

APPENDIX B

COMMENT LETTERS RECEIVED

Page intentionally left blank



CALIFORNIA REGIONAL WATER

APR 28 2016

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

April 27, 2016

Laurie Taul
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: *Comments on Proposed General Waste Discharge Requirements for Confined Animal Facilities Within the San Francisco Bay Region, and associated IS/MND*

Ms. Taul,

Zone 7 Water Agency (Zone 7) has reviewed the above referenced documents in the context of Zone 7's mission to provide water supply, flood protection, and groundwater and stream management within the Livermore-Amador Valley. We have a few comments for your consideration:

1. **WDR Scope of Coverage, Item 2 (page 1):** In addition to application to land, the Order should also cover storage and processing (like composting).
2. **WDR Scope of Coverage, Item 5a (page 2):** Some horse boarding facilities do have retention ponds for wash water capture; consider clarifying the example for Tier 1 facilities.
3. **WDR Scope of Coverage, Item 23 (page 5):** The Order should require sampling of any existing monitoring wells in addition to existing groundwater wells.
4. **WDR Required Reports and Notices, Item 3a (page 21):** "Minimal" may be overly vague, and/or it should state who determines if the number of animals is "minimal".
5. **WDR Required Reports and Notices, Item 3c (page 21):** As written, this statement can be mis-read. Consider "Animals are rarely confined and/or fed in areas devoid of vegetation..."
6. **WDR Attachment A MRP, Item b (page 8):** The Nitrate benchmark is more appropriate at "10 mg/l as N" rather than 45.0 mg/l.
7. **WDR Attachment A MRP (page 9):** While the annual report template was not provided for review, following are suggestions for content of these reports:

- a. Maximum animal population by type for reporting period.
- b. Site and operation changes since last reporting period.
- c. Site map similar to that in RMP or WMP with any changes highlighted.
- d. Facility inspection checklist.
- e. Identification of potential water quality problem areas and planned repairs, and planned repair schedule.

8. **Well Monitoring:** The MNID and the WDR appear to be somewhat out of step on the issue of groundwater monitoring. The Proposed Mitigated Negative Declaration states that "monitoring of surface water and groundwater to demonstrate compliance is required" (IX: Hydrology and Water Quality, Item f), but the Tentative General WDR Order (R2-2016-00XX) states that "Tier 1 facilities are not required to conduct groundwater monitoring (see Item 18) and for Tier 2 CAFs only "requires sampling of existing groundwater wells at any CAF facility that utilizes a waste pond to store and manage operational waste" (see Item 23). Further, the groundwater monitoring requirements are unclear for Tier 3 CAFs or for Tier 2 CAFS when no wells exist at the site.

We appreciate the opportunity to comment on this project.

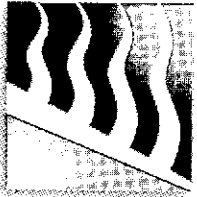
If you have any general questions on this letter, please feel free to contact me at (925) 454-5005 or via email at erank@zone7water.com. Further, questions related to Zone 7's groundwater management plan may be directed to Matt Katen, 925-454-5071, or mkaten@zone7water.com.

Sincerely,

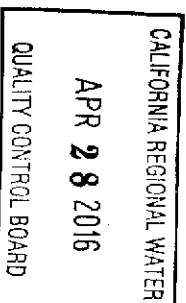
Elke Rank

Elke Rank

cc: Carol Mahoney, Matt Katen, file



**BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT**



April 26, 2016

Laurie Taul
California Regional Water Quality Control Board
San Francisco Bay Region
151 Clay Street, Suite 400
Oakland, CA 94612

ALAMEDA COUNTY
Tom Bates
Margaret Fujioke
Scott Haggerty
Nate Milley

Subject: Initial Study and Mitigated Negative Declaration (IS/MND) for the Adoption and Implementation of General Waste Discharge Requirements (General WDRs) for Confined Animal Facilities including the Re-opening of an Existing Dormant Facility (Project)

CONTRA COSTA COUNTY

John Gioia
David Hudson
(Secretary)
Karen Mitchoff
Mark Ross

Dear Ms. Taul:

Bay Area Air Quality Management District (Air District) staff has reviewed the California Regional Water Quality Control Board's IS/MND prepared for the Project. The Project consists of the San Francisco Bay Regional Water Quality Control Board establishing General WDRs for the management of process water, manure, and other organic materials at confined animal facilities (CAFs), including the application of such materials to land. The General WDRs may be used to regulate currently operating CAFs and any dairies that may reopen within the footprint of a former dairy operation within the San Francisco Bay region.

SAN FRANCISCO COUNTY

John Avalos
Edwin M. Lee
Eric Mar
(Chair)

Air District staff recommends that the IS/MND state that CAFs are regulated by Air District Regulation 2, Rule 10, and that CAFs may require Air District permits, per Air District Regulation 2, Rule 1.


SANTA CLARA COUNTY

Cindy Chavez
Liz Kniss
(Vice-Chair)
Jan Pepper
Rod G. Sinks

SOLANO COUNTY
James Spering
Osby Davis

SONOMA COUNTY
Teresa Barrett
Shirlee Zane

Sincerely,


Jean Roggenkamp
Deputy Executive Officer

Jack P. Broadbent
EXECUTIVE OFFICER/APCO

Michael Murphy Equine Environmental Management Consulting
P.O. Box 2705
Sebastopol, CA 95473
m_murphy@sonic.net
michaelmurphyhomesandland.com
707-332-1195

To: Laurie Taul
From: Michael Murphy
Subject: Comments and suggestions on the draft "General Waste Discharge Requirements for Confined Animal Facilities Within the San Francisco Bay Region"
Date: April 29, 2016

Thank you for giving me the opportunity to review and comment on the draft document. Thank you also for taking the time to have the workshop in Petaluma on April 18. This is the second time I have made comments to the draft document and my first comments will still be relevant.

I have read David Lewis comments and feel that his statement concerning the time line for CAF's that have never been regulated is correct; expecting quick compliance is a little extreme. I represent the equine industry that has never had any regulation except the local county zoning and use permits. Most equine owners are good stewards of the land. It has been my observation that at present, a horse owner will become noticed by the Water Quality, only after a complaint has been filed. It will be very difficult for horse ranchers to comply with documentation, monitoring, BMPs, and additional fees when they have never been exposed to them.

The dairies have had to comply with these rules and standards for years and have had access to grants and funds provided by NRCS, RCDs, and the Department of Agriculture. I would like to see the Equine industry be able to apply for assistance, grants, and other opportunities that apply to other agricultural producers. Since the State Water Quality is

placing Equines under the new CAF's regulations this should now mean that the State now recognizes Equines as a vital part of Agriculture and eligible for the funding available to other agriculture sectors to defray the cost of implementing environmental improvements to ensure the best Water Quality for California.

The dairies also have a program called Dairy Quality Assurance Program that allows them to within their industry to teach and supplement facilities with professional assistance and resources for them to satisfy the requirements of a Waste Discharge Waiver or permit. I would like to suggest such a program be started through the Sonoma County Horse Council and the Santa Rosa Junior College Equine Studies Facility that would allow the equine the same reduced fee and the ability to comply by assistance given by a peer group.

As far as grazing permits, I do not feel this is necessary unless a facility is bordering a body of water. This issue should be dealt with in workshops and education.



April 26, 2016

Laurie Taul, Environmental Scientist
Confined Animal Facility Program Manager, Planning Division
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Comment on Tentative Order No. R2-2016-00XX, General Waster Discharge Requirements for Confined Animal Waste

Dear Ms. Taul,

On behalf of the Sonoma County Horse Council, I am providing this comment on the subject proposed Order during the prescribed public comment period.

The Sonoma County Horse Council (SCHC) was founded in 1993 to be a central organization to advocate for Sonoma County horse owners and businesses and to protect our mutual interests. The SCHC is a non-profit organization whose mission is to promote the health and well-being of horses and all aspects of the horse industry in Sonoma County.

The SCHC respects and honors your agency's role in protecting waterways and water quality in California and indeed, the "health and well-being of horses" depends on it. We also very much appreciate and applaud the notable effort you and your agency have made to reach-out to stakeholders about these proposed regulations.

At this time, we offer these comments and suggested changes to the proposed regulatory language. **Our principal concern is the scope of applicability and some perceived ambiguity about that scope, especially as pertains to small-scale horse operations.** For instance, ¶4 under Scope of Coverage (p.1) states "commercial CAFs" are covered by the regulation including (4.c): "Other, existing CAFs, that the Water Board determines need coverage under this Order due to size, location, and/or threat to water quality." The term "commercial" is not defined and this is problematic for the horse-owner community. It is commonplace for a property owner who owns one or several of their own horses to board one or several other horses, often to defray the cost of maintaining their horses. Strictly speaking, this is of course a "commercial" operation. However, in this very typical arrangement, the property owner or operator does not have a business license, land use permit or other "commercial" license or

registration. Is it your intent to cover this category of “mom & pop” operations? Moreover, this paragraph provides your agency the ability to designate any CAF as covered under the regulation based on “size, location, and/or threat to water quality”. Those first two criteria appear vague and perhaps in need of definition or qualification or even, perhaps, elimination. Is not “threat to water quality” adequate and indeed, the over-arching purpose of the Order? We appreciate that “size” and “location” are factors in assessing the threat to water quality, but there are a host of other factors not listed.

It appears possible that it is not the intent to include the “mom & pop” small-scale horse operations within the covered scope. This is based on ¶3 under Required Reports and Notices (p.21) entitled “Notice of Non-Applicability”. We offer several suggestions here because this is both a key section for small-scale horse operations as well as the section that is arguably the vaguest and most ambiguous. First, as a matter of document construction, a “mom & pop” operator, if provided the Order, would likely search through it for a section on exemptions, waivers or applicability to ascertain if their small operation was subject to the Order. A sub-section entitled “Notice of Non-Applicability” under the section “Required Reports and Notices” does not inform the reader that this is, in fact, the exemption/waiver/scope area of interest. We’d suggest this sub-section be moved under Scope of Coverage and perhaps re-named “Coverage Exemptions” or other plain language that clearly reflects the content and purpose.

Second and substantively, under Notice of Non-Applicability, the language states that a CAF owner or operator may apply for an exclusion from coverage if their operation meets one or more of several provided criteria, including 3.a: “Number of animals within confined areas is minimal and poses no potential for adverse water quality impact”. The use of the term “minimal” here is highly problematic. For example, in practice, cattle ranchers may think under 50 head are clearly minimal operations whereas 50 horses on a property is generally seen as a large operation. In general, reasonable people may disagree by orders of magnitude about what constitutes “minimal”. We strongly urge you to avoid inherently subjective terms like “minimal” and use actual numbers or ranges, even if they are representative or illustrative and not necessarily definitional. Further, in this context, it may be advisable to list different numbers of animals by species because 10 chickens would appear to provide a far less intense threat to water quality than would 10 head of cattle, as a simplistic example.


Lastly on this point, our strongest recommendation. Namely, that the Order provide for a categorical exemption of small-scale operations rather than, as written, the requirement that any and all commercial CAF’s, no matter how small, either comply with the Order or prepare and submit a Notice of Non-Applicability form to request exclusion. A categorical exemption/exclusion could be granted to any horse boarding CAF of, say, up to ten horses provided that the operation has not been, or is subsequently characterized as, a “threat to water quality.”

This categorical exclusion would eliminate coverage for the vast majority of “mom & pop” horse operations. Read in its totality, the Order appears to be principally designed to target dairies and larger CAF’s that pose the greatest threat to water quality. Thus, this categorical exemption would have zero or negligible negative impact on the Order’s impact and desired results.

A 2014 economic study of the Sonoma County equine sector commissioned by the SCHC and done by Sonoma State University contains some data that illustrates the ubiquitous “mom & pop” nature of the local horse community. First, over 75% of survey respondents owned three or fewer horses and almost 96% own ten or fewer. Second, respondents indicate that while the range of acreage for horse properties ranged from one acre to 2,000 acres, the median size of an equine business in Sonoma County is 15 acres. As a practical matter, the typical small-scale horse operation is not a threat to water quality and these operators cannot be expected to comprehend and appropriately respond to the highly technical Order. Many of these small operations, as noted earlier, are not so much profit-oriented as they are designed to reduce the cost of horse ownership through boarding one or several of other people’s horses. Annual gross revenues are frequent well under \$50,000 per year for these operations and often produce zero net income. Thus, the need to hire a third party professional for \$5,000 initially, and perhaps additional outlays later, is onerous and unrealistic. Without a categorical exemption for “mom and pop” operations, Order compliance is not realistic from this sector.

Thank you again for the opportunity to comment, please do not hesitate to contact me for additional information or clarity. I can be reached at (707) 484-0389 or markkrug@comcast.net.

Sincerely,



Mark Krug
Treasurer and Chair, Community Liaisons
Sonoma County Horse Council



United States Department of the Interior

NATIONAL PARK SERVICE
Golden Gate National Recreation Area
Fort Mason Building 201
San Francisco, California 94123

IN REPLY REFER TO:

N36 (GOGA-ER)

April 27, 2016

Laurie Taul
Environmental Scientist
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland CA 94612

Subject: *Tentative Order No. R2-2016-00XX, General Waste Discharge Requirements for Confined Animal Facilities*

Dear Ms. Taul:

Thank you for the opportunity to provide comments on *Tentative Order No. R2-2016-00XX, General Waste Discharge Requirements for Confined Animal Facilities*.

The Golden Gate National Recreation Area encompasses over 80,000 acres of National Park lands within the San Francisco Bay Area and welcomes over 17 million visitors a year. Within these lands are numerous recreational and educational opportunities, managed under a variety of business arrangements. These include several horse boarding facilities that are managed through leases with the facility operators.

We appreciate the effort that the RWQCB is taking to protect and improve water quality in the park, including the recent development of the Water Quality Improvement Plan for San Vicente Creek and this Confined Animal Facility (CAF) Order. Together, both of these will help to address potential contamination from the animal facilities in that watershed.

We are providing the attached review comments for your consideration. Please feel to contact me if you have any questions or if you would like to discuss any of the comments in greater detail.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian Ullensvang". The signature is fluid and cursive, with the first name "Brian" and last name "Ullensvang" clearly distinguishable.

Brian Ullensvang
Chief, Environmental and Safety Programs Office

Comments on *Tentative Order No. R2-2016-00XX, General Waste Discharge Requirements for Confined Animal Facilities*

Provided by the Golden Gate National Recreation Area
April 27, 2016

1. We request that the language of the order be clarified with respect to the roles of the land owner and facility operator, when these two are not the same organization. We believe that the current draft order does not provide clear direction as to the regulatory intent regarding the compliance responsibilities between the facility operator and land owner. Currently, for most requirements, the discharger is clearly identified as the responsible party; however, there are several places the order refers to the responsible party as the “owner/operator”; and other places where the discharger is defined, such as in both Attachment A and Attachment J, to include both the owner and operator.

We recommend that the discharger be defined as the operator, as they are in the best position to control the facility operations and perform the required pollution control activities, such as daily inspections and plan preparation. To the extent that the RWQCB desires to work with the land owner as a responsible party, the land owner can be engaged in discussions when, or if, the operator fails to meet the requirements as the discharger.

In addition to the changes to the definitions of the discharger, this clarification may require the addition of a new definition to address the role of the non-operator landowner. The proposed NOI form provided in Attachment F currently allows either party (owner or operator) to file without signed acceptance by the other party. This should be revised to better reflect any changes that the RWQCB chooses to make to the definitions of the discharger, operator, and land owner.

2. Some provisions regarding the specific requirements of the discharger are not well defined and greater specificity regarding the requirements may help to avoid confusion and promote compliance. For example, Attachment A describes pre-storm event inspection requirements, but does not identify the criteria to use for determining when a storm event is ‘anticipated’ or even how much rain is needed to determine a storm event. The Construction General Permit for Stormwater identifies very specific criteria to define a storm event and to define the conditions that require a pre-storm event inspection and the timelines and frequencies of such inspections. And while it may not be necessary to be as detailed in this order, some similar criteria could be helpful here.



To: Laurie Taul
From: David Lewis
Subject: Comments and suggestions on the draft *General Waste Discharge Requirements for Confined Animal Facilities Within the San Francisco Bay Region, Tentative Order No. R2-2016-00XX*
Date: April 29, 2016

Thank you for the opportunity to review and provide technical comments and suggestions on the content of the referenced draft document. Along with this review, comments provided by Dr. Deanne Meyer and myself in December 2014 on the draft version of the Conditional Waiver of Waste Discharge Requirements for Existing Dairies and the renewed waiver, R2-2015-0031 are referenced. The majority of the technical recommendations in that review are relevant to these new draft General Waste Discharge Requirements.

General observations:

- **Implementing 40 years of water quality management in 5 years** – For those CAFs that have never participated in water quality management programs and efforts, this order will be difficult to fully comply with in the short five-year timeframe stipulated in the order. Existing dairies have had the benefit of learning about water quality management and the technical and financial support of local, state, and federal partners to implement practices for decades. The proposed Order asks the other CAFs to come up to the same level of documentation, management measure implementation, monitoring, and fees in too short of time frame. More effort and input on how to phase-in the implementation of the requirements is needed – longer timeline, temporary or phased fee waivers, and exceptions or delays in water quality monitoring should be considered. It is appreciated that this order provides flexibility in the requirement of the different plan elements for each CAF based upon the scale and operational factors for animal and manure handling of specific facilities.
- **Tiers** – From the stand point of the existing dairies the proposed Tiers mirror current scales of operation and compliance requirements in the renewed conditional waiver.
- **Dormant and New Dairies/CAFs** - It is appreciated that there is a path for dormant dairies that restart and for entirely new dairies fall under this order.
- **Application of Grazing elements** – It is not recommended that the grazing elements be included and required across all regions covered by the order on the basis that there are Grazing Conditional Waivers in the Napa River and Sonoma Creek and Tomales Bay Watersheds. There are parallels with the State Water Resources Control Board's exploration and subsequent decision to not pursue the Grazing Regulatory Action Program (GRAP). Namely, water quality regulation is best organized and implemented to address identified problems instead of applying the same policy and set of requirements broadly in the absence of identified impacted water quality conditions.

Specific Comments

- Page 1 #2 and Page 3 #9 – It is appreciated that processing water for endeavors like creameries is included making it easier for the producer and RB staff to work through the handling of processing water.
- Page 4 #21 and #22, Page 13 4.a. and 4.b – These are the specific elements that assert the assumption that there are impacted watersheds and that those impacts are from grazing livestock and therefore the grazing elements of the order are required. Again, the dialogue, recommendations, and resulting decision of the SWRCB not pursue GRAP are directly relevant to this portion of the order. The recommendation is that these elements and requirements be removed.
- Page 5 #23 – The studies being referenced are for groundwater basins in other California regions with hydrogeologic conditions that differ greatly from those in RB2 in terms of the pathways and surface and groundwater connections. The order should not use those studies to justify requiring the monitoring of groundwater. Instead, a groundwater study should be implemented and where impacted conditions are identified a regulatory program should be developed and implemented to address those impacts.
- Page 8 #38 and Page 16 #E 1.a-c – It will be important to develop a way for potential new dairies to transition from individual WDRs to the Tiers and these General WDRs. This won't happen very often but there is real potential for it to happen in a few select instances. This is in addition to the General WDRs' recognition and path for accommodating the restart of dormant dairies that is very much appreciated.
- Page 10 #A.7 – What does "...manner not approved..." mean and what is the process for approval?
- Attachment A and other Attachments' reference to and requirements for RDM monitoring – Please note that past and continual input and recommendation provided on the Conditional Waiver for Existing Dairies and the Grazing Land Conditional Waivers approved by RB2, affirming RDM as a management tool and not a regulatory tool for enforcement. In referencing past comments on this subject, the factors and conditions that effect RDM levels and that result in levels being below any recommended annual quantities should be considered and accounted for in this General WDR – this includes drought, fire, and weed management measures, among other factors and objectives.
- Attachment A Page 9 and 10 III.A.1 and 2 – It is recommended that the requested photographs stay on farm and be filed with the other records, available for review upon request.
- A title for Order Elements and Attachments – In implementing the revised Waiver for Existing Dairies it is difficult to communicate the content and purpose of the "Grazing Management Plan" because the title and the content are not in agreement. Learning from that experience, it is recommended that the titles for the following order elements and plans be changed as indicated:
 - Attachment B – Ranch Facility Water Quality Plan
 - Attachment E – Grazing Ranch Water Quality Plan