

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

**STAFF REPORT FOR REGULAR MEETING OF FEBRUARY 1, 2012
Prepared on January 9, 2012**

ITEM NUMBER: 4

**SUBJECT: CENTRAL COAST WATER BOARD WORKSHOP, WEDNESDAY,
FEBRUARY 1, 2012 IN SALINAS-
Opportunity for Public Comment (Oral only) on the Draft Staff
Recommendations for an Updated Agricultural Order (Order
No. R3-2012-0011, 2012 Draft Agricultural Order)**

SUMMARY

The Central Coast Water Board (Water Board) is holding a **workshop on Wednesday, February 1, 2012 in Salinas** regarding renewal and revision of the conditional waiver of waste discharge requirements for discharges from irrigated lands. The workshop has been scheduled at the request of interested persons to provide the opportunity for Board members, particularly the recently appointed Board members, to become more familiar with the record in this matter and to hear comments by the public on the proposed 2012 Draft Agricultural Order. In an Order issued on January 8, 2012, the Chair of the Water Board granted the request by the interested persons for the Board to hold an additional workshop.

At the workshop, staff will provide a brief summary of the current status of updating the Draft Agricultural Order and overall proceedings to date. The public will have an opportunity to make oral comments. The workshop is scheduled for three hours. The Water Board will generally provide three minutes per speaker unless a longer time is requested and granted. Persons wishing to have longer than three minutes to speak must submit their requests (with justification) to the Executive Officer (rbriggs@waterboards.ca.gov) of the Water Board by 5:00 p.m., January 18, 2012. Persons requesting additional time to speak will be informed by January 24th on whether the request has been granted. Note that the Water Board has provided two previous multi-hour hearings, two multi-hour workshops, and five opportunities to submit written comments. All Water Board members have been provided the record in this matter, including the staff reports, comments and responses to comments, and hearing and workshop audio and transcripts, if available. The Water Board expects that speakers will summarize their previous submittals, avoid repetition, and group similar presentations.

As the written record is now closed, no additional written comments will be accepted into the record.

At a hearing scheduled at the Water Board's regularly scheduled meeting on March 15, 2012, in San Luis Obispo, the Water Board will consider adoption of an Agricultural Order. Notice and process for that hearing will be published at a later date.

The latest version of the Draft Agricultural Order was made available to the public on August 16, 2011, in preparation for the postponed September 1, 2011 Board Meeting. The August 16, 2011 Staff Report includes redline-strikeout edits to the Draft Agricultural Order and Monitoring and Reporting Program, made in response to comments on previous versions of the Draft Agricultural Order distributed in preparation for the March 17, May 4, and September 1, 2011 Board Meetings. Table 1 summarizes the requirements of the 2012 Draft Agricultural Order.

The Staff Report for the September 1, 2011 Board Meeting (Item 17) is at the following web link:

http://www.waterboards.ca.gov/centralcoast/board_info/agendas/2011/Sept/Item_17/

DISCUSSION

Status of the Process to Update the Draft Agricultural Order

The Water Board scheduled a hearing for September 2011, to consider adoption of the Draft Agricultural Order. The hearing was noticed to the public as a Board Hearing if a quorum of Board Members was appointed, or another Panel Hearing if no quorum existed. Later the Water Board postponed the hearing due to lack of a Board quorum to consider the item.

In early November 2011, additional members were appointed to the Water Board, creating a quorum that could consider and act on the Draft Agricultural Order.

The Water Board has scheduled a workshop for February 1, 2012 at the request of interested persons.

At a hearing scheduled at the Water Board's regularly scheduled meeting on March 15, 2012, in San Luis Obispo, the Water Board will consider adoption of the 2012 Draft Agricultural Order. Notice and process for that hearing will be published at a later date.

Description of Overall Process to Update the Draft Agricultural Order

The process to renew the 2004 Agricultural Order began in December 2008. In the last three years, the Central Coast Water Board issued numerous order drafts and associated staff reports, held multiple public comment periods, convened numerous outreach events, and completed multiple extensions of the existing order. See Table 2 for a completed list of all outreach events.

The Water Board adopted a Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands in 2004 (2004 Agricultural Order). In adopting the 2004 Agricultural Order, the Water Board found that the discharge of waste from irrigated lands had impaired and polluted the waters of the State and of the United States within the Central Coast Region, impaired the beneficial uses, and caused nuisance.

Staff initiated the process to update the Draft Agricultural Order in 2008. The Agricultural Order needed to be evaluated for an update for several reasons. First, the 2004 Agricultural Order was due to expire in five years, 2009. Additionally, the 2004

Agricultural Order did not directly address nitrate groundwater pollution at that time, did not include groundwater monitoring, and did not include conditions consistent with typical orders to control waste discharges from industries or activities affecting water quality in a similar level of severity. The 2004 Agricultural Order required surface receiving water monitoring but did not require individual monitoring or reporting to evaluate implementation effectiveness or pollution reduction from individual farm operations, not even those posing the highest risk to water quality and beneficial uses. Staff proposed to update the 2004 Agricultural Order to add discharge monitoring and reporting, verification of on-farm water quality improvements, and public transparency regarding on-farm discharges. The 2012 Draft Agricultural Order addresses these limitations.

The Executive Officer described the Water Board's intent to address the major water quality issues in agricultural areas in a letter sent to stakeholders on December 2008, and available on the Water Board's website at:

http://www.swrcb.ca.gov/rwqcb3/water_issues/programs/ag_waivers/docs/ag_order/letter_invitation_12_08.pdf

During most of 2009, the Water Board convened an Agricultural Advisory group consisting of agricultural and environmental representatives to work on updating the Agricultural Order. On February 1, 2010, the Water Board released, for public review, a Preliminary Staff Draft Conditional Waiver of Waste Discharge Requirements for Discharges of Waste from Irrigated Lands (Preliminary Staff Draft Order) and received comments and alternative proposals to the Preliminary Staff Draft Order. The Water Board received alternative proposals from both agricultural and environmental stakeholder groups.

The February 1, 2010 Preliminary Staff Draft Conditional Waiver of Waste Discharge Requirements can be viewed at:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order_att3.pdf

The Alternative Proposals from agricultural stakeholders can be viewed at:

California Farm Bureau Federation-

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/Alt1.pdf

OSR Enterprises, Inc. -

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/alt2.pdf

The Alternative Proposal from Environmental Defense Center, Monterey Coastkeeper, Ocean Conservancy, Santa Barbara Channelkeeper, and SurfRider Foundation - Santa Barbara Chapter can be viewed at:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/Alt%203.pdf

On May 12, 2010 and July 8, 2010, the Water Board held public workshops to provide an opportunity for public comments and recommendations for updating the 2004 Agricultural Order.

The Staff Report for the May 12, 2010 Workshop can be viewed at:

http://www.waterboards.ca.gov/centralcoast/board_info/agendas/2010/may/item3/index.shtml

The Staff Report for the July 8, 2010 Workshop can be viewed at:

http://www.waterboards.ca.gov/centralcoast/board_info/agendas/2010/jul/item_12/index.shtml

After considering various regulatory options and public comments received, including alternative proposals, the Water Board released a revised Draft Agricultural Order, Draft MRP, and staff report on November 19, 2010.

The November 19, 2010 Draft Agricultural Order (2nd version), Draft Monitoring and Reporting Program, and Draft Staff Report can be viewed at:

Draft Order -

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/12_09_2010_staffrpt/AgOrder_AppA.pdf

Draft MRP -

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/12_09_2010_staffrpt/AgOrder_AppB.pdf

On March 1, 2011, the Water Board released a further revised Draft Agricultural Order and on March 17, 2011, initiated a Panel Hearing. The Panel Hearing was continued to May 4, 2011 to allow further opportunity for public input.

The March 1, 2011 Draft Agricultural Order (3rd version), Draft Monitoring and Reporting Program, and Draft Staff Report for the March 17, 2011 and May 4, 2011 Board Meetings can be viewed at:

Attachment A- Draft Order, Attachment B- Draft Monitoring and Reporting Program

http://www.waterboards.ca.gov/centralcoast/board_info/agendas/2011/march/item_14/

At the May 4, 2011 Panel Hearing, the Water Board allowed agricultural stakeholders to submit additional information regarding their alternative proposal.

The additional information for the Agricultural Alternative Proposal can be viewed at:

- Submitted May 4, 2011 - Order Attachment B, Terms and Conditions for Discharger Compliance Through Third Party Group with redline and strikeout (replaces version submitted March 17, 2011)-

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/050411_order_attb_redline_coalition_revisions.pdf

- Submitted May 4, 2011 - Part 2. Groundwater Assessment, Monitoring and Reporting Requirements-

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/050411_groundwater_monitoring_part2_v5.pdf

- Submitted March 17, 2011 - Draft Agricultural Order with redline and strikeout-

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/draft_ag_order_031711_ag_revisions.pdf

- Submitted March 17, 2011 - Order Attachment B, Terms and Conditions for Discharger Compliance Through Third Party Group-
http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/031711_order_attb-revised_coalition_provisions.pdf
- Submitted March 17, 2011 - Monitoring and Reporting Program for Third Party Group Participants-
http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_rep_submittal_2011/draft_third_party%20mrp.pdf

In July 2011, staff released an addendum to the March 2011 staff report, including additional revisions to the revised Draft Agricultural Order made in response to public comments. Interested persons provided written comments on this version in preparation for the September 1, 2011 Board Meeting for the Water Board to consider adoption of the Draft Agricultural Order.

The July 2011 Draft Agricultural Order (4th version), Draft Monitoring and Reporting Program, and Draft Staff Report Addendum for the September 1, 2011 Board Meeting can be viewed at:

Draft Order –

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/2011_sept_hearing_docs/sept2011_agorder_att1_070611_final.pdf

Draft MRP –

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/2011_sept_hearing_docs/sept2011_agorder_att2_070611_final.pdf

Staff Report-

http://www.swrcb.ca.gov/rwqcb3/water_issues/programs/ag_waivers/docs/2011_sept_hearing_docs/sept2011_agorder_addstfrpt_070611_final.pdf

On August 16, 2011, staff released another addendum to the March 2011 staff report, including a few additional minor revisions, specifically in response to written comments submitted on the July 2011 version. Most of the written comments submitted in July and August 2011 duplicated previous comments so staff made only minimal revisions in response to a few new suggestions. The requirements of the 2012 Draft Agricultural Order are summarized in Table 1.

The August 16, 2011 Draft Agricultural Order (4th version, with minor revisions), Draft Monitoring and Reporting Program, and Draft Staff Report Addendum for the September 1, 2011 Board Meeting can be viewed at:

http://www.swrcb.ca.gov/rwqcb3/board_info/agendas/2011/Sept/Item_17/index.shtml

The Water Board scheduled a Board Hearing (if a quorum of Board Members was appointed) or another Panel Hearing (if no quorum existed) for September 2011. Later the Water Board postponed the hearing due to lack of a Board quorum to consider the item.

Because the Water Board did not renew the Agricultural Order before its five-year term expired, the Water Board extended the 2004 Agricultural Order four times beyond the original 2009 expiration date: on July 10, 2009, the Board without any substantive revisions for one year; on July 8, 2010, without any substantive revisions for a term

ending on March 31, 2011; on March 29, 2011, for six months; and on September 30, 2011 for one year. Therefore, the current order expires on September 30, 2012.

In November 2011, additional members were appointed to the Water Board, creating a quorum that could consider and act on the Draft Agricultural Order. The Water Board Hearing to consider the Final 2012 Draft Agricultural Order is scheduled for March 15, 2012.

Since the Water Board began the process to renew the Agricultural Order in 2008, staff has convened multiple public input opportunities and held numerous meetings with persons interested in the renewal of the 2004 Agricultural Order, including individuals and representatives of agricultural groups, environmental groups, and public health groups. Table 2 summarizes the various public input opportunities and stakeholder meetings and events to discuss the Agricultural Order renewal since November 2009.

CONCLUSION

The Water Board is holding another **workshop on February 1, 2011 in Salinas** regarding renewal and revision of the conditional waiver of waste discharge requirements for discharges from irrigated lands.

The public will have an opportunity to make oral comments at the workshop. The workshop is scheduled for three hours. Note that the Water Board has provided two previous multi-hour workshops, two multi-hour hearings, and five opportunities to submit written comments. All Water Board members have been provided the record in this matter, including the staff reports, comments and responses to comments, and hearing and workshop audio and transcripts, if available. The Water Board expects that speakers will summarize their previous submittals, avoid repetition, and group similar presentations.

As the written record is now closed, no additional written comments will be accepted into the record.

At a hearing scheduled at the Water Board's regularly scheduled meeting on March 15, 2012, in San Luis Obispo, the Water Board will consider adoption of an Agricultural Order. Notice and process for that hearing will be published at a later date.

Table 1. Summary of Requirements – 2012 Draft Agricultural Order and Monitoring and Reporting Program (Tier 1, Tier 2, and Tier 3).

TIER 1	TIER 2	TIER 3
<p>TIER 2 Requirements <u>MINUS:</u></p> <p>Annual compliance info – online entry</p>	<p>Meet water quality standards</p> <p>File Notice of Intent (NOI)</p> <p>Develop Farm Plan and Implement Management Practices</p> <ul style="list-style-type: none"> • Irrigation Management • Nutrient Management • Pesticide Management • Erosion Management • Schedules to implement <p>Surface Receiving Water Monitoring</p> <p>Education, Time Schedules</p> <p>Groundwater Well Backflow Prevention</p> <p>Proper Well Abandonment</p> <p>Groundwater Monitoring and Reporting</p> <p>Annual compliance info – online entry</p> <ul style="list-style-type: none"> • Total Nitrogen Applied Reporting¹ • Riparian and Wetland Photo Monitoring and Reporting¹ 	<p>TIER 2 Requirements <u>PLUS:</u></p> <p>Individual Surface Runoff Monitoring</p> <p>Water Quality Buffer Plan¹</p> <p>Irrigation and Nutrient Mgmt Plan¹</p> <p>Nutrient Balance Targets¹</p>

¹Requirement applies to only a subset of Tier 2 or Tier 3 farms/ranches.

Table 2. Agricultural Order Renewal Stakeholder Outreach Meetings and Events from November 2009 to Present	
DATE	MEETING / EVENT¹
November 17, 2009	Staff Presentation at 2009 Sustainable Ag Expo in San Luis Obispo, sponsored by the Central Coast Vineyard Team
January 12, 2010	Staff Presentation at American Society of Agronomy Conference, California Certified Crop Advisers
February 17, 2010	Monterey Coastkeeper
February 22, 2010	Santa Cruz County, Resource Conservation District of Santa Cruz County, and Big Sur Land Trust
March 3, 2010	San Luis Obispo County Water Resources Advisory Committee
March 8, 2010	Technical Assistance Providers (University of California Cooperative Extension, Cal Poly Irrigation Training Research Center, Monterey Bay National Marine Sanctuary, Natural Resources Conservation Service, Resource Conservation District of Monterey County)
March 9, 2010	Staff presentation to Spanish speaking growers and irrigators - Annual Monterey County Ag Expo
March 17, 2010	California Strawberry Commission
March 22, 2010	San Luis Obispo County Farm Bureau Members – North Coast Farm Center
March 23, 2010	The Commonwealth Scientific and Industrial Research Organization (CSIRO) and Antinetti Consulting, Inc.
March 30, 2010	Central Coast Vineyard Team, Department of Pesticide Regulation, State Water Resources Control Board, Central Valley Regional Water Quality Control Board
April 11, 2010	Executive Officer Presentation to Association of California Water Agencies on Water Quality and Water Supply
April 14, 2010	Agricultural Water Quality Alliance (Monterey Bay National Marine Sanctuary, Resource Conservation District of Monterey County, Natural Resources Conservation Service, Central Coast Agricultural Water Quality Coalition, Central Coast Water Quality Preservation, Inc., Resource Conservation District of Monterey County, University of California Cooperative Extension, AWQA RCDs)
April 28, 2010	Interagency Meeting (U.S. Environmental Protection Agency, U.S. Fish and Wildlife, California Department of Public Health, California Department of Water Resources, California Department of Food and Agriculture, California Department of Fish and Game, California State Parks, County public health agencies, County Agriculture Commissioners)
April 29, 2010	Staff presentation to Farm, Food Safety, Conservation Network
April 30, 2010	California Association of Nurseries and Garden Centers, University of California Cooperative Extension
May 12, 2010	Central Coast Water Board Public Workshop – San Luis Obispo
May 24, 2010	Staff presentation to Spanish speaking growers - Agriculture & Land-Based Training Association
July 8, 2010	Central Coast Water Board Public Workshop – Watsonville
August 16, 2010	Multiple Agricultural Stakeholders: CA Farm Bureau Federation, County Farm Bureaus, Coalition, Grower-Shipper Association, Strawberry Commission, Central Coast Vineyard Team, and Other Agricultural Industry Representatives
August 16, 2010	Public Meeting: Scoping for California Environmental Quality Act
August 17, 2010	Environmental Defense Center, Monterey Coastkeeper, Surfrider, Santa Barbara Channelkeeper, Environmental Justice Coalition for Water
August 18, 2010	CA Association of Nurseries and Garden Centers, Nursery/Greenhouse Representatives

DATE	MEETING / EVENT¹
August 19, 2010	San Luis Obispo County Farm Bureau, Local Agricultural Representatives
September 8, 2010	California Strawberry Commission
November 10, 2010	Board Member field trip to runoff treatment sites in Monterey County
November 15, 2010	Staff presentation at Sustainable Ag Expo in Seaside, Monterey County, sponsored by Central Coast Vineyard Team
October 28, 2010	Staff presentation at Crop Production Services: 4th Annual Pesticide Safety Conference
November 2, 2010	Staff presentation to Spanish speaking growers at ABCs del Manejo del Riego y Fertilizantes Workshop. Ventura
December 1, 2010	Staff Presentation at Western Plant Health Association Conference
December 3, 2010	Staff Presentation at the Sustainable Agriculture Conference sponsored by Cal Poly College of Agriculture, Food, and Environmental Sciences (CAFES) Center for Sustainability.
December 6, 2010	Staff panel participation at CA Farm Bureau Federation Annual Conference
December 7, 2010	The Commonwealth Scientific and Industrial Research Organization (CSIRO) and Antinetti Consulting, Inc.
December 10, 2010	Staff presentation at Western Plant Health Association. Nutrient Conference Series. Plant Nutrition and Physiology
December 14, 2010	California Strawberry Commission
December 15, 2010	Multiple Agricultural Stakeholders: CA Farm Bureau Federation, Santa Clara County Farm Bureau, Grower-Shipper Association, Santa Barbara County Farm Bureau, Monterey County Farm Bureau, Western Growers, Cut Flower Commission, Central Coast Vineyard Team, Central Coast Water Quality Preservation Inc. and Other Agricultural Industry Representatives
December 15, 2010	Central Coast Water Quality Preservation Inc.
January 10, 2011	Staff Presentation to San Luis Obispo County Public Health Commission
January 28, 2011	California Avocado Commission
February 3, 2011	Central Coast Water Board Public Workshop – San Luis Obispo
February 24, 2011	Staff Presentation to Spanish speaking growers and irrigators - Annual Monterey County Ag Expo
March 17, 2011	Central Coast Water Board Panel Hearing – Watsonville
May 4, 2011	Central Coast Water Board Panel Hearing Continuation – San Luis Obispo
May 11, 2011	Staff presentation at Strawberry Workshop – Santa Maria
May 12, 2011	Monterey Bay National Marine Sanctuary
May 18, 2011	Central Coast Water Quality Preservation Inc.
May 25, 2011	“Ag Working Group” – Grower Shipper Association (Abby Taylor-Silva, Richard Quandt), Monterey County Farm Bureau (Norm Groot), Tess Dunham (Somach Simmons & Dunn Law Office)
June 8, 2011	Drinking Water and Conservation Organizations – Environmental Defense Center, Monterey Coastkeeper, San Luis Obispo Coastkeeper, Santa Barbara Channelkeeper, Environmental Justice Coalition for Water.
June 13, 2011	Central Coast Water Quality Preservation Inc.
June 16, 2011	Staff presentation to Spanish speaking growers - Agriculture & Land-Based Training Association Workshop
June 30, 2011	Staff presentation at “Growing Organically on the Central Coast” Workshop sponsored by the Organic Fertilizer Association of California (OFAC), California Association of Pest Control Advisors (CAPCA), and Cal Poly College of Agriculture, Food, and Environmental Sciences (CAFES) Center for

Table 2. Agricultural Order Renewal Stakeholder Outreach Meetings and Events from November 2009 to Present	
DATE	MEETING / EVENT¹
	Sustainability.
July 8, 2011	Central Coast Water Quality Preservation Inc.
July 20, 2011	Environmental Justice Coalition for Water, Clean Water Action
July 27, 2011	Dr. Marc Los Huertos (representing "Farmers for Water Quality")
August 4, 2011	California Coastal Commission
September 1, 2011	Central Coast Water Board Panel Hearing Continuation – San Luis Obispo <Postponed>
September 1, 2011	California Department of Food and Agriculture
October 18, 2011	Ocean Mist Farms and RC Farms - Dale Huss (Owner), Bill Thomas (attorney), and Dennis Sites (consultant)
November 3, 2011	Strawberry Commission
November 16-17, 2011	California Department of Food and Agriculture's Fertilizer Research and Education Program (FREP) Annual Conference
December 2, 2011	Staff presentation at Cal Poly Sustainable Agriculture Conference
December 2, 2011	California Department of Food and Agriculture
December 16, 2011	Central Coast Ag Water Quality Coalition, Central Coast Water Quality Preservation Inc., and technical assistance providers
March 15, 2012	Central Coast Water Board Hearing – San Luis Obispo <PENDING>

¹ Table includes formal meetings and presentations at scheduled events to discuss the Agricultural Order Renewal since November 2009. In addition to such meetings and events, staff also attempted to give priority to informal discussions with individuals and organizations, which resulted in numerous informal meetings and phone calls to discuss the Agricultural Order not represented on the table. The table does not include stakeholder meetings and events that occurred prior to November 2009, such as the Agricultural Advisory Panel meetings. Information presented at Board Meetings, and public comments submitted, are available on the Water Board's website associated with the specific Board Meeting date.

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