

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

SUPPLEMENTAL SHEET FOR REGULAR MEETING OF JULY 10, 2009

Prepared on July 1, 2009

ITEM NUMBER: 11

SUBJECT: Limited-Term Renewal of the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Order No. R3-2009-0050)

SUMMARY

Central Coast Regional Water Quality Control Board (Water Board) staff provides two letters (Attachments 1 and 2) supporting our recommendation to renew the existing Conditional Waiver for Waste Discharge Requirements for Discharges from Irrigated Lands (Order No. R3-2009-0050) for one year, through July 10, 2010. Each letter also contains specific comments to which Central Coast Water Board staff provides responses.

SPECIFIC COMMENTS AND STAFF RESPONSES

Central Coast Water Quality Preservation, Inc.'s Letter

Comment: Central Coast Water Quality Preservation, Inc.'s (Preservation, Inc.) letter (Attachment 1) supports the proposed one-year renewal. In addition, Preservation, Inc.'s letter states "Several of the provisions in the proposed order are no longer relevant and could be stricken from the order." and "The findings to support the order are from the 2004 order. Some of the information contained in the findings has changed over the past five years, and the findings should be changed to reflect current conditions."

Staff Response: Central Coast Water Board staff appreciates Preservation, Inc.'s support for our recommendation to renew Order No. R3-2009-0050 for one year and the attached comments. We will incorporate the recommended changes, as appropriate, into the revised order we bring back to the Water Board within a year.

As indicated in the staff report, "Staff proposes no changes to the Order, except for the expiration date, as part of this action." Staff is recommending no changes to the existing Order as part of this interim renewal because we are already working on a new, comprehensive Order, which we will bring to the Board within twelve months. Our increasingly limited resources must go into developing the new, comprehensive Order, not this interim Order renewal.

U.S. Fish and Wildlife Service Letter

Comment: The U.S. Fish and Wildlife Service (Fish and Wildlife Service) submitted a letter (Attachment 2) expressing "...support for the 1-year renewal proposal..." and interest "...in being involved in the Irrigated Ag Waiver renewal process."

Staff Response: We will ensure the Fish and Wildlife Service continue to be included on our interested parties list for all items associated with the new order development. We use our web-based email subscription page to develop an electronic interested parties' distribution list and help individuals and agencies stay informed on our progress with the new order development:
[\[http://www.waterboards.ca.gov/resources/email_subscriptions/reg3_subscribe.shtml\]](http://www.waterboards.ca.gov/resources/email_subscriptions/reg3_subscribe.shtml)

We also use the Agricultural Regulatory Program page on the Central Coast Water Board's website to provide information on new order development:

[\[http://www.swrcb.ca.gov/centralcoast/water_issues/programs/ag_waivers/index.shtml\]](http://www.swrcb.ca.gov/centralcoast/water_issues/programs/ag_waivers/index.shtml)

Comment: The Fish and Wildlife Service's letter also identifies several endangered species in Oso Flaco watershed and indicates that "Biostimulation in Oso Flaco Lake has caused rapid growth of common wetland species, which are now crowding out sensitive species that have not become similarly vigorous."

Staff Response: We look forward to working with the Fish and Wildlife Service and others to address biostimulation resulting from nutrient runoff to surface water and groundwater, and aquatic habitat loss as we develop the new order.

ATTACHMENTS

1. Central Coast Water Quality Preservation, Inc. letter, dated June 22, 2009
2. United States Fish and Wildlife Service letter, dated June 23, 2009

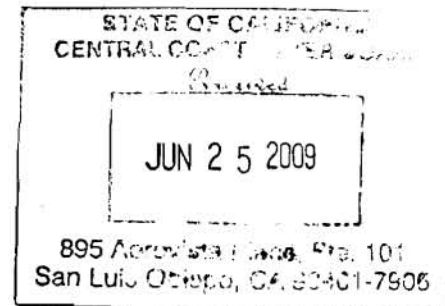
Central Coast Water Quality Preservation, Inc.

P.O. Box 1049
Watsonville, CA 95077

(831) 761-8644
Fax (831) 761-8695
e-mail kscheidt@ccwqp.org

June 22, 2009

Mr. Jeffrey S. Young
Chair
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401



Re: Ag Waiver - Limited Term Renewal
Board Meeting, July 10, 2009
Item #11

Dear Chairman Young:

Central Coast Water Quality Preservation, Inc., manages the Cooperative Monitoring Program on behalf of farmers participating in the current Ag Waiver. The Ag Waiver is for a period of five years, ending in July, 2009. Your Board will consider a limited term renewal of the existing Ag Waiver for a one year period at the meeting in Watsonville on July 10, 2009.

Sarah Greene and I, the staff of CCWQP, participate on the Ag Advisory Panel and understand the complexity of issues which need to be considered in a new Ag Waiver. The Ag Advisory Panel has been meeting since December, 2008, and is hopeful of making recommendations to CCRWQCB management and staff by November, 2009. In March, 2009, it became apparent that there was no possibility for a new Ag Waiver to be written, noticed and presented to your board by July, 2009. The proposed order extending the existing Ag Waiver for one year is reasonable given these circumstances.

The new one year limited term Ag Waiver is identical to the order adopted in 2004. However, passage of time and compliance with the existing order make some of the terms no longer applicable. Several of the provisions in the proposed order are no longer relevant and could be stricken from the order.

1. Waiver Tiers (page 12): All growers were allowed an initial three years to comply with Tier 1 qualification and reporting requirements. Tier 2 was established to deal with this initial three year period. As all growers should have succeeded in meeting the qualification and reporting requirements Tier 2 should be deleted.
2. Part IV, ¶ 11 (page 16) should be corrected to change the review date to July, 2010.
3. Reporting Tasks/Milestones (page 15) is not current and should be deleted.
4. Monitoring Tasks/Milestones (page 15) reflects actions necessary to set up the CMP in 2005. It is no longer applicable and should be deleted.

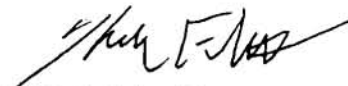
The findings to support the order are from the 2004 order. Some of the information contained in the findings has changed over the past five years, and the findings should be changed to reflect current conditions. For example:

1. Finding 4 (page 1) The background information which is part of the package supporting this order shows total irrigated acreage to be 438,000, significantly below the 600,000 acres presently shown in the findings.
2. Finding 17 (page 3) summarizes the outreach to growers prior to 2004. It does not reflect the extensive education, outreach and on farm meetings conducted in the past five years by UCCE, RCD, NRCS, CCAWQC, CCWQP and others.
3. Finding 23 (page 5) should reflect that NOI enrollment forms are presently available and have been since 2004.
4. Finding 26 (page 5) incorrectly states that there is no state fee associated with the Ag Waiver, when there is a per acre assessment of 12¢ which is imposed by the SWRCB.
5. Findings 27, 32 and 35 (pages 5 & 7) all deal with the Cooperative Monitoring Program. This has already been established and managed by CCWQP since January, 2005. Finding 27 also envisions the possibility of "watershed based" monitoring. This was later clarified by a letter from Executive Officer Roger Briggs dated September 13, 2005, limiting monitoring to either the CCWQP managed CMP or individual monitoring.
6. Findings 31, 32 and 35 (pages 6 & 7) concern the formation of CCWQP. CCWQP was incorporated in December, 2004, to carry out the monitoring and outreach envisioned by the 2004 order. References to the formation of a nonprofit should be replaced with acknowledgement that CCWQP has performed this role since 2005. The paragraph following finding 35 should be deleted as it is no longer relevant.

Thank you for addressing the need to extend the existing Ag Waiver to allow more time to draft a new Ag Waiver for consideration by your Board next year.

Should you have any questions regarding the above please do not hesitate to contact me.

Sincerely
Central Coast Water Quality Preservation, Inc.



Kirk F. Schmidt
Executive Director

cc Roger Briggs
Alison Jones

-CCWQP comments Ag Waiver 90622 doc

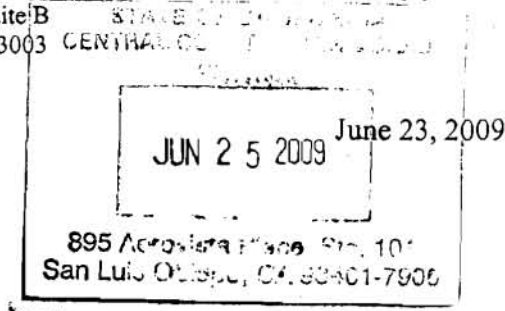


United States Department of the Interior



FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

IN REPLY REFER TO:
2009-EC-0018



Alison Jones
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Subject: Comments Regarding the Proposed Renewal of a Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands, Central Coast Region, California

Dear Ms. Jones:

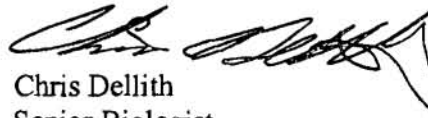
We are responding to the California Regional Water Quality Control Board, Central Coast Region's (Central Coast Water Board) notice of public hearing for the proposed renewal of a conditional waiver of waste discharge requirements for discharges from irrigated lands in the Central Coast Region (Irrigated Ag Waiver). The Central Coast Water Board adopted the Irrigated Ag Waiver on July 9, 2004, and is required by law to review and renew, revise, or replace the waiver every 5 years. A new Irrigated Ag Waiver was not completed in time to meet the July 2009 renewal deadline, and a 1-year renewal of the existing Irrigated Ag Waiver is proposed. We support the 1-year renewal proposal because we understand that Central Coast Water Board staff are actively working towards revisions in the Irrigated Ag Waiver that will enhance the effectiveness of the program and that these changes are substantial enough to require additional time to obtain stakeholder acceptance. We request that the Central Coast Water Board publish a document detailing the steps involved in the renewal process that includes a projected timeline and stakeholder involvement opportunities. We encourage the Central Coast Water Board to make this process more transparent and provide additional opportunities for stakeholders to become engaged in the renewal process. We believe that there are many opportunities to enhance the effectiveness of the Irrigated Ag Waiver program and are optimistic that positive changes to the program may benefit numerous species and habitats.

We are interested in being involved in the Irrigated Ag Waiver renewal process, but are unclear of about the steps involved in the process and opportunities for our participation. We request that the Central Coast Water Board work with us to ensure that revisions to the Irrigated Ag Waiver will benefit federally listed species. We are particularly concerned with the water quality impairment in Oso Flaco Lake, which provides much of the last remaining habitat for two critically endangered plant species, *Arenaria paludicola* (marsh sandwort) and *Nasturtium gambelii* [*Rorippa gambelii*] (Gambel's watercress), as well as the last remaining, wild population of *Arenaria paludicola*. Biostimulation in Oso Flaco Lake has caused the rapid growth of common wetland species, which are now crowding out sensitive species that have not

become similarly vigorous. We believe that without a reduction in biostimulatory substances, these endangered species could be extirpated from Oso Flaco Lake. We are interested in working with the Central Coast Water Board to ensure that the new Irrigated Ag Waiver will contribute to the reduction of biostimulatory substances entering Oso Flaco Lake and the recovery of *Arenaria paludicola* and *Nasturtium gambelii*.

We appreciate the opportunity to provide comments for the proposed renewal of the Irrigated Ag Waiver, and look forward to working with you to improve water quality and habitat for listed species. If you have any questions, please contact Jenny Marek or Mark A. Elvin of our staff at (805) 644-1766, extensions 325 and 258 respectively.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Dellith", written in a cursive style.

Chris Dellith
Senior Biologist

cc: John Robertson, Central Coast Regional Water Quality Control Board
Katie McNeill, Central Coast Regional Water Quality Control Board