

TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** May 08, 2012

From: Dennis Cron, Assistant Town Manager **Item No:** 6
Municipal Operations and Contract Services

Subject: RESOLUTION No. 2012-23, A RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF APPLE VALLEY, CALIFORNIA, OPPOSING
SECTION 7.8 OF THE STATE WATER RESOURCES CONTROL
BOARD'S FINAL DRAFT SEPTIC TANK POLICY

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

That the Town Council adopt Resolution No. 2012-23 opposing section 7.8 of the State Water Resources Control Board (SWRCB) Final Draft Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy), dated March 20, 2012.

SUMMARY:

On March 20, 2012 the SWRCB released a final draft of the OWTS Policy. The stated purpose of the policy is to allow the continued use of OWTS while protecting water quality and public health. The policy establishes a statewide, risk-based, tiered approach to the regulation and management of OWTS. OWTS are placed into tiers, with different levels of requirements depending on which tier they fall under.

Nearly seventy-five percent (75%) of the population within the Town of Apple Valley boundaries reside in dwelling units that are served by septic tanks. Currently, septic tanks are allowed at a density of one dwelling unit or its equivalent per 0.5 acres of land. Section 7.8, page 24, of the OWTS Policy would restrict new or replacement septic systems under Tier 1 to a maximum density of one dwelling unit or its equivalent per 2.5 acres of land.

On April 9, 2012 Town staff met with local city officials from surrounding agencies along with Victor Valley Wastewater Reclamation Authority (VWRA) to discuss this final draft policy. All of the attendees at the meeting were asked to come up with comments to

this proposed policy and forward them to the Town. These comments would be discussed again at a follow up meeting on April 19, 2012.

On April 19, 2012 Town staff met again with local city officials and VVWRA to discuss the comments that were submitted. Also in attendance at this meeting were two representatives from the local regional water board, Lahontan. Lahontan suggested that we send our comments to the SWRCB by the May 4, 2012 deadline. Town staff submitted the Town's written comments to the SWRCB and to the Town's lobbyist. The other surrounding agencies were asked to submit their comments directly to the SWRCB as well.

BACKGROUND:

In the past property owners have been able to enjoy the potential to utilize their land with up to one dwelling per 0.5 acres for dwellings on septic systems; therefore this change in the density requirement has the potential to negatively impact many property owners within the Town. The policy appears to allow new development at higher densities than what is allowed under Tier 1, but only if the local agency implementing the policy prepare a Local Agency Management Program (LAMP). The preparation of a LAMP may not be a reasonable alternative because it would be costly, difficult to implement, and would still require approval from the SWRCB.

In 1993 the United States Geological Survey (USGS) issued Water Resources Investigation Report 93-4137 indicating that in the Mojave River Basin "current onsite domestic-wastewater disposal practices pose little immediate threat to the local groundwater resource." The USGS report further indicates septic systems contribute substantial return flows to groundwater and slow the decline of groundwater levels. This is a significant benefit to the Town's water resources.

FISCAL IMPACT:

N/A

ATTACHMENT:

Notice from SWRCB

RESOLUTION NO. 2012-23

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, OPPOSING SECTION 7.8 OF THE STATE WATER RESOURCES CONTROL BOARD'S FINAL DRAFT SEPTIC TANK POLICY

WHEREAS, on March 20, 2012 the State Water Resources Control Board (SWRCB) released the Final Draft Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems ("Policy"); and

WHEREAS, approximately seventy-five percent (75%) of the population within the Town of Apple Valley boundaries (Town) reside in dwelling units that are served by onsite wastewater treatment systems (OWTS), also known as septic systems; and

WHEREAS, under current regulations property owners within the Town have enjoyed the ability, or potential ability, to develop land at a density of up to one dwelling unit for 0.5 acres, for properties relying on septic systems; and

WHEREAS, under Tier 1 of the policy the maximum density allowed for properties relying on septic systems would be restricted to one dwelling unit per 2.5 acres (Section 7.8 of the Policy). This portion of the policy, among others, has the potential to negatively impact property owners within the Town and the economic development of the Town at a crucial time in its economic history; and

WHEREAS, in 1993 a report was issued by the United States Geological Survey (USGS Water-Resources Investigation Report 93-4137) indicating that in the Mojave River Basin "current onsite domestic-wastewater disposal practices pose little immediate threat to the local ground-water resource"; and

WHEREAS, the USGS report further indicates septic systems contribute substantial return flows to groundwater and slow the decline of groundwater levels. This is a significant benefit to the Town's water resources.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Apple Valley herby:

1. Opposes Section 7.8, and related provisions, of the Final Draft Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems

Unless otherwise noted, the effective date of this Resolution shall be May 8, 2012.

APPROVED and **ADOPTED** this 8th day of May, 2012 by the Town Council of the Town of Apple Valley.

MAYOR

ATTEST:

TOWN CLERK

State Water Resources Control Board

**NOTICE OF AVAILABILITY OF DRAFT DOCUMENTS AND
NOTICE OF STAFF WORKSHOP, STATE WATER BOARD HEARING, AND
ADOPTION MEETING**

**POLICY FOR SITING, DESIGN, OPERATION AND MANAGEMENT OF ONSITE
WASTEWATER TREATMENT SYSTEMS (OWTS) – Septic Systems**

NOTICE IS HEREBY GIVEN THAT the State Water Board will receive comments and consider adoption of a draft State Policy for Water Quality Control for Siting, Design, Operation, and Management of Onsite Wastewater Treatment Systems (OWTS Policy) and a draft Substitute Environmental Document (SED) at the location and times provided below. The adoption of policies for water quality control has been certified as an exempt regulatory program under the California Environmental Quality Act, so the State Water Board has prepared the SED to analyze the potential environmental impacts of the proposed OWTS Policy.

A staff workshop, State Water Board Hearing, and Adoption Meeting are planned at the locations and times listed below to gather input from public agencies and interested persons on the content of the OWTS Policy and associated SED. Recipients of this notice are encouraged to inform others who are interested in OWTS issues about this notice.

STAFF WORKSHOP

The purpose of the staff workshop is for State Water Board staff to answer questions and receive oral comments from public agencies and members of the public on the OWTS Policy and SED. Although a quorum of the State Water Board may be present at the staff workshop, the State Water Board will not take any action during the staff workshop. The location and time of the staff workshop is provided below.

Staff Workshop

Wednesday, April 4, 2012 – 10:00 a.m.
Joe Serna Jr. - Cal/EPA Headquarters Building
Coastal Hearing Room
1001 I Street, Second Floor
Sacramento, CA 95814

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov



STATE WATER BOARD HEARING

The purpose of the State Water Board Hearing is for the State Water Board to receive oral comments and evidence from public agencies and members of the public on the OWTS Policy and SED. There will be no sworn testimony or cross-examination of participants, but the State Water Board and its staff may ask clarifying questions. Participants will be given an opportunity to give oral presentations to summarize and supplement the comments and written materials that they submit during the written comment period described below. To ensure a productive and efficient hearing in which all participants have an opportunity to participate, oral presentations may be time-limited. For other presentation recommendations, please go to: http://www.waterboards.ca.gov/board_info/meetings/board_presentations.shtml at the State Water Board's Web site. The location and time of the State Water Board Hearing is provided below.

State Water Board Hearing

Wednesday, May 2, 2012 – 9:00 a.m.

Joe Serna Jr. - Cal/EPA Headquarters Building
Coastal Hearing Room
1001 I Street, Second Floor
Sacramento, CA 95814

STATE WATER BOARD ADOPTION MEETING

The purpose of the State Water Board Adoption Meeting is for the State Water Board to consider adoption of the OWTS Policy and SED. There will be a limited opportunity for oral comments addressing any further changes to the OWTS Policy and SED proposed by State Water Board staff in response to comments. No other comments or written materials will be accepted, unless specified otherwise by the State Water Board. The location and time of the State Water Board Adoption Meeting is provided below.

State Water Board Adoption Meeting

Tuesday, June 19, 2012 – 9:00 a.m.

Joe Serna Jr. - Cal/EPA Headquarters Building
Coastal Hearing Room
1001 I Street, Second Floor
Sacramento, CA 95814

BACKGROUND

In May 2011 the State Water Board held public scoping meetings on the SED to seek input on the range of project actions, alternatives, reasonably foreseeable methods of compliance, significant impacts to be analyzed, cumulative impacts, if any, and mitigation measures that will reduce impacts to a less than significant level; and to eliminate from detailed study issues found not to be important. On September 30, 2011 staff released a public draft of the OWTS Policy and SED for review and comment. In addition, staff held 8 public workshops at 4 locations around the state to hear comments and answer questions from public agencies and interested persons. Staff has revised the OWTS Policy and SED in response to public comment.

AVAILABILITY OF DOCUMENTS

The OWTS Policy and SED may be viewed and downloaded from the State Water Board's website at: http://www.waterboards.ca.gov/water_issues/programs/owts/.

Paper copies or compact disc of the OWTS Policy and SED are available upon request by writing to OWTS Policy, Division of Water Quality, State Water Resources Control Board, P.O. Box 2231, Sacramento, CA 95812, or by calling (916) 445-9187 or by emailing your request to owts_commentletters@waterboards.ca.gov.

SUBMISSION OF COMMENTS

The OWTS Policy and SED are being made available for a 45-day public review and comment period. The State Water Board will accept both written and oral comments on the proposed amendment. Oral comments must be made at the staff workshop or the State Water Board Hearing. After the written comment deadline, State Water Board staff will not accept additional written comments or materials on the draft documents. Written comments must be received by **12:00 noon on Friday May 4, 2012** and addressed to:

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Comment letters may be submitted electronically, in pdf text format (if less than 15 megabytes in total size), to the Clerk to the Board via email at commentletters@waterboards.ca.gov. If the file is greater than 15 megabytes in total size, then the comment letter may be submitted by fax at (916) 341-5620. Please indicate the subject line: "**Comment Letter – OWTS Policy**"

Couriers delivering hard copies of comment letters must check in with lobby security personnel, who can contact Ms. Townsend at (916) 341-5600.

Email List Serve

Interested persons are encouraged to subscribe to an email list serve for future notices about the OWTS Policy at: http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml, under Water Quality Topics choose Onsite Wastewater Treatment Systems (OWTS)-Septic Systems. The email list serve will be the primary method for providing future notices related to the OWTS Policy and its implementation. Persons without access to email may request paper copies of future notices by mailing such request to the above address.

PARKING AND ACCESSIBILITY

There is a parking garage across from the building with entrances on 10th and 11th Streets between "I" and "J" Streets, and metered parking spaces are in the vicinity of the building. For a map, see our Web site: <http://www.calepa.ca.gov/EPA/bldg/location.htm>. Please note: All visitors to the Joe Serna Jr.-Cal/EPA Headquarters Building are required to sign in and receive a badge at the Visitor Services Center located inside the main entrance.

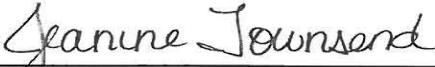
Valid picture identification may be required due to the security level. Please allow up to 15 minutes for receiving clearance before proceeding to the Coastal Hearing Room on the 2nd floor.

The Joe Serna Jr. - Cal/EPA Headquarters Building is accessible to persons with disabilities. Individuals who require special accommodations are requested to contact Michele Villados at (916) 341-5881, at least five working days prior to the meeting date. Persons with hearing or speech impairments can contact us by using the California Relay Service Telecommunications Device for the Deaf (TDD). TDD is reachable only from phones equipped with a TDD Device. HEARING IMPAIRED RELAY SERVICE: TDD to voice (800) 735-2929; voice to TDD (800) 735-2922.

ADDITIONAL INFORMATION

Please direct questions about this notice to Ms. Jeanie Mascia at (916) 323-2871 or email to jmascia@waterboards.ca.gov.

March 19, 2012
Date



Jeanine Townsend
Clerk to the Board

Note: This notice was not posted on SWRCB's website until March 20, 2012.