

Letter DA: Karl F. Wittstrom, Wittstrom Vineyard (June 22, 2020)**Letter DA**

From: [Karl Wittstrom](#)
To: AgNOI_WB@Waterboards
Subject: FW: Comments on Draft Ag Order
Date: Monday, June 22, 2020 11:48:10 AM

EXTERNAL:

June 22, 2020

Matthew T. Keeling, Executive Officer
 Central Coast Regional Water Quality Control Board
 895 Aerovista Place, Suite 101
 San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

DA-1

Wittstrom Vineyard is located north of Paso Robles along Highway 101. The vineyards were planted nearly 20 years ago using the utmost care to protect the environment. The standards used then provided for, cover crops, filter strips with vegetation between the vineyards and the creeks on the ranch. The use of owl boxes, bird and bat boxes for pest control causes less chemicals to be implemented. Many of the standards used then were incorporated in the best practices.

We are committed to the betterment of the land and water we have been stewards of for nearly 20 years. I was born and raised in the Paso Robles area and our lands are important to us. We understand water quality is critical to our current farm and for the future generations. We are committed to protect our surface water and streams running thru the ranch.

DA-2

The current Draft, EIR and attachments are long and complicated. There are far too many reports, timelines and confusing requirements. Staff did a good job on the webinars, however, it is still very difficult to provide the information necessary in a 2 hour webinar. Too much information in too little time. Imagine this is not your full time job and trying to cope with the reality of farming, managing people, a difficult market and having a cumbersome reporting system on top of it.

DA-3

The Draft economic analysis fails to account for many factors such as, land fallowing, hiring professionals, loss of production and the market. We are spending thousands per year on compliance from professionals currently. Additional reporting is time consuming and costly.

DA-4

We encourage staff to consider modifying the draft to allow vineyards participating in the SIP, or other sustainable organizations, as an alternative compliance pathway and consider using SIP documentation in lieu of Farm Planning Requirements. Vineyards are a low risk farming practice to start with as we are on drip using small amounts of water. Quality standards require low inputs and most wineries are very strict on the input of nitrogen. This is a tough business to begin with and requiring more compliance is costly and cumbersome. Voluntary compliance through education and participation in SIP and the like are far superior to regulatory hammers.

Thank you for your consideration,

Sincerely

Karl F. Wittstrom

Check out our event center www.oystermidge.com

Response to Comment DA-1

Thank you for your comment. The CCWB acknowledges the background and commitment to environmental protections upheld by Wittstrom Vineyard. This comment is further summarized and responded to in the following Master Responses: 2.1.11 and 2.3.10.

Response to Comment DA-2

Thank you for your comment. CCWB acknowledges the commenter's concerns over the complexities involved of the topics covered by the DEIR and DAO 4.0. This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DA-3

For comments related to cost considerations associated with complying with DAO 4.0, refer to Master Response 2.9. For comments related to the DEIR's economic analysis, including CEQA compliance and the adequacy of the analysis of adverse economic impacts, refer to Master Response 2.10.

Response to Comment DA-4

This comment is summarized and responded to in Master Response 2.2.2.

Letter DB: Ken Altman, Altman Specialty Plants (June 22, 2020)**Letter DB**

From: [Ken Altman](#)
To: AgNOI_WB@Waterboards
Subject: Comments of Draft Ag Order 4.0
Date: Monday, June 22, 2020 9:28:13 AM
Attachments: [Ag Order 4.0 Economic Talking Points.pdf](#)
Importance: High

EXTERNAL:

Attention: Matthew T. Keeling, Executive Officer

DB-1 | I agree with all these points and I am very concerned about the effects on our business of the proposed changes. It is important that they listen to industry and industry organizations to temper their overly restrictive requirements.

Sincerely,
Ken Altman
Altman Specialty Plants

The key economic impacts would be driven by:

- Direct costs of fees, assessments, and paperwork.
- Changing management practices, inputs, rotations, and land use to comply with discharge targets/limits (additional direct costs). This would include the effect of nitrogen discharge limits on the ability to continue multi-cropping (2-3 crops/year) that is prevalent in the Central Coast and directly contributes to current land and lease values in the region, as well as ability to meet surface water discharge limits using currently available pesticide chemistries.
- Changing land use / taking land out of production to comply with riparian and operational setback requirements and developing a RAMP.
- Opportunity cost of management time for compliance paperwork, training, and other administration.

The economic impacts of Ag Order 4.0 are likely to result in broader policy implications.

- Regulatory costs affect competitiveness of the California agriculture industry. This can push crop production out of the state or to other countries, and with it jobs and income for the state and region.
- Impacts disproportionately fall on disadvantaged or severely disadvantaged communities (DAC/SDAC) because these communities are where people that work the fields, coolers, processing facilities, and equipment often reside.
- Regulatory costs are cumulative. In addition to the Ag Order, the Central Coast is managing implementation of other regulations. For example, implementation of the Sustainable Groundwater Management Act will result in changes in the availability and cost of groundwater in Central Coast sub-basins. In addition, the study by Hamilton and McCullough (2018) identifies other regulatory compliance costs that are increasing over time and should be appropriately considered in any economic impact analysis of additional regulations specified under the proposed Order. In the past decade, regulatory compliance costs have increased 795% for a typical leafy-greens grower.

The bottom line is that farming economics will change if Ag Order 4.0 is adopted as proposed.

- Central Coast Regional Water Board is proposing an onerous and restrictive regulatory program in a time of great economic uncertainty for the farming community.
- Lower production values will lead to job losses, impacting communities with higher levels of unemployment and lower tax revenues.
- Regulatory compliance costs will reduce available funding for capital improvements.
- Change of land use due to land idling will become a much larger issue for Central Coast counties.

Provide comments on the draft Ag Order 4.0 to the Central Coast Water Board.

- All comments must be submitted to Central Coast Regional Water Quality Control Board by Monday, June 22, 2020 by 11:59pm.
- Submit to: AgNOI@waterboards.ca.gov with "Comments of Draft Ag Order 4.0" in the subject line of the e-mail.
- Letters can be mailed to: 895 Aeovista Place, Ste. 101, San Luis Obispo, CA 93401.
- Note that e-mail submissions are preferred.
- Address comments to the attention of Matthew T. Keeling, Executive Officer.

Talking Points

Economic Impacts of Proposed Central Coast Irrigated Lands Regulatory Program (Ag Order 4.0)

This Order Significantly Expands Requirements.

- Expansion of Requirements Compared to the Previous Central Coast Irrigated Lands Regulatory Program (Ag Order) to include:
- Expanded requirements for irrigation and nutrient management for both surface and groundwater, including targets and prescriptive nitrogen discharge limits
- Expanded pesticide management for surface water and groundwater, including specified surface water monitoring and threshold limits
- Limits on fertilizer applications that are not supported by agronomic science
- Expanded riparian habitat management requirements that would require retiring productive farmland and developing set-back areas from most ditches and streams and planting native riparian vegetation
- Expanded sediment and erosion management for surface water, primarily on sloped farmland
- Increased reporting and compliance requirements in surface water and groundwater reporting areas with an Annual Compliance Submission, Riparian Area Management Plan, Total Nitrogen Applied, Sediment and Erosion Management Plan, and Irrigation and Nutrient Management Plan.

Each of these components would impose significant costs on Central Coast growers.

Some regulatory components, such as proposed nitrogen discharge limits, may make current rotation systems economically or agronomically infeasible.

This would result in substantial economic impacts (e.g., precipitous drop in land values and property taxes, and lease rates) that were not quantified or discussed in the Draft Environmental Impact Report (DEIR).

Economic review in the DEIR does not evaluate the economic impacts on jobs, land use, and agricultural resources if Ag Order 4.0 is adopted.

- The DEIR includes estimates of some costs and requirements that would almost certainly result in changes in the physical farming environment. Costs of nitrogen discharge requirements, compliance with surface water discharge limits, riparian setback areas, and other key substantive provisions are *not* estimated. Examples of these costs include, but are not limited to:
 - Meeting the nitrogen discharge limits in the Ag Order would require reducing applied nitrogen and/or incurring additional management costs. This would result in potential changes to yield, quality, and costs that affect the mix (or number) of crops that can be grown in the region and lead to land being idled and permanently removed from production.
 - Implementation of the operational and riparian set-backs will automatically result in land-idling and land use changes because commercial crop production is prohibited in such areas.
- The DEIR presents some example accounting costs but does not use those costs to quantify potential economic impacts to growers, linked industries (processing, shipping, etc.), communities and the region as a whole.
- The DEIR states, in general, that economic effects were not estimated because the market and regulatory environment is complicated and/or because management practices are speculative. In fact, there is a well-established and widely used approach to quantify the economic impact of Ag Order 4.0.

Response to Comment DB-1

This comment is noted. Specific comments and general topics identified in the attached 'Talking Points' are summarized and responded to in Chapter 2.0, Master Responses.

Letter DC: Steve Shimek, The Otter Project (June 22, 2020)**Letter DC**

From: [Steve Shimek](#)
To: AgNOI_WB@Waterboards
Subject: Comments on Draft EIR
Date: Monday, June 22, 2020 4:34:57 PM
Attachments: [EIR Comment.pdf](#)

EXTERNAL:

Thank you for this opportunity to comment on the Draft EIR. The attached comments are made solely on behalf of the Monterey Coastkeeper, a program of The Otter Project.

If there are any questions or concerns, please contact Steve Shimek, exec@otterproject.org, or call 831-663-9460 or 831-241-8984.

Thank you!



P.O. Box 269
Monterey, CA 93942
831/663-9460

June 22, 2020

Chair, Dr. Jean-Pierre Wolff and Executive Officer, Mr. Mathew Keeling
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

Email: AgNOI@waterboards.ca.gov

Subject: Comments on Draft EIR

Dear Chair Wolff, Executive Officer Keeling, Board Members, and Staff:

This is a brief comment made solely on behalf of Monterey Coastkeeper regarding the Draft Environmental Impact Report.

DC-1 | Land use patterns are continually changing in the Central Coast Region. The acreage of cultivated and irrigated land in some counties of the Central Coast is increasing. Ag Order 4.0 could potentially increase the footprint, and impacts, from irrigated agriculture.

DC-2 | As a mitigation for this change in use, the owner/operator of any property being newly converted to irrigated ag (conventional or organic) should be required to file a report establishing the surface and groundwater baseline conditions nearest the property. Lab collected and analyzed water quality data for any new irrigation and domestic wells should be provided. Surface water data, including toxicity and pesticide chemistry, should also be provided to the Regional Board. If the property is adjacent to any water body, water should be collected and analyzed from both upstream and downstream property lines. If the property is not adjacent to any ditch or waterbody, collection should be made from the nearest accessible point, upstream of the property.

Thank you for your consideration.

Sincerely,

Steve Shimek
Executive Director

Response to Comment DC-1

This comment alleges that DAO 4.0 could potentially increase the footprint of, and impacts from, irrigated agriculture. However, the commenter does not provide any substantial evidence to support the claim, nor does the commenter specify the types of impacts that could potentially result from the order. Due to the lack of substantial evidence provided by the commenter to support the claim provided, the CCWB cannot provide a response to this comment.

Response to Comment DC-2

As explained in response to comment DC-1, the CCWB does not recognize the potential impacts identified by the commenter. For this reason, CCWB sees no need for the revision to incorporate additional mitigation.

Letter DD: Kay Mercer, Provost & Pritchard Consulting Group (June 22, 2020)**Letter DD**

From: [Sheila Gonzales](#)
To: [AgNOI_WB@Waterboards](#)
Cc: [Kay Mercer](#)
Subject: Comments on Draft Ag Order, Riparian Area Management Requirements
Date: Monday, June 22, 2020 5:19:46 PM
Attachments: [2020-0622 Riparian Habitat Comment Letter.pdf](#)

EXTERNAL:

Transmitting on behalf of Kay Mercer.

Respectfully,
Sheila Gonzales

Sheila Gonzales, CPSM | Marketing Manager
Provost & Pritchard Consulting Group
286 W. Cromwell Ave. | Fresno, California 93711 | www.ppeng.com

Phone: (559) 449-2700 | Fax: (559) 449-2715
email: sgonzales@ppeng.com



130 N. Garden Street
 Visalia, CA 93291-6362
 Tel: (559) 636-1166
 Fax: (559) 636-1177
www.provostandpritchard.com

June 20, 2020

Central Coast Regional Water Quality Control Board
 Chair and Water Board Members
AgNOI@waterboards.ca.gov

RE: Comments on Draft Ag Order, Riparian Area Management Requirements

To Water Board Chair, Dr. Wolf, and Water Board Members:

- DD-1 Thank you for the opportunity to comment on the Draft Central Coast Regional Water Quality Control Board Irrigated Lands Regulatory Program (ILRP) Waste Discharge Requirement (WDR), Riparian Area Management Requirements (Draft Requirements) and Draft Environmental Impact Report (D.E.I.R.).
- DD-1 Provost & Pritchard (P&P) works with municipal, private, and agricultural clients. This letter is written on behalf of grower clients on the Central Coast. Client operations stretch from Los Alamos to Watsonville and clients grow about 25,000 acres of cool season vegetables, strawberries, and wine grapes.
- DD-1 Kay Mercer, the signing author of this letter, has been working with the Central Coast Irrigated Lands Program since its inception. She has worked in the capacity of a watershed coordinator (2004-2010) and consultant (2010 to present). She utilizes her education and broad work experience with environmental management, agricultural production, and pest management to assist clients with compliance and water quality improvements. She has a B.S. in Range Management/Agronomy and an M.S. in Weed Science/ Agronomy from Oklahoma State University. She has been working in production agriculture on the Central Coast of California since 1986 and has prior environmental industry experience that has been useful. See Appendix I for her Curriculum Vitae.
- DD-2 Riparian Areas have the potential to protect water quality and beneficial uses if they are established using sound restoration principles. The positive functions they provide are many and will not be repeated in this letter. Instead, this letter outlines perceived deficiencies in the Draft Requirements and suggests an alternative approach.
- DD-3 All in all, the Draft Requirements were difficult to understand and a decision tree (Appendix II) was created in an attempt to understand the requirements. An analysis of buffers determined that Draft Requirements are management practices and that Setbacks may constitute Recommendations.
- DD-4 Farmland conversion calculations for Riparian Areas found much greater farmland conversion rates than presented in the Draft Findings and D.E.I.R. A Table of farmland conversions is supplied, and the calculation process may be found in Appendix III. The Draft Requirements contravene long-established federal and state laws to preserve productive farmland. New Riparian Area conversions are especially concerning because so much Prime Farmland may be lost. Plus,

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- DD-4 ↑ the Requirements may create impediments to federal technical services and funding, as well as preclude state funding. Growers may potentially become the sole funding.
- DD-5 ↓ The Draft Requirements will not accomplish purported goals because they bypass consideration of site-specific ecological conditions, riverine functions, and other environmental and social factors unique to a watershed and site. Eliminating characterization and planning tailored to the site is not consistent with riparian restoration principles.
- DD-6 ↓ Furthermore, impacts to human health and public welfare were inadequately evaluated in the Draft Order and D.E.I.R. As proposed, these Requirements have the capacity to increase human health and safety risks from flood, levee breach, fire, food safety, and mosquito-borne diseases. These impacts could be most acutely felt by disadvantaged communities. Additionally, the Findings and D.E.I.R. inadequately address yield and quality impacts to agricultural production.
- DD-7 ↓ The scope of what is proposed is overwhelming and the manpower and resources necessary to implement these requirements were underestimated because obvious (e.g., mapping costs) and unforeseen costs (e.g., Williamson contract cancellations) and unintended consequences (e.g., changes to land values) were not tallied. This letter does not analyze economics. Instead, it relies upon the Agricultural Association Partners' economic analysis.
- DD-8 ↓ The challenges of crafting a regulation are recognized. It is difficult to provide enough specificity and, simultaneously, enough flexibility to be implementable. The attempt to provide growers with options is appreciated; nevertheless, the Draft Requirements are too complex to be easily understood and critical pieces of information are missing. General and specific comments are given with respect to the Draft Order and Findings in Sections 15. and 16.
- DD-9 ↓ It is recommended that the Water Board seriously consider the Ag Association Partners' Surface Water Program, which includes a supplemental Riparian Program. These combined programs will likely be administered through Third-Party Group(s). They will build upon past Cooperative Monitoring Program successes and former watershed investments, are incrementally protective, provide incentives, are science-based, and depend on synergistic and collaborative utilization of a wide array of technical resources and on-the-ground expertise.
- DD-10 ↓ **1) The Draft Setbacks Create Buffers, which are Management Practices**
- While reading the Draft Requirements, a question surfaced about the difference between a "Buffer" and a "Setback". A definition for a buffer is not given in Attachment B, Definitions. Although, the Central Coast Basin Plan defines a "Buffer Zone" as *"A zone delineated to provide protection for beneficial uses."* "Setbacks" are defined in Attachment B as *"Areas extending an established distance from waterbodies, consisting of vegetation to protect water resources and Aquatic Habitat and Wildlife Habitat beneficial uses from nonpoint source pollution, provide bank stabilization, minimize erosion, and provide flood attenuation."* No definition of a "Setback" is in the Basin Plan nor are definitions of either term found on the State Water Resources Control Board Site.
- While appearing to be synonymous, in traditional land use parlance, the terms are not the same. The following provides a good distinction, *"Buffers represent the physical, on-the-ground systems that directly accomplish articulated goals (i.e. floodplain habitat, protection of riparian forests, water quality improvement), are the regulatory tools used to protect existing and potential lands from future encroachment."* (Emphasis added.) (Balance Hydrologics, 2006).

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DD-10 cont.	↑	In other words, the regulatory vehicle establishing the size of a riparian area is the Setback, but the resulting on-the-ground riparian area is a buffer or buffer zone. In general, buffers are considered management practices in land use and riparian literature, <i>"Engineered and constructed buffer zones are a valuable conservation practice with many important water-quality functions..."</i> (National Research Council, 2002). As written, the Draft Requirements mandate management practices.
DD-11	↑	Furthermore, since Setbacks mandate the creation of buffers, essentially, they are mandating detailed management practices that contain specific location and size of the buffer zones, proscribed land uses, prohibitions of most maintenance activities, and constraints on types of plants used. Altogether, this specifies the manner of compliance contrary to Water Code §13360, <i>"No waste discharge requirement or other order of a regional board or the state board or decree of a court issued under this division shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner."</i>
DD-12	↑	2) <u>The Draft Requirements may be Advice or a "Recommendation"</u> Draft Requirements may constitute "Recommendations" because of exactness pertaining to location and associated management. In other regulatory programs, specific instructions on a particular property are deemed "Recommendations". For example, the California Department of Pesticide Regulation (DPR) states that a Pest Control Advisor recommendation is <i>"the giving of any instruction or advice on any agricultural use as to any particular application on any particular piece of property."</i> For licensed professionals, it is the anchoring of advice to an exact location or piece of property that transforms guidance to a formal recommendation. Here, the Draft Order directs action to specific locations on the ranch, prescribes the buffer width, proscribes land uses, and restricts plantings.
DD-13	↑	3. <u>The Draft Requirements Convert Excessive Acreage of Farmland to Riparian Areas</u> A. How much Farmland is Taken Out of Production by the Requirements? One of the overriding questions is how much farmland will ultimately be converted from productive agricultural farmland to riparian areas/open space?
DD-14	↑	It is challenging to assess the impacts of Setback Requirements because essential tools were not made available in the Draft Requirements. The following information is missing and is needed to fully evaluate impacts:
DD-15	↑	<ul style="list-style-type: none"> • The ESRI Draft Strahler Class Stream Order maps were incomplete. For example, Oso Flaco watershed did not have a Strahler class designation.
DD-16	↑	<ul style="list-style-type: none"> • It was unclear a what Non-priority Stream "Existing" is on the ESRI Draft Strahler Class Stream Order maps.
DD-17	↑	<ul style="list-style-type: none"> • No tool was made available to determine Operational Setback widths.
DD-18	↑	<ul style="list-style-type: none"> • information for HUC 8 and HUC 12 watersheds was not made available.
DD-19	↓	<ul style="list-style-type: none"> • Watershed and subwatershed acreages are not made available. <p>In personal communication (March 24, 2020), Staff said Setbacks begin at "Top of Bank", without elaboration on what this means. This arbitrary line created mapping challenges</p>

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DD-19 cont.	<p>because, typically, ARC-GIS automatically calculates buffers from Center line. Therefore, for ARC-GIS maps to have been used for calculation purposes, they would have needed hand-recalculation. This would have incurred excessive costs and it was decided not to invest in ARC-GIS mapping, at this time. Instead of using ARC-GIS maps, Google Earth Pro was used. The calculation process is in Appendix IV.</p>
DD-20	<p>The Draft Requirements claim an average farmland conversion is 0.9% across the Central Coast Region. However, this diverges substantially when examining the impacts at a ranch level with more granular data.</p> <p>Provost and Pritchard assists clients throughout the Central Coast Region. Therefore, it was possible to calculate farmland conversions for one hundred thirty-three client ranches stretching from Los Alamos to Watsonville. Of those ranches, 66 would be subject to Draft Requirements. Twenty-three ranches would be required to convert more than 10% of farmland. Twelve of the ranches would lose more than 20% of farmland. Five would lose more than 35%. Two would lose more than 50%. One ranch would lose as much as 88% of one ranch.</p> <p>Please note, estimates are not exact predictions of loss throughout the Region. Rather, estimates are presented so Water Boards and the public may compare and contrast how average estimates at a regional scale do not fully capture impacts to individual ranches or areas within the region. Effort was made to use publicly available data, such as Geotracker ranch maps, USGS ESRI maps, Google Earth Pro, TMDL information and published watershed reports. A subset of ranches was verified against ARC-GIS automated calculations. Google Earth Pro calculations were 4-30% higher than ARC-GIS; and thus, estimates were adjusted accordingly, and ranges of farmland conversions are presented. Estimates do not include Operational Setbacks or Riparian Setbacks in Strahler Class 1 or Oso Flaco Creek because information was not available. Therefore, the estimates may be an underestimation simply because information was missing.</p>
DD-21	<p>The Draft Requirements contain exemptions. For example, Riparian Setbacks do not apply to growers behind a manmade barrier maintained by an agency. Agency-maintained levees exist on the Uvas/Llagas Creeks, Lower Pajaro River, the Santa Barbara side of the Santa Maria River, and miscellaneous watersheds in the Southern Santa Barbara and in Santa Cruz Counties. The manmade barrier exemption, as interpreted by Staff, does not apply to any grower in on the Salinas River in Monterey County (Salinas Valley). Hence, conversion rates are much higher there. Please note, levees in the Salinas Valley are discussed in greater detail in Section 12. B.</p>
DD-22	<p>Farmland conversion rates at the ranch-level varied for many reasons such as size and configuration or exemptions. Two maps illustrate the importance of ranch configuration (Appendix IV). Example 1 shows a ranch with multiple sides next to a waterway and Example 2 shows a narrow ranch running perpendicular to a waterway. Both configurations contribute to a higher percentage of farmland being converted.</p>
DD-23	<p>Where there were sufficient data, farmland conversions were extrapolated by subwatershed. Tabulated subwatersheds were the Tembladero Slough, Alisal Slough, Salinas River Lagoon, Alisal Creek/Upper Rec Canal, Lower Salinas River, Quail Creek, Chualar Creek, Middle Salinas River, and Arroyo Seco. Insufficient data existed to extrapolate farmland conversions in SLO and Santa Barbara Counties. Land conversion estimates for the Salinas Valley ranches and subwatersheds are shown in the table below.</p>

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Table 1. Summary Table for Monterey County, by Subwatershed:

Sub-watershed	Min % Farmland Conversion (Ranch-Level)	Max % Farmland Conversion (Ranch-Level)	Min Avg % Farmland Conversion (by Subwatershed)	Max Avg % Farmland Conversion (by Subwatershed)	Min Acres Converted (by subwatershed)	Max Acres Converted (by subwatershed)	Total Acres in the Subwatershed (from TMDL Project Reports)
Tembladero Slough	10	13	8	11	171.16	244.51	2,154
Alisal Slough	9	21	3	4	144.44	206.34	4,621
Salinas River Lagoon	1	89	5	7	182.81	261.16	3,827
Alisal Creek/Upper Rec Canal	10	10	3	5	1,021.04	2,908.66	29,656
Lower Salinas River	6	36	6	8	3,881.27	5,544.67	69,744
Quail Creek	2	4	2	2	182.08	221.94	11,097
Chualar Creek	2	3	2	3	502.05	717.22	25,422
Middle Salinas	2	25	3	4	33,479.24	47,255.78	1,123,200
Total for Salinas Valley			3	6	39,564.09	57,360.28	

Other than the amount of farmland converted, what other lessons were learned?

- Impacts of the Draft Requirements will vary among subwatersheds resulting in patchy application of the Draft Requirements.
- Almost 50% of all client ranches will be subject to Draft Requirements.
- If almost 50% of 4,462 ranches on the Central Coast have Riparian Area requirements, the workload is unfathomable for the agricultural and technical service providing communities. Exorbitant fees may be necessary to manage the workload.
- Not only will growers experience considerable farmland losses associated with buffers, and not only will costs escalate; but the presence or absence of buffer zones will have serious impact on land values. Tax Assessments will shift, rental rates will fluctuate, and Williamson Act contracts will need to be adjusted. This was inadequately addressed in the Draft Findings or Draft E.I.R.

B) Draft Requirements Will Convert More Farmland on the Central Coast than Has Been Lost to Development over a 32-Year Period

Projected farmland conversions for the Draft Requirements were compared to California Department of Conservation (DOC) estimated farmland conversions from 1984 to 2016. As aforementioned, projected farmland conversions in the Salinas Valley ranged from 39,564.09 to

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57,360.28 acres. In the DOC Table below, only 10,964 total acres were lost in all of Monterey County for the 32-year period. The rate of farmland losses resulting from Draft Requirements is 3-5 times greater than prior farmland conversions for development and other uses.

DD-28
cont.

Thirty-two years of land conversion for each Central Coast County, The Central Coast, and California were recorded by DOC.

Table 2. Department of Conservation - Historic Farmland Losses (1984 - 2016)

1984 - 2016 Net Acres Change for Farmland ¹															
Monterey County		Santa Clara		Sta Cruz		San Benito		SLO		Sta Barbara		Central Coast		California	
Net Acres Change	Annual Acres Change	Net Acres Change	Annual Acres Change	Net Acres Change	Annual Acres Change	Net Acres Change	Annual Acres Change	Net Acres Change	Annual Acres Change	Net Acres Change	Annual Acres Change	Net Acres Change	Annual Acres Change	Net Acres Change	Annual Acres Change
10,964	343	24,566	-768	-4,335	-135	37,810	-1,182	5,145	161	-1,395	-44	51,997	-1,625	1,173,357	-39,122

¹) Does not include rangeland

The critical point is that a subset of watersheds in the Salinas Valley will lose more farmland in less than a decade to Draft Requirements than all of Monterey County lost in 32 years.

4. Draft Requirements Conflict with the Intent of Local, State and Federal Laws to Preserve Agricultural Land from Conversion.

DD-29

Federal and state governments have long had policies protecting farmland and rangeland from conversion due to urban development. Legislative intents clearly state continued losses of food-producing farmland and rangeland are not in the best interest of the people.

The following laws and initiatives are protective of agricultural lands:

- **The Federal Farmland Protection Policy Act (FPPA)** Minimizes the extent to which Federal programs, including technical assistance or financial assistance, contribute to the unnecessary and irreversible conversion of important farmland to nonagricultural uses; encourages alternative actions, if appropriate, that could lessen the adverse effects on farmland; and assures that Federal programs are operated in a manner that, to the extent practicable, will be compatible with State, local government, and private programs that protect farmland. NRCS administers the program (Emphasis added.)
- **California Land Conservation Act of 1965, The Williamson Act** contains a *"rebuttable presumption that the present use of open-space land, which is enforceably restricted and devoted to agricultural use, is its highest and best use."* The Act is intended to preserve the agricultural economy (production of food and fiber) of the state and to ensure adequate, healthful, and nutritious food for future residents by restricting specific parcels of land to agricultural or related open space use. (Emphasis added.)

When adopted in 1965, the Act was an attempt to slow the increase in real property taxes on farmland by providing methods for restricting land use to agricultural purposes. In return for preserving farmland in the Williamson Act, landowners received property tax assessments which were much lower than normal because they were based upon farming and open space uses, as opposed to full market value. These tax savings saved agricultural landowners 20-75% in property tax liability each year. In addition to Williamson Act contracts, a county may

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DD-29
cont.

adopt §423.4, allowing for Farmland Security Zone (FSZ) contracts. Land subject to an FSZ contracts shall be valued for assessment purposes at 65 percent of valuation.

The program has been highly successful in meeting its farmland preservation goals. *"Prior studies found that one in three Williamson Act farmers and ranchers said that without the Act they would no longer own their parcel (Land in the Balance, University of California; December 1989)"* (in DOC website). As can be seen below, Williamson Act contracts continue to be highly popular on the Central Coast.



- **Other Laws and Policies Are Protective of Farmland Preservation:**
 - **Safeguarding California: Implementation Action Plans: Ag Sector:** Contains the goal: Reduce Farmland and Rangeland Conversion.
 - **State Coastal Conservancy Strategic Plan/ 2018 - 2022:** Outlines priorities for California coastal management. One action: Protect agricultural and working lands... throughout the Central Coast.
 - **California at 50 Million: California's Climate Future: The Governor's Environmental Goals and Policies Report:** Looks at the State's long-term goals and measures progress against goals. Farmland conversion tracks shifts between land idling, habitat conversion, low-density rural development, and urbanizations which includes converting land for energy, water, and waste projects.
 - **The Governor's Office of Planning and Research (OPR)** routinely expresses interest in preserving farmland: as evidenced by:
 - **2003** - *"loss of [Ag Lands] does not just impact food and fiber, but also negatively affects state and local revenues and jobs. California's working landscapes offer other critical*

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environmental benefits to California including scenic open space, flood protection, groundwater recharge, wildlife habitat, recreation, Agri-tourism, renewable energy, carbon offsets and climate control."

- **2017** – Offered new resources and templates for cities and counties to use in general plans, including new compendiums on infill development, renewable energy, and *mitigation for conversion of agricultural land*.

5. Draft Requirements Could Trigger Williamson Act (Act) Cancellation Fees

Typically, open-space is considered an acceptable land use under the Williamson Act. However, it is unclear how conversion to open-space will affect the administrative aspects of Williamson Act Contracts. DOC has indicated that contract-holding agencies will have the discretion to determine if a contract should be wholly or partially canceled because of the changes in land use from agriculture to open-space (personal communication, June 9, 2020).

The Williamson Act sets forth that a canceled contract triggers a land re-valuation by the county tax assessor. It is not clear if the valuation will be partial, (i.e., only for the new open-space contract) or whole (i.e., for the entire contract will be cancelled and reissued). The contract-holding agency has the discretion to charge a cancellation fee. The Act sets the cancellation fee at 12.5%; although, DOC indicated that the fee amount is also discretionary (personal communication, June 9, 2020).

If a contract is in a Farmland Security Zone, the cancellation fee is 25% of the land valuation. The Act sets this cancellation fee at 25% and is silent about whether the fee is discretionary or mandatory

Client ranches have both The Williamson Act and Farmland Security Zones contracts. Administrative complications will arise as Landowner(s) with contracts balk at the expense and administrative complications of renegotiating contracts. Furthermore, the landowner will likely pass cancellation fees to tenants if the fees are not waived. The level of complexity and expense related to contract cancellations is not addressed. It would be advisable to better understand how each contract-holding agency on the Central Coast will respond to the Draft Requirements in order to assess potential costs and barriers to implementation.

The Draft Order and D.E.I.R. failed to evaluate the time and expense to growers and landowners, administrative costs for contract-holding agencies, and losses of tax revenues for contract-holding agencies on the Central Coast.

6. Prime Farmland is Converted.

The DOC California Farmland Mapping and Monitoring Program (FMMP) has mapped 90 percent of the State's agricultural land. Of this, less than half (four to five million acres) are considered Prime Farmland, which is premium land because it is free from physical limitations to agricultural use. Only about 15% of the State's agricultural land, and less than 5 percent of its total land is Prime farmland.

Within the mapped Riparian Setback Areas there were 50 soil series (See Appendix V). Of these, 28 were classified as Prime Farmland. Eight soils were Farmland of Statewide

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Importance. Land conversions are targeting some of the world's most agriculturally productive soils. Agronomically speaking, such losses would be unconscionable.

7. The Draft Requirements Are Not Consistent with Riparian Principles

DD-34

According to the US Environmental Protection Agency, (EPA), the guiding principles of restoration are: "Preserve and protect aquatic resources, Restore ecological integrity, Restore natural structure, Restore natural function, Work within the watershed/landscape context, Understand the potential of the watershed, Address ongoing causes of degradation, Develop clear, achievable and measurable goals, Focus on feasibility, Use reference sites, Anticipate future changes, Involve multidisciplinary teams, Design for self-sustainability, Use passive restoration, when appropriate, Restore native species, Avoid non-native species, Use natural fixes and bioengineering, and Monitor and adapt where changes are necessary." (US EPA Website).

These principles of Riparian Restoration are surprisingly consistent throughout literature. The following generally encapsulates Restoration precepts. "Before one can develop a [riparian habitat] restoration plan for any site, an understanding of how existing river processes affect site conditions and determine the functional ecology is necessary. Physical river processes mold the form and topography of the river channel and its floodplain (this is termed fluvial geomorphology), they deposit sediment that will function as soil for plant growth, they regulate plant establishment and growth and drive plant succession through flooding and channel meander, and they affect the resulting vegetation structure that provides wildlife habitat for more species than any other vegetation." (Griggs, 2009).

Notwithstanding the above, definitions of Riparian Area are more variable:

DD-35

The Draft Requirements define riparian habitat as: "Areas adjacent to rivers, streams, creeks, washes, arroyos, and other waterbodies or channels having banks and bed through which waters flow at least periodically. These areas are subject to periodic flooding and are generally characterized or distinguished by a difference in plant species composition or an increase in the size and density of vegetation as compared to upland areas. For the purposes of this Order, Riparian Areas include Wetland Areas."

- US Forest Service states: "An area that includes the aquatic ecosystem, the riparian ecosystem and wetlands."
- Coastal Zone Management Act: "High water table, subject to periodic flooding and encompassing wetlands in their definition"
- Bureau of Land Management: "Transition" between permanently saturated wetlands and upland areas."
- US Fish and Wildlife Service: "[These] are plant communities contiguous to and affected by surface and subsurface hydrologic features of perennial or intermittent lotic and lentic water bodies[and] have one of both of the following characteristics: 1) distinctly different vegetative species than adjacent areas, and 2) species similar to adjacent areas but exhibiting more vigorous and or robust growth form....[and] are usually a transition between wetland and upland."
- "Riparian Ecosystem is defined as extending away from the bank or shore to include land with direct land-water interactions and whose areal extent is variable based on its ability to perform ecologic functions." (Ilhardt, 2000).

Generally, most definitions focus on the transitory nature of Riparian Areas.

DD-36

Another major distinguishing feature among definitions is the presence of water, which typically excludes high terraces and slopes that never flood. Only the Water Board and Coastal Zone Act

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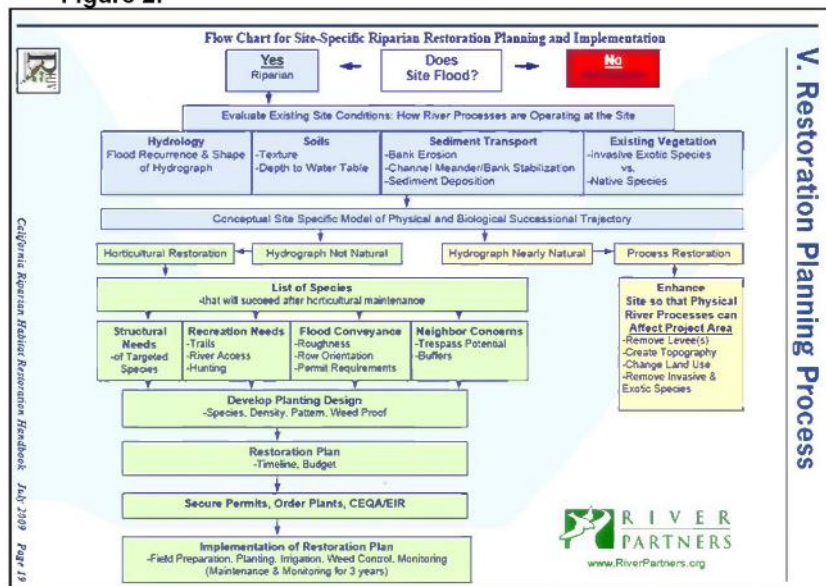
DD-36
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lump wetlands into Riparian Areas. Usually, aquatic, riparian and wetland ecosystems are seen as separate systems, although distinctions may blur on the landscape.

The connection with water and moist soils cannot be minimized. According to Ilhardt (2000), *"The number of functions contributing to riparian and aquatic ecosystem processes decreases with distance from the water ecosystem."* Requiring riparian areas in upland areas which do not flood, have little hydrologic connection, and/or will not naturally sustain riparian plant associations, is not supported by literature. A good example of this would be the North Branch of Chualar Creek, east of Old Stage Road, in Monterey County. The creek has been hydro modified (channelized and straightened). Groundwater is deep. Surface water is not present except during floods. Banks can be 10-30 feet high. Riparian species do not naturally regenerate and, in spite of efforts, have been difficult to horticulturally establish.

"The most important considerations for Riparian Restoration are elevation, geology [i.e., geomorphology and soils], sediment transport characteristics, channel slope and climate of watersheds." (Griggs, 2009). Other considerations are plant responses to conditions, hydromodification, land uses, and legal instruments such as easements, Williamson Act contracts, or other restrictions placed on the land. Riparian Restoration planning is a complicated and multi-disciplinary activity. It is not a monolithic use of a single tool (e.g., buffers). The following flow chart demonstrates the complexity of riparian restoration.

Figure 2.



- The 2009 Riparian Habitat Handbook asks these questions about a site:
 - Does the Site Flood? If the site does not flood, then river processes are not operating on it, and it will not function as riparian habitat.
 - Do river processes affect the site? It is the existing conditions that will dictate plant growth and reproduction.

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- What is the Land Use History? [Again, does the land flood?]

The 2009 Handbook also discusses soil features as the most important ecological factor determining the growth of each individual plant of all species ... (emphasis added). *"Particular attention should be given to depth to water table (winter vs. summer levels), and stratification of soil textures (presence of sand lenses or clay layers) form the top to the bottom [of the soil profile]. This information, coupled with knowledge for each species about its rooting-depth and patterns of root growth in various soil textures, will allow the restoration planner to develop a palette of species that [might] grow on the site."*

DD-37

Draft Requirements mandate that plants should be native and planted beginning at the "Top of Bank" and move into the agricultural fields. *"When selecting plant species for a restoration project, it is important to understand how each species will respond over time to the site-specific ecological conditions."* (Griggs, 2009). Plants on the Central Coast usually occur in plant groupings or associations. The Draft Requirements give little consideration to whether plants can be successfully established in upland, xeric field conditions. Planting establishment will be further impaired because field margins typically consist of deeply compacted turn roads. This creates conditions diametrically opposed to the environment necessary to sustain these plants.

"Restoration must take altered conditions into account as plant selection is done." (Griggs, 2009). Most of today's Central Coast watersheds have been hydro modified, meaning conditions that naturally controlled in the past may no longer exist. Draft Requirements ignore the other influencing factors.

DD-38

The effectiveness of practices, such as buffers zones, should be considered. *"In reality, most buffers and riparian areas achieve only a fraction of their reported pollutant trapping potential. Most trapping studies reported by researchers have been short term in nature and were conducted under very controlled conditions ...that influence riparian zone performance. In addition, most of these studies report on riparian zone effectiveness for water-quality protection only in the first few years after establishment. These studies are probably not good indicators of the long-term performance of riparian buffers with respect water quality protections."* (National Research Council, 2002). While buffers attenuate, they may not be as effective as portrayed in the Draft Requirements. The National Research Council (NRC) compared the relative effectiveness of buffers at reducing common agricultural constituents. Sediment removal using grass buffers ranged from 30% to 92%. Nitrate, ammonia, and Total N ranged from 50% to 96%, 2% to 50%, and 28% to 76%, respectively, in grass buffers. Phosphorous and orthophosphate removals ranged from 60% to 90% and 34% to 90%, respectively, with grass buffers. Herbicide removal using grass buffers ranged from 8% to 100%. Fewer studies were presented for mixed and forest buffers. Forest buffers tended to have higher removal rates, but it is uncertain if this is because of plant mix or biome conditions. One study found 0% removal of bacteria in grassed buffers. This final point is important for the food safety discussion in Section 12. E.

The contention is that growers are offered the opportunity to do customized, site-specific restoration through the four Compliance Pathways. However, this contention is misleading since ALL growers subject to the Draft Requirement must implement Operational Setbacks (which are, at present, are indeterminant in size).

DD-39 ↓

In summary, a multi-disciplinary approach to riparian restoration is needed which *"uses soil condition (soil science) ... (plant science) and the presence of the water table within the rooting zone as a measure of hydroperiod (water science)."* (Ilhardt, 2000). The Draft Requirements fail to

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accomplish this. Riparian restoration goals should look holistically at watersheds from multiple perspectives. NRC confirms this *“Regardless of the science-based tools used to assess riparian condition, the output from these evaluations must be implemented through policies that take into account both environmental and socioeconomic issues.”* In other words, riparian restoration is complicated, requires multi-disciplines, considers fluvial processes, ecological conditions, and other conditions.

DD-40

8. Draft Requirements are not Supported by Natural History or Distribution of Soils and Plant Communities

There is no question that riparian habitat existed on the Central Coast before Europeans arrived nor that the California landscape was subsequently altered after colonization and settlement. This section provides context about how Riparian Areas evolved over time and how soil types can be used to indicate where they are best suited today. The questions that are central to this discussion are:

- 1) What did the Riparian Areas look like on the Central Coast when Europeans arrived?
- 2) Was there a pristine state?
- 3) What caused changes to Riparian conditions?
- 4) Have conditions been altered so that a return to pre-colonial habitat is not possible?
- 5) If so, what are the best conditions that can be expected, and should those be achieved?

In recent years, theories have developed regarding evolution of plant communities in California. Most agree that California natural communities co-evolved in conjunction with large-scale landscape management by indigenous peoples. Management included digging, pruning, coppicing, transplanting, dispersing seed, corralling, irrigating, damming, and most importantly, low-intensity, prescribed burning. Fire eliminated overgrowth, scarified seeds to enhance germination, stimulated regrowth of vegetative parts, reduced plant competition, increased light penetration, facilitated plant harvesting, created attractant habitat, and was used to drive animals for hunting and trapping purposes. (Blackburn 1993), (Bancroft, n.d.), (Cunningham 2010), (Crespi 1769), (Gutierrez, (1998), (Paddison, 1999), (Rice, 1996), (Tietje, 2019).

Chuck Striplen, a biologist with San Francisco Bay Institute and also a descendant of the Bay Area's Mutsun Ohlone people, *“emphasized that an updated version of aboriginal life would show that the Indians burned the grasslands, the marshes, ‘they burned everything.’”* (in Cunningham, 2010). Sometimes, areas were burned as often as every 3-5 years by indigenous tribes. It was after settlement by Europeans and other migrants that a policy of fire suppression resulted in rapid and substantial shifts in plant communities.

New plant and animal introductions arrived with explorers. Many species were better suited for the colonial world than native species reliant on man's landscape manipulation. By the time, naturalists and scientists arrived, many native plant and animal species had been supplanted; therefore, the “natural state” of California was never truly documented. Species shifts, combined with overgrazing, intensifying agriculture, and large-scale water management transformed the California landscape and its ecosystems faster than it could be recorded.

The best glimpse of the natural world can be found in the 1700s are the journals of Spanish explorers. Their primary interests were mission establishment, agricultural and pasturage possibilities, and the wild world as a food source, *[e.g., “[The land] appears to be very fertile, capable of producing anything one might want to plant.”]* (Fra Crespi, 1769). However, there were hints of

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the natural world, even if sometimes accounts seemed riddled with conflicting observations (Fink, 1972), (Beebe, 2001), (Bancroft, n.d.).

Today, scientists consult other fields of study (e.g., dendrology, palynology, archaeology) to backfill knowledge gaps about early California. Early diary excerpts confirm the existence of diverse plant communities on the Central Coast and refute some contemporary portrayals that the edges of waterways were monolithic, uniform groves of cottonwoods and alders and laden with copes of willows. Here are a few excerpts of recorded observations of plant communities *"...there were many willow, cottonwood, alder and live-oak trees...many large live-oak trees in the open spaces...covered with rushes and grass and the ground was very wet and swampy...On the hills...fine soil and dry grasses, everywhere...We saw not a tree in all this day's march, neither in the flat land nor on those high hill ranges...there are countless rose and bramble bushes...but no wild grapevines. There were plenty of oaks, live oaks, and pines...trees on one side [of the river] and the other are thickly grown with cottonwoods and other small trees...the country is pretty, green, shady, flower strewn, fertile, beautiful, and splendid. [The ground] is miry and when it rains heavily, it is for the most part a lake. During the whole distance, there were few trees... We passed a grove of sycamores and small cottonwoods."* *"Less than thirty years ago [in 1853], the Salinas Valley was mostly an open plain."* (Monterey County, 1893).

Scientists provide explanations for plant communities and their diversity:

- *"Not only do individual species faithfully follow their substrates, but so do entire groups of species. The groups make up the vegetation type of which each species is a part. For example, shrubby, fire-prone foothill chaparral – consisting of dozens of species of shrubs – typically grows on coarse, shallow soils; valley grassland – with a hundred species of grasses and forbs – occurs on finer, deeper soils; high elevation conifer forest – with a rich suite of tree, shrub and herb species – occupies young, relatively unweathered soils; coastal marshes and mountain meadows are on anaerobic; organically rich soils; an lowland riparian forests cover natural levees built from centuries of flood-deposited."* (Gutierrez, 1998).
- *"Water has shaped human interaction with California's environment. Typical low rainfall, regional differences, and micro-environmental differences... frequency and intensity of rainfall and periods of drought have affected man's [and plant's] distribution on the landscape..."* (Rice, 2002).
- *"Riparian vegetation in dry regimes [such as parts of the Central Coast] are highly sensitive to low-flow and high-flow, seasonal variations in rainfall and flow, and receding water tables. These factors influence plant establishment and diversity."* (Stromberg, 2007).
- *"To a large extent, soil texture, determines the survival and growth rate of each [Riparian] species."* (Griggs, 2009).

DD-41

The emphasis on soils creates questions about what soil types might be found in prescribed Riparian Areas and what plant communities would naturally be associated with these soils?

To answer this question, today's USDA Web Soil Survey was used to determine the soils series in buffers where farmland conversions will occur. Next, archived Soil Surveys (1901 – 1920s) were consulted for insights into plant associations on undeveloped lands for identified soil series. Finally, later Soil Surveys (1930s - 1980) describe drainage characteristics and the soils series support of wildlife habitat or grassy waterways. Taken together, these Soil Surveys paint a picture of what plant communities may have existed or could be sustained at the water's edge. A summary is shown in Appendix V.

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Soils were identified for ranches in the following subwatersheds: Watsonville Slough, Tembladero Slough, Alisal Slough, Merritt Ditch, Blanco, Salinas River Lagoon, Alisal Creek/Upper Rec Canal, Lower Salinas River, Middle Salinas River, Paris Valley, Quail Creek, Chualar Creek, Arroyo Seco, Estrella River (Shandon area), Upper Salinas River (Templeton Area), Huero huero Creek (Creston Area), Little Oso Flaco Creek, Oso Flaco Creek, Santa Maria River, Santa Maria Estuary, Main Street Canal, Green Creek, Orcutt Creek, San Antonio Creek (Santa Barbara).

Lessons learned were:

- Many of the soil associations are alluvial in origin but are moderately-drained, well-drained, or excessively-well-drained (e.g., Antioch, Cropley, Gaviota, Placentia). Such soils will not retain requisite amounts of moisture to sustain wetland or riparian species. Nineteen common riparian plant species are listed in the California Riparian Habitat Restoration Plan. Nine plants on the list require a high-water table: Black willow, Sandbar willow, Arroyo willow, Red willow, Fremont cottonwood, Buttonbush, White alder, Western Sycamore, and Blackberry. These plants would struggle on well-drained soils.
- Only a handful of the identified soils might successfully sustain wetland/ riparian species in newly established Riparian Areas (e.g., Alviso, Camarillo series, Clear Lack Clay series, Pacheco Clay Loam, Rindge).
- Many identified soils never had the riparian-rich plant communities that are envisioned. A large number only supported grasses and forbs with scattered hardwoods.
- There is an assumption in the Draft Requirements that the newly planted Riparian Areas will provide enough shade to change water temperature in a stream. But, this vision of over-hanging trees (so often seen in temperate forests) did not and will not naturally exist on many of the soils in the mapped Riparian Setback Areas.
- The vision of a temperate—style landscape may not be possible without supplemental (heavy?) irrigation. With SGMA, there may be future water curtailments making this a challenge.
- Each ranch represents a unique set of ecological conditions and requires customized attention.

DD-42

In summary, it is not certain what “pristine” environments originally thrived in California. No one plant/animal community was found uniformly adjacent to rivers and streams. Imposing Riparian Areas without considering soils, river functions, fluvial processes, and other ecological conditions probably will not be successful. The Draft Requirements are ecologically oversimplified, and this over-simplification is at odds with natural history records and physical environment of the Central Coast. In fact, the Draft Requirements may be the antithesis of conditions and processes that shaped riparian areas and riparian species on the Central Coast. Geomorphology and fluvial processes once dictated location of Riparian Areas, and eons of indigenous landscape management, particularly using prescribed burns, shaped evolutionary plant selection and location of riparian species.

DD-43

9. Draft Requirements Discard Decades of Multi-benefit/stakeholder/disciplinary Efforts by Ignoring Prior Institutional Investment in Watershed Characterization, Planning, and Implementation

Numerous watershed characterizations, planning, and management documents have been produced for watersheds on the Central Coast. These were produced through institutional investment in public/private partnerships. The Draft Requirements ignore and bypass these

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multi-benefit, multi-stakeholder, multi-disciplinary efforts. A list of Watershed Plans and Reports include, but are not limited to:

- Santa Barbara County
 - Carpinteria Creek
 - Rincon Creek
 - Goleta Creek
 - San Antonio CRMP
- Santa Barbara/SLO County
 - Oso Flaco Creek (Nitrate and Sediment Assessment)
 - Santa Maria Estuary Enhancement and Management Plan (Dunes Center, 2004)
- SLO County
 - SLO Watershed Project, Watershed Maps and Data for SLO County
 - Arroyo Grande Creek Watershed Management Plan (CCSE**, 2009)
 - Irish Hills Coastal Watershed Conservation Plan (Coastal Conservancy, 2001)
 - San Luis Obispo Creek Waterway Plan (addresses flooding, on SLO County website),
 - San Luis Obispo Creek Watershed Enhancement Plan (The Land Conservancy of San Luis Obispo County, 2002)
 - Prefumo Creek Watershed Management Plan (City of San Luis Obispo, 2014)
 - Santa Rose Creek
 - Morro Bay Comprehensive Conservation Management Plan (MBNEP, 2013)
 - Pismo Creek/Edna Area Watershed Management Plan (CCSE, 2009)
 - Nipomo Creek Watershed Management Plan (Land Conservancy of San Luis Obispo and CCSE, 2005)
 - Upper Salinas River/Santa Margarita area is addressed in the Salinas River Action Plan (CCRWQCB, 1999)
 - (Upper) Salinas River Watershed Management Plan (will be developed by Biodiversity First! In 2018, they agreed to fund a Watershed Coordinator to develop a watershed plan for the Salinas.)
 - San Luis Obispo County Salinas River Watershed Management Plan RFP was released in 2010.
- ** CCSE = Central Coast Salmon Enhancement
- SLO/Monterey County
 - San Antonio and Nacimiento Rivers Watershed Management Plan (MCWRA, 2008)
 - Salinas River Action Plan (CCRWQCB, 1999)
- Monterey County
 - Also see IWRP Integrated Watershed Restoration Program
 - Arroyo Seco Watershed Management and Restoration Plan (Prop 13 Grant funded)
 - MCWRA Salinas River Long-Term management Plan
 - Elkhorn Slough Foundation: Integrated Ecosystem Restoration in Elkhorn Slough (2011 Grant Fund award of \$822,242 to Elkhorn Slough National Estuarine Research Reserve, the Moss Landing Harbor District, MCWRA, County of Santa Cruz to restore up to 90 acres of tidal salt marsh)
 - Water Enhancement of the Tembladero Slough and Coastal Access of the Community of Castroville (2011 grant award of \$341,698 to Central Coast Wetlands Group at Moss Landing Marine Labs through San Jose State research Foundation)
 - Watershed Approach to Water Quality Solutions (2011 grant award for \$372,413 to MBNMS, CCWG and MRCD)
 - Moro Cojo Slough Management and Enhancement (CCGC)
 - Santa Rita Creek Restoration (CCGC)

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cont.
- Reclamation Ditch Watershed Assessment and Management Strategy (Original Title: Carr Lake Watershed/Reclamation Ditch Subwatershed Assessment and Management Plan (Prepared for MCWRA by The Watershed Institute) for Gabilan, Natividad, and Alisal Creeks
 - Santa Cruz County
 - Watsonville Sloughs Watershed Resource Conservation and Enhancement Plan
 - Four Implementation Strategies for Restoring Water Quality in Pinto Lake
 - Corralitos Creek Water Supply and Fisheries Enhancement Project (\$1,000,000 project solicitation for Pajaro River Watershed Integrated Regional Water Management Plan Update)
 - Soquel Creek Watershed Assessment and Enhancement Plan
 - Integrated Watershed Restoration Program Phase 5, for seven large watersheds include: Waddell Creek, Scotts Creek, San Lorenzo River, Soquel Creek, Aptos Creek, and Lower Pajaro River tributaries (including Corralitos Creek as well as creeks in San Mateo and tributaries of the Pajaro River (2018 Coastal Conservancy Recommendation to fund \$1,087,000 to Resource Conservation District of Santa Cruz County)
 - San Vicente Creek (With a vested interest and long history of working in this watershed, the Resource Conservation District (RCD) of Santa Cruz County, with funding from the California Department of Fish and Wildlife Fisheries Restoration Grants Program, and in partnership with agency staff, including Big Creek Lumber, National Oceanic & Atmospheric Administration's Southwest Fisheries Science Center, Swanton Pacific Ranch, Sempervirens Fund, California Department of Fish & Wildlife, Bureau of Land Management, US Fish and Wildlife Service Coastal Program, Peninsula Open Space Trust, and local technical experts have recently completed a Salmonid Recovery Plan for the San Vicente Creek Watershed)
 - San Lorenzo River (has an urban and salmonid plan)
 - Santa Clara County
 - Integrated Water Resources Master Plan.
 - Uvas/Llagas Master Plan (SCVWD)
 - San Benito
 - San Benito River (nothing except an IRWM Plan)
 - Pajaro River
 - Pajaro River Watershed Integrated Regional Water Management Plan (Santa Clara Valley Water District, San Benito County Water District, Pajaro Valley Water Management Agency)
 - Pajaro River Watershed Study – modeled hydrologic and sediment regimes, USACE 100-year flood protection project) flood prevention projects.
- DD-44
- Moreover, the Draft Requirements ignore collaborative or individual efforts by growers that occurred prior to adoption of the Irrigation Lands Regulatory Program or under the ILRP Versions 1.0, 2.0 and 3.0. Growers who have proactively implemented practices to address water quality impairments and/or beneficial use protections have received no credit for their efforts.
- DD-45
- 10. Draft Requirements Jeopardize Institutional Funding and Technical Assistance:**
- If the Water Board adopts the proposed Riparian Areas Requirements, which mandate farmland conversion, it could negatively impact financing opportunities for restoration projects and individual growers.

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- DD-46
- **Federal Farmland Protection Policy Act (FPPA)** Limits federal involvement through funding and technical resources) where productive farmland is being converted. FPPA applies only to Federal assistance and actions that would convert important farmland to nonagricultural uses. It is the responsibility of other Federal agencies [USEPA, USFWS, and NOAA] and entities receiving Federal funds to lessen the effects of conversion activities on farmland and to ensure that their programs or activities are compatible, to the extent practicable, with State, local, and private programs to protect farmland. NRCS is the agency responsible for ensuring that FPPA is implemented.
- If, upon review of a site with an NRCS planner, it is determined that the land is considered prime farmland or farmland of statewide importance, then a Farmland Conversion Impact Rating Form (AD-1006) would be required. If the project is considered a corridor project (again something that would require site specific planning to determine), completion of a CPA-106 would be required. NRCS routinely does riparian improvement projects, so it should not be assumed that these reviews will preclude moving forward with assistance.
- It is unclear how FPPA might affect other sources of federal funding such as EPA 319(h) or USDA Specialty Crop grants or other USDA or FDA technical assistance. NRCS would need to make this assessment on a site-by-site basis.
- There are other potential hurdles to NRCS funding and technical assistance. A grower of high value crops on the Central Coast may not meet eligibility criteria for cost-share programs. Many NRCS programs are not available to growers who exceed the Average Adjusted Gross Income eligibility threshold. Subsequently, being ineligible for an NRCS contract limits NRCS technical assistance. (Appendix VI) provides a quick summary of USDA Financial Assistance Program review items.
- As a side note, a NEPA review is conducted anytime NRCS is providing financial or technical assistance for a project, which includes an effects analysis under the FPPA.
- DD-47
- **State of California grant funds** generated through bond measures, generally, are not eligible for projects to meet compliance requirements. Adoption of the Draft Requirements could potentially preclude the application of bond grant funds on farmland subject to the Draft Requirements.
- DD-48
- If traditional sources of grant funding are not available, growers and projects would rely on directed state or federal funding; however, in this time of COVID, directed funds are not likely. Consequently, funding for riparian areas may be limited solely to growers.
- DD-49
- Institutional funding or financial incentives for newly initiated regulatory programs have been the norm in environmental regulation. For example, the National Pollution Elimination Discharge System, during the 1970s and 1980s, was highly subsidized by federal and state funds (Personal communication with SWRCB Fee Group, 2019). If adopted, the Requirements will inexplicably depart from this norm of supplemental institutional funding.
- DD-50
- 11. The Water Board Should Balance Public Welfare and Other Factors**
- Throughout the ILRP 4.0 deliberation process, the Water Board has focused on water quality, with extra-emphasis on protecting beneficial uses. Some individual Water Board members have insisted they have no other responsibility. This narrow interpretation is at odds with

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California water laws and policies, which consistently promulgate a balance standard, not only to protect the environmental resources, but also to ensure human health, public welfare, a prosperous economy, and the protection of personal rights.

Below are a few examples of how the balance standard is embedded in California laws and regulations. Underlining is added for emphasis.

DD-51

- **Constitution, Article X, Water, Section 2.**
It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent ...for the interest of the people and for the public welfare.
 - **California Constitution, Article 1. Declaration of Rights**
All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy. ... While no rights are absolute, fundamental rights such as the rights to defend life, protect property, and pursue and obtain safety, may be infringed only to the minimum extent necessary to promote a compelling government interest.
 - **Water Cost Division 7, Chapter 1. Policy, 13000**
"...the quality of all the waters of the state shall be protected for use and enjoyment by the people of the state.... The Legislature further finds and declares that activities and factors which may affect the quality of the waters of the state shall be regulated to attain the highest water quality which is reasonable, considering ALL demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible. ... The Legislature further finds and declares that the health, safety and welfare of the people...; that factors of precipitation, topography, population, recreation, agriculture, industry and economic development vary from region to region within the state; and that the statewide program for water quality control can be most effectively administered regionally..."
 - **Water Code, Division 7. Chapter 4, 13225**
Each regional board, with respect to its region, shall do ALL of the following:
(a) Coordinate, (b) Encourage and assist, (c)...investigate and report (d) Request enforcement (e) Report rates of compliance (f) Recommend ...financial assistance (g) Report suspected contamination (h) File official action. (i) Take into consideration the effect of its actions...on any other general or coordinated governmental plan looking toward the development, utilization, or conservation (j) Encourage coordinated regional planning (k) In consultation with the state board, identify and post on the Internet a summary list of all enforcement actions undertaken by that regional board and the dispositions of those actions... (Amended by Stats. 2006, Ch. 293, Sec. 1. Effective January 1, 2007.)
- Please note, the words "Protect Beneficial Uses" are not among Regional Water Boards duties.
- **Water Code, Division 7. Chapter 4. Regional Water Quality Control, Article 3. Regional Water Quality Control Plans, 13241**
...Factors to be considered by a regional board in establishing water quality objectives shall include, but not necessarily be limited to, ALL the following:
(a) Past, present, and probable future beneficial uses of water.

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DD-51 cont.	<p>(b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.</p> <p>(c) Water quality conditions that could reasonably be achieved through the <u>coordinated</u> control of all factors which affect water quality in the area.</p> <p>(d) <u>Economic considerations.</u></p> <p>(e) The need for developing housing within the region.</p> <p>(f) The need to develop and use recycled water.</p> <p>(Amended by Stats. 1991, Ch. 187, Sec. 2.)</p>
DD-52	<p>While protecting water quality and beneficial uses are the Water Board's primary charge, it is strikingly clear, Water Boards must consider public welfare and other factors when considering the impacts of Water Board action.</p>
DD-53	<ul style="list-style-type: none"> • Water Board Must Support Other California Plans and Policies that Possess a "Balance" Standard <p>Many California laws, plans, and policies tangentially affect or overlap with water resource protection. Most possess a "balance" standard and encourage collaborative, rather than command and control, solutions to state issues. Water Boards should coordinate and honor these:</p> <ul style="list-style-type: none"> ○ California Agricultural Vision Update. ○ Agricultural and Land Stewardship Framework and Strategies (DWR) ○ California 2018 Natural and Working Land Climate Change Implementation ○ CDFA's Climate Change Consortium for Specialty Crops: Impacts and Strategies for Resilience. ○ Safeguarding California: Implementation Action Plans by Agriculture Sector ○ California Water Plan Update 2018 ○ 2018 Strategic Fire Plan for California ○ 2018 Statewide Hazard Mitigation Plan ○ California Biodiversity Initiative: A Roadmap for Protecting the State's Natural Heritage 2018. ○ Investing in California's Flood Future ○ State Coastal Conservancy Strategic Plan 2018 ○ California @ 50 Million: California's Climate Future, The Governor's Environmental Goals and Policies Report ○ CDFA California State Wildlife Action Plan (SWAP) ○ 2019 Strategic Plan, California Department of Forestry and Fire Protection
DD-54	<p>Text from the above plans were passed through a word cloud synthesizer. Text size and boldness indicates the frequency a word appeared. "<i>Riparian</i>" is highlighted in green. It is obvious that the State places great importance on many resources and issues, and while riparian protection may be an emerging issue, it still ranks much lower on the policy and legal scale than many other topics.</p>

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Figure 3.



12. Draft Requirements Fail to Account for Direct and Indirect Risks to Human Health and Public Welfare

Risk is exposure to danger. Assessing risk is not simply a consideration of the probability of occurrence, but it is also the consideration of the magnitude of an event if it were to occur.

The Draft Requirements could potentially affect public welfare and human health by increasing flood and fire risk and destabilizing levees. Human food safety risks will be intensified. Equally important, riparian areas will expand harborage for disease-vectoring mosquitos, and crop damaging agricultural and horticultural diseases, insects, and animals. The Draft Requirements ignored these facts. Instead, Draft Requirements force growers to establish broad swaths of riparian habitat without considering site-specific conditions or proximate and downstream impacts. Proposed Requirements claim that benefits outweigh detriments; yet, the actual number of acres or locations of newly established riparian habitat were not presented nor were impacts to human health and public welfare analyzed or modeled.

A. The Draft Requirements Increase Flood Risk

Why is the risk of flood unique on the Central Coast? The Hydrologic Region is mountainous with very narrow strips of flat coastal plain. This topography heightens the effects of high-volume precipitation events. Rains can be infrequent, intense, and episodic. There may be wild swings between areas and years. For example, between 2005-2008, average annual precipitation ranged from 12 – 42 inches. On the average, annual precipitation near Salinas is about 14 inches per year, but near Santa Cruz, it can exceed 50 inches. The southern interior basins usually

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cont.

receive only 5-10 inches per year. Consequently, some areas are more prone to floods than others. Additionally, climate variability is a factor. It is influenced by the distance to the ocean (east to west), the latitude (north to south), and the elevation, (low to high).

The region includes major agricultural areas and urban centers that experience stream flooding and landslides. Approximately 92,700 and 427,000 people, \$10.3 billion and \$36 billion in assets, and 123,600 and 146,300 acres of crops are respectively exposed in 100 year and 500-year floodplains. There are 316 plant and animal species that are state or federally listed as threatened, endangered, or rare which would be exposed to flood hazards in the Central Coast region. All are reliant on governments' efforts to cooperatively manage flood risk. US Army Corps of Engineers (USACE) addresses Levees and Dams and assists with flood recovery. The Federal Emergency Management Agency (FEMA) assists with preventing and insuring against floods and flood recovery. California Department of Water Resources (DWR) manages dams, levees, and focuses on flooding in the Central Valley. Most other areas manage floods conjunctively at the local level with private/public partnerships.

Watersheds on the Central Coast perform many functions that include but are not limited to flood management, groundwater recharge, wildlife, and fish habitat, drinking water, irrigation water, and recreation. Flooding occurs most frequently in winter and spring. Most streams produce slow rise floods, but steep terrain can cause flash floods that are intense and of short duration. Debris flows occur in most major storms when forest fires have damaged vegetation in upper elevations. *"The addition of woody vegetative growth in the channel can lead to log jams, obstructions, or snags during high flow events."* (Goldner in UC Press E-Books, 1982-2004). Of the 25 historical Central Coast floods that have occurred since 1861-62, nineteen were attributed to slow rise flooding, eight floods documented damage from debris flows, and nine floods included damage from flash flooding (Flood Safe California, 2013).

"Generally, Riparian Areas assist with flood management by slowing bank erosion, directing flow away from structures and directing sediment transport" (Griggs, 2009). However, on the Central Coast, where riparian habitat management is prohibited or highly prescribed, impenetrable thickets have resulted. See photo examples in Figures 9. and 10. in Fire Risk Section 12. C. These impenetrable thickets contribute to formation of debris-balls. This occurs, when large trees, brush and other trash are loosened and compacted by flood waters. Debris-ball incidence is escalated by the amount of dead and down wood and the density of riparian areas. Resulting debris-balls plug culverts, accumulate around bridge pilings, and gouge holes in levees. This results in localized, albeit, potentially severe, flooding.

In 1995, the Pajaro River flooded the entire town of Pajaro. Debris-balls contributed to flooding by breaching levees and blocking culverts. A class action suit was filed against Cal Trans, Santa Cruz County, and Monterey County. The counties claimed they were prevented from managing riparian habitat for flood purposes because of environmental protections. The judge discounted that defense and told them they should have tried harder. The defendants lost. (CSUMB, 2003), (LA Times, 1998).

Floods also scour Prime Farmland and Farmland of Statewide Importance. Subsequently, growers incur the costs of for reclaiming fields. For example, in 2013, Costa documented the costs associated with rehabilitating fields following floods in the 1990s. *"Generally, renovations involved substantial sand removal because large pockets of sand were deposited over topsoil. There was removal of heavy debris, (e.g., trees, Arundo donax, brush, other vegetation, buried sprinkler pipes, etc.) Wells, irrigation equipment, underground plumbing and piping were either lost or damaged and had to be repaired or replaced. Electrical power was lost, and power poles and power*

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cont.

lines had to be repaired or replaced in order to restore power. Recovery efforts for flood affected ranches was estimated to be \$20,000-\$25,000 per year. ... Farmland was eroded, and topsoil was scoured. Farmland renovation consisted of 'borrowing' precious topsoil from other fields to replace scours and to fill deep cuts. Topsoil spreading was followed by expensive deep plowing to mix remaining soil with any un-removable sand. The estimated costs of land renovation in 1995 and 1998 ranged from \$1000 to \$5000 per acre depending upon the extent of land damage. To add insult to injury, wind-blown sand from the post-flood river-bottom continued to blow onto field for months after the flood even affecting crop quality and marketability. Additional expenses resulted when new weed seeds and diseases were dispersed through floodwater so that additional pest management costs incurred. ... There is one last important point: if future topsoil losses from flooding should continue unabated into the future, there will eventually come a time when there will not be sufficient topsoil to "borrow" from other fields in order to rebuild flood damaged farmland. This would be an irreplaceable loss of valuable natural resource." (Appendix VII).

CEQA requires an analysis of how the Draft Regulations will impact such factors as flooding; nevertheless, flooding impacts were minimized, and no analysis was conducted to ascertain the effects of debris balls resulting from increased riparian habitat.

B. Draft Requirements Contribute to Potential Levee Failure

"Levees...are paramount to public health, safety, and welfare. They serve a common purpose in that they are designed to contain water and prevent flooding for varying lengths of time. They must be readily accessible by equipment and personnel for O&M. It is necessary to exercise caution in the design of landscape planting and vegetation management. The presences of undesirable vegetation can undermine [levee] integrity and lead to failure..." (USACE EP 1110-2-18).

DD-57

FEMA has responsibility for assessing flood risks and encouraging flood prevention and funding through their Flood Insurance Risk Management (FIRM) program, Special Flood Hazard Areas (SFHA) designations, and the Community Rating System (CRS). These programs oblige participants to meet USACE standards for levee Operation & Management and provides federal assistance for disaster relief. FEMA coordinates with USACE.

US Army Corps of Engineers (USACE) is the federal agency with responsibility for operating under Public Law 88-94. This program includes disaster preparedness, emergency operations, and rehabilitation. If a levee is not in the PL 88-94 program, USACE will not assist with that levee. In general, the USACE are the experts on levee maintenance and provide guidance on vegetation management and removal for levee stability.

The issue of vegetation removal and management on levees has been controversial since 2009. Here is a brief history of how this issue has evolved over the past decade:

- Pre-2009 - Before Katrina, the USACE was inconsistent in its vegetation removal policies.
- 2009 - After Katrina, USACE declared that vegetation on levees was incompatible with levee stability and must be removed. USACE later amended their decision to allow for some vegetation in certain circumstances.
- 2011 – California Department of Fish and Wildlife (CDFW) intervenes on behalf of the plaintiff, Friends of the River, in a levee vegetation removal lawsuit.
<https://www.watereducation.org/aquafornia-news/legal-analysis-california-department-fish-and-game-moves-intervene-behalf-plaintiff>

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cont.

- 2012 - CDFW signals intent to sue Army Corps to protect Fish and Wildlife around levees: alleging USACE fails to account for regional variations among levees.
<https://cdfgnews.wordpress.com/2012/02/07/dfg-signals-intent-to-sue-army-corps-in-order-to-protect-fish-and-wildlife-around-levees/>
- 2013 - USACE released new policy guidelines on vegetation management for levees and created a YouTube video which explained its policies for the Central Valley.
<https://www.youtube.com/watch?v=HkMe8Hh2AC0>
- 2014 and 2016: California responded by passing two laws that apply in the Central Valley:
 - 1) 2014 *Central Valley Project Improvement Act*
<https://www.watereducation.org/aquapedia/central-valley-project-improvement-act> and
 - 2) *Improving Habitats along Delta Levees...Past Projects and Recommended Next Steps*
http://www.safca.org/protection/NR_Documents/BPWG_Library_2016_Draft_Improving_Habitats_Along_Delta_levees.pdf
- 2014 – Pres. Obama signed the Water Resources Reform and Development Act (WRRDA)
- 2014 - Friends of the River Lawsuit was dismissed due to the passage of WRRDA 2014.
- CDFW Lawsuit was dismissed on similar grounds as above.
- 2020 – Due to budgetary constraints, 2014 WRRDA regulations were not finalized. Public review of Draft Guidance for Levee Safety (EC 1156-2-218) was ongoing when the COVID Emergency declarations occurred. Rulemaking was postponed.
- In the interim, the controlling document is USACE Levee Maintenance Guidance: Engineering Pamphlet EP 1110-2-18, Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures.
https://www.publications.usace.army.mil/Portals/76/Users/182/86/2486/EP_1110-2-18.pdf?ver=2019-04-10-161259-723 *"The purpose of the EP is to assure that landscape planting and vegetation management provide aesthetic and environmental benefits without compromising the reliability of levees ... It is a guide for safe design ... that integrates landscape plantings and vegetation management into a system for flood damage reduction [that] requires a coordinated, interdisciplinary effort ... civil engineer, landscape architect, levee and/or dam safety engineer, environmental engineer, geologist, biologist, and additional related disciplines, as appropriate."*

DD-58

- In EP 1110-2-18, vegetation is acceptable where safety is not compromised and effective surveillance, monitoring, inspection, maintenance, and flood-fighting are not adversely impacted. Appropriate landscape planting may be incorporated, subject to the limitations set forth in the EP. Landscape engineering standards consist of:
- Vegetation-free zone provides reliable corridor access. It must be able to accommodate access needs. Perennial grasses are the only vegetation permitted.
 - Vegetation-Management Zone allows for selective management of vegetation.
 - Root Impacts are managed in the vegetation-free zone by providing distance between root systems and levees... and maintaining the integrity of the levee foundation.
 - Wave-current and wave-action barriers such as shrub forms of Salix (willow,) riverward of the vegetation-free zone, is encouraged as an environmentally beneficial means to moderate erosive potential of currents and waves.
 - Trees and shrubs can create both structural and seepage instabilities in levees.

The two figures below illustrate vegetation-free zones that USACE recommends for levee stability.

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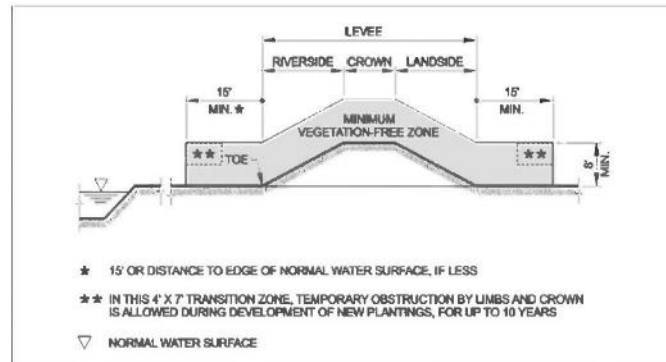
DD-58
cont.**Figure 4.**A-2. Figures A-1 through A-25.

Figure A-1. Levee Section - Basic.

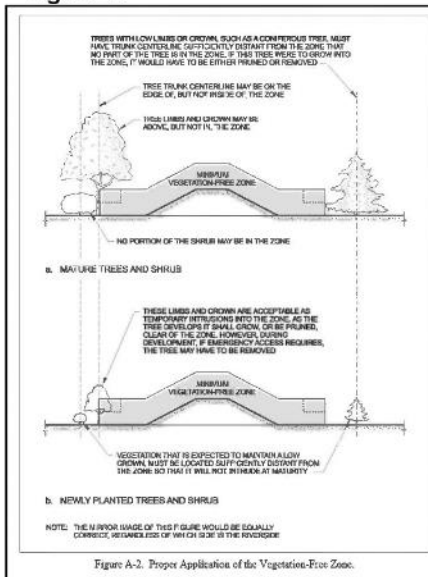
Figure 5.

Figure A-2. Proper Application of the Vegetation-Free Zone.

It cannot be stressed enough that levees protect lives and infrastructure. From a water-quality perspective, levees protect many wastewater treatment systems on the Central Coast (e.g., Soledad and Gonzales wastewater ponds). Flood waters which breach or overtop these levees become contaminated with human waste. Water contamination occurred during 1995 floods when water containing human waste covered thousands of acres of fields in the Salinas Valley. The same occurred during the 1998 floods and there was a food safety outbreak that was

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DD-58
cont. ↑

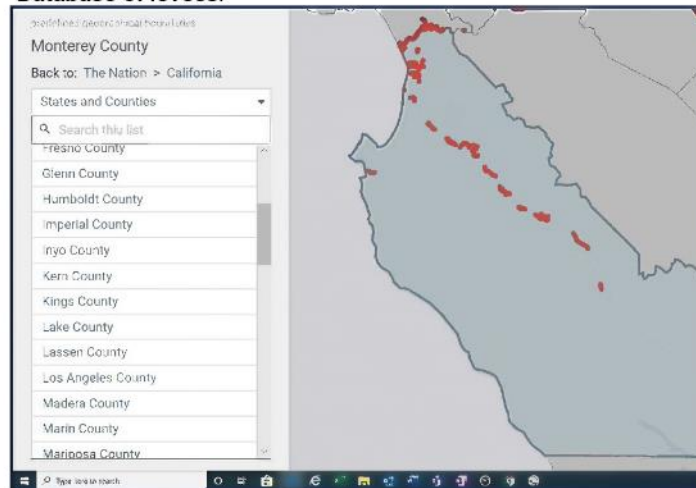
related to this event. Today's food safety metrics would likely follow a field for several months or longer after being contaminated with floodwaters and human waste.

Levees on the Lower Pajaro, Uvas/Llagas Creeks, San Lorenzo River, Santa Maria River, and parts of South Santa Barbara and Santa Cruz Counties are managed by either a partnership between a Locally Maintained Agency (LMA) and USACE or by an LMA alone. If a levee is not enrolled in USACE the PL 88-94 program; then, County General Plans, and ordinance control levee maintenance requirements, unless levees are maintained by private landowners.

For the most part, levees in the Salinas Valley were built by and are maintained by growers. Some may have been built by the USACE in the mid-20th Century, but they were turned over for local maintenance decades ago.

DD-59

Figure 6. Salinas Valley levees as shown on the USACE National Database of levees.



According to a former Monterey County Water Resource Agency (MCWRA) manager, vegetation was chemically controlled by MCWRA until 1995, as a part of the MCWRA's floodplain maintenance program. Since the levees were privately owned, MCWRA did not determine levee stability or do maintenance. Growers assumed full control of levees in 1995. Growers received permits to do vegetation management until 2008 but since that time, no vegetation management has been allowed on the levees in the Salinas Valley (personal communication, April 24, 2020).

DD-60

Because the Manmade Barrier Exemption in the Draft Regulations do not appear to apply to levees on the Salinas River, ranches will have a higher rate of farmland conversion as compared to other areas of the Central Coast.

DD-61

Staff has stated that Setbacks begin at "Top of Bank" (personal communication, March 24, 2020). According to discussions with Monterey County Water Resources Agency (MCWRA), "Top of Bank" for a levee begins at the toe of the waterside (personal communication, March

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DD-61 cont.	24, 2020). Visualize what this means. A 250-foot Riparian Buffer would begin on the toe of the waterside levee bank, move up the bank; and depending on the size of the levee, cross the access road, move down the landside of the levee bank, and into the cropped area. In addition to farmland conversion, this creates several concerns:
DD-62	<ul style="list-style-type: none"> • How many of the listed Riparian Area functions (Draft Order, Part 2, 1. b.) are achieved on the landside of the levee? If few to none; then, what is the nexus between this requirement and resource protection at this point on the landscape? Or more plainly, what water quality and beneficial use protections are offered by these requirements?
DD-63	<ul style="list-style-type: none"> • In some cases, fields simply will not be accessible because blocked access roads are the primary point of entry to the field.
DD-64	<ul style="list-style-type: none"> • The USACE PL 88-94 Program Manager and MCWRA Staff, respectively, expressed concern that unmanaged vegetation could weaken and destabilize levees (personal communications, April 24, 2020, and April 25, 2020). Destabilized levees could occur when: <ul style="list-style-type: none"> ○ Trees die, rotting roots create burrows that are conduits for water weakening levees during floods. ○ Large trees topple during floods, craters are gouged in the levee and weakens the levee. ○ Unchecked Animal Burrows create conduits for water into levees during floods.
DD-65	<ul style="list-style-type: none"> • Unmanaged vegetation on levee banks and access roads inhibits assessment and maintenance.
DD-66	<ul style="list-style-type: none"> • Blocked access roads prevent flood response and recovery actions.
DD-67	<ul style="list-style-type: none"> • How will resulting impenetrable thickets, such as those shown in Figures 9 and 10 below, be a factor in debris-ball formation at different flood stages?
DD-68	These concerns apply to both existing Riparian Areas and newly established Riparian Areas.
DD-69	<p><u>C. Draft Requirements Are Inconsistent with State Policy for Fire Risk Management</u></p> <p>In 2018 and 2019, California experienced unprecedented fires. Governor Newsom responded with Executive Order N-05-19, Whereas:</p> <ul style="list-style-type: none"> • The <u>reality of climate change-persistent drought, warmer temperatures, and more severe winds</u> has created conditions that will lead to more frequent and destructive wildfires • Historically, fires lit by Native Americans and lightning strikes <u>cleared the forest of surface fuels</u> on a regular cycle to manage vegetation • The <u>combined factors of fire exclusion, forest management policies that created overgrown and overcrowded forests, a rapidly changing climate, and a historic drought</u> with accompanying bark beetle epidemics • <u>Fuels reduction, which encompasses a range of forest management activities, including thinning, treating surface fuels with prescribed fire, mechanical methods, manual methods, and grazing, can reduce potential fire intensity</u> • ...the State endeavors to implement management strategies more rapidly and in a manner that is environmentally sustainable, and to prevent or contain to the greatest extent possible future destructive fires • CAL FIRE shall be the lead, shall make recommendations on methods of deployment for the purpose of performing fuels management, policies, including waivers that will allow for more rapid and effective fuels management treatments, and methodology to assess which communities are at greatest risk from wildfire and the projects within/nearby areas that would reduce the threat of a catastrophic wildfire.

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DD-69
cont.

- It is ORDERED that State Agencies shall cooperative in the implementation of this Order.
Note: Underlining added for emphasis.

D. Draft Requirements Increase Fire Risk in at the Wildland Urban Interface (WUI)

Below is a cartoon showing fire hazard at the State level. It shows Fire Hazard Severity zones in State Responsible Areas (SRAs). Please note that many agricultural areas such as the Salinas Valley are not in a Federal Responsible Area (FRA) or SRA. Instead, communities rely on local fire districts for fire prevention, management, response, and recovery.

DD-70

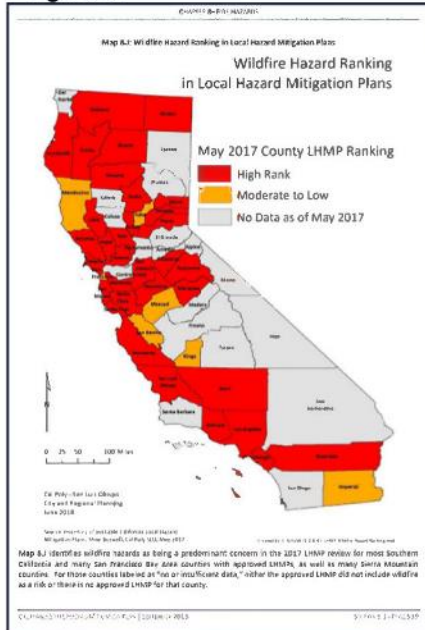
Figure 7.



Each county and community should have a Community Wildfire Prevention Protection Plan which guides prevention and preparation activities. These plans rank relative fire risk in their communities. The map below shows county Wildfire Hazard Rankings. Note that all Central Coast Counties are considered high risk except for Santa Barbara.

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Figure 8.



Today, state, and federal policy makers are dealing with massive fuel load resulting from decades of fire suppression. There is increasing focus on fire prevention and control at the Wildland Urban Interface (WUI) because of greater risk of lives and property losses at this juncture. WUI is that area where hazardous fuel reduction work should be performed to protect communities, infrastructure, and watersheds from wildfire. Below are controlling Plans, etc. addressing the WUI

- An action item in **CAL FIRE's Strategic Fire Plan (2018)** directs CAL FIRE to "provide expertise to appropriate governmental bodies in the development and/or revision of a comprehensive set of wildland and wildland urban interface (WUI) protection policies for inclusion in each county general plan and/or other appropriate local land use planning documents".
- **CAL FIRE's State Hazard Vegetation Program (CalVTP) (2020)** was created to scale up fuel treatment and forest restoration projects toward meeting the State's goal of treatment 500,000 acres on non-federal lands. Focus will be given to WUI fuel reduction and it is expected that CalVTP will result in some significant and unavoidable environmental impacts.
- **The State Hazard Mitigation Plan** states there are trade-offs in fire hazards and ecosystem services offered by vegetation in WUI areas. "Effective fuel treatments in the WUI, proactive conservation, and long-term commitment to [forest management] are important steps. There is an acute need for California land managers to develop fuel management strategies in the WUI that minimize fire risk while simultaneously reducing loss of native vegetation and many societal benefits that provides."
- In 2019, California certified a **Statewide Programmatic Environmental Impact Review to Protect Californians from Catastrophic Wildfires**. This includes: fuel reduction at the [WUI], including the removal of vegetation to prevent or slow the spread of fires between wildlands and buildings, fuel breaks, restoration in ecosystems where natural fire regimes

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DD-71
cont.

have been altered due to fire exclusion, including restoring ecological processes, conditions, and resiliency to more closely reflect historic vegetation composition, structure and habitat.

DD-72

What creates fire risk? The most critical factor is fuel load. This, combined with dry conditions from drought, low humidity, or high winds, have resulted in unprecedented fires in the past years (Monterey County Emergency Services, Nacitone, 2008), (Monterey County, 2016), (State Hazard Plan, 2018), (CAL FIRE, 2018), (Parks, 2017).

DD-73

The US Forest Service Pacific Southwest Research Station on Fire Science states that because of higher levels of moisture, riparian areas often burn at lower severity. However, in the absence of periodic fire, riparian areas may accumulate fuels rapidly due to their high productivity, leaving them vulnerable to high-intensity fire during dry fire seasons.

As discussed in Section 12. C., the evidentiary record documents fire was an important factor in landscape management. *"We do not know what the historic fire régimes – duration, ground pattern, intensity, and season – were in the plant communities of precontact California, although guesses can be made using early account and current studies of fire ecology, We do know that quite a few native habitats... were adapted to burning by both wildfire and Indian-managed fire."* (Cunningham, 2010).

What does this mean for the Central Coast with characteristically low riparian burn rates where only about 3% of riparian area burns each year? It is thought that riparian fire regimes could be altered by climate change and become more susceptible to fire. Benedix (2017) found that when climate influence on riparian fire is modeled, areas, a relationship was seen between climate factors and low incidence fire. Climate change is expected to instigate changes in fire regimes. *"Climate change, manifested in longer drought, extended fire season, and possibly drier Hoehn winds (e.g., Santa Ana And Santa Lucia winds) are reinforcing these fire trends."* (Tietje, 2019) *"Climate change, including changes to rainfall, temperature, and salinity, is expected to result in altered fuel conditions and therefore fire frequency, with wetland being particularly vulnerable to hydrologic changes. Much of our understanding of current and future wetland functions hinges on increasing our knowledge of fire as an ecological drier in these sensitive ecosystems."* (Osborne, 2013) *"Climate strongly influences global wildfire activity, and recent wildfire surges may signal fire weather-induced pyrogeographic shift."* (Jolly, 2015).

DD-74

With changing fire regimes comes concerns about how potential fuel load from new and new unmanaged riparian habitat will affect fire risks at the WUI. Hunsaker with The US Forest Service Pacific Southwest Research Station reports that fire suppression, lack of active treatment, increased tree density, and shifting vegetation composition contribute to increasing fire risk. *"Riparian areas that accumulate fuels rapidly owing to their high productivity can serve as wicks during a dry fire season and can carry high-intensity fire through a landscape,"* Riparian areas as well as in uplands vulnerable to high-severity fire may benefit from fuel load treatments. Furthermore, *"treatments that reduce tree density and increase light may have positive effects on understory plant diversity and aquatic productivity in some riparian area"* (in Long, 2014).

DD-75

Approaches to vegetation management and fuel load management have varied across the Central Coast Region for political, cultural, and environmental reasons. Over the last two decades, the Salinas River has been subject to political and legal pressures that have reduced vegetation management. Vegetation management on Salinas riverbanks and levees has not occurred since 2008. It is true that in 2014, the Salinas River Stream Maintenance Program received a coordinated permit; however, the permit is limited to secondary river channels and

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Arundo Removal. Consequently, there are margins of the river that consist of brambly, impenetrable thickets of riparian and invasive plant species. Such areas are adjacent to client ranches and WUIs. Photos below provide examples.

Figures 9. and 10.



Many communities on the Central Coast exist in proximity to areas that are very similar to the photos above, and consequently, could experience greater fire hazards. Below is a list Central Coast communities at risk from fire, which was published in the Federal Register in 2001.

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Table 3.**Central Coast Communities Identified as High Risk at the Wildfire Urban Interface
(Federal Register, 2001)**

Adelaida (SLO)	Greenfield (Monterey)	Oceano (SLO)
Arroyo Grande (SLO)	Guadalupe (Sta Barbara)	Orcutt (Sta Barbara)
Buellton (Sta Barbara)	Hollister (San Benito)	Pajaro (Monterey)
Carmel Valley (Monterey)	King City (Monterey)	San Juan Bautista (San Benito)
Corralitos (Sta Cruz)	Las Lomas (Monterey)	San Martin (Sta Clara)
Creston (SLO)	Lompoc (Sta Barbara)	San Miguel (SLO)
Cuyama (Sta Barbara)	Los Alamos (Sta Barbara)	Santa Maria (Sta Barbara)
Davenport (Sta Cruz)	Los Olivos (Sta Barbara)	Santa Ynez (Sta Barbara)
Paso Robles (SLO)	Marina (Monterey)	Shandon (SLO)
Elkhorn (Monterey)	Mission Hills (Sta Barbara)	Sisquoc (Sta Barbara)
Garey (Sta Barbara)	Morgan Hill (Sta Clara)	Soledad (Monterey)
Gilroy (Sta Clara)	Morro Bay (SLO)	Solvang (Sta Barbara)
Gonzales (Monterey)	Nipomo (SLO)	Templeton (SLO)
		Watsonville (Sta Cruz)

The 2016 Monterey County Community Wildfire Prevention Plan (Fire Safe Council, 2016) published a list of communities that are prioritized for action because of fuel loads, potential for wildfire occurrence and structural vulnerabilities. It should be noted that client ranches exist at the mouth of Chualar Canyon, in the Highway 68 Corridor, and Rural Southern County, which all have high rankings. BLM land adjacent to Creekside and Toro Creek near Reservation Road has also been identified as a high priority for treatment. This area may have between 90 and 129 acres new riparian plantings.

Table 4.**Need for Fuel Reduction Work, by Community**

Community or Area at Risk (pursuant to HFRA)	Fuel Hazard	Risk of Wildfire Occurrence	Structural Ignitability	Overall Priority
Aromas	High	Medium	Medium	High
Castroville	Low	Low	Medium	Low
Chualar Canyon	High	High	High	High
Elkhorn				
Gonzales	Low	Low	Low	Low
Greenfield	Low	Low	Low	Low
Highway 68 Corridor	High	High	High	High
King City	Medium	Medium	Medium	Medium
Marina	Low	Medium	Medium	Medium
Pajaro	Medium	Medium	Medium	Medium
Rural N'n County	High	Medium	High	High
Rural S'n County	High	Medium	High	High
Salinas	Medium	Medium	Medium	Low
Soledad	Low	Low	Low	Low

CAL FIRE FRAP (Fire Risk Assessment Program) looks retroactively at the conditions, frequency, and severity of past fire incidents to assess future fire risk and hazards (personal communication, May 23, 2020). However, concerns expressed in this letter are predictive:

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DD-78 cont.	<p>What will happen if/when unmanaged riparian fuel loads increase? Does fuel load, combined with climate change-induced fire regime alterations, increase fire hazards to wildlands and/or communities adjacent to riparian areas? One amelioration would be to only use fire tolerant or resistant plants.</p>
DD-79	<p>A final point needs to be made with respect to structures. Equipment yards contain highly flammable equipment (diesel tractors) and bulk fuel and fertilizer tanks. In addressing how to handle riparian areas around equipment yards, the Draft Requirements focused on mitigation. The Draft Requirements failed to consider local ordinances for setbacks from flammable structures such as fuel and fertilizer bulk tanks.</p>
DD-80	<p><u>E. Dismissal of Food Safety Risks As “Speculative” Disagrees with the Technical Record</u></p> <p>The “elephant in the room” is whether increased wildlife intrusion correlating to increased riparian habitat results in more food safety risks caused by wildlife (i.e., ungulates, rodents, birds, amphibians, etc.) transmission of human pathogens into fields where fresh fruits and vegetables are grown. Agriculture, academics, health agencies, food distribution, and the food safety industry believe that risks are increased. Draft Requirements dismissed the risks as speculative.</p>
DD-81	<p>Yet, the record show risks are real. In 2020, The California Food Emergency Response Team conducted a systematic review of all California leafy green-related incidents based on data available from 1996-2016. There were 134 positive incidents (most were surveillance-related). Approximately, 2,240 US cases of food-borne illness were reported (300 were in California cases and entailed 50 hospitalizations). The most prevalent hazard type was microbiological, in particular from <i>Escherichia coli</i> O157:7; followed by <i>Salmonella</i>, and <i>Listeria monocytogenes</i>. Romaine and Spinach were the crops that were most frequently implicated. (Needham, 2020)</p>
DD-82	<p>The documents below demonstrate connections between wildlife and human pathogens in proximity to fields of fresh produce. The first two studies show a direct relationship between wildlife intrusion and <i>Escherichia coli</i> (<i>E. coli</i>) O157:h7, Shiga Toxic <i>E. Coli</i> (STEC) outbreaks.</p> <ul style="list-style-type: none"> • <u>The FDA linked the contaminated spinach to samples taken from stream, cattle manure, and feces from wild pigs on ranches on the Central Coast of California</u> (Grant 2006). • The prevalence of <i>E. coli</i> O157:H7 and <i>Salmonella</i> appears to be low in native wildlife and is highest in non-native wild pig. Comparing this study to other California food safety-wildlife studies, <u>the overall prevalence for <i>E. coli</i> O157:H7 and <i>Salmonella</i> tends to be less than 2% and around 5%, respectively, in native wildlife.</u> An <i>E. coli</i> O157:H7 outbreak occurred in organic strawberries in northern Oregon during the summer 2011. <u>Deer have been implicated as a source for this outbreak.</u> Farmers in the Yuma Valley, Arizona, are also concerned about deer as a potential risk to food safety...<u>Other studies indicate blackbirds that occupy Confined Animal Facilities, such as stock yards have a slightly higher <i>E. coli</i> O157:H7 prevalence than this study.</u> High density flocks utilize these facilities and move out to agricultural areas to feed, thus being a potential vector to crops...Geese also form large concentrations on agricultural fields and roost on sewage treatment ponds, thus geese should continue to be surveyed. ... We recommend funding for testing of big game, bird species that form large density flocks around agricultural facilities, and goose studies be continued. (Gordus, 2011)

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DD-82
cont.

- Recommendations (from Michele Jay-Russell, 2011) [pertaining to wildlife risks]
 - Continue to follow the Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables relating to wildlife and animal intrusions
 - Conduct a follow-up survey to determine Salmonella and STEC prevalence in other potential domestic and wildlife reservoirs in desert produce production regions
 - Because of the high percent positive in coyote scat samples, subsequent surveys should attempt to determine the Salmonella concentration using a quantitative assay
 - Compare domestic and wildlife Salmonella and STEC subtypes with strains from other environmental samples in the region (canals, irrigation water, soil amendments)
- E. coli O157: H7 is present at low levels (6 of 300 individual samples) in the feces of wildlife found within Maine wild blueberry fields. As five of the positive samples were collected in the late growing season of lowbush blueberry (early September), close to harvest-time, we can say that, though the risk of infection in the wildlife population appears to be low, the risk for food contamination remains. To test the potential for infected deer to directly transmit E. coli O157:H7 to lowbush blueberries, a field study was performed and it indicated that, when blueberries come in direct contact with contaminated deer feces, fruit contamination is possible and that can persist for greater than 72 hours (Wu, 2012).
- In Tennessee, STEC was isolated from fresh produce and animal and environmental sources as well as flies, while in North Carolina only the fecal and soil samples tested positive. Results strongly suggest that there needs to be a reassessment of the proposed 400-foot minimum buffer zone distance between animal operations and the location of fresh produce fields. Based on our study, this distance does not seem sufficient to prevent the transmission of pathogens from animal sources to produce. We suggest conducting quantitative studies at varying buffer zone distances to determine the adequate buffer zones to prevent pathogen transmission and the establishment or assessment of other physical barriers to potentially reduce pathogen transfer (Thakur, 2013).
- ...in 2015 and 2016. ... Of the 1,369 bird associated samples, including 54 bird species from the study areas, 0.7% were positive for a presumptive clinically significant STEC. In addition, 12.5% of composited samples of Canada goose fecal mass were positive for a presumptive clinically significant STEC (Suslow, 2014).
- The Draft 2018 Guidance for the Produce Safety Rule was not the final rule, but demonstrates federal government and industry concerns about food safety risks associated with animal intrusion. Both domesticated and wild animals can be the sources of microorganisms that can contaminate produce and cause foodborne illness. Domesticated animals include cats, dogs, cows, pigs, chickens and horses. Wild animals include deer, feral hogs, frogs, snakes, raccoons and birds, such as pigeons, crows and migrating geese. They can all carry disease causing microorganisms in their feces that can survive for prolonged periods of time when deposited in soil and water and could be transferred to people through contaminated produce that enters the food supply. FDA ...recognize(s) that animals can carry and transmit pathogens that can contaminate produce and make people sick, so the goal of the Produce Safety Rule is to reduce the likelihood of that kind of contamination".
- Outbreak A strain of E. coli O157:H7 was detected in a fecal-soil composite sample taken from a cattle grate on public land less than two miles upslope from a produce farm with multiple fields tied to the outbreaks by the traceback investigations. Other STEC strains,

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DD-82 cont.	<p><u>while not linked to outbreaks A, B, or C, were found in closer proximity to where romaine lettuce crops were grown, including two samples from a border area of a farm immediately next to cattle grazing land in the hills above leafy greens fields and two samples from on-farm water drainage basins.</u> (FDA, 2020)</p>
DD-83	<p>Food safety for the fresh produce industry continues to evolve and develop new technologies and procedures for assessing risk in the future. Today, growers are being directed to take a risk-based preventive approach which considers and identifies all known or foreseeable hazards (on the ranch, adjacent to the ranch, introduced on the ranch, etc.) They should:</p> <ul style="list-style-type: none"> • identify what they know and do not know. • Acknowledge the changes (risks) throughout the growing season and manage accordingly. • Use historical data trends (or your own and/or through longitudinal studies) • Look to the science and experts. <p>This risk-based preventive approach to food safety is not a one-size fits all. It is important that each ranch is assessed independently as risk may vary and more importantly will necessitate preventive controls and verification frequencies to reflect those needs. (Krout, 2020)</p>
DD-84	<p>FDA (2020) demonstrates the difficulty of determining appropriately sized buffers. In the situation described, the potential pathogenic source may have been as far as two miles away; however, the source of transmission is unknown. The subsequent question is "What is an appropriate barrier between a potential pathogenic source and a field of fresh produce?" Thakur (2013) asks whether buffers of 400 feet should be expanded when fields are exposed to animal operations. The Food Safety industry will ask the same of riparian areas. "How far away should fresh produce be from riparian habitat? What is 'safe'?" There is no doubt the Food Safety industry will respond to Draft Requirements. New buffers will be required next to riparian areas. Existing buffers will be increased in size. Some crops may be prohibited next to riparian areas. There will be "buffers on buffers." Growers and the Food Safety industry will persist in efforts to answer, "How far away, is far enough?" but in the meantime, growers will lose incrementally more land. The Draft Requirements failed to fully evaluate these risks or to assess the cumulative impacts of accreting buffers.</p>
DD-85	<p>In summary, Michele Jay-Russell says it best, <i>"Any of the major enteric foodborne pathogens (Campylobacter, STEC, Salmonella, Cryptosporidium spp. etc.) are zoonotic, meaning that they have animal reservoirs that may shed the pathogen in their feces. Produce related outbreaks have been caused by fecal contamination of plants or surrounding watersheds by domesticated animals (especially livestock) or by wild or feral animals. Even a low level of contamination from fecal-borne zoonotic enteric pathogens can be a significant public health concern due to the low infectious dose of these pathogens, the potential for attachment, and possible ingress into edible parts of plants, and the lack of a post-harvest "kill step" to destroy pathogens on fresh and minimally processed produce."</i> (Jay-Russell, 2020).</p>
DD-86	<p><u>F. Riparian Areas Increase the Likelihood of Mosquito-Bourne Diseases</u></p> <p>There are at least as 15 types of mosquitoes on the Central Coast and at least three are known to be carriers of West Nile Virus. Other mosquito-vectored diseases are less common on the Central Coast, such as Malaria, Zika, Dengue, Encephalitis and Yellow fever.</p> <p>Mosquito populations are associated with standing and tidal water and riparian areas. Thousands of acres of newly established riparian areas could potentially create mosquito abatement issues in areas where problems did not previous exist. This is problematic if there is</p>

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DD-86 cont.	<p>not an active mosquito-abatement program in the area where additional riparian habitat is established.</p> <p>Typically, mosquito surveillance, abatement, and disease control fall under local jurisdictions. Each county on the Central Coast handles these tasks differently. Santa Cruz and Santa Barbara Counties conduct surveillance and abatement throughout their respective counties. San Benito does not have a program. Monterey has a Mosquito Abatement District only in North County. San Luis Obispo County does surveillance but does not abate mosquitos. In the past couple of decades, grand juries in both Monterey and Santa Cruz Counties have investigated Mosquito Abatement programs and have recommended expanding abatement to the entire county to protect human health.</p> <p>Riparian habitat requirements may conflict with county health ordinances regarding infectious diseases. Further evaluation should be conducted in the D.E.I.R. to ensure consistency.</p>
DD-87	<p>A final point applies to all of the human health and public welfare risks discussed above. They will disproportionately impact the same disadvantaged communities that are impacted by contaminated drinking water. These communities will be the most vulnerable and the most severely impacted by flood, fire, and mosquito-vector diseases. It is puzzling why one human health risk, drinking water, is of paramount importance to the Water Board, while other potentially acute human health risks have been downplayed as negligible.</p>
DD-88	<p><u>G. Riparian Areas Provide Harborage for Pests (Insects, Birds, Animals, Weeds) Harmful to Agricultural and Horticultural Production.</u></p> <p>Insect pests harmful to agricultural production are harbored in riparian and weedy areas. The pests below are of concern for Central Coast growers. It is anticipated that pesticide applications will <i>increase</i> as a result farmland/riparian habitat associations. This is contrary to Karp (2016) in Findings 46 and 180.</p> <ul style="list-style-type: none"> • Bragada bug causes severe economic damage to early Cole crops. It can be controlled in conventional field vegetable production using pyrethroid, organophosphate, carbamate, or neonicotinoid insecticides. Unfortunately, most OMRI-approved pesticides are mostly ineffectual. Bragada bug infests farms near these areas: Grassy areas, Weedy drains, Weedy areas filled with mustard-type weeds, River bottoms, Residential areas with preferred hosts, and Lush desert habitat. • <u>Insect Vected Plant Diseases</u> <ul style="list-style-type: none"> ○ <u>Glassy Winged Sharpshooter and Leafhoppers</u> vector Pierce's disease in grapes. This has devastated vineyards in California and other regions of the U.S. It has caused \$40 million in damage to California vineyards. Disease vectoring insects are hosted on a wide variety of plants, including Riparian species. ○ <u>Viruses:</u> These pathogens are spread by insects that have fed on the sap of infected plants. <ul style="list-style-type: none"> ▪ <u>Lettuce Mosaic Virus</u> is caused by aphids, which are hosted on weeds. Similarly, Aphids, primarily Green peach aphids vector beet western yellows virus, cucumber mosaic virus, and lettuce mosaic. Whiteflies vector lettuce infectious yellows virus and the beet leafhopper vector curly top virus). ▪ <u>Impatiens Necrotic Spot Virus (INSV)</u> Historically, INSV was primarily a pathogen of ornamental crops. In 2008, researchers first documented INSV on spinach in the Salinas Valley. Symptoms rendered the crop unmarketable. It was found INSV is

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DD-88
cont.

vectored only by Western flower thrips *Frankliniella occidentalis*, and perhaps, by *F. fusca*, and *F. intonsa*. In 2019, there was a severe outbreak of INSV in the northern part of the Salinas Valley. Areas investigated included non-crop areas surrounding production fields (e.g., ditches, roadsides), edges of surrounding hills, along the Salinas river and residential areas (Smith, et al, 2020). The virus was found to infect a wide range of plant hosts. There is concern that virus reservoirs will reside and overwinter in Riparian areas near rivers and will infect fields during the subsequent growing season. In 2019, insecticide treatments for INSV increased 55% - 78% versus 2018 treatments. Current research projects are ongoing to better understand the distribution and life cycle of the disease to improve management (Hasegawa, 2020). In 2020, field losses were significant earlier in the year with growers reporting 50-100 % yield losses from INSV. Currently, growers are requesting public agencies remove weeds and are working with Cal-Trans to initiate a mowing project (personal communication, June 16, 2020).

DD-89

A nurserywoman in the San Joaquin Valley provided information about viral diseases associated with riparian plants. Interestingly, Silver leaf of Almond is an insect-vectored viral disease that is currently prevalent in the Central Valley. She expressed concerns about rearing and selling riparian plant species due to potential liability if new riparian plantings inadvertently infect nearby cropped areas (personal communication, June 15, 2020).

Increased incursion of birds and animals sometimes results in crop injury, which remains largely is undocumented. Please find below a photo showing bird damage to a crop with nearby riparian habitat.

DD-90

Figure 11.



DD-91

- **Noxious weeds** "negatively impact agriculture by decreasing the profitability and value of cropland, rangeland, timberland and the biodiversity of native ecosystems (including threatened and endangered species". The presence of noxious weeds increases control costs where they are detected, negatively impact recreational use of public lands and waterways and are not aesthetically pleasing to view. The presence of noxious weeds over large areas can also increase

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DD-91
cont.

the fire hazard when they dry out.” (CDFA) CCF §4500 contains the list of noxious weeds for the state of California.

DD-92

- **Invasive Plants** must be managed and controlled. California spends at least \$82 million each year to control invasive weeds. The California Invasive Plants Council created a list of the 39 most invasive species in California. They are: Alligatorweed (*Alternanthera Philoxeroides*)*, Water Hyacinth (*Eichhornia Crassipes*)*, Hydrilla/Water Thyme (*Elodea canadensis*)*, Florida Elodea (*Hydrilla Verticillata*)*, South American Spongeplant (*Limnolobium Laevigatum*)*, Creeping Waterprimrose/Uruguay Waterprimrose (*Ludwigia Hexapetala*)*, Parrotfeather (*Myriophyllum Aquaticum*)*, Giant Salvinia: (*Salvinia Molesta*)*, Scarlet Wisteria (*Sesbania Punicea*)*, Smooth Cordgrass And Hybrids (*Spartina Alterniflora X Foliosa, S. Alterniflora*)*, Dense-Flowered Cordgrass (*Spartina Densiflora*)*, Barb Goatgrass (*Aegilops Triuncialis*), European Beachgrass (*Ammophil, Arenaria*), Giant Reed (*Arundo Donax*)*, Sahara Mustard (*Brassica Tournefortii*), Red Brome (*Bromus Madritensis Spp. Rubens*), Cheatgrass (*Bromus Tectorum*), Highway Iceplant (*Carpobrotus Edulis*)*, Spotted Knapweed (*Centaurea Maculosa*), Yellow Starthistle (*Centaurea Solstitialis*), Jubatagrass/Pampasgrass (*Cortaderia Jubata*), Scotch Broom (*Cytisus Scoparius*), Cape-Ivy (*Delairea Odorata*)*, Brazilian Egeria (*Egeria Densa*)*, Purple Veldtgrass (*Ehrharta Calycina*), Fennel (*Foeniculum Vulgare*), French Broom (*Genista Monspessulana*), English Ivy (*Hedera Helix*), Perennial Pepperwood (*Lepidium Latifolium*), Creeping Waterprimrose: (*Ludwigia Peplodes*)*, Purple Loosestrife (*Lythrum Salicaria*)*, Spike Watermilfoil (*Myriophyllum Spicatum*)*, Scotch Thistle (*Onopordum Acanthium*), Himalayan Blackberry (*Rubus Armeniacus*)*, Spanish Broom (*Spartium Junceum*), Medusahead (*Taeniatherum Caput-Medusae*), Smallflower Tamarisk (*Tamarix Parviflora*)*, Gorse (*Ulex Europaeus*).

DD-93

A complete list of invasive plants can be found at <https://www.cal-ipc.org/plants/inventory/>

DD-94

To address invasive weed species in California, Weed Management Areas (WMA) have been formed throughout the state. Each WMA creates a strategic plan that identifies their top priorities for local management.

- The Central Coast WMA includes Monterey, Santa Cruz, and San Benito Counties. Eradication targets are: Barb Goatgrass (*Aegilops Triuncialis*), Spotted knapweed (*Centaurea stoebe*), Purple loosestrife (*Lythrum salicaria*)*, Bridal creeper (*Asparagus asparagoides*)*, Japanese knotweed (*Reynoutria japonica*), Diffuse knapweed (*Centaurea diffusa*), Rush skeltonweed (*Chondrilla juncea* L.), Bulbil watsonia (*Watsonia meriana*), Water hyacinth (*Eichhornia Crassipes*)*, Kochia (*Kochia scoparia* L.).
- South Central Coast MWA includes Santa Barbara and San Luis Obispo Counties. Species for Eradication are: Stinkwort (*Dittrichia Graveolens*)*, Canada thistle (*Cirsium arvense*), Dalmatian toadflax (*Linaria Dalmatica*), Spiny emex (*Emex australis*), Carnation spurge (*Euphorbia terracina*)*, Algerian sea lavender (*Limonium ramosissimum*)*, Japanese dodder (*Cuscuta japonica*).

Many of the invasive species on the lists above are found in wetland and riparian areas. These are underlined and listed with an asterisk. Draft Regulation prohibitions may impede management and eradication of invasive species.

DD-95

CDFA regulations addressing specific invasive pests may be found at <https://www.cdfa.ca.gov/plant/Regulations.html>

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- DD-96 | The Draft Requirements nor the Draft E.I.R. have adequately assessed potential injury to agriculture when farmland is located adjacent to Riparian areas infested with invasive species.
- DD-97 | **13. Draft Requirements May Invoke Inverse Condemnation**
- Eminent domain and inverse condemnation "Takings" are complicated legal issues and exceed the scope of this letter. They must be mentioned when one considers the immense scope of the projected land conversions. Growers being forced to convert productive farmland should be compensated or have the option to mitigate with like farmland. Compensation was insufficiently addressed in the Draft Order, MRP, Findings and DEIR. The Draft D.E.I.R. did not effectively offer mitigate the farmland losses. "Takings" issues will be addressed in the "Ag Association Partners' Comprehensive Submittal, Including Redline Revisions to the General Order (Ag Partner Submittal).
- DD-98 | **14. Draft Requirements Contain No provisions for Long-term Management of Existing Habitat or Newly Established Riparian Areas**
- This issue has been partially discussed above in several sections. Most Riparian Restoration articles, books, and plans address the need for long-term management and suggest tools such as prescribed burns, mechanical removal, trimming, mowing, and chemical controls to maintain healthy habitat. The present state of riparian habitat on banks and levees is troubling. Brambly thickets reduce plant and animal diversity, impede wildlife movement, and harbor trash and other undesirables. The thickets are unmanaged and create risks and hazards as discussed. Currently, the Draft Requirements do not impose the burden of long-term management on individual growers and this is a relief. However, Programs similar to the Salinas River Stream Maintenance Program should be considered for banks and levees to maintain the long-term health of riparian habitat, whether installed voluntarily, individually, or through a Third-Party Program. Moreover, if native plants are used, prescribed burns should be considered as a primary management tool to better emulate plant evolutionary and natural conditions.
- 15. Comments on the Draft Order, MRP**
- **General Comments:**
 - DD-99 | ○ The Draft Order and MRP do not fully articulate the purpose of Riparian Areas.
 - DD-100 | ○ Aspects of the Draft Requirements appear arbitrary or are missing from the Draft Order (e.g., location of riparian areas, definition of success criteria, triggers for of edge-of-farm monitoring, workplan approvals, and third-party expectations.)
 - DD-101 | ○ The scale of what is proposed is massive. Since the proposed land conversions could potentially exceed the land conversions for development since 1984, perhaps, the Draft Requirements should be treated as development, rather than open-space or an environmental restoration project?
 - DD-102 | ○ Mandated Regulatory Setbacks for Agricultural Nonpoint Sources are uncommon, if not unprecedented.
 - DD-103 | ○ Neither EPA nor SWRCB have established policies for riparian habitat.
 - DD-104 | ○ Lack of Assessment Tools and Forms make it very difficult for growers to evaluate direct and indirect impacts to the environment, agriculture, and the communities.
 - DD-105 | ■ Maps with HUC 12 and HUC 8 watershed boundaries and acreage totals were not available.
 - DD-106 | ■ Acreage information by (sub)watersheds was not available for most subwatersheds.
 - DD-107 | ■ The Draft ESRI map with Strahler Stream Order Class designations was incomplete.

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- DD-108 I ■ A tool allowing growers to estimate Operational Setback widths was not available.
- DD-109 I ○ The Draft Order and MRP were not clearly written. It would be very difficult to implement because critical information is missing:
- DD-110 I ■ The Draft Order and MRP do not seem aligned. Some important implementation details are obscured in footnotes.
- DD-111 I ■ At what point in the landscape do Setbacks begin? Center line of active channel? Top of Bank? Edge of Field? This critical piece of information is missing for the Draft Order/MRP.
- DD-112 I ■ A tool should have been presented for calculating Operational Setbacks.
- DD-113 I ■ The Draft Order, MRP, and Findings seem to conflict about whether Operational Setbacks are vegetated or not.
- DD-114 I ■ It is not clear how to account for existing riparian habitat.
- DD-115 I ■ Rules for each compliance pathway are not clearly articulated.
- DD-116 I ■ Success criteria are mentioned but not defined in the Draft Order and MRP.
- DD-117 I ■ The definition of a Setback is only stipulated for Compliance Pathway 2, On-Farm Setback. Should growers and Cooperators selecting other Compliance Pathways infer from that definition? If they are subject to some other definition of Setback; then, that definition is missing.
- DD-118 I ○ The Order provides Water Board Staff with excessive discretion. If the Water Board chooses to take this approach; then, it would be advisable to adopt a pre-appeal review subcommittee so the board, regulated community and the public understands how Staff is executing its discretion.
- DD-119 I ○ The Draft Order should provide more specific information about criteria that will be used to evaluate the sufficiency of a workplan.
- DD-120 I ○ The Draft Order/MRP should provide draft templates of each form or report that will be required by growers or a Third-Party Group. This is essential and should not be postponed for development after adoption of the Order.
- DD-121 I ○ Priority Area #2 is the entire Salinas River Watershed. How will Water Board Staff and Technical Service Providers manage this? At the very least, this Priority Watershed should be broken into 2 or 3 separate subareas, each with its own priority schedule.
- DD-122 I ○ The Draft Order exceeds the capacity of Water Board Staff to implement.
- DD-123 I ○ There are 13 native plant nurseries on the Central Coast. The Draft Order likely exceeds the capacity of these nurseries. Are some of the same plant species grown and sold at nurseries outside of the Central Coast? Yes. However, ideal restoration utilizes plant and seed stock reared near the riparian site. Capacity issues could prevent growers from meeting quantifiable timelines and milestones.
- DD-124 I ○ The Draft Order exceeds the capacity of technical service providers, such as Resource Conservation Districts, NRCS, Central Coast Wetlands Group, etc.
- DD-125 I ○ The Draft Order does not adequately estimate costs. Hidden costs such as Williamson Act cancellation fees, land use consulting fees, and ARC-GIS mapping expenses were omitted. Other costs were grossly underestimated.
- DD-126 I ○ Insufficient detail is given about what each pathway entails; therefore, growers will have difficulty choosing a Compliance Pathway.
- DD-127 I ○ The Draft Order requires duplicative data collection, reporting and mapping. Water Board members may not be fully cognizant of the costs of producing multiple digital maps. These costs should be more fully explored.
- DD-128 I ○ MRP Timelines and milestones do not take consider lag times between practice implementation and water quality improvement. The agricultural community has commented on this topic continuously throughout the development of the ILRP 4.0 program. The Water Board has ignored this reality, which is supported by substantial scientific, peer-reviewed literature (Hamilton, 2011), (Idhayachandhiran, 2019), (Meals,

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DD-128 ↑ 2008), (Meals, 2010), (Sebia, 2013), (Smith, 2012), (Tadesse, 2020), (Van Meter, 2017)
cont. (Wolock, 2006).

- **Specific Comments**

- DD-129 ○ **Part 2. 1. B. Riparian Area Functions**
iii. Most agricultural waters on the Central Coast are channelized. This comment has been repeated since the adoption of the first ILRP Order in 2004. Buffers are best designed to treat diffuse sheet flow. This is plainly stated in riparian literature.
- DD-130 v. Baseflow gains need to be balanced against evapotranspiration (ET) losses caused by additional riparian species and invasive plants.
- DD-131 vi. Entities visualize buffers differently. It is difficult for Ag to visualize the purported benefit of shading and temperature control from trees and chaparral established at the "top of bank," in the middle of a dry field environment, and as far as 250 feet away from the channel water.
- DD-132 ix. Stormwater retention needs to be balanced with the impacts of trash and debris.
- DD-133 x. Mandating terrestrial wildlife habitat exceeds water boards jurisdiction.
- DD-134 ○ **Part 2.5, 6,7,8** Growers should not have to read the DEIR or the Findings to understand how the prohibitions should be applied. They should be clearly articulated in the Draft Order or MRP.
- DD-135 ○ **Part 2. 9. Part 2.** The Draft Order should require growers to control invasive species and noxious weeds to be consistent with other federal, state, and local laws and initiatives.
- DD-136 ○ **Part 2.10-11.** Milestones are too short for successful establishment and conflict with Time Lag Science (Hamilton, 2011), Idhayachandhiran, 2019), (Meals, 2008), (Meals, 2010), Sebia, 20013), (Smith, 2012), (Tadesse, 2020), (Van Meter, 2017) (Wolock, 2006).
- DD-137 ○ **Part 2.13.** Historic alterations in hydrological conditions are beyond the control of individual growers and could hinder protection of ALL beneficial uses. The Order should provide a regulatory mechanism for dealing with this situation.
- DD-138 ○ Compliance Pathway 4: Alternative Proposal – The requirement for an Individual Surface Water Monitoring is puzzling here. This compliance pathway should be the most technically sound and need the least amount of monitoring. The Alternative Approach would be written by a qualified professional, who will base the Alternative Plan on activities with known (i.e. quantified) load reductions and beneficial use protections that have likely been implemented in other watersheds. In other words, are tried and true practices and approach to restoration.

16. Comments on Draft Findings

- **General Comments**

- DD-139 ○ The entire Draft Order could benefit from precise definition. Terms are used that are not defined. Terms are used interchangeably in ways that are not accurate.
- DD-140 ○ Citations were sometimes 30+ years old and not applicable. For example, Finding 10. cites *Dillaha et al, 1989*. This study was conducted in Montgomery Co., Virginia. Cropping systems were dryland field crops such as corn, soybean, wheat, barley, hay, tobacco, peanuts, and cotton and only 300 acres were irrigated. These cropping systems and temperate climatic conditions are not comparable to the Central Coast. So, how helpful is this citation?

- **Specific Comments**

- DD-141 ↓ ○ **Finding 27** Tools were unavailable to estimate Operational Setbacks. Since the Draft Requirements did not indicate how they estimated land conversions, there is no way to

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- DD-141 ↑
cont.
- DD-142
- DD-143
- DD-144
- DD-145
- DD-146
- DD-147
- DD-148
- DD-149
- DD-150 ↓
- reconcile the differences between their estimates and stakeholder estimates. Costs estimates are not reasonable as will be discussed in other letters. Costs will not be addressed here.
- **Finding 46 and 180.** (Karp, 2016) This finding demonstrates a lack of understanding of insect population dynamics. The study was restricted to one year; and therefore, is not sufficient to support his conclusions. Making assumptions about pest population dynamic based on one year's data violates a fundamental integrated pest management (IPM) principle that insect infestations vary from year to year. Conclusions about life cycles and prevalence must be based on multiple years of research. No regulation should be promulgated based on this study.
 - **Findings 67 – 70** Prohibitions conflict with established riparian management principles:
 - Most riparian restoration guides discuss lower plant vigor of native plants and the challenges of weed management in riparian planted areas.
 - In agricultural areas, the widespread occurrence of exotic plants increases the difficulty of accomplishing restoration goals (National Research Council).
 - Newly disturbed soils, rich in fertilizer, are ideal habitat for weeds. Herbicides may be needed for weed control (citation). In addition, Section 12. F. on insect-vectored plant diseases above discusses the role of weeds. At times, it may be necessary to control weeds or insects or both within the Riparian Areas or the adjacent crop might be compromised.
 - All riparian plantings will need irrigation. Some irrigation water contains nitrate concentrations that exceed MCL. (Total Applied Nitrogen Applied grower report forms)
 - **Findings 79 and 104 to 120.** It appears that proposed Riparian Buffers were loosely derived from buffers imposed in other regulatory programs, such as NPDES, Timber operations, pesticide drift control and/or voluntary restoration and agricultural projects. Many were in climates, hydrologic systems, or topographies disparate from the Central Coast and should have been omitted from the exercise.
 - **Findings 122 – 128.** There is no evidence that the following agencies or organizations were consulted. California Department of Forestry and Fire (CAL-FIRE) was not consulted about increased Fire risk. US Army Corps of Engineers (USACE) PL 88-94 Program, Federal Emergency Management Agency (FEMA), and the California Department of Water Resources (DWR) were not consulted about increased risks of Flood and potential Levee breaches. US Department of Agriculture (USDA), US Food and Drug Administration (FDA), Center for Disease Control (CDC), California Department of Health (CDPH), UCD Center for Produce Safety, and California Department of Food and Agriculture (CDFA) were not consulted about Food Safety risks and hazards. CDFA, The Western Integrated Pest Management (IPM) Center, and the University of California Davis (UCD) IPM were not consulted concerning management or control of invasive diseases, plants, animals, or noxious weeds. CDPH was not consulted with respect to mosquito borne illness. County administrators were not consulted about administrative expenses or lost tax revenues related to changes to the Williamson Act contracts. Counties and local districts were not consulted about potential risks from Flood, Levee Breaches, Fires, Mosquito-borne illnesses, or costs for increased surveillance and control of mosquitos, invasive species, and noxious weeds. The Western Center for Food Safety Institute was not consulted on Food Safety Risks.
 - **Finding 149 and 160.** Sometimes, tools become non-productive when they are not clearly understood or used incorrectly. For example, the use of a score of 69 in RipRAM Compliance Pathway 3 seems contrary to representations made about the

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DD-150
cont.

↑

tool. What is understood is there is not a single “ideal” or “reference” against which all sites are compared. In other words, a saline basin, a trickling redwood forest brook, or a broad, alluvial river should not be compared to a single “ideal” reference. Instead, a site should be compared to a reference for a like-site. A soda lake should be compared to a soda lake, a redwood forest brook to a redwood forest brook, etc. Under this scenario, a low RipRAM score for a soda lake might be a healthy score for that ecosystem, whereas, a high RipRAM score for a Redwood forest brook might be a low score for that ecosystem. In the case, of watersheds associated with agriculture, they are no more monolithic than any other ecosystems. In other words, watersheds with Ag are highly variable and exist in as many different ecosystem settings as any other watershed: Redwood forest, xeric upland areas, alluvial plain, ephemeral stream, or estuarine environment. It is not appropriate to compare them simply because of their land use, such as Agricultural to another land use, such as urban. This seems to be how the Draft Regulations use RipRAM in Compliance Pathway #3. Each ecosystem has distinctive attributes with intrinsic values and should not be compared to a single reference score (i.e., 60) for all sites. Obviously, there is confusion surrounding RipRAM and how it should be used. Furthermore, there is a concern about whether RipRAM, which is still in under development, should be co-opted and used as a regulatory metric.

DD-151

17. **This letter Supports the Ag Association Partners’ Comprehensive Submittal, Including Redline Revisions to the General Order (Ag Partner Submittal) and Central Coast Water Quality Preservation, Inc.’s Surface Water Program.**

DD-152

Agriculture is proposing a program that folds Riparian Areas into a Surface Water Program. The proposed comprehensive Surface Water Program is composed of the Cooperative Monitoring Program (CMP), the Enhanced Surface Water Follow up Program (ESWFP), and a supplemental Riparian Program. These programs build upon one another and incrementally improve water quality and beneficial use protection. This letter does not provide programmatic details but refers the reader to Comment Letters from the Ag Association Partners and from Central Coast Water Quality Preservation, Inc. (CCWQP) for more particulars.

DD-153

The comprehensive Surface Water Program and supplemental Riparian Program address many of the issues discussed in this letter.

DD-154

The Surface Water Program has two parts. Part 1 is composed of the CMP + ESWFP; and Part 2) is the supplemental Cooperative Riparian Program. Part 2 will recognize the value that riparian habitat can offer in improving water quality conditions and will provide growers with incentives to participate. It will not compel growers to participate. Growers who only enroll in Part 1 will be required to comply with Water Quality Objectives and receiving water limits. Growers choosing the supplemental Riparian Program will be determined to be in compliance with water quality objectives and receiving water limits. This approach has been successfully adopted in other regulatory programs.

DD-155

The Riparian Program will be organized by a watershed-based cooperative that will establish new habitat where most effective and will improve existing riparian habitat and wetlands. It will be a smart, multi-benefit investment that will be implemented through a Third-Party Group. Growers selecting this option would provide funding and resource support. The plan will be subject to Executive Officer approval. A timeline associated with funding and implementation will be included in the CWRP.

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- DD-155 cont. ↑
- The supplement Riparian Program will provide strong inducement for growers to participate in science-based, multi-benefit, multi-discipline riparian restoration and improvement projects, through the development and implementation of Cooperative Watershed Restoration Plans (CWRP). Such projects and plans will be proposed and created by organizations that have the knowledge, information, and experience in riparian area management or watershed restoration projects.
- The Riparian Program will:
- Be science-based and utilize existing watershed plans (where available), some of which may need to be updated.
 - Provide an opportunity to engage with diverse interests in developing and implementing a Cooperative Watershed Restoration Plan (CWRP).
 - Be Supported by a watershed analysis to focus/prioritize where riparian habitat will be most effective to meet goals. It is NOT an arbitrary one-size-fits-all approach but establishes short- and long-term objectives that can be supported with site specific goals that can be achieved over time.
 - Document of habitat and water quality improvements using the initial watershed characterization as the baseline condition.
 - Be transparent with vetted objectives – generally agreed to by participating parties and the Regional Board.
 - Search for fund to provide actual of in lieu compensation for converted land
 - Be accept across a broad spectrum of stakeholders
 - Be a dynamic, coordinated, active, management system.
 - Be achievable.
 - Be quantifiable.
- DD-156 ↑
- Finally, discussions about riparian health are in their infancy. There is concern that the Draft Requirements have leap-frogged over the kind of public education and dialog necessary when considering new policy and regulation. A component of the Surface Water Program will be a series of public workshops to educate and inform. Topics will include diversity of the Central Coast Region, the condition and extent of existing riparian habitat, how healthy riparian habitat correlates to water quality and will local restoration and management opportunities. The workshops will be organized by the Third-Party Group to inform the Water Board, the public and the growers.

18. Conclusions

- DD-157 ↑ Numerous objections to the Draft Requirements have been broached. There is concern that the Draft Requirements:
- DD-158 ↑
- DD-159 ↑
- DD-160 ↑
- DD-161 ↑
- DD-162 ↑
- DD-163 ↑
- DD-164 ↑
- DD-165 ↑
- Are mandating management practices.
 - Potentially constitute site-specific recommendations.
 - Convert excessive acreage of productive farmland, including Prime Farmland.
 - Contravene the intent of state and federal farmland preservation laws.
 - Will be cost-prohibitive for growers and the public and have not fully assessed hidden costs.
 - Are not consistent with riparian principles.
 - Are not supported by what we know about the region's natural history and the natural distribution of soils and associated plant communities.
 - Ignore and discard decades of institutional investment.

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- DD-166 I • Fail to balance resource management with human health and public welfare.
- DD-167 I • Potentially jeopardize human health, public welfare, and agricultural and horticultural production.
- DD-168 I • Constitute eminent domain or inverse condemnation "takings".
- DD-169 I • Do not provide for management of existing riparian habitat.
- DD-170 I Specific and General comments were made on the Draft Order, MRP and Findings. There is concern because tools were unavailable to evaluate the full extent of the Draft Order. The Order and MRP were difficult to understand, bits were missing, and they were not aligned. The Draft Requirements seemed arbitrary and were embedded excessive Staff discretion. Terms are missing or used incorrectly. Some citations and data were biased, out-of-date or not applicable to Coastal conditions.
- DD-171 I Agriculture's proposed Surface Water Program will address many of these deficiencies. It is simple in its execution, provides sufficient "sticks and carrots", and focuses on protecting water quality and beneficial uses within the legal jurisdictions and financial, resource and technical capacities of growers and communities on the Central Coast. It will consider ecological conditions, river functions, and extra-ecological factors such as hydromodification, human health and public welfare.
- DD-172 I It is a measured, prudent, long-term strategy that is broadly supported by members of the conservation community and should be seriously considered in lieu of the proposed Draft Requirements.

Respectfully,

Kay Mercer
Environmental Scientist



CC:
Board Member, Jane Grey
Board Member, Monica Hunter
Board Member, Michael Johnston
Board Member, Jeffrey Young
Executive Officer, Matthew Keeling
ILRP Program Section Manager, Chris Rose
ILRP Program Manager, Elaine Sahl
Senior Environmental Scientist, Paula Richter



130 N. Garden Street
Visalia, CA 93291-6362
Tel: (559) 636-1166
Fax: (559) 636-1177
www.provostandpritchard.com

These under-signers support this letter:

**John Bramers
VP/CCO
Merrill Farm LLC**

**Martin Orradre
VP Operations
Ramco Enterprises**

**Mason Silva
Food Safety Manager
Rancho Guadalupe, LLC**

**Melissa Martella
President
Martella Farming Company**

**David Costa
President
Anthony Costa and Sons, Costa Family
Farms, Costa Farms, Inc.**

**Joseph E. Ferrara
Partner
Ferrara Farming Co.**

**Nick Huntington
President
Huntington Farms**

Engineering • Surveying • Planning • Environmental • GIS • Construction Services • Hydrogeology • Consulting
Fresno • Bakersfield • Visalia • Clovis • Modesto • Los Banos • Chico • Merced • Sacramento

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Appendices

APPENDIX I

*Curricula Vitae***KAY L. MERCER**

750 SHANNON HILL DRIVE, PASO ROBLES, CA 93446
 kmercer@ppeng.com
 (805) 208-8039

SUMMARY

- Strong analytical, research, project management and strategic planning skills.
- Broad knowledge of production and pest management on crops such as citrus, vegetables, grapes, strawberries, nut crops, tree fruit, small grains, and field crops.
- 27 years working in production agriculture in California, Southwest, and Midwest U.S.
- 19 years of providing training and outreach on pest management and environmental protection.
- 16 years of experience working on environmental and agricultural water quality issues.

PROFESSIONAL EXPERIENCE

Provost and Pritchard, Environmental Scientist **2019 to Present**
 Providing consulting services to assist and advise members of the agricultural community with regulatory compliance, management, and production improvements, and to protect water quality and natural resources.

KMI, President **2005 – 2019**

Private Consulting with Growers and Landowners **2010 to Present**

- Track and distill complex policy, legislation, regulation, and technical information for clients.
- Assist clients with regulatory compliance.
- Assist clients with finding agricultural water quality solutions.
- Provide project management for growers' water quality protection programs.

Participate in a public/private partnership between Cal State University, Monterey Bay (CSUMB) and Grower Shipper Association of Central California (GSA) **2010-Present**

- Developed On-farm Solutions as an infrastructure for doing research on water quality management practices and collaborative problem solving
- Involved with a leadership team to develop alternative regulatory approaches to allow mutually inclusive agricultural production and water quality protection
- Co-authored an economic analysis of agricultural water quality regulations with CSUMB
- Invited to sit on a CSUMB advisory panel to develop a community-focused, ag-business program
- Assisted with legal challenge to 2012 Central Coast Regional Water Quality Control Board Irrigated Lands Regulatory Program



Provide pro bono assistance to Grower Shipper Assoc., Western Growers Association and Farm Bureau

2010 to Present

- Assist with public comment letters and testimony relating to agricultural water related issues.
- Research practices to for pesticide, nutrient, irrigation, sediment, and riparian habitat management

Contract: Aquatrols, Market Research

2010

- Conducted a California Market Segmentation Study for IrrigAid Gold, a soil surfactant that assists with water penetration and distribution of water in the soil.

Contract: Central Coast Agricultural Water Quality Coalition, Executive Director

2008-2010

- Managed a 501©3 corporation with the Mission to represent “farmers and ranchers in voluntary, cost-effective, producer-directed programs to protect water quality” through education, outreach, coordination, facilitation, and innovation.
- Managed six contract watershed coordinators and professional support staff to implement \$750,000 in federal, state, and local grant funds.
- Restored \$620,000 in grant funds lost due to 2008 suspension of Proposition funded grants.
- Conducted four grower surveys to measure grower response to water quality education, grower satisfaction with Coalition services and needs for the future and grower attitudes regarding management practice implementation.
- Incorporated grower survey results, funding opportunities, status of regulatory negotiations and input from water quality partners to create a strategic business analysis and alternative business models for the Central Coast Agricultural Water Quality Coalition.
- Eliminated staff and reduced overhead in response to lost grant revenues during recession.
- Grant projects managed were:
 - Irrigation efficiency and distribution uniformity in grapes, turf, stonefruit, and vegetables,
 - Use of alfalfa trap crops for insect control in strawberries,
 - Development of Landguard, an enzyme which breaks down organophosphate chemicals,
 - Development of Polyacrylamide (PAM) to reduce sediment movement,
 - Seminars on nutrient management,
 - Management of watershed working groups,
 - Use of vegetated treatment systems to reduce sediment and pesticide movement, and
 - Grower survey to determine how their operations rank compared to the EPA sustainability index,
 - Facilitated the creation of the Central Coast Non-Point Grazing Management Measures document and a strategic management plan, which have served as a foundation for Cattlemen’s efforts to address water quality.
- Participated in the Ag Water Quality Alliance (AWQA) that is composed of NRCS, six Resource Conservation Districts, University of California Cooperative Extension, and the Monterey Bay National Marine Sanctuary to collaborate to improve water quality in the Monterey Bay area. The most important outcome was the award of a \$5.2 million Ag Water Enhancement Program USDA grant to local NRCS offices.
- Made periodic presentations regarding water quality issues affecting Central Coast Agriculture to a wide variety of organizations such as the American Chemical Association, California Chapter of the Agronomy Society of America, Chemical Producers and Distributors Association, the Avocado Society, Ag Sustainability Expo and local CAPCA organizations.



**Contract: Southern SLO and Santa Barbara Counties Ag Watershed Coalition
Watershed Coordinator**

2004 – 2008

- Managed a Coalition of five trade associations to assist growers with water quality improvement.
- Managed a five-year, \$1,000,000 grant.
- Participated in 24 Farm and Rangeland Water Quality Planning Short Courses.
- Organized and/or provided fertility, sediment, pesticide and irrigation training at more 41 seminars, field days and conferences which were attended by more than 450 growers.
- Assisted 23 growers with writing Farm Water Quality Plans.
- Assisted more than 400 growers with compliance related questions regarding the Conditional Ag Waiver for Irrigated Lands.
- Wrote grant proposals for \$1,509,281 and was awarded \$490,545.20.
- Became intimately knowledgeable about Central Coast crop production practices, grower demographics, and grower business and political concerns.
- Co-organized the 2007 Co-Management of Water Quality and Food Safety Research Conference that was attended by key water quality and food safety professionals.
- Organized the Carpinteria Watershed Land to Sea Tour that reviewed agricultural and resource issues from a watershed perspective.
- Provided growers with information on management practices through seminars, workshops, field days and tours, and newsletters and web-site links.

Contract: Central Coast Water Quality Preservation, Inc., Technical Program Mgr.

2005

- Co-Facilitated the formation of Central Coast Water Quality Preservation, Inc. (CCWQP) to manage the Regional Water Quality Control Board mandated region-wide, agricultural Cooperative Monitoring Program (CMP).
- Facilitated grant writing and obtained 4 grants for a total of \$3.25 million to offset grower compliance monitoring fees.

ICON

1995 – 2004

- Owned and managed a special effects painting and furniture restoration business and antique store in Houston, Texas, and Hollister, California.

Employment

BASF

1998 – 2004

Business Representative

- Represented herbicide, pesticide and fungicide product lines in corn, cotton, alfalfa, table and wine grapes, strawberry, vegetable, tree fruit and nut, citrus and avocado markets in Southern and Coastal California.
- Coordinated with technical service representatives to augment technical services by reviewing test protocols, monitoring field trials, assessing field trial data, and out-sourcing contract research.
- Provided pest control advisors and growers with training on rates, timing, application techniques, precautions, and environmental information through presentations, seminars, field days, and conferences.



Geraghty and Miller (currently Arcadis U.S.)**1993 – 1994****Sales Representative**

- Connected clients' needs from chemical, petroleum, natural gas industries and US Department of Defense with environmental services such as groundwater monitoring and remediation, data analysis, and compliance with RCRA, CERCLA and NPDES regulations and permits

Enseco, a former subsidiary of Corning, Inc.**1991 – 1993****Sales Representative**

- Provided environmental analytical services for conventional constituents, gas chromatography, mass spectrometry, and ICMS services.
- Wrote more than \$8million in proposals to potential clients in the chemical, petroleum, and natural gas industries and US Air Force, US Navy, and the US Department of Energy.
- Liaised between the laboratory and clients to troubleshoot recurring laboratory errors.
- Participated in a critical three-month, Corrective Action Team to align marketing and laboratory processes with procurement activities.

E.I. Dupont de Nemours (Acquired from Shell Chemical)**1995 – 1989****Dupont****Sales Representative, Vegetation Management Market**

- Managed a \$1 million vegetation management territory in California.
- Conducted more than 80 product seminars with public agencies such as Caltrans to demonstrate proper use of vegetation management sulfonylurea herbicides.
- Organized more than 3 calibration seminars for large roadside spray application equipment.
- Negotiated distribution contracts to obtain a streamlined and effective distribution system.
- Conducted more than 80 product seminars with public agencies such as Caltrans to demonstrate proper use of vegetation management sulfonylurea herbicides.
- Organized more than 3 calibration seminars for large roadside spray application equipment.
- Negotiated contracts to obtain a streamlined and effective distribution system.
- Conducted a market survey of customers' buying decisions that demonstrated a shift in customer's needs from price awareness to environmental concerns.
- Developed "Product Re-emphasis Strategy" for sulfonylurea herbicides that involved all levels of management, toxicologists, residue specialists, and governmental agencies. Represented herbicide and insecticide product lines on corn, cotton, sorghum, potatoes and sugar beets in West Texas to more than 100 dealers, crop consultants and aerial applicators.

Special Assignment: Western Environmental Coordinator

- Conducted a market survey of customers' buying decisions, which demonstrated a shift in customer's needs from price awareness to environmental concerns.
- Wrote a fact sheet that spearheaded DuPont's public relations efforts concerning the Clean-Water issue.

Honors Received

- Western Farm Service "Rank a Rap" Award for providing outstanding technical assistance and customer service.
- DuPont Risk-Taker Award for troubleshooting and coordinating product liability complaints



Shell Chemical**Special Assignment: Advertising**

- Monitored promotional literature levels, approved literature requests, provided proofreading, and coordinated printing of product information and labels.
- Archived promotional literature and labels for organochlorine pesticides as part of ongoing litigation.

Special Assignment: Sales Support and Marketing

- Scouted cotton throughout Texas to assist growers with proper timing of pest control products
- Handled herbicide non-performance complaints on corn in Iowa, South Dakota, and Nebraska
- Administered marketing programs (e.g. agency agreements, early-order, rebates, and sales satisfaction and trip incentive programs.)

Sales Representative, Salinas California

- Represented strawberry, apple and vegetable herbicide and insecticide product line on the Central Coast.

American Cyanamid, Sales Representative

- Represented herbicide and pesticide products lines on corn, cotton, sorghum, potatoes, and sugar beets in West Texas to more than 100 dealers, crop consultants and aerial applicators.

Collingwood Grain, Crop Consultant

- Provided field scouting and consulting services for fertilizer, pesticide and irrigation use in Southwest Kansas on 10,000 acres corn, 5,000 sorghum, 2,000 alfalfa, 1,000 acres wheat and soybeans.

EDUCATION/TRAINING

- Golden Gate University School of Law San Francisco, CA. (1990)
- M.S. Agronomy (Specialty: Weed Science) (1985), Oklahoma State University.
- B.S. Agronomy (Specialty: Range Management) (1979), Oklahoma State University
- Have received additional training in leadership, presentation skills, sales and marketing, complaint handling, customer service, telemarketing, accounting, computer skills, and professional development.

LICENSE

- California Licensed Pest Control Advisor (16 years)

PUBLICATIONS

Mercer, K.L. The Challenges of Developing and Implementing Agronomic^E Practices. Chapter, American Chemical Society Symposium Series: Pesticide Mitigation Strategies for Surface Water Quality. Eds. Dr. Kean Goh, Dr. Tom Potter, Dr. Brian Bret and Dr. Jay Gan. 2011.

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PRESENTATIONS AT PROFESSIONAL MEETINGS

Assessing the Economic Impact of New Water Quality Regulations, co-Presented with Brad Barbeau, Soil and Water Conservation Society 67th International Annual Conference, Fort Worth Texas, July 23, 2012. Powerpoint Presentation.

Central Coast Water Regulations and What Producers and PCAs Are Being Required To Do *And* “What Do They *Need* To Do? California Association of Pest Control Advisors, Reno, Nevada, October 18, 2011. Powerpoint Presentation.

Emerging Regulations for Nutrient Management Planning, Western Plant Health Association, Paso Robles, California, November 30, 2011. Powerpoint Presentation.

“Our Shared Legacy: Water and Land, Seminar Series in Partnership between Grower Shipper Association and Cal State University Monterey Bay. CSUMB, Seaside, California. October 22, 2010. PowerPoint Presentation.

“California – Thoughts on Agricultural Water Quality Regulations”, California Bar Association, Ag Committee. Paso Robles, California. July 22, 2010. Oral presentation.

“Central Coast of California –Thoughts on Agricultural Water Quality Issues”, Grower Shipper Association Foundation, AgKnowledge, Class IV. Marina, California. June 18, 2010. Power point Presentation.

“California – Thoughts on Water Quality and Water Quality Regulations”. Chemical Producers and Distributors Association. Minneapolis, Minnesota. May 26, 2010. Power point Presentation. <http://www.cpda.com/cpda/files/ccLibraryFiles/Filename/000000000402/California%20Water%20Quality.Kay%20Mercer.pdf>

“Challenges of Creating a Change Continuum in the Agricultural Community: From Resistance to Adoption of Environmental Mitigations on the Central Coast of California”. American Chemical Society, Symposium, Pesticide Mitigation Measures for Surface Water Quality Symposium. San Francisco, California. March 22, 2010. Power point Presentation.

“Water Quality Regulations”. California Avocado Society. Ventura, California. October 17, 2009. Oral presentation.

“Management Practices and Water Quality: Conflict, Compromise, and Considerations”. California Chapter, American Society of Agronomy. Fresno, California. February 4, 2009. Power point Presentation. <http://ucanr.org/sites/calasa/files/319.pdf>

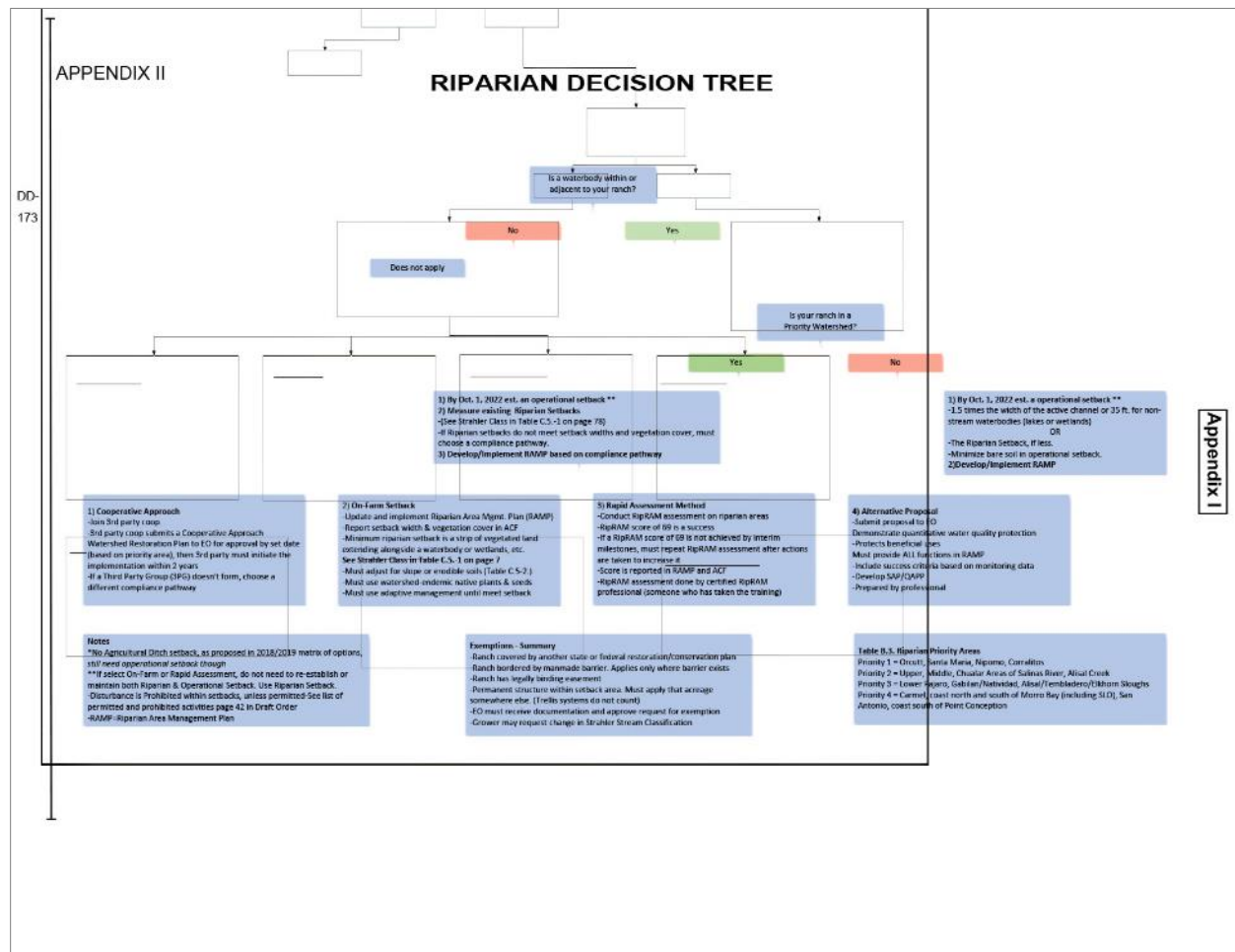
Bianchi, M.L., Mercer, K.L., and Crohn, D.R. “Coordinated Management of Water Quality Management Practices and Food Safety Good Agricultural Practices”. Soil and Water Conservation Society. *Tucson, Arizona*, Jul 26, 2008. Power point Presentation. http://www.allacademic.com/meta/p235613_index.html

“Water Quality Regulation – TMDLs and Ag Waivers – Implications for On-Farm Water Quality Management”. CSREES, Symposium, Coordinated Management of Water Quality Protection and Food Safety Practices in Cool Season Vegetable Production. Sparks, Nevada. February, 2008. Power point Presentation.



Mercer, K.L. and D.S. Murray. 1984. "Interference of devil's-claw with cotton. Proc. South. Weed Sci. Soc. 37:311

Mercer, K.L., Murray, D.S., and Verhalen, L.M. 1985. "Distance of influence of unicorn-plant (*Proboscidea louisianica*) on the production of cotton". Proc. South. Weed Sci. Soc. 38:361.



APPENDIX III**Process for Estimating Land Conversions Rates**

- Only Client ranches were estimated.
- Percent and acreage farmland conversion calculations are made by ranch
- The Draft ESRI Watershed map provided the Strahler Class and associated Setback widths.
- Google Earth Pro was used to calculate linear feet for each ranch. Linear feet were multiplied by the Setback width and divided by 43650 to obtain the number of acres.
- Hand calculations of Riparian Setback land conversions were verified by selecting 5 random ranches and running an ARC-GIS calculation to determine land conversions.
- The hand calculations using Google Earth Pro overcalculated land conversions from 4% to 30%. Therefore, conversions were adjusted by a 0.7 factor to create a range of land conversions. Minimum and Maximum ranges are presented using original calculations and adjusted calculation.
- Where possible, land conversion data were extrapolated on a subwatershed basis using TMDL maps for the Lower Salinas River and Watershed Plans. Insufficient acres or data were available to make similar estimates in some client subwatersheds. Also note, the status of the Oso Flaco watershed is unknown. No Strahler Stream Class designation was made on the ESRI map.
- Percent land conversions by subwatershed were multiplied by total acre by subwatershed.
- *Please note that the acres for the Middle Salinas are calculated by subtracting the estimated acreage for the Lower Salinas Watershed (TMDL reports) and the Upper Salinas (Upper Salinas Watershed Plan) from estimates of Total Acres on the Salinas River.*

Response to Comment DD-1

Thank you for your comment. The CCWB acknowledges background information provided for Provost & Pritchard and Kay Mercer.

Response to Comment DD-2 through DD-5

This comment is responded to in Master Response 2.8.8.

Response to Comment DD-6

This comment expresses concerns related to the DAO 4.0 and DEIR's evaluation of impacts to human health and public welfare. Specifically, the commenter alleges that DAO 4.0 requirements have the capacity to increase human health and safety risks from flood, levee breach, fire, food safety, mosquito-borne diseases, and adversely impact agricultural production. The comment does not, however, provide substantial evidence to support claims related to those human health and safety risks listed.

As described in Section 3.9, in response to concerns related to flooding and levee breach, none of the reasonably foreseeable management practices under the Proposed Project would include large impervious surface areas, generate substantial additional sources of runoff, or include practices that would redirect flows, such that potentially significant impacts related to flooding would be expected to occur. Proposed Project activities would be focused in areas of existing commercial irrigated agriculture production and would be limited to management practices designed for the protection of water quality. Moreover, many of the reasonably foreseeable management practices that could be implemented under DAO 4.0 would function to reduce surface runoff rates and volumes.

For information related to potential impacts to human health and safety, including risk of fire, food safety, and other health hazards (e.g., mosquito-borne illness), refer to Section 3.8, *Hazards and Hazardous Materials*. As described in Section 3.8 and 3.12, *Wildfire*, irrigated lands are not typically considered susceptible to fire risk since these lands are often more or less continuously irrigated and dry brush (i.e., fuel) is not usually allowed to accumulate. While the risk cannot totally be discounted, DAO 4.0 would not include, or indirectly result in, new people or structures being located in fire hazard areas or exacerbating existing fire risks. Also described in Section 3.8, in response to food safety and mosquito-borne illness risks, due to the nature of the Proposed Project, which would not mandate a specific manner of compliance, it is not practicable to determine specific impacts on specific ranches or farms related to these topics. The extent to which new or additional riparian vegetation could increase potential public health risks would depend on a number of site-specific factors. For more information related to Food Safety, refer to Master Responses 2.8.6 and 2.8.8.

In response to concerns related to agricultural production, refer to Section 3.1, *Agricultural Resources*, which addresses potential impacts related to loss of farmland, and Section 3.5, *Economics*, which addresses potential impacts related to economics, to the extent that they may result in adverse physical effects on the environment.

Response to Comment DD-7 through DD-31

This comment is responded to in Master Response 2.8.8.

Response to Comment DD-32

This comment expresses concerns related to the DAO 4.0 and DEIR evaluations of economic impacts, including the evaluation of expenses incurred by growers and landowners from required labor, administrative costs, and losses of tax revenues. In response to comments related to economic impacts resulting from the implementation of DAO 4.0, refer to Master Response 2.9. In response to comments related to the requirements of CEQA compliance for economic impact evaluation, refer to Master Response 2.10. In response to comments related to riparian area management requirements, refer to Master Response 2.8.8.

Response to Comment DD-33 through DD-95

This comment is responded to in Master Response 2.8.8.

Response to Comment DD-96

This comment describes the commenter's overall concerns related to riparian setbacks as they relate to invasive species infestation and potential indirect impacts to adjacent farmland. Please note that the RAO 4.0 does not include the riparian and operational setback components. For more information related to riparian and operational setbacks, please refer to Master Response 2.8.8.

Response to Comment DD-97

This comment expresses concern related to eminent domain and inverse condemnation as it relates to compliance requirements that directly or indirectly necessitate growers to convert productive farmland. Please note that the RAO 4.0 no longer includes the riparian and operational setback components, which previously included required operational setbacks and potential farmland conversion. As described in the DEIR, more generally, the Proposed Project does not mandate a specific manner of compliance; it is therefore, not practicable to determine specific impacts on specific ranches or farms related to farmland losses. For these reasons, additional or alternative mitigation related to farmland losses is not needed.

For more information related to riparian and operational setbacks and farmland losses, please refer to Master Response 2.8.8. In response to comments related to the DEIR, compliance with the requirements of the CEQA, and the analysis of economic impacts, refer to Master Response 2.10.

Response to Comment DD-98 through DD-172

This comment is responded to in Master Response 2.8.8.

Letter DE: Brent Burchett, San Luis Obispo County Farm Bureau (June 22, 2020)**Letter DE**

From: [Brent Burchett](#)
To: [AgNOI_WB@Waterboards](#)
Subject: Comments on Draft Ag Order 4.0
Date: Monday, June 22, 2020 5:51:23 PM
Attachments: [June 22, 2020 SLO County Farm Bureau- Ag Order comments.pdf](#)

EXTERNAL:

Please see attached comments on Ag Order 4.0 on behalf of San Luis Obispo County Farm Bureau.

Brent Burchett
Executive Director
San Luis Obispo County Farm Bureau
4875 Morabito Place, San Luis Obispo, CA 93401
(805) 543-3654 | bburchett@slofarmbureau.org



SAN LUIS OBISPO COUNTY FARM BUREAU

4875 MORABITO PLACE, SAN LUIS OBISPO, CA 93401

PHONE (805) 543-3654 • FAX (805) 543-3697 • www.slofarmbureau.org

June 22, 2020

Matthew Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

By email to: AgNOI@waterboards.ca.gov

RE: Comments on Draft Ag Order 4.0

Mr. Keeling,

DE-1 [San Luis Obispo County Farm Bureau advocates on behalf of 800 members who help lead San Luis Obispo County's \$2.5 billion agricultural economy.¹ In 2018, our farmers and ranchers surpassed \$1 billion of annual agricultural production for the first time in history, and irrigated agriculture makes up over 90 percent of our local farm production.²

DE-2 [The draft Irrigated Lands Regulatory Program (Ag Order 4.0) must be significantly revised to avoid serious negative effects on our farmers, our food supply, and the local economy. In addition to comments made in this letter, concerns by San Luis Obispo County Farm Bureau members are enumerated in the Ag Association Partners' Comprehensive Submittal, Including Redline Revisions to the General Order (Ag Partner Submittal).

DE-3 [We are disappointed that input provided by agricultural stakeholders in recent years is not reflected in the draft Ag Order 4.0. The draft does not consider the practical realities of producing crops and, if implemented as written, would devastate local farmers. We appreciate the need for regulation to ensure water quality standards are upheld, but by largely discounting actual agronomic and management experience from farmers, you have created an unworkable program that will be especially problematic for smaller farm operations to comply with.

DE-4 [Other key concerns include:

- Requiring installation of new riparian vegetation is outside of the Regional Water Board's regulatory authority and will be unrealistic for farmers to implement;
- By imposing new compliance requirements, Ag Order 4.0 discourages farmers from producing compost on the farm;

DE-5 [

¹ 2019 Economic Contributions of San Luis Obispo County Agriculture, San Luis Obispo County Department of Weights & Measures, San Luis Obispo, CA, November 2019

² 2018 Crop Report for San Luis Obispo County, San Luis Obispo County Department of Weights & Measures, San Luis Obispo, CA, July 2019

- DE-6 | • Sediment and Erosion Control Plans should only be required in areas susceptible to erosion, not all slopes;
- DE-7 | • The fertilizer discharge targets and limits are unrealistic, unnecessarily burdensome to farmers, and are unlikely to achieve the desired reduction in water quality impairment;
- DE-8 | • Mandating that farm roads comply with state regulations is illogical and unnecessary; and
- DE-9 | • Only larger farms will have the technical resources necessary to complete the new compliance reporting calculations.

DE-10 | The Draft Environmental Impact Report failed to even attempt to quantify several fundamental costs imposed by Ag Order 4.0, including the value of land taken out of production due to riparian setbacks, changes in per acre net returns from having to switch to less valuable crops or reduce the frequency of plantings so that nitrogen discharge limits are met, and the broader negative economic effects to businesses supported by agriculture in the Central Coast Region.

DE-11 | Ag Order 4.0 should include an ongoing collaborative process where farmers, university researchers, and third-party groups work together with Regional Water Board staff to expand data collection and identify mutually beneficial management practices to achieve water quality goals. The financial and human capital resources necessary for growers to meet these expanded reporting and compliance requirements, and for the Regional Water Board to enforce provisions in Ag Order 4.0, could be better allocated toward on-farm incentive programs.

DE-12 | We are committed to being good stewards of our water resources and continuing to improve our management practices. Ag Order 4.0 will certainly make farming more difficult, and do so at a time when protecting our local food system is more critical than ever. As drafted, this regulation is a threat to our community's food security by pushing more San Luis Obispo County farmers out of business. We urge the Regional Water Board to seriously consider recommended changes presented in the Ag Partner Submittal, and find a more balanced path forward for protecting water quality.

Sincerely,



Brent Burchett, Executive Director
San Luis Obispo County Farm Bureau

Response to Comment DE-1

Thank you for your comment. CCWB acknowledges the commenter's background and interests.

Response to Comment DE-2

This comment is summarized and responded to in Master Response 2.1.14.

Response to Comment DE-3

This comment is summarized and responded to in Master Response 2.3.3.

Response to Comment DE-4

This comment is responded to in Master Response 2.8.8.

Response to Comment DE-5

This comment is summarized and responded to in Master Response 2.1.8.

Response to Comment DE-6

This comment is summarized and responded to in the following Master Responses: 2.7.5 and 2.7.1.

Response to Comment DE-7

This comment is summarized and responded to in Master Response 2.3.3.

Response to Comment DE-8

This comment is summarized and responded to in Master Response 2.1.12.

Response to Comment DE-9

This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DE-10

This comment expresses concerns related to adverse economic impacts resulting from compliance requirements, including compliance with the riparian setback component and nitrogen discharge limit requirements. Please note that the RAO 4.0 no longer includes the riparian and operational setback components. For more information related to riparian and operational setbacks, refer to Master Response 2.8.8. In response to concerns related to potential adverse economic impacts from DAO 4.0, refer to Master Response 2.9.1. In response to comments related to the DEIR's analysis of economic impacts, including CEQA Guidelines compliance requirements and the adequacy of the DEIR's approach for impact analysis, refer to Master Response 2.10. For response to comments related to nitrogen discharge limit requirements, refer to Master Response 2.3.

Response to Comment DE-11 through DE-12

This comment is summarized and responded to in Master Response 2.1.14.

Letter DF: Joe Desmond, Sustainable Agriculture and Energy (June 22, 2020)**Letter DF**

From: [Joe Desmond](#)
To: AgNOI_WB@Waterboards
Subject: Comments of Draft Ag Order 4.0
Date: Monday, June 22, 2020 1:24:47 PM
Attachments: [Sustainable Ag & Energy - Comments on Draft Ag Order 4.0.pdf](#)

EXTERNAL:

Dear Matthew T. Keeling,

Please consider our public comment letter regarding the Ag Order 4.0 DEIR in the attached file. We hope that you will come to the right conclusion regarding this item.

Thank you,
Joe Desmond

--

Joe Desmond
Executive Director

(301)509-3072 | Joe@sagemonterey.org

Website: [SAGE Monterey](#)

Facebook: [SAGE Monterey](#)





RE: Comments on Draft Ag Order 4.0

18 June, 2020

Dear Matthew T. Keeling,

DF-1 Sustainable Agriculture and Energy (SAGE) is a non-profit organization focused on the long-term sustainability of our rural communities in Monterey County. Our organization is comprised of community leaders, philanthropists, workers and the businesses who work together to solve our local policy issues. Our members have worked, lived and invested in Monterey County for generations. SAGE works to educate the public and our government officials on the needs of rural Monterey County. We identify and develop solutions that work for all members of our community. Lastly, we provide support to rural towns and cities in the county on their policy goals.

DF-2 We have followed the Central Coast Regional Water Quality Control Board's Proposed Central Coast Irrigated Land Regulatory Program (Ag Order 4.0) DEIR closely since our founding. The Ag Order 4.0 is a restrictive regulatory program during a time of great economic uncertainty for our Monterey County farming community. Should you approve the DEIR in its current form we will lose jobs, local tax revenue and see a direct impact in our farming communities. Additionally, capital investment will dwindle as regulatory costs reduce grower's margins.

DF-3 The new layers of regulatory requirements are a financial burden that few farmers and communities will be capable of bearing in our region. Today's farmers already spend a considerable amount of their time adhering to federal, state and local regulations. That time and cost can add up to over \$540 per acre yearly in regulatory compliance alone. The addition of more requirements concerning: surface and groundwater for irrigation and nutrient management, pesticide management for water monitoring and threshold limits, riparian habitat management with increased setbacks and increased reporting and compliance are untenable. These will break our main economic driver locally.

DF-4 We believe that in its current format the DEIR fails to address a number of important issues in our community. The most pressing issue is the cost to our farmers and our local communities. From our assessment, Ag Order 4.0, will create a dramatic loss in land values triggering changes in lease rates and a direct impact to property taxes. The COVID-19 pandemic has already seen meaningful losses in tax revenue for our County's government forcing municipalities from across our County to cut programs and begin renegotiations on their contracts. The cost will also be felt via trickle down economics with rural residents losing jobs

DF-4
cont.



and opportunities. Here in Monterey County we depend on our farming community as our main economic driver. The industry supports our residents, communities, NGOs, capital investment and local government.

DF-5



We ask that you also consider the long-term effects of this program's DEIR that were not studied in its current version. The certification of this DEIR will mean a competitive loss for California's agriculture industry, cuts to jobs, consolidation in the industry and new cumulative regulatory costs. The additional regulatory costs will see growers forced to move their businesses outside of the state and potentially the country. While our disadvantaged communities that rely on the agriculture will likely see their employment opportunities reduced as companies move away. Lastly, most of our growers and landowners in Monterey County are family businesses that are rooted and invested in the communities in which they operate. These new and future costs will drive them to sell their businesses and holdings, creating greater consolidation in the industry and increasing the presence of out-of-county interests.

DF-6



SAGE seeks viable and complete solutions to attaining groundwater sustainability in Monterey County. We understand the important balance between maintaining our water supply and ensuring that our rural communities can provide opportunities, support and investment to their residents. However, we do not agree with the DEIR in its current format and ask that you consider the elements we've included in the above.

Sincerely,
Walter Duflock
Chair of the Board
Sustainable Agriculture & Energy

Response to Comment DF-1

Thank you for your comment. The CCWB acknowledges Sustainable Agriculture and Energy (SAGE)'s background and mission.

Response to Comment DF-2

Thank you for your comment. The FEIR is intended to support decision makers by providing an evaluation of environmental impacts, as defined in the CEQA Guidelines, which have the potential to result from implementation of the RAO 4.0. In response to concerns related to potential adverse economic impacts from implementation of the DAO 4.0, refer to Master Response 2.9.1. In response to comments related to the DEIR's analysis of economic impacts, including CEQA Guidelines compliance requirements and the adequacy of the DEIR's approach for impact analysis, refer to Master Response 2.10.

Response to Comment DF-3

This comment is summarized and responded to in Master Response 2.9.1 and 2.9.2.

Response to Comment DF-4

Thank you for your comment. In response to concerns related to potential adverse economic impacts from implementation of the DAO 4.0, refer to Master Response 2.9.1. In response to comments related to the DEIR's analysis of economic impacts, including CEQA Guidelines compliance requirements and the adequacy of the EIR's approach for impact analysis, refer to Master Response 2.10.

Response to Comment DF-5

This comment is summarized and responded to in Master Response 2.9.1.

Response to Comment DF-6

This comment is noted.

Letter DG

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5915 El Camino Real, Atascadero, CA 93422
www.vineyardteam.org

June 22, 2020

Matthew T. Keeling, Executive Officer
 Central Coast Regional Water Quality Control Board
 895 Aerovista Place, Suite 101
 San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Re: Draft Ag Order Comments

Dear Executive Officer Keeling:

DG-1

The Central Coast Vineyard Team is a non-profit grower group dedicated to sustainable farming practices. For over 25 years, we educate grower towards practices that protect resources through our research, demonstration, education programs that reach 1000+ annually. Our membership is represented by 80K acres of wine grapes on the Central Coast.

In addition, 30K+ acres on the Central Coast are currently certified in the SIP Certified program which requires growers to implement practices that protect water quality, document these practices, and have an independent inspection of the farm and documentation.

We have cooperated with the Regional Board for 20 years in previous Ag Orders, water quality research projects, and outreach. We appreciate that staff considers us a trusted resource in the wine growing community and hope to continue this relationship with the new Ag Order.

DG-2

That said, we have concerns about the framework, requirements, and it's actual impact on water quality.

- DG-3 **Current Draft is Complex & Burdensome without Providing a Benefit to Water Quality**
- DG-4
- DG-5
- DG-6
- DG-7
- DG-8 **Current Draft Priorities and Phases Ignore Low Risk Operations**
- DG-9
- DG-10
- DG-11
- DG-12
- DG-13
- DG-14
- The current Draft, EIR, and Attachments are involved, complicated, and confusing with different reporting and timelines for different constituencies. As an outreach partner, it was difficult summarizing and communicating the Draft's requirements to the grower community.
 - While the staff outreach webinars did a good job of explaining the priority areas in their outreach webinars, details on the annual reporting were insufficient. If the annual reporting can not be described in a 2 hour webinar, then that should be informative of the scope and complexity of the draft.
 - The reporting is burdensome, expensive for growers and staff, and will not improve water quality. The extent and scope of information required is so great, that it is doubtful that staff could analyze and act on the information in a meaningful and timely way to feedback to growers to actually improve water quality.
 - In addition, the Draft's economic analysis is insufficient and does not account for land fallowing, hiring professionals, loss of production, and several other costs associated with the grower's obligations to comply with this Draft.
 - Draft only considers geographic location and not operational risk to water quality. This framework would prohibit growers from moving to different phases based on implemented practices that protect water quality.
 - Vineyards are a low risk to water quality and should be handled separately regarding monitoring and reporting.
 - Vineyards currently meet the 2050 Nitrogen Loading threshold and should be exempted from monitoring and reporting related to groundwater.
 - Vineyards do not have tailwater, maintain winter cover, and typically apply low risk pesticides in the dry season, therefore their monitoring and reporting should reflect that operational risk.
 - Vineyards have existing buffer zones to allow for equipment passage and turnaround. Removing vineyards to expand the buffer will disrupt the soils and provide an increased risk to water quality.
 - In addition to different reporting requirements for vineyards in general, smaller operations (25 acres) should be exempted from these requirements because of their size and operational risk.

- DG-15 | **Current Draft Does not Leverage Existing Efforts to Reduce Duplication and Incentivize Implementation of Practices that Protect Water Quality**
- DG-16 | • Over several meetings, Board members directed staff to create a framework that avoids duplicative effort and leverages existing programs.
- DG-17 | • In addition, the framework should include a mechanism for moving between phases related to practices. As currently written, the only criteria related to geography prohibits the possibility of incentivizing and rewarding implementation of practices.
- DG-18 | • Due to the restrictive language related to 3rd parties, this draft actually sets up a framework for additional organizations and efforts.
- DG-19 | • The framework of the requirements for a 3rd party imply a program that itself monitors water quality, rather than a program that certifies implementation of practices, water/nutrient budgeting, etc.
- DG-20 | • As currently written, SIP Certified would not qualify as 3rd party.
- DG-21 | • With a Central Coast presence and local expertise/capacity, SIP has a long history of working with Central Coast growers and Regional Board staff and looks forward to crafting a framework for recognizing and incentivizing SIP Certified growers through reduced regulatory burden, while providing benefits to RB staff through reduced management time.
- DG-22 | **SIP Certified Documentation Should be Recognized as an Alternative Compliance Pathway, Either Through CCWQP or Independently as a 3rd Party**
- DG-23 | • We support Central Coast Water Quality Preservation Inc as an approved 3rd party. We envision a situation where SIP Certified could partner directly with CCWQP to satisfy a alternative compliance pathway to create significant efficiency in implementation of this order.
- DG-24 | • Regardless of the mechanics of the recognition (either directly or indirectly as a 3rd party), SIP Certified Farm Plan documentation and reporting should be recognized in lieu of the draft's irrigation/nutrient, erosion, pest, and riparian plans.
- DG-25 | • Considering that vineyards are already low risk and SIP Certified certifies these operations, staff should be flexible in recognizing what is already being reported rather than requiring organizations to significantly change their programs.
- DG-26 | • SIP Certified operators should have an alternative Annual Compliance Form process to avoid duplicative documentation.
- DG-27 | • SIP Certification Documentation (Irrigation, Nutrients, Erosion, Pest, Riparian) should be recognized in lieu of Farm Plans.
- DG-28 | • SIP Certified operators, who are required to complete GW testing, should be allowed for this to be recognized without requiring additional analyses.

- DG-29 | • SIP Certified operators, who are required to complete irrigation and nutrient reporting, should be allowed for this to be recognized without additional reporting.
- DG-30 | • SIP Certified operators are required to have a set back from blue-line streams and should be exempted from additional riparian requirements
- DG-31 | • SIP Certified operators are required to have an erosion plan and implement several winter erosion practices, this should be recognized without additional work.
- DG-32 | • SIP Certified staff is eager to partner and identify the details of how this compliance pathway could be implemented.

General Comments

- DG-33 | • Groundwater data is important for trend analysis and does not reflect current risk or loading. Annual monitoring and reporting by every grower does not meet this goal.
- DG-34 | • Staff should coordinate with other agencies for this data for trend analysis rather than put the entire burden on every grower, especially low risk operations.
- DG-35 | • Operational and riparian setbacks delineated are excessive, and the current mapping tool apparently has problems.
- DG-36 | • Report estimates 4,000 fallowed acres, yet neglects to include this in the economic analysis.
- DG-37 | • Requirements on the types of plant materials to “create” riparian areas is not feasible, and in many cases not commercially available

DG-38 | I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These modifications would be consistent with Board direction and should be reflected in the Draft.

I welcome the opportunity to work with you through this process.

Sincerely,

Kris Beal
Executive Director
Vineyard Team

Response to Comment DG-1

Thank you for your comment. CCWB acknowledges the commenter's background and interests.

Response to Comment DG-2

This comment is noted.

Response to Comment DG-3 through DG-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DG-7

This comment is summarized and responded to in Master Response 2.9.1.

Response to Comment DG-8 through DG-10

This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DG-11

This comment is summarized and responded to in Master Response 2.3.5.

Response to Comment DG-12

This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DG-13

This comment is responded to in Master Response 2.8.8.

Response to Comment DG-14

This comment is summarized and responded to in the following Master Responses: 2.1.7 and 2.1.4.

Response to Comment DG-15

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DG-16 through DG-20

This comment is summarized and responded to in Master Response 2.2.2.

Response to Comment DG-21

This comment is summarized and responded to in Master Response 2.2.5.

Response to Comment DG-22

This comment is summarized and responded to in Master Response 2.1.5.

Response to Comment DG-23

This comment is summarized and responded to in Master Response 2.5.7.

Response to Comment DG-24

This comment is summarized and responded to in the following Master Responses: 2.8.8 and 2.2.2.

Response to Comment DG-25

This comment is summarized and responded to in the following Master Responses: 2.1.7 and 2.2.2.

Response to Comment DG-26

This comment is summarized and responded to in Master Response 2.2.2.

Response to Comment DG-27

This comment is summarized and responded to in the following Master Responses: 2.8.8 and 2.5.10.

Response to Comment DG-28

This comment is summarized and responded to in Master Response 2.2.2.

Response to Comment DG-29

This comment is summarized and responded to in Master Response 2.1.5.

Response to Comment DG-30

This comment is responded to in Master Response 2.8.8.

Response to Comment DG-31

This comment is summarized and responded to in Master Response 2.1.5.

Response to Comment DG-32

This comment is summarized and responded to in Master Response 2.2.5.

Response to Comment DG-33 through DG-34

This comment is summarized and responded to in Master Response 2.4.4.

Response to Comment DG-35

This comment is responded to in Master Response 2.8.8.

Response to Comment DG-36

This comment is summarized and responded to in Master Response 2.9.2.

Response to Comment DG-37

This comment is responded to in Master Response 2.8.8.

Response to Comment DG-38

This comment is summarized and responded to in Master Response 2.2.2.

Letter DH: Jason Smith, Valley Farm Management (June 22, 2020)**Letter DH**

From: [Jason Smith](#)
To: AgNOI_WB@Waterboards
Cc: [Jason Smith](#)
Subject: Comments on Draft Ag Order 4.0
Date: Monday, June 22, 2020 9:12:49 AM
Attachments: [Comments on Draft Order 4.0 VFM.pdf](#)

EXTERNAL:

Good Morning,

Attached our my comments on the Draft Ag Order 4.0.

Thank you,

Jason



Jason Smith
President/CEO
831.678.1592 Ext. 22
ValleyFarmManagement.com



June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

- DH-1 I appreciate the opportunity to comment on the Draft Ag Order. Our vineyard management company, Valley Farm Management, has been growing winegrapes in Monterey County since 1973. I am 2nd generation and President and CEO of the company. We currently own/manage about 3000 acres on 16 different properties from the Gonzales region all the way to the southern end of the county in Bradley.
- DH-2 My Dad, Richard Smith, was one of the founding members of the Central Coast Vineyard Team and helped develop the Sustainability in Place (SIP) program for vineyard sustainability certification. The drive behind that was twofold, 1. We wanted to make sure that we were leaving the land and resources we were farming in better condition than when we started 2. That we had already been doing that for decades and needed to find a way to document and verify that.
- DH-3 Over time the vineyard industry in California has done a great job of promoting the sustainability concept with other 3rd party certified programs like Lodi Rules and CSWS. We have participated in all 3 programs and currently 100% of our vineyard acres are certified sustainable.
- DH-4 I am past President of Monterey County Farm Bureau and current Chair of Grower Shipper Association of the Central Coast. These groups along with others have worked diligently to address the many concerns in the current draft order while also trying to focus on the actual goal of achieving improvement in water quality. I believe the ag community over the past 20 years has shown to be a great partner in working collaboratively to achieve goals that are actually attainable and sustainable. I would encourage your board and staff to take what's been addressed with an open mind to actually making meaningful progress without putting already highly regulated farms out of business.
- DH-5 **ECONOMIC ENVIRONMENT**
It is essential to recognize the current economic environment in which the Order is being adopted. The U.S. wine industry, of which California makes up 81 percent, is forecast to see COVID-19 related losses of nearly \$6 billion this year. These losses are expected to lead to a 25 percent reduction in demand for winegrapes, resulting in a drop of \$1.4 billion worth of grape sales The estimated loss in Monterey County is \$62 million. These expected losses will impact the ability of grape growers to invest in water quality improvements.

DH-6	<p>In addition to the acute economic impacts caused by the COVID-19 pandemic, California agricultural producers have seen a significant rise in regulatory costs associated with doing business in this state. A recent case study by two Cal Poly professors documented a 795 percent increase in regulatory costs incurred by a lettuce grower in the Salinas Valley between 2006 and 2017. While leafy green growers have additional food safety regulatory costs that aren't representative of winegrape regulatory costs, removing the increased costs due to specific leafy green food safety regulations, regulatory costs still increased by an estimated 633 percent.</p>
DH-7	<p>In addition to the recognized increase in regulatory costs for growers in Monterey County, additional costs have been incurred due to the implementation of the Sustainable Groundwater Management Act (SGMA), which passed in 2014. SGMA will require growers to comply with Groundwater Sustainability Authority's Groundwater Sustainability Plans when fully implemented. These compliance requirements will add additional regulatory costs to Monterey County growers.</p>
DH-8	<p>RANCH-LEVEL SURFACE DISCHARGE MONITORING</p> <p>The Draft Order is overly broad in its description of the circumstances under which the Executive Officer may require ranch-level surface discharge monitoring, quantitative assessments, and monitoring work plans. As currently drafted, the Order raises the very real prospect that a given Discharger could be required to implement ranch-level monitoring by the fact of its geographic placement above an impacted groundwater basin or within a cooperative monitoring area, but through no fault of that Discharger's operation. Dischargers should not be required to submit costly quantitative assessments, monitoring work plans, and ranch-level monitoring information if there is clear evidence that the ranch is not contributing to an exceedance.</p>
DH-9	<p><i>1. Dischargers Should Not Be Required to Conduct Groundwater Discharge Monitoring if Not Exceeding the Order's Final Nitrogen Limit.</i></p>
DH-10	<p>The draft Order would authorize the Executive Officer to require ranch-level groundwater discharge monitoring (and associated work plans) "based on groundwater quality data or exceedance of the nitrogen discharge targets or limits" (MRP page 20-21).</p> <p>Planning and implementation of ranch-level groundwater discharge monitoring imposes a significant cost and burden on the Discharger and should only be required when there is clear evidence that implementing this enhanced monitoring will provide tangible benefits to water quality.</p> <p>Groundwater quality improvements are known to lag significantly behind management practice improvements, sometimes on the Order of decades. A groundwater impaction identified via local groundwater monitoring data may not be attributable to current activities at the closest ranch nearby, or even to other ranches in the region.</p> <p>The draft Order would adopt a final limit for nitrogen. The Order would consider compliance with this final limit to be protective of groundwater quality. Therefore,</p>

DH-10 cont.	↑	<p>if a Discharger is in compliance with the final nitrogen limit, there should be no need for a work plan or quantitative assessment of the operation's nitrogen discharge. The Order should specify that compliance with the final Nitrogen limit removes any potential obligation to develop and implement a ranch-level groundwater discharge monitoring work plan.</p>
DH-11	↑	<p>2. <i>Dischargers Should Not Be Required to Conduct Ranch-Level Surface Discharge Monitoring When They Can Demonstrate No Potential to Contribute to the Specified Exceedance</i></p>
DH-12	↑	<p>The Draft Order (page 30) would authorize the Executive Officer to require ranch-level surface discharge monitoring "based on surface water quality conditions or exceedance of the limits established in this Order."</p> <p>We understand that the "surface water quality conditions" on which the Executive Officer would decide to require an operation to implement ranch-level monitoring are regional conditions as determined by the local cooperative monitoring effort.</p> <p>Decisions regarding ranch-level surface discharge monitoring should always be made in the context of a particular operation's potential to contribute to an exceedance, and not solely based on regional surface water conditions.</p> <p>Therefore, if a Discharger can demonstrate that their operation has no potential to contribute to a specified surface water exceedance, the Executive Officer should not require a ranch-level monitoring work plan or implementation. The Discharger could make this demonstration via operational records (e.g., evidence that a particular chemical or material is not and has not been in use at the property), information about the flow of water across the property (e.g., a technical demonstration that stormwater or irrigation runoff does not reach a surface water body), or similar means.</p>
DH-13	↑	<p>3. <i>The Order Should Adopt Specific Guidelines and a Review Process for Determining Whether Ranch-Level Surface Discharge Monitoring is Justified.</i></p>
DH-14	↑	<p>The Order should adopt specific guidelines and a fair, transparent process for the Executive Officer to follow in determining whether the considerable cost of ranch-level groundwater discharge monitoring is justified at a particular ranch.</p>
DH-15	↑	<p>For each ranch that the Executive Officer may require to implement ranch-level monitoring, this process should include, at a minimum,</p> <ol style="list-style-type: none"> Consideration of whether the ranch is a member 'in good standing' of a cooperative monitoring program, Consideration of whether the ranch participates in a voluntary sustainability certification program, Consideration of whether a ranch has the potential to discharge the constituent posing a risk to the affected water body. Review of Farm Plan documents, including: <ol style="list-style-type: none"> best management practices, reporting on discharge characteristics,

DH-15 cont.	<p>c. (where applicable) reporting on chemicals or materials used,</p> <p>e. Consideration of property characteristics that may impact the likelihood of impacts to surface water, including:</p> <ul style="list-style-type: none"> . Discharge pathways through the property <ul style="list-style-type: none"> a. Relevant geographic characteristics such as slope, proximity to waterways, etc., and b. Crops grown and other agronomic characteristics that impact how applied nutrients, applied chemicals, and sediment are anticipated to flow through the property
DH-16	<p>The Executive Officer's review process should be standardized and implemented in an open, transparent manner. Additionally, if required to implement ranch-level surface discharge monitoring, Dischargers should receive the opportunity to appeal this decision through a standardized, open, and transparent process.</p>
DH-17	<p><u>SUSTAINABILITY PROGRAMS</u></p> <p>1. <i>The Order Should Specify That Existing Documentation for Sustainability Certification Programs Can Satisfy Farm Plan Requirements.</i></p>
DH-18	<p>In our January 2019 comments, we offered a variety of ways for the Order to recognize and incentivize broader adoption of voluntary vineyard sustainability certification programs.</p> <p>The sustainability programs will undoubtedly provide the critical role of educating growers on best practices, including technical skills and assistance for improving water quality, to help growers satisfy the Continuing Education requirements of the Order.</p> <p>However, we are disappointed to see only minimal acknowledgment and incentivization of these important on-the-ground programs in the Draft Order.</p>
DH-19	<p>To participate in a sustainability certification program, growers develop extensive documentation of their operations. Much of this documentation, planning, and evidence of practice implementation could be used to satisfy the Order's requirements in the INMP, PMP, SEMP, and RAMP. A primary benefit to the grower of voluntary sustainability certifications is that they provide the resources and tools to identify environmental Best Management Practices that are best suited to the particular operation.</p>
DH-20	<p>In some cases, the information developed for certification may not be in the same formats as specified in the Order's Farm Plan requirements. The Order should include the opportunity for sustainability certification programs to put forward examples of how alternative documentation developed for certification could satisfy the Order's Farm Plan requirements.</p>
DH-21	<p><u>SMALL ACREAGE EXEMPTION OR MINIMUM REGISTRATION REQUIREMENT</u></p> <p>1. <i>Exempt or Require Only Minimum Registration Requirements for Vineyards and other permanent crops Under 5 Acres in Size</i></p>

DH-22	The Draft Order contains numerous monitoring and reporting requirements that will be particularly onerous for small vineyard operations. Many of these operations lack the technical expertise or in-house staff to satisfy the documentation required by the Order. They will, therefore, need to hire outside assistance at potentially considerable cost.
DH-23	Furthermore, due to the nature of winegrowing, most small vineyard operations are likely to pose a negligible threat to water quality. There are likely other crops whose agronomic practices pose a similarly negligible threat to water quality and, therefore, should also be exempt.
DH-24	By requiring even the smallest vineyard operations in the Central Coast Region to comply with the full Order and its documentation requirements, the Board will create a significant burden on these small dischargers without a clear water quality benefit.
DH-25	The San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) acknowledged the effectively 'de minimis' nature of some vineyards in the Napa River and Sonoma Creek watersheds in adopting its 2017 Vineyard Order (R2-2017-0033). That Order fully exempted all vineyards under 5 acres in size and described its rationale in the Order's findings, with the option for the Board to require enrollment for cause.
DH-26	We, therefore, recommend that the Ag Order 4.0 do one of the following, either:
DH-27	a. Exempt all vineyards (and other appropriate permanent crops) under 5 acres in size from the requirements of the Order, or
	b. Require vineyards (and other appropriate permanent crops) under 5 acres to register under the Order by completing a basic eNOI but waive the Farm Plan and monitoring requirements unless requested by the Executive Officer.
DH-28	If following Option B, the Executive Officer could request additional information about the operation and require full enrollment if it were determined to be necessary for the protection of water quality.
DH-29	<u>RIPARIAN OPERATIONAL SETBACK REQUIREMENTS</u>
	1. <i>The Board should narrow the operational setback requirements.</i>
DH-30	The draft Order would ultimately require all dischargers, including those outside of riparian priority areas, to implement an 'operational setback' around water bodies that are contained within or bordering a ranch property.
	The draft Order should focus requirements regarding riparian areas to those that are specifically tied to potential discharges, rather than including blanket requirements across all irrigated agricultural lands within the region. It is important to note that the Appellate Court opined specifically on riparian buffers in its ruling and stated: "Significantly, the court did not find that an adequate waiver must include 'nitrogen balancing ratios, broader farm plan reporting, more rigorous pesticide controls, mandatory vegetation/riparian buffers, and/or more comprehensive tile drain monitoring.'" We urge that setbacks be narrowed significantly by tying them directly

DH-30 cont.	↑ to an individual property's discharge potential rather than creating broad requirements across the entire region.
DH-31	<p>The broad application of setbacks is particularly concerning, given the lack of information available to identify the proposed setback areas. Several of our members have attempted to determine what operational setbacks might be required on their property, using the descriptions and definitions in the draft Order that was released. In doing so, they have discovered that determining whether and how additional operational setbacks should be implemented may require a significant investment of time, resources, and expertise in many cases. These investments are in addition to the investments necessary to comply with the protections required by the draft Order.</p> <p>Therefore, we request that the Board provide stream maps and stream order information or other guidance documents that help identify operational setback requirements. This will assist ranches around the Central Coast region that have discharge potential and therefore, should have operational setbacks.</p>
DH-32	<p>The draft Order sets out four compliance options for dischargers in Riparian Priority Areas whose riparian setbacks do not meet the standards required by the Order. Those dischargers are required to choose one of four compliance paths. The On-Farm Setback option contains standards likely to be unachievable. The requirement to use native vegetation that naturally occurs in the Discharger's HUC-8 watershed creates a nearly impossible standard. Restoration projects generally use commercially available seed mixes to re-establish vegetation. These seed mixes are usually not produced to provide the level of specificity required by the Order. Greater flexibility should be provided so that commercially available vegetative mixes are eligible for use to improve riparian areas.</p>
DH-33	<p>2. <i>Provide a Clarification or Specific Exemption Allowing Limited Use of Riparian Setback Areas for Farm Equipment Turnaround</i></p>
DH-34	<p>We appreciate the clarifications provided in the workshops presented by Regional Board staff June 2-4, 2020, regarding 'operational setback' requirements. The answers provided by staff to questions raised in the workshop about the ability to drive through 'operational setback' areas and the ability for tractors to turn within 'operational setback' areas were helpful. We appreciate that roads can remain in 'operational setback' areas so long as there are erosion control measures in place, such as rolling dips and that 'heavy equipment' can travel within 'operational setback' areas so long as they are not being used to remove vegetation.</p> <p>The current language included in the Order remains confusing on these points, and we would recommend changes to the language included to ensure that these activities can occur within 'operational setback' areas. Without the clarification, the Order appears to require some operations to remove existing vineyard acreage bordering a riparian area. This requirement alone will result in significant lost revenue to many operations as a result of decreased production.</p>

DH-35 Vineyard management activities require a tractor 'turn around' area at the end of each vineyard row. This 'turn around' area often requires 20 to 30 feet. Despite the staff's clarification in the workshops, the Draft Order's language prohibits the use of 'heavy machinery' in the operational setback. If the operational setback area does not allow for limited use of tractors for 'turn around' activities, this means an additional 20 to 30 feet of vineyard would need to be removed along the length of the riparian area in addition to the designated operational setback, for vineyard operations to continue.

DH-36 We request amendments to the Order to ensure that it follows the staff's statements made during the workshop. These changes will prevent the need to remove vineyard plantings within an 'operational setback' area. We believe clarification by the Board limiting the prohibition of heavy machinery to the removal of vegetation (except in the case of invasive species) within 'operational setback' areas would improve the Order.

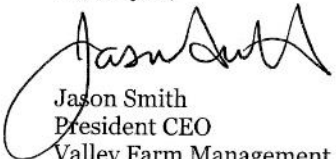
CONCLUSIONS

DH-37 In conclusion, we appreciate the efforts the Central Coast Water Board has taken to engage the public, including a specific meeting for vineyards. My ask is that you look at what Ag Order 4.0 is designed to achieve and how realistic that is without completely shutting down the ag industry. I continue to promote that listening, using science, economics and working with the ag industry to continue to improve water quality is the most effective way to achieve sustainable goals. All of us in ag are working on this from many different fronts (SGMA, Pesticide regulation, labor, immigration, etc). This has to be a collaborative process and not one that mandates unreasonable and unachievable goals.

DH-38 Lastly, vineyards, for the most part, do not meet many of your issues that you are trying to address. We do not use much nitrogen and are already at your 2050 goals and have basically zero runoff other than stormwater. Yet the requirements to do a costly and time consuming farm plan (that we already partially do with our sustainability certifications) is not feasible nor does it address any of your water quality concerns. On top of that is while we are also 3000 acres, it is not in one place and would require 16 different plans based on what has been presented.

DH-39 Thank you for the opportunity to comment and I hope that the Regional Water Board will continue to find ways to work with the ag community to achieve meaningful and realistic goals.

Thank you,


Jason Smith
President CEO
Valley Farm Management
831 970 1128 cell

Response to Comment DH-1

Thank you for your comment. CCWB acknowledges the commenter's background and interests.

Response to Comment DH-2

Comment noted.

Response to Comment DH-3

Comment noted.

Response to Comment DH-4

Thank you for your comment. This comment is summarized and responded to in Master Response 2.3.1.

Response to Comment DH-5

Thank you for your comment. This comment is summarized and responded to in Master Response 2.9.1.

Response to Comment DH-6

This comment is summarized and responded to in Master Response 2.9.1.

Response to Comment DH-7

This comment is summarized and responded to in Master Response 2.9.1.

Response to Comment DH-8

This comment is summarized and responded to in the following Master Responses: 2.5.5, 2.5.11, 2.5.2, and 2.5.3.

Response to Comment DH-9 through DH-10

This comment is summarized and responded to in Master Response 2.3.5.

Response to Comment DH-11

This comment is summarized and responded to in the following Master Responses: 2.5.5, 2.5.11, 2.5.2, and 2.5.3.

Response to Comment DH-12

This comment is summarized and responded to in the following Master Responses: 2.5.5, 2.5.2, and 2.5.3.

Response to Comment DH-13 through DH-14

This comment is summarized and responded to in Master Response 2.5.3.

Response to Comment DH-15

This comment is summarized and responded to in Master Response 2.2.2.

Response to Comment DH-16

This comment is summarized and responded to in Master Response 2.3.5.

Response to Comment DH-17

This comment is summarized and responded to in the following Master Responses: 2.1.5 and 2.1.10.

Response to Comment DH-18

This comment is summarized and responded to in Master Response 2.2.2.

Response to Comment DH-19 through DH-20

This comment is summarized and responded to in Master Response 2.1.5.

Response to Comment DH-21

This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DH-22

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DH-23

This comment is summarized and responded to in the following Master Responses: 2.1.7; 2.2.2; and 2.3.5.

Response to Comment DH-24 through DH-25

This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DH-26 through DH-28

This comment is summarized and responded to in the following Master Responses: 2.1.7; 2.2.2; and 2.3.5.

Response to Comment DH-29 through DH-36

This comment is responded to in Master Response 2.8.8.

Response to Comment DH-37

Thank you for your comment.

Response to Comment DH-38

This comment is summarized and responded to in the following Master Responses: 2.2.2; 2.3.5; and 2.3.1.

Response to Comment DH-39

Thank you for your comment.

Letter DI: Jesus Chavez, Coastal Vineyard Care Associates (June 22, 2020)**Letter DI**

June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

Information on Your Operation:

- Rancho Salsipuedes Vineyard, 180 acres and located in Lompoc California
- This vineyard is irrigated via drip emitters that virtually eliminate runoff. Cover Crop is maintained during winter. Bare soil is minimized, roads remain only for the necessary movement of equipment.
- All acreage of this vineyard is SIP Certified and has been for several years.
- I work in this region and live only a few miles away. I care about water quality, but believe that many of the currently proposed order will cause an unreasonable burden for the reasons detailed below.

Current Draft is Complex & Burdensome without Providing a Benefit to Water Quality

- The current Draft, EIR, and Attachments are long (900 pages), complicated, and confusing with different reporting and timelines for different constituencies.
- While the staff outreach webinars did a good job of explaining the priority areas in their outreach webinars, details on the annual reporting were very insufficient. If the annual reporting can not be described in a 2 hour webinar, then the content of those requirements should be seriously reconsidered.
- The reporting is overly burdensome, expensive for growers and staff, and will not improve water quality.
- Furthermore, the extent and scope of information required is so great, that it is doubtful that staff could analyze and act on the information in a meaningful and timely way to feedback to growers to improve water quality.
- In addition, the Draft's economic analysis is fully insufficient and does not account for land fallowing, hiring professionals, loss of production, and several other costs associated with the grower requirements of this Draft.
- The completion of SIP Certifications each year take at least 60 labor hours. Fulfilling the AgOrder 4.0 requirements would take approximately three times that amount in the first year alone.

Current Draft Priorities and Phases Ignores Low Risk Operations

- Draft only considers geographic location and not operational risk to water quality. All growers are required to complete all reporting (eventually, and in compressed phasing timelines) regardless of operational risk.
- Vineyards are a low risk to water quality and should be handled separately regarding monitoring and reporting.
 - Vineyards currently meet the 2050 Nitrogen Loading threshold and should be exempted from monitoring and reporting related to groundwater. (*offer specific information for your operation*)
 - Vineyards do not have tailwater and maintain winter cover crop, therefore their monitoring and reporting should reflect that operational risk. Moreover, the cover crop is mowed back into the soil at the beginning of the growing season.
 - Vineyards have existing buffer zones of approximately 25 feet to allow for equipment passage and turnaround. Removing vines to expand the buffer will disrupt the soils

DI-14
cont.

DI-15

and provide an increased risk to water quality. The disrupted soils will be more susceptible to erosion. Also, the economic impact of lost revenue from removed vines, along with the cost of removing them (~~\$2000-\$3000 per acre~~) makes this an unnecessary economic burden for vineyards. This is especially problematic in the current economic atmosphere created by the pandemic.

- The operational or riparian setback measurement is described in the GIS mapping tool. However, one thing that I do not see mentioned is how the width of a waterbody is determined for an operational setback. This should not be left up to the grower to measure. Again, that would add an immense amount of unnecessary work.

DI-16

SIP Certified Should be Recognized as an Alternative Compliance Pathway and Current SIP Documentation Should be Recognized in Lieu of Farm Planning Requirements

- I have personally worked with SIP certifications for several years. The SIP certified program should be considered as a 3rd party, because many of the requirements include protecting bare soil from erosion, applying fertilizers based only on need and many others.
- As currently written, SIP Certified would not qualify as 3rd party. The framework of the requirements for a 3rd party imply a program that itself monitors water quality, rather than a program that certifies implementation of practices, water/nutrient budgeting, etc.
- If staff intends for a certification program to qualify, these requirements must be edited.
 - SIP Certified operators should have an alternative Annual Compliance process to avoid duplicative documentation.
 - SIP Certified operators are required to implement practices that protect water quality and are verified by an independent inspector.
 - SIP Certification Documentation (Irrigation, Nutrients, Erosion, Pest, Riparian) should be recognized in lieu of Farm Plans.
 - SIP Certified operators, who are required to complete GW testing, should be allowed for this to be recognized without requiring additional analyses.
 - SIP Certified operators, who are required to complete irrigation and nutrient reporting, should be allowed for this to be recognized without additional reporting.
 - SIP Certified operators are required to have a set back from blue-line streams and should be exempted from additional riparian requirements
 - SIP Certified operators are required to have an erosion plan and implement several winter erosion practices, this should be recognized without additional work.

DI-17

Closing

I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These changes would reflect the direction from the Board over the last several years in addition to vineyard stakeholders who are affected by this Order.

Sincerely,

Jesus Chavez
Coastal Vineyard Care Associates
224 East Highway 246, Ste. A
Buellton, CA 93427
(805)350-9582

Response to Comment DI-1

Thank you for your comment. CCWB acknowledges operation facility details, as provided by the commenter.

Response to Comment DI-2 through DI-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DI-7

In response to concerns related to cost considerations associated with complying with the DAO 4.0, refer to Master Response 2.9.1. In response to concerns related to the DEIR's economic analysis, including the sufficiency for CEQA compliance, refer to Master Response 2.10.

Response to Comment DI-8

This comment is summarized and responded to in the following Master Responses: 2.1.5 and 2.2.2.

Response to Comment DI-9

This comment is summarized and responded to in the following Master Responses: 2.1.7 and 2.3.1.

Response to Comment DI-10

This comment is summarized and responded to in Master Response 2.3.1.

Response to Comment DI-11

This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DI-12

This comment is summarized and responded to in Master Response 2.3.5.

Response to Comment DI-13

This comment is summarized and responded to in Master Response 2.5.8.

Response to Comment DI-14 through DI-15

This comment is responded to in Master Response 2.8.8.

Response to Comment DI-16 through DI-17

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.1.5; and 2.2.2.

Letter DJ: Jesus Chavez, Coastal Vineyard Care Associates (June 22, 2020)**Letter DJ**

June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

Information on Your Operation:

- Santa Ynez Vineyard, 120 acres and located in Santa Ynez California
- This vineyard is irrigated via drip emitters that virtually eliminate runoff. Cover Crop is maintained during winter. Bare soil is minimized, roads remain only for the necessary movement of equipment.
- All acreage of this vineyard is SIP Certified and has been for several years.
- I work in this region and live only a few miles away. I care about water quality, but believe that many of the currently proposed order will cause an unreasonable burden for the reasons detailed below.

Current Draft is Complex & Burdensome without Providing a Benefit to Water Quality

- The current Draft, EIR, and Attachments are long (900 pages), complicated, and confusing with different reporting and timelines for different constituencies.
- While the staff outreach webinars did a good job of explaining the priority areas in their outreach webinars, details on the annual reporting were very insufficient. If the annual reporting can not be described in a 2 hour webinar, then the content of those requirements should be seriously reconsidered.
- The reporting is overly burdensome, expensive for growers and staff, and will not improve water quality.
- Furthermore, the extent and scope of information required is so great, that it is doubtful that staff could analyze and act on the information in a meaningful and timely way to feedback to growers to improve water quality.
- In addition, the Draft's economic analysis is fully insufficient and does not account for land fallowing, hiring professionals, loss of production, and several other costs associated with the grower requirements of this Draft.
- The completion of SIP Certifications each year take at least 60 labor hours. Fulfilling the AgOrder 4.0 requirements would take approximately three times that amount in the first year alone.

Current Draft Priorities and Phases Ignores Low Risk Operations

- Draft only considers geographic location and not operational risk to water quality. All growers are required to complete all reporting (eventually, and in compressed phasing timelines) regardless of operational risk.
- Vineyards are a low risk to water quality and should be handled separately regarding monitoring and reporting.
 - Vineyards currently meet the 2050 Nitrogen Loading threshold and should be exempted from monitoring and reporting related to groundwater. (*offer specific information for your operation*)
 - Vineyards do not have tailwater and maintain winter cover crop, therefore their monitoring and reporting should reflect that operational risk. Moreover, the cover crop is mowed back into the soil at the beginning of the growing season.
 - Vineyards have existing buffer zones of approximately 25 feet to allow for equipment passage and turnaround. Removing vines to expand the buffer will disrupt the soils

DJ-14
cont.

and provide an increased risk to water quality. The disrupted soils will be more susceptible to erosion. Also, the economic impact of lost revenue from removed vines, along with the cost of removing them (~~\$2000-\$3000 per acre~~) makes this an unnecessary economic burden for vineyards. This is especially problematic in the current economic atmosphere created by the pandemic.

DJ-15

- The operational or riparian setback measurement is described in the GIS mapping tool. However, one thing that I do not see mentioned is how the width of a waterbody is determined for an operational setback. This should not be left up to the grower to measure. Again, that would add an immense amount of unnecessary work.

SIP Certified Should be Recognized as an Alternative Compliance Pathway and Current SIP Documentation Should be Recognized in Lieu of Farm Planning Requirements

- DJ-16
- I have personally worked with SIP certifications for several years. The SIP certified program should be considered as a 3rd party, because many of the requirements include protecting bare soil from erosion, applying fertilizers based only on need and many others.
 - As currently written, SIP Certified would not qualify as 3rd party. The framework of the requirements for a 3rd party imply a program that itself monitors water quality, rather than a program that certifies implementation of practices, water/nutrient budgeting, etc.
 - If staff intends for a certification program to qualify, these requirements must be edited.
 - SIP Certified operators should have an alternative Annual Compliance process to avoid duplicative documentation.
 - SIP Certified operators are required to implement practices that protect water quality and are verified by an independent inspector.
 - SIP Certification Documentation (Irrigation, Nutrients, Erosion, Pest, Riparian) should be recognized in lieu of Farm Plans.
 - SIP Certified operators, who are required to complete GW testing, should be allowed for this to be recognized without requiring additional analyses.
 - SIP Certified operators, who are required to complete irrigation and nutrient reporting, should be allowed for this to be recognized without additional reporting.
 - SIP Certified operators are required to have a set back from blue-line streams and should be exempted from additional riparian requirements
 - SIP Certified operators are required to have an erosion plan and implement several winter erosion practices, this should be recognized without additional work.

Closing

DJ-17

I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These changes would reflect the direction from the Board over the last several years in addition to vineyard stakeholders who are affected by this Order.

Sincerely,

Jesus Chavez
Coastal Vineyard Care Associates
224 East Highway 246, Ste. A
Buellton, CA 93427
(805)350-9582

Response to Comment DJ-1

Thank you for your comment. CCWB acknowledges operation facility details, as provided by the commenter.

Response to Comment DJ-2 through DJ-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DJ-7

In response to concerns related to cost considerations associated with complying with the DAO 4.0, refer to Master Response 2.9.1. In response to concerns related to the DEIR's economic analysis, including the sufficiency for CEQA compliance, refer to Master Response 2.10.

Response to Comment DJ-8

This comment is summarized and responded to in the following Master Responses: 2.1.5 and 2.2.2.

Response to Comment DJ-9

This comment is summarized and responded to in the following Master Responses: 2.1.7 and 2.3.1.

Response to Comment DJ-10

This comment is summarized and responded to in Master Response 2.3.1.

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This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DJ-12

This comment is summarized and responded to in Master Response 2.3.5.

Response to Comment DJ-13

This comment is summarized and responded to in Master Response 2.5.8.

Response to Comment DJ-14 through DJ-15

This comment is responded to in Master Response 2.8.8.

Response to Comment DJ-16 through DJ-17

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.1.5; and 2.2.2.

Letter DK: Jesus Chavez, Coastal Vineyard Care Associates (June 22, 2020)**Letter DK**

June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

Information on Your Operation:

- Coastal Vineyard Care Associates manages 75 vineyards totaling more than 3,000 acres. These vineyards are spread out between Arroyo Grande and Buellton-Lompoc-Santa Ynez. As such each vineyard will be uniquely affected by the proposed regulations in this draft order. Some vineyards are situated well away from any waterbodies, but many others are not. The size of these vineyards ranges from 1 acre up to 100+ acres. A vineyard that is small to begin with cannot afford to lose any land or incur additional monitoring expenses; they are already operating on an extremely thin profit margin.

Current Draft is Complex & Burdensome without Providing a Benefit to Water Quality

- The current Draft, EIR, and Attachments are long (900 pages), complicated, and confusing with different reporting and timelines for different constituencies.
- While the staff outreach webinars did a good job of explaining the priority areas in their outreach webinars, details on the annual reporting were very insufficient. If the annual reporting can not be described in a 2 hour webinar, then the content of those requirements should be seriously reconsidered.
- The reporting is overly burdensome, expensive for growers and staff, and will not improve water quality.
- Furthermore, the extent and scope of information required is so great, that it is doubtful that staff could analyze and act on the information in a meaningful and timely way to feedback to growers to improve water quality.
- In addition, the Draft's economic analysis is fully insufficient and does not account for land fallowing, hiring professionals, loss of production, and several other costs associated with the grower requirements of this Draft.
- The completion of SIP Certifications each year take at least 60 labor hours. Fulfilling the AgOrder 4.0 requirements would take approximately three times that amount in the first year alone.

Current Draft Priorities and Phases Ignores Low Risk Operations

- Draft only considers geographic location and not operational risk to water quality. All growers are required to complete all reporting (eventually, and in compressed phasing timelines) regardless of operational risk.
- Vineyards are a low risk to water quality and should be handled separately regarding monitoring and reporting.
 - Vineyards currently meet the 2050 Nitrogen Loading threshold and should be exempted from monitoring and reporting related to groundwater. (*offer specific information for your operation*)
 - Vineyards do not have tailwater and maintain winter cover crop, therefore their monitoring and reporting should reflect that operational risk. Moreover, the cover crop is mowed back into the soil at the beginning of the growing season.
 - Vineyards have existing buffer zones of approximately 25 feet to allow for equipment passage and turnaround. Removing vines to expand the buffer will disrupt the soils and provide an increased risk to water quality. The disrupted soils will be more susceptible to erosion. Also, the economic impact of lost revenue from removed vines,

DK-14
cont.

along with the cost of removing them makes this an unnecessary economic burden for vineyards. This is especially problematic in the current economic atmosphere created by the pandemic.

- The operational or riparian setback measurement is described in the GIS mapping tool. However, one thing that I do not see mentioned is how the width of a waterbody is determined for an operational setback. This should not be left up to the grower to measure. Again, that would add an immense amount of unnecessary work.

DK-15

SIP Certified Should be Recognized as an Alternative Compliance Pathway and Current SIP Documentation Should be Recognized in Lieu of Farm Planning Requirements

- I have personally worked with SIP certifications for several years. The SIP certified program should be considered as a 3rd party, because many of the requirements include protecting bare soil from erosion, applying fertilizers based only on need and many others.
- As currently written, SIP Certified would not qualify as 3rd party. The framework of the requirements for a 3rd party imply a program that itself monitors water quality, rather than a program that certifies implementation of practices, water/nutrient budgeting, etc.
- If staff intends for a certification program to quality, these requirements must be edited.
 - SIP Certified operators should have an alternative Annual Compliance process to avoid duplicative documentation.
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 - SIP Certified operators are required to have a set back from blue-line streams and should be exempted from additional riparian requirements
 - SIP Certified operators are required to have an erosion plan and implement several winter erosion practices, this should be recognized without additional work.

DK-16

Closing

I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These changes would reflect the direction from the Board over the last several years in addition to vineyard stakeholders who are affected by this Order.

DK-17

Sincerely,

Jesus Chavez
Coastal Vineyard Care Associates
224 East Highway 246, Ste. A
Buellton, CA 93427
(805)350-9582

Response to Comment DK-1

Thank you for your comment. CCWB acknowledges operation facility details, as provided by the commenter.

Response to Comment DK-2 through DK-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DK-7

In response to concerns related to cost considerations associated with complying with the DAO 4.0, refer to Master Response 2.9.1. In response to concerns related to the DEIR's economic analysis, including the sufficiency for CEQA compliance, refer to Master Response 2.10.

Response to Comment DK-8

This comment is summarized and responded to in the following Master Responses: 2.1.5 and 2.2.2.

Response to Comment DK-9

This comment is summarized and responded to in the following Master Responses: 2.1.7 and 2.3.1.

Response to Comment DK-10

This comment is summarized and responded to in Master Response 2.3.1.

Response to Comment DK-11

This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DK-12

This comment is summarized and responded to in Master Response 2.3.5.

Response to Comment DK-13

This comment is summarized and responded to in Master Response 2.5.8.

Response to Comment DK-14 through DK-15

This comment is responded to in Master Response 2.8.8.

Response to Comment DK-16 through DK-17

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.1.5; and 2.2.2.

Letter DL: Jesus Chavez, Coastal Vineyard Care Associates (June 22, 2020)**Letter DL**

June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

Information on Your Operation:

- Brave & Maiden Estate, 46 acre vineyard located in Santa Ynez California
- This vineyard is irrigated via drip emitters that virtually eliminate runoff. Cover Crop is maintained during winter. Bare soil is minimized, roads remain only for the necessary movement of equipment.
- All acreage of this vineyard is SIP Certified and has been for several years.
- I work in this region and live only a few miles away. I care about water quality, but believe that many of the currently proposed order will cause an unreasonable burden for the reasons detailed below.

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- The completion of SIP Certifications each year take at least 60 labor hours. Fulfilling the AgOrder 4.0 requirements would take approximately three times that amount in the first year alone.

Current Draft Priorities and Phases Ignores Low Risk Operations

- Draft only considers geographic location and not operational risk to water quality. All growers are required to complete all reporting (eventually, and in compressed phasing timelines) regardless of operational risk.
- Vineyards are a low risk to water quality and should be handled separately regarding monitoring and reporting.
 - Vineyards currently meet the 2050 Nitrogen Loading threshold and should be exempted from monitoring and reporting related to groundwater. (*offer specific information for your operation*)
 - Vineyards do not have tailwater and maintain winter cover crop, therefore their monitoring and reporting should reflect that operational risk. Moreover, the cover crop is mowed back into the soil at the beginning of the growing season.
 - Vineyards have existing buffer zones of approximately 25 feet to allow for equipment passage and turnaround. Removing vines to expand the buffer will disrupt the soils

DL-14
cont.

and provide an increased risk to water quality. The disrupted soils will be more susceptible to erosion. Also, the economic impact of lost revenue from removed vines, along with the cost of removing them (~~\$2000-\$3000 per acre~~) makes this an unnecessary economic burden for vineyards. This is especially problematic in the current economic atmosphere created by the pandemic.

DL-15

- The operational or riparian setback measurement is described in the GIS mapping tool. However, one thing that I do not see mentioned is how the width of a waterbody is determined for an operational setback. This should not be left up to the grower to measure. Again, that would add an immense amount of unnecessary work.

SIP Certified Should be Recognized as an Alternative Compliance Pathway and Current SIP Documentation Should be Recognized in Lieu of Farm Planning Requirements

- DL-16
- I have personally worked with SIP certifications for several years. The SIP certified program should be considered as a 3rd party, because many of the requirements include protecting bare soil from erosion, applying fertilizers based only on need and many others.
 - As currently written, SIP Certified would not qualify as 3rd party. The framework of the requirements for a 3rd party imply a program that itself monitors water quality, rather than a program that certifies implementation of practices, water/nutrient budgeting, etc.
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 - SIP Certified operators should have an alternative Annual Compliance process to avoid duplicative documentation.
 - SIP Certified operators are required to implement practices that protect water quality and are verified by an independent inspector.
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 - SIP Certified operators are required to have a set back from blue-line streams and should be exempted from additional riparian requirements
 - SIP Certified operators are required to have an erosion plan and implement several winter erosion practices, this should be recognized without additional work.

Closing

DL-17

I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These changes would reflect the direction from the Board over the last several years in addition to vineyard stakeholders who are affected by this Order.

Sincerely,

Jesus Chavez
Coastal Vineyard Care Associates
224 East Highway 246, Ste. A
Buellton, CA 93427
(805)350-9582

Response to Comment DL-1

Thank you for your comment. The CCWB acknowledges the Brave and Maiden Estate background and interests.

Response to Comment DL-2 through DL-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DL-7

In response to concerns related to cost considerations associated with complying with the DAO 4.0, refer to Master Response 2.9.1. In response to concerns related to the DEIR's economic analysis, including the sufficiency for CEQA compliance, refer to Master Response 2.10.

Response to Comment DL-8

This comment is summarized and responded to in the following Master Responses: 2.1.5 and 2.2.2.

Response to Comment DL-9

This comment is summarized and responded to in the following Master Responses: 2.1.7 and 2.3.1.

Response to Comment DL-10

This comment is summarized and responded to in Master Response 2.3.1.

Response to Comment DL-11

This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DL-12

This comment is summarized and responded to in Master Response 2.3.5.

Response to Comment DL-13

This comment is summarized and responded to in Master Response 2.5.8.

Response to Comment DL-14 through DL-15

This comment is responded to in Master Response 2.8.8.

Response to Comment DL-16 through DL-17

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.1.5; and 2.2.2.

Letter DM: Jesus Chavez, Coastal Vineyard Care Associates (June 22, 2020)**Letter DM**

June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

Information on Your Operation:

- Breese Ranch, 58 acre vineyard located in Lompoc California
- This vineyard is irrigated via drip emitters that virtually eliminate runoff. Cover Crop is maintained during winter. Bare soil is minimized, roads remain only for the necessary movement of equipment.
- All acreage of this vineyard is SIP Certified and has been for several years.
- I work in this region and live only a few miles away. I care about water quality, but believe that many of the currently proposed order will cause an unreasonable burden for the reasons detailed below.

Current Draft is Complex & Burdensome without Providing a Benefit to Water Quality

- The current Draft, EIR, and Attachments are long (900 pages), complicated, and confusing with different reporting and timelines for different constituencies.
- While the staff outreach webinars did a good job of explaining the priority areas in their outreach webinars, details on the annual reporting were very insufficient. If the annual reporting can not be described in a 2 hour webinar, then the content of those requirements should be seriously reconsidered.
- The reporting is overly burdensome, expensive for growers and staff, and will not improve water quality.
- Furthermore, the extent and scope of information required is so great, that it is doubtful that staff could analyze and act on the information in a meaningful and timely way to feedback to growers to improve water quality.
- In addition, the Draft's economic analysis is fully insufficient and does not account for land fallowing, hiring professionals, loss of production, and several other costs associated with the grower requirements of this Draft.
- The completion of SIP Certifications each year take at least 60 labor hours. Fulfilling the AgOrder 4.0 requirements would take approximately three times that amount in the first year alone.

Current Draft Priorities and Phases Ignores Low Risk Operations

- Draft only considers geographic location and not operational risk to water quality. All growers are required to complete all reporting (eventually, and in compressed phasing timelines) regardless of operational risk.
- Vineyards are a low risk to water quality and should be handled separately regarding monitoring and reporting.
 - Vineyards currently meet the 2050 Nitrogen Loading threshold and should be exempted from monitoring and reporting related to groundwater. (*offer specific information for your operation*)
 - Vineyards do not have tailwater and maintain winter cover crop, therefore their monitoring and reporting should reflect that operational risk. Moreover, the cover crop is mowed back into the soil at the beginning of the growing season.
 - Vineyards have existing buffer zones of approximately 25 feet to allow for equipment passage and turnaround. Removing vines to expand the buffer will disrupt the soils

DM-14
cont.

DM-15

and provide an increased risk to water quality. The disrupted soils will be more susceptible to erosion. Also, the economic impact of lost revenue from removed vines, along with the cost of removing them (**\$2000-\$3000 per acre**) makes this an unnecessary economic burden for vineyards. This is especially problematic in the current economic atmosphere created by the pandemic.

- The operational or riparian setback measurement is described in the GIS mapping tool. However, one thing that I do not see mentioned is how the width of a waterbody is determined for an operational setback. This should not be left up to the grower to measure. Again, that would add an immense amount of unnecessary work.

DM-16

SIP Certified Should be Recognized as an Alternative Compliance Pathway and Current SIP Documentation Should be Recognized in Lieu of Farm Planning Requirements

- I have personally worked with SIP certifications for several years. The SIP certified program should be considered as a 3rd party, because many of the requirements include protecting bare soil from erosion, applying fertilizers based only on need and many others.
- As currently written, SIP Certified would not qualify as 3rd party. The framework of the requirements for a 3rd party imply a program that itself monitors water quality, rather than a program that certifies implementation of practices, water/nutrient budgeting, etc.
- If staff intends for a certification program to qualify, these requirements must be edited.
 - SIP Certified operators should have an alternative Annual Compliance process to avoid duplicative documentation.
 - SIP Certified operators are required to implement practices that protect water quality and are verified by an independent inspector.
 - SIP Certification Documentation (Irrigation, Nutrients, Erosion, Pest, Riparian) should be recognized in lieu of Farm Plans.
 - SIP Certified operators, who are required to complete GW testing, should be allowed for this to be recognized without requiring additional analyses.
 - SIP Certified operators, who are required to complete irrigation and nutrient reporting, should be allowed for this to be recognized without additional reporting.
 - SIP Certified operators are required to have a set back from blue-line streams and should be exempted from additional riparian requirements
 - SIP Certified operators are required to have an erosion plan and implement several winter erosion practices, this should be recognized without additional work.

DM-17

Closing

I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These changes would reflect the direction from the Board over the last several years in addition to vineyard stakeholders who are affected by this Order.

Sincerely,

Jesus Chavez
Coastal Vineyard Care Associates
224 East Highway 246, Ste. A
Buellton, CA 93427
(805)350-9582

Response to Comment DM-1

Thank you for your comment. The CCWB acknowledges the information provided regarding Breese Ranch.

Response to Comment DM-2 through DM-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DM-7

In response to concerns related to cost considerations associated with complying with the DAO 4.0, refer to Master Response 2.9.1. In response to concerns related to the DEIR's economic analysis, including the sufficiency for CEQA compliance, refer to Master Response 2.10.

Response to Comment DM-8

This comment is summarized and responded to in the following Master Responses: 2.1.5 and 2.2.2.

Response to Comment DM-9

This comment is summarized and responded to in the following Master Responses: 2.1.7 and 2.3.1.

Response to Comment DM-10

This comment is summarized and responded to in Master Response 2.3.1.

Response to Comment DM-11

This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DM-12

This comment is summarized and responded to in Master Response 2.3.5.

Response to Comment DM-13

This comment is summarized and responded to in Master Response 2.5.8.

Response to Comment DM-14 through DM-15

This comment is responded to in Master Response 2.8.8.

Response to Comment DM-16 through DM-17

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.1.5; and 2.2.2.

Letter DN: Jesus Chavez, Coastal Vineyard Care Associates (June 22, 2020)**Letter DN**

June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

Information on Your Operation:

- Fess Parker Vineyard, 116 acres and located in Los Olivos California
- This vineyard is irrigated via drip emitters that virtually eliminate runoff. Cover Crop is maintained during winter. Bare soil is minimized, roads remain only for the necessary movement of equipment.
- All acreage of this vineyard is SIP Certified and has been for several years.
- I work in this region and live only a few miles away. I care about water quality, but believe that many of the currently proposed order will cause an unreasonable burden for the reasons detailed below.

Current Draft is Complex & Burdensome without Providing a Benefit to Water Quality

- The current Draft, EIR, and Attachments are long (900 pages), complicated, and confusing with different reporting and timelines for different constituencies.
- While the staff outreach webinars did a good job of explaining the priority areas in their outreach webinars, details on the annual reporting were very insufficient. If the annual reporting can not be described in a 2 hour webinar, then the content of those requirements should be seriously reconsidered.
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- Furthermore, the extent and scope of information required is so great, that it is doubtful that staff could analyze and act on the information in a meaningful and timely way to feedback to growers to improve water quality.
- In addition, the Draft's economic analysis is fully insufficient and does not account for land fallowing, hiring professionals, loss of production, and several other costs associated with the grower requirements of this Draft.
- The completion of SIP Certifications each year take at least 60 labor hours. Fulfilling the AgOrder 4.0 requirements would take approximately three times that amount in the first year alone.

Current Draft Priorities and Phases Ignores Low Risk Operations

- Draft only considers geographic location and not operational risk to water quality. All growers are required to complete all reporting (eventually, and in compressed phasing timelines) regardless of operational risk.
- Vineyards are a low risk to water quality and should be handled separately regarding monitoring and reporting.
 - Vineyards currently meet the 2050 Nitrogen Loading threshold and should be exempted from monitoring and reporting related to groundwater. (*offer specific information for your operation*)
 - Vineyards do not have tailwater and maintain winter cover crop, therefore their monitoring and reporting should reflect that operational risk. Moreover, the cover crop is mowed back into the soil at the beginning of the growing season.
 - Vineyards have existing buffer zones of approximately 25 feet to allow for equipment passage and turnaround. Removing vines to expand the buffer will disrupt the soils

DN-14
cont.

DN-15

and provide an increased risk to water quality. The disrupted soils will be more susceptible to erosion. Also, the economic impact of lost revenue from removed vines, along with the cost of removing them (~~\$2000-\$3000 per acre~~) makes this an unnecessary economic burden for vineyards. This is especially problematic in the current economic atmosphere created by the pandemic.

- The operational or riparian setback measurement is described in the GIS mapping tool. However, one thing that I do not see mentioned is how the width of a waterbody is determined for an operational setback. This should not be left up to the grower to measure. Again, that would add an immense amount of unnecessary work.

DN-16

SIP Certified Should be Recognized as an Alternative Compliance Pathway and Current SIP Documentation Should be Recognized in Lieu of Farm Planning Requirements

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- If staff intends for a certification program to qualify, these requirements must be edited.
 - SIP Certified operators should have an alternative Annual Compliance process to avoid duplicative documentation.
 - SIP Certified operators are required to implement practices that protect water quality and are verified by an independent inspector.
 - SIP Certification Documentation (Irrigation, Nutrients, Erosion, Pest, Riparian) should be recognized in lieu of Farm Plans.
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DN-17

Closing

I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These changes would reflect the direction from the Board over the last several years in addition to vineyard stakeholders who are affected by this Order.

Sincerely,

Jesus Chavez
Coastal Vineyard Care Associates
224 East Highway 246, Ste. A
Buellton, CA 93427
(805)350-9582

Response to Comment DN-1

Thank you for your comment. The CCWB acknowledges the information provided regarding Fess Parker Vineyard.

Response to Comment DN-2 through DN-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DN-7

In response to concerns related to cost considerations associated with complying with the DAO 4.0, refer to Master Response 2.9.1. In response to concerns related to the DEIR's economic analysis, including the sufficiency for CEQA compliance, refer to Master Response 2.10.

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Response to Comment DN-16 through DN-17

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.1.5; and 2.2.2.

Letter DO: Jesus Chavez, Coastal Vineyard Care Associates (June 22, 2020)**Letter DO**

June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

Information on Your Operation:

- Nolan Ranch, 105 acres and located in Los Alamos California
- This vineyard is irrigated via drip emitters that virtually eliminate runoff. Cover Crop is maintained during winter. Bare soil is minimized, roads remain only for the necessary movement of equipment.
- All acreage of this vineyard is SIP Certified and has been for several years.
- I work in this region and live only a few miles away. I care about water quality, but believe that many of the currently proposed order will cause an unreasonable burden for the reasons detailed below.

Current Draft is Complex & Burdensome without Providing a Benefit to Water Quality

- The current Draft, EIR, and Attachments are long (900 pages), complicated, and confusing with different reporting and timelines for different constituencies.
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 - Vineyards do not have tailwater and maintain winter cover crop, therefore their monitoring and reporting should reflect that operational risk. Moreover, the cover crop is mowed back into the soil at the beginning of the growing season.
 - Vineyards have existing buffer zones of approximately 25 feet to allow for equipment passage and turnaround. Removing vines to expand the buffer will disrupt the soils

DO-14
cont.

DO-15

and provide an increased risk to water quality. The disrupted soils will be more susceptible to erosion. Also, the economic impact of lost revenue from removed vines, along with the cost of removing them (~~\$2000-\$3000 per acre~~) makes this an unnecessary economic burden for vineyards. This is especially problematic in the current economic atmosphere created by the pandemic.

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DO-16

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 - SIP Certified operators are required to have an erosion plan and implement several winter erosion practices, this should be recognized without additional work.

DO-17

Closing

I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These changes would reflect the direction from the Board over the last several years in addition to vineyard stakeholders who are affected by this Order.

Sincerely,

Jesus Chavez
Coastal Vineyard Care Associates
224 East Highway 246, Ste. A
Buellton, CA 93427
(805)350-9582

Response to Comment DO-1

Thank you for your comment. The CCWB acknowledges the information provided regarding Nolan Ranch.

Response to Comment DO-2 through DO-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DO-7

In response to concerns related to cost considerations associated with complying with the DAO, refer to Master Response 2.9.1. In response to concerns related to the DEIR's economic analysis, including the sufficiency for CEQA compliance, refer to Master Response 2.10.

Response to Comment DO-8

This comment is summarized and responded to in the following Master Responses: 2.1.5 and 2.2.2.

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Response to Comment DO-14 through DO-15

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Response to Comment DO-16 through DO-17

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.1.5; and 2.2.2.

Letter DP: Jesus Chavez, Coastal Vineyard Care Associates (June 22, 2020)**Letter DP**

June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

Information on Your Operation:

- Pali Vineyard, 50 acres and located in Lompoc California
- This vineyard is irrigated via drip emitters that virtually eliminate runoff. Cover Crop is maintained during winter. Bare soil is minimized, roads remain only for the necessary movement of equipment.
- All acreage of this vineyard is SIP Certified and has been for several years.
- I work in this region and live only a few miles away. I care about water quality, but believe that many of the currently proposed order will cause an unreasonable burden for the reasons detailed below.

Current Draft is Complex & Burdensome without Providing a Benefit to Water Quality

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Current Draft Priorities and Phases Ignores Low Risk Operations

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- Vineyards are a low risk to water quality and should be handled separately regarding monitoring and reporting.
 - Vineyards currently meet the 2050 Nitrogen Loading threshold and should be exempted from monitoring and reporting related to groundwater. (*offer specific information for your operation*)
 - Vineyards do not have tailwater and maintain winter cover crop, therefore their monitoring and reporting should reflect that operational risk. Moreover, the cover crop is mowed back into the soil at the beginning of the growing season.
 - Vineyards have existing buffer zones of approximately 25 feet to allow for equipment passage and turnaround. Removing vines to expand the buffer will disrupt the soils

DP-14
cont.

and provide an increased risk to water quality. The disrupted soils will be more susceptible to erosion. Also, the economic impact of lost revenue from removed vines, along with the cost of removing them (~~\$2000-\$3000 per acre~~) makes this an unnecessary economic burden for vineyards. This is especially problematic in the current economic atmosphere created by the pandemic.

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DP-15

SIP Certified Should be Recognized as an Alternative Compliance Pathway and Current SIP Documentation Should be Recognized in Lieu of Farm Planning Requirements

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DP-16

Closing

I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These changes would reflect the direction from the Board over the last several years in addition to vineyard stakeholders who are affected by this Order.

DP-17

Sincerely,

Jesus Chavez
Coastal Vineyard Care Associates
224 East Highway 246, Ste. A
Buellton, CA 93427
(805)350-9582

Response to Comment DP-1

Thank you for your comment. The CCWB acknowledges the information provided regarding Pali Vineyard.

Response to Comment DP-2 through DP-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DP-7

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Letter DQ: Jesus Chavez, Coastal Vineyard Care Associates (June 22, 2020)**Letter DQ**

June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

Information on Your Operation:

- Presquile Vineyard, 72 acres and located in Santa Maria California
- This vineyard is irrigated via drip emitters that virtually eliminate runoff. Cover Crop is maintained during winter. Bare soil is minimized, roads remain only for the necessary movement of equipment.
- All acreage of this vineyard is SIP Certified and has been for several years.
- I work in this region and live only a few miles away. I care about water quality, but believe that many of the currently proposed order will cause an unreasonable burden for the reasons detailed below.

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DQ-14
cont.

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DQ-15

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DQ-16

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 - SIP Certified operators, who are required to complete irrigation and nutrient reporting, should be allowed for this to be recognized without additional reporting.
 - SIP Certified operators are required to have a set back from blue-line streams and should be exempted from additional riparian requirements
 - SIP Certified operators are required to have an erosion plan and implement several winter erosion practices, this should be recognized without additional work.

DQ-17

Closing

I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These changes would reflect the direction from the Board over the last several years in addition to vineyard stakeholders who are affected by this Order.

Sincerely,

Jesus Chavez
Coastal Vineyard Care Associates
224 East Highway 246, Ste. A
Buellton, CA 93427
(805)350-9582

Response to Comment DQ-1

Thank you for your comment. The CCWB acknowledges the information provided regarding Prequile Vineyard.

Response to Comment DQ-2 through DQ-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DQ-7

In response to concerns related to cost considerations associated with complying with the DAO 4.0, refer to Master Response 2.9.1. In response to concerns related to the DEIR's economic analysis, including the sufficiency for CEQA compliance, refer to Master Response 2.10.

Response to Comment DQ-8

This comment is summarized and responded to in the following Master Responses: 2.1.5 and 2.2.2.

Response to Comment DQ-9

This comment is summarized and responded to in the following Master Responses: 2.1.7 and 2.3.1.

Response to Comment DQ-10

This comment is summarized and responded to in Master Response 2.3.1.

Response to Comment DQ-11

This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DQ-12

This comment is summarized and responded to in Master Response 2.3.5.

Response to Comment DQ-13

This comment is summarized and responded to in Master Response 2.5.8.

Response to Comment DQ-14 through DQ-15

This comment is responded to in Master Response 2.8.8.

Response to Comment DQ-16 through DQ-17

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.1.5; and 2.2.2.

Letter DR: Jesus Chavez, Coastal Vineyard Care Associates (June 22, 2020)**Letter DR**

June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

Information on Your Operation:

- Refugio Ranch Vineyard, 26.88 acres and located in Santa Ynez California
- This vineyard is irrigated via drip emitters that virtually eliminate runoff. Cover Crop is maintained during winter. Bare soil is minimized, roads remain only for the necessary movement of equipment.
- All acreage of this vineyard is SIP Certified and has been for several years.
- I work in this region and live only a few miles away. I care about water quality, but believe that many of the currently proposed order will cause an unreasonable burden for the reasons detailed below.

Current Draft is Complex & Burdensome without Providing a Benefit to Water Quality

- The current Draft, EIR, and Attachments are long (900 pages), complicated, and confusing with different reporting and timelines for different constituencies.
- While the staff outreach webinars did a good job of explaining the priority areas in their outreach webinars, details on the annual reporting were very insufficient. If the annual reporting can not be described in a 2 hour webinar, then the content of those requirements should be seriously reconsidered.
- The reporting is overly burdensome, expensive for growers and staff, and will not improve water quality.
- Furthermore, the extent and scope of information required is so great, that it is doubtful that staff could analyze and act on the information in a meaningful and timely way to feedback to growers to improve water quality.
- In addition, the Draft's economic analysis is fully insufficient and does not account for land fallowing, hiring professionals, loss of production, and several other costs associated with the grower requirements of this Draft.
- The completion of SIP Certifications each year take at least 60 labor hours. Fulfilling the AgOrder 4.0 requirements would take approximately three times that amount in the first year alone.

Current Draft Priorities and Phases Ignores Low Risk Operations

- Draft only considers geographic location and not operational risk to water quality. All growers are required to complete all reporting (eventually, and in compressed phasing timelines) regardless of operational risk.
- Vineyards are a low risk to water quality and should be handled separately regarding monitoring and reporting.
 - Vineyards currently meet the 2050 Nitrogen Loading threshold and should be exempted from monitoring and reporting related to groundwater. (*offer specific information for your operation*)
 - Vineyards do not have tailwater and maintain winter cover crop, therefore their monitoring and reporting should reflect that operational risk. Moreover, the cover crop is mowed back into the soil at the beginning of the growing season.
 - Vineyards have existing buffer zones of approximately 25 feet to allow for equipment passage and turnaround. Removing vines to expand the buffer will disrupt the soils

DR-14
cont.

DR-15

and provide an increased risk to water quality. The disrupted soils will be more susceptible to erosion. Also, the economic impact of lost revenue from removed vines, along with the cost of removing them (~~\$2000-\$3000 per acre~~) makes this an unnecessary economic burden for vineyards. This is especially problematic in the current economic atmosphere created by the pandemic.

- The operational or riparian setback measurement is described in the GIS mapping tool. However, one thing that I do not see mentioned is how the width of a waterbody is determined for an operational setback. This should not be left up to the grower to measure. Again, that would add an immense amount of unnecessary work.

DR-16

SIP Certified Should be Recognized as an Alternative Compliance Pathway and Current SIP Documentation Should be Recognized in Lieu of Farm Planning Requirements

- I have personally worked with SIP certifications for several years. The SIP certified program should be considered as a 3rd party, because many of the requirements include protecting bare soil from erosion, applying fertilizers based only on need and many others.
- As currently written, SIP Certified would not qualify as 3rd party. The framework of the requirements for a 3rd party imply a program that itself monitors water quality, rather than a program that certifies implementation of practices, water/nutrient budgeting, etc.
- If staff intends for a certification program to qualify, these requirements must be edited.
 - SIP Certified operators should have an alternative Annual Compliance process to avoid duplicative documentation.
 - SIP Certified operators are required to implement practices that protect water quality and are verified by an independent inspector.
 - SIP Certification Documentation (Irrigation, Nutrients, Erosion, Pest, Riparian) should be recognized in lieu of Farm Plans.
 - SIP Certified operators, who are required to complete GW testing, should be allowed for this to be recognized without requiring additional analyses.
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 - SIP Certified operators are required to have a set back from blue-line streams and should be exempted from additional riparian requirements
 - SIP Certified operators are required to have an erosion plan and implement several winter erosion practices, this should be recognized without additional work.

DR-17

Closing

I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These changes would reflect the direction from the Board over the last several years in addition to vineyard stakeholders who are affected by this Order.

Sincerely,

Jesus Chavez
Coastal Vineyard Care Associates
224 East Highway 246, Ste. A
Buellton, CA 93427
(805)350-9582

Response to Comment DR-1

Thank you for your comment. The CCWB acknowledges the information provided regarding Refugio Ranch Vineyard.

Response to Comment DR-2 through DR-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DR-7

In response to concerns related to cost considerations associated with complying with the DAO Order 4.0, refer to Master Response 2.9.1. In response to concerns related to the DEIR's economic analysis, including the sufficiency for CEQA compliance, refer to Master Response 2.10.

Response to Comment DR-8

This comment is summarized and responded to in the following Master Responses: 2.1.5 and 2.2.2.

Response to Comment DR-9

This comment is summarized and responded to in the following Master Responses: 2.1.7 and 2.3.1.

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Response to Comment DR-11

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Response to Comment DR-13

This comment is summarized and responded to in Master Response 2.5.8.

Response to Comment DR-14 through DR-15

This comment is responded to in Master Response 2.8.8.

Response to Comment DR-16 through DR-17

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.1.5; and 2.2.2.

Letter DS: Jesus Chavez, Coastal Vineyard Care Associates (June 22, 2020)**Letter DS**

June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

Information on Your Operation:

- Roblar Vineyard, 20 acres and located in Los Olivos California
- This vineyard is irrigated via drip emitters that virtually eliminate runoff. Cover Crop is maintained during winter. Bare soil is minimized, roads remain only for the necessary movement of equipment.
- All acreage of this vineyard is SIP Certified and has been for several years.
- I work in this region and live only a few miles away. I care about water quality, but believe that many of the currently proposed order will cause an unreasonable burden for the reasons detailed below.

Current Draft is Complex & Burdensome without Providing a Benefit to Water Quality

- The current Draft, EIR, and Attachments are long (900 pages), complicated, and confusing with different reporting and timelines for different constituencies.
- While the staff outreach webinars did a good job of explaining the priority areas in their outreach webinars, details on the annual reporting were very insufficient. If the annual reporting can not be described in a 2 hour webinar, then the content of those requirements should be seriously reconsidered.
- The reporting is overly burdensome, expensive for growers and staff, and will not improve water quality.
- Furthermore, the extent and scope of information required is so great, that it is doubtful that staff could analyze and act on the information in a meaningful and timely way to feedback to growers to improve water quality.
- In addition, the Draft's economic analysis is fully insufficient and does not account for land fallowing, hiring professionals, loss of production, and several other costs associated with the grower requirements of this Draft.
- The completion of SIP Certifications each year take at least 60 labor hours. Fulfilling the AgOrder 4.0 requirements would take approximately three times that amount in the first year alone.

Current Draft Priorities and Phases Ignores Low Risk Operations

- Draft only considers geographic location and not operational risk to water quality. All growers are required to complete all reporting (eventually, and in compressed phasing timelines) regardless of operational risk.
- Vineyards are a low risk to water quality and should be handled separately regarding monitoring and reporting.
 - Vineyards currently meet the 2050 Nitrogen Loading threshold and should be exempted from monitoring and reporting related to groundwater. (*offer specific information for your operation*)
 - Vineyards do not have tailwater and maintain winter cover crop, therefore their monitoring and reporting should reflect that operational risk. Moreover, the cover crop is mowed back into the soil at the beginning of the growing season.
 - Vineyards have existing buffer zones of approximately 25 feet to allow for equipment passage and turnaround. Removing vines to expand the buffer will disrupt the soils

DS-14
cont.

and provide an increased risk to water quality. The disrupted soils will be more susceptible to erosion. Also, the economic impact of lost revenue from removed vines, along with the cost of removing them (~~\$2000-\$3000 per acre~~) makes this an unnecessary economic burden for vineyards. This is especially problematic in the current economic atmosphere created by the pandemic.

DS-15

- The operational or riparian setback measurement is described in the GIS mapping tool. However, one thing that I do not see mentioned is how the width of a waterbody is determined for an operational setback. This should not be left up to the grower to measure. Again, that would add an immense amount of unnecessary work.

SIP Certified Should be Recognized as an Alternative Compliance Pathway and Current SIP Documentation Should be Recognized in Lieu of Farm Planning Requirements

- DS-16
- I have personally worked with SIP certifications for several years. The SIP certified program should be considered as a 3rd party, because many of the requirements include protecting bare soil from erosion, applying fertilizers based only on need and many others.
 - As currently written, SIP Certified would not qualify as 3rd party. The framework of the requirements for a 3rd party imply a program that itself monitors water quality, rather than a program that certifies implementation of practices, water/nutrient budgeting, etc.
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 - SIP Certified operators are required to implement practices that protect water quality and are verified by an independent inspector.
 - SIP Certification Documentation (Irrigation, Nutrients, Erosion, Pest, Riparian) should be recognized in lieu of Farm Plans.
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 - SIP Certified operators are required to have a set back from blue-line streams and should be exempted from additional riparian requirements
 - SIP Certified operators are required to have an erosion plan and implement several winter erosion practices, this should be recognized without additional work.

Closing

DS-17

I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These changes would reflect the direction from the Board over the last several years in addition to vineyard stakeholders who are affected by this Order.

Sincerely,

Jesus Chavez
Coastal Vineyard Care Associates
224 East Highway 246, Ste. A
Buellton, CA 93427
(805)350-9582

Response to Comment DS-1

Thank you for your comment. The CCWB acknowledges the information provided regarding Roblar Vineyard.

Response to Comment DS-2 through DS-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DS-7

In response to concerns related to cost considerations associated with complying with the DAO 4.0, refer to Master Response 2.9.1. In response to concerns related to the DEIR's economic analysis, including the sufficiency for CEQA compliance, refer to Master Response 2.10.

Response to Comment DS-8

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Response to Comment DS-9

This comment is summarized and responded to in the following Master Responses: 2.1.7 and 2.3.1.

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Response to Comment DS-13

This comment is summarized and responded to in Master Response 2.5.8.

Response to Comment DS-14 through DS-15

This comment is responded to in Master Response 2.8.8.

Response to Comment DS-16 through DS-17

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.1.5; and 2.2.2.

Letter DT: Jesus Chavez, Coastal Vineyard Care Associates (June 22, 2020)**Letter DT**

June 22, 2020

Matthew T. Keeling, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 94301

Delivered via electronic mail to AgNOI@waterboards.ca.gov

Dear Executive Officer Keeling:

Information on Your Operation:

- Portico Hills Vineyard, 82 acres and located in Los Alamos California
- This vineyard is irrigated via drip emitters that virtually eliminate runoff. Cover Crop is maintained during winter. Bare soil is minimized, roads remain only for the necessary movement of equipment.
- All acreage of this vineyard is SIP Certified and has been for several years.
- I work in this region and live only a few miles away. I care about water quality, but believe that many of the currently proposed order will cause an unreasonable burden for the reasons detailed below.

Current Draft is Complex & Burdensome without Providing a Benefit to Water Quality

- The current Draft, EIR, and Attachments are long (900 pages), complicated, and confusing with different reporting and timelines for different constituencies.
- While the staff outreach webinars did a good job of explaining the priority areas in their outreach webinars, details on the annual reporting were very insufficient. If the annual reporting can not be described in a 2 hour webinar, then the content of those requirements should be seriously reconsidered.
- The reporting is overly burdensome, expensive for growers and staff, and will not improve water quality.
- Furthermore, the extent and scope of information required is so great, that it is doubtful that staff could analyze and act on the information in a meaningful and timely way to feedback to growers to improve water quality.
- In addition, the Draft's economic analysis is fully insufficient and does not account for land fallowing, hiring professionals, loss of production, and several other costs associated with the grower requirements of this Draft.
- The completion of SIP Certifications each year take at least 60 labor hours. Fulfilling the AgOrder 4.0 requirements would take approximately three times that amount in the first year alone.

Current Draft Priorities and Phases Ignores Low Risk Operations

- Draft only considers geographic location and not operational risk to water quality. All growers are required to complete all reporting (eventually, and in compressed phasing timelines) regardless of operational risk.
- Vineyards are a low risk to water quality and should be handled separately regarding monitoring and reporting.
 - Vineyards currently meet the 2050 Nitrogen Loading threshold and should be exempted from monitoring and reporting related to groundwater. (*offer specific information for your operation*)
 - Vineyards do not have tailwater and maintain winter cover crop, therefore their monitoring and reporting should reflect that operational risk. Moreover, the cover crop is mowed back into the soil at the beginning of the growing season.
 - Vineyards have existing buffer zones of approximately 25 feet to allow for equipment passage and turnaround. Removing vines to expand the buffer will disrupt the soils

DT-14
cont.

DT-15

and provide an increased risk to water quality. The disrupted soils will be more susceptible to erosion. Also, the economic impact of lost revenue from removed vines, along with the cost of removing them (**\$2000-\$3000 per acre**) makes this an unnecessary economic burden for vineyards. This is especially problematic in the current economic atmosphere created by the pandemic.

- The operational or riparian setback measurement is described in the GIS mapping tool. However, one thing that I do not see mentioned is how the width of a waterbody is determined for an operational setback. This should not be left up to the grower to measure. Again, that would add an immense amount of unnecessary work.

DT-16

SIP Certified Should be Recognized as an Alternative Compliance Pathway and Current SIP Documentation Should be Recognized in Lieu of Farm Planning Requirements

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- As currently written, SIP Certified would not qualify as 3rd party. The framework of the requirements for a 3rd party imply a program that itself monitors water quality, rather than a program that certifies implementation of practices, water/nutrient budgeting, etc.
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 - SIP Certified operators are required to implement practices that protect water quality and are verified by an independent inspector.
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 - SIP Certified operators are required to have an erosion plan and implement several winter erosion practices, this should be recognized without additional work.

DT-17

Closing

I encourage staff to consider modifying this draft to consider alternative compliance for low risk vineyards, leveraging current successful efforts, such as SIP Certified, and creating a framework that incentivizes adoption of practices that protect water quality by reducing the regulatory requirements. These changes would reflect the direction from the Board over the last several years in addition to vineyard stakeholders who are affected by this Order.

Sincerely,

Jesus Chavez
Coastal Vineyard Care Associates
224 East Highway 246, Ste. A
Buellton, CA 93427
(805)350-9582

Response to Comment DT-1

Thank you for your comment. The CCWB acknowledges the information provided regarding Portico Hills Vineyard.

Response to Comment DT-2 through DT-6

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DT-7

In response to concerns related to cost considerations associated with complying with the DAO 4.0, refer to Master Response 2.9.1. In response to concerns related to the DEIR's economic analysis, including the sufficiency for CEQA compliance, refer to Master Response 2.10.

Response to Comment DT-8

This comment is summarized and responded to in the following Master Responses: 2.1.5 and 2.2.2.

Response to Comment DT-9

This comment is summarized and responded to in the following Master Responses: 2.1.7 and 2.3.1.

Response to Comment DT-10

This comment is summarized and responded to in Master Response 2.3.1.

Response to Comment DT-11

This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DT-12

This comment is summarized and responded to in Master Response 2.3.5.

Response to Comment DT-13

This comment is summarized and responded to in Master Response 2.5.8.

Response to Comment DT-14 through DT-15

This comment is responded to in Master Response 2.8.8.

Response to Comment DT-16 through DT-17

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.1.5; and 2.2.2.

Letter DU: John DeCarli, Steve Bassi, and Scott Rossi, Tanimura & Antle (June 22, 2020)**Letter DU**

From: JohnDeCarli@taproduce.com
To: AgNOI_WB@Waterboards
Subject: Comments on Draft Ag Order 4.0
Date: Monday, June 22, 2020 9:48:49 AM
Attachments: [Ag Order 4.0 Comment - Tanimura & Antle 6.22.2020.pdf](#)

EXTERNAL:

Please see the attached comment letter.

Thank you,
John



John DeCarli
Director of Compliance
Office: 831-455-3980
Mobile: 831-809-8103
www.taproduce.com



June 19, 2020

Matthew T. Keeling
Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Dear Mr. Keeling:

- DU-1 We are writing this letter to express our concerns with the Central Coast Regional Water Quality Control Board's Draft Ag Order 4.0. Tanimura & Antle is concerned about the environment and the quality of our water supply for current and future generations. Our operation has already taken several steps to reduce fertilizer and water usage. We feel that many of the proposed new regulations in this Ag Order are not feasible. Regulatory costs affect competitiveness of the California agriculture industry. This can push crop production out of the state or to other countries which can affect employment and income for the region. The major areas of concern are the nitrogen application and discharge limits, surface water discharge limits, and waterway setbacks.
- DU-2
- DU-3 The limits on fertilizer applications are not supported by agronomic science. Meeting the nitrogen discharge limits in the Ag Order would require significantly reducing applied nitrogen and incurring additional management costs. This would result in potential changes to yield, quality, and costs. It would affect the types of crops that can be grown in the region and lead to land being fallowed and permanently removed from production.
- DU-4 The 500 and 400 lb/acre nitrogen discharge targets in 2022 and 2024 can be achieved with modifications to our growing practices. The proposed limits starting in 2026 will be impossible to reach, especially the 2050 limit of 50 lbs. of nitrogen discharged per acre per year. The proposed nitrogen limits will not allow for multiple cropping. In fact, many of the proposed limits will not even allow single cropping. These limits also need to be increased for organic production due to mineralization rates of organic fertilizers.
- DU-5 The A-R calculation methods do not take into account all forms of nitrogen removed, lost through denitrification, volatilized, or otherwise lost, not to mention the different ways growers mitigate for nitrogen loss; these should be inherent to any calculation. Collective treatment type projects should be given more credit in the A-R equation. A farmer that maintains a bioreactor on their land which removes nitrogen that came partially from their neighbor, should get full credit for all the nitrogen removed from the system. This would incentivize more growers to install these types of systems, which remove nitrogen from a collective area.

Proud to be an Employee Owned Family Farm

Tanimura & Antle, Inc. • PO Box 4070, Salinas, CA 93912 • 1 Harris Road, Salinas, CA 93908 • 800.772.4542 • www.taproduce.com

Mr. Matthew Keeling

2

June 19, 2020

DU-6 [Central Coast agricultural organizations have been working on a watershed-based third-party group concept for surface water monitoring and reporting. This process should be encouraged by the Water Board and implemented in priority watersheds. In order to meet the surface water protection issues, growers should be able to participate in this Enhanced Surface Water Watershed Program through a Cooperative Monitoring Program. This would be a much more efficient way to reach compliance.

DU-7 [Implementation of the operational and riparian set-backs will automatically result in land-idling and land use changes since commercial crop production is prohibited in such areas. Expanded riparian habitat management requirements would require retiring productive farmland and developing setback areas from most waterways. Planting and maintaining native riparian vegetation not only causes loss of production area but also dramatically increases management costs. These new riparian areas could also cause new vertebrate pest pressure and food safety issues.

DU-8 [Installation of new riparian vegetation as a requirement for water quality compliance is not consistent with the Water Board's authority related to an Ag Order or Waste Discharge Requirements Order, and should not be mandated. There are many landowners and their families that have worked very hard to purchase their farmland and they should not be forced to remove any of it from production to establish setbacks. Perhaps new or existing riparian areas on a ranch can act as a credit rather than a requirement.

DU-9 [The agriculture industry as a whole wants to comply and not cause harm to our environment. Most of what this Ag Order is proposing is not possible to obtain with current science. Success is likely only possible if there is an aggressive R&D program that is properly funded so that new technologies may be developed and implemented by growers on the Central Coast. This research must take into account all crops, soil types, and climates. More focus must be placed on innovation and providing credits for mitigating nitrogen to groundwater, not limiting fertilizer inputs.

DU-10 [We appreciate the opportunity to provide comments on the Draft Ag Order 4.0. We hope that you will consider these comments when developing the order.

Sincerely,



John DeCarli
Director of Compliance



Steve Bassi
Chief Ag Officer



Scott Rossi
Director of Salinas Farm

Response to Comment DU-1

This comment is summarized and responded to in the following Master Responses: 2.9.1; 2.1.2; 2.1.4; and 2.3.1.

Response to Comment DU-2

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.3.10; 2.3.3; and 2.5.2.

Response to Comment DU-3

This comment is summarized and responded to in the following Master Responses: 2.9.1; 2.1.11; and 2.3.10.

Response to Comment DU-4

This comment is summarized and responded to in the following Master Responses: 2.1.8 and 2.1.11.

Response to Comment DU-5

This comment is summarized and responded to in Master Response 2.1.8.

Response to Comment DU-6

This comment is summarized and responded to in Master Response 2.5.5.

Response to Comment DU-7 through DU-8

This comment is responded to in Master Response 2.8.8.

Response to Comment DU-9

This comment is summarized and responded to in the following Master Responses: 2.1.8; 2.1.10; 2.1.11; and 2.3.1.

Response to Comment DU-10

Thank you for your comment.

Letter DV: John Bramers, Merrill Farms LLC (June 22, 2020)**Letter DV**

From: [John Bramers](#)
To: AgNOI_WB@Waterboards
Subject: Comments of Draft Ag Order 4.0
Date: Monday, June 22, 2020 3:54:51 PM
Attachments: [image003.png](#)
[Merrill Farms Comments to Ag Order 4.0 June 22 2020.pdf](#)

EXTERNAL:

Please see attached file for a comment letter for the Draft ag Order 4.0

Thanks

John Bramers
Merrill Farms LLC
831-809-7307





June 22, 2020

Dr. Jean-Pierre Wolff, Chair
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 934001

RE: Comments in Response to Draft Environmental Impact Report (DEIR) and Draft General Waste Discharge Requirements for Discharges from Irrigated Lands within the Central Coast

DV-1

Please let me introduce myself and the company that I work for. My name is John Bramers, I graduated from Cal Poly San Luis Obispo in 1993 with a degree in Ag Business, shortly after graduation I started working full time for Merrill Farms in Salinas California. Merrill Farms is a fourth generation farming company and just celebrated its 85th year in 2018. Today the company operates on 7,500 land acres in Monterey County employing 20 full time employees and 160 part time irrigators and tractor drivers

Merrill Farms LLC recognizes that inputs used in commercial, irrigated agriculture can contribute nutrients to surface and groundwater in the areas where we farm. This can result in human health hazards and environmental degradation. We are committed to minimizing negative impacts to local waters through continuous review and revision of our farming practices.

DV-2

I am very concerned with the new staff proposed irrigated lands regulatory program (Ag Order 4.0) that is being proposed. Many Trade Associations, Growers and Land Owners form within region 3 have worked hard to put forward alternative approaches that do not limit the ability to grow vegetable crops and take value jobs away from hard working people in the communities. I encourage you to read each and every letter that is submitted by the trade associations and others in region 3. I have read the

DV-3

letters/proposals that Norm Groot of the Monterey County Farm Bureau and from The Central Coast Grower Shipper Association which includes multiple trade associations from Region 3 and the Central Coast. Both these letters express the feelings from all growers and land owners on the central Coast. Kay

DV-4

Mercer of Provost & Pritchard has submitted a very alarming document on the Riparian Area Management and Setbacks that are required in this new ag order which needs to be taken very seriously as well. Thanks for taking the time to read my letter. Please contact me at 831-424-7365 with any

DV-5

questions

Sincerely,
John Bramers

Chief Compliance Officer

Response to Comment DV-1

Thank you for your comment. The CCWB acknowledges the commenter's background and interests.

Response to Comment DV-2

Comment noted.

Response to Comment DV-3

Comment noted.

Response to Comment DV-4

This comment is responded to in Master Response 2.8.8.

Response to Comment DV-5

Thank you for your comment.

Letter DW: Josh Roberts, Triangle Farms, Inc. (June 22, 2020)**Letter DW**

From: [Josh Roberts](#)
To: AgNOI_WB@Waterboards
Cc: [Josh Roberts](#)
Subject: Comments on Ag Order 4.0
Date: Monday, June 22, 2020 4:46:07 PM

EXTERNAL:

Irrigated Lands Program
 Central Coast Regional Water Quality Control Board
 895 Aerovista Place, Suite 101
 San Luis Obispo, CA 93401
AgNOI@waterboards.ca.gov <<mailto:AgNOI@waterboards.ca.gov>>

Subject: Comments on Draft Ag Order 4.0

- DW-1 Thank you for the opportunity to comment on the proposed Ag Order 4.0. We are an organic and conventional farming company located in Salinas Valley. We grow over 11,000 acres of vegetables for twenty-eight (28) grower-shippers and processors on our farms located from north Salinas to San Lucas.
- DW-2 **Sediment and Erosion Control:** Stormwater cannot be predicted nor controlled in high rate flow events, particularly on short notice. The order would require construction and maintenance of retention ponds which may conflict with the Riparian preservation goals of the Order. Additionally, the hillsides of the Salinas Valley have naturally developed deep rooted grasses that have all but eliminated erosion. The controls should be specific to areas subject to erosion, and not to all slopes.
- DW-3 **Irrigation and Nutrient Management:** We monitor net nitrogen and will continue to use innovative methods of detection and science to limit nitrogen use to only what is needed based on existing levels, including already existing levels in irrigation water. We believe that a greater emphasis should be placed on innovative farming methods and fertilizer use, with incentives or credits for farms that mitigate potential nitrogen leaching into groundwater, not by limiting fertilizer inputs.
- DW-4 We believe that the proposed order's compliance pathways for nitrogen discharge target and limits will negatively impact our organic fertility program and economic sustainability due to the lack of recognition or discount provided to fertilizers used in organic agriculture. We are supportive of the nitrogen discount factor provided to application of composts due to their nitrogen mineralization rates based on their carbon-to-nitrogen ratio.
- DW-5 We recommend that fertilizers used in organic farming be provided the same nitrogen discount factor as compost. The chemical characteristics of organic fertilizers align with compost, i.e. nitrogen mineralization rates and carbon-to-nitrogen ratios. Organic fertilizers are known to similarly contribute to on-farm soil health, nutrient and carbon sequestration, and water holding capacity.
- DW-6 We also support the comments from the Ag Association Partners' Comprehensive Submittal,
 DW-7 Including Redline Revisions to the General Order (Ag Partner Submittal), and from True Organic Products, Inc.

Sincerely,

Josh Roberts, President
Triangle Farms, Inc.
1586 Moffett Street; Suite F
Salinas, CA 93905
jroberts@trianglefarmsinc.com

Response to Comment DW-1

Thank you for your comment. The CCWB acknowledges the commenter's background and interests.

Response to Comment DW-2

This comment is summarized and responded to in the following Master Responses: 2.7.5; 2.7.1; and 2.7.2.

Response to Comment DW-3

This comment is summarized and responded to in the following Master Responses: 2.1.8 and 2.3.9.

Response to Comment DW-4 through DW-5

This comment is summarized and responded to in Master Response 2.1.8.

Response to Comment DW-6 through DW-7

This comment is summarized and responded to in Master Response 2.1.14

Letter DX: Kevin Peck (June 22, 2020)**Letter DX**

From: [Kevin Peck](#)
To: [AgNOI_WB@Waterboards](#)
Subject: AG Order 4.0
Date: Monday, June 22, 2020 1:20:23 PM

EXTERNAL:

- DX-1 I Thank you for allowing and providing a process to comment on the subject AG Order 4.0.
- I manage a large family ranch in the Shandon/Paso Robles region. Our family has owned and operated the ranch for about 55 years. As part of our operations, we currently lease approximately 700 acres of “wine grape” ground and another 650 acres of irrigated “vegetable” ground.
- DX-2 I We find this Order is far too complex and intrusive.
- DX-3 I
- The expense in time, energy, money and restraints on our business are not proportional to the small problem here in this area.
- DX-4 I
- Wine Grapes are a crop that use small amounts of water, nitrogen and chemicals of concern and should be rewarded, not punished under this Order.
- DX-5 I
- The Paso Robles Basin and the Estrella Watershed should have a lighter layer of Regulation.
- DX-6 I
- The Riparian protections in the Order go way too far and will likely not withstand legal challenge.
- DX-7 I
- The Central Coast Water Board has heard from many individual local farmers expressing their own similar opinions and concerns.

Thanks again for considering my concerns.

Sincerely, Kevin A Peck

Response to Comment DX-1

Thank you for your comment. The CCWB acknowledges facility operations and information provided by the commenter.

Response to Comment DX-2

This comment is summarized and responded to in Master Response 2.1.4.

Response to Comment DX-3

This comment is summarized and responded to in Master Response 2.3.10.

Response to Comment DX-4

This comment is summarized and responded to in Master Response 2.1.7.

Response to Comment DX-5

This comment is summarized and responded to in Master Response 2.1.6.

Response to Comment DX-6

This comment is responded to in Master Response 2.8.8.

Response to Comment DX-7

Thank you for your comment.

Letter DY: Mara Miller, Royal Oaks Farms LLC, Rancho Royal Oaks LLC (June 22, 2020)**Letter DY**

From: [Mara Miller](#)
To: [AgNOI_WB@Waterboards](#)
Subject: Comments on Draft Ag Order 4.0
Date: Monday, June 22, 2020 10:58:57 PM
Attachments: [image.png](#)

EXTERNAL:

June 16, 2020

State of California Central Coast Regional Water Quality Control Board
 895 Aerovista Place, Suite 101
 San Luis Obispo, CA 93401-7906

Subject: Response to Ag Order 4.0

To Whom It May Concern:

- DY-1 This letter is in response to the Ag Order 4.0 public comment. We speak both as landowners and producers of conventional and organic fresh fruits (berries) and vegetables. Our family has been in agriculture for generations and more than sixty-five years on the Central Coast, as well as, other parts of California.
- DY-2 We suggest that prior to the acceptance of the Ag Order 4.0 as it is written, the Board members reach out to growers and land owners to help learn what we do on a daily basis to protect our soil and especially our water. We need to help you understand the far-reaching unintended consequences that will affect Regional, County, State and Federal interests. There should be more public dialogue to discuss the impacts this order will have on local farming operations, both financially as well our potential to produce the food you eat.
- DY-3 The proposed Ag Order 4.0 currently requires certified erosion control plans 5% slope, we ask that you consider that be changed to a 10% slope. Leaving the requirement at 5% may result in reduced crop rotation and will disproportionately impact organic acres.
- DY-4 The nutrient management section of the Ag Order 4.0 should include a 'biomass discount factor'. This is important, the fact is that much of the Nitrogen applied via mulch is not immediately available to the crops. Additionally, we incorporate our used crops via tilling or mulching them back into the soil. We don't dispose of the old canes of blackberries, raspberries or blueberries or end of season plants (strawberries, left over lettuces, broccoli stems) into the trash, they go back into the soil to provide additional organic matter for the benefits of the soil. By limiting the amount of nitrogen that can be applied to a crop, as it is currently written, we would need to dispose of all used canes and plants adding to our costs and being highly inefficient with our waste contributing instead to greenhouse gases rather than benefitting the soil as it does currently.
- DY-5 As members of the Grower-Shipper Association we join in support of the concerns that they have submitted during the comment period. The areas of concern include Irrigation and Nutrient Management for Groundwater Protection, Sediment & Erosion Control, Surface Water Monitoring & Reporting, Riparian Area Management & Setbacks (conversion of agricultural land to nonagricultural land) and general economic impacts.
- DY-6 Our family continually works to reduce all adverse impacts on the environment by enrolling in programs with the RCD. We recognize there are several methods to reduce our carbon footprint and work with several professionals to accomplish that. We hope that you will encourage the staff to include more options for compliance to the Ag Order 4.0 for best results and continued farming on the Central Coast. What needs to be examined and cared about is the economic impact to the small to mid-size family run operations like ours, not to mention jobs, land use and agricultural resources. We need your help to keep putting healthy food grown in California on your tables as so many long term growers are being forced to quit.

Respectfully,



Mara Miller
 VP of Operations
 Royal Oaks Farms, LLC
 Rancho Royal Oaks, LLC

Response to Comment DY-1

Thank you for your comment. The CCWB acknowledges the commenter's background and interests.

Response to Comment DY-2

Comment noted.

Response to Comment DY-3

This comment is summarized and responded to in Master Response 2.7.5.

Response to Comment DY-4

This comment is summarized and responded to in Master Response 2.1.8.

Response to Comment DY-5

This comment is summarized and responded to in the following Master Responses: 2.8.8; 2.9.1; 2.3.1; 2.5.2; 2.5.3; and 2.7.1.

Response to Comment DY-6

This comment is summarized and responded to in the following Master Responses: 2.1.7; 2.1.10; and 2.1.11.

Letter DZ: Melissa Duflock, San Bernardo Rancho (June 22, 2020)**Letter DZ**

San Bernardo Rancho

PO Box 329, San Ardo, CA 93450

Re: Comments on Draft Ag Order 4.0

Dear Mr. Keeling,

I am a fifth-generation owner and steward of San Bernardo Rancho, located in San Ardo, CA, in Monterey County. Our ranch operates approximately 10,000 acres and our property is situated along both sides of the Salinas River.

I am very concerned about the riparian setbacks. During the Ag Order 4.0 workshop I asked the question "What happens when the river channel changes and moves?" The response was that once your setback is established on paper that it would not change and the fences would not need to be moved. So my question is: How does that achieve better water quality if at some point in time you are left without a setback on one side of the river and double the setback on the opposite side of the river? This doesn't make any sense and fences are very expensive to build.

Another concern regarding the riparian setbacks are the associated requirements for the installation of additional vegetation. The cost to increase vegetation beyond the requirements in the Riverbed Maintenance Program are burdensome, excessively costly, and may require the introduction of pest control and fertilization measures in order to establish the new vegetation. Expanding the setback requirements will reduce the productive acreage available for our lessees, thereby reducing our potential for lease incomes and potentially a significant impact on the land value, both of which will also bear tax implications. Finally, the expanded vegetative buffers pose additional risks to food safety in bordering crops.

Additionally, it is my belief that Part 2, Section D.15 requiring access roads to be built to California Code of Regulations Title 14, Chapter 4, is not only unnecessary, but is excessive and will add additional costs without providing any measurable benefit.

Thank you for your consideration of these concerns and objections.

Sincerely,



Melissa Duflock

Managing Partner

Response to Comment DZ-1

Thank you for your comment. The CCWB acknowledges the commenter's background.

Response to Comment DZ-2 through DZ-3

This comment is responded to in Master Response 2.8.8.

Response to Comment DZ-4

This comment is summarized and responded to in Master Response 2.9.2.

Response to Comment DZ-5

This comment is responded to in Master Response 2.8.8.

Response to Comment DZ-6

This comment is summarized and responded to in the following Master Responses: 2.9.1 and 2.1.12.