April 7, 2008

Ms. Sorrel Marks
Central Coast Regional
Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Comments on Amendments to the Central Coast Water Quality Control Plan (Basin Plan)
Onsite Wastewater Requirements

Dear Ms. Marks,

The City of Atascadero (City) appreciates the opportunity to comment on the Central Coast Regional Water Quality Control Board’s (Water Board) proposed Onsite Wastewater Basin Plan Amendments. The City agrees with the Water Board staff that amendments to the Onsite Wastewater Basin Plan requirements are long overdue. The City appreciates Water Board staff’s eye towards making the requirements straightforward and implementable. However, the City believes that a number of the amendments should be modified or clarified prior to adoption. The City has the following comments:

Resolution No. R3-2208-0005

1. Page 3, Definition of “Watercourse” -
   Regional Board staff has changed the definition of a watercourse, mainly by deleting some language and adding “man-made” to the definition. City staff is concerned that the new definition is too flexible and is still open to broad interpretation. Past experience has shown that not all Water Board staffers interpret the Basin Plan equally. In addition the old definition was much clearer and provided language that assisted City staff in identifying watercourses. However, City staff understands that the original definition was problematic for Water Board staff and we are therefore recommending the following definition:

   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 it 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.

   It is important to define watercourse in a straightforward, easy to interpret manner. The above definition provides the minimum guidelines that agency staff, homeowners, and the public can use to determine appropriate setback distances.

2. Page 5, RECOMMENDATIONS, Number 1 -
   City staff recommends that the first sentence be amended as follows:

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"...Provide property buyers, upon request, with legally available records regarding the existence, location, operation, and maintenance of onsite disposal systems..."

It is not the City's responsibility to track or be involved with property transfers within our boundary. We will provide any documents that we physically possess, in conformance with the Freedom of Information Act.

3. **Page 5, Item 7 -**
   City staff recommends that additional language be added to the following sentence:

   "...Local jurisdictions shall ensure that alternate onsite system owners are provided an informational maintenance or replacement document by the system designer or representative installer..."

This language better clarifies who is responsible for providing operational documents to homeowners since non-engineers are allowed to design septic systems.

4. **Page 5, PROHIBITIONS, Page 9 -**
   We recommend that Water Board staff take a collaborative approach to achieving its goal of getting Cities and Counties to develop and implement Onsite Wastewater Management Plans, as described further below. We recommend that Water Board staff add the following language to the end of this prohibition: "...Central Coast Water Board Executive Officer or individual Waste Discharge Requirements issued by the Water Board..."

5. **Page 5, VIII.D.2.1.b. ONSITE WASTEWATER MANAGEMENT PLANS -**
The City, with Water Board staff's knowledge and approval, has been implementing the Water Board's Basin Plan requirements at the City's own expense. We have consented to this situation in order to provide a service to the City's homeowners. This has worked for the most part and has freed up valuable Water Board staff time, allowed for speedy permitting and eliminated duplicative governmental oversight. However, we are now perplexed on why the development of Onsite Wastewater Management Plans have become such an important and immediate issue. It appears that the Water Board staff desires that the City spend a potentially significant amount of funds on an issue that, to City staff's knowledge, is not currently needed in Atascadero.

Overall, it is unclear to City staff how the Water Board can require Cities and Counties to prepare Onsite Wastewater Management Plans. Staff has looked at the Basin Plan's governing document, the Porter Cologne Water Quality Act. City staff has found no instance where the Water Board is given the authority to require the City to address a waste discharge that is not the City's responsibility (The City is not the owner of the individual septic systems.) Therefore, we strongly recommend that the Basin Plan language be reverted back to the current language. Additionally, this requirement, as written, is an unfunded mandate. If the current language is not changed, then the City requests that the Water Board provide the funding for plan development.

City staff agrees with Water Board Staff that Onsite Wastewater Management Plans may be a good tool to prevent ground or surface water contamination in areas where limiting site conditions could lead to problems. Indeed, Water Board staff has already identified the urbanizing areas with septic systems that may be impacting water quality. These areas were noted in Basin Plan Section VIII.D2.b. Curiously enough, Atascadero was not listed in
that section even though septic systems have been in use for over 75 plus years, a majority of the land has been previously subdivided, and it incorporates approximately 25 square miles of land. It is also important to note that the City does not allow new divisions of land less than one acre if sewer is not available. Therefore, even if further "urbanization" were to occur, the current Basin Plan requirements would be adequate to protect water quality in Atascadero. Lastly, all new subdivisions that are less than one acre are connected to our wastewater collection system.

The City sees itself as a partner in the effort to protect water quality. We believe that forcing Cities and Counties to produce Onsite Wastewater Management Plans (if it is somehow legal, we believe it is an undue requirement) is a step in the wrong direction. Water Board staff should use a collaborative approach, much like the approach that was used to develop the Ag Waiver program, for each individual jurisdiction. City staff also believes that this new water quality objective should be focused on the areas where septic systems are known problems (those listed in the current Basin Plan.) This would ensure that funds and resources are spent on real problem areas.

City staff pledges to work with Water Board staff to implement changes that may be needed in our upcoming Memorandum of Understanding (MOU) discussions. We believe that a collaborative approach and minor changes may be all that is needed.

6. Page 8, PROHIBITIONS, Number 13 -
Water Board staff have added new language to prohibit second units on lots less than 2-acres. This new language is based on a Water Board legal opinion and does not appear to be supported by technically sound science. City staff sees no difference between building a second unit or a single home with additional bedrooms. Each situation would have to show that the property is capable of handling the entire wastewater flow and include open land for the reserve leachfield. City staff also recommends removal of the term "defacto" since the words use implies that the construction of a second unit on lots of less than 2 acres constitutes an illegitimate or illegal\(^2\) lot split. City staff recommends the following amendments be made:

"...For the purpose of this prohibition, secondary units construction on a lot of less than 2 acres is are considered "defacto" a lot splits and shall not be allowed, constructed on lots less than two acres in size unless it is shown that the lot can accept the wastewater flow from the primary and second unit.

It also appears that Water Board staff has removed language that was previously contained in the Basin Plan that allowed lot splits of less than one acre, if favorable site conditions were present. No justification was provided in the amended requirements.

Lastly, it appears short sighted to require that lots be 2-acres or larger for second units. California, especially the Central Coast, is dealing with a large population of aging individuals. These individuals are being cared for by their adult children, hence, there is a demand for second units. The Water Code requires Water Board staff to consider housing needs when establishing new requirements. It does not appear that the housing needs requirement was considered. City staff believes that the threshold for second units vs. lot size should be based on whether or not the land can accept the onsite wastewater load.

Failure to do so would potentially cause undue hardships on families when the potential for water quality improvement or protection is insignificant.

7. Page 9, REQUIREMENTS, Number 9 -  
City staff is unclear why the requirement for a 0.1 gallon per day per square foot application rate is required for percolation rates between 61 and 120 minutes per inch. It is not reasonable to require a landowner with a percolation rate of 61 minutes per inch to construct an onsite wastewater system that would be the same size as the system on a lot with an 120 minute per inch percolation rate. The 61 minute per inch percolation rate is almost twice as fast as the 120 minutes per inch rate. Therefore, the system would be twice the needed size, twice the cost and provide no greater water quality protection. Agencies have to be responsive and only require what is necessary to protect human health and the environment. City staff proposes the following application rates for percolation rates between 61 and 120 minutes per inch:

<table>
<thead>
<tr>
<th>(minutes/inch)</th>
<th>(gpd/sq.ft)</th>
</tr>
</thead>
<tbody>
<tr>
<td>61-80</td>
<td>0.2</td>
</tr>
<tr>
<td>81-100</td>
<td>0.15</td>
</tr>
<tr>
<td>101-120</td>
<td>0.1</td>
</tr>
</tbody>
</table>

8. Page 9 & 10, REQUIREMENTS, Number 17 -  
City staff recommends that a note be included with each setback clarifying that a 100-foot setback applies to the areas upslope from a Water Course, Drinking Water Supply Reservoir Spillway Elevation or Spring. Onsite wastewater systems that are downslope from the aforementioned features do not pose a risk to the upslope features (water doesn’t flow uphill.)

9. Page 10, REQUIREMENTS, Number 25 -  
City staff recommends that the word “downgradient” in this paragraph be changed to “downslope” since this more accurately describes the surface location.

City staff appreciates the opportunity to review and comment on the proposed Onsite Wastewater Basin Plan Amendments. Please call me should you have any questions.

Sincerely,

David M. Athey  
Deputy Public Works Director  
City of Atascadero

Cc: Steve Kahn, City of Atascadero  
Warren Frace, City of Atascadero