



UNIVERSITY of CALIFORNIA  
**Agriculture & Natural Resources**



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June 17, 2008

Carmen Fewless  
1515 Clay St  
Suite 1400  
Oakland, CA 94612

Subject: Comments on the Conditional Waiver for Grazing Lands in the Tomales Bay Watershed

Dear Ms. Fewless:

Thank you for the opportunity to provide comment on the *Waiver of Waste Discharge Requirements for Grazing Operations in the Tomales Bay Watershed*. The Waiver as written demonstrates the San Francisco Bay Regional Water Quality Control Board's commitment to listening and understanding the agricultural operations that the Waiver is intended to regulate. Providing for the use of existing plans, facilitating a process in which plans can remain on farm, and directing monitoring to conservation practice implementation all are steps that will increase participation and compliance with waiver conditions. The result will be increased conservation practice implementation, and improvements to water quality.

I offer the following suggestions and comments for your consideration to increase the feasibility of the proposed Waiver in terms of water quality planning and implementation needs it will generate.

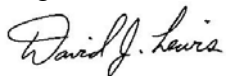
- **Notice of Intent Attachment A Section VI. Implementation of Waiver of WDRs**  
**Conditions:** Clarification is needed so that and applicant understands which boxes to check. Part A seems appropriate if the grazer is already participating in a waiver program. No part B. Part C seems appropriate for those who already have a plan. If an applicant does not have a plan but will be developing one what does an applicant mark? Part D has what appear to be two duplicative options. Alternatively, how is it possible that at this stage, or at any point in the future, when filing an NOI an applicant would have a compliance report already submitted?
- **Plan development deadline:** The deadline for Ranch Water Quality Plan development is not clear. It seems unlikely that all if any of the anticipated 150 plus parcels will have a plan completed by December 31, 2009. A more realistic deadline is the second annual certification date of November 15, 2010.
- **Conditions 1) Ranch Water Quality Plan section b):** The wording with regards to the checklist in Attachment B indicates that this is the only checklist that can be used in developing a Ranch Water Quality Plan. Currently, there are at least three different

checklists in use on Tomales Bay Ranches to do water quality planning. How can these checklists and potentially others be applied in lieu of Attachment B? Resolving this will increase the ability of the applicant to capitalize on any planning that has already taken place and thus accelerate plan development, practice implementation, and waiver compliance.

- **Conditions, 3) Implementation of Management Practices b) and c) page 9:** The language in these sections is inconsistent with the approach for plan development and filing established elsewhere in the document. Specifically in Section b stating “Any proposed management practice that involves work within the floodplain, or any proposal to implement a management practice that may have the potential for increasing the discharge of mercury or the production methylmercury, must be submitted to Water Board staff prior to implementation.” The inconsistency with other sections of the waiver is the requirement to submit a management practice directly to the Water Board for review. Alternative wording for the section could read “Any proposed management practice that involves work within the floodplain, or any proposal to implement a management practice that may have the potential for increasing the discharge of mercury or the production methylmercury, must be reviewed by Water Board staff prior to implementation. This is review is typically made as part of required review and approval for relevant permits.”
- **Mercury sections:** With regards to the addition of the mercury sections, what process will the Water Board put in place for this review and approval of conservation practice implementation on those parcels in the identified portion of the Watershed? What is the anticipated turn around time for this review?
- **Compliance Monitoring and Reporting sections c and d page 9:** The implication for the pre-, mid-, and post- storm monitoring is that this monitoring is to take place for each storm. This is a difficult and burdensome task when considering the size of some of these operations and the difficulty of using ranch roads that are saturated during storms. An alternative is to have a pre-storm season (September-November), mid-storm season (January-Marc), and post-storm season (April-June) inspections.

Again thank you for the opportunity to provide these comments and for the responsiveness the Water Board has demonstrated to early discussions about the Conditional Waiver. Please do not hesitate to contact me with any questions and know I will make myself available to work with you, Tomales Bay agriculturalists, and partnering agencies and organizations to assist ranchers to meet the conditional waiver requirements.

Regards,



David J. Lewis  
Watershed Management Advisor