



January 3, 2011

Mr. Jeffrey S Young, Chairman of the Board
Mr. Roger Briggs, Executive Officer
California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Via email: AgOrder@waterboards.ca.gov

Dear Mr. Young and Mr. Briggs:

In response to the comment period as provided for in Draft Order NO. R-3-2011-0006 Conditional Waiver of Waste Discharge Requirements for Irrigated Lands, the nursery, greenhouse growers and cut flower growers within the agricultural coalition would like to bring our concerns to the attention of the board.

Represented by the California Association of Nurseries and Garden Centers (CANGC) and the California Cut Flower Commission (CCFC), this particular segment of the coalition has particular crops and growing infrastructure that is unlike traditional agriculture.

Major distinctions include:

- [Implemented runoff water recapture and recycling technologies](#)
- [Highly efficient irrigation systems](#)
- [Ongoing implementation of new methodologies/best management practices](#)
- [High percentage of containerized growers](#)

In general, we feel the tiered discharger format as defined in the draft order is a workable program, however we offer the following comments for your consideration to mitigate our specific concerns.. CANGC and the CCFC are committed to working with the board staff to make this program work. We want to assist the board to help us facilitate this work and it is in that spirit that we highlight the following concerns.

One concern that has come up repeatedly is the issue of staff's ability to manage a program of this magnitude. In that context, will the staff be able to process appeals for operations requesting a change in tier level in a timely manner (Draft Order item 13)? For example, we anticipate that many of our farms are qualified as Teir 1, however as it stands, according to the draft order many farms face an immediate Tier 2 qualification due to a portion of their operation or property within proximity to an impaired water body. The farm may not discharge any constituents of concern or may not

discharge at all but would automatically be placed in a higher tier until an appeal to the Executive Officer is heard. What does staff anticipate the timeline will be for this appeal process? Is the staff prepared to quickly qualify these farms into Tier 1 based on known practices for nursery and greenhouses? Is there any data that our growers could/should have prepare in advance for submittal of a streamlined appeal process?

The tier level criteria of 1000 acres is referenced as an aggregate of proximal/adjacent land with similar characteristics in DO item 15. It states that the Executive Officer may ask that this condition be enrolled as a single operation. This could be problematic as to crops and operational requirements that are quite different. Grower input suggests that this may be a bigger issue than originally thought since many growers also rent and lease out portions of their parcels and these parcels may have several different operators and crops (including organic growers). Since this is a "may" statement we are under the assumption that any situation that may arise in this area of concern will be addressed on an individual farm by farm basis in a timely manner since it also may impact tier level.

In the DO Part B Prohibitions that apply to all Dischargers item 28 and Part F items 67a-c,68, 69,70 all may require permitting from one or more other agencies. This process(s) can take an extraordinary amount of time. Will the staff be able to expedite this process with other agencies such as DFG, ACOE and various county agencies?

There are many references to proper use of pesticides and the specific prohibition of two materials in reference to tier level criteria. The nursery, greenhouse growers and cut flower industries are governed under state laws that mandate certain levels of cleanliness for weeds, insects and disease pests. In many cases, that requires the use of certain pesticides. In some cases such as California interior quarantine protocol mandatory use specifies the pesticide, rate and frequency of use required to meet the compliance requirements (LBAM, GWSS). The board and staff need to be aware of this issue since it has caused a conflict in compliance with other agencies in the past. The safe and proper use of pesticides is a requirement not only in regard to water quality but is regulated by CDFA and DPR. The continued advancement of analytical equipment and detection levels of pesticides is now down to parts per trillion. A rational and practical application of sampling data will be needed to determine any actual impairments. This is an area of debate and will probably be one point that we as a team will have to work on.

Other issues of concern include the determination of any particular entity's contribution of contaminants (COC) in ground water aquifers. In some cases the water in an unrestricted aquifer may have contributors outside the boards jurisdiction. We also have concerns that septic systems and live stock operations may not be accounted for in the determinations of levels of contribution. This also brings up the documentation of wells on and around particular sites. Well ordinances in the various counties range from quite strict to non existent. The staff will need to clarify any proposed requirements and their specific relevance in this regard.

Another concern is storm water migration onto an individual property from above gradient. How will this situation be viewed by the staff?

Many of the growers in our group have irrigation runoff recapture and recycling systems. These systems can be up to 99.9% effective in reducing runoff from a property. They are, by nature, more concentrated with certain nutrients and thus have a greater salinity over time. There can be a

random discharge usually due to a power or pump/equipment failure. There may also be a need to discharge in order to dilute the salinity build up. How will the board view this sort of issue?

It is assumed at this time that any enrolled private party/company will be solely governed by the RWQCB and the wavier agreement. How will outside litigation (civil/criminal) of an enrollee by a third party be treated? This is allied to the question of individual reporting to the board being public record. Many of our growers have no issue with reporting but are distrustful of overly zealous "environmental organizations" attempting to subvert the wavier program and doing their own litigation based on their interpretation of reported data. [We would expect protection through an aggregate method of reporting due to the potential of proprietary or individual farm operating information being made public, which increases unnecessary risk of unwanted litigation.]

In the findings of the draft order, there is reference to water quality impacts from agriculture. We would like to have from the board a breakdown of the contributions of impairment by "type" of agriculture so as to establish a baseline starting point on which to measure any improvement or lack of improvement going forward.

We would like to bring to the board's attention certain technical details of concern that were previously submitted by Central Coast Water Quality Preservation Inc in a letter to Board Chairman Young dated August 12 , 2010 (find attached). CANGC and CCFC constituent growers strongly agree with the points presented in that document.

We would also like to bring to the board's attention that many growers with whom we represent are expressing that they feel the process by which the staff formulated the new draft order was not reflective of agricultural stakeholders' input. Specifically, a coalition of agriculture stakeholders has spent countless hours developing an alternative proposal that in many ways complements the Water Board's effort and offers practical alternative methods to improve water quality that deserves due attention.

Again, thank you for your consideration of our concerns. We look forward to working with the board and staff to come up with a workable resolution to continue water quality improvements within the Central Coast Regional watershed.

Sincerely,



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