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January 20, 2015

Via Electronic Mail Only

Ms. Susan Fregien
Senior Environmental Scientist
California Regional Water Quality Control Board
Central Valley Region
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SUBJECT: Request for Revisions to *Waste Discharge Requirements General Order for Growers within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group*, Order R5-2012-0116, Revision 2 (Order R5-2012-0116-R2)

Dear Ms. Fregien:

The East San Joaquin Water Quality Coalition (ESJWQC) is the approved third-party for representing growers within the Eastern San Joaquin River Watershed under Order R5-2012-0116-R2. As we have indicated in previous communications, on behalf of its members, the ESJWQC is seeking modest revisions to Order R5-2012-0116-R2 to address a few issues that have arisen in the recent past. This letter is intended to serve as our official request for such changes. Here we identify the issues, as well as the proposed revisions to Order R5-2012-0116-R2 that we believe will address our issues of concern. Thank you in advance for your consideration of these changes.

Issue #1 – Northern Boundary of the Eastern San Joaquin River Watershed

Finding 3 of Order R5-2012-0116-R2 includes a description of the Eastern San Joaquin River Watershed, which then sets forth the area for growers to be part of the ESJWQC. Based on our experience in implementing this program for over 10 years, and through cooperation with our northern coalition colleagues, we request that the northern boundary of our area be clarified. Currently, it states that the northern boundary is the “Stanislaus River Watershed.” This implies that growers on both sides of the Stanislaus River would be part of the ESJWQC. However, in practicality, growers on the north side of the Stanislaus River better associate with the San Joaquin County/Delta Water Quality Coalition rather than the ESJWQC. To address this issue, we recommend that the first sentence of Finding 3 be revised as follows:

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The Eastern San Joaquin River Watershed is bounded by the crest of the Sierra Nevada Mountain Range to the east, the Stanislaus River Watershed to the north, the San Joaquin River to the west, and the San Joaquin River Basin boundary to the south as identified in the Sacramento and San Joaquin River Basin Plan.

Issue #2 – Extension of Nitrogen Management Plan Certification Requirement for Growers in High Vulnerability Areas by One Year

Provision VII.D requires farming operations that are *not* considered small farming operations and that are in high vulnerability groundwater areas to prepare certified Nitrogen Management Plans by 1 March 2015. Considering that the self-certification programs are not yet available, and that many Certified Crop Advisors (CCAs) are still taking the necessary courses to be properly certified for said Nitrogen Management Plans, we believe it is necessary at this time to request that the certification requirement be delayed by one year. Please be assured, we are not requesting that preparation of the Nitrogen Management Plans themselves be delayed but only the certification requirements. This delay will allow growers and CCAs to become familiar with the approved template this year before being subject to a certification requirement under Order R5-2012-0116-R2. To accommodate this revision, we recommend the following revisions:

Provision D.1 - For Members located within a high vulnerability groundwater area, for which nitrate is identified as a constituent of concern, the Member must prepare and implement a certified Nitrogen Management Plan starting 1 March 2016.

Provision D.1.b. - By 1 March 2015, all other Members shall prepare, and update by 1 March annually thereafter, a Nitrogen Management Plan. By 1 March 2016, and by 1 March annually thereafter, all other Members shall prepare and implement a certified Nitrogen Management Plan pursuant to Provision VII.D.1 and submit to the third-party the Nitrogen Management Plan Summary Report for the previous year.

Issue #3 – Clarification Regarding Implementation of Nitrogen Management Plan

Order R5-2012-0116-R2 currently requires growers to prepare and implement a Nitrogen Management Plan. (See Provision IV.B.8 [“Members shall prepare and implement a farm-specific nitrogen management plan as required by section VII.D of this Order.”]; see also Provision VII.D [“Members must prepare and implement a Nitrogen Management Plan.”].) As worded, these provisions imply that members must implement a Nitrogen Management Plan exactly as prepared in advance of the crop year. While members should implement the Nitrogen Management Plan as prepared to the extent feasible, it is likely that members will need to make adjustments based on site-specific circumstances that occur during the growing season. Due to the need to make adjustments that may not be reflected in the original Nitrogen Management Plan that is prepared in advance of the crop growing season, Order R5-2012-0116-R2 needs to be revised to account for such adjustments. To address this issue, we recommend that Order R5-2012-0116-R2 be revised as follows:

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Add a footnote at the end of Provision IV.B.8, and after the first reference to Nitrogen Management Plan in Provision VII.D: “Nitrogen Management Plans are prepared in advance of the crop season, and therefore are a general recommendation based on circumstances that are forecasted. However, due to changes in weather, water availability, and other unanticipated circumstances, growers may find it necessary to adjust the Nitrogen Management Plan as originally prepared. Such adjustments are not considered to be violations of Order R5-2012-0116-R2, as long as the member documents the reasons for adjustments in the Nitrogen Management Plan retained at the grower’s place of business.”

Issue #4 – Video Option for Grower Outreach Event Participation

Order R5-2012-0116-R2 requires members to participate in third-party outreach events, at least annually, if any of the member’s parcels are in a designated “high vulnerability” area or governed by a SQMP/GQMP. Considering the vast number of growers located within the Eastern San Joaquin River Watershed, and unforeseen circumstances that prevent members from attending designated out-reach events, the ESJWQC would like to offer members an additional option for meeting this requirement. Specifically, the ESJWQC proposes to video-tape/record at least one grower outreach meeting, and make this recorded event available to members for viewing. To ensure that growers in fact view the event, we are willing to clarify that viewing the recorded event must occur at a location designated by the third-party (e.g., Stanislaus County Farm Bureau), or if they watch the video from the ESJWQC’s website, they will need to confirm viewing by responding to questions embedded throughout the video and submitting such responses to the ESJWQC. We recommend the following revision:

Add to the end of Provision IV.B.4: “As an alternative to attending a third-party outreach event, a Member may watch a video of an event at a location designated by the third-party, or by downloading a video from the ESJWQC’s website. In the event a Member chooses to watch a video from the website, the Member will need to confirm viewing of the video by responding to questions and submitting the responses to the third-party group.”

On behalf of the ESJWQC, we appreciate your consideration of the changes requested above. Please let us know if you need additional information to process the requested revisions. Further, in light of the impending 1 March 2015 date for certification of the Nitrogen Management Plan, we would appreciate having the changes be considered by the Central Valley Regional Water Quality Control Board at its earliest convenience but no later than its April 2015 hearing.

Sincerely,



Parry Klassen
Executive Director