



March 1, 2021

Ms. Laurie Walsh, P.E.  
Senior Engineer  
San Diego Regional Water Quality Control Board  
2375 Northside Drive, Suite 100  
San Diego CA, 92108  
[Laurie.walsh@waterboards.ca.gov](mailto:Laurie.walsh@waterboards.ca.gov)

**By US Mail and E-mail**

RE: Regulatory requirements for storm water associated with equestrian activities at Horse Park

Dear Ms. Walsh:

The 22nd District Agricultural Association Board of Directors (22nd DAA) has temporarily paused equestrian operations at Horse Park while it considers how to address its water quality obligations pursuant to the federal Clean Water Act and Porter Cologne. The 22<sup>nd</sup> DAA Board is working diligently with its counsel, consultants, and the equestrian community to find a way to renew equestrian operations at Horse Park while assuring compliance with all relevant water quality regulations and statutes and reducing potential third-party citizen suit litigation. However, as a public agency, and in order to avoid enforcement for any perceived violations by the RWQCB or through a citizen enforcement action, the 22<sup>nd</sup> DAA requires clarification regarding regulatory requirements for storm water discharges associated with any contemplated equestrian activities at Horse Park. Specifically, the 22<sup>nd</sup> DAA seeks responses to the following two questions:

1. Will Horse Park be deemed in compliance with Order No. R902019-0005 (Waiver 6) if it is unable to implement the Best Management Practices (ex. Manure management BMP's, drainage improvements) set forth in its enrollment application and if so, for how long?
2. Must Horse Park enroll in the Industrial General Permit (IGP) if it stables or confines between 150 and 499 horses pursuant to the time frames defined for Animal Feeding Operations (AFO); and Discharges pollutants (including manure or process wastewater) into waters of the United States through a man-made ditch, pipe, or similar device. (40 C.F.R. § 122.23, subd. (b)(6)?

In in order to assist you in providing a response to these questions, I have provided the following chronology for your consideration.

- September of 2019, the 22nd DAA submitted a Notice of Intent (NOI) for coverage under the conditional waiver Order No. R9-2019-0005. The NOI proposed the implementation of several structural BMPs regarding manure management, barn improvements, treatment BMPs for stormwater from various CAFO areas and a schedule for implementation of the improvements.
- On March 27, 2020 the RWQCB enrolled the Horse Park facility in Order No. R902019-0005. The enrollment letter stipulated that: "The NOI and Technical Information Report contain the operation plan for implementing best management practices for the management of storm water and waste discharges associated with the Del Mar Horse Park. . . The Discharger must ensure the discharge complies with the waiver conditions specified in sections B, C.2, and C.3 of the Animal Operations Waiver."

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**22ND DISTRICT AGRICULTURAL ASSOCIATION • DEL MAR FAIRGROUNDS**

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- On April 10, 2020 the RWQCB wrote to Rancho HHO Land Corporation (Rancho) and Equestrian Services II, Inc. (Equestrian), two equestrian facilities similar in size and confined horse populations to those being conducted at that time at Horse Park. In that letter you wrote “The San Diego Water Board intends to regulate Sycamore Trails Stables and Rancho SVEC as medium CAFOs under the National Pollutant Discharge Elimination System (NPDES) regulatory program, unless each facility can demonstrate that it does not discharge pollutants to a water of the United States.” That is, Rancho and Equestrian were required to file for coverage under the Industrial General Permit unless they could demonstrate that there was no discharge of a pollutant to a water of the United States.
- On May 22, 2020 the 22<sup>nd</sup> DAA notified the RWQCB that as a result of the COVID-19 pandemic, the 22<sup>nd</sup> DAA would be unable to meet the waiver conditions by building the storm water improvements described in its NOI due to a lack of funds.
- On August 27, 2020 the RWQCB responded to the 22<sup>nd</sup> DAA’s notice of inability to meet the requirements of the waiver. In his response, Mr. Gibson, the RWQCB Executive Officer stated in part “Based on its review, San Diego Water Board staff found that neither Waiver No. 6, the March 27, 2020 Notice of Enrollment, or the Phase II MS4 Permit specify a compliance schedule or require the discharger to submit an implementation schedule for storm water and manure BMPs. As such, the schedule to improve onsite storm water and manure BMPs was voluntarily submitted to the San Diego Water Board, and not in response to a Water Board order or requirement. As the 22<sup>nd</sup> DAA’s improvement schedule is self-imposed, there is no required regulatory action to be taken by the San Diego Water Board in response to the 22<sup>nd</sup> DAA’s request for regulatory relief during the COVID-19 emergency.” However, Mr. Gibson’s response did not address the question of whether Horse Park would be deemed in compliance with the Waiver if the 22<sup>nd</sup> DAA failed to build the BMPs described in the NOI.
- On December 17, 2020, due to a lack of clarity regarding its regulatory obligations associated with storm water discharges from a medium CAFO, and in an abundance of caution as a public agency, the 22<sup>nd</sup> DAA announced its temporary pause of equestrian operations at Horse Park.
- On January 12 and 29, and February 9, 2021, the 22<sup>nd</sup> DAA and its Horse Park subcommittee held public hearings to discuss how to proceed. However, neither the 22<sup>nd</sup> DAA Board or the subcommittee have been able to reach any specific conclusions and now recognize that additional feedback is needed from the RWQCB to move the process along.

Your response to these questions above will assist the 22<sup>nd</sup> DAA in addressing questions and comments from the equestrian community at its next public meeting on March 9, 2021, as it attempts to fashion a reopening plan for Horse Park. In addition to your written clarifications to these questions, you are invited to attend this meeting via Zoom, where you will have an opportunity to provide verbal comments or explanations to board members and the public. We look forward to your written response to this inquiry and please let me know if you will be able to attend the board meeting on March 9 so a participant link can be provided to you.

Sincerely,



Carlene F. Moore  
Chief Executive Officer

CC: David Gibson, Ian Adam, S. Wayne Rosenbaum, Dustin Fuller

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## San Diego Regional Water Quality Control Board

March 25, 2021

Carlene Moore  
22<sup>nd</sup> District Agricultural Association  
2260 Jimmy Durante Blvd.  
Del Mar, CA 92104-2216

**In reply refer to / attn:**  
**SMARTS WDID 937M2000085:TFelix**  
**862412:CKomeylyan**

**Subject: 22<sup>nd</sup> DAA Stormwater Compliance – Del Mar Horse Park**

Dear Ms. Moore,

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) is aware the 22<sup>nd</sup> District Agricultural Association (22<sup>nd</sup> DAA) decided to temporarily pause equestrian operations at Horse Park while it considers how to address its water quality obligations pursuant to both the federal Clean Water Act and the California Water Code. This letter clarifies the 22<sup>nd</sup> DAA's regulatory requirements for discharges of waste to land and stormwater discharges associated with equestrian activities at Horse Park. The following provides responses to the two questions identified in your March 1, 2021 letter.

### **Conditional Waivers of Waste Discharge Requirements**

*Would the 22<sup>nd</sup> DAA, as the owner and operator of Horse Park, be deemed in compliance with Order No. R9-2019-0005 (Waiver No. 6) if it is unable to implement the Best Management Practices (ex. manure management BMP's, drainage improvements) set forth in its enrollment application and if so, for how long?*

The 22<sup>nd</sup> DAA submitted a Notice of Intent for the enrollment of the Horse Park in Waiver No. 6 on September 18, 2019. The Notice of Intent specified the current management measures and BMPs implemented at the Horse Park to comply with the provisions of Waiver No. 6. Additionally, the 22<sup>nd</sup> DAA voluntarily included in its Notice of Intent, a proposed project schedule for improvements to existing stormwater and manure BMPs. On March 27, 2020, the San Diego Water Board issued a Notice of Enrollment to the 22<sup>nd</sup> DAA for the Horse Park. If the 22<sup>nd</sup> DAA is unable to continue implementation of the current waste management measures at Horse Park that are necessary to comply with the provisions of Waiver No. 6, then the 22<sup>nd</sup> DAA would no longer be eligible for Waiver No. 6. The 22<sup>nd</sup> DAA is only eligible for Waiver No. 6 if the management measures/best management practices required are being implemented. Under this scenario, the 22<sup>nd</sup> DAA would not be covered by the Waiver. The 22<sup>nd</sup> DAA's lack of coverage by Waiver No.

6 would trigger the requirement to submit a Report of Waste Discharge to the San Diego Water Board for the activities at the site.

**Stormwater Discharges**

*Must the 22<sup>nd</sup> DAA, as the owner and operator of Horse Park, enroll in the Statewide Industrial General Stormwater Permit (IGP) if the 22<sup>nd</sup> DAA stables or confines between 150 and 499 horses pursuant to the time frames defined for Animal Feeding Operations (AFO); and discharges pollutants (including manure or process wastewater) into waters of the United States through a man-made ditch, pipe, or similar device referencing 40 C.F.R. § 122.23 subd. (b)(6)?*

Yes, the 22<sup>nd</sup> DAA must file for and receive coverage under the IGP if Horse Park stables or confines between 150 and 499 horses pursuant to the time frames defined for AFOs; and discharges pollutants (including manure or process wastewater) into waters of the United States through a man-made ditch, pipe, or similar device. Pursuant to 40 C.F.R. § 122.23 subd. (b)(6), Horse Park is a medium Confined Animal Feeding Operation (CAFO). The San Diego Water Board is regulating discharges of process wastewater and stormwater from medium CAFOs under the Statewide IGP plus a site-specific nutrient management plan. This is the same regulatory process the 22<sup>nd</sup> DAA has implemented for its large CAFO located on the Fairground property west of Interstate Highway 5.

The San Diego Water Board understands the 22<sup>nd</sup> DAA is committed to compliance with both federal and State water quality laws. Further we understand the importance of Horse Park to the community. Should you have any further questions about stormwater management, please contact Laurie Walsh of the Stormwater Unit at [Laurie.Walsh@waterboards.ca.gov](mailto:Laurie.Walsh@waterboards.ca.gov). Should you have any further questions about discharges of wastes to land, please contact Chehreh Komeylyan of the Groundwater Protection Unit at [Chehreh.Komeylyan@waterboards.ca.gov](mailto:Chehreh.Komeylyan@waterboards.ca.gov).

Sincerely,

David Gibson  
Executive Officer

cc:

Stormwater - SMARTS WDID 937M2000085:TFelix  
Groundwater - 862412:CKomeylyan