



April 26, 2016

Laurie Taul, Environmental Scientist
Confined Animal Facility Program Manager, Planning Division
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Comment on Tentative Order No. R2-2016-00XX, General Waster Discharge Requirements for Confined Animal Waste

Dear Ms. Taul,

On behalf of the Sonoma County Horse Council, I am providing this comment on the subject proposed Order during the prescribed public comment period.

The Sonoma County Horse Council (SCHC) was founded in 1993 to be a central organization to advocate for Sonoma County horse owners and businesses and to protect our mutual interests. The SCHC is a non-profit organization whose mission is to promote the health and well-being of horses and all aspects of the horse industry in Sonoma County.

The SCHC respects and honors your agency's role in protecting waterways and water quality in California and indeed, the "health and well-being of horses" depends on it. We also very much appreciate and applaud the notable effort you and your agency have made to reach-out to stakeholders about these proposed regulations.

At this time, we offer these comments and suggested changes to the proposed regulatory language. **Our principal concern is the scope of applicability and some perceived ambiguity about that scope, especially as pertains to small-scale horse operations.** For instance, ¶4 under Scope of Coverage (p.1) states "commercial CAFs" are covered by the regulation including (4.c): "Other, existing CAFs, that the Water Board determines need coverage under this Order due to size, location, and/or threat to water quality." The term "commercial" is not defined and this is problematic for the horse-owner community. It is commonplace for a property owner who owns one or several of their own horses to board one or several other horses, often to defray the cost of maintaining their horses. Strictly speaking, this is of course a "commercial" operation. However, in this very typical arrangement, the property owner or operator does not have a business license, land use permit or other "commercial" license or

registration. Is it your intent to cover this category of “mom & pop” operations? Moreover, this paragraph provides your agency the ability to designate any CAF as covered under the regulation based on “size, location, and/or threat to water quality”. Those first two criteria appear vague and perhaps in need of definition or qualification or even, perhaps, elimination. Is not “threat to water quality” adequate and indeed, the over-arching purpose of the Order? We appreciate that “size” and “location” are factors in assessing the threat to water quality, but there are a host of other factors not listed.

It appears possible that it is not the intent to include the “mom & pop” small-scale horse operations within the covered scope. This is based on ¶3 under Required Reports and Notices (p.21) entitled “Notice of Non-Applicability”. We offer several suggestions here because this is both a key section for small-scale horse operations as well as the section that is arguably the vaguest and most ambiguous. First, as a matter of document construction, a “mom & pop” operator, if provided the Order, would likely search through it for a section on exemptions, waivers or applicability to ascertain if their small operation was subject to the Order. A sub-section entitled “Notice of Non-Applicability” under the section “Required Reports and Notices” does not inform the reader that this is, in fact, the exemption/waiver/scope area of interest. We’d suggest this sub-section be moved under Scope of Coverage and perhaps re-named “Coverage Exemptions” or other plain language that clearly reflects the content and purpose.

Second and substantively, under Notice of Non-Applicability, the language states that a CAF owner or operator may apply for an exclusion from coverage if their operation meets one or more of several provided criteria, including 3.a: “Number of animals within confined areas is minimal and poses no potential for adverse water quality impact”. The use of the term “minimal” here is highly problematic. For example, in practice, cattle ranchers may think under 50 head are clearly minimal operations whereas 50 horses on a property is generally seen as a large operation. In general, reasonable people may disagree by orders of magnitude about what constitutes “minimal”. We strongly urge you to avoid inherently subjective terms like “minimal” and use actual numbers or ranges, even if they are representative or illustrative and not necessarily definitional. Further, in this context, it may be advisable to list different numbers of animals by species because 10 chickens would appear to provide a far less intense threat to water quality than would 10 head of cattle, as a simplistic example.

Lastly on this point, our strongest recommendation. Namely, that the Order provide for a categorical exemption of small-scale operations rather than, as written, the requirement that any and all commercial CAF’s, no matter how small, either comply with the Order or prepare and submit a Notice of Non-Applicability form to request exclusion. A categorical exemption/exclusion could be granted to any horse boarding CAF of, say, up to ten horses provided that the operation has not been, or is subsequently characterized as, a “threat to water quality.”

This categorical exclusion would eliminate coverage for the vast majority of “mom & pop” horse operations. Read in its totality, the Order appears to be principally designed to target dairies and larger CAF’s that pose the greatest threat to water quality. Thus, this categorical exemption would have zero or negligible negative impact on the Order’s impact and desired results.

A 2014 economic study of the Sonoma County equine sector commissioned by the SCHC and done by Sonoma State University contains some data that illustrates the ubiquitous “mom & pop” nature of the local horse community. First, over 75% of survey respondents owned three or fewer horses and almost 96% own ten or fewer. Second, respondents indicate that while the range of acreage for horse properties ranged from one acre to 2,000 acres, the median size of an equine business in Sonoma County is 15 acres. As a practical matter, the typical small-scale horse operation is not a threat to water quality and these operators cannot be expected to comprehend and appropriately respond to the highly technical Order. Many of these small operations, as noted earlier, are not so much profit-oriented as they are designed to reduce the cost of horse ownership through boarding one or several of other people’s horses. Annual gross revenues are frequent well under \$50,000 per year for these operations and often produce zero net income. Thus, the need to hire a third party professional for \$5,000 initially, and perhaps additional outlays later, is onerous and unrealistic. Without a categorical exemption for “mom and pop” operations, Order compliance is not realistic from this sector.

Thank you again for the opportunity to comment, please do not hesitate to contact me for additional information or clarity. I can be reached at (707) 484-0389 or markkrug@comcast.net.

Sincerely,



Mark Krug
Treasurer and Chair, Community Liaisons
Sonoma County Horse Council