



Inland Empire Waterkeeper

Advocacy • Education • Restoration • Enforcement

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December 5, 2012

Sent via U.S.P.S.

Regional Water Quality Control Board – Santa Ana Region
ATTN: Steve D. Mayville
3737 Main Street, Suite 500
Riverside, CA 92501-3348

RE: Notice of Public Workshop – R8-2012-0039/R8-2013-0001

Dear Mr. Mayville,

Inland Empire Waterkeeper (“Waterkeeper”) is an environmental non-profit organization dedicated towards advocacy, education, restoration, and enforcement in the Santa Ana River watershed. Waterkeepers’ members use and enjoy the unique waterways of the Inland Empire and rely on our region’s groundwater on an everyday basis. For those reasons, we have focused our attention on the Tentative General Waste Discharge Requirements for Conned Animal Feeding Operations (Dairies and Related Facilities) within the Santa Ana Region (“Dairy Permit” or “R8-2012-0039/R8-2013-0001”).

As you know, this is the first opportunity members of the public have on commenting on the Dairy Permit since the adoption of Order No. R8-2007-0001. As stated in Section I.B.3 of the Dairy Permit,

“[w]astes produced at CAFOs contain high levels of bacteria, biochemical oxygen demand (an indicator of biodegradable materials), ammonia, nitrate, phosphorus, and other salt compounds. Unless properly managed, these wastes could adversely impact water quality in the receiving waters (both surface and groundwaters).”¹

Groundwater and surface water in and around dairies in the Inland Empire are already impaired for some of the constituents commonly found in dairy discharge. For example, Canyon Lake and Lake Elsinore are already implementing a Nutrient Total Maximum Daily Load (“TMDL”) that identified dairies as a contributor of nutrients to these waterbodies. Additionally, in the San Jacinto area, the Dairy Permit acknowledges that none of the groundwater management zones in the San Jacinto River Basin, except for one to two groundwater management zones, has an assimilative capacity for additional salt or nitrate inputs.²

Issues surrounding the regulation of the Inland Empire’s dairy industry are complex, involving surface and groundwater impairments, TMDLs and the application of recent dairy permit case law. Waterkeeper does not believe the time provided the public to access, review and prepare for a public workshop is sufficient to generate the type of feedback necessary for the Regional Water Quality Control Board (“Regional Board”) to accurately gauge the direction of the Dairy Permit. As scheduled, the only scheduled public workshop is

¹ Tentative General Waste Discharge Requirements for Confined Animal Feeding Operations (Dairies and Related Facilities) within the Santa Ana Region, Order No. R8-2013-0001, NPDES No. CAG018001, at 1.

² Id. at D-20.

planned for December 14, 2012. The Dairy Permit was not available to the public on the Regional Board's dairy program website until the afternoon of Monday, December 3, 2012. Furthermore, the public notification to interested parties was not submitted until Tuesday, December 4, 2012. This provides the public with ten calendar days to digest an eighty-five page Dairy Permit in order to prepare meaningful public comment.

Although the Regional Board may have technically satisfied public notice requirements for a workshop by providing a statement of the nature and purpose of the proceeding and a statement of the time, date, and place of the proceeding³, the Regional Board did not provide the public with the ability to meaningfully participate in the proceeding. Public participation is the most effective when the public is able to fully digest and engage with regulators on issues that are important to the public. A ten day window between the posting of the Dairy Permit and the workshop itself is not in the public interest and does not provide the Regional Board with the intended benefits of a workshop.

In conclusion, Waterkeeper suggests that the Regional Board consider additional public workshops on the Dairy Permit in early 2013. We anticipate the only scheduled workshop to present substantial issues with the Dairy Permit necessitating additional workshops. The Regional Board should direct staff to plan for this possibility.

On behalf of Waterkeeper, I look forward to working with you to protect the Inland Empire's waterways. If you require any information, please do not hesitate to contact me directly at (714) 850-1965 ext. 307.

Regards,

Colin Kelly
Staff Attorney
Orange County Coastkeeper

³ CAL. CODE REGS., TIT. 23, § 649.2