



September 18, 2014

VIA EMAIL TO: Clerk of the Board, commentletters@waterboards.ca.gov

Members of the Board
State Water Resources Control Board 1001 I Street
Sacramento, CA 95814

Re: FY2014-15 Water Quality Fee Regulations for Consideration at the September 23, 2014 SWRCB Meeting – Oppose

Chair Marcus and Members of the Board:

Agricultural Council of California (Ag Council) represents approximately 15,000 farmers across the state of California, ranging from small, farmer-owned businesses, to some of the world's best-known brands. We appreciate the opportunity to comment on the proposed regulatory fee schedules for Waste Discharge Permit Fund to be discussed at the September 23, 2014 board meeting.

Ag Council opposes the immediate proposed fee increases, and is also greatly concerned about the lack of stakeholder input into the longer-term program funding process. While stakeholder input on the CAF program was slightly improved from previous years, input on the other fees was not garnered in a satisfactory timeframe. We propose both short term and long term solutions for consideration of the Board.

CAF & WDR PROPOSED FEE INCREASES

In the short-term, Ag Council was disappointed to learn that the proposed fee increase for Confined Animal Facilities (CAF) was increased recently and is now a 31.6 percent increase above existing fees under the proposed rule. This is of great concern to our dairy members, in particular, because more than one-fifth of the dairies in California have closed over the past six years. While the economics of the dairy industry have improved in 2014, feed and other input costs are still very high. Additionally, in continuance of our discussion last year, the dairy pricing situation in California has not yet been resolved.

Given the circumstances facing this industry, we respectfully ask that the Board freeze the CAF fees at the current levels while it reviews the proposed increases using the factors outlined under California Water Code Section 13260. Specifically, Section 13260(D)(v) directs the board to consider "The pricing mechanism of the commodity produced" in establishing the amount of a fee. Ag Council believes this factor and others under the code section would lead the Board to a different conclusion rather than the enormous increase in CAF fees.

In addition, Section 13260(D)(vi) further instructs the Board to consider “Any compliance costs borne by the operation pursuant to state and federal water quality regulations.” Ag Council is involved in a separate effort with the Board to review costs of compliance and--given the Board’s strong interest in this area--we encourage the Board to take into account compliance costs during this process including, but not limited to: reporting, monitoring, sampling, the creation of plans, administrative costs, consultants and upgraded equipment costs, among others.

NORTH COAST PROPOSED CAF FEE

Ag Council opposes the proposed fee for CAF permit holders on the North Coast. There has not been adequate time to inform stakeholders in the area about the proposed fee. Additionally, it is our belief that the regulatory requirements between the North Coast and Central Valley are different, therefore we should explore the option of offering a differing fee schedule, if we offer one at all. Clearly, there needs to be a deeper consideration of this proposed fee and its impacts to dairy producers in that area of the state, prior to implementation.

CDQAP DISCOUNT

The California Dairy Quality Assurance Program (CDQAP) is a vital partnership between dairy producers, the government and academia to promote overall environmental health and animal welfare through educational and on-farm practices. This program has been instrumental in promoting early adoption of environmentally-sound dairy and farming techniques that are consistent with the mission of the SWRCB. For early adoption, dairy producers receive a discount on permit fees. This discount is a fraction of their overall compliance costs.

Ag Council opposes the proposal on decreasing the discount to help offset budget costs at SWRCB. While we appreciate the SWRCB’s staff’s creativity in trying to create solutions for the existing budget issues, we believe that this change will violate the trust so many dairymen have in the program and therefore decrease further participation. Additionally, the so-called “good actors” would be subsidizing the costs of other permit holders. Again, we appreciate the thought process behind making such a recommendation, but with a longer, more meaningful dialogue with stakeholders, we believe we may be able to find other solutions that are mutually beneficial.

Ag Council also urges the Board to freeze the Waste Discharge Requirements (WDR) fees at current levels while it reviews the proposed fee increase, which will be increased by 7.9 percent under the proposed rule. Again, these increases do not stand alone since there are costs of compliance that are unseen. Additionally, many of the commodities in the WDR program have a pricing mechanism that does not allow for much price flexibility, which should also be taken into consideration.

IMPROVE THE STAKEHOLDER PROCESS

In the long term, we ask that stakeholders be included in the discussion relating to funding of the various programs and potential fee increases earlier in the Board's budgeting process. This is not the first year that stakeholders were not invited into the discussion on permit fees impacting the private sector. Last year, the increase in fees was announced in mid-May, and a meeting with stakeholder groups was held on May 31. Our input could not be taken into account given that the budget was completed by the constitutional deadline of June 15. This year, SWRCB actually shortened the timeframe and many stakeholders only received notice within 48 hours of the workshop. This lack of communication does not exist in other agencies, therefore it is unacceptable.

Because the current process creates enormous uncertainty for our members due to a system in which we are unable to participate, Ag Council is very interested in working with the Board to affect change in the existing budget process in order to provide a stronger level of involvement for stakeholders earlier in the decision-making process. In particular, we ask for a commitment from the Board to work with us toward this end.

With General Fund monies no longer available to operate the Waste Discharge Permit Fund, it is our members and other similar groups and businesses that are paying into the Fund. Given this, it is appropriate to ask that stakeholders be granted a greater degree of participation during the Board's budgeting process regarding fees to support the Fund's programs.

In this regard, we respectfully request stakeholder advisory committees to work with staff in budget projections and development of fee schedules. Many suggestions by SWRCB staff to provide fee relief simply do not work in the stakeholder community. Instead of SWRCB staff making suggestions via proposed rules, if stakeholders could be involved earlier in the process, these potential issues could be discussed and evaluated prior to rulemaking.

In conclusion, we encourage a reexamination of the proposed fees in these categories as discussed in our comments and ask that in the future stakeholders be included in the discussion relating to fee increases earlier in the Board's budgeting process.

Thank you for your consideration of Ag Council's comments. Should you have any questions, please call me at (916) 443-4887. We look forward to working with the Board as it moves forward on these issues.

Sincerely,



Emily Rooney
President