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OUR FILE NUMBER

20904-1

March 31, 2010

VIA FEDERAL EXPRESS

Jeffrey S. Young, Chairman of the Board
Roger Briggs, Executive Officer
California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Re: OSR Enterprises, Inc.'s Recommendations for an Agriculture Order to Control Discharges from Irrigated Lands

Dear Chairman Young and Executive Officer Briggs:

This law firm represents OSR Enterprises, Inc. ("OSR"). This letter serves to summarize the principles that were followed by OSR in developing its recommendations for a proposed agriculture order to control discharges from irrigated lands ("Ag Waiver Proposal"). That Ag Waiver Proposal is attached:

- OSR's Ag Waiver Proposal uses the current Waiver as a baseline to build on, rather than developing a complete new order which would require time-consuming negotiations and arguments over definitions and concepts.
- OSR continues to support the use of a Farm Plan as being central and strongly suggests that Farm Plans continue to be maintained on site but yet available to Central Coast Regional Water Quality Control Board staff for review at the farm upon request. They are concerned that the submittal of the Farm Plans to the RWQCB will subject such documents to public records requests and other public dissemination. Farm Plans may well contain information that is propriety, confidential, and information that is not water quality related. We believe it is not

necessary, and indeed is outside the RWQCB's authority, to require submittal of such business and operational data for farming operations.

- The Ag Waiver Proposal should defer to Department of Pesticide Control's ("DPR") authority when dealing with the application of pesticides. DPR has exclusive authority and expertise to regulate pesticide use on a state-wide basis.
- The attached Ag Waiver Proposal protects the confidentiality of voluntarily on-farm sampling by operators/owners. The sampling conducted voluntarily is an important educational tool in determining the efficacy of management practices. If farmers are required to submit such information that is collected voluntarily, it will provide a serious disincentive to continue such voluntary efforts. Any Waiver adopted must include provisions that will provide assurances of confidentiality that such data not be disclosed to CCRWQCB and that such data may not be used in any enforcement proceeding.
- We recommend that the existing Notice of Intent continue to be the appropriate reporting form.
- We continue to support the inclusion of educational requirements. We recommend that the requirements be 15 hours for new operators/owners and 5 hours for those already enrolled in the program.
- We continue to support the cooperative monitoring program as the appropriate mechanism for implementing monitoring requirements set forth in any Waiver that is adopted, unless an enrollee opts to conduct individual monitoring. Monitoring programs should not be expanded to monitor for substances unrelated to agricultural discharge. The monitoring program should be used to document water quality improvements as well as determining if water quality standards are being met.
- We support the receipt by CCRWQCB of scheduled updates from the Executive Officer and from the Agricultural Community in order to monitor the progress and effectiveness of any adopted Waiver. Scheduled updates should include an analysis of the economic impacts potentially faced by the Agricultural Community in the Central Coast Region.

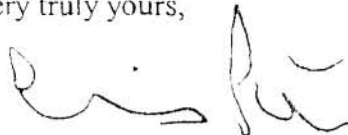
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Since the inception of the first Ag Waiver in 2004, some farmers have done little while others have actively pursued their Farm Plans by investing heavily in management practices and resources. Progress is steady but uneven. The CCRWQCB maintains authority to bring an enforcement action against uncooperative growers and is encouraged to do so in a uniform fashion where appropriate.

The attached Ag Waiver Proposal has the benefit of being able to be implemented readily and without overly burdensome economic personnel constraints on CCRWQCB staff and program participants. The attached Ag Waiver Proposal is practical and comprehensible to all involved and seeks to continue the current path toward education and improvement of water quality.

The spirit of the attached Ag Waiver Proposal continues the tone of cooperation between CCRWQCB, its staff, and the Agricultural Community as a whole. The attached Ag Waiver Proposal presents attainable long term goals that we believe the broader Agricultural Community can and will support. OSR Enterprises, Inc. looks forward to being an active participant in the coming process.

Very truly yours,



Craig A. Parton
For PRICE, POSTEL & PARMA, LLP

CAP/bw

Enclosures

cc: OSR Enterprises
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OSR's Recommendations for an Agricultural Order to Control Discharges from Irrigated Lands

Part 1: WAIVER

1. The Regional Board waives the submittal of a report of waste discharge and waste discharge requirement for discharges from irrigated land if the discharger complies with the conditional waiver described in this Order.
2. Dischargers shall take action to comply with the terms and conditions of the waiver adopted by this Order.

Part 2: WAIVER PROGRAM

A. Definitions

1. Irrigated lands – lands where water is applied from various sources through a variety of methods on widely varying terrain and soil types in differing climates on a multitude of crops. For the purpose of this Conditional Waiver, irrigated lands include, but are not limited to, land planted to row, vineyard, field and tree crops, commercial nurseries, nursery stock production, and greenhouse operations with soil floors.
2. Irrigation return flow – surface water which leaves the field following an application of irrigation water.
3. Tailwater – the runoff of irrigation water from the lower end of the field.
4. Stormwater runoff – the runoff of precipitation from the lower end of the field.
5. Discharge – the release of waters to Waters of the State.
6. Discharger – the owner and/or operator of irrigated lands from which there are discharges of water that could affect the quality of any Waters of the State.
7. Monitoring – refers to all types of monitoring undertaken in connection with determining water quality conditions and factors that may affect water quality conditions, including but not limited to, in-stream water quality monitoring undertaken in connection with agricultural activities to identify long and short term trends in water quality.
8. Farm Water Quality Management Plan (Farm Plan) – a document that contains the identification of practices by an operator and/or owner of irrigated land that are currently being used or will be implemented to address irrigation management. The Farm Plan will contain a sensible schedule for implementation of practices. Lists of water quality protection practices are available from several sources, including the University of California Farm Plan template. The Farm Plan shall remain in the possession of the operator and shall not become a public document. The Farm Plan is subject

to reasonable inspection at the Farm Plan site by RWQCB officials to determine its adequacy and verify compliance with the requirements.

B. Enrollment Process

All applicants must submit the following information as part of their Notice of Intent (NOI) to enroll:

1. Completed application form, including location of the operation and identification of responsible parties (owners/operators)
2. Copy of map of operation (map should be the same one as submitted to the County Agricultural Commissioner for Pesticide Use reporting, or equivalent).
3. Completed management practice checklist/self assessment form
4. Certificates of attendance at Regional Board approved farm water quality education courses, if applicable.
5. Election for individual or cooperative monitoring.

C. Requirements

New Operators/Owners who have not enrolled:

1. Complete fifteen (15) hours of Regional Board approved farm water quality education by a reasonable enrollment deadline.
2. Complete a Farm Plan by a subsequent concurrent deadline.
3. Provide a biennial practice implementation checklist identifying currently implemented and proposed management practices identified in the Farm Plan.
4. Perform individual water quality monitoring or participate in cooperative water quality monitoring.

Existing enrolled Operators/Owners:

1. Complete at least five (5) hours of Regional Board approved water quality education during the term of the Waiver.
2. Revise the current Farm Plan within two (2) years of the adoption of the Waiver.
3. Provide a biennial practice implementation checklist identifying currently implemented and planned management practices identified in the Farm Plan.
4. Perform individual water quality monitoring or participate in cooperative water quality monitoring.

D. General Conditions for All Waiver Holders

1. Compliance with this order shall constitute compliance with the applicable Basin Plan provisions, including any prohibitions and water quality objectives governing protection of receiving waters from nonpoint source discharges.
2. Although the Regional Board expects water quality improvements during the term of this waiver, the Regional Board recognizes that water quality objectives may not be completely attained, possibly due to legacy issues, in all waters of the State in the Central Coast Region within the terms of this Order.

However, the conditions of the Waiver will require actions that will lead to achieving water quality objectives.

Part 3: RECOMMENDATIONS

1. Implementation of irrigation management practices should be the primary approach to water quality protection.
2. Irrigation management practices should be used to maximize the efficient use of water.
3. Crop nutrient requirements should be evaluated to maximize efficient use of nutrients.
4. Irrigation water nitrate and soil nitrate content should be incorporated into the nutrient decision making process.
5. Erosion control should be considered a part of storm water management and irrigation water management.
6. Integrated pest management techniques, such as pest population monitoring, should be incorporated into the pest control decision making process for the efficient use of pesticides.

Part 4: PROVISIONS

1. The operator and/or owner shall comply with an individual or cooperative monitoring and reporting program approved by the Regional Board.
2. A copy of the Conditional Waiver and Farm Water Quality Plan shall be kept at the operation for reference by operating personnel. Key operating and site management personnel shall be familiar with its contents.
3. The operator and/or owner shall take all reasonable steps to prevent any discharge in violation of this order.
4. The operator and/or owner shall furnish the Regional Board, within a reasonable time, non-privileged information that the board may request to determine compliance relevant to this Order. The results of water sampling performed by an operator for educational purposes are confidential and proprietary. The Regional Board needs to recognize that individual on farm sampling by the operator as an educational tool is a benefit for determining irrigation management practices. The Regional Board needs to encourage this adaptive management. Therefore, the Regional Board, its officers and its staff, waives the right to such data and agrees not to use such data in any enforcement proceeding.
5. Any person signing an NOI, monitoring report, or technical report will certify to the correctness of their contents under penalty of perjury.
6. Violations of this Order may result in enforcement actions as authorized under applicable law.
7. This Order shall be issued for a five (5) year period.
8. The Regional Board directs the Executive Officer to provide regular updates to the Regional Board regarding the progress of the Order to maintain, improve and/or protect the Waters of the State. These updates may include Executive Officer Reports, staff reports, workshops, agenda items, and presentations, comments, details, and testimonials from enrolled participants.
9. The Regional Board shall receive a biennial report from the agricultural community at a noticed hearing that summarizes the on-going efforts by enrolled participants designed to understand, improve, and

document water quality. The economic impacts of these efforts shall be reviewed in relation to the overall health of agriculture in the Central Coast Region.

10. The Regional Board recognizes the nature of the agricultural community's business and will take that into account in the scheduling of meetings, business, and timelines so as not to conflict with the demands of the agricultural community.
11. This Order and Conditional Waiver shall become effective July 10, 2010 and expire July 10, 2015 unless rescinded, renewed, or extended by the Regional Board, or jointly terminated by its enrolled participants.

