

The Paso Robles Groundwater Basin and Wine Grapes should have separate designations and management requirements under Ag Order 4.0.

1. The Paso Robles Groundwater Basin, dominated by Wine grape vineyards, is currently farmed well within the Boards desired Nitrogen and chemical limits that protect the groundwater resource. **The Paso Robles Groundwater Basin, should have a separate designation in Ag Order 4.0.**
 - a. Wine grapes use only 1 to 1.9 acft/yr of irrigation water.
 - b. Wine grapes use much lower rates of Nitrogen. UC recommends 10 to 25 lbs of N per year. Many vineyards competing for higher value markets use less.
 - c. The local Vineyard industry has a history of being good stewards. Locally viticulturists in the Paso Basin developed and supported the Vineyard Team and later the SIP certification. Statewide and locally winegrowers have created and broadly participated in the California Sustainable Winegrowing Program and Certification.
 - d. **In recognition of their low input requirements and the good stewardship of Wine Grape Growers, Wine grapes deserve a separate management category Under AG Order 4.0.**
2. The Paso Groundwater Basin actively managed under a single GSP by four active GSAs dominated by wine grapes with small amounts of vegetable and tree crops deserves a separate designation under AG Order 4.0.
 - a. Crop specific guidance and rules would be applied to crops with higher N application needs with active 3rd Party collaborative effort with UC Researchers and Regional Board Staff.
 - b. Ongoing testing and reporting of ground and surface waters is a critical component of GSP implementation. This effort is open and public and has active Agencies running it to protect the essential groundwater resource for the beneficial uses and users that depend upon it. These GSAs managing the Paso Robles Groundwater Basin will continue to collect and make available in a local and publically accessible fashion groundwater and surface water data including quality, extraction and use.
 - c. There are very real reasons why people and businesses want to keep their private data private. With the current level of compliance with Water Board objectives and the limits contained in the proposed Order it is more than justifiable to allow Paso Basin operations working under the auspices of a 3rd party to **aggregate data** for reporting purposes. Detailed site specific data would be available if testing suggested a need to verify or disaggregate it.
 - d. Much of the Nitrogen in the groundwater in the Paso Basin is a legacy, an artifact of practices from the 1950's through the 1970's when almost all of the Paso Basin and the surrounding watershed was actively farmed and fertilized.
 - e. Measurements of legacy constituents should not be used to rate or grade current growing practices. More refined techniques to measure and understand the impacts of current agricultural inputs are needed.

1. **The Riparian protection built into Ag Order 4.0 contains significant overreach.** The Order should preserve and protect existing riparian areas. If evidence exists of recent disturbance or degradation of riparian areas those areas should be identified and projects implemented to restore and re-establish them. Language in the Order, such as that on page 43, section 13, should be modified to protect existing aquatic and riparian ecosystems and **not require landowners to create new riparian habitat where none has ever existed.** The soils, slopes and relationship to nearby drainages of specific sites that would be included in the current language of the Order are clearly incapable of supporting riparian vegetation. Requiring property owners to attempt to create riparian habitat in such conditions is illogical and ultimately an expensive fruitless waste of time, resources and effort. The Order needs to include specific language to identify types of existing areas of riparian habitat and then site specific and appropriate procedures and processes to protect them.
 - a. *"13. The CWRP must identify and implement projects that result in riparian establishment, re-establishment, and/or enhancement projects that benefit water quality objectives for sediment, toxicity, nutrients, and temperature, and are protective of all beneficial uses for inland surface waters, enclosed bays, and estuaries as outlined in section 3.3.2 of the Basin Plan. Projects that only serve to preserve and protect existing riparian areas do not meet the criteria for this requirement".*
 - b. **Requirements to restore, re-establish or to create new habitat should only occur in response to cases where a landowner has encroached, disturbed or destroyed such habitat.**
 - c. Riparian setbacks are estimated to fallow over 4,000 acres in Findings Section 27, and those calculations seem to be an underestimate of the acres that could potentially be included by the current Order language.
 - d. In high priority areas the requirements to "reestablish" riparian vegetation will be very expensive. The current ephemeral nature of the Ag Order's "Phases" places the whole of Region 3 at risk of inclusion to the Orders most restrictive and punitive dictates. The current language allows the requirement to apply to many miles of "streams" and dry washes where vast stretches could be ordered "restored" to habitats that in many stretches and areas never supported riparian plants and animals. Many acres of these areas if planted with riparian species the natural conditions will never support them. The current order allows the EO to expand riparian high priority areas to encompass the whole watershed.
 - e. Actual intent of Board Staff is likely in alignment with our suggested approach, but the language in the Order needs to be specific. If there are specific sites where Staff would like to reach back farther in time to rectify past practices, those sites should be explicitly and completely described and hoped for remediations justified.

1. **Ag Order 4.0 comments on Process:**

- a. The current approach in Ag Order 4.0 is a **radical departure**, by considering irrigated Ag as an “entity” applying for a Permit for a new use. These agricultural operations have been in operation for many years and are the backbone of the local economy. Active farming in this area predates Statehood. State and County Codes and Regulations specifically have long codified protections for agriculture and value its contributions. The State of California in **§ 51220** finds *“that the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state’s economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also for the assurance of adequate, healthful and nutritious food for future residents of this state and nation.”*
- b. Compliance “Targets” from the East San Joaquin precedential Order are being replaced in this Central Coast Ag Order 4.0 with hard limits without sufficient local data or input. Current data is inadequate to support the current, somewhat arbitrary and subjective, hard limits. **This Order should include an ongoing process where farmers and expert researchers working together collaboratively with Regional Board Staff to expand data collection and the understanding necessary to discover the best management practices, including finding optimal fertility application products and rates that both protect the ground and surface water and allow for productive agriculture to continue.**
 - i. The cooperative approach currently in operation in the Central Valley with Targets and data collection empowering informed decisions by 3rd Party Groups, UC Agronomists and Regional Staff makes a great deal more sense.
 - ii. In Findings page 113 #36 the Board clearly acknowledges that they do not have the authority to set production standards for private agriculture and that they need to analyze A/R values from the Central Coast to draw conclusions: “The Central Coast Water Board does not have the authority to require a minimum productivity ... and A/R values will be analyzed to determine if creating a metric for maximum A/R presents additional regulatory value in conjunction with the value presented by the maximum nitrogen surplus calculated through A-R.”
 - iii. The Central Valley approach involving the farmers in forming management groups, designing best approaches and best management practices, gathering data and sharing data is a much more promising approach on so many levels.
 - iv. The Danish approach (Findings page 114 #38) is similar to the San Joaquin Valley a cooperative effort with farmers involving robust data collection and analysis, guiding practical actions.
 - v. The current approach in Ag Order 4.0 reflects the justifiable frustration of the Board and it’s staff with current practices and practitioners. That in turn does not justify the current approach.
- c. **Too much discretion is given to the Executive Officer with no real limits to that power.** There is no formal appeal process. The Order needs to include a better system to bring in and work with the Ag Community. It needs to include a specific appeal process within the Order for any action taken by Staff or the Executive Officer that go beyond the Scope of the Order. There is a need for specific language within the Order for the Board to act in a Public and official fashion as a check and balance to the Executive Officer and

Staff. The Order should create an advisory committee including all interests to be advised and to advise on all aspects of oversight.

1. The Ag Order needs to clearly create a process where the 3rd Party Farmer Groups working in close collaboration with UC Agronomists and Regional Board Staff have the opportunity and flexibility to create workable solutions to local conditions and specific problems.
2. The Ag Order needs to include an ongoing process to create useful and meaningful techniques to detect and measure current and ongoing contributions of chemical of concern entering the groundwater column.
- ii. The current legacy nitrogen levels in groundwater, while the result of many years of irrigated and dryland farming practices, will not be appreciably reduced by current efforts. Only by extracting and using the groundwater and significantly reducing current contributions of nitrogen or other chemicals of concern will improvements be slowly and incrementally achieved.
- d. The creation and use of such a large number of confusing acronyms is unproductive and unnecessary.

- a. The **Economic Analysis in the Ag Order 4.0 EIR is inadequate.**
- i. The EIR does not measure or consider the economic impact from lost production due to the Order. The EIR mentions it in passing (p. 238) and in the Findings (p. 11 #27) it alludes to the importance of the economic impact.
 1. The shortest perusal of the annual reports from the Ag Commissioners of the effected Counties will quickly demonstrated the economic importance of these irrigated crops to the well being of the local economies.
 2. Riparian setbacks are estimated to fallow over 4,000 acres in Findings Section 27, and those calculations seem to be an underestimate of the acres that could potentially be included by the current Order language.
 3. In high priority areas the requirements to “reestablish” riparian vegetation will be very expensive. The current ephemeral nature of the Ag Order’s “Phases” places the whole area of Region 3 at risk of inclusion to the Orders most restrictive and punitive dictates. The current language allows the requirement to apply to many miles of “streams” and dry washes where vast stretches could be ordered “restored” to habitats that in many stretches and areas never supported riparian plants and animals. Many acres of these areas if planted with riparian species the natural conditions will never support them. The current order allows the EO to expand riparian high priority areas to encompass the whole watershed.
 - ii. For vegetable growers, based on the hard limits and short timelines for nitrogen currently in the Order, there will be a drastic cutback in annual production that will definitely hurt the entire economy of the three main Counties.
 - iii. Staff acknowledges the comments and alternate plan submitted by the Agricultural interests but chose not to incorporate those ideas in the current version of Ag Order 4.0.
 - iv. The low bar set in the the EIR for analyzing economic impact is ludicrously low. “Increase costs for growers to such a degree that it would cause or result in growers going out of business, such that agricultural lands would be converted to non-agricultural uses”. The costs that Board Staff considered were the costs to comply with reporting, not the lost costs to production.
 - v. In the face of the economic crises created by Covid 19 it is irresponsible for the Regional Board to unnecessarily further endanger the economies of the affected Counties. The current language and over punitive approach taken in Ag Order 4.0 is not necessary to address the ultimate goals of the Regional Board, compliance with recent court orders and the East San Joaquin Ag Order WQ 2018-0002.
 - vi. The Central Coast Region Three Water Quality Control Board should direct their Staff to set achievable timelines to meet the specific targets they have identified for each chemical of concern.