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Subject: Ex Parte Comments on Vineyard Permit
Date: Wednesday, February 26, 2025 3:39:43 PM
Attachments: [image001.png](#)
[Ex Parte Disclosure Requirements for R1-2024-0056_JFW.pdf](#)
[Vineyard Order Comments 11-25-24 final.pdf](#)

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Vice-Chair Giusti, Board Members, Executive Director Quinto, and Vineyard Permit Team:

RE: VINEYARD PERMIT (proposed R1-2024-0056)

ISSUE:

The proposed vineyard permit requires vineyards to conduct turbidity measurements in 20% of their agricultural drainage structures. Landowners can avoid turbidity measurements, per the proposed permit, by achieving 90% planted and rooted ground coverage or by implementing a certified SCEP. Due to the expense of a certified SCEP and of turbidity measurements, JFW has evaluated the ability to achieve 90% ground coverage in the North Coast Region.

CONCERN:

At the December 4th Board Meeting, Regional Board staff expressed their expectation is that a permanent cover crop can achieve 90% planted and rooted ground coverage (per paragraph 15.b. on page 50 of the proposed order). And, if conditions are unfavorable - too cold, too dry, too wet - to achieving 90% ground cover, a landowner is required to pivot to turbidity monitoring.

Ninety percent (90%) ground cover sounds good, but it is not achievable in practice. Please consider the following:

- “Permanent” cover crop does not mean everlasting. Most permanent cover crop is replaced every three to five years because its overtaken by weeds and vertebrates. Thus, approximately a quarter (25%) of a vineyard is cultivated and reseeded every year in the late fall.
- Vertebrates pests cause damage in vineyards with no till systems (see “badger” photo below). Burrows create unsafe conditions for ATVs and workers are at risk for rolling ankles. Light cultivation is required to create safe work environments and to help growers keep up the permanent cover crop.
- Permanent cover crop is like any other plant, and needs water, sunshine, and warmth to grow. Our Mediterranean climate means dry summer and fall, followed by cold winter. In this climate, it is difficult for permanent cover crop to re-establish by December 15.
- As Vice-Chair Giusti pointed out, drip irrigation allowed vineyards to go upslope. Rules, regulations, costs, and environmental factors have encouraged farmers move away from overhead sprinklers in place of fans for frost control. So, good or bad, it is often not possible to irrigate cover crop to keep it alive and farmers must rely wholly on environmental factors

outside their control.

- A farmer might spend time and money on ground cover and still get no growth. You understand that it is frustrating to put effort into cover crop, only to still be required to perform turbidity measurements.
- The Agency's communication and outreach will have to overcome landowner confusion. A landowner who implements photo point monitoring during the first two years of the permit may be required to switch to turbidity measurements in the third year. I've read my share of water quality permits and, as you know by my comments, I did not catch this in the proposed order.

REQUEST:

After reading through the six bullet points above, please reconsider the suggestions made on pages 4 and 5 of the November 25, 2024 ex parte comment letter submitted by California Association of Winegrape and the Wine Institute (reattached here). That letter proposed the following strategies that a landowner could choose from to qualify for photo point monitoring (and avoid turbidity monitoring and/or a certified SECP):

1. Minimum Ground Cover of 85% primarily planted and rooted between February 28 and April 1. The discharger will provide documentation in the annual compliance report of either (a) seeding groundcover by November 15 or (b) original seeding, if perennial cover crop. Photo point monitoring would be required to confirm ground cover and/or cover crop.

Or

2. Minimum Ground Cover of 80% primarily planted and rooted with **elimination of herbicide** spraying between September 1 and February 28. Eliminating spraying will increase the presence of rooted material in the vineyard and confirmation is possible through the already required Pesticide Use Reports. Documentation in the annual compliance report either would confirm (a) seeding groundcover by November 15 or (b) original seeding, if perennial cover crop. Photo point monitoring would be required to confirm ground cover and/or cover crop.

In addition, after additional internal conversations at JFW, we've have a third strategy to the list of options:

3. Minimum Ground Cover of 90% primarily planted and rooted. However, up to 25% may be seeded by November 15. The discharger will provide documentation in the annual compliance report (a) that no more than 25% of the farm area's ground cover was reseeded that reporting year and (b) of the original seeding. Photo point monitoring would be required to confirm ground cover and/or cover crop.

CLOSING THOUGHTS:

On January 21, 2025, Noelle Cremers from Wine Institute and Susanne Zechiel met with Regional Board staff. A second JFW employee, who farms throughout the North Coast Region and has practical experience with ground cover and sedimentation, was dragged along to that discussion.

While we greatly appreciate staff making the time to discuss concerns, we were surprised that staff suggested that vineyards: plan for the worst (i.e., the need to conduct turbidity measurements) and hope for the best (achieving 90% coverage). That will not incentivize innovation.

On a personal note, in November 2024, JFW employees were having exciting conversations about leveraging the Vineyard Permit to encourage innovative farming practices. One of those ideas - strategy #2, above - could result in significant reduction in chemical usage came out of those conversations. Other ideas we discussed within JFW included methods to increase the moisture holding capacity of the soil.

If we're saddled with a permit that doesn't recognize the good work of farmers, there's no point to innovate. If turbidity measurements (or a certified SECP) are required no matter what, there is no point to trying to do things differently.

We appreciate your time, effort, and consideration on this issue and all things related to water quality.

Sincerely,

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