

COUNTY OF SANTA BARBARA



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EXECUTIVE OFFICE

Email: AgOrder@waterboards.ca.gov

Howard Kolb, Agricultural Order Project Lead Staff
California Regional Water Quality Control Board - Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

Re: Subsequent Environmental Impact Report for the Regulation of Waste Discharges from Irrigated Lands (Order No. R3-2011-0006)

Dear Mr. Kolb:

The County is cognizant of the important responsibility that the Central Coast Regional Water Quality Control Board has in protecting the State's water and ensuring that the opinions of the many different stakeholders are taken into consideration. Accordingly, the County wishes to be part of the ongoing dialog regarding the regulation of waste discharges from irrigated lands and help facilitate opportunities for its varied constituents to participate in the process.

As the first step in such a process, the County is submitting comments from the Planning and Development Department and Public Works Department-Santa Barbara County Flood Control and Water Conservation District regarding the SEIR for your consideration. In addition, the County would appreciate the opportunity to review and comment on any forthcoming revisions to the SEIR.

In order to help engage the community on this issue, the County respectfully requests that the Central Coast Regional Water Quality Control Board extend the time period for submittal of comments on the Draft Agricultural Order No. R3-2011-0006 and Draft Monitoring and Reporting Program by 90 days. The additional time will provide County staff with an opportunity to consult with the agriculture community, environmental groups and other interested organizations.

Thank you for the opportunity to submit these comments. The County looks forward to continued dialog on this matter. If you should have further questions, please do not hesitate to contact my office directly at (805) 568.3400.

Sincerely,

for Sharon Friedrichsen

Chandra L. Wallar
County Executive Officer

cc: Glenn Russell, Director, Planning and Development Department
Scott McGolpin, Director, Public Works Department
Cathleen M. Fisher, Agriculture Commissioner/Director of Weights & Measures, Agricultural Commissioner's Office
Nick Bruckbauer, Development Review Engineer, Flood Control Water Agency

Enclosures:

Planning and Development Department letter, December 20, 2010

Public Works Department, Santa Barbara County Flood Control District letter, December 17, 2010

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County of Santa Barbara Planning and Development

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December 20, 2010

Howard Kolb
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895 Aerovista Place, Suite 101
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Re: Subsequent Environmental Impact Report for the Regulation of Waste Discharges from Irrigated Lands (Order No. R3-2011-0006)

Dear Mr. Kolb:

Thank you for the opportunity to comment on the Subsequent Environmental Impact Report (SEIR) for the Regulation of Waste Discharges from Irrigated Lands. The Planning and Development Department offers the following comments for your consideration:

General Comments

The SEIR should include a Mitigation Monitoring and Reporting Program (MMRP) required pursuant to CEQA. The document should also profile the timeline showing the sequence of events for the proposed project since initial adoption of the 2004 Agricultural Order in July 2004 through release of the SEIR. The SEIR repeatedly refers to a prior staff report and appendices. The relationship of these documents should be discussed in the SEIR and any appendices used for analysis in the SEIR included in the document. There are multiple references in the SEIR when the reference is listed as see "Error! References source no found." This should be corrected to refer to the document title.

2.3. Project Location

Figure 1. illustrates a regional map showing the general project area with irrigated agricultural lands with Prime, State and Unique Farmland in white shaded areas. The scale of this map, which includes the Santa Cruz, San Benito, Monterey, San Luis Obispo and Santa Barbara counties makes it difficult to identify the location of affected parcels for this proposed project. CEQA Section 15128(a) requires that a project description identify the precise location and boundaries of the proposed project shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map. The SEIR should contain individual detailed maps illustrating the precise location and boundaries of the proposed project for each

affected county. Additionally, a table listing all affected Assessor Parcel Numbers (APN's) for each County should be included in the SEIR. In the absence of a detailed map for Santa Barbara County identifying irrigated agricultural lands, and a listing of all affected APN's analyzed under this SEIR, the County is currently unable to ascertain affected parcels for the proposed project.

2.4. Description of the Project (Renewed Order)

The SEIR states that the proposed draft 2011 Agricultural Order groups farm operations, or dischargers, into three tiers with various compliance requirements. Countywide detailed maps identifying affected APN's within each distinct tier should be included in the SEIR. In the absence of such detailed maps, the County is unable to ascertain parcels affected by the proposed tier grouping for the proposed project.

3. CEQA Authority for the Subsequent Environmental Impact Report

Table 1. Changes in Environmental Checklist from 2004 Agricultural Order to the 2011 draft Agricultural Order should be expanded to include a column that identifies mitigation measures that will reduce impacts to "less than significant" with mitigation for agricultural resources. Furthermore, biological resource impacts and mandatory findings of significance which identify "potentially significant impacts" should clarify if these impacts can be reduced to a level of "less than significant" with mitigation. If mitigations are proposed, these should be included in the table. As currently written, it is not clear whether these impacts are "significant and unavoidable."

4. Potential Impacts

The SEIR presents contradictory statements concerning environmental impacts resulting from the proposed project, as noted below:

The approval of the proposed draft 2011 Agricultural Order generally will not result in adverse environmental impacts as contemplated in CEQA¹...However, renewal of and revisions to the 2004 Agricultural Order could result in potentially significant adverse environmental impacts with respect to agricultural resources and biological resources²...The revisions to the project may, in fact, not result in new more severe environmental impacts³...The Water Board staff has not received any specific evidence by commenter's and has little evidence in the record to demonstrate conclusively that the proposed draft 2011 Agricultural Order will result in significant adverse environmental effects on agricultural or biological resources⁴...The Water Board staff expects that compliance with the proposed draft 2011 Agricultural Order will result in significant beneficial impacts on the environment⁵...The revisions to the project may, in fact, not result in new more severe environmental impacts⁶...There is not sufficient information to determine the scope of any changes in environmental effects and any potential

¹ Subsequent Environmental Impact Report for the Regulation of Waste Discharges from Irrigated Lands (Order No. R3-2011-0006), November 2010, at 7.

² Id at 8.

³ Id at 8.

⁴ Id at 8.

⁵ Id at 8.

⁶ Id at 8.

impacts are very speculative⁷...In addition, even if all dischargers take the same actions, the adverse environmental impacts may be less than significant.⁸

Table 1. Changes in Environmental Checklist from 2004 Agricultural Order to the 2011 draft Agricultural Order clearly identifies “potentially significant impacts” and impacts that can be reduced to “less than significant” with mitigation. This information should be reconciled with the above statements to definitively indicate what adverse environmental impacts will result from the proposed project. The SEIR should identify, disclose and mitigate for impacts resulting from this project.

Section 4.1 Agricultural Resources

Section 4.1.1 Introduction

The SEIR should include a table illustrating the number of acres of irrigated farmland categorized by Prime Farmland, Farmland of Statewide Importance, Farmland of Unique Importance for each county analyzed in this SEIR.

The SEIR states that potential impacts to Farmland of Local Importance were not considered “because these lands are not irrigated and therefore not included in the Agricultural Order.”⁹ In Santa Barbara County, many dry farm crop areas have been converted to irrigated crops, especially in the central and northern part of Santa Barbara County. For example, from 1995 to 2005, wine grape acreage increased more than 12,000 acres while dry farming decreased more than 14,000 acres.¹⁰

The SEIR appears to only rely upon California Department of Conservation 2008 Important Farmland maps which provide data on soil type and land use for agricultural parcels. These maps are only updated every four years and as such the SEIR should include local agricultural land use data updated annually by municipalities in the affected counties. For example, the County of Santa Barbara Agricultural Commissioner’s GIS database crop layer should be used in analyzing the proposed project.

This information can be found at <http://www.countyofsb.org/agcomm/default.aspx?id=11588>.

Section 4.1.2 Williamson Act and Farmland Security Zone Contracts

The section discusses the Williamson Act but does not address potential impacts to land enrolled in the Williamson Act. The SEIR should include analysis of the proposed project on lands enrolled in Williamson Act contracts within the project area.

4.1.3. Analysis

The SEIR references Appendix F of the Draft Staff Report for the Draft Agricultural Order as a source of information regarding analysis of proposed riparian habitat buffers. It is unclear if Appendix F is intended to substantiate the conclusions drawn in the environmental document as this information is not provided as an appendix to the SEIR. Analysis for this section should be

⁷ Id at 8.

⁸ Id at 8.

⁹ Id at 9

¹⁰ Santa Barbara County AREA Study, 2007

included as an appendix in the SEIR with a discussion of the relationship of this information to pertinent sections of the document.

The SEIR should include analysis of the proposed project and recommended mitigation measures for operators that participate in the California Leafy Green Products Handler Marketing Agreements (LGMA). The California Department of Food and Agriculture (CDFA) provides oversight of the LGMA which promotes food safety practices designed to reduce the sources of potential contamination on farms or fields. Recommended methods for compliance with the proposed project include riparian habitat buffers and sedimentation basins. These options should consider compatibility with the requirements of the LGMA for operators in the proposed project area.

Riparian Habitat Buffers

The SEIR acknowledges that agricultural resources and farmland could be converted to non-farm uses due to new conditions, such as requiring buffers, or due to economic impacts that result in selling of farmland for other uses.¹¹ The document further states that dischargers may choose to install riparian habitat buffer strips to comply with the Order which could result in taking land out of crop production.¹² The SEIR indicates that approximately 82 to 233 acres of agricultural lands would be taken out of production as a result of the installation of riparian habitat buffers. The SEIR should include a table documenting these 82 to 233 acres, identified by APN's and by county.

A total of four mitigation measures are presented that will reduce to a level of less than significant the conversion of farmland and agricultural resources:

Mitigation Measure #1 Dischargers could choose to install other practices besides buffers to insure turbidity, sediment and temperature water quality standards are met.¹³

This measure recommends "other practices" however presents no analysis or information as to what these practices might be and how they would effectively mitigate for the conversion of agricultural resources and farmland. The SEIR should include a description and analysis of these "other practices" with a discussion on their effectiveness in mitigating impacts to agricultural resources.

Mitigation Measure #2: Dischargers could plant ground cover, berry bushes and/or fruit/nutbearing trees which would serve as both agricultural land as well as a buffer. The land would not be converted to a non-agricultural use because it would still generate economically viable produce, but would function as a buffer. This buffer containing agricultural land would need to meet the requirements of the Agricultural Order.

¹¹ Id at 8.

¹² Id at 12.

¹³ Id at 13.

This statement assumes that planting ground cover, berry bushes and/or fruit/nut bearing trees on parcels subject to the requirements of this order would result in economically viable produce. There is no discussion of the cost to install, maintain and harvest these crops. Furthermore, it is unclear if any of these recommended buffer crops would require irrigation and as such be subject to the requirements of the Agricultural Order. Additional analysis of this measure should be included in the document.

The SEIR should further analyze this measure and provide a list of appropriate and acceptable buffer crops, identify cost to install, maintain and/or harvest for potential economic profit, and substantiate how this measure reduces the conversion of farmland or agricultural resources to a level of less than significant.

Mitigation Measure #3: Dischargers could eliminate any activities that cause erosion, generate sediment, or otherwise may cause or contribute to exceedances of water quality standards for turbidity, sediment and temperature, near a waterbody so may not need to install a buffer.

The SEIR should identify the types of activities for this measure that cause erosion, generate sediment, or otherwise may cause or contribute to exceedances of water quality standards for turbidity, sediment and temperature, near a waterbody which, when eliminated, effectively mitigate this impact to a level of less than significant. Additional analysis of this measure should be included in the document.

Mitigation Measure #4. Dischargers may choose to install a riparian habitat buffer and find that it decreases erosion on the farm and serves to help maintain soil and sediment on the farm (2000 Information Manual Riparian Vegetation Management for Pierce's Disease in North Coast California Vineyards).

The SEIR should identify the types of riparian habitat buffers that decrease erosion. There is no discussion of the type of vegetation, maintenance requirements, and/or irrigation needs for buffers that will help maintain soil and sediment on agricultural lands. Furthermore, there is no analysis demonstrating that this measure will effectively mitigate this impact to a level of less than significant. Additional analysis of this measure should be included in the document.

Sediment Basins

It is unclear if the use of sediment basins is an agricultural resource impact or is presented as a mitigation measure. "Staff does not anticipate the installation of sedimentation basins taking a large amount of land out of production and does not find this impact to be significant."¹⁴ The SEIR should clarify if sediment basins are proposed as a mitigation measure to reduce the conversion of farmland or agricultural resources to a level of less than significant. As a mitigation measure additional discussion should be included which defines the thresholds which trigger the use of a sediment basin, appropriate type, size, level of permanence, cost to install, maintain and/or remove etc.

¹⁴ Id at 13.

Conversion due to Economic Pressure

It is unclear if conversion of agricultural resources or farmland due to economic pressure is considered an agricultural resource impact. It is possible that the economic burden of new requirements for the draft 2011 Agricultural Order (i.e. fees paid for required studies and monitoring) and compliance (implementation of mitigation measures) may result in some agricultural businesses ceasing operations. This may result in conversion of agricultural land to non-agricultural uses, particularly where those agricultural lands are nearby or adjacent to urban or suburban uses.

The SEIR presents five activities that operators may adopt to reduce the cost of compliance with the proposed project. No analysis is presented which substantiates the relationship between implementation of these five activities and mitigation for potential loss of farmland and agricultural resources. The SEIR should clarify whether conversion due to economic pressure is an impact and provide additional analysis on measures that will mitigate this impact.

4.2. Biological Resources

This SEIR acknowledges that the proposed project "...could result in reduction in surface water flows that could in turn result in potentially significant adverse environmental effects on biological resources that would be more severe than identified in the Negative Declaration for the 2004 Agricultural Order."¹⁵ This section also indicates

Staff finds that implementation of the Order will have a net positive impact on biological resources, including reduction of pollutants in receiving water and groundwater and overall habitat improvements.

It is unclear from the narrative presented in this section what impacts were identified and what, if any, mitigation measures are proposed. Table 1. Changes in Environmental Checklist from 2004 Agricultural Order to the 2011 draft Agricultural Order identified potentially significant impacts for Biological Resource areas A, B, C, and D. Table 1 should be expanded to include mitigation measures for potentially significant impacts to biological resources as well as beneficial impacts.

4.3. Mandatory Findings of Significance

The SEIR recommends that Mandatory Findings of Significance be changed from no impact to potentially significant impact. The SEIR should analyze, disclose, and mitigate for the potentially significant impacts identified in this document.

5. Discussion of Climate Change

This section contains a discussion that provides no analysis of greenhouse gas emissions associated with the proposed project and recommended mitigation measures. Furthermore, the document concludes that there will be "no impact" as a result of the proposed project. This section should be expanded to include a thorough discussion, analysis, disclosure and mitigation for any adverse environmental impacts associated with greenhouse gas emissions.

¹⁵ Id at 23.

6. Discussion of "No Impacts" Finding

Pursuant to CEQA Guidelines Section 15128 the SEIR should include a discussion of the issues that were found not to be significant associated with the revisions to the agricultural order. This section states

This SEIR addresses only those impacts found to be potentially more severe than previously identified in the 2004 Negative Declaration. See attached 2004 Negative Declaration for discussion of no impacts.

A new Initial Study or other analysis which explicitly addresses the findings in CEQA Section 15162 is necessary in order to substantiate the conclusion that no other impacts in the 2004 Initial Study and Negative Declaration for the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands remain less than significant. The information as presented in the SEIR is unsubstantiated and conclusory.

8. Alternatives

This section indicates that alternatives are discussed in Appendix I of the Draft Staff Report recommending the Draft Agricultural Order. Appendix I should be included in the SEIR as an appendix to the environmental document. The absence of this information as an appendix of the SEIR precludes substantive review of project alternatives.

9. Cumulative Impacts

This section refers to an evaluation of worst case scenarios with respect to agricultural and biological resources as discussed in a document that is not identifiable. The line item listing this document states "Error! Reference source not found." This section should be corrected to include the name of the document used to analyze cumulative impacts and this document should be attached as an appendix to the SEIR. The absence of this information as an appendix of the SEIR precludes substantive review of cumulative impacts

The County looks forward to continued dialogue on this project. If you should have further questions, please do not hesitate to contact my office directly, or Jeff Hunt, Director of Long Range Planning Division, at (805) 568-2072.

Sincerely,



Glenn Russell, Ph.D.

Director of Planning and Development



Santa Barbara County Public Works Department
Flood Control & Water Agency

December 17, 2010

Howard Kolb, Agricultural Order Lead Staff
California Regional Water Quality Control Board, Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

**RE: Draft Order, Monitoring and Reporting Program, Staff Report,
and Subsequent Environmental Impact Report
for the Regulation of Waste Discharges from Irrigated Lands**

Dear Mr. Kolb:

Thank you for the opportunity to review the subject documents. The Santa Barbara County Flood Control District has the following comments.

The Santa Barbara County Flood Control District owns and maintains several drainage ditches, channels, and basins throughout the County that are adjacent to agricultural lands. We have concerns that the new regulations could put additional maintenance and/or monitoring responsibilities on the District that may be infeasible.

It would be helpful if the subject documents would identify more clearly what, if any, additional requirements would be placed on the local agencies and Flood Control Districts.

Please let us know if you have any questions or concerns.

Sincerely,

SANTA BARBARA COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT

By: 

Nick Bruckbauer
Development Review Engineer

RAR_Agricultural Order