



July 16, 2015

Barry Pulver  
Engineering Geologist  
San Diego Regional Water Quality Control Board  
2375 Northridge Drive, Suite 100  
San Diego, CA 92108

Subject: Comments on Draft Tentative Order No. R9-2015-0003

Dear Barry:

It was nice meeting you the other day at the workshop. Regrettably my schedule did not allow me to stay for the full duration of the workshop. This letter is intended to formalize some of my comments made in person to Mr. Gibson and via email to you, as well as add a few more.

As a preface to my comments I would like to encourage the RWQCB to expand your outreach efforts so that the stakeholder meetings actually contain stakeholders. The meeting yesterday was mostly third parties and municipal folks who will not be impacted by the regulations other than in their roles in administering them. The concept of local meetings held in agricultural areas of the county during times when growers could actually attend would help. We have an agricultural meeting hall at the Rainbow Grange that could serve the purpose as well as the Bonsall Community Center. If you would like, the Rainbow MWD Board Room could also serve the purpose. Let me know how we can help facilitate these meetings which are essential to getting stakeholder involvement.

Here are my comments:

1. The gross revenue threshold is way, way too low. If you consider that a person with about an acre of avocadoes could do \$10K gross revenue per year in a decent year, you will bring many growers who are not full time farmers into the program. Most of these farmers are lucky to break even with these gross sales, so any additional regulatory burden will simply be one more reason to stump the trees and move on. The very cultural fabric of North San Diego County relies on these small farms to create the aesthetic that is very desirable and contributes to the property tax revenue of the County of San Diego.

If you are to use gross sales, I would say that your threshold should be at least \$500K with a net sales of \$100K. Using these figures you will eliminate hobby farmers and focus your efforts on the large commercial growers and nurseries.

2. Other water boards have made cost estimates for compliance with these sorts of orders. I did not see one included in this document (perhaps I missed it). What is the estimated cost to comply with this proposed order?
3. In Section IV(a)(1)(a) requires that coalition groups certify WQPPs - are you expecting the coalition group to inspect each site in order to certify these WQPPs? What sort of liability will fall on the coalition group via this certification process? Frankly, I don't see how this could be done without some pretty massive costs to the individual member. Self-certification is the only practical way to do this.
4. We would prefer that each coalition member send their fees directly to RWQCB rather than through our coalition since we would need to add some administrative costs to manage the fee

collection that we presume is already included in the RWQCB fee structure.

5. Under IV(a)(1)(g) are you expecting the coalition group to do monitoring of each member site according to their WQPP? That is a deal killer for us to be sure.
6. The requirement for a small grower of 1 acre of avocados to hire a licensed engineer to create a WQPP is untenable and will drive many out of agricultural production. There should be a standard WQPP template for use on smaller operations up to some number of acres – leave the special plan development to larger operations.
7. In attachment E II(A)(1) you ask questions about what the individual core monitoring is supposed to answer. Do you have a control group to compare your measurements gathered under this monitoring? How can you evaluate the effectiveness of a BMP without having the same situation without the BMP to compare it to? If a grower does not have water running off their property during dry weather, what is the BMP there for? I can assure you that at \$1500/AF of water, my growers are very careful about not wasting water. If you consider that most of the agricultural areas in the County have seen water consumption drop by over 50% while agricultural output has remained mostly intact, you can understand the magnitude of the improvements in water efficiency in the area.

What I am getting at here is that you have established regulations designed to answer some question but have not developed a meaningful scientific way to arrive at the answer you seek. When you ask how the BMPs eliminated discharges to surface waters are you talking about dry weather flows or wet weather flows? I was not aware that it was unlawful to discharge stormwater under this permit.

8. You are placing special monitoring requirements on dischargers “adjacent to a surface water” and then define surface waters to include “drainage ditches” and “intermittent streams”. North County is a very hilly topography with intermittent streams in virtually every little canyon. The exact definition of a drainage ditch is unclear to me, but my guess is that they exist in one form or another in pretty much every canyon and property in this area and your definition would force nearly every single member of our group into the monitoring program.

I am curious as to how effective you think it will be to have a part time farmer trying to go out and get a grab sample during a rain event and expect valid, meaningful results? Consider a person with a 1.5 acre grove with a small intermittent stream that develops during the rain event which is dry otherwise. This person, who is a layman in the area of water quality sampling, needs to run down to the low end of their property in the rain and try to grab a sample from a small rivulet of water. This sample will have numerous issues of data quality problems including but not limited to:

- a. Grab sample not representative of actual total discharge
- b. Intermittent stream not large enough to get a proper sample
- c. Timing of sample may overstate or understate overall water quality
- d. Naturally occurring turbidity which is unrelated to agricultural operations could skew sample results
- e. Inability of sample taker to appropriately identify proper sampling times, methods, and techniques
- f. Improper sample handling after sample is taken
- g. Presence of naturally occurring bacteria could be assigned to agricultural operations – since there is no control sample it is impossible to say the source. Many non-

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domesticated animals live in North County and contribute to the load.

9. On Page E-5 you describe how monitoring locations must have sufficient water to sample under normal conditions. I am not sure that you fully comprehend the fact that our agricultural water users don't have streams of irrigation water running off their properties – especially in amounts that would be considered enough to actually sample. Water is so expensive that the vast majority of growers now use drip or other efficient irrigation systems. Most nursery operations have extensive water recovery systems that re-use the water on site. Perhaps I could arrange for you to visit some of our larger operations to see how this works. This permit should be focused on preventing runoff during storm events, not during "normal conditions". Normal conditions here are dry – wet events are abnormal.]
10. For some of the reasons stated above, the focus of this Order on monitoring individual discharges is deeply, deeply flawed. Irrespective of the fact that it places a massive financial and regulatory burden on farmers, it is extremely unlikely to provide any meaningful results. If the RWQCB wants to develop a collaborative relationship with agriculture to identify the source of problems and work on solutions that work for everyone, this iteration of the permit should focus on BMP level requirements for small and medium sized operations and leave monitoring to the regional level in order to identify in scientifically valid ways what the actual contribution of agricultural operations to the water quality issues are. The proposed Order does not achieve this goal and merely serves to drive agriculture out of business – for no good reason.
11. On page E-7 you indicate that Coalition Groups have to visually observe and document BMPS to assess effectiveness at member sites during dry weather. Is this ALL member sites every year? Similarly you ask that we visually observe BMPs during THREE wet weather events per year – do we have to do this to ALL members or just a percentage? Isn't this the responsibility of the member, not the group?
12. On page E-10 you require quarterly BMP inspections – are these by the group? If so, this is not workable and will require a great deal of staff time – at great cost.
13. Table E-7 is useless – how about a map or some nearby addresses or cross streets. GPS does not help me at all.

As I have indicated earlier, while the Rainbow Municipal Water District is committed to helping our agricultural customers wherever we can, the scope of this program is well outside of our core business and unless significant changes can be made to the regulations proposed we will have no other option than to dissolve our ILG.

Sincerely,

RAINBOW MUNICIPAL WATER DISTRICT

Tom Kennedy  
General Manager

cc: Board of Directors