



Mendocino County Farm Bureau

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Affiliated with the California Farm Bureau Federation and the American Farm Bureau Federation

July 20, 2012

Ben Zabinsky
North Coast Regional Water Quality Control Board
5550 Skylane Blvd. STE A
Santa Rosa, CA 95403-1072

RE: NCRWQCB Draft Water Quality Program for Irrigated Agriculture July 6, 2012 Version

Dear Mr. Zabinsky,

At the last full advisory group meeting held on June 26, 2012 in Redding, one key issue related to defining baseline conditions to justify the need for the development of this water quality program was brought up but not fully vetted. This point of concern had been highlighted in previous correspondence from Mendocino County subgroup participants and Mendocino County Farm Bureau (MCFB) would like to reiterate the request for this to be discussed in more detail at a future Mendocino-Sonoma subgroup meeting or at the next full advisory group meeting. MCFB would also like to request that the NCRWQCB develop a policy statement on how baseline conditions will be determined and referenced in order to demonstrate future water quality improvements from actions related to this program. The agricultural community should not be burdened with defining these unanswered questions through fees and monitoring expenses.

In terms of the July 6, 2012 draft of the scope and framework of the program, please see the following comments:

Page 1:

MCFB appreciates the addition of the U.S. Forest Service conditional waiver as an existing water quality program that is not to be superseded by the agricultural lands discharge program. However, the wording needs to be changed to the United STATES Forest Service conditional waiver.

In terms of the addition of language explaining that, *“This program will cover all discharges to waters of the State (including groundwater) associated with the following activities---“*, MCFB requests that additional discussion take place to explain how groundwater use intends to be regulated under this program. Will the use of groundwater only be covered if there is a discharge to waters of the state?

Regarding the exemption of properties one acre or less, MCFB feels that the focus should be on risk of discharge versus the size of the property.

For projects that are out of scope, will lands owned by universities or other research organizations be automatically excluded or will specific research projects be excluded? Not all land owned by universities or other entities are used for research projects. Also, at the June 26th meeting in Redding there was discussion regarding this exclusion and how it relates to high school and college agricultural farms. This exclusion may need additional definition or clarification.

Page 2:

Under program framework, it is stated that, *“Because higher risk operations will likely require more oversight and direct involvement with Regional Water Board staff, the higher risk tiers will likely carry larger fees and more stringent monitoring requirements.”* MCFB requests that a clear explanation of current fee structures for irrigated agricultural programs as set by the SWRCB be presented in a document format at a future meeting. There needs to be an understanding of how fee levels do and do not correlate to risk and what flexibility the NCRWQCB has to adjust fees.

The same question regarding fee structure is related to these language excerpts as well:

P 2. Tier 1: Operations in Tier 1 are likely to have minimal interaction with the Regional Water Board, fewer monitoring requirements and minimal/no fees.

P 3. Water Quality Stewardship: Although one goal of this category is to minimize/eliminate fees for growers/operators, this periodic monitoring may require limited interaction with the Regional Water Board and an associated fee.

P 3. Tier 2: Growers/operators in Tier 2 will likely be subject to more oversight by the Regional Water Board and higher fees than those operations in Tier 1.

P 4. Tier 3: It is assumed that, given the substantial amount of Regional Water Board oversight required by this Tier, fees will be significantly higher than in the other two tiers.

P 2. Tier 1 Low Risk Category

The wording “no land” in the qualification for the Tier 1 Low Risk Category below is unclear.

No land or facility within riparian zone, or 35 feet of a Class I or II stream, whichever is greatest

No land or facility within 35 feet of a Class III stream or other conveyance to Class I or II stream

As highlighted in the email from Mr. Zabinsky on July 6, 2012 it is stated that, “ *the land that cannot be located within the riparian zone or stream buffer refers to land where agricultural activities within the scope of the program are taking place, not just any land on the property.*” This should be clarified in the draft language

Page 3:

Tier 2:

“Growers/operators will implement a Plan that was submitted to and approved by the Regional Water Board Executive Officer.”

There was active discussion at the June 26th meeting regarding the submittal of a farm plan to the NCRWQCB as reflected in the minutes. MCFB does NOT support the submittal of individual farm plans to the NCRWQCB as this subjects this information to be made available to anyone via the Freedom of Information Act. Through the third party certification process, or through individual consultation with the NCRWQCB, plans can be approved and verification of implementation of the plan can occur through an inspection process. The actual farm plan should remain with the owner/manager of the property and NOT be submitted to the NCRWQCB.

P3. “All Plans are expected to address the following sources (and associated activities) as needed based on the specific circumstances of a farm/operation:”

- o Nutrients*
- o Sediment*
- o Roads*
- o Irrigation*
- o Drainage water*
- o Riparian Zone (including riparian grazing)*
- o Pesticide application*
- o Pathogens*

In terms of addressing grazing within riparian zones, it is still unclear as to how grazing in general will be addressed. Dry land grazing is listed as being out of the scope of this program and irrigated pasture without tail water has been stated to be excluded as well (email from Mr. Zabinsky on July 6, 2012). If an individual ranch uses dry land grazing or does not have tail water, but perhaps has livestock that access riparian areas, will that operation then be included automatically under Tier 2 until the operation has an approved management plan to deal with riparian grazing?

P 5. Appendix A- Draft Glossary

At the June 26th meeting, a number of suggestions were made to add definitions to the glossary. Some of these suggestions included definitions for:

Ground Disturbance
Cultivation
Polluted
Agronomic Rates
Hydrologic Connectivity
Waste

In reviewing the June 8th draft, definitions of Ground Disturbance and Hydrologic Connectivity were already present within the draft glossary.

The July 6th draft did not have any of the additional suggested definitions. Definitions for CULTIVATION and GROUND DISTURBANCE would be useful as both terms are referenced under land use types within the scope of the program on page 1. The terms POLLUTED and WASTE would be beneficial for determining risk assessment. Waste is also mentioned under Tier 3. The term AGRONOMIC RATES will also need to be defined if applicable.

MCFB appreciates the opportunity to provide comments and asks that the questions brought to the NCRWQCB regarding this program be addressed in the future.

Sincerely,



Devon Jones
Executive Director

CC:

Matt St. John, Executive Director NCRWQCB
Sam Magill, Center For Collaborative Policy
Dave Ceppos, Center For Collaborative Policy