

**STATE WATER RESOURCES CONTROL BOARD  
EX PARTE COMMUNICATIONS REGARDING PENDING GENERAL ORDERS  
DISCLOSURE FORM**

*Note: This form is intended to assist the public in providing the disclosure required by law. It is designed to document meetings and phone calls. Written communications may be disclosed by providing a complete copy of the written document, with attachments. Unless the board member(s) provided you with a different contact person, please send your materials to: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)*

***Use of this form is not mandatory.***

1. Pending General Order that the communication concerned:
  
2. Name, title and contact information of person completing this form:  
*Note: Contact information is not mandatory, but will allow the Water Board to assist you if additional information is required. If your contact information includes your personal residence address, personal telephone number or personal email address, please use a separate sheet of paper if you do not want that information posted on our website. However, this information may be provided to members of the public under the Public Records Act.*
  
3. Date of meeting, phone call or other communication:  
  
Time:  
  
Location:
  
4. Type of communication (written, oral or both):
  
5. Names of all participants in the communication, including all board members who participated:
  
  
6. Name of person(s) who initiated the communication:
  
  
7. Describe the communication and the content of the communication. *Include a brief list or summary of topics discussed at the meeting, any legal or policy positions advocated at the meeting, any factual matters discussed, and any other disclosure you believe relevant. The Office of Chief Counsel recommends that any persons requesting an ex parte meeting prepare an agenda to make it easier to document the discussion properly. Attach additional pages, if necessary.*
  
8. **Attach a copy of handouts, PowerPoint presentations and other materials any person used or distributed at the meeting. If you have electronic copies, please email them to facilitate web posting.**

## **State Water Board Member Briefing Summary of Issues re Central Coast Water Board Ag Order**

### ***Nitrogen Reporting and Nutrient Management Requirements are highest priority***

The Regional Board recommends that the State Board retain specific reporting requirements that are fundamental to effectively implement the Agricultural Order:

- We strongly agree with the language in the State Board's Draft Order to uphold the reporting of nitrogen applied for the subset of Tier 2 and Tier 3 farms that are high risk for loading nitrate to groundwater.
- We agree with the proposed late changes which reinstate and clarify the option to report nitrogen applied by risk unit.

We continue to disagree with the removal of other reporting requirements related to nutrient management for a subset of Tier 3 farms. We specifically recommend that the State Board reinstate the following requirements in the Agricultural Order:

- The requirement for Tier 3 farms with high nitrate loading risk to report the typical crop nitrogen uptake (Condition 74 and MRP Section B.1.(a))
- The requirement for Tier 3 farms to calculate and report the annual balance of nitrogen applied per crop compared to the typical crop nitrogen uptake (MRP Section B.1.(b))
- The requirement for Tier 3 farms to meet a nutrient balance ratio target by some future date, with the Expert Panel to determine the target(s) and dates to comply. OR, direct the Expert Panel to develop a method for determining basin specific nutrient load limits that will achieve surface water and groundwater quality objectives over a defined schedule.

### ***Why do we need these requirements?***

Without this fundamental information, the Regional Board cannot implement the program to achieve its stated purpose of reducing pollutant loading, improving water quality and protecting sources of drinking water.

Crop specialists have been recommending nutrient management practices for decades. Nutrient budgeting should be a standard industry practice, and many growers report that they are already implementing these fundamental practices. Unfortunately, the Water Board has no information to verify the level of practice implementation or evaluate the extent to which implementation is actually leading to pollutant load reduction. Some of the experts indicated that growers are NOT implementing irrigation and nutrient management practices in general - even when they are saying they do.

### ***How did we develop these requirements? What was the thinking behind them?***

We consulted with a group of experts that included private industry Certified Crop Advisors (CCAs), as well as UC Cooperative Extension researchers, and also technical advisors and Regional Board staff from the Central Valley Region to develop the nutrient management requirements. The experts consistently recommended that "documenting the reduction of

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nitrogen input to the production system and improved irrigation efficiency should be the focus of the Ag Order”.

- This documentation, in a manner that allows timely evaluation (in a Water Board database) is fundamental to effective program implementation.

Staff and the technical experts thoughtfully and carefully discussed and evaluated what could be the minimum reporting requirements that would trigger behavioral changes and influence growers to improve irrigation and nutrient management practices. The experts agreed that identifying how much nitrogen is needed and comparing that to the amount of nitrogen that is applied is a fundamental and critical necessity in influencing change and preventing nitrate impacts to groundwater.

With their experience, the experts agreed that tremendous improvements in nitrogen application should and could be made. The experts came up with 3 elements: documenting total nitrogen applied, determining nitrogen crop needs, and meeting the balance ratios of 1.2 and 1.0. Also, they agreed that the growers could meet those ratios in 3 years if they were required to work with a Certified Crop Advisor to do so.

The experts recommended that requiring the reporting of the key INMP elements, including the nutrient balance ratios, would minimize the burden of reporting and would likely cause fundamental on-the-ground improvements in nutrient budgeting.

Experts identified the following specific benefits from these INMP requirements:

- develop an annual target of fertilizer application – that would be considered as a reasonable standard at this point in time;
- implement a system of fertilizer record keeping that growers will incorporate when making their fertilizer application decisions, which is critical for effective nutrient budgeting;
- allows for growers to compare how much nitrogen is needed and better understand how much extra is over applied;
- document that growers are, in many cases, applying more fertilizer than is necessary;
- move the industry towards a more sustainable fertilizer application state;
- develop an interim step or target that will be modified later on, once all growers are familiar with crop needs, the amount of nitrogen removed by the crop, and after having an effective record keeping system in place;

### ***What's the issue?***

Since everyone agrees that nutrient budgeting is so critical - what is the issue? The issue is the reporting of this information. Information regarding fertilizer applications is clearly proprietary and therefore protected by the Water Code - so cannot be disclosed to the public.

The reporting requirements create accountability and compel the highest risk farms to evaluate and change their practices, as appropriate, to protect water quality. The requirement to report this information to the Water Board is not only basic and fundamental; it is also reasonable, especially given the severe water quality conditions and impacts to drinking water and public health.

- Region 3 has been implementing the Order for the past 18 months, and it is working. Growers have submitted information for over 4000 farms already; management practice

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implementation for over 1300 farms, and groundwater monitoring data for more than 2000 wells.

- Further reducing the reporting requirements would reverse this progress.
- Region 5 coalitions are considering requiring the same information and using it in the same manner as Region 3. The Region 5 Dairy Program already collects this information to a higher level of detail and with more restrictions.
- Reinstating these requirements does not conflict with the Expert Panel process. Experts already agree that reporting of total nitrogen applied should be a fundamental reporting requirement. The requirements in the Draft Order provide flexibility in how to report the information and the Expert Panel process can inform the details. Reporting for the subset of Tier 2 and Tier 3 farms that are higher risk is not due until October 2014 - so there is time for the Expert Panel to convene and provide input to the details of reporting.

### ***Groundwater Monitoring - Maximizing Data to Protect Public Health Should be Highest Priority***

- There has been a lot of debate and edits to the Ag Order about how cooperative groundwater programs should conduct well sampling. Should they sample all drinking water wells? Should they sample once a year, twice a year? How will they determine representativeness? What is an appropriate level of statistical certainty? Should wells that exceed the drinking water standard be resampled?
- The Central Coast Ag Order and MRP state that: At a minimum, the cooperative groundwater monitoring effort must include sufficient monitoring to adequately characterize the groundwater aquifer(s) in the local area of the participating Dischargers, characterize the groundwater quality of the uppermost aquifer, and identify and evaluate groundwater used for domestic drinking water purposes.
- However, ag industry reps commented that a cooperative program could do many things - including sophisticated and costly analyses to determine the source of pollution and causality. This would be very costly, and is NOT required by the Ag Order and MRP. Furthermore, there is already substantial evidence and documentation in the literature that the major source of nitrate in groundwater is nitrogen from fertilizers. Causality research should not be done in lieu of assessing the drinking water beneficial use (sampling domestic wells). These types of efforts should be secondary to the required monitoring.
- We do not object to cooperative programs conducting sophisticated monitoring that goes above and beyond the requirements in the MRP. However, cooperative programs must prioritize efforts to maximize the certainty of the data and representativeness of the study design for the primary purpose of the monitoring BEFORE resources are expended to conduct monitoring that is not required.
- Efforts to conduct monitoring that is NOT required should not compromise or diminish the quality of monitoring that is required. For example, if the wells chosen cannot represent drinking water with a reasonable amount of certainty sufficient to protect public health and inform all drinking water users - more wells must be sampled before any non-required monitoring is conducted.

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- This is reasonable, and it is necessary to make sure that we maximize our efforts to protect drinking water and public health, and sufficiently characterize groundwater in agricultural areas.