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May 20, 2004

## ***CASE ALERT***

### **NEW AGRICULTURAL WAIVER PROGRAM**

Hatch & Parent's Wine Practice Group is monitoring the changes in the agricultural waiver programs overseen by the various California Regional Water Quality Control Boards, including the Central Coast Regional Board. These changes may result in serious impacts to the agricultural community, including vineyard owners and/or operators.

**New Agricultural Waiver Program.** The Central Coast Regional Board anticipates adopting a new agricultural waiver program at its July 9, 2004 meeting that is designed to reward growers who are proactive in protecting water quality. The proposed program includes requirements for such things as water quality monitoring, participation in water quality training, completion of farm water quality management plans and implementation of best management practices to control runoff.

The water quality monitoring aspect of the proposed program includes a new concept designed to reduce compliance costs -- cooperative monitoring. Cooperative monitoring calls for water quality monitoring along main stems and tributaries of rivers in a particular watershed. The vineyards and other owners and/or operators of irrigated land in such a watershed would share the cost of this monitoring based upon a number of factors, including size of operation, type of discharge and threat to water quality.

Overall, the proposed program will impose requirements, in addition to cooperative monitoring requirements, that vary from vineyard to vineyard depending, among other things, on the vineyard's past water quality history and past proactive water quality practices.

**Notice of Intent to Comply.** Once the new program is adopted, owners and/or operators of vineyards and other irrigated lands will have until December 1, 2004, to submit a notice of intent to comply with the program to the Regional Board. The notice of intent must include the following information:

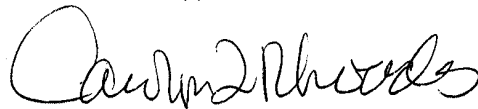
- Location of the operation
- Identification of responsible parties (owners/operators)
- A map of the operation
- A management practice checklist/self-assessment on a template provided by the Regional Board
- Certification of completion of Regional Board-approved water quality education
- A signed statement of farm water quality plan completion, if applicable
- Whether cooperative or individual monitoring is elected

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The adoption of the new agricultural waiver program may impact the manner in which a vineyard is operated and the cost of the operation. Demonstrating to the Central Coast Regional Board that a vineyard has proactive and positive water quality practices will be important to controlling the impact on vineyard operations and profits.

The Central Coast Regional Board's new agricultural waiver program is just one example of the type of program under consideration by Regional Boards throughout the State. If you would like more information about the Central Coast Regional Board's waiver program or that of any other Regional Board please feel free to contact my colleague Susannah Mitchell or me at (310) 440-9996.

Sincerely,



Carolyn L. Rhoades  
For HATCH & PARENT  
A Law Corporation