



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street (WTR-3)
San Francisco, CA 94105

Sandi Potter
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Ms. Potter

Thank you for the opportunity to provide comments on the Draft Conditional Waiver of Waste Discharge Requirements (WDR) for Vineyards in the Napa River and Sonoma Creek watersheds. EPA strongly supports the Regional Board's efforts to issue this waiver to further protect and restore surface water quality in the Napa River and Sonoma Creek watersheds. We look forward to continuing to provide support where possible to assist both the regulated community and the Water Board in fostering ongoing watershed stewardship.

Specific Comments and Recommendations:

- 1) The waiver requires vineyard landowners or operators to prepare a Farm Water Quality Plan (Farm Plan) and implement the Farm Plan to meet all waiver water quality requirements. EPA recommends the waiver more explicitly state in Table 2 that one of the waiver water quality requirements is to meet water quality standards in surface waters. EPA recommends adding the following sentence:
Waste discharges from vineyard landowners shall not cause or contribute to an exceedance of applicable water quality objectives in surface water, unreasonably affect applicable beneficial uses, or cause or contribute to a condition of pollution or nuisance.
- 2) The development of a good Farm Plan is crucial for identifying the necessary management practices to prevent pollution of surface water. Since the Regional Board is allowing individual vineyard landowners and several potential third parties to develop these plans, consistency will be hard to attain. EPA recommends including a template in the waiver and also a sample Farm Plan to aid vineyard landowners. Setting aside sufficient Regional Board staff resources to conduct audits of the Farm Plans in order to ensure consistency and adequacy will also be important.
- 3) The waiver states that Farm Plans will be housed on site rather than submitted to the Regional Board. It is not clear in the text of the draft waiver whether Regional Board can request a copy of a Farm Plan if they wish to review it without going onsite. For ease of

review EPA recommends that the Regional Board make it explicit that they have the ability to request Farm Plans be sent to them for auditing purposes.

- 4) EPA recommends that the waiver define both water quality and programmatic metrics of success against which it will be measured. The development of these plans and adoption of management practices represents a significant investment on the part of landowners and regulators alike. Being able to report back on the success and challenges of the program is important for adaptive management and for developing the most environmentally effective regulations that are cost effective for vineyard landowners. It is infeasible to review all plans or sample all discharges. However, EPA recommends that the Regional Board periodically conduct a review of a statistically valid sampling of the water quality and programmatic metrics set forth in the waiver so the Regional Board can report on the successes and/or needed refinements to the program.
- 5) Similarly, EPA recommends the Regional Board develop a template for the Annual Compliance Forms that is robust enough to demonstrate progress towards achieving Farm Plan objectives. We encourage approaches to reporting that are efficient and effective for all stakeholders. For example, Napa County is currently developing a tracking and accounting tool with EPA funding to track and account for Total Maximum Daily Load (TMDL) implementation activities and beneficial use trends in the Napa River basin. This program is a major factor in implementing the TMDL and improving water quality. The Regional Board should coordinate with Napa County staff when developing the template for the Annual Compliance Forms and use that form to gather measurable information that will allow tracking of TMDL targets. For example, annual reporting on the length of roads that are hydrologically connected to receiving waters on each farm will allow for aggregating that data to report on progress towards meeting that particular TMDL target.
- 6) The self reporting in the Annual Compliance Forms will be important to assess progress towards achieving program successes. EPA recommends that the Regional Board set aside sufficient staff resources to conduct audits of the Annual Compliance Forms.
- 7) When developing Farm Plans and reporting annual compliance it is important to emphasize the importance of maintenance of management practices to ensure they continue to work effectively. EPA would like to see the templates for both of these to directly address the operations and maintenance of existing and newly installed practices.
- 8) EPA supports the Regional Board's approach of exempting properties that have adequate stream setbacks from the waiver requirements. Stream setbacks provide many water quality benefits while also directly providing or supporting other beneficial uses. However, the setback width of 45 feet does not align with minimum setbacks established under California's Forest Practice Rules for fish-bearing streams in silvicultural areas, which require a 75' setback and other restrictions in land use activities in areas with less than 30% slopes. EPA requests that the minimum setback of 45' be expressed as a *preliminary* requirement until the Water Boards develop a better means to estimate what

widths are necessary to support those riparian functions needed to achieve water quality objectives.

If you would like to discuss these comments further, please contact me at (415) 972-3434. EPA appreciates the opportunity to review and comment on this important action to help improve water quality.

Sincerely,

 2/1/13

Valentina Cabrera Stagno,
Agricultural Water Quality Specialist