

Central Coast Regional Water Quality Control Board

April 18, 2013

Mr. George Kendall
Dos Pasos Ranch
4330 Santa Rosa Creek Rd.
Cambria, CA 93428
gwkendall@wildblue.net

VIA ELECTRONIC MAIL ONLY

Dear Mr. Kendall:

AGRICULTURAL REGULATORY PROGRAM: COMMENTS REGARDING COOPERATIVE GROUNDWATER MONITORING PROGRAM FOR SANTA ROSA CREEK VALLEY, CAMBRIA, CALIFORNIA

Central Coast Regional Water Quality Control Board (Central Coast Water Board) staff reviewed the March 15, 2013 proposal titled "*Cooperative Groundwater Monitoring Plan, Santa Rosa Creek Valley, Cambria, California*"¹ (Proposal). The stated purpose of this Proposal is to present a groundwater monitoring plan for seven cooperating farms in the Santa Rosa Creek Valley. The Proposal presents a program to satisfy *Order No. R3-2012-0011, Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands* (Agricultural Order) and Part 2.A.6 of the associated Monitoring and Reporting Program No. R3-2012-0011-01, -02, and -03 (MRP) for participating growers. We appreciate your effort to prepare and submit the Proposal.

Staff reviewed the Proposal and finds that the cooperative groundwater monitoring program can be approved with minor clarification. I am prepared to approve the Cooperative Groundwater Monitoring Plan, Santa Rosa Creek Valley, Cambria, California as soon as I receive the additional information identified in the specific comments below. **Please provide the additional information as specified in the specific comments below by May 31, 2013.**

REQUIREMENTS FOR COOPERATIVE GROUNDWATER MONITORING

The Agricultural Order and MRP were adopted on March 15, 2012 and provided growers with the option to conduct cooperative groundwater monitoring or individual groundwater monitoring. For growers who chose to comply with cooperative groundwater monitoring requirements, the Agricultural Order and MRP provided for 12 months to submit a cooperative groundwater monitoring program for Executive Officer approval. At a minimum, the program must include sufficient monitoring to characterize the groundwater in the local area of the participating growers, characterize the groundwater quality of the uppermost aquifer, and identify and evaluate groundwater used for domestic drinking water purposes. The Central Coast Water

¹http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/groundwater/4_coopsantarosa_creek_redacted032713.pdf

Board and the State Water Resources Control Board (State Water Board) have continued to reiterate the importance and urgency of groundwater monitoring - especially domestic drinking water sources, given the severity of water quality conditions and ongoing threat to public health in agricultural areas of the Central Coast Region.

The Proposal was submitted in response to the option provided in the MRP for growers to participate in a cooperative groundwater monitoring program to minimize costs associated with conducting the groundwater monitoring requirements set forth in the MRP. In general, the groundwater monitoring and reporting requirements in the MRP were issued pursuant to California Water Code section 13267 and 13269 and the cooperative groundwater monitoring program must be designed to support the development and implementation of the Agricultural Order, including, but not limited to, verifying the adequacy and effectiveness of the Order's conditions. The monitoring and reports are also required to evaluate effects of discharges of waste from irrigated agricultural operations and individual farms/ranches on waters of the state and to determine compliance with the Order. The groundwater monitoring and reporting requirements are necessary so that the Central Coast Water Board can directly address the highest priority and most significant impact to water quality from irrigated agricultural runoff, widespread nitrate pollution in groundwater supplying drinking water (including unregulated domestic drinking water wells in rural areas), evaluate groundwater conditions in agricultural areas, identify areas at greatest risk for waste discharge and nitrogen loading and exceedance of drinking water standards, and identify priority areas for nutrient management.

Adequate monitoring, which characterizes groundwater quality of the uppermost aquifer and groundwater used for domestic drinking water purposes, is critical to both comply with the Agricultural Order and to resolve the severe water quality conditions in agricultural areas of the Central Coast region and significant threat to human health. The need for comprehensive groundwater monitoring is underscored by the UC Davis Nitrate Report, *Addressing Nitrate in California's Drinking Water*²; which documents that the nitrate loading to groundwater is double the amount staff estimated in developing the Agricultural Order, and that domestic wells are at great risk of contamination. Also, the State Water Board provided recommendations³ to the legislature based on the UC Davis Nitrate Report. These recommendations state that "A groundwater monitoring and assessment program is a critical element in effectively managing groundwater quality," and "The Water Boards will define and identify nitrate high-risk areas in order to prioritize regulatory oversight and assistance efforts in these areas." Groundwater monitoring programs required by the Central Coast Water Board are a critical part of this statewide effort.

In addition, the Third District Court of Appeal recently issued its decision regarding a challenge to the Central Valley Regional Water Quality Control Board waste discharge requirements for dairies (*Asociación de Gente Unida por el Agua v. Central Valley Regional Water Quality*

² Harter, T., J. R. Lund, J. Darby, G. E. Fogg, R. Howitt, K. K. Jessoe, G. S. Pettygrove, J. F. Quinn, J. H. Viers, D. B. Boyle, H. E. Canada, N. DeLaMora, K. N. Dzurella, A. Fryjoff-Hung, A. D. Hollander, K. L. Honeycutt, M. W. Jenkins, V. B. Jensen, A. M. King, G. Kourakos, D. Liptzin, E. M. Lopez, M. M. Mayzelle, A. McNally, J. Medellin-Azuara, and T. S. Rosenstock. 2012. *Addressing Nitrate in California's Drinking Water with a Focus on Tulare Lake Basin and Salinas Valley Groundwater*. Report for the State Water Resources Control Board Report to the Legislature. Center for Watershed Sciences, University of California, Davis. 78 p. <http://groundwaternitrate.ucdavis.edu>.

³ Recommendations Addressing Nitrate in Groundwater, State Water Resources Control Board, Report to the Legislature, February 2013. http://www.waterboards.ca.gov/water_issues/programs/nitrate_project/docs/nitrate_rpt.pdf

Control Board (2012) 210 Cal.App.4th 1255 (AGUA). The AGUA decision emphasizes the need for adequate groundwater monitoring based on the findings in the Order, the existing water quality conditions, and to ensure compliance with the State Water Board's Anti-Degradation Policy (Resolution No. 68-16).

Governor Brown also signed Assembly Bill 685 on September 25, 2012, establishing a state policy that every Californian has a human right to safe, clean, affordable and accessible drinking water. The bill directed relevant state agencies to advance the implementation of this policy when those agencies make administrative decisions pertinent to the use of water for human consumption, cooking, and sanitary purposes.

BACKGROUND

On January 28, 2013, staff met with agricultural representatives of Santa Rosa Creek Valley and Morro Valley, and San Luis Obispo County Farm Bureau to discuss the requirements and status of efforts to develop a cooperative groundwater monitoring program. At that time and in subsequent meetings and conversations, you provided staff with detailed information regarding the sampling plan and technical rationale for the cooperative groundwater monitoring program for participating growers in the Santa Rosa Creek Valley. Staff emphasized that the proposal must include information for the following specific areas: 1) timeframe for sampling and initial groundwater data reporting - especially related to priority drinking water sources, 2) details regarding actual sampling plan, including program scope and technical rationale for sampling locations, 3) assurances of long-term commitment given multi-year timeframe, if applicable, and 4) program administration to manage participation, fee payment, access to monitoring sites, water quality monitoring data and electronic submittals to GeoTracker, and any other items necessary to ensure short and long-term success.

At the March 15, 2013 Central Coast Water Board Meeting, Board Members discussed the cooperative groundwater monitoring proposals and staff presented general information regarding the Santa Rosa Creek Valley and Morro Valley cooperative groundwater monitoring program efforts.

DESCRIPTION OF THE COOPERATIVE GROUNDWATER PROGRAM FOR SANTA ROSA CREEK VALLEY, CAMBRIA, CALIFORNIA

The Proposal presents a groundwater monitoring plan for seven cooperating farms in the Santa Rosa Creek Valley Watershed. Each of the participating farms is identified and the number of wells associated with each farm and existing groundwater quality data from several of the wells are provided. All seven farms have been designated as Tier 1 for purposes of the Agricultural Order and are located within the lower portion of the Santa Rosa Creek Valley, which is underlain by the Santa Rosa Creek Groundwater Basin. The groundwater basin is a thin, narrow basin underlying the westernmost approximately six miles of the Santa Rosa Creek Valley, and existing data suggests that groundwater is of relatively high quality. The principal crops of these farms are avocados, citrus, grapes, berries and miscellaneous vegetables.

The Proposal was prepared with the use of two references: 1) a 2012 "Santa Rosa Creek Watershed management Plan" and 2) a 1998 U.S. Geologic Survey report on the hydrogeology of the Santa Rosa and San Simeon groundwater basin – Water resources Investigation Report 98-4061. These references provide a thorough evaluation of the geologic and hydrogeologic conditions of the local area of the participating growers and were used extensively to develop the proposed cooperative program. In addition, the information included in the Proposal provides the technical rationale for the program and justifies the recommended number of wells and proposed sampling locations such that it is representative given the hydrogeologic conditions of the groundwater basin.

The Proposal included three supporting figures: 1) Geologic Map of the Santa Rosa Creek Valley Watershed, 2) Santa Rosa Creek Groundwater Basin, and 3) Geologic Cross Sections, including all domestic and irrigation wells screened within the uppermost aquifer. The maps depict the location of three wells selected to monitor/evaluate the water quality conditions of the uppermost aquifer that is used for drinking water purposes along the groundwater flow path. The Proposal indicates that you will provide recent (2011) and (2012) water quality data, and data from new sampling to be conducted during the spring and fall of 2013. In addition, the Proposal includes plans to conduct two additional sampling events during the spring and fall of 2018. All groundwater samples will be analyzed for parameters listed in Table 3 of the MRP and individual results will be uploaded to the State Water Board's GeoTracker data management system.

SPECIFIC COMMENTS

In accordance with the Agricultural Order, our highest priority involves characterizing the groundwater quality of the uppermost aquifer, and evaluating groundwater used for domestic drinking water purposes. In order for me to approve the cooperative groundwater monitoring program proposals, they must include a specific and timely plan for evaluating groundwater used for domestic drinking water supply and characterizing the groundwater quality of the uppermost aquifer in the local area of participating growers.

Staff reviewed the Proposal using specific evaluation criteria developed to compare the Proposal against the minimum requirements and ensure a consistent and thorough evaluation of all cooperative groundwater monitoring program proposals submitted to the Central Coast Water Board (see Attachment). I am prepared to approve this cooperative groundwater monitoring program as soon as I receive the additional information identified in the specific comments below.

1. Participating Growers

Please provide identification of all participating growers, by May 31, 2013, according to the following specifications:

- a. Provide participating grower information in Microsoft Access or Excel format, including: AW#, Ranch Name and GeoTracker Global ID for each participating grower; physical mailing address, and email address. Information provided must be accurate and consistent with that reported in the electronic-Notice of Intent (eNOI);

2. Reporting

Confidentiality and Public Disclosure of Data – The Proposal indicates that water quality results will be uploaded directly to the State Water Board’s GeoTracker data management system in the required Electronic Deliverable Format. While the Proposal does not describe any specific concerns related to reporting, various agricultural representatives have conveyed concerns related to confidentiality and public disclosure of water quality and well location data submitted to the Central Coast Water Board. To clarify how the data will be handled, the Central Coast Water Board attorney will provide a response to these issues in a separate document. In general, the Central Coast Water Board must be able to use the data and make the data accessible to the public. If you have any questions regarding data handling, please contact Central Coast Water Board staff.

Please add a reporting section to the Proposal by May 31, 2013 that includes the following:

- a. Submit quarterly progress reports, beginning with the first progress report due three months after the date of approval, that describe progress (status of wells sampled, data uploaded to GeoTracker, and preliminary results) compared to the approved time schedule, and any issues encountered that may delay implementation; and
- b. Third party Implementation Reporting as detailed in Section 7 below.

3. Third Party Implementation

The Proposal indicates that the Santa Rosa Creek Groundwater Monitoring Cooperative will take responsibility for administering and implementing the cooperative groundwater monitoring program. While the program is relatively simple in terms of scope and scale, and will likely not take significant resources to administer or implement, the Proposal must clearly identify the individual or third-party organization that will represent the group of growers who are currently identified as participating in the “Santa Rosa Creek Groundwater Monitoring Cooperative” and will be responsible for implementing the program. Please also identify the specific roles and responsibilities of that individual or third-party organization as described below, and as applicable to the scope and scale of the proposed groundwater monitoring program.

The Proposal must include a statement that the third-party organization implementing the cooperative groundwater monitoring program will commit to all of the following activities and aspects of the cooperative groundwater monitoring program, including, but not limited to:

- a. Tracking and reporting names and contact information of all participating growers;
- b. Collecting of fees necessary to implement the program (and follow-up with growers who do not pay fees);
- c. Managing all communication and notification to participating growers and the Central Coast Water Board, including informing participating growers of the program and status of implementation;
- d. Sampling in compliance with MRP and the approved cooperative groundwater monitoring program (gaining access to sampling sites, collecting, tracking and transmitting samples to labs, etc.);
- e. Managing water quality monitoring data and electronic submittals to Geotracker;
- f. Managing contracts for technical work;
- g. Interpreting data;
- h. Submitting reports to the Central Coast Water Board;
- i. **Timeframe - due in the completed Proposal by May 31, 2013.** An update may be provided by September 1, 2013.

In addition, the Proposal submitted by May 31, 2013, must include the following language in a. - g. below, specifically as written (where it says “**INSERT**”; text in brackets should be replaced with text as instructed below); the Proposal may also include additional language that further explains the applicability of a. – g. below to the scope and scale of the proposed groundwater monitoring program:

- a. The [**INSERT** individual or Third-party organization name] will insure that there is sufficient financial support to implement the program by including the approximate cost to implement the program and identification of the resources available (e.g., the fees and number of participating growers to generate the funds necessary to meet the budgeted costs, grants, or other sources of funds) to fully implement all technical and administrative aspects of the program;
- b. The [**INSERT** individual or Third-party organization name] will insure sampling is conducted by dates established in cooperative monitoring program, sampling schedule (see [**INSERT** reference to proper section in proposal]);
- c. The [**INSERT** individual or Third-party organization name] will insure data and reports are submitted to the Central Coast Water Board in format specified and by dates established in cooperative monitoring program (see [**INSERT** reference to proper sections in proposal with data submittal and reporting dates, and data and reporting formats described]);
- d. The [**INSERT** individual or Third-party organization name] will insure all participating growers are providing any required information and are taking necessary steps to address any obstacles, or issues that arise to implementing the cooperative monitoring program, e.g., failure to pay fees;
- e. The [**INSERT** individual or Third-party organization name] will insure that any activities conducted on behalf of the third-party by other groups meet the terms and requirements of the program. [**INSERT** individual or Third-party organization name] is responsible for any activities conducted on its behalf;
- f. The [**INSERT** individual or Third-party organization name] will establish and conduct governance, including, but not limited to:
 - i. As a legally defined entity (i.e., non-profit corporation; local or state government; Joint Powers Authority) or have a binding agreement among multiple entities that clearly describes the mechanisms in place to ensure accountability to participating growers;
 - ii. With a governing structure that includes a governing board of directors composed in whole or in part of participating growers, and that provides participating growers with a mechanism to direct or influence the governance of the third-party through appropriate by-laws;
 - iii. With appropriate authorization from participating growers to access individual grower eNOI information in GeoTracker (e.g., AW#, current contact information);
 - iv. The [**INSERT** individual or Third-party organization name] will describe and provide evidence for i-iii, above;
- g. The [**INSERT** individual or Third-party organization name] will provide the following information and reports to the **Central Coast Water Board and participating growers**, on the dates specified:
 - i. **By September 1, 2013**, the documentation of its organizational or management structure and its by-laws or operating procedures. The documentation shall identify persons responsible for ensuring that the program is implemented as approved. [**INSERT** individual or Third-party organization name] must also provide to the Central Coast Water Board, confirmation that this information was provided to participating growers;

- ii. **By September 1, 2013**, the list of participating growers, **and quarterly, thereafter**, the list of new enrollees, as follows:
 - a. Provide participating grower information in Microsoft Access or Excel format, including: AW#, Ranch Name and GeoTracker Global ID for each participating grower; physical mailing address, and email address. Information provided must be accurate and consistent with that reported in the electronic-Notice of Intent (eNOI);
 - b. **[INSERT individual or Third-party organization name]** must also provide to the Central Coast Water Board, confirmation that this information was provided to participating growers;
- iii. **On September 1, 2013, in Draft Final Report by December 15, 2014, and Final Report by March 15, 2015**, annual summaries of expenditures of fees and revenue. **[INSERT individual or Third-party organization name]** must also provide to the Central Coast Water Board, confirmation that this information was provided to participating growers.
- iv. **By September 1, 2013 and annually**, thereafter, notification to participating growers of the following, and provide confirmation to the Central Coast Water Board of such notification to participating growers:
 - a. participating growers, as enrolled growers in the Agricultural Order, are individually responsible for the successful implementation of the program and that this individual responsibility has two consequences if the cooperative monitoring program is not successfully implemented: 1) The Central Coast Water Board or Executive Officer will require individual dischargers to conduct individual monitoring per the requirements of the Agricultural Order. 2) The Central Coast Water Board may take enforcement action against individual dischargers. The failure of a third-party group to successfully implement an approved program cannot be used as an excuse for lack of individual discharger compliance;
- v. **Quarterly, beginning within 3 months of approval**, if the third-party group is unable to implement any aspect of the program that could result in a violation of the program's monitoring or reporting requirements, notification describing the inability to implement and the possible violations. **[INSERT Third-party organization name]** must also provide to the Central Coast Water Board, confirmation that this information was provided to participating growers;
- vi. **Quarterly, beginning within 3 months of approval**, notification to participating growers of any changes to the program approved by the Executive Officer or the Central Coast Water Board and confirmation to the Central Coast Water Board that this notification was provided to participating growers.

CONCLUSION

Pursuant to the Agricultural Order and MRP, the Central Coast Water Board requires growers who chose cooperative groundwater monitoring to submit a cooperative groundwater monitoring program proposal for Executive Officer approval. Staff reviewed the Proposal and finds that the cooperative groundwater monitoring program can be approved with minor clarification. I am prepared to approve the Cooperative Groundwater Monitoring Plan, Santa Rosa Creek Valley,

Cambria, California as soon as I receive the additional information discussed above. **Please provide the information described in the specific comments in this letter by May 31, 2013.**

If you have any questions, please contact Angela Schroeter at (805) 542-4644 or ASchroeter@waterboards.ca.gov, or Lisa McCann at (805) 549-3132 or at lmccann@waterboards.ca.gov.

Sincerely,



Digitally signed by Kenneth A Harris Jr
DN: cn=Kenneth A Harris Jr, o=CCRWQCB,
ou=Interim Executive Officer,
email=kharris@waterboards.ca.gov, c=US
Date: 2013.04.18 14:27:41 -07'00'

Kenneth A. Harris Jr.
Interim Executive Officer

ENCLOSURES:

Cooperative Groundwater Monitoring Proposal Evaluation Criteria

cc:

Cooperative Groundwater Monitoring Plan for the Morro Valley Hydrogeologic Basin
c/o Mr. Rick Sauerwein
Synergistic Solutions
1301 Little Morro Creek Road
Morro Bay, CA 93442
rsauerwein@synergssolu.com

Ms. Joy Fitzhugh
Legislative Analyst
San Luis Obispo County Farm Bureau
651 Tank Farm Road
San Luis Obispo, CA 93401
joy@slofarmbureau.org

COOPERATIVE GROUNDWATER MONITORING PROPOSAL EVALUATION

NAME: XXX

SUBMITTED BY: XXX

DATE SUBMITTED: XXX

DATE REVIEWED: XXX

		YES	PLANNED Specific	PLANNED General
1	Are boundaries of proposal area well defined (e.g., geographic, groundwater basin, or watershed boundaries)?			
2	Are participating growers identified (AW # and Ranch Name)?			
3	Are the groundwater aquifers in the local area of the participating growers adequately described (existing studies, aquifer description)?			
4	Does the proposal provide details regarding hydrogeology of the proposal area to substantiate and justify monitoring approach?			
4a	Does the proposal include details related to sampling locations?			
4b	Does the proposal include details related to sample depths?			
4c	Does the proposal include details related to sample density?			
4d	Are the sampling locations and density appropriate given the hydrogeologic characteristics (e.g. aerial and depth-related heterogeneity, continuity, complexity) of the program area?			
5	Does the proposal generally prioritize the identification and evaluation of groundwater representative of that used for domestic drinking water purposes to ensure safe drinking water?			
6	Does the proposal include monitoring to identify and evaluate groundwater representative of that used for domestic drinking water purposes?			
6a	If yes, will monitoring of groundwater used for domestic drinking water occur in the first 3-6 months of implementation?			
6b	If monitoring of groundwater used for domestic drinking water is not planned for the first 3-6 months of implementation, will it occur in the first 12 months of implementation?			
6c	Are drinking water monitoring locations clearly identified?			
6d	If drinking water monitoring locations are not clearly identified, is there a method for prioritizing areas?			
7	Does the proposal include evaluating the groundwater quality representative of the uppermost aquifer?			
7a	If yes, are monitoring locations in the uppermost aquifer clearly identified?			
8	Does the proposal include sampling and analyses consistent with Table 3 of the MRP?			
9	Does the proposal report individual groundwater quality data electronically to GeoTracker?			
10	Does the proposal report individual well location data electronically to GeoTracker?			
11	Does the proposal make data accessible to the public (with exception of ½ mile radius well location protection in the Order)?			
12	Does the proposal include a clear and reasonable time schedule for implementation (initiate sampling and reporting)?			
13	If the proposal includes the use of a third-party, is the third-party identified?			
13a	If the proposal includes the use of a third-party, are the roles and responsibilities of the third-party to administer and implement the proposal clearly identified (e.g. administration, fee collection, gain access to sites, implementation, reporting, follow-up with participants, long-term agreement)?			
13b	If the proposal includes the use of a third-party, are the roles and responsibilities of the participating growers clearly identified (e.g. pay fees, provide access, long-term agreement)?			
14	Does this proposal clearly describe that the financial resources are available to fully implement the proposal (e.g. estimated cost of program, estimated number of participants, potential fee structure)?			
15	Does the proposal clearly describe long-term commitment of third-party and participants, given multi-year timeframe for implementation and potential costs?			
15a	Does the proposal identify contingencies to address uncertainties about cooperative group's ability to fully implement proposal in the long term?			