



June 6, 2024

Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, CA 95403

RE: Onsite Wastewater Treatment System Regulations and Technical Standards (OWTS Manual)

Chair Rabbitt and Members of the Sonoma County Board of Supervisors,

On behalf of the North Bay Association of REALTORS®, thank you for your vigilant attention to the development and revisions of the Onsite Wastewater Treatment System Regulations and Technical Standards (OWTS Manual).

Sonoma County is home to ~30,000+ OWTS, more than any other County in California, and the local OWTS Manual can have severe impacts on residential, agricultural, and commercial property owners.

The majority of OWTS are in Districts 4 and 5, and a great number of systems are in economically disadvantaged and/or underserved areas where housing affordability is rapidly diminishing. Given the staggering cost of repair, replacement, and inspection/evaluation, it is imperative that regulations be clear, justifiable and judicious.

In 2019, following years of deliberations, the BOS unanimously directed/approved several amendments to the previous draft OWTS Manual, some of which were either not implemented, modified, or otherwise shelved. These directives would have made considerable improvements for OWTS owners and managers without compromising public or environmental health – several are still not incorporated into this new version.

Generally, Permit Sonoma has made an improved effort to listen to the concerns raised by impacted residential, agricultural, commercial stakeholders – though we were confused and concerned about why the County chose to contract over 420 hours to redraft the OWTS Manual while seemingly disregarding much of the input from qualified stakeholders (LUAP, technicians, housing and business experts) and the Board of Supervisors for 3+ years. **With this new review of another version of the Manual, we urge your careful attention to the following:**

1. Reserve Area

- **What was directed by the BOS?** Reserve area and site assessment to NOT be required for building permit applications that do not increase wastewater flow or building footprint
- **What was implemented?** Permit Sonoma required a 100% reserve area on most building permit apps.
- **What does the State and North Coast Regional WQCB say?** The Regional WQCB and the State OWTS Policy DO NOT require this reserve area; the County can legally include this exclusion.
- **What this new OWTS Manual would do?**
 - Section 6.6. stipulates two levels of review of the reserve area and provides that “evaluation” of the reserve area be **a site map** documenting the location of the existing reserve area vs. the improvements proposed. A site map must be submitted documenting the location of the existing replacement area and the proposed structure or structural improvements OR a site map documenting the location of a potential reserve replacement area and the proposed structure, or structural improvements shall be provided.
 - Section 6.6.C provides that a “required” reserve area consists of demonstration of a reserve replacement area “pursuant to this OWTS Manual” with **either existing records on file with the Permit Authority OR with a current Septic Design Application**. The existing records for the Septic Design Application shall consist of site evaluations for soil type, percolation rate and depth of

groundwater, pursuant to pertinent sections of this OWTS Manual, as well as, additionally, a preliminary design of the replacement septic system including system type, sizing calculations, alignment system layout within the proposed reserve replacement area, and abides by site constraints and setbacks.

- **ACTION/AMENDMENT NEEDED:** Although this allows existing records to be used, the statement “pursuant to pertinent sections of this OWTS Manual” could be interpreted to mean that the reserve area must meet current standards even though it was well documented to meet standards at the time of approval of the original system. **REPLACE “pursuant to pertinent sections of this OWTS Manual” to “showed conformance to the standards in effect at the time of the original OWTS design”.**

2. Repair Threshold

- **What was directed by the BOS?** Up to 50% of a dispersal system can be repaired under a repair permit (before becoming a replacement). The BOS (and OWTS Ad Hoc) have consistently advocated for challenging questionable state mandates; this is one of the most impactful needed amendments.
- **What was implemented?** The Regional WQCB denied this 50% threshold - and PRMD staff implemented/interpreted this as zero % may be repaired under a repair permit.
- **What this new OWTS Manual would do?** A compromise has been reached to allow a 25% increase in the dispersal system as a repair, and it has been incorporated into Section 4.10.
- **SUPPORT:** While we continue to support a 50% repair threshold, **25% at least allows property owners some relief in the interim if a replacement system is necessary.** It could also conceivably allow the existing drain field to be shut off for sufficient time to allow reconstruction of the drain field (which is considered a repair but cannot be done if the soil is saturated with wastewater).

3. Qualified Inspector

- **What was directed by the BOS?** Allow for third-party OWTS inspector certification to accommodate needed demand and reduce timeline/costs
- **What was implemented?** Only the following qualify - a California Registered Civil Engineer (RCE), California Registered Environmental Health Specialist (REHS), Registered Soil Scientist, Registered Geologist (but are limited to soil investigations or soil evaluations).
- **What this new OWTS Manual would do?** The has been changed to include a NAWT-certified technician (National Association of Wastewater Technicians), certified septic tank pumper, or a homeowner to do the required inspection for a TMDL implementation plan.
- **SUPPORT:** This is a significant improvement if a homeowner or pumper is allowed to do the inspection.

4. Financial Assistance

- **What was directed by the BOS?** BOS directed creation of a low-interest loan program for repairs and replacement. Supervisor Gore recommended implementation be paused until assistance is in place.
- **What was implemented?** No program/mechanism was established and no assistance available.
 - **Assistance was included in the state legislation and is badly needed.**
 - AB 885 (Jackson) §13291.5¹ and State OWTS Policy §14² convey the intention to provide low-interest loans to owners of all income levels where the cost of compliance exceeds one-half of 1% of the current value of the property – to be administered by the County.
- **What this new OWTS Manual would do?** Does not address financial assistance.
- **ACTION NEEDED:** This is urgently needed. Following years of inaction, this has been sent to the County Administrator’s Office for planning. Some progress has been reported to stakeholders, but a program or assistance remains absent. The CAO’s office needs clear direction from the Board of Supervisors to expedite this program and to specify a long-term commitment for the County to provide an ongoing program for financial assistance.

5. Other Critical Items/Concepts Supported by the Board of Supervisors

¹ Assembly Bill 885 (Jackson), http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=199920000AB885

² State OWTS Policy, https://www.waterboards.ca.gov/water_issues/programs/owts/financial_assistance.html

1. Revisit the Manual in 1-Year

- a. Fundamental issues remain – financial assistance, LAMP and TMDL incompatibility, significant septic permit timelines, etc.
 - i. **SUPPORT/REAFFIRM** this commitment; experience shows that interpretations of the Manual can evolve and/or go afoul of what was intended by the Board of Supervisors.
- b. The engagement with a technical writer was recommended by numerous stakeholders, and the document is still very lengthy - it would be advisable to break out technical requirements into separate policies. Permit Sonoma aims to have all of the requirements in one place – but capabilities are currently available to allow links to be inserted into the document to streamline and allow efficient access to separate technical policies.
 - a. **RECOMMENDATION:** Continue to streamline and improve useability; break out technical requirements into separate policies

2. Soils and Groundwater Data

- a. Section 7.5G allows the “compilation method” to use groundwater determination on neighboring lots if within 500-feet of the proposed OWTS and the conditions are similar.
 - i. **ACTION/AMENDMENT NEEDED:** This only applies to groundwater readings and NOT to soils or percolation tests. Finding ways to deliberately reduce costs and requirements where environmental and public health would not be compromised is critical.
 1. Expand to allow all relevant observations within 500-feet.
 2. Expand to at least allow flexibility in requirements given the area of the County; many areas have uniformity in soil types.
- b. Section 7.6B allows a **hydrometer test in lieu of a percolation test** on existing developed lots.
 - i. **SUPPORT:** This is a more cost-efficient alternative.
- c. Section 7.4H **significantly increases the requirements for the number of hydrometer tests** that are required during a soils evaluation. The changes as proposed present a significant increase in costs to the property owner without justification.
 - i. **OPPOSE:** Work with the technical community to reduce the number of hydrometer tests required; oppose requirement to collect soil samples from all holes and horizons that are considered for system development.
 1. Feedback from the Geotechnical Community
 - a. *This is not consistent with the procedures followed by geotechnical engineers and geologists for preparation of reports to support soil strength and slope stability for development recommendations. Lab samples are run to support field observations of soil profiles or borings based upon technicians’ judgement of the pertinent layers and representative soils.*
 - b. *One sample of each relevant horizon is sufficient. Relevant meaning to be used either for soil absorption (A or B horizon), proof of suitable subsoil (maybe A but typically B horizon), or in the rare case of fast perc (Zone 1 soil in the A horizon) to provide the barrier (B or C horizon) to protect deeper groundwater.*
- d. **Retention and Use of Data & Assessments:** The County has catalogued soil assessments since 1974 but cannot confirm records in a meaningful way. Soils analyses can cost \$5000 and are realistically only needed if no other information is available when a system needs to be repaired or upgraded, or unless major changes have occurred on-site. The County could relieve owners of assessments if 1. analyses were catalogued, and 2. used during OWTS evaluation. This lost opportunity to owners and the County is considerable – and fixable.
 - i. **ACTION NEEDED:** Direct the specific, consistent, and accessible cataloguing of soil and groundwater data and assessments collected by the County.

3. Timeline & Process Improvement

- a. **Average time to obtain a septic permit in 2019 was 13+ weeks** – this has **INCREASED** to an average of 16 weeks since November 2023. In January 2024, it was 36.69 average weeks to issue. The longer the timeline, the more costly and detrimental to owners and neighborhoods.

- i. **ACTION NEEDED:** Some septic permits immediately (and easily) went over-the-counter after the 2017 fires. Please consider expanding these process improvements.

6. New Amendments & Areas for Improvement

1. Prohibition on Variances

- a. These variance prohibition areas are decades old and date back to a time when OWTS codes were not very strict, and before there was scientific data on how OWTS remove various wastewater components. They were generally adopted due to perceived problems in certain geographic areas, and there was often poor documentation of the problems or whether a prohibition on waivers would actually address the problems. These have not been publicly/fully reevaluated since their adoption, and the original language could make meeting the requirements for replacement systems difficult in some areas.
 - i. **ACTION NEEDED:** Section 18 prohibits variances in certain geographic areas; the Department should evaluate the various prohibitions and commit to return with recommendations for changes when the one-year review of the OWTS Manual occurs.

2. 5. Interim Repairs Where Community System is Being Developed

- a. This has dropped out of the manual altogether. In the meantime, the Monte Rio/Villa Grande feasibility study is moving forward and **there will be a need for interim repairs.**
 - i. Section 20.4 incorporates language for “substantial conformance”. This would allow systems to be installed for developed properties that cannot comply with the OWTS manual but where the system represents the best available system to correct a failure of the existing system. **This is an excellent concept but it necessitates having a system which is very expensive and is not appropriate for an interim fix.** This section is most appropriate for properties where the replacement system will be a long term installation.
- a. **ACTION NEEDED:** Direct the development interim standards to be incorporated into this revision of the OWTS Manual.

Thank you for your efforts to reconcile your amendments with this proposal – your leadership will make a lasting difference in the viability of Sonoma County housing and in the lives of tens of thousands of owners. It is paramount that we adopt a legal, achievable OWTS Manual that protects water quality and public health without encumbering 30,000+ owners with avoidable or gratuitous requirements.

Please do not hesitate to contact **our organizations** with any questions and/or opportunities for engagement.

Respectfully,

Lisa Badenfort, CEO
North Bay Association of REALTORS®

Carol Lexa, Past President & LUAP Representative
North Bay Association of REALTORS®

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Sonoma County Farm Bureau???

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North Coast Builders Exchange???

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Engineering Contractors Association???

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Sonoma County Alliance???

cc:

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