

**NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD**

**PLAN COMMENTS TO DATE**

**REGION 1**

May 17, 2012

Water Quality Control Board  
North Coast Region  
Attn: David Leland  
Rebecca Fitzgerald, Program Coordinator  
5550 Skylane Blvd, Ste A  
Santa Rosa, CA 95403

Dear North Coast Water Quality Control Board:

Thank you for the opportunity to make comments on the Region 1 Irrigated Lands Discharge Program to date. There has certainly been a lot of progress made but in doing so it only points out the amount of both work and discussion that still remains necessary.

As North Coast Del Norte, Humbolt, Trinity subcommittee members, we understand the necessity to keep the process moving. However, your desire to move rapidly is out-pacing the committee members' ability to learn about, understand, and react to the proposals put forward at the sub-regional meetings. Point in fact, we were asked to provide input at the last regional meeting on a tier proposal. I did not receive the email for the tier proposal until after 5pm, Friday April 27; I did not get to that email until Monday, April 30 and on May 3 we were required to be at a meeting in Eureka prepared to give comments about the proposed tier structure, which included many points that I do not believe were even discussed at much length in previous sub-committee meetings. This has been, in my experience, typical of the way the entire process is run. We are being asked to digest material in a short period of time, try to make constructive comments on proposals immediately, and then deal with the profound long-term affects to our entire industry. Much of what appeared in your original tier proposal was generated from conversational comments which did happen at subgroup meetings; however, in my estimation no way expressed articulately the consensus, attitudes, or feelings of the subcommittee. This could be why we stalled so badly on the May 3 meetings.

We were told that the meetings would be conducted under a consensual set of rules which would allow for affirmative, no-opinion, or non-agreement style voting. To my knowledge, I have participated in only one said vote to date, which was at the first sub-group meeting in Eureka over the issue of adding non-irrigated Ag on February 17th. Anyone with a non-agreement vote was required under that

arrangement to write their own counter proposal. I have yet to see that circumstance arise. We are currently scheduled to attend a regional meeting in June at which point the tiers will be submitted/approved by the regional committee. How is this possible without any consensus of the subcommittee? At the very least we should be having at least a phone conference to discuss other tier suggestions which I assume other sub-committee members may be submitting, as I am, under this comment period. And we should be able to see, at least two weeks before the regional meeting, all proposals for Tiers and comment letters from all sub-regional groups so we may have an opportunity to digest, discuss, and make thoughtful and meaningful comments on those.

Part of the frustration, is that we feel as though we still can't get direct answers to direct questions. As a result, we do not understand the parameters/framework under which we are working. Yet, people make off-hand comments which are then adopted as though they have been agreed upon. We are stuck in a quandary of wondering whether to open our mouths for fear of making a comment that is adopted into a document when it was in fact just part of a discussion and worse we feel obligated to retort to comments and allegations made by other group member that we feel do not accurately portray current conditions, facts, or know finds. This creates the arguing and infighting that no one wants. The moderator should step in at these points to insulate Committee members from this responsibility.

It is critical that we get meeting dates firmed well in advance and that materials to be presented at those meetings be shared with the subcommittees with at least two weeks' notice. Finally, before moving on to another meeting, we as a subcommittee need to decide on the points to be submitted by the sub-committee to the Regional. Currently it feels as though we are building a house on a very unstable foundation; we need to fix the foundation before going further.

Our biggest area of concern is that as we read other regions' proposed plan tiers, and we look at their tier structure, we see very little similarity between those approved programs and the proposed NCWQCB tier structure for Region 1. It would appear to us that there is a much higher level of scrutiny being applied to commercial agriculture in the North Coast region than there was in the rest of the state of California. Are we misunderstanding what is going on here or is there truly a desire on the part of NCRWQCB to have a much more stringent plan in the North Coast region than they do in the rest of the state? If so, why? We believe, that most Agriculture in this region is either out of scope, or because of its **low risk, or no risk at all** to water quality, should be in Tier 1. Most farms that meet this criteria, are small family farms that cannot deal with additional bureaucratic layering or fees. There is no evidence to the contrary and no one under this plan should be guilty without some evidence. If there is no proven impact to beneficial uses then OUT OF SCOPE OR TIER 1 is where these types of operations or coalitions rightfully belong.

Please find enclosed/attached our proposal for the tiers and also a description of what kind of agriculture falls outside the scope of certain tiers. We tried to structure them based on a risk/reward laddering system where relatively benign forms of commercial agriculture, which pose very little/low risk, are in the lowest tier and those that have a known risk are in the top tier. We believe the basic criteria for a Risk/Reward, Known Risk Plan is based on two common Commercial Agricultural activities. First, Soil tillage and bare ground as this exposes soils to erosion/sedimentation, and secondly, the use

of agricultural pesticides, as this is an area of concern for water quality concerns. Operations or Coalitions that have these activities should be it Tier 2 which is a “potential” type category. And finally if your operation or Coalition has a **demonstrated** negative impact on Water quality and a known find then you are in tier 3 with BMP’s specifically designed to deal with the pollutants/problem. With this system your goals are achieved, you’ve sorted out the risks, excesses are dealt with, we are not just throwing the net over everyone for no reason, no one is forced to prove innocence but is required to respond to problems, and WQCB just might end up with a program that has Ag’s support, not a litigation nightmare.

The need to discuss slope is negated by the “bare ground” concept as that is what ultimately leads to the issues addressed by slope and includes all slopes.

Pesticide use under State and Federal laws have setbacks/buffers where the regulatory agency with this authority has deemed required, relieving the WQCB of this task as it falls outside of your scope and charge.

Finally, WQCB protects the waters of the State by imposing additional monitoring and BMP’S when there is a **demonstrated** impact to beneficial uses.

We look forward to further discussion on this matter.

Respectfully;

Harry A. Harms

On behalf and with much input by the current Del Norte County Sub-Committee Members

cc: Ben Zabinski, Board Staff  
Sam McGill, Center for Collaborative Policy

## Final NORTHCOAST SUB-GROUP PROPOSED TIERS FOR REGION 1

### Out of Scope:

- Non-commercial agriculture or hobby farms
- Acres of field & row crops <10 acres
- Acres forage and irrigated pasture <50
- Nurseries < 5 acres
- Vineyards and orchards <10 acres
- Lands used exclusively for 4H, FFA, or Grange projects
- No tailwater discharge to waters of the state
- Ag land that does not irrigate.

### TIER 1

- **Low Risk Commercial agriculture, permanent pasture and forage with no ground disturbance**
- Irrigations annually may be performed to promote Cover to protect against sedimentation.
- No pesticides applied except pasture spot spraying for invasive weeds.
- No monitoring required
- No enrollment / No fees

### TIER 2

- **Moderate Risk Commercial Agriculture, Includes all Crop Land that has Ground Disturbance Activity or causes the soil surface to be bare and subject to erosion.**
- Allows for any pesticide allowed under CDPR and Federal EPA labels and registrations.
- Does not meet criteria for tier 1 or 3
- Basic Monitoring plan required
- Written Farm Plan/Has Fee's

### TIER 3

- **High Risk Commercial Agriculture, Must have a 303D listing for a specific Pollutant or Must have a Scientifically Proven Pollutant that Exceeds Human Health Standards or the CTR Criterion for Fresh Water Aquatic Life.**
- Must employ BMP's to reduce Agricultural inputs and impacts associated with above listed Pollutant
- Will be returned to Tier 2 after implementation of BMP's show's recovery trend.
- Requires Specific Monitoring plan for above Pollutant and Basic Monitoring plan
- Written Farm Plan/Has Fee's