu of regular maintenance pumping, effluent filters could be installed to protect the disposal field from solids pass-through. However, effluent filters must be cleaned regularly, which may unduly expose homeowners to pathogens and generate runoff of pathogen laden filter wash water. Based on these considerations, maintenance pumping at five-year intervals is appropriate for all areas not covered by onsite wastewater management plans. Public education activities implemented through onsite management plans should include notification of pumping requirements and homeowners are required to maintain records of such pumping. No regular reporting of pumping is proposed in this amendment. No change recommended.

15. It is not difficult for local agencies to maintain records of pumping and septage disposal, therefore we recommend that the agency do so in lieu of individual onsite system owners maintaining their own records.

Staff response: Staff agrees that records maintenance is an important component of an onsite wastewater management plan and could/should be implemented by the local jurisdiction. However, it is also important for homeowners/onsite system users to maintain their own records as a means of remaining up-to-date on system operation and maintenance needs. Accordingly, no change is recommended to this requirement.

**Richard Merrifield (Santa Barbara Co. Environmental Health Services Director) –** Mr. Merrifield and members of his staff met with Water Board staff to provide feedback and recommendations on preliminary draft documents, and Water Board staff appreciate the County's staff resources invested in this effort. Many of the County's recommendations were incorporated into the proposed amendments; additional comments or those not addressed in the proposed draft are as follows (comment numbers correspond to those shown in the County's letter, Attachment 3B).

1. The definitions of "alternative" and "engineered" onsite systems should be combined.

Staff response: See response to John Ricker's comment No. 2 above.

2. The definition of "failed" or "failing" onsite system is vague and should be limited to verifiable criteria.

Staff response: The proposed definition is taken from U.S. EPA's guidance manual for onsite systems and is intended to be adequately broad to encompass any signs of system failure, many of which are not visible or easily quantifiable. No change recommended.

3. The County identified minor edits that have been incorporated/corrected in the proposed text. No further staff response needed.

4. There should be specific definitions to the terms "urbanizing and high density areas" if these terms are to be used as limiting criteria.

Staff response: The terms are used in a general description, are not intended to be limiting criteria, and will change over time (with community development). This language not proposed to be revised in this Basin Plan amendment; accordingly, no change is recommended.

5. Section VIII.D.1.6 (regarding existing system repairs) appears to conflict with the first paragraph on page 5. Repairs are required to be consistent with Basin Plan recommendations, requirements and prohibitions. If specific criteria are required, then they are not recommendations.

Staff response: Both sections call for repairs/replacement of existing systems to be consistent with Basin Plan recommendations, requirements and prohibitions and are substantially unchanged from existing Basin Plan language. This means that Basin Plan recommendations remain recommended (not mandatory) and requirements and prohibitions must be implemented "to the greatest extent practicable." No change recommended.

6. Section VIII.D.1.8 calls for local ordinances to be updated to reflect Basin Plan criteria. Such requirements should be addressed in MOUs rather than in the Basin Plan itself.

Staff response: Updating local onsite system ordinances is anticipated to be addressed in MOUs; however, such action is important regardless of the status of MOUs to ensure that clear and consistent criteria are available to the public. This language is unchanged from the existing Basin Plan. No change recommended.

7. Section VIII.D.1.b calls for ground and surface water monitoring to be included in onsite wastewater management plans. Such monitoring represents an unfunded mandate, since such monitoring programs (and associated funding) are not currently in place. Also, such monitoring is redundant with that required by the Central Coast Water Board's TMDL program and the County's stormwater NPDES permit, and would therefore be unnecessary duplication of effort.

Staff response: No duplicate monitoring is needed. Based upon the County's comment, ground and surface water monitoring may be utilized for a variety of needs (onsite management, stormwater management, and TMDL implementation). Staff wholeheartedly supports combining such monitoring efforts to maximize the efficiency of resource allocations. It should be noted that implementation of such water quality monitoring to facilitate onsite system management has been recommended in the Basin Plan for 25 years, especially in known problematic areas. This component of onsite wastewater management plans is also specified in U.S. EPA's guidance manual for development of such plans. Monitoring implemented by the County in the past has demonstrated impacts from onsite systems occur and must be managed, if water quality is to be protected. No change recommended.

8. Section VIII.D.1.b calls for individual onsite system monitoring, such monitoring is not currently performed and represents an unfunded mandate.

Staff response: Monitoring of some onsite systems is needed to verify the effectiveness of alternative or engineered systems, and is supported by U.S. EPA's guidance manual. For the most part, the proposed Basin Plan criteria are specifically developed to minimize individual system monitoring on the basis that if such systems are sited, designed, installed and maintained in accordance with Basin Plan criteria, water quality impacts will be avoided. However, alternative and experimental systems may be allowed by local jurisdictions with onsite wastewater management plans. Accordingly, such systems should be accompanied by individual system monitoring to verify effectiveness. Staff anticipates that such monitoring will be discharger self-monitoring, similar to that required in waste discharge requirements. Accordingly, the monitoring costs to the local agency would not be significant. No change recommended.

9. Section VIII.D.2 calls for local jurisdictions to develop septage management plans. Septage management plans would include multi-agency regulatory issues, since wastewater treatment plants are beyond the regulatory influence of the County and are regulated by the Central Coast Water Board.

Staff response: This issue was discussed during Water Board staff's meeting with Santa Barbara County and indicates a basic misconception regarding septage management. County staff indicated its belief that septage should be disposed at municipal wastewater treatment plants. Such disposal is unlikely to be acceptable at treatment plants without specific facilities to handle the high-strength waste, as it will disrupt normal treatment processes. Additionally, treatment facilities discharging to surface waters (NPDES permitted facilities) would be subject to mandatory penalties for discharge violations that may be caused by its inability to adequately treat septage. Currently only one municipal wastewater facility in Santa Barbara County accepts septage (City of Santa Maria) and its capacity to do so is limited. The County essentially authorizes generation of septage by approving development served by onsite systems. Accordingly, the County must address the septage disposal resources needed to serve such development. No change recommended.

10. Section VIII.D.2.a.4 requires soil borings, but does not state whether such borings shall be made within the disposal area or adjacent to the disposal area. Also, the same requirement states that the boring should extend at least 10 feet below the drain field bottom, but does not require such depth. Borings are to be performed during or shortly after the wet season, but does not state how many days/weeks past the wet season constitutes "shortly". These criteria should be clarified to specifically require location and depth of such borings and to clarify shortly

Staff response: The Basin Plan criteria are not intended to replace the local agencies professional judgment or role in evaluating site-specific conditions. Accordingly, many criteria (existing and proposed) remain general in nature to allow for flexibility in addressing site conditions. The purpose of the referenced criteria is to adequately characterize depth to groundwater. Each agency may incorporate into its own onsite wastewater management program implementation methods in greater detail that that specified in the Basin Plan. No change recommended.

11. Section VIII.D.2.a.5 requires excavation to detect mottling and other geologic conditions that might influence disposal. This criterium should be a recommendation rather than a requirement as research indicates soils in the Santa Barbara area are unlikely to be appropriately characterized in this manner.

Staff response: Staff agrees and the requirement is restored as a recommendation, consistent with the existing Basin Plan, and renumbered accordingly.

12. The term "stabilized rate" appearing in Section VIII.D.2.a.7 should be defined.

Staff response: This language is not proposed to be changed from the existing Basin Plan and simply characterizes percolation test procedures in a general manner. In other words, no specialized definition is intended to be interpreted here and the Basin Plan does not specify a particular method of percolation test implementation. No change recommended.

13. Requirement for setback from cut banks (VIII.D.2.a.9) states that the setback should be determined in a certain manner. If this is a requirement, then "should" should be replaced with "shall."

Staff response: See Staff correction (c) above.

14. Santa Barbara County recommends that the language limiting seepage pits to use only after careful consideration of site suitability (VIII.D.2.a.10) remain as stated in the existing Basin Plan.

Staff response: Staff agrees and the proposed criteria include the existing language (draft circulated for public comment proposed deleting this language).

15. Criteria VIII.D.2.a.11, 21 and 24 appear to be inconsistent and should be revised for consistency.

Staff response: See Staff correction (b) above. Also, site suitability criteria 21 prohibits onsite discharge in areas with channels, cracks, fractures, or percolation rates that allow inadequately treated waste to degrade water quality. Site suitability criterion 24 prohibits discharge to soils with percolation rates faster than one minute per inch without additional treatment consistent with an onsite wastewater management plan. Neither of these prohibitions conflict with the requirements specified under VIII.D.2.a.11, and if fact are consistent with the proposed revisions. No change recommended.

16. Sections VIII.D.2.a.17 and 18 are vague and serve little purpose, therefore they should be deleted.

Staff response: Site Suitability Prohibitions 17 and 18 (prohibiting onsite discharge on sites unable to maintain subsurface disposal or where site conditions cause detrimental impacts to water quality) are not proposed to be changed from the existing Basin Plan language. These prohibitions are intentionally broad in order to address any cause of surfacing waste or detrimental impacts to water quality. No change recommended.

17. Site Suitability Prohibitions 22 and 23 limit seepage pits based upon soil particle size. We recommend such limitations be based upon ability or inability to absorb water, rather than particle size.

Staff response: Except for staff correction (c) described above, criteria 22 and 23 remain unchanged from the existing Basin Plan language. Santa Barbara implements

seepage pit criteria based upon demonstrated loading capacity. Although Water Board staff agrees that the County's practical test method is useful, we do not have technical documentation supporting replacement of the existing Basin Plan language on this issue. Therefore, we recommend that the existing Basin Plan language remain intact and the County implement its seepage pit test procedures through an onsite wastewater management plan. No change recommended.

18. Design criteria VIII.D.2.b.8 requires design to be based upon usable soil layers. This language is too vague to be useful.

Staff response: See response to comment 16 above.

19. The application rates specified in VIII.D.2.b.9 are too conservative and should be replaced by those recommended by U.S. EPA.

Staff response: Recent U.S. EPA guidance for onsite systems includes suggested hydraulic loading rates based upon soil type (sand, clay, loam, etc.) Although useful as a guide, these soil characterizations are more subjective than site-specific percolation rates determined in the proposed disposal area. U.S. EPA's application rates recommended in its earlier (1980) guidance document were considered along with other sources for development of the existing Basin Plan criteria. The proposed amendment does not include revision of the existing application rate criteria. The Basin Plan criteria is designed to be conservative in nature to ensure that water quality impacts will not occur, even from systems with little or no oversight. No change recommended.

20. Design criteria VIII.D.2.b.17 requires setback from water bodies based upon determination of site conditions that permit migration of waste to the water body. There is no way of knowing the subsurface conditions that allow migration, therefore the standard has little usefulness and should be modified or deleted. Also, the required 100 feet setback to wells is inconsistent with California Well Standards which stipulate 150 feet setback to wells.

Staff response: No change is proposed to the existing Basin Plan criteria, except that the language "where site conditions permit migration of wastewater to water" is moved from applying to setbacks to watercourses to applying to setbacks to all water bodies. This criterion does not override more stringent criteria, but does allow for flexibility due to site-specific conditions. During the past two decades, Water Board staff has responded to many inquiries regarding whether the setback applies even if the onsite disposal area is downslope of the water body. Proposed relocation of the "where site conditions permit migration" clause is intended to clarify that the setbacks apply if no other information is available to ensure wastewater will not migrate to the water body. No change recommended.

21. Design criteria VIII.D.2.b.21 prohibits discharge in excess of 40 grams per day of nitrogen. This criteria seems restrictive and arbitrary, redundant with restrictions based on lot size, and unenforceable. This limit should be deleted or revised to incorporate a range of nitrogen concentrations, such as that suggested by U.S. EPA.

Staff response: The proposed revision to existing Basin Plan criteria (changing should to shall) is intended to provide for consistency with the one residence per acre standard and provide guidance for application of alternative systems. The estimated

concentration of 40 grams per day of nitrogen is consistent with U.S. EPA's guidance as well as the other reference materials utilized in this update (documents listed on page 5 above). The nitrogen concentration is also consistent with past monitoring of regulated conventional onsite systems and consistent with one of the most widely used reference manuals for design of wastewater systems (*Wastewater Engineering* by Metcalf & Eddy). No change recommended.

22. Design criteria VIII.D.2.b.23 should be modified to require the system preclude inflow and infiltration since no system could accommodate such unknown quantities.

Staff response: The new criteria reflect that which is incorporated into standard language in waste discharge requirements for wastewater systems throughout the Central Coast Region. No change recommended.

23. Sections VIII.D.2.e.3 and 4 call for onsite system maintenance consistent with onsite system management plans. Onsite management plans and maintenance of onsite systems could be considered unfunded mandates.

Staff response: See response to John Ricker's comment 14, as well as responses to Richard Merrifield's comments 7, 8, and 9 above. No change recommended.

24. Septage disposal is required to be in a manner acceptable to the Executive Officer, but does not specify examples of such practices. As stated previously, most municipal wastewater facilities will not accept septage and multi-agency coordination is needed.

Staff response: See response to comment 9 above. No change recommended.

25. Section VIII.D.2.e.6 requires onsite system owners to maintain records on their systems. Since this requirement is largely unenforceable, it should be moved to the recommendation section.

Staff response: Onsite system owners must be aware of their own system operational and maintenance requirements. Accordingly, they must have records to demonstrate compliance with maintenance criteria. Such records retention is based upon U.S. EPA's guidance for proper management of onsite systems. No change recommended.

26. Section VIII.D.2.f.5 prohibits discharge of brine unless consistent with a salts minimization plan. Although the County agrees with the importance of prohibiting brine discharge to onsite systems, it is largely unenforceable and should be moved to the recommendations section.

Staff response: Accumulation of salts in groundwater has become an increasing problem in many inland areas and self-regenerating water softener brines represent one of the most controllable sources of such salts increases. Accordingly, the new prohibition is proposed as a best management practices approach to minimizing salts discharges. No change recommended.

**Barry Tolle (San Luis Obispo County Department of Planning and Building) – Mr. Tolle** and other San Luis Obispo County staff members participated in several meetings with Water Board staff to provide feedback and recommendations on preliminary draft



documents, and Water Board staff appreciate the County's staff resources invested in this effort. Many of the County's recommendations were incorporated into the proposed amendments; additional comments or those not addressed in the proposed draft are as follows (comment numbers correspond to those shown on the County's letter, Attachment 3C).

1. Water quality monitoring associated with onsite wastewater management plans will likely pose a significant financial burden for San Luis Obispo County, and the County recommends that individual onsite system owners perform their own monitoring.

Staff response: Ground and surface water monitoring in areas served by onsite systems is a necessary component of onsite wastewater management in order to evaluate the impacts of such discharges. Such monitoring is not likely to be performed by individual onsite system owners, since it is area-wide monitoring. However, onsite wastewater management plans must also include individual system monitoring to evaluate the performance of alternative and in some cases engineered systems. Such individual monitoring could be performed by property owners in a manner similar to the Water Board's self-monitoring programs. No change recommended.

2. Septage management will be difficult to promote without a funding mechanism. Septage management will be more difficult if the Water Board regulates it away from sewer facilities. Reduction of environmental standards will be needed to allow land application of septage, alternatively land will need to be condemned to be used for septage storage. Septage storage is never neighbor-friendly and generates complaints.

Staff response: See response to Richard Merrifield's comment 9 above. It should be noted that the Water Board does not prohibit municipal wastewater facilities from accepting septage; however, many do not have processes to accommodate such wastes. Most municipal wastewater facilities are designed, operated and financed by the municipality they serve. It is not clear why the County would expect such facilities to take on this burden of treating and disposing of waste generated outside its jurisdictional boundaries. Staff is unaware of environmental standards that require reduction to accommodate proper septage treatment and disposal. In 2006, Water Board staff invited the County to meet to discuss long-term septage and sludge disposal issues (See September 6, 2006 letter, Attachment 3C1). In light of the County's failure to respond in any way to Water Board's invitation, staff hopes the proposed additional criteria will provide seemingly necessary incentive for the County to address this issue. No change recommended.

3. San Luis Obispo County will need at least four additional staff to manage data generated by the records tracking components of the proposed requirements, as well as a technician to perform repair inspections. Such resources are not currently available.

Staff response: The County's comment indicates it has already developed the records management portion of its onsite wastewater management plan, and that such records management is particularly labor intensive. Staff suggests that the County re-evaluate and prioritize its records management plans to a more streamlined level. See John Ricker's comment 15. No change recommended.

4. Section VIII.D.2.a.13 and VIII.D.2.b.21 limit residential onsite systems to one per acre and eliminates the existing exception for "particularly favorable" sites. This criteria does not appear to be based upon site-specific documentation of groundwater impacts.

Staff response: Existing Basin Plan language limits onsite systems to one per acre unless the site is particularly favorable, in which case one system per half acre is acceptable. Many local jurisdictions (and the County's comments) presume this to mean that if information is not available to document a problem, then the site is particularly favorable and half acre lots are allowed. The problem is that most areas have not been evaluated to determine water quality impacts from existing (or new) onsite discharges. Based upon this lack of information, additional discharges continue to be permitted and resulting water quality problems remain uncharacterized. The proposed criteria remove the "particularly favorable" clause from the Basin Plan language and provide for such exception to be addressed in each agencies onsite wastewater management plan. Accordingly, onsite systems on half acre lots may be allowed, if the local onsite management plan determines that such discharges will not degrade water resources. Language is added to VIII.D.a.13 to clarify that smaller lot sizes are allowed where consistent with an onsite wastewater management plan.

5. Section VIII.D.2.e.4 requires inspection and pumping of onsite systems every five years. The County will need additional staff to issue an estimated 5,000 inspection/pumping letters each year, manage data, and follow up.

Staff response: See response to comment 3 above.

**David Athey (City of Atascadero, Deputy Public Works Director)** - Mr. Athey met with Water Board staff to provide feedback and recommendations on preliminary draft documents, and Water Board staff appreciate the City's staff resources invested in this effort. Many of the City's recommendations were incorporated into the proposed amendments; additional comments or those not addressed in the proposed draft are as follows (comment numbers correspond to those shown on the City's letter, Attachment 3D).

1. The definition of "watercourse" is too flexible and open to interpretation. The City recommends the following definition for watercourse: A running stream of water; a natural stream fed from permanent or natural sources, including rivers, creeks, runs, and rivulets. There must be a stream, usually flowing in a particular direction, though in need not flow continuously. It may sometimes be dry. It must flow in a definite channel, having a bed or banks, and usually discharges itself into some other stream or body of water. It must be something more than a mere surface drainage over the entire face of the tract of land, occasioned by freshets or other extraordinary causes.

Staff response: The City's proposed definition is certainly more specific and limiting than that proposed in this amendment. However, the intent is to require adequate setback from any surface water (watercourse, drainageway, stream, natural, man-made, with or without bed or banks, etc.) to preclude impacting that water quality. See response to John Ricker's comment 5 above. No change recommended.

2. Criteria VIII.D.1.a.1 recommends that the local jurisdiction inform property buyers of details regarding onsite wastewater systems and Basin Plan prohibitions. The City

recommends this be revised to provide property buyers, upon request, legally available documents.

Staff response: No revision of the existing Basin Plan language is proposed in this amendment. However, in order to improve general public understanding of onsite criteria, the City should consider notifying the local board of realtors regarding onsite issues as part of its onsite wastewater management plan. Such notification will assist local realtors in providing necessary disclosure to potential buyers of properties with onsite wastewater systems. No change recommended.

3. Minor editorial changes are suggested by the City and have been incorporated into the proposed draft.
4. The City recommends that the following language should be added to Prohibition VIII.D.1.a.9: "Alternative systems are prohibited unless consistent with a locally implemented onsite wastewater management plan approved by the Central Coast Water Board Executive Officer or individual Waste Discharge Requirements issued or waived by the Water Board."

Staff response: Staff agrees and the language is incorporated in the proposed amendment.

5. The City has been implementing the Basin Plan requirements at its own expense in order to provide a service to City homeowners. An onsite wastewater management plan is not needed in Atascadero, and the City does not believe the Water Board has legal authority to require development and implementation of such plans. City staff agree that onsite wastewater management plans may be a good tool for preventing water quality impacts in urbanizing areas where site conditions are limiting. However, the Basin Plan does not currently identify the City of Atascadero as one of those potentially problematic areas. Therefore, development of onsite wastewater management plans should remain a recommendation (not requirement) and resources focused on identified problematic areas. The City should not be required to develop an onsite wastewater management plan unless the Water Board provides funding for such action. The City supports a collaborative approach to meeting onsite management needs.

Staff response: The comment implies that onsite wastewater management is not needed in Atascadero because problems were not identified in 1983. It does not indicate whether any water quality monitoring, investigation, or other evaluation of onsite discharge impacts has been performed in the 25 years since the current Basin Plan criteria was adopted. Staff is not aware of any such monitoring or investigation. In short, the City is unlikely to be aware of impacts for which it has not looked. Many of the components of effective onsite wastewater management are already implemented in the City of Atascadero, and those activities could be coordinated into a cost-effective onsite wastewater management plan. California Water Code §13267 authorizes the Water Board to request technical reports regarding existing or proposed discharges of waste. Development and implementation of onsite wastewater management plans will streamline the development of such technical reports by identifying where and how onsite discharges can be authorized without risk to water quality. The Water Code specifically requires the discharger (homeowner in the case of most onsite systems) to develop such reports, an admittedly cumbersome approach. However, if the City fails to

develop and implement an onsite wastewater management plan, then it must notify dischargers of their responsibility to apply individually to the Water Board (see comment 2 above). In summary, required development and implementation of onsite wastewater management plans is included in the proposed Basin Plan amendment as the most cost-effective method of providing for long-term water quality protection from impacts associated with onsite discharges. Water Board staff agrees that a collaborative approach to meeting onsite management needs is most effective for effected agencies and the public. No change recommended.

6. The City objects to the Water Board's 1994 legal opinion that secondary units constituting a de-facto lot split (VIII.D.2.a.13) and recommends the language be deleted and replaced with allowance for secondary units if the lot can accept wastewater flow from the primary and secondary units. Secondary units provide a necessary housing supply and therefore should be allowed.

Staff response: The City of Atascadero has a broad secondary unit policy which allows second dwellings on many lots throughout the City. Yet, as indicated in response to comment 5, the City does not evaluate the impacts of onsite discharges on underlying groundwater resources. Until such time as the City implements an onsite wastewater management plan to characterize such potential impacts, secondary units on less than two acres should not be allowed. Also see response to John Ricker's comment 12. Language is added to VIII.D.a.13 to clarify that smaller lot sizes are allowed where consistent with an onsite wastewater management plan.

7. The City proposes alternate loading rates for design criteria VIII.D.2.b.9 to better differentiate soils with percolation rates between 61 and 120 minutes per inch.

Staff response: Technical/scientific (and peer reviewed) information was not submitted to support the proposed change. Accordingly, staff is not proposing revision of the existing Basin Plan loading criteria. No change recommended.

8. Clarification should be added to setback requirements to indicate they apply only to discharges upslope from the water body that could seep to the water body.

Staff response: The language "where site conditions permit migration of wastewater to water" is included in this criterion, in order to clarify the setback requirements. No change recommended.

**Bruce Buel (Nipomo CSD General Manager)** – Nipomo CSD supports the proposed Basin Plan revisions that could improve groundwater quality and protect public health. Nipomo CSD's letter is included as Attachment 3E.

1. The terms "local governing jurisdiction", "local jurisdiction" and "local agency" should be standardized and defined as a county or city vested with legislative authority to regulate onsite systems.

Staff response: Staff agrees and a clarifying definition has been added to the proposed amendment and terms standardized throughout the document.

2. A statement should be added to Section VIII.D.1.c to recognize that the formation of onsite wastewater maintenance districts are subject to the requirements of Articles

XIIIC and XIID of the California Constitution (Proposition 218) and property owners have the ability to reject new fees proposed to fund management activities.

Staff response: A great many state and federal laws are applicable to activities described in the Basin Plan criteria for onsite wastewater systems (i.e., OSHA requirements applicable to construction activities). However, including all such references would be a considerable volume of text and undermine efforts to streamline the Basin Plan criteria. Therefore, no attempt is made to identify all applicable laws within this proposed amendment. No change recommended.

3. Additional text should be included to clarify new standards applicable to existing systems, detailing what new provisions apply under what circumstances.

Staff response: The revised Basin Plan criteria proposed in this amendment are shown with additions underlined and deletions in strike-through. All portions of Section VIII.D.1 are applicable to existing systems. However, onsite wastewater management plans will undoubtedly incorporate many of the criteria described in VIII.D.2; including construction, maintenance, and use recommendations and requirements. No change recommended.

4. Nipomo CSD has no septage processing facilities.

Staff response: Comment noted, see response to Barry Tolle's comment 2 above. No change recommended.

**John D'Ornellas (Heritage Ranch CSD General Manager)** – Heritage Ranch CSD's comment letter is included as Attachment 3F.

1. What is the definition of local agency?

Staff response: See response to Nipomo CSD's comment 1. No change recommended.

2. What is the definition of urbanizing areas?

Staff response: See response to Richard Merrifield's comment 4. No change recommended.

3. Will the Water Board direct property owners or local agencies to form septic tank maintenance districts referenced in Chapter 5, Section V.H.3?

Staff response: Onsite system maintenance districts should be evaluated and addressed through development of onsite wastewater management plans. The proposed amendment requires local governing jurisdictions (San Luis Obispo County in this case) to develop onsite wastewater management plans. See response to John Ricker's comment 6. No change recommended.

4. Will local special districts be required to administer onsite wastewater maintenance districts? And if so, who will make application to LAFCO and pay LAFCO fees?

Staff response: Although not addressed in the proposed amendments, most local special districts do not have permitting authority which would allow effective implementation of maintenance activities. Optimally, special districts may choose to

work cooperatively with local governing jurisdictions to implement streamlined onsite wastewater maintenance programs, especially where onsite systems are located within areas served by community wastewater facilities. Local Agency Formation Commission (LAFCO) issues are not addressed in the proposed Basin Plan amendments. No change recommended.

5. How will onsite maintenance districts be funded? What will happen if voters turn down Proposition 218 (assessment district formation) ballot measures?

Staff response: Basin Plan criteria regarding onsite system maintenance districts (VIII.D.1.c) are not proposed to be materially revised and funding mechanisms are not addressed in the proposed Basin Plan amendments. No change recommended.

**Chuck Cesena (Los Osos CSD President)** – Los Osos CSD submitted a comment letter regarding triennial review of the Basin Plan (expected to occur in 2009) and including several attachments relating to the triennial review process. Also, several of the Los Osos CSD's comments are regarding Resolution No. 83-13 (Los Osos discharge prohibition) or other issues not directly related to the proposed Basin Plan amendment. Only those portions of the CSD's submittal that relate to the proposed Basin Plan amendment are addressed in this staff report. Los Osos CSD's comment letter is included as Attachment 3G.

1. The Los Osos CSD never received notice of the proposed action.

Staff response: On December 4, 2007, Water Board staff circulated preliminary draft staff reports for the two onsite wastewater system agenda items (Waiver and Basin Plan Amendments) to county, city and CSD staff (including Los Osos CSD) seeking feedback and recommendations from those actively involved in implementing such policies. Los Osos CSD General Manager John Schempf responded to that invitation and met with Water Board staff Sorrel Marks on December 18, 2007, to discuss his comments on the preliminary documents. Mr. Schempf had a copy of the preliminary draft documents with him during that meeting. On January 9, 2008, Sorrel Marks made a presentation regarding the upcoming onsite issues at the San Luis Obispo County Water Resources Advisory Committee meeting. A copy of the preliminary draft documents was attached to the agenda for the Advisory Committee meeting, and a Los Osos CSD Director and staff participated in the meeting. On February 28, 2008, Water Board staff sent the Los Osos CSD electronic copies of draft staff reports, associated attachments, and notice of hearing, with request for comments and offer of paper copy for anyone who might desire one. Additionally, as noted in the staff report, notice of public hearing was published in local newspapers throughout the Central Coast Region and posted on the opening page of the Water Board's website. Public notice was provided consistent with Water Board policy and state law. The individual correspondences and meetings appear to contradict the claim that notice of the hearing was not received. No change recommended.

2. Resolution No. 83-12 (current Basin Plan criteria for onsite systems) is old, outdated and should be updated.

Staff response: The District's comment is exactly what the proposed Basin Plan amendment is intended to accomplish, update of the 25-year-old criteria. No change recommended.

3. The proposed amendments appear to be the same as those proposed by the AB885 process, why is this a better approach?

Staff response: Please see discussion of statewide regulations being developed in response to AB885 on page 3 of the staff report above. No change recommended.

4. The proposed action does not adequately address CEQA requirements as no CEQA analysis is provided.

Staff response: Compliance with the California Environmental Quality Act (CEQA) is addressed in the staff report above (beginning on Page 3). As described in the staff report, the proposed amendments to the onsite criteria clarify existing criteria and add some more stringent criteria. The staff completed an environmental checklist that concluded that the proposed revisions would have no impact on the environment. Impacts, if any, would provide an environmental benefit, not cause adverse impacts. The significant proposed revisions are set forth on page 6 of the staff report and none of those proposed revisions would result in adverse environmental impacts. The proposal that local agencies develop management plans would not result in a physical change to the environment. No change recommended.

5. The proposed amendments represent an unfunded mandate and are, therefore, unconstitutional. Unfunded mandates are problematic for small agencies such as Los Osos CSD and there is currently no funding mechanism for implementing its requirements.

Staff response: In its comment, the District did not identify a particular portion of the proposed amendment that it believes is an unfunded mandate. However, based upon comments from onsite system permitting agencies, development and implementation of onsite management plans is the most significant (costly) new requirement. See response to John Ricker's comment 15 and Barry Tolle's comment 3. It should be noted that Los Osos CSD was required under Waste Discharge Requirements Order No. R3-2003-0007 to develop and implement an onsite wastewater management plan for those areas not proposed to be served by the community sewer. In 2004 the District worked with Water Board staff and San Luis Obispo County to develop a draft onsite management plan. To date, staff is not aware that any components of the 2004 plan have been implemented. However, the proposed amendment requires the local governing jurisdiction (San Luis Obispo County in this case) to develop an onsite wastewater management plan. Such action will assist Los Osos CSD in managing its wastewater issues and addressing water quality impacts resulting from onsite system discharges. No change recommended.

6. The District objects to provisions placing onsite-related enforcement in the property owners title report.

Staff response: See response to David Athey's comment 2. No change recommended.

7. The proposed amendment does not make clear who is the "management agency?"

Staff response: Although the term "management agency" does not appear in the proposed amendment, see response to Bruce Buell's comment 1. No change recommended beyond that described in response to Mr. Buell's comment 1.

8. The Water Board will become another layer of costly review.

Staff response: This comment from the CSD and similar comments received from others may indicate that many were/are not aware of the requirement of existing law. The California Water Code requires persons who discharge waste that could effect the waters of the state to submit a report of waste discharge (application) with a fee and obtain waste discharge requirements or a waiver of waste discharge requirements. The Central Coast Water Board's Basin Plan contained a waiver of waste discharge requirements, but that waiver expired in 2004 by operation of law. The proposed revisions to the criteria and the proposed waiver of waste discharge requirements (Item 10 on the May 9 agenda) will provide a method to obtain authorization for discharges from onsite wastewater systems without obtaining individual waste discharge requirements. As described in the staff report (*MOUs with Local Jurisdictions*, page 3) reducing duplicative or redundant oversight of onsite wastewater systems is exactly why the Waiver Resolution is proposed (see Agenda Item 10). No change recommended.

9. The proposed criteria conflicts with California Water Code §13360 limiting the Water Board's role in determining methods of compliance.

Staff response: The comment does not make clear which portion of the proposed amendment is contrary to state law. The criteria do not specify the manner of compliance; they establish the criteria for systems. Persons implementing such systems may comply in any lawful manner. No change recommended.

10. There is no evaluation of costs or application of the proposition 218 (assessment district formation) requirements.

Staff response: See response to John D'Ornellas' comment 5. No change recommended.

11. The document must clarify how the proposed amendment will effect Los Osos CDOs, ACLs and pending lawsuits.

Staff response: The proposed amendments are not relevant to the Los Osos CDOs, ACLs, and pending lawsuits. Those actions relate to the onsite system prohibition in the Los Osos area. The proposed amendments address criteria for onsite systems, where such systems are allowed. It is not appropriate to address Los Osos legal actions in this amendment. No change recommended.

12. Regulations are onerous to property owners in and out of the Los Osos prohibition zone.

Staff response: The purpose of the proposed amendments is to protect water quality consistent with the California Water Code. No change recommended.

13. The amendments must be revised to reflect current science.

Staff response: The comment does not identify a particular point of contention. However, proposed revisions are based upon peer-reviewed literature described in the staff report (page 5). No change recommended.



14. The document should include green solutions.

Staff response: The Basin Plan criteria does not specify particular onsite systems, as noted in the District's comment 9, such action is contrary to state law. No change recommended.

15. The proposed amendments step beyond water quality protection to land planning.

Staff response: The comment does not identify a particular point of contention. The proposed amendment does not authorize onsite systems. It is within the jurisdiction of the local land use authorities to approve development. If onsite systems are utilized, however, they must be consistent with the Basin Plan. No change recommended.

16. Septage pumping and hauling will require special attention due to its likely impacts on wastewater facilities. Also, air quality impacts associated with pumping septic systems should be addressed by APCD.

Staff response: See response to Richard Merrifield's comment 9 and Barry Tolle's comment 2. Periodic pumping of septage from onsite systems is standard maintenance. Accordingly, the proposed requirements for maintenance of existing systems are not anticipated to represent a new air quality impact. No change recommended.

17. The terms urbanizing and high density should be clearly defined.

Staff response: See response to Richard Merrifield's comment 4. No change recommended.

18. What is the Water Board's authority to issue waivers and what are the conditions of such waivers.

Staff response: See staff report for Agenda Item 10. No change recommended.

19. How are you addressing endocrine disruptors in the proposed requirements?

Staff response: The proposed update of the Basin Plan criteria for onsite systems does not directly address endocrine disruptors in any way. No change recommended.

20. Has LAFCO been notified to comment on the onsite wastewater authority?

Staff response: The staff met with local agencies and other interested persons and the proposed action was noticed in local newspapers. The staff has received no comments from LAFCO. No change recommended.

21. Can you publish the San Lorenzo management plan so other communities can use it as guidance?

Staff response: Considerable guidance materials are available online and in the Water Board files to assist agencies in preparing onsite wastewater management plans. No change recommended.

22. How can salts discharges to existing systems be regulated?

Staff response: See response to Richard Merrifield's comment 26. No change recommended.

23. The proposed regulations may represent taking of property.

Staff response: The comment does not make clear to which proposed section of the amendment it refers. No change recommended.

24. Notification requirements described in VIII.D.1.a should include notifying potential buyers of properties within the Los Osos prohibition area of any enforcement actions affecting such parcels.

Staff response: See response to David Athey's comment 2. No change recommended.

25. What agency has onsite management authority in Los Osos?

Staff response: San Luis Obispo County is currently the permitting authority for onsite wastewater systems. In 2004, the Los Osos CSD pursued legislation to obtain authority to facilitate implementation of its onsite management plan. Then Assemblyman Maldonado agreed to carry the proposed legislation only if it was unanimously supported by the five-member CSD Board of Directors. One of the Los Osos CSD Directors opposed the proposed legislation that would authorize the CSD to implement its onsite management plan, and the effort was abandoned. No change recommended.

**Additional comments were received regarding the proposed Basin Plan amendment, which are not addressed in this staff report due to time constraints relating to document reproduction. A summary of those additional comments and associated staff responses will be distributed in an additional mailing or a Supplemental Staff Report.**

#### **RECOMMENDATION**

Adopt Resolution No. R3-2008-0005, as proposed.

#### **ATTACHMENTS**

1. Proposed Resolution No. R3-2008-0005, with attachments:
  - Attachment A - Revised Basin Plan Chapter 4 (onsite sections only)
  - Attachment B - Revised Basin Plan Chapter 5 (onsite sections only)
  - Attachment C - Certificate of Fee Exemption
  - Attachment D - Report for Basin Plan Amendment (including the Environmental Checklist)
2. Notice of public hearing dated February 22, 2008
3. Comment letters
  - A. Santa Cruz County
  - B. Santa Barbara County

- C. San Luis Obispo County (w/Attachment C1)
- D. City of Atascadero
- E. Nipomo CSD
- F. Heritage Ranch CSD
- G. Los Osos CSD

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