

Central Coast Water Quality Preservation, Inc.

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August 27, 2010

Mr. Jeffrey S. Young
Board Chair
California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Re: Proposed Order regarding Irrigated Agriculture

Dear Chairman Young,

Central Coast Water Quality Preservation, Inc. manages the Cooperative Monitoring Program as part of the existing Ag Waiver. CCWQP has worked with regional farmers and RWQCB staff throughout the Ag Waiver renewal process. While many of the issues regarding the proposed Ag Waiver deal with agricultural, water quality regulatory and operational considerations, a significant portion of the new proposed order and the associated MRP deals with water quality monitoring. The comments provided by CCWQP only address monitoring and technical matters.

CCWQP is grateful for several opportunities to meet and correspond with RWQCB staff subsequent to the release of the new proposed Ag Waiver in November. These opportunities helped us to focus our comments on the proposed order and to recognize areas where our understanding of what was proposed varied from that of RWQCB staff.

1. Proposed Order

- a. Definitions: The proposed order contains several pages of definitions, however some key words and phrases are either not defined or require further definition to avoid confusion after adoption of the order.

“Aquifer”, “upper most aquifer” (see MRP pg 16) and “waterbody” are not defined. Of particular note is the lack of clarity on “Aquifer”. For example in the Salinas Valley the Monterey County Water Resources Agency reports the 180 foot aquifer as the upper aquifer. It is unknown what these words mean as far as the application of the proposed Order and MRP.

- b. Nitrate Hazard Index: At page 44 of the definitions the Nitrate Hazard Index is referenced to the University of California, Center for Water Resources which is based on a formula considering crop, irrigation system and soil type. However,

page 33 of the order, Table 2, cites something called the UC Riverside Nitrate Hazard Index. At page 44 of the definitions, the formula has been changed to use crop, irrigation system and irrigation water nitrate concentration to calculate the rating. This second formula does not seem to be supported by any citations in Appendix J – References, nor could support for substituting irrigation water nitrate concentration be located in an extensive search of published literature. The substitution of water nitrate for soil type does not seem to be justified and biases the formula with inclusion of nitrate concentration. Furthermore, no support could be found for the scoring set forth at page 33. The UC Index uses a scoring of 1 to 80, with 20 and lower to be of “relatively minor concern”.

- c. “1000 feet of a surface waterbody” and “adjacent to ... a waterbody” as used to define the tiers (page 10-12) need further clarification. These phrases were discussed with RWQCB staff as they are confusing when applied to many farms that are next to a levee which separates the farm land from a nearby river. Also some farms have been laser leveled to drain away from the nearest waterbody, into private ditches that do not directly drain into the waterbody. It would be better to modify the two phrases to include the distance water leaving the farm must travel to reach the waterbody. So a farm separated from the Pajaro River by a levee with tailwater draining along a private ditch for a half mile before it can enter the Pajaro would not be either “adjacent” or “within 1000 feet” of the waterbody.

2. Monitoring and Reporting Program

- a. Cooperative Monitoring Program (CMP) is not specifically addressed in the MRP. Discussions with RWQCB staff indicate that the phrase “Receiving Water Quality Monitoring” as used in the MRP at page 3 is similar to the existing CMP and that most growers would elect to have a third party conduct Receiving Water Quality Monitoring similar to the way CCWQP manages the current CMP. However, the MRP is confusing in that Part I is titled “Monitoring Requirements for all Dischargers”. To avoid confusion, as Part II appears to be cumulative to Part I, an explanatory paragraph could explain in more detail that Part I, excluding the section on groundwater sampling, applies to the CMP and only to those growers that do not elect to participate in the CMP. Likewise, Part I, B, dealing with groundwater sampling could be clarified to state that it applies to all dischargers with an irrigation or domestic well.

These comments also apply to Part IV, A – E at pages 9 through 11. Of particular note would be clarification that Part IV, C, Exceedance Report, applies only to the CMP manager and those farmers that do not elect to participate in the CMP, not to all Tier 3 growers who have to conduct individual on farm monitoring. Part IV, F, should have a separate heading to distinguish it from the “Receiving Water Quality Monitoring.”

- b. Parameters and Tests. (MRP pages 19 to 23)
 - i. Stormwater sampling (page 19): CCWQP presently conducts monthly monitoring, which includes 2 stormwater events. The proposed monitoring calls for 12 monthly samples plus 2 stormwater events. This

will increase the cost of this portion of the program without adding any data which is not currently obtained. It is recommended that the monitoring remain at monthly including 2 stormwater events within the winter monthly monitoring.

- ii. Pathogens (page 20): The proposed MRP calls for quarterly and 2 stormwater testing (6 times per year) at CMP sites each year for fecal coliform and E. coli. This monitoring is not warranted as there is no showing that either class of pathogens is present in irrigated agricultural discharges. There is ample evidence that both pathogens are present in runoff from livestock and in urban stormwater. Many existing CMP sites are down stream from either livestock or urban locations and would most likely show the presence of the two pathogens from these sources, not from agriculture. The RWQCB staff report entitled *CEQA Scoping Meeting and Public Workshop for the Pajaro River June 20, 2007, Fecal Coliform TMDL* stated at page 11:

“Irrigated Agricultural Lands Staff reviewed water quality data and other information in an effort to determine whether irrigated agriculture is a source of indicator bacteria. *Data and information suggest that irrigated agriculture is not a source of indicator bacteria causing exceedance of water quality objectives.*(emphasis added) Growers in the project area are highly aware of food safety issues as their livelihood depends on providing a crop that is safe for consumers. As such, growers practice methods that minimize the potential of crop contamination. Staff observed conditions within the watershed and did not document land or field practices that would result in a controllable discharge of indicator bacteria to surface waters. Staff is proposing that discharges from irrigated lands in the project area are not causing exceedance of water quality objectives related to indicator bacteria.”

It is recommended that both pathogens be eliminated from the MRP to be consistent with the staff findings dealing with prior work on Fecal coliform TMDLs.

- iii. Metals (page 21): The requested metals are not used in commercial agricultural operations and should not be included in the monitoring program.
- iv. Phenol (page 21): Review of the references cited in Appendix J did not reveal any support for the premise that phenols are causing toxicity or other impairments to water as a result of agricultural discharge. There are no findings supported by reviewed research that phenol is causing a impairment to water quality in the region. Furthermore, there are no findings that phenols are present in the water as a result of irrigated agriculture. For these reasons, phenol should not be included in the list of parameters and tests.

- c. Individual Monitoring for Tier 3. CCWQP does not endorse individual reported on farm monitoring and does not take a position on the merits of this concept in the proposed Ag Waiver. CCWQP does have some comments on the applicability of some of the Tier 3 monitoring as proposed in the draft order as it applies in the field and for the purposes of obtaining meaningful data through any such monitoring.
- i. Part III at page 8, paragraph 6, is uncertain as worded. It is not clear what is meant by “must select monitoring points to characterize a representative sample of at least 80% of the estimated irrigation run-off discharge volume from each farm/ranch ...” Discussions with RWQCB staff indicate that the objective of this paragraph is to reasonably characterize discharge and that the grower needs to use individual discretion to determine that the samples and monitoring location reasonably characterize discharge. Possibly it would be better to require monitoring at the “principal point of discharge” with a narrative note justifying the timing and location of the monitoring point.
 - ii. Part III, A, 9, dealing with High Nitrate Loading Risk to groundwater, directs that the grower verify the effectiveness of the INMP “in protecting groundwater quality and achieving water quality standards for nitrate.” This is an impossible request given the limited ability of a grower to extrapolate lysimeter and soil monitoring for this goal. The objective of the paragraph would remain the same if the quoted phrase was deleted.
 - iii. The provisions regarding the Water Quality Buffer Plan, Part VI, F (page 16) are internally inconsistent. The first sentence states that a Buffer Plan is “required for subset of Tier 3 Dischargers that have operations that contain or are adjacent to waterbody impaired for temperature or turbidity.” This is the same as the description of the Water Quality Buffer Plan in the proposed Order at page 27, paragraph 92. However, in the MRP, at Part VI, F, subparagraph 1, the definition is changed to “Tier 3 Dischargers located within 1,000 feet of a water body and in the drainage area of a waterbody...” This expands the scope of Tier 3 growers subject to this provision and is contrary to the proposed Order. Again, the buffer requirement is unclear as to its applicability if the farm is separated from the waterbody by a levee or other drainage ditch which does not allow discharge to flow directly from the farm to the waterbody.
 - iv. Individual Monitoring for Toxicity (page 23): The staff report states that the primary source of surface water toxicity in agricultural waterbodies is resulting from Chlorpyrifos and/or Diazinon. The proposed Individual Monitoring includes testing for both OP’s and two additional toxicity tests. The toxicity testing is redundant and very expensive. Therefore, it is recommended that if OP testing is conducted the two species toxicity testing be eliminated from this procedure.

There are many other issues which individual growers or agricultural trade associations may raise as to the technical and monitoring provisions of the proposed Order and MRP. However,

CCWQP believes that these issues are beyond the scope of an organization which may manage the new Receiving Water Quality Monitoring Program proposed by the draft Order and MRP.

Should you, your board members or RWQCB staff have any questions regarding the matters outlined above please contact me.

Thank you for the opportunity to comment on the proposed Ag Waiver Order and supporting documents.

Sincerely
Central Coast Water Quality Preservation, Inc.

A handwritten signature in black ink, appearing to read "Kirk F. Schmidt", with a long horizontal flourish extending to the right.

Kirk F. Schmidt
Executive Director

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