



September 19, 2013



VIA EMAIL TO Clerk of the Board, commentletters@waterboards.ca.gov

Members of the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: 9/24/13 BOARD MEETING, Item 8, "Consideration of a proposed Resolution adopting emergency regulations revising the core regulatory fee schedules contained in Title 23, Division 3, Chapter 9, Article 1, Sections 2200, 2200.5 and 2200.6 of the California Code of Regulations – Oppose

Chair Marcus and Members of the Board:

Agricultural Council of California (Ag Council) represents approximately 15,000 farmers across the state of California, ranging from small, farmer-owned businesses, to some of the world's best known brands. We appreciate the opportunity to comment on the proposed core regulatory fee schedules for Waste Discharge Permit Fund to be discussed under item eight on the September 24, 2013 board meeting agenda.

Ag Council opposes the immediate proposed fee increases, and is also greatly concerned about the lack of stakeholder input into the longer-term program funding process. We propose both short term and long term solutions for consideration of the Board.

CAF & ILRP PROPOSED FEE INCREASES

In the short-term, Ag Council was disappointed to learn that the proposed fee increase for Confined Animal Facilities (CAF) was further increased very recently and is now a 46.4 percent increase above existing fees under the proposed rule. This is of great concern to our dairy members, in particular, because California has already lost 387 family dairies over the past five years. More than one-fifth of the dairies in California have closed over the past six years. Additionally, dairy dispersal sales are ongoing throughout the San Joaquin Valley throughout 2013.

The dairy industry is working very closely with members of the Legislature to find a solution to the crisis faced by many dairy families, while the California Department of Food and Agriculture continues to evaluate the current pricing system of California's dairy products. While we work on solutions in Sacramento, many dairy families in California cannot bear to incur additional business costs during this time.

Given the dire circumstances facing this industry, we respectfully ask that the Board freeze the CAF fees at the current 2012-13 levels while it reviews the proposed increases using the factors outlined under California Water Code Section 13260. Specifically, Section 13260(D)(v) directs the board to consider “The pricing mechanism of the commodity produced” in establishing the amount of a fee. Ag Council believes this factor and others under the code section would lead the Board to a different conclusion rather than the enormous increase in CAF fees.

In addition, Section 13260(D)(vi) further instructs the Board to consider “Any compliance costs borne by the operation pursuant to state and federal water quality regulations.” Ag Council is involved in a separate effort with the Board to review costs of compliance and--given the Board’s strong interest in this area--we encourage the Board to take into account compliance costs during this process including, but not limited to: reporting, monitoring, sampling, the creation of plans, administrative costs, consultants and upgraded equipment costs, among others.

Ag Council also urges the Board to freeze the Irrigated Lands Regulatory Program (ILRP) fees at 2012-13 levels while it reviews the proposed fee increase, which is increased by a massive 34.5 percent under the proposed rule. In some cases this is not only a doubling, but a tripling of fees for farmers in the irrigated lands program. Again, these increases do not stand alone since there are costs of compliance that are unseen. In irrigated lands, such costs include management practices and infrastructure costs like drip systems, return flow plumbing, land taken out of production for settling ponds and buffers. Additionally, many of the commodities in the ILRP program have a pricing mechanism that does not allow for much price flexibility, which should also be taken into consideration.

IMPROVE THE STAKEHOLDER PROCESS

In the long term, we ask that stakeholders be included in the discussion relating to funding of the various programs and potential fee increases earlier in the Board’s budgeting process. This year, the increase in fees was announced in mid-May, and a meeting with stakeholder groups was held on May 31. Our input could not be taken into account given that the budget was completed by the constitutional deadline of June 15.

Because the current process creates enormous uncertainty for our members due to a system in which we are unable to participate, Ag Council is very interested in working with the Board to affect change in the existing budget process in order to provide a stronger level of involvement for stakeholders earlier in the decision-making process. In particular, we ask for a commitment from the Board to work with us toward this end.

With General Fund monies no longer available to operate the Waste Discharge Permit Fund, it is our members and other similar groups and businesses that are paying into the Fund. Given this, it is appropriate to ask that stakeholders be granted a greater degree of participation during the Board's budgeting process regarding fees to support the Fund's programs.

In conclusion, it is disconcerting that the Board has chosen to focus so much on CAF and irrigated lands fee increases to support the Waste Discharge Permit Fund. We encourage a reexamination of the proposed fees in these categories as discussed in our comments and ask that in the future stakeholders be included in the discussion relating to fee increases earlier in the Board's budgeting process.

Thank you for your consideration of Ag Council's comments. Should you have any questions, please call me at (916) 443-4887. We look forward to working with the Board as it moves forward on these issues.

Sincerely,

A handwritten signature in black ink that reads "Emily Rooney". The signature is written in a cursive, flowing style.

Emily Rooney
President