



California Regional Water Quality Control Board Central Coast Region



Linda S. Adams.
*Secretary for
Environmental Protection*

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Arnold Schwarzenegger
Governor

Agricultural Order Renewal
Public Comments and Alternatives to
02/01/2010 Preliminary Draft Staff Recommendations

Group 6: Comment Letters

Comment ID	Individual Submitting Letter	Date Received
F16	Jerry Rava, Sr.	4/1/2010
F17	David Costa	4/1/2010
F18	Cees M. Dobbe	4/1/2010
F19	Samuel D. Duda	4/1/2010
F20	William C. Cunha	4/1/2010
F21	John Wiester	4/1/2010
F22	Steve Jordan	4/1/2010
F23	Dean Porter	4/1/2010
F24	Bob Martin	3/15/2010
F25	John O. Varian	3/10/2010
F26	Kathryn Donovan	4/1/2010
F27	Ned Brandt	3/18/2010
F28	Paula Van Galio	3/18/2010
F29	Antone Basich	3/29/2010
F30	Bill Coy	3/25/2010
F31	Donald Davis	3/30/2010
F32	Michael Broadhurst	3/23/2010
F33	Joy Anne Fitzhugh	3/30/2010
F34	George Adam	4/1/2010
F35	Mary Jane Edalatpour	4/1/2010
F36	Grant Cremers	4/1/2010
F37	H. Yokoyama	3/22/2010
F38	David Hart	3/26/2010
F39	Kay Filice	3/23/2010
F40	Larry Ferini	4/1/2010
F41	Lorene, Leroy and Adam Saruwatari	3/28/2010
F42	Louis Huntington	3/22/2010
F43	Sharyne Merritt	4/1/2010
F44	Lyle Overley	3/30/2010
F45	Sig Christerson	4/1/2010
F46	William T. Tarp	4/13/2010
F47	William Elliot	3/30/2010
F48	Betsy Roth	3/31/2010
F49	Helen T. Snyder	4/1/2010
F50	Matthew Ottone	4/1/2010

Jerry Rava, Sr.
P.O. Box 1600
King City, CA 93930

CCCRWQCB
Angela Schroeter
895 Aerovista Pl., Suite 101
San Luis Obispo, CA 93401

March 26, 2010

Dear Ms. Schroeter,

My name is Jerry Rava, Sr. and I am writing this letter due to my concern with the Ag Waiver being proposed. I am currently both a landowner and a vegetable farmer in Monterey County along with having a ranch in San Luis Obispo County where I have a few horses and a vineyard. I was raised in this area where my father was also a farmer both in vegetable farming and cattle raising. Agriculture has been my lifetime job. It disheartens me to see where this Ag Waiver is taking our industry if the proposals and enforcements are passed.

One of my concerns has to do with the Farm Water Quality Management Plan becoming public record. This industry is a very competitive industry where there is little margin for error. One has to stay resourceful and have a few tricks up their sleeves in order to make a few bucks year after year. There are many years where one is fortunate to just break even farming. That is why it is so important that each individual farmer has their own edge in order to keep afloat. Opening up our practices and trade secrets would give the farmer less of an edge and competitiveness in this market. I highly recommend that this plan remains confidential and kept at the local farmer's operations.

Many of the requirements the Farm Plan is suggesting has already been implemented. Being stewards of the land, the farmer's main concern is to ensure that the land we farm is kept fertile. There is not an overabundance of land out there for us to walk away from due to poor farming practices, thus the importance in managing the ground we do have properly. Allowing the quality of water to be at levels unacceptable for growing our crops at high yields and at the quality we are required to, should give the public reassurance that one of our top priorities is to have good and plentiful water and to KEEP IT GOOD!! After saying all this, I will agree that it is the farmer's responsibility to monitor and test the quality of their water and to ensure that their farming practices are not resulting in negative effects on groundwater quality. I believe that this is already being monitored through the regular testing that we impose upon ourselves and feel

that a government /state plan is not required. This would only impose more paperwork, man hours, and salary costs that are not necessary and to what avail. If these water/soil tests and results are required, who will monitor these results and who will take the results and formulate a plan on what these results mean and how to use these results? The diversity of the area is another factor that would have to be taken into consideration. What grows and works for the Salinas Valley is not necessarily what will work for the Santa Maria area. Without on-site inspections and hands-on education of staff members, information formulated would be meaningless and a waste of valuable time and resources, not to mention an added expense for the farmer. In today's economy every penny is being counted in order to make a profit. Adding these costs to the farmer will result in loss of profitability.

Another major concern is the 1000 foot aquatic and riparian buffer area. This will not only result in a huge loss of productive farm ground for my farming operations, but also would impact the economy on a whole. It takes no rocket scientist to realize that less farm land equals fewer work forces required. I estimated that this buffer area would result in a minimum 20% loss of ground for my operations. Does it make sense that this also would result in a minimum of 15% reduction in work force? Quite possibly. This would put more people out of jobs in an economy that is already in dire need of help. Would this also decrease the value of the property due to its lack of use? Does this mean the farmer could then go to the County and ask for a reduction on their property taxes? I'm sure you can see where I am headed with this topic and will not elaborate further. Not only would the aquatic and riparian area mean lack of usable farm land, but it would also mean more food safety issues. This would result in an added expense on the farmer to maintain weeds, wildlife, rodents, insects, etc. from entering their fields and also require another buffer area for food safety issues. Again, more added expense with no benefits to the industry. I was around before Lake Nacimiento and Lake San Antonio were built. The purpose of the lakes was to maintain water for the Salinas Valley and have done that for many years. Without these lakes, the vegetation in the river bottom would not be there today. With a wet year, like we have had this year, the normal flow of the water would have cleared the vegetation from the river bottom. Due to the increase in vegetation in the river bottom, the risks of flooding are much greater. Maintenance of our river bottom is very important in order to keep our rivers flowing in their normal path and to prevent massive flooding up and down the Salinas Valley. Requiring the farmer to install these riparian buffers would not only be a costly and timely endeavor, but one that would result in many food safety issues and pesticide setback requirements. It is an unacceptable proposal and with all due respect, ridiculous.

There are many items in the Ag Waiver that give me pause. Many of these items would require massive amounts of man hours and paperwork along with laboratory, consulting and professional fees. This would not only take the time and energy out of farming, but decrease the profit margins. Some of the items would impair yield and quality due to using "predictions" of rain for pesticide applications along with having 50-150 foot setbacks from surface water bodies. This plan is also removing pesticides being used without a viable pesticide for its replacement which possibly could result in lower yields and quality.

Water quality will always be a top concern of ours. Through the years our practices have been to ensure we keep the quantity and quality at the best acceptable levels to grow our crops

resulting in high yields and high quality. Through the use of drip irrigation and paying attention to water patterns, we have decreased, and almost eliminated water run-off and tailwater. Most farmers now have food safety regulations and standards to meet and we would like to think that we are at the top of meeting these standards. Presuming that we can reach the level of drinking water standards on surface runoff is being unreasonable. The water being used is not at that standard, much less after use. Through organizations formed over the last few years, farmers are beginning to understand the data analyzed from focusing on new management practices. These results have been positive and only give the farmer more incentive to improve. Without good scientific study and compilation of the results, there would be no positive or negative feedback for the farmer to base their practices on. Allowing these organizations to continue these studies gives the farmer information that is viable to their farming operations. Even if staff had the personnel or time to review the mountains of data and paperwork requested in the new farm plan, would this information be compiled and scientifically reviewed to give good viable information to the farming operations and industry in a timely manner? This is a question that needs to be answered. Why would staff want information that they have no time to review, but require the farmer to give away their farm's business information and farming practices?

I believe that it is our goal to ensure that we have good water and fertile lands, not just for today, but for our children, grandchildren, and their children. I strongly encourage the board to sit back and look at who they are asking to fulfill these requirements. If you look at us with fresh eyes, you will see that we, the farmer and rancher, are the ones most concerned about ensuring our lands and waters are around for years to come. If this concern is so great on the boards' minds, maybe they should ask themselves what they have done personally in their own lives to help with water quality. I strongly believe that introducing a new Ag Waiver is a waste of time, paperwork, and dollars and these things are something we are all lacking in today's economy.

Sincerely,

Jerry J. Rava, Sr.



David Costa
Costa Family Farms

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Soledad, CA 93960
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david@costafarmsinc.com

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March 29, 2010

Monica Hunter
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

Dear Ms. Hunter,

I am writing to you today to comment on the preliminary staff recommendations of the Central Coast Regional Water Quality Control Board for the Conditional Waiver of Discharges from Irrigated Agricultural Lands. I am a member of a farming family in the Salinas Valley; our farm supports the families of the five owners and over 500 employees.

Our farm grows cool season vegetables throughout the year. I believe the complexity of Central Coast agriculture, particularly cool season vegetable production, is not clearly understood. It most definitely is underestimated. Our farm consists of a total of 38 individual ranches. The smallest of these is 5 acres in size. Several are 18 acres. The average size of a ranch on our farm is 145 acres. Each ranch is further divided into blocks. The total number of blocks or fields on our farm is 414. The average size of one of our blocks or fields is 13 acres. Each block will have multiple staggered plantings. As we plant through the year the average size of each individual planting is about 8 acres. We average about 2.1 crops per acre per year. We are currently raising 20 different crops and have four others that we have raised in the past; the total number of plantings for us in one year's time is 1350. Imagine being required to report every fertilizer and pesticide application as a result of this proposal. Imagine trying to understand it as it's reported to you. Multiply it times over 200,000 irrigated acres in the Salinas Valley and all the acres in Santa Maria. Any testing, monitoring, or reporting that's required at a ranch or field level becomes complex and unmanageable very quickly.

There are many areas of concern in the draft staff recommendations. As proposed, I believe the plan is cumbersome, economically unfeasible, in some instances physically impossible, and at times shows no common sense.

The amount of paperwork required by this proposal is enormous. It will require a farm plan with a much higher level of detail than in the prior waiver, and it will also require things such as an enhanced Notice of Intent, a Quality Assurance Plan, a Nutrient Management Element to include nutrient budgets, a Groundwater Monitoring Plan, an Erosion and Sediment Management Plan, and a Riparian Function Protection Restoration Plan. The amount of time to be invested in this paperwork by farm operators will be measured not in days but rather weeks and months.

I went through the exercise of estimating the costs for compliance for a particular ranch that we own and farm. This particular ranch is 107 acres in size. Last year we undertook a project in an effort to reduce runoff and keep sediment on our ranch. We constructed a system where we captured the water from all discharge points on the ranch and delivered that water through an underground pipeline rather than an open ditch to a single collection point at the bottom of the ranch. From there we could hold the water to allow the sediment to drop out, treat and discharge the water, or put the water back on ground that was removed from agricultural production in an effort to eliminate discharge. The price tag on this project was over \$200,000. We consolidated ranch improvement resources that we would have used on many other ranches and put them all into this one large project. If we were a tenant on this ranch we never could have made this improvement with the typical three-year leases that exist in this valley. If we were a landlord on this ranch and renting it out to another operator this project would have consumed every dollar of rental income for approximately 2 years. And lastly, if we were paying for this project only with the profit margins from this ranch it would take us between four and five years to pay for this project. It only worked because of the size of our operation and the improvements that we chose to defer on our other ranches. A small operator or landlord could never have made an improvement of this scale. I believe that it is providing a huge beneficial impact to water quality, but we will still have some occasional irrigation runoff and we will always have storm water runoff.

When I estimate the costs of compliance for this proposed plan on this ranch the amount of money to be spent on plans, paperwork, buffers, reporting, consultants, registered engineers or geologists, certified crop advisers, existing employees and additional employees that would be required, it looks like it could cost anywhere between \$65,000 and \$98,000 (try multiplying that times 38 ranches!). I still do not think that includes all the estimated costs; there are some costs which I could not determine and there are future costs which I cannot predict at this time. In addition I don't believe that there are anywhere near enough consultants and certified crop advisers to provide the expertise and advice required by this plan. This sure doesn't seem like much of a reward for the amount of investment and commitment that we have already made in this ranch.

There are many other details in the plan which are troublesome. The nutrient budgets required by the plan will be complex. They will vary widely based on the crop, the time of year, the soil type, and the intended use of the product (i.e. baby greens versus whole head). Each of these factors contributes to differing total days from planting to harvest and differing nutrient needs for each individual crop on the ranch. It is not uncommon for

a field to contain two or three different soil types. Which do you budget for? Which do you irrigate for?

The erosion control, sedimentation, and storm water management plan is another area of concern. One can contain a certain amount of storm water, but the proposal requires lining catch basins which will provide no percolation for this captured water. When this basin fills up with the first couple inches of rain where are you supposed to put the rest of the water for the rest of the rainy season? In addition, a prohibition on channel clearing will ultimately lead to increased flooding and water escaping from its normal channels. This will lead to more erosion as the water heads uncontrolled downhill through your ranch. Also, this isn't a situation where you could just plant cover crop on the entire valley and show up to work in April after the last rains. If you want to harvest crops in April and May you need to be planting in December, January, and February. If you want to be planting in those months you need to have beds put up on your ground prior to the winter rains.

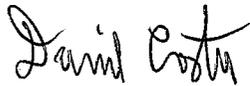
The effort to increase irrigation uniformity has existed for decades. I don't believe it is something you can regulate. For example, satisfactory irrigation uniformity can be achieved with sprinkler irrigation when the wind doesn't blow strongly. However, when the wind does blow strongly the uniformity falls off. Anybody who spends any amount of time in this valley understands that the wind can blow strongly for several days at a time nonstop. In this situation we cannot wait several days to irrigate unless we want to lose our crops. Properly managed drip irrigation systems can be very efficient; improperly managed drip systems are not. There are many places where we cannot use drip irrigation and there are many crops where we cannot use drip irrigation due to crop quality or economic reasons. It has its place, but its place is not on every crop on every acre all year long. The investment in irrigation equipment, irrigation systems, and operational and structural improvements in our operation over the years in an effort to increase irrigation efficiency and reduce runoff is measured in the millions of dollars, not thousands of dollars.

Another issue is the buffers being proposed for pesticide applications. Generally, one third of our pesticide applications are made by air because of either ground that is too wet or crops that are too large for tractors to enter. On the 107 acre ranch which I mentioned earlier the 150 foot aerial spray buffer along the creek on the north side of the ranch would take seven and one-quarter acres out of production because we could not raise our crops without aerial spray applications in those situations. That would be six and three-quarter percent of the ranch which would be set aside due to the aerial spray buffer. If you extend even half that percentage across all of our ranches it would involve a job loss to about 20 employees. The 1000 foot buffer next to an impaired surface water body would remove an even larger amount of ground from agricultural production. Every mile of buffer in this category results in a loss of 121 acres. In addition, eliminating aerial fertilizer applications in the 72 hours prior to a rainfall event when it is too wet for tractors to enter the field and perform those applications will result in yield and quality reduction and potential crop loss.

The goal of having nitrate and salt discharges to groundwater meet water quality standards is a difficult one. It's a nice goal not to have any leaching occur, but do you know what the best leaching mechanism is? Heavy rainfall or a wet winter with above average rainfall. How do you keep that from occurring? In addition, turning off the tile drain pumps will render useless some of the most productive agricultural land in the world due to salt buildups and high water tables.

Lastly, I believe that the goals of the draft proposal and the timelines regarding the elimination of irrigation runoff and the meeting of water quality toxicity standards, sediment and turbidity standards, and nutrient and salt water quality standards are in many cases physically impossible. However, a reduction of irrigation runoff and progress towards meeting those standards is possible; progress towards meeting those goals should be the basis of any plan. This problem wasn't created overnight and it won't be solved overnight. Heavy-handed regulation will derail the engine of the economic train that drives this valley. This proposal will affect all farmers and farm workers in a very negative way, especially small farmers, and I believe that it would be a definite deterrent to the next generation to follow in our footsteps regarding our chosen occupation.

Sincerely,

A handwritten signature in cursive script that reads "David Costa".

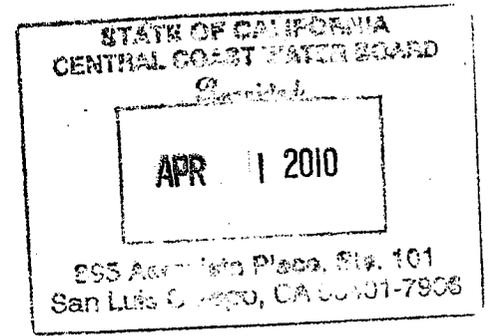
David Costa

Costa Family Farms

DoVer Enterprises LLC

Nipomo, CA

Location : 950 Guadalupe Road
Arroyo Grande CA 93420
Mailing : P.O. Box 2190
Nipomo CA 93444



March 31, 2010

To: **Chairman Jeffrey S. Young**
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

Dear Mr. Young,

Why do I feel that someone is proposing to lower the speed limit on the freeways to 35 from 65 miles an hour because there are some people that are driving 85 on the freeway? That is what the crux of the matter seems to be with the new proposed recommendations for renewal of the Agricultural Waiver. Actually, if these recommendations would be implemented in its current form I think some farmers will get off this freeway and new, young farmers, will have no desire to get on to this freeway. The recommendations are overshooting the problem areas that perhaps exist here and there by a long shot.

My name is Cees Dobbe and in 1987 I cofounded a cut flower growing operation named All Seasons Flowers in Nipomo California that grew to one of the largest operations in the state and grew to over 150 employees. Recently I divested myself from that operation and started a new 220 acre operation under the name DoVer Enterprises LLC also in Nipomo. As a farmer I am as concerned as you probably are about clean water. Unfortunately when I see the preliminary recommendations for renewal of the Agricultural Waiver I am flabbergasted with the details in it and feel that the recommendations are regularly not in touch with reality at the farm level. I strongly urge you to take a step back and work closely with the Agricultural community to look at how we can address clean water issues without creating undue burdens and unnecessary rules and regulations upon our already overburdened industry.

Currently I am the President of the Chamber of Commerce in Nipomo, I have served for nine years on the California Cut Flower commission (an elected statewide position representing the Central Coast of California), I have been a member and board member of the Central Coast

Greenhouse Growers Association (CCGGA) since the early nineties, I serve as an AG advisor to the Nipomo High School and I am a board member of the Nipomo High School Ag Friends. From all these different angles I have been bombarded about the new proposed regulations!! These reactions are generally very informed and very negative.

Farming is already a challenge here on the Central Coast in California. In the last few years, as I am starting a new Agricultural operation on our 220 acre ranch, I am constantly stunned and overburdened by how many laws, rules and regulations have been added to the list since I started my first operation in 1987. Of course some new issues make sense, but unfortunately there are many that are overlapping, unnecessary or just plain wrong. There are so many things we have to report on and if we make a paperwork mistake we are branded as unlawful even when no harm was done whatsoever in the real sense.

Competing on a global scale with competition from Columbia, Ecuador and Mexico is already challenging enough if you couple it with the ever larger customers such as the supermarket chains and box stores.

I love what I do but I feel at times overwhelmed and totally misunderstood as to what I am really doing as a farmer and the enormous contributions our industry makes to the area in a financial sense and the overall quality of life.

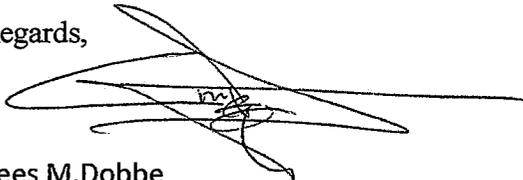
The trouble with the current preliminary proposal for renewal of the Agricultural Waiver is plentiful, but I will mention some of them here:

1. The whole draft order seems to be a "one size fits all proposal". There are so many issues that are totally irrelevant to my operation; nevertheless I would be required to expand my paperwork trail dramatically on issues that will have no effect on the water quality whatsoever. Cost of operation is already an enormous issue especially in these hard recession years we are in right now.
2. There are many areas in the proposed rules that would involve a "public authority" to make a determination about farm watering practices where a wrong and uninformed interpretation can do enormous harm to crop results. Especially in our highly specialized industry where there are relatively few local experts to begin with. A wrong decision from behind a desk can severely harm my company.
3. The new irrigation management section in particular looks like a paperwork nightmare without really achieving anything desirable. As a grower of a lot of different crops in relative small areas with plantings and harvesting on an ongoing basis it would be costly to monitor all that.
4. The fact that specific crop practices are becoming public information after submittal is worrisome in this tough climate to get an edge over competitors.
5. The pesticide management section begs the question in many areas as to why this body should be doing so many things in areas that are already taken up by the Agricultural Department in many detailed ways. The overlap that is created here is burdensome and will be confusing. Some of the details required in the new regulations are good for someone behind a desk, not the real farm world. We as farmers are not interested in pests but we are also certainly not interested in using any more chemicals than we absolutely have to because of the cost and hassle when using and applying it. We don't need required paperwork reporting on all the minute details of the responsible crop management we are applying to our farms.

6. The nutrient application area also has some totally unrealistic issues in it. Not being able to apply foliar applications 3 days before a rain forecast and 3 days after actual rain. This is one that really begs the question; what were they thinking? At what percentage of rain forecast, and how local, which forecast etc. etc? Has anyone who made up this one been on a farm after rain? Really? I have seen rain in the morning and all foliage of a particular crop was completely dry by midday!!!!!!
7. I have seen something about water runoff that cannot be warmer than 68 Degrees F. The water I am pumping up is 70 Degrees F to begin with. So I guess I won't be able to apply water if the ambient temperature is higher than 70 Degrees. Again, something that does not seem to be anchored in the real farm world.
8. My understanding is that if I have potted material I would have to move it indoors before any rain. This has no practicality or logic to it. Some of these things are exactly required to harden of a plant before it would be shipped off all without harming the water quality.

Unfortunately there are so many areas that make no sense at all in the preliminary recommendations that it is really amazing! It has been some time that I felt so strong about proposed regulation. You may not have realized how this would potentially impact us farmers but believe me; you probably know the story of the frog that does not jump out when the kettle with water is being boiled. With these proposals you are putting the farmers in this kettle and you are turning up the heat. This unnecessary incremental bureaucratization will kill of some farmers and some others will just jump out. This will be without effectively realizing what we both want and like; good clean water. I urge you to put this staff proposal to the side and work with the Agricultural Community to look at what makes sense. Like I said at the beginning, let's look at the guys that are driving 85 miles an hour, don't make all of us drive 35 miles an hour because our competition is not!!!!!!!

Regards,



Cees M. Dobbe
President and managing member of
DoVer Enterprises LLC

cees@dobbe.biz

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Arroyo Grande CA 93420

Mailing : P.O. Box 2190
Nipomo CA 93444



P.O. BOX 2386 • SALINAS, CA 93902-2386 • PHONE: 831.424.8992 • FAX: 831.424.5254

March 15, 2010



Angela Schroeter
895 Aerovista Place, Suite 101
San Luis Obispo, Ca 93401-7906

Dear Ms. Schroeter,

My name is Sammy Duda and I am Vice President of Western Operations for Duda Farm Fresh Foods, Inc. Salinas, California. I am writing you in response to the 2010 Ag waiver draft that has been proposed for our area. While we acknowledge that water quality is a very important component in the public's everyday lives, the waiver being proposed is simply unworkable and will cripple our ability to compete as an industry. We in agriculture recognize that clean water is crucial for our livelihoods and the environment and we also realize that we have to do more to minimize the impact our operations have on water that leaves our ranches; however the proposed draft, if approved as written, will virtually eliminate our ability to farm much of the land in the Salinas Valley. The overhead and cost to manage the proposed waiver will cause us to stop farming several ranches and encourage us to find alternative areas to farm or source our products. I don't need to tell you how much California needs jobs and businesses to flourish especially in these difficult times, but this draft would force farmers and shippers to leave the state (or at least minimize their presence in California) as the burden to comply would be too great.



P.O. BOX 2386 • SALINAS, CA 93902-2386 • PHONE: 831.424.8992 • FAX: 831.424.5254

While we are concerned with many elements of the draft, we are particularly concerned with the level of testing required to meet the proposed waiver, the mandatory buffers (or alternative Riparian Function Protection Restoration Plan....whatever that is) for the riparian or wetland habitat areas (which would be in direct conflict with many current food safety guidelines), the prescriptive nature of many of the directives (how irrigation systems work and how much water is applied) from people who seemingly know very little about farming, and the elimination of all run-off from farming operations (or provide proof that the runoff (within four years) is actually ten times cleaner than drinking water standards). While I could go on, I hope you get the idea of just how burdensome and unrealistic many of the recommendations are to the farming community. Duda Farm Fresh Foods has operations in 13 states and Mexico, and, while our largest operations are in California, this type of regulation would cause us to strongly consider moving much of our production to competing districts and states. I would recommend that the Regional Water Quality Control Board staff include input from the Ag community so that workable recommendations are put forth that achieve the goal of cleaner water.

Sincerely,

A handwritten signature in black ink that reads "Samuel D. Duda". The signature is written in a cursive, slightly slanted style.

Samuel D. Duda

From: "Willy Cunha" <wilycunha@sunviewvineyards.com>
To: <aschroeter@waterboards.ca.gov>
Date: 4/1/2010 3:08 PM
Subject: Ag Waiver Comments

CCRWQCB: attn. Angela Schroeter, at aschroeter@waterboards.ca.gov

April 1, 2010

Jeffrey S. Young, Chairman of the Board

Roger Briggs, Executive Officer

California Regional Water Quality Control Board

Central Coast Region

895 Aerovista Place, Suite 101

San Luis Obispo, California 93401

Re: Preliminary Staff Recommendations for an Agricultural Order to Control Discharges from Irrigated Lands

Dear Mr. Young and Mr. Briggs,

My concerns regarding the proposed recommendations are that they need to be shaped to fit each segment of agriculture within each basin. Row crops are very different from vineyards as both are from dry land farming. The threat to water quality is different in each case as are the best practices. It seems to me you have created a big unwieldy hammer that will not make our water safer. In fact you have created a political counterforce combined with a down economy that is going to lead you to failure in your objectives.

The agricultural community needs to be held to high standards but the regulations need to be workable. I farm 800 acres of organic table grapes and wine grapes. I go out of my way to not use harmful chemicals. I do understand why conventional agriculture uses chemical tools. There are many chemicals that can be used safely to protect and grow our crops. I find your approach to your chemical list to be very unsophisticated. I also think that if DPR enforces existing pesticide regulations a lot of problems would disappear.

I do not think that dry land farming should be in anyway separate from other parts of agriculture. They disk the ground at the wrong time of the year. They often over fertilize onto the disturbed and highly erodable ground. Later they fly on herbicides and pesticides both of which can wash down in our spring rains. I have farmed in Northern San Luis Obispo County for over 27 years and I have witnessed more unnecessary erosion and poorly timed sprays on dry land crops than I have seen on the neighboring vineyards (and I have seen plenty of foolishness in the vineyards. Presently the number of dry land acres actively being farmed is reduced but is still very significant. You will need to prove to me that any sediment you find in the Salinas River or any Nitrogen did not come from that source before I respect any of your other programs and activities (as laudable as some of those are). Your whole program begins with this major flaw and it is wrong.

On a more positive note I think you have done well in encouraging the Central Coast Vineyard Team by recognizing their SIP Certification. Why don't you work with them to develop a specific vineyard certification that any vineyard could use to qualify for your Ag Waiver? Similarly you would work with a vegetable group to come up with their program and a dry land farm group to do their certification.

Thank you very much for considering my comments!

William C. Cunha

Sunview Vineyards Of California, Inc.

Sunview Shandon

Shandon, CA 93461

805-239-0555

From: John Wiester <jlwiester@hughes.net>
To: <aschroeter@waterboards.ca.gov>
Date: 4/1/2010 3:27 PM
Subject: Draft Ag Order

April 1, 2010
CCRWQCB
895 Aerovista Pl. Suite 101
San Luis Obispo, CA 93401

Re your Preliminary Draft Agricultural Order No. R3-2010-00XX

Concentrate and focus on areas where there are pollution problems. Those areas, such as our families on the middle Santa Ynez River where there are no problems should be exempt as a reward for sound environmental management. This is not only common sense, but will save taxpayer money and agricultural producers unnecessary hassles.

Sincerely,

John Wiester
Rio Vista Ranch
7760 Santa Rosa Rd.
Buellton, CA 93427
(805) 688-6507

April 1, 2010

Chairman Jeffrey Young
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA. 93401-7906
Fax: (805) 543-0397

Dear Chairman Young,

I have been farming in the Lompoc Valley for over 35 years. I am on the board of the Santa Ynez River Water Conservation Board. I am on the California Artichoke Advisory Board and a variety of farm and business boards. I have made presentations to both the Regional Water Board and State Water Board. I have been a cooperator and promoter of the US Geological Services monitoring and modeling of our groundwater. I have worked with biologists, mapping the resources of the Santa Ynez River.

The SYRCD has initiated and monitored biological resources along the river. The SYRCD has jointly developed surface water modeling for the river and is coordinating that model with the groundwater model.

I am a leader in drip irrigation and computer irrigation. I am a lead innovator of the artichokes of California. We have the world's first patented artichoke variety. We are the first to produce commercial quantities of an annual artichoke. I introduced the first new perennial artichoke to California in 79 years. I have licensed 5 patents, and have applied for 3 more so far.

Groundwater monitoring

This draft ag waiver is confusing to me. The Regional Board has cooperated with the county, SYRWCB, and City of Lompoc and has help fund our monitoring and modeling efforts. The USGS monitoring is peer reviewed. It is good science. It is unbiased. It is consensus. It has been expensive. It was done over decades. I have reports done from before World War II. AND you have read it all. The reports were done for you.

Despite this extensive public monitoring process, you want farmers to duplicate this effort. I am supposed to be better than the USGS. This requirement is unnecessary, redundant, and expensive. How many reports do you need to see? I could send you reports, and recount how many millions have been spent. .

Reporting

We could report nutrient use, but that has no value, is very complex, is hard to comprehend, and

would make no difference.

It has no value you (RWQCB) say that nitrates are not a problem in Lompoc (see the bottom of the letter).

On a five hundred acre ranch, we have an average of 50 plantings growing at any given time. We plant over 2 plants per year on each field. That gives you 100 data points. Each data point has multiple small applications of fertilizer. We use different types. Each type has different equivalents. All these applications need to be normalized so that the concentrations per area are equivalent. You need to track multiple nutrients. That is very complex. When you consider soil types, growing conditions, and varieties, a valid analysis is beyond complex.

To report nutrient use on a field or crop basis is **counterproductive**. We fertilize mostly by water injection. We use small doses and monitor results. We have many applications of small amounts of fertilizer spread over many crops. It is not haphazard. It is easier to monitor and report large doses. There is a requirement to have recommendations. It is easier to recommend larger more infrequent applications.

Your program would encourage large slugs of fertilizer. If each application requires a recommendation, then we do fewer applications with more fertilizers. Large doses are much more susceptible to leaching and wastage. That is only common sense. (It is also common sense to read YOUR own documents.)

SYRWCB Reporting Experience

Santa Ynez River Water Conservation Board has a requirement that all users report their water usage. I was first elected to the board in 1990.

Water reporting is much easier than fertilizer reporting.

Water is done either on a ranch wide basis or a simple meter on a well. Fertilizer needs to be reported on a least crop basis. Water can be done with one meter. Fertilizer has hundreds of readings per ranch.

Water is water. Fertilizer is nitrogen, phosphorous, potassium and others. The N, P, K needs to be converted to be meaningful. Not only do you need to do hundreds of applications per ranch, you need to convert each one into meaningful numbers.

Water is enhanced by rainfall, which is fairly consistent across a region. Fertilizer is influenced by soil fertility, soil salinity, soil type, and growing conditions at specific times of growth.

Fertilizer use depends on crop variety and cropping habit. Is this a perennial or annual? Is this

overwintered? Is the fertilizer applied in the soil or through the water or through the foliage?

The SYRWCB found it difficult to do water, but it was done. Fertilizer is more difficult by a factor of over one thousand more complex.

Underground drainage

I have about 200 acres of ground that has underground drainage. If I have to plug the drains, the ground will go fallow. If it goes fallow, I do not plant crops, I do not generate reports that need to be read, and I do not pay fees to read the reports on the ground that I do not farm. It is a loss of prime farm land. Prime farm land is a valuable resource.

Buffer Zones

This plan mandates buffer zones. That also removes prime farm land from production. No production, no food, no employees, no reports, no taxes. Then wild things will grow in the buffer zones and we will need new buffer zones. No production, no food, no employees, no reports, no taxes.

Agricultural Preserve

The California Land Conservation Act, better known as the Williamson Act, has been the state's premier agricultural land protection program since its enactment in 1965. More than 16 million of the state's 30 million acres of farm and ranch land are currently protected under the Williamson Act.

The State of California has funded the Williamson Act (until recently). The preservation of agricultural land has been support by both parties and all levels of government.

If I cannot farm the land, it has no economic value for agriculture. A landowner, who know has land with no agricultural value, has a choice- urban development or abandonment. The Williamson Act will only delay the inevitable. There is no incentive to stay in the Williamson Act. Indeed, the Williamson Act is only for farmland. If farming is prohibited by the State, they have abrogated their side of the contract.

Irrigation efficiency

Efficiency sounds great. How do we measure? We apply extra water to have a leaching fraction. Is that inefficient? Leaching fraction means extra water goes beyond the root zone and it take soluble salts beyond the rooting zone. Failure to leach leads to fallow ground. (see above ad naseum.)

Drainage water and "inefficient" runoff water sustains habitat. These practices may harm

environmental habitat that relies on irrigation runoff.

Agriculture is not the source of the problem in Lompoc

I wish to quote the California Regional Water Quality Control Board, Central Coast Region. August 6, 2007.

The nitrate impairment was being addressed through the existing NPDES permit; the Project did not need to continue to address the impairment for nitrate.

(2.) ... the known impairment from the exceedance of the nitrate objective was being addressed through the NPDES permit. In addition, salinity, total dissolved solids (TDS) and the chloride exceedances were likely from natural sources, not controllable sources.

From: Total Maximum Daily Load for Nutrients and Total Daily Load for Salinity/TDS/ Chlorides for the Santa Ynez River, Santa Barbara County. Project Charter 06 August 2007.

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/tmdl/docs/santaynez/santa_ynez_prjct_chrtr_23aug07_del.pdf

Therefore, the Regional Board Staff concluded that the nitrate problem was from the Lompoc Regional Wastewater discharge. Any other problems were from natural sources and not controllable. What has changed since 2007? If farms were not the problem then, why do we have to bear the expense and effort? Was the staff incompetent then or now?

If the Regional Board staff will not believe their own document, how can I convince them that they were right?

Conclusion

This program was done by people with no understanding of agriculture. They had not read Regional Board reports. They do not know the history and context of their requirements.

The board needs decide who to trust. Staff or the farmer.

Questions for staff:

If farmers reported all this nutrient information, can you process this in a timely manner?

If you process in an accurate timely manner, what are you going to do with the information?

What computer program will you use? Is it invented yet?

How many staff members are required? Will this require engineering or agricultural expertise?

Who is going to decide how much fertilizer is required to grow an acre of artichokes? An acre of zucchini? Does the fertilizer depend on the climate, soil, or season? How many variables are there?

If farmer A uses less fertilizer than farmer B, if farmer A more efficient? Are you going to require that farmer B use less fertilizer? Are you going to tell farmer B what his neighbor uses? How does this work? Or are you to prohibit usage of fertilizer greater than X? Who decides X?

What if farmer B uses more fertilizer but has more production? Are you going to monitor production per pound of nitrogen?

What if farmer C uses more nitrogen, but less phosphorous and potassium?

What if farmer D uses more pounds of fertilizer but is organic? Is he more efficient? What if he has more nutrient runoff, but uses less fertilizer? Is that better?

Do results matter or process? Does efficiency matter if the reports and recommendations comply with the rules?

If the drains are plugged, will farming continue? Is that consistent with State of California goals? How can you offset the negative impact of abandoned and urbanized farmland?

What is the source of impairment of the Lompoc Basin?

Questions for the board:

Who would do better groundwater monitoring? USGS or individual farms?

This will require new offices, computers, computer systems, and staff. The burden of this effort will fall on the farmer. How will this improve our state? Is California better?

Do you want to decide what level of fertilizer is efficient? Do you want to decide who is right, your staff or the farmer?

No production, no food, no employees, no reports, no taxes. "Yes" is better than "no."

Sincerely,

Steve Jordan

Baroda Farms
4305 West Central Avenue

P.O. Box 427
Lompoc, CA 93438

cc: Vice Chairman Russell Jeffries

John Hayashi

David Hodgin

Monica Hunter

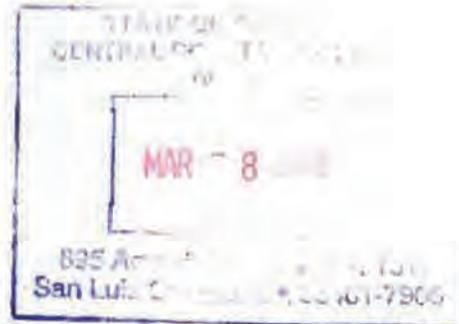
Tom O'Malley

Gary Shallcross

Roger Briggs, Executive Officer

Angela Schroeter, Senior EG

To: CCRWQCB Attn: Angela Schroeter
895 Aerovista Pl. Suite 101
San Luis Obispo, Ca. 93401



From: Dean Porter – Star Farms
7835 Estrella Road
San Miguel, Ca. 93451 (805) 467-3389

Topic: Draft Ag Waiver

March 2, 2010

I am contacting you to voice my concerns over the Draft Ag Waiver. As an irrigated alfalfa grower in northern San Luis Obispo County I am directly impacted by this Draft Waiver.

I am concerned about the likely increase in participation fees and also the huge capital outlay and record keeping expense that will be required to comply with the Draft Waiver. This comes at a time when our budgets are stretched just as the State budget is.

I believe your Draft Waiver requirements are based on incorrect assumptions; that all irrigated farming is the same and should be addressed as one. You have acknowledged that all farming is not the same as you distinguish between irrigated farming and non-irrigated farming, the later not being regulated.

There are many types and categories of irrigated farming. Flood and furrow irrigation is dramatically different from drip or sprinkler irrigation in terms of efficiencies and runoff potential. Sprinkler irrigation of field crops such as alfalfa produces virtually no runoff while sprinkler irrigation of bedded row crops has a greater potential to produce runoff. Drip irrigating a vineyard produces no runoff.

Alfalfa is a perennial crop that is often used in conservation strips and buffer zones because of its deep rooted ability to control and prevent erosion. It is incomprehensible to me how sprinkler irrigating a field of

alfalfa is somehow seen as equal to furrow irrigating a 90 day row crop replete with tail water issues.

My irrigated farming operation lies in the Upper Salinas-Las Tablas Resource Conservation District, specifically the Estrella Watershed that is designated a critical habitat by the Natural Resources Conservation Service (NRCS).

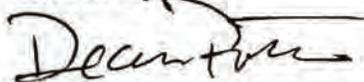
My farm qualified to participate in the Conservation Security Program (CSP) created by the United States Department of Agriculture and is implemented through NRCS. Farmers compete nationally for recognition in this program. I scored in the highest category of the top Tier (Tier III a). My qualifications were determined in a thorough application, interview and documentation process. Farm visits, pesticide records, fertilizer records, tilling practices, irrigation practices, erosion control, buffer zones and protection of riparian habitat were all scrutinized.

Congressman Sam Farr recognized me and other participants as pioneers in land conservation.

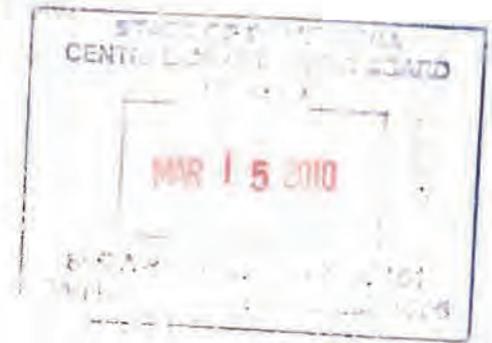
Your Draft Ag Waiver needs to acknowledge that many irrigated California farms are currently part of the solution not part of the problem. Many of us have already implemented irrigation practices that eliminate runoff and are currently recognized by Government and industry as pioneering best management practices. To us your forced participation fees will be punitive; we've already gone the extra mile.

I submit that the Draft Ag Waiver needs to have an exemption category and criteria that rewards those farms who have already gone to great lengths to eliminate runoff. This category would allow the individual to be exempt from participation fees.

Sincerely,

A handwritten signature in black ink that reads "Dean Porter". The signature is written in a cursive style with a long horizontal stroke at the end.

Dean Porter



March 20, 2010

Central Coast Regional Water Quality Control Board

Angela Schroeter, Senior EG

895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401-7906

Dear Ms. Schroeter,

My name is Bob Martin and I am writing this letter because I am really disappointed with the direction that Regional staff has taken regarding the proposed ag order which apparently is taking the place of the current waiver of agricultural discharge. I have spent countless hours on the "ag waiver panel" working with staff and environmental concerns both in the original waiver and more recently, on the current one. Yes, I am the disgruntled person who showed my disgust with staff and walked out on the process last fall. After 3 six hour meetings without staff, ag and environmental constituents had some valuable input to offer for a new approach to the next 5 year program. It was obvious at our next meeting with staff that they had no intention of reading, let alone implementing, any of the suggestions we had worked on. It was at that time I decided to separate myself from the process, believing that staff already had written the current proposal and was not interested in what we thought might present a workable situation for all concerned. It was also apparent that they wanted us at the table until the end of the process to show our participation in these meetings and that they had reached out and worked with stakeholders. It was obviously a simple (and necessary) decision for me to withdraw from the process at that time!

A key point that I would like to assert here is that we are all involved in an evolutionary process of environmental protection, whether we realize it or not. The tide has turned over the last 10 to 15 years regarding many of our focal points. Our generation has been charged with the responsibility of finding a way to balance the challenges of maintaining viable crop production that can feed the world, and protection of the important natural resources of our planet that we depend on to be so productive. We have found ways to change as rapidly as possible to address environmental issues.

With that being said I would like to comment on some of the points in staff's proposal.

Group 6 - F24
May 12, 2010 Workshop
Preliminary Draft Agricultural Order

- 1) First of all, staff has gone to great lengths to summarize the current water quality associated with agricultural surface and groundwater discharge with scant reference to any improvements to water quality through on farm management practices from the past 5 years.
- 2) To assume that drinking water standards in surface runoff is even remotely possible is reckless, to say the least. Most water that we are pumping doesn't meet those standards before we use it. At the UCCE Nutrient and Irrigation Management seminar on Feb. 23rd of 2010, Dr. Tim Hartz and Richard Smith both confirmed that it would be extremely unwise to assume that anyone can utilize a major portion of the nitrates in their irrigation well water to the extent of improving water quality, both in surface runoff or percolation to groundwater. Dr. Thomas Harter, (foremost authority on groundwater) has stated that it may have taken upwards of 40 to 50 years of various activities to lead to the current levels of nitrate contamination of groundwater in the Salinas Valley, and it may take that long as well to see improvements in the future. The Central Coast of California used to be a very big dairy region. 60 to 80 years ago, there were roughly 15 small dairies within a 6 mile stretch north of King City on Metz road. The general public doesn't know this and isn't being made aware that historic sources of nitrate contamination may be extremely difficult to clean up regardless of today's farming practices. Given those large numbers of dairies in the Salinas Valley 60 to 80 years ago, can we assume that possibly part of that contamination began then? I would think that is a very likely assumption.
- 3) Over the past 8 years I have spoken at over 75 different grower meetings about the importance of managing irrigation tailwater runoff. But it wasn't until Central Coast Water Quality Preservation Inc. (CCWQP) was well into its third year of the cooperative monitoring program (CMP) that growers were presented with data and information that they could grasp and use to begin finding ways to make direct improvements. That was only two years ago-and we are already seeing some slight changes that tell us we are moving in the right direction. Why would anyone want to stop that progress? This draft order makes me feel as though I have let down all the growers I've ever talked to because staff is forcing us into contradictions that set growers up for failure. Just one example is that a primary management practice for many growers, used region-wide to capture tailwater and reduce runoff to downstream waters are "tailwater ponds." But Region 3 staff is now telling us that this practice could put the grower in jeopardy of negatively impacting groundwater. (Double jeopardy for the grower!) Since most growers no longer use tailwater on crops in order to reduce the risk of pathogens making their way into our fresh produce-this is more like "triple jeopardy!" Growers need flexibility to determine what practices they can use on their operations. I suppose the only thing we can hope for is that global warming accelerates to the point of rapid evaporation from those ponds. Even the most rigorous irrigation management practices will experience some irrigation runoff, regardless of what your staff indicates. Elimination of all tailwater for all operations based on staff's timeline, is an unrealistic goal and a set-up for failure.
- 4) Regarding the farm plans and management practice implementation portions of the proposal, why is staff so adamant about collecting mountains of data that they probably won't have time to do more than a cursory scan? Is it the goal of staff to kill thousands of trees by requiring submittal of every grower's business information and penalize those growers who may be doing

all the right things? Please understand that the submittal of all the required data in the order would require an extensive effort by all participants. This effort has a price tag associated with it, (one that we truly cannot afford!) This data is also considered by most to be proprietary information. We are all in competition with each other and the information required would soon be public knowledge, removing all competitive edges in doing business.

- 5) Educational requirements have been removed from the new proposal. I will stand firm on the concept that farmers will need continuing education to stay up to date on new technologies, working hand in hand with our partners at the UCCE system. It appears too obvious to me that by removing education requirements, the only goal of the staff is strict regulation and not working with the farming community regarding new and improved technologies, finding better ways to protect water quality.
- 6) One facet of staff's proposal that hits home the hardest is regarding the spray buffers in proximity to waterways. There are many considerations that must be defined in this proposal. Does the waterway include "all" riparian area, or just the running water itself? If it refers to all riparian areas, all farmers and landowners along the Salinas River, (which is some of the richest farm ground in the Salinas Valley), are all about to suffer major economic losses. If we were to set back our farming operations 150 feet from those riparian areas, we would lose, (in our operation alone) approximately 163 acres of our best farmland. Although that sum, approximately 3% of our total farmed acres may not sound like a lot to staff, I would like them to be questioned about the effectiveness of these buffers, when DPR is already considering a somewhat similar but softer approach. How do we afford removing this valuable land from our farming practices? The rent on this property would amount to approximately \$120,000. This doesn't include impacts from food safety demands about vegetated buffers, if that is also included in the proposal. Does staff consider any of these economic hardships when they put the pencil to the paper? Riparian issues are adequately addressed by other regulatory agencies at all levels of government. Region 3 staff needs to focus strictly on water quality problems and let other government agencies deal with riparian issues. I am hoping you, as responsible Board Members, will give this more serious consideration than they did.
- 7) The definition of "tailwater" seriously needs to be addressed in the order. For 5 years staff has agreed that this term regards irrigation water that is leaving one's property and entering public waterways. The definition (in the existing and proposed order) states that tailwater is irrigation water that leaves the low point of a field. This creates confusion within stakeholders and asks the question, "What are they truly after with this definition?"
- 8) One problem that plagues farmers is the issue of "lease terms." Most leases offered to operators are no longer than 3 years before renegotiation begins for another 3 years. Obviously the only thing a farmer can do (on his own) is to improve his irrigation and nutrient management practices. Major capital improvements (i.e. sediment pond establishment) are costly and need to be amortized over a much longer period than 3 years. I know what you're thinking. "That's a problem for the lessee and lessor to work out." Many absentee landowners have not been educated enough on the issue of water quality impairment to understand what they are up against. Staff's data base needs to include these names in their mailings so landowners are brought up to speed on the necessity of compliance.

- 9) At an ag panel meeting last summer (2009), Region 3 Asst. Mgr. Michael Thomas emphatically stated that any impairment to groundwater underlying one's property was exclusively the result of that operation's past activities. Because of this statement, he obviously believes that water can only travel vertically through clay layers into groundwater. It is also obvious to me that the reason for this belief is to make that operator or landowner responsible for compliance issues and fines. I would like to have Dr. Thomas Harter address this topic with staff to clarify issues regarding groundwater contamination and the difficulty to pinpoint any particular causal actions.
- 10) Regarding pesticide issues, Region 3 staff needs to leave that topic to agencies that deal with that topic, (i.e. DPR and EPA.) In 2008 we planted roughly 1300 acres of onions in the southern Salinas Valley. Realizing that with the pressures being placed on reducing or eliminating the product Lorsban 15G (Chlorpyrifos) and not seeing any necessity to apply it because of a drier than normal winter and virtually no decaying matter in my soil at the time, I felt I could plant without that product that spring. Big mistake! I lost over 200 acres of onion stands due to soil insect damage. On some acres I was able to replant, and on others it was too late. That mistake cost us over \$60,000 in seed and planting cost alone, and that's not considering lost product at the end of the season. We don't use this product because it is cheap. We use it because we have to and there aren't any other options that work. Irrigation management practices and product application improvements are what is necessary for the reduction of pesticide residues in tailwater. Another topic for the education argument!
- 11) One point that I will continue to drive home, and I hope you will heed, is that of legal responsibility. Many of the provisions in this proposed order are unattainable and impossible to enforce. I listened to Arthur Baggett speak at a California Farm Bureau Leadership conference many years ago when he was the chair of the State Water Board. He stated that at any given time there were 90 to 100 law suits on the books and most of them were brought forward by environmental organizations suing the State Board because of their failure to enforce their own written rules. This is an obvious eventual situation regarding the proposed order. I strongly believe that if the original existing waiver were retained and more effectively managed and enforced by this Regional Board, you would not be faced with a stack of unrealistic milestones and the staff's proposal to collect meaningless information from thousands of growers.

Sincerely



Bob Martin
General Manager
Rio Farms/Gill Ranches
P.O. Box 605
King City, CA 93930

Letters sent to the following entities:

Governor Schwarzenegger

California Dept. of Food and Agriculture Secretary A.G. Kawamura

California State Water Resources Control Board Members

California State Water Resources Control E.D Dorothy Rice

California State Water Resources Control Staff Member Johnny Gonzales

Central Coast Regional Water Quality Control Board Members

Central Coast Regional Water Quality Control E.D Roger Briggs

Central Coast Regional Water Quality Control Senior EG Angela Schroeter

Monterey County Board of Supervisors

U.S. Senators Barbara Boxer and Diane Feinstein

U.S. Congressman Sam Farr

California State Senators Able Maldonado and Jeff Denham

California Assembly Member Anna Caballero

3/5/10

To whom it may concern

central coast water quality
preservation Inc. is going to bankrupt
some farmers. Cause a perminate
wedge in relations with your ~~board~~ ^{water users}
The bookkeeping would be monumental
like logging of all water applied

who evaluates potential runoff
probably your board so you can hire
10 more ~~employees~~ employees in fact to main-
tain this document your board
will be the biggest job creator in
the county. Farmland sales are bound
to go up with developers feeding
on the spoils. Where is credit given
to our water quality classes or our
implementation of ~~the~~ E, Q, U, I, P practices.

This is the most anti-ag order
I have ever experienced. The un-
intended negative consequences
are going to far out weight what
ever benefits you think you going to
get. you are painting everybody
with the worst brush you could
find. your approach to working with
farmers fails completely

John O. Varian

cc. Howard Kolb

From: <kdonovan1@aol.com>
To: <aschroeter@waterboards.ca.gov>, <hkolb@waterboards.ca.gov>
Date: 3/18/2010 12:42 PM
Subject: Water Board Regulations

Re: Impending Regional Water Board Regulations

Please Pass this on to the other board members before April 1, 2010.

Thank you in advance!

The impending regulations on new buildings "being built so that no water leaves the site in a rain storm" is an extreme measure to impose on the landowner and cost prohibitive. It is not logic that during a rainstorm, or a "flood" that the landowner should save "all the water.". That is an act of Mother Nature that can't be controlled.

The Regulatory Agency expecting farmers to control the water flowing off of their farms from rainstorms, controlling the silt, controlling the temperature, and controlling the cleanliness of the water during "Acts of God" in case of a downpour, is ludicrous.

The Standards the Regional Water Control Board is trying to impose on the farmer, is not possible when water deals with animals, trucks, cars, bicycle tourists and just "Mother Nature" who does not give us perfect water during a rainstorm.

No one wants "dirty water." But extreme regulation to cleanse water from Mother Nature and making the agriculture runoff the "main culprit" for contributing to pollutants, is not scientific and factual. Consider the urban populations, the metropolitan areas and the non cultivated or inhabited areas of your district. The idea that millions of people are at risk because of agricultural practices is absurd.

Why should Agriculture be responsible for the testing and cleaning of water, when they aren't at fault.

Who proved that Agriculture Run-Off, or even Agriculture was the source of pollutants and "dirty water."

California doesn't need this type of severe regulation. We need to first protect our citizens from the "taking" of our lands and the "overregulations of our lands" that make it prohibitive to be in agriculture in California.

Thank you for reading my concerns.

Kathryn Donovan, Santa Maria, Ca.

From: NED BRANDT <nedbrandt@msn.com>
To: <aschroeter@waterboards.ca.gov>
Date: 3/18/2010 12:00 PM
Subject: Boy, do you guys have it wrong.

Just thought I may say what's on my mind. Not sure where you live but here in the state of CA we are struggling with many problems that for the most part have been generated because of the misguidance of our local, state and federal leaders. You may well fall into this list. Like a said, the problems we have are not generated by private business, but mostly from our government. I suppose this is due to the fact that these so called leaders have no common sense, no backbone, no sound science and total greed that allows them to make such pure crappy legislature. Are you in this list of idiots?? See, I watch Glen Beck, I have education in business and economics, I own my small company. I am not a great writer but I do see and understand what is going on in this state and this country. People like you are KILLING our economy. Keep killing our economy, keep killing these growers, keep making more and more rules and regulations and soon, very SOON, you too will be looking for a job because there will be no revenue to come in and pay for you and your fools. See, we can do without you BUT you can not do without us. Money comes from us, not the government and not Obama. Please try to understand this as the lobbyist bend you over and make you write these stupid laws and regs. Have a backbone, stand up and do what's right for the taxpayers, not the water flees or the Delta Smelt.

I may have this all wrong, but I don't think so. If I do, call me. If I'm wrong, Ill apologize.

Go COLAB...

Ned Brandt
Brandt Ag. Products, LLC
Fax 805-938-0890
Cel 805-878-1446

From: "Van Galio, Paula - MMC" <Paula.VanGalio@chw.edu>
To: <hkolb@waterboards.ca.gov>
Date: 3/18/2010 12:09 PM
Subject: Water regs

Somehow you have all become water zealots! Everybody needs to take a giant step backwards and face the fact that you are making it impossible and outrageously expensive to grow the food I eat and cook for my family. This is another reason people choose to eat at cheap fast food establishments, because they cannot afford to buy what is grown next door to them! For heaven's sake, you all seem to have lost your senses!

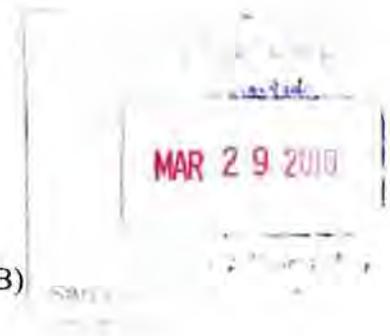
Stop the madness!

Fine with water the way it was a decade ago.

Paula

March 26,2010

To: Angela Schroeter
Central Coast Regional Water Quality Control Board (CCRWQCB)
895 Aerovista Pl. Suite 101
San Luis Obispo, CA 93401



Re: Proposed New Agriculture Water Draft Waiver

Angela,

We understand there are proposed changes being considered in regards to the Central Coast's Cooperative Monitoring Program managed by the Central Coast Regional Water Quality Control Board (CCRWQCB) in San Luis Obispo County.

We are against these proposed changes. We understand the board is requesting comments to be received by April 1, 2010...thus this letter. We are in hopes that these new proposed regulations do not become implemented and work their way into Santa Cruz County. We are against these proposed changes for the following reasons:

We understand a 50-100 ft buffer zone is to be created along all waterways. Our farm (Parcel #048-231-09 consisting of 16.5 acres) is adjacent to the Corralitos Creek located in Watsonville, Santa Cruz County. In effect, this buffer zone will take approximately 2-3 acres out of production. Our property is flat (in fact it is graded sloping away from the creek). We feel there are no issues with respect to water runoff from our property into the creek, thus no contamination due to pesticides and /or fertilizers. We are also considering switching our property adjacent to the creek to organic farming of which we feel the new proposed regulations should not apply to organic properties. The loss of agricultural land will not only affect agricultural output of the property, it will also affect income potential (not to mention the costs associated with fees). The loss of all agricultural land affected by these proposed regulations will have an enormous affect of the types of crops grown and their agricultural output.

We ask that instead of creating and implementing regulations that apply to all properties adjacent to waterways (thus increasing everyone's costs) that you target the properties and individuals who account for the problems. We also ask that you please include us on your mailing lists of future changes and future proposals at the address below.

Sincerely,

Antone G. Basich
George Basich
1907 East Lake Ave.
Watsonville, CA. 95076

March 22, 2010

Roger Briggs
Region 3 Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, Ca. 93401



Dear Roger,

It's been a long time since we worked together on the Los Osos sewer project, but this isn't about that. I'm directing this letter to you...mainly because I know you as a friend...but please pass these comments along to your staff.

Last night four members of your staff made a presentation to the Cambria Farm Center about the new proposed Order for Irrigated Agriculture. I was impressed with the presentation and the sense of openness displayed by your staff...especially Michael Thomas and Angela Schroeter. That being said, I can say, without exception, we are upset, dismayed, and bewildered by the current direction of this order as it is currently written. The purpose of this letter is to reiterate concerns that we shared with your staff last night:

1. The order approaches the entire region with a "broad brush". We are **not** the Salinas Valley or anything approaching that. The entire region may have heavy fertilizer and chemical application, but we do not. Our watershed in Cottontail Creek has suffered no degradation. We have no nitrates, TDS, chemicals...or anything of the like. The well samples we are taking now are the same as 31 years ago. So why are we treated the same? Why should we take quarterly samples to reinforce this?
2. We are small operators. Why is it necessary to have a "Certified Crop Advisor"? I have used these services before, and I know more than most of them. They are a paid waste of time. This is overkill for small irrigated "low impact" farms.
3. Why is it necessary to outline our entire irrigation program: timing, water quantity, water demand, etc.? I have 5 wells. Some of them work all year, but most do not...depending on the rainfall. Is someone going to come along someday and tell me I'm using too much? Too much fertilizer? I pride myself on just using what the plant needs. Too much water will kill an avocado tree...especially in perched soils like we have. Too much fertilizer is a waste of money, and will also cause the trees to grow foliage instead of fruit. I feel like an environmental expert by experience...not necessarily by choice. It just works out that way. We are creating a perfect environment for trees, wildlife, and all the good stuff that nature intended. We are the good guys...not the enemy.
4. "Buffer Zones" next to riparian habitat. This one is really detrimental to agriculture. This assumes that there must be loss of soil or there is degradation because we don't have a buffer zone. As I explained to Michael Thomas last night, in most cases my orchard **is** the buffer zone. By that I mean that these creeks only really erode dramatically in severe storms...50 year or 100 year

events. I have planted willows and grass when I have significant potential for loss, but in many cases the creek simply will "meander" over the many years. The only thing stopping it is the trees that I have planted. I assure you the soil loss would be even greater if it wasn't for my 30-year old trees. This so-called buffer just doesn't make common sense, and I am living proof of that. What am I to do with a rule like that? This needs to be revisited. We have a great aquatic habitat...because we believe in it. This rule doesn't make anything better.

Roger, your staff seemed sympathetic to our concerns, and Angela seemed to be pointing in the right direction: have a category for "low-impact users"...such as small farms on drip irrigation. Require less stringent rules for farms like ours. I would like to suggest the following:

1. Create a category for low-impact farms such as ours...and for most of the small farms and ranches on the North Coast.
2. Drop the need for "certified crop advisor". This is overkill.
3. Perhaps tackle the problems by watershed. Bruce Gibson suggested this last night, and it makes perfect sense. We don't have the same problems as the valley.
4. Kill the total irrigation schedule plan. This makes no sense at all in areas like ours. We can't over-irrigate. Will someone tell me that I am? I built this system and personally, it really offends me that the assumption is that I need someone to tell me that I need to do it differently.
5. Drop the word "potential" to discharge for small farms. This seems to be the big word that lumps all the small dischargers into one big bunch. Collectively, it sounds like we really have an impact. That is not the case.
6. Change the buffer zone rules. I got the impression that your staff was sympathetic in this area. Please study this very carefully. If you followed this rule, you would simply put many farms out of business.

Roger, thanks for taking the time for reading this, and thanks for sending your staff to Cambria. I believe it was time well spent, and I hope these changes will be made. I intend to follow the plan all the way, and will probably attend your workshop in San Luis Obispo. We can commiserate about the plight of the Los Osos sewer. I hope you finally succeed in that endeavor.

Sincerely,

Bill Coy

2255 Cottontail Creek Road

Cayucos, Ca. 93430

995-3726

covbill@wildblue.net

cc: Joy Fitzhugh, Farm Bureau

From: Donald Davis <dwd@donalddavis.com>
To: <aschroeter@waterboards.ca.gov>
CC: <hkolb@waterboards.ca.gov>
Date: 3/30/2010 10:17 AM
Subject: Preliminary Draft Agricultural Order

Dear Ms. Angela Schroeter and Mr. Howard Kolb
Re: CCRWQCB Request for Public Comments on Preliminary
Draft Agricultural Order dated February 1, 2010

My family owns and operates an avocado ranch in Summerland near Santa Barbara. We have approximately 11 acres and have been raising avocados for over 35 years.

The draft Ag Order in question concerns me very much. Our operation is certified Organic by CCOF and we already have in place management practices that address water quality issues. The cost of water, organic fertilizers and the labor to administer these components are already a powerfully limiting factor in that we cannot afford any practice that is not absolutely the most efficient.

The pressures we experience in attempting to maintain our ranch already have us nearly at a "breaking point"- where we question our ability to stay the course. Additional regulatory burdens cost money and take time, and if not carefully considered from individual rancher's perspective could have the unintended result of driving us out agriculture. Almost any alternative to the present use and care of our property, will be a step backward in the objectives of water quality programs.

Please reconsider your Ag Order.

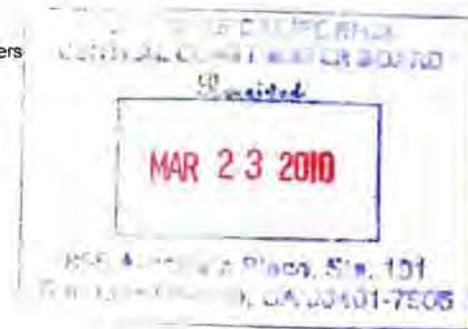
respectfully,

Donald Davis

Donald Davis
home: 805-969-2760
cell: 805-452-9180
email: dwd@donalddavis.com
web: <http://www.donalddavis.com>

Dragon Spring Farm

Mike & Carol Broadhurst, Owners
6115 Santa Rosa Creek Road
Cambria, CA 93428
(805) 924-1260
email: mdbroadhurst@att.net
www.dragonspringfarm.com



March 22, 2010

Central Coast Water Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Attn: Lisa McCann and Angela Schroeter

RE: Preliminary Draft Agricultural Order

Dear Ms. McCann and Ms. Schroeter,

Please consider my comments and concerns regarding the draft order:

General issues

1. Making farm plans publicly available will most definitely increase citizen or activist group lawsuits – responding to such is not a good use of farmer or gov't resources.
2. No cost vs. benefit analysis appears to have been done. Given the state of CA's economy – can we really afford to drive more agribusiness out of the state?
3. Several clear conflicts are left unresolved, for instance inconsistencies with food industry directives and CA-approved pesticide labels. Who will resolve these?
4. Unintended consequences do not seem to have been considered – "the solution" could create a bigger or at least different problem.
5. The draft order alludes to "low risk" dischargers without providing clear guidelines on what low risk means.
6. In public meetings staff have given assurances of good intentions regarding topics such as low risk and buffers not contained in the draft order. Farmers need some clarity here.
7. As a scientist, I was particularly taken aback by the lack of scientific method displayed in a number of the points under General Findings. Specific examples are cited below.
8. Everyone benefits from the food produced by agriculture. The argument can be made that costs associated with providing that food should be spread across all who benefit.

Specific issues

- Point 83, Impacts to Groundwater – Human Health, provides a laundry list of diseases with the implication that these are caused by nitrate in drinking water. There is no evidence or references included. Nor is any epidemiology provided that suggests these diseases are linked to nitrate-contaminated water.
- Point 84 states that nitrogen-containing compounds are known to cause cancer. Sorry to be the bearer of bad news, but a majority of compounds found in the human body contain nitrogen. Cancer is associated with N-nitroso compounds formed from nitrite, and the basis of natural processes of mutation and evolution. The author of this point also chooses to ignore basic biochemistry that animals oxidize (not reduce, re: nitrate to nitrite) and excrete polar substances like nitrate. I would like a reference to the U. of Iowa study cited.
- Point 93 focuses on fertilizer as the primary source of nitrate by equating fertilizer = agriculture. What about the many other sources, e.g. livestock and vehicular pollution. This is not a simple story.

These later points are only examples of what appears to be emotion-appealing arguments to justify some rather harsh requirements that target agriculture.

Sincerely yours,

A handwritten signature in black ink that reads "Michael Broadhurst". The signature is written in a cursive style with a large, sweeping initial "M".

Michael Broadhurst, Ph.D.
Former Head of Research and Development,
Zeneca Agricultural Products



FITZHUGH RANCH
JOY ANNE FITZHUGH
2646 ETON ROAD • CAMBRIA, CALIFORNIA 93428 • (805) 927-4360

March 30, 2010

MAR 30 2010

Ms. Angela Schroeter, Senior Engineering Geologist
Region 3 Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Re: Preliminary Draft Staff Recommendations for an Agricultural Order

Dear Ms. Schroeter:

As a farmer/rancher, I would like to express my thoughts and concerns relating to the Draft Staff Recommendations. The Draft Order has raised many questions about my ability to continue with our little 1 acre garden and 1 acre orchard which produces vegetables and fruit that my brother sells at his little roadside stand. I would like to explain what our issues are in context of the various parts of the Draft Order.

Focused Order: As was stated at the North Coast Farm Center meeting, I hope that the concept of an Order focusing on the problem areas is seriously considered. *I would suggest that the comment on status quo for those areas without major pollution problems is a realistic and economically doable solution in this day with very little funding for government as well as the private sector.*

Riparian Buffer:

It would appear that a 50 foot buffer would be part of the requirement next to our narrow vegetable growing area on the ranch. In our personal case, a 50 foot vegetative buffer, that would require the elimination of over 50 percent of our vegetable growing area, as our ranch road and equipment shelter would have to be moved beyond the 50 feet and take out planting area. *At a NRCS/County stormwater sedimentation and erosion workshop on Friday, March 26th I was reminded that a 12 foot vegetated buffer strip captures almost 90 percent of pollutants preventing them from reaching streams.*

On page 72, if planting a buffer is not part of our farm program, because our creek is fully grassed (even following the nine inch rainstorm in October) and is not eroding, it will be prohibitively expensive to develop and implement a *Riparian function Protection and Restoration Plan*. I say this because of the 6 mandatory sections. Put together, this *Plan* is in effect an EIR. In discussion with a geologist I was told that to complete the plan (e) aquatic life support and (f) wildlife support would require a biologist. We

certainly do not make tens of thousands of dollars from our roadside stand. Like an EIR, this *Plan* will most definitely be expensive and beyond our means. *As a suggestion, it seems that this whole concept of buffer and an alternative to a buffer needs to be rethought.*

Definition of Discharger: Even though Michael Thomas explained that the definition of a discharger is a State definition, I believe that the region needs to look at the unintended consequences of this definition in light of the requirements/mandates in the proposed Order. To say you are a discharger if you have “potential to discharge” pulls everyone into the rigorous regulation requirements and doesn’t leave any room for a “low risk” discharger. *If this definition must remain, then there needs to be a rethinking of how anyone can qualify as “low risk”.*

Public: Another very serious concern I have is the requirement that the monitoring and reporting includes, along with regional board and staff, the ability of “the public to determine that the program is achieving its stated purpose and/or whether additional or different MPs or other actions are required”. *I suggest that the current system of having the plans available for review at the landowner/operators location/site should be continued. If for no other reason then the plan can be better understood if the agency representative can relate it to the actual farming site. Further, for those with proprietary practices, these will not become public information.*

There are a number of other places where I have serious concerns such as:

- Certification of a nutrient plan, why and how;
- No rainwater on potted plants in nurseries;
- Eliminating the educational component as a requirement;
- Lack of clarity in how one can qualify as a “low risk” discharger;
- The extensive and needless requirements in the Farm Plans;
- The achievability of the timelines and milestones and
- How this Order will impact the small farmer.

I hope you will take to heart agriculture’s Alternative Plan and Farm Bureau’s letter expressing their concerns and comments. We need a collaborative process in addressing water quality. Let’s not destroy what the 2004 Order achieved. Let us help you help us make the Central Coast waters cleaner.

Sincerely,



cc: Region 3 Water Quality Control Board Members

Comments Regarding the Preliminary Draft Irrigated Ag Order.

This preliminary agricultural order is specifically focused upon completely eliminating agricultural discharges. The complete elimination of agricultural discharges in the Santa Maria Groundwater basin is clearly detrimental to groundwater quality. The high concentrations of Magnesium, Calcium, Sulfate, Chloride and other common salts indigenous to the area need to be flushed from the basin, through its water ways to the ocean. If the minimal amount of flushing that has been taking place is not allowed to take place a toxic buildup of these salts will occur in groundwater over time.

One of the main functions of irrigation water is to flush soil salts accumulated from previous irrigations. Tail water TDS concentrations in excess of 1500 PPM need to be discharged off of ranches, through waterways so that the buildup of these salts does not become excessive in groundwater. The Santa Maria Valley Groundwater basin is currently in surplus (the loss of some water to the ocean for flushing currently has significantly greater benefits then it would have for its detrimental recharge).

Without this flushing of the waterways and the basin at large, the applied higher TDS water would reduce the soil CEC thereby increasing the leaching potential of applied nitrogen fertilizers. The end result will increase discharged nitrogen to the groundwater basin, increase the need for applied water (increasing erosion) and increase the incidence of disease (increasing the need for applied pesticides) all of which are in direct conflict with the goal of improving water quality.

Monitoring the level of nitrate concentrations, pesticide concentrations, turbidity and flow rates is vital to the health of the basin. The current cooperative monitoring program is achieving the stated objectives and allows growers to focus their limited resources on implementing improvements to their current systems. However, to draw conclusions at this time is very premature due to the complexity and variability of the environmental systems found in region 3. To set a policy to eliminate discharges completely would cause increased discharges from tile drains and increased salt loading of the groundwater and field soil salt levels. I believe that the current waiver data needs to be monitored and evaluated on a watershed by watershed basis so that huge environmental damage and extensive litigation might be avoided.

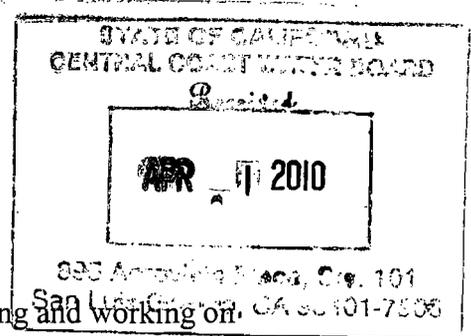
From: <MjMcrthrE@aol.com>
To: <aschroeter@waterboards.gov>
Date: 4/1/2010 3:26 PM
Subject: Water

- 1: do not regulate farms adjacent to or near UNIMPAIRED sections of 303(d) water bodies.
- 2: Eliminate the criterion that farms within 1000 feet of a 303d water body cannot be "Low Risk" and specify farms adjacent to an impaired section of a 303d water body cannot be "Low Risk".
- 3: classify organic operations that stipulate they have no irrigation run off and control erosion as "Low Risk"
- 4: eliminate mandatory buffers
- 5: simplify farm plans; require monitoring and testing should only be required in impaired areas of water bodies and only if there is reasonable cause to believe it is farms, not urban, industrial, or historical causes that are the source of impairment; organic certification documents should be accepted in lieu of a farm plan in unimpaired sections of a water body.

The above are comments made by a neighbor of mine who is a farmer. We both farm along the Santa Ynez River - I am growing organic walnuts. I concur with every point she has made and hope you will consider all.

Sincerely,

Mary Jane M. Edalatpour
8615 Santa Rosa Road
Buellton, CA 93427



Dear Central Coast Regional Water Quality Control Board,

As an agriculturist who has spent the last fifteen years of my life living and working on the Central Coast I am deeply concerned with the staff proposed Conditional Agricultural Waiver Water Discharge Waiver.

I am by no means against responsible farming and clean water. Quite the opposite, I have spent countless efforts to reshape the pest control and cultural practices at each of the employers operations I have worked at. This has at times caused large changes to the status quo and cost the farmer more money. The interesting part is that I have yet to have an employer who has balked at softer chemicals, improved application techniques, or adjusted cultural practices as long as they were sensible. The proposed waiver doesn't have sensible possibilities it all about unreasonable regulation. This, I am afraid is only going to lead to confrontation between regulators and farmers.

The current waiver came a long way in building cooperation between the farmers and the interests of the Water Board. This waiver has tremendous potential to continue education and outreach which in turn will lead to developing processes to get to the final goal, clean water and prosperous farms. The new waiver is a set of definitions and requirements that will only result in the need for stepped up regulation and litigation.

The spirit of the original waiver was industry lead improvement. This has been crushed. The 26 page Preliminary Draft Report does a disservice to everyone involved. This is a politically charged document that should immediately be rescinded by the Regional Water Quality Control Board and the staff involved in the final document should be removed from the process. This is about water quality and water quality is about science. The document contradicts itself so many times it is worthless. But most importantly it shows that the staff at the Regional Water Quality Control Board has a political agenda that they can not keep out of their work projects. As a tax payer in the affected counties and the state I am appalled that the Board has let the process get so far corrupted.

I will assure that in the farming operations that I work, we will move forward to achieve cultural practices that assist in the goal of cleaner water for the region. I need to see the Regional Water Quality Control Board demonstrate that they are above the politics of the issue and moving forward with the science and end goal of prosperous agricultural enterprises and clean water. The first step in this direction will be to rescind the 26 page Preliminary Draft Report and staff the Central Coast office appropriately.

Sincerely,

Grant Cremers

DATE: 18 MAR 2010

TO: CCRWQCB
ATTN: ANGELA SCHROETER
895 AEROVISTA PL. SUITE 101
SAN LUIS OBISPO, CA. 93401

SUBJECT: CCRWQCB DRAFT AG WAIVER.



THE FOLLOWING COMMENTS AND OPINIONS OF NEW DRAFT AG WAIVER ARE FROM THE VIEW POINT OF A CONCERNED CITIZEN.

THE NEW PROPOSED AG WAIVER BY CCRWQCB MEANS MORE AND MORE GOVERNMENT CONTROL OVER THE OPERATION OF PRIVATE AGRICULTURAL[AG] INDUSTRY. WHY SHOULD THE AGRICULTURAL INDUSTRY BE TARGETED IN SUCH A MANNER? IMPLEMENTATION OF THE DRAFT AG WAIVER POSES EXPENSIVE COMPLIANCE COSTS POSSIBLY BRINGING ECONOMIC DISASTER TO SOME IN THE AG INDUSTRY. IT WOULD APPEAR TO THE CCRWQCB BOARD MEMBERS COMPLIANCE OF THE ORDER IS MORE IMPORTANT THAN THE ECONOMIC SURVIVAL OF THE AG INDUSTRY. THE AG INDUSTRY PROVIDES THOUSANDS OF LOCAL EMPLOYMENT AND SUPPORTS OTHER BUSINESSES. YET, CCRWQCB WANTS TO PUT THE SQUEEZE ON THE AG INDUSTRY. THE BOARD MEMBERS SHOULD BE REMINDED WE ARE ALL POLLUTERS OF AIR, LAND AND WATER. IF, THE ISSUE IS WATER QUALITY, WASTE WATER DISCHARGE, WHY AREN'T OTHER ISSUES SUCH AS URBAN DRAINAGE AND WASTE WATER TREATMENT[SEWER] PLANTS CONSIDERED AS WELL? HOW ABOUT RESIDENTIAL INDIVIDUAL SEPTIC SYSTEMS? RESIDENTIAL OPEN SPACES? MUNICIPAL OPEN AREAS? CITY DUMP? DON'T THEY ADD TO OUR POLLUTION OF AIR, SOIL AND WATER? AREN'T THE OTHER SECTORS JUST AS IMPORTANT PART OF THE OVERALL WASTE WATER DISCHARGE ISSUES? CCRWQCB CANNOT SIMPLY DEFER AND IGNORE THESE OTHER SECTORS FROM THE OVERALL WASTE WATER DISCHARGES. WE NEED TO KNOW WHO IS POLLUTING OUR WATERS THE MOST? AG INDUSTRY OR THE COMMUNITY WASTE TREATMENT[SEWER] PLANTS? URBAN DRAINAGE? SEPTIC SYSTEMS? PARKS? CONFINED ANIMAL HOLDING LOTS FOR COWS AND HORSES? DOES CCRWQCB HAVE ANY RECENT DATA TO SHOW WHERE MOST OF THE CONTAMINATION IS COMING FROM? ACCORDING TO CCRWQCB 90% OF THE AG INDUSTRY MEMBERS ARE ALREADY COMPLYING WITH THE EXISTING AG WAIVER PROGRAM. THE OTHER 10% ARE DOING THEIR OWN TESTING OR IN NON-COMPLIANCE. AG INDUSTRY MEMBERS WHO ATTENDED THE AG WAIVER SEMINARS KNOW THE IMPORTANCE OF MONITORING THEIR OWN APPLICATIONS OF CHEMICALS[PESTICIDES,ETC], FERTILIZERS, WATER SCHEDULES, RUNOFF AND SOIL EROSION. ONLY CCRWQCB WOULD KNOW IF THERE HAS BEEN ANY IMPROVEMENT OR REDUCTION UNDER THE PRESENT AG WAIVER PROGRAM. DOES CCRWQCB HAVE ANY COMPARISON OF ANY RECENT AVAILABLE DATA? THE VOLUME OF AG INDUSTRY WASTE WATER DISCHARGED IS FAR LESS THAN THAT DISCHARGED BY THE SEWER PLANTS. THERE IS NO COMPARISON. MILLIONS AND MILLIONS OF GALLONS OF WASTE WATER DISCHARGED FROM THE SEWER PLANTS. THAT'S 24/7! NO HOLIDAYS! THE AG INDUSTRY CAN'T MATCH THAT VOLUME OF WASTE WATER DISCHARGED IN A GIVEN DAY. HOW MANY OF THESE COMMUNITY WATER TREATMENT PLANTS USING TIER THREE LEVEL PROCEDURES? WHAT KINDS OF CHEMICALS ARE Poured AND FLUSHED DOWN THE TOILETS IN A DAY THROUGH THE DRAINS FROM HOMES, APARTMENTS, CONDOS, MOTELS, REST HOMES, HOSPITALS, CLINICS, LABS, COMMERCIAL AND INDUSTRIAL ESTABLISHMENTS ARE ENDLESS. MANY OF THE CHEMICALS ARE NOT USED BY THE AG INDUSTRY ARE PRESENT AND CONTAMINATES THE WASTE WATER THAT AFFECTS THE WATER QUALITY AND AT TIMES REACH TOXIC LEVELS HARMFUL TO HUMANS, WILDLIFE AND AQUATIC LIFE. CCRWQCB CAN'T BE BLAMING THE AG INDUSTRY ONLY FOR ALL THE SURFACE AND GROUND WATER AND SOIL POLLUTION. CCRWQCB SHOULD BE GOING AFTER THE WASTE WATER TREATMENT PLANTS AS WELL WITH STRICTER REGULATIONS TO CLEAN UP THE WASTE WATER BEING DISCHARGED. ALSO, THERE NEEDS TO BE MORE CONTROL AND REGULATIONS OVER THE KINDS OF CHEMICALS USED INDOORS AND OUTDOORS IN URBAN AREAS FLOWING INTO THE URBAN DRAINAGE SYSTEM AND LEACHING INTO THE SOIL. BY FAR, MORE CHEMICALS ARE BROUGHT AND SOLD OVER THE COUNTERS THAN THAT USED BY AG INDUSTRY. CCRWQCB MUST IN SOME MANNER REGULATE THE RETAIL MARKET SECTOR AS TO SALES OF KINDS AND TYPES OF CHEMICALS THAT CAN BE SOLD AND USED EVENTUALLY ENDING PASSING THROUGH THE SEWER PLANT'S DISCHARGE OR LEACHED INTO THE SOIL. CCRWQCB CANNOT SIMPLY IGNORE THIS SECTOR AS THIS SECTOR CONTINUES TO GROW LARGER AND LARGER BY THE DAY. MORE SEWAGE, MORE CHEMICALS AND INCREASED VOLUME OF

CONTAMINATED WASTE WATER DISCHARGES. IT IS UNFAIR TO ENFORCE SEVERE WATER QUALITY RESTRICTIONS ON THE AG INDUSTRY WHILE THE RETAIL SECTOR IS NOT HELD ACCOUNTABLE IN ANY MANNER, BUT, SIMPLY SET ASIDE FROM THESE RESTRICTIONS. PEOPLE IN THE URBAN SETTING CAN WASH, POUR, FLUSH AND DUMP INTO THE DRAINS AND SOILS JUST ABOUT ANY THING THEY WANT INCLUDING TONS OF HUMAN WASTES GENERATING AMMONIA. THAT'S GOT BE A TOXIC SUBSTANCE. THE SEWER PLANTS CANNOT POSSIBLY PROCESS ALL OF THE POLLUTANTS IN THE WASTE WATER DISCHARGES SO THAT THEY DO NOT POSE A THREAT TO HUMANS, WILD LIFE AND THE ENVIRONMENT. IF, CCRWQCB DOES NOT IN SOME WAY REGULATE OR CONTROL THIS SECTOR OF THE WATER QUALITY ISSUE, THEN CCRWQCB IS NOT DOING IT'S JOB. THIS SECTOR IS OUT OF CONTROL, GROWING AND POLLUTING THE MOST OF THE WASTE WATER DISCHARGES. IT'S A WONDER THAT AQUATIC LIFE MANAGES TO SURVIVE IN THIS ENVIRONMENT.

WE NEED TO SEPARATE THE SMALL AG OPERATORS FROM THE MID AND LARGE SIZED AG OPERATORS INCLUDING ANIMAL FEEDLOTS, DAIRIES AND OTHER ANIMAL HOLDING LOTS. BY FAR THE MID AND LARGE AG OPERATORS USE LARGE QUANTITIES OF CHEMICALS INCLUDING FERTILIZERS, WATER, ENERGY, MORE RUNOFF, SOIL LOSSES, DRAINAGE PROBLEMS, ETC.. THIS IS NOT TO SAY THAT SMALL AG OPERATORS SHOULD BE TOTALLY EXEMPT FROM THE DRAFT WAIVER. WHAT WE NEED TO KNOW TODAY IF THE FIRST AG WAIVER MADE ANY IMPROVEMENTS IN THE WATER QUALITY IN THE AG AREAS BASED ON ANALYZING SOIL AND WATER SAMPLES TAKEN FROM DIFFERENT AG AREAS ESPECIALLY AREAS CCRWQCB CONSIDERS POLLUTANTS TO BE AT UNACCEPTABLE LEVELS. DOES CCRWQCB OR CCWQP HAVE AVAILABLE ANY COMPARISON DATA? IS THIS NOT AN IMPORTANT INFORMATION TO KNOW IN VIEW OF THE DRAFT WAIVER? IF, NOT, THE CCRWQCB DRAFT WAIVER IS PURELY SPECULATIVE. HOW CAN SOUND DECISIONS BE MADE WITHOUT FACTS AFFECTING THE LIVELIHOOD OF MANY INVOLVED IN THE AG INDUSTRY? THE PRESENT AG WAIVER SHOULD BE CONTINUED UNTIL MORE FACTS ARE MADE AVAILABLE. DURING THE PUBLIC IMPUTS AND BEFORE IMPLEMENTING ANY PART OF THE NEW DRAFT AG WAIVER. IT IS OBVIOUS THAT THE AG INDUSTRY WILL BE SADDLED WITH MORE AND MORE COSTLY NEVER ENDING GOVERNMENT REGULATIONS. FROM THE POLITICAL VIEW POINT IT'S THE GOVERNMENT SLOWLY BUT SURELY GAINING CONTROL OF WATER RIGHTS UNDER THE AG LAND SURFACE TO SERVICE THE EVER GROWING URBAN POPULATION, THUS EFFECTIVELY LIMITING THE AMOUNT OF WATER THAT CAN BE USED IN AG PRODUCTION.

IT'S DIFFICULT TO AVOID RUNOFF FROM ANY TYPE OF IRRIGATION OR FROM THE RAINS. TO HAVE NO RUNOFF MIGHT MEAN CONSTRUCTING STRATEGICALLY LOCATED RETENTION BASINS IN THE FIELDS LIMITING THE AVAILABLE PRODUCTIVE ACREAGE. FURTHER, CCRWQCB GUIDE LINES ON THE RETENTION BASINS WILL POSE MORE PROBLEMS AND EXPENSES FOR THE AG INDUSTRY. ALSO, THE RECORD KEEPING PART REQUIRED BY CCRWQCB WILL HAVE AN IMPACT ON HOW A CROP WILL BE GROWN BY ANY AG INDUSTRY OPERATOR.. FOR CONTAINERIZED AG OPERATORS IT WILL MEANS LAYING DOWN SOME KIND OF IMPERVIOUS LAYER WHETHER PLASTIC, CONCRETE, ASPHALT OR WHATEVER CHANNELING, COLLECTING AND MONITORING THE DRAIN WATER TO SOME NEAR BY RETENTION BASIN AND RECYCLING THE WATER. AGAIN WHOLE NEW AREA OF PRODUCTION COSTS.

THE AG INDUSTRY DOES NOT NEED TO REPORT PESTICIDE USE TO ANOTHER GOVERNMENT AGENCY. THE COUNTY AG DEPARTMENT DOES A GOOD JOB OF MONITORING THE AG INDUSTRY PESTICIDE USE AND REPORTING. WHAT GOOD IS THIS INFORMATION TO CCRWQCB UNLESS IT DOES ENOUGH LAB WORK TO FIND OUT JUST HOW MUCH AND KINDS OF PESTICIDES ARE FOUND IN THE WASTE WATER DISCHARGES AND SUBSURFACE WATERS. IT WOULD BE INTERESTING IF CCRWQCB WOULD HAVE SUFFICIENT DATA SHOWING THE EXTENT OF PESTICIDE POLLUTION OF OUR LOCAL WATERS. THE AG INDUSTRY IS ONLY A PART OF THE PROBLEM. ALSO, IT SHOULD INCLUDE THE URBAN SECTOR AND SEWER PLANT DISCHARGES. FINALLY, THERE ARE INDIVIDUAL AG OPERATOR WHO ARE USING MOISTURE SENSOR READINGS TO DETERMINE WHEN TO APPLY WATER AND WHEN TO TURN OFF THE WATER TO HELP REDUCE RUNOFF OFF THE SOIL SURFACE.

NUTRIENT RECORD KEEPING MEANS MORE PAPER WORK FOR MEMBERS OF THE AG INDUSTRY. THIS PORTION WILL REQUIRE MANY LAB TESTS FOR EACH CROP PLANTED IN THE FIELD WHICH CAN END UP BEING VERY EXPENSIVE TO INDIVIDUAL AG PRODUCERS. COST MAY BE PROHIBITIVE TO CONTAINIZED AG OPERATORS WHO GROW MANY DIFFERENT TYPES OF PLANTS. ALSO, WHAT IS CCRWQCB RAIN EVENT? THIS NEEDS TO BE CLARIFIED AND DEFINED MORE. WHETHER FOLIAR FEED CAN BE APPLIED WILL DEPEND UPON THE AMOUNT OF EXPECTED RAIN FALL, LIGHT, HUMIDITY, WIND

VELOCITY, AIR TEMPERATURE, MOISTURE CONTENT OF THE SOIL, TYPE OF SOIL, , TYPE OF CROP, ETC., MUST BE FACTORED IN BEFORE, DURING AND AFTER THE RAIN EVENT. IF, NO FOLIAR APPLICATION IS PERMITTED THREE DAYS BEFORE AND 3 DAYS AFTER A RAIN EVENT HOW ABOUT OTHER IRRIGATION SCHEDULE SUCH AS FURROW OR DRIP? IT'S NOT UNCOMMON TO OBSERVE SPRINKLER APPLICATION OF WATER DURING AND AFTER A RAIN EVENT IN THE FIELDS. ALSO, WE SEE PROGRAMMED IRRIGATION SYSTEMS ON DURING RAIN EVENTS IN THE URBAN SITES. FOR CONTAINERIZED AG OPERATORS SUCH LENGTH OF TIME COULD RESULT IN CROP FAILURES FROM LACK OF ADEQUATE MOISTURE IN THE CONTAINERS. MANY OF THE INDIVIDUAL AG OPERATORS KNOW THE RESERVE NUTRIENT LEVELS EITHER BY LAB TESTS OR FROM THEIR CROP ADVISORS INCLUDING PH BEFORE PLANTING AND UP TO HARVEST TIME IN ORDER TO AVOID APPLYING EXCESSIVE AMOUNT OF FERTILIZERS AND OR IRRIGATION TO REDUCE THE AMOUNT OF NUTRIENTS IN THE RUNOFF WATER. THEN IF THERE IS RUNOFF IT IS UP TO VEGETATIVE BUFFER ZONE TO FILTER OUT THE REMAINING NUTRIENTS AND SEDIMENTS BEFORE EMPTYING INTO A DRAINAGE CHANNEL. TODAY, THERE IS LOT LESS RUN OFF WATER LEVEL FOUND IN THE FURROWS OR FLOWING INTO THE FIELD DRAINAGE CHANNELS.

WHERE WOULD GREENHOUSES WITH WDR PERMIT EXCESS DRAIN WATER GO TO? LEAVE THE IMPERVIOUS FLOOR TO AREA NOT COVER BY THE IMPERVIOUS WALK WAYS AND SOAK INTO THE SOIL AREA WITHIN THE GREENHOUSE? OR DRAIN OUTSIDE TO SOME PAVED, GRAVELED, OPEN FIELD, ROAD OR WATER CHANNEL? DOES THAT MEAN WDR PERMIT HOLDERS HAVE NO WASTE WATER PROBLEMS AND NOT SUBJECT TO CCRWQCB MANAGEMENT PRACTICE REGULATIONS? IT WOULD BE VERY EXPENSIVE TO PREVENT RAIN WATER FROM COMING IN CONTACT WITH OUTDOOR CONTAINERIZED PLANTS. IT'S COSTLY TO PURCHASE ENOUGH COVERS, LABOR INTENSIVE AND STORAGE PROBLEMS. OR CONSTRUCTING PORTABLE GREENHOUSE AND COVERING THEM ONLY ON RAINY DAYS. COSTLY AND LABOR INTENSIVE. PUT IT ON OR TAKE IT OFF. RAIN WATER SHOULD BE CONSIDERED A NORMAL PART OF THE AG OPERATOR'S IRRIGATION SCHEDULE. IMPORTANT FACTOR WOULD BE TIMING OF FOLIAR AND PESTICIDE APPLICATIONS PENDING A RAIN EVENT.

THE MONITORING COSTS, OVER THOUSAND DOLLARS WILL BE VERY EXPENSIVE IF DONE ON A QUARTERLY BASIS. SMALL AG OPERATORS MAY NOT BE ABLE TO ABSORB THESE COSTS AND FORCE SOME OF THE SMALL AG OPERATORS OUT OF BUSINESS.

IN CONCLUSION, CCRWQCB WILL BE IMPLEMENTING AND ENFORCING MORE AND MORE CONTROL OVER THE OPERATION OF THE AG INDUSTRY. THE AG INDUSTRY IS ONLY A PART OF THE OVERALL POLLUTION PROBLEM, BUT TARGETED THE MOST AT THIS TIME. IT'S SIMPLY NOT FAIR. CCRWQCB SHOULD BE STUDYING THE URBAN DRAINAGE AND THE SEWER PLANT DISCHARGES AND START BRINGING THEM UNDER MORE CONTROL. THE AG INDUSTRY IS NO MATCH COMPARED TO OTHER SECTORS.

H. YOKOYAMA
PO BX 639
ARROYO GRANDE CA 93421



Royal Packing Co.



Growers - Shippers
VACUUM COOLED LETTUCE
2959 Monterey - Salinas Highway
Monterey, CA 93940



March 26, 2010

Dear Chairman Young,

My name is David Hart and I manage Royal Packing Co. a Monterey County Vegetable Grower that is a subsidiary of Dole Fresh Vegetables. Royal Packing Co was enrolled in the 2004 Ag Waiver Program. For the New Agricultural Order, a Notice of Intent and an updated Farm Water Quality Management Plan is appropriate. Royal Packing Co. supports the seven county Farm Bureau Alternative Ag proposal dated April 1, 2010.

The Annual Ag Water Conservation Plans that are submitted to the Monterey County Water Resource Agency documents the conservation measures applied by Monterey County Growers. The history of the reports document the measures implemented by growers to conserve ground water, reduce nutrients applied to crops and enhance efforts to control surface water runoff.

Ground water levels are monitored by the Water Resources Agency as well as water quality from a number of deep aquifer wells throughout the county. Monterey County Environmental Health Dept. also tests water for nitrates and bacteria as do Growers as part of their Food Safety documentation. Nutrient Management is monitored by all Growers for environmental and economic concerns. Soil tests for Agronomic values are done annually and used to plan nutrient needs for crops planted in wet and dry seasons. Most growers use Nitrogen "Quick" tests for plant needs as wells as factoring in any nitrates that may exist in well water.

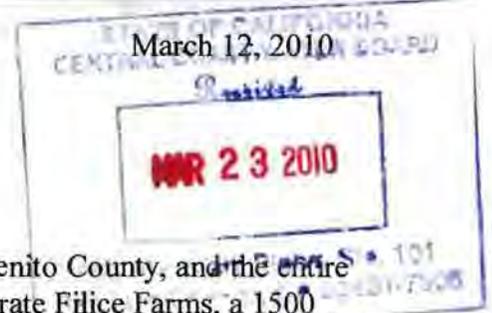
Herbicide and Pesticide use is strictly monitored for appropriate buffers by ground and air applications as are vegetative buffers. All label requirements are adhered to. Drainage to sensitive habitat is of concern and surface and ground water discharges are considered in Nutrient and Pesticide use for our vegetable crops. All applications are used according to material label instructions.

Sincerely,

David Hart
Vice-President/General Manager

Filice Farms LP

Chairman Jeffrey Young
Central Coast Regional Water Quality Control Board
895 Aerovista Place Suite 101
San Luis Obispo, Ca. 93401-7906



Dear Mr. Chairman,

I am writing on behalf of myself, my fellow growers in San Benito County, and the entire Agricultural Industry. My name is Kay Filice. I own and operate Filice Farms, a 1500 acre row crop operation in Hollister and San Juan Bautista and I employ 30 people, not to mention scores of contract labor crews during the season. Additionally I served on the Board of Directors for the Grower Shipper Association of Central California from 2004-2009, and as Chairwoman from 2007-2008. Currently I am serving a three year term on the Center for Produce Safety Board of Directors at the University of California, Davis.

As a conscientious grower who strives to operate under the Best Practices rules at all times, I am overwhelmed and disappointed at the impracticality of the preliminary recommendations submitted by the RWQCB. Quite frankly I know of no growers who have the time, much less the financial resources to comply with these excessive measures. We don't have the hours in a seven day week to begin to do annual updates, maps and photos, detailed ranch notice of intents.

Employing additional crop advisors, engineers, and consultants is costly and resulting improvements, installation and replumbing costs is not feasible in the small margin environment which exists in farming today. Certainly no one can afford the costs associated with flooding as a result of no channel maintenance for flood control.

The RWQCB is suggesting a regimen of cultural practices that is not consistent with the high quality production our Central Coast is known for. The loss of productive farm ground due to spray, aquatic and riparian buffers will cause a seismic effect across the board. Food safety regulations will be impacted, which in turn will inhibit growers' abilities to sell their products. The buffers add a plethora of costs from permitting and consulting fees to installation and weeding costs. One can expect more disease pressure from proximity to host plants, and more land fallowed due to location. Still the landowner will incur the costs for taxes, mortgages and insurance for that non-productive land.

There is nothing sustainable about this recommended program because growers will not be able to meet these expectations. We must all strive to work together to find a more common sense approach to survival for our industry and our environment.

Sincerely,

Kay Filice
Filice Farms
4400 Fairview Road
Hollister, Ca. 95023

Group 6 - F39
May 12, 2010 Workshop
Preliminary Draft Agricultural Order

9700 Fairview Road ■ Hollister, CA 95023

831-637-3200 ■ FAX 831-637-3207

April 1, 2010

Larry Ferini
Rancho Laguna Farms
PO Box 6617
Santa Maria, CA 93456

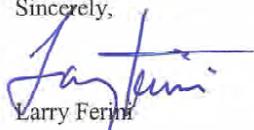
Board Members and Staff
c/o Angela Schroeter
Central Coast Water Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

Re: Letter of Support for Comments Submitted by Deutsche Bank National Trust Company
Regarding Preliminary Draft Report and Order For Regulation of Agricultural
Discharges

Dear Board Members and Staff:

I am a tenant of property owned by the Deutsche Bank National Trust Company as trustee for the Eugene Rene LeRoy Trust (the "Trust"). By this letter I hereby express my support for the comment letter submitted by the Trust on April 1, 2010, regarding the Preliminary Report and Preliminary Draft Order for the Regulation of Discharges from Irrigated Lands (published by Board staff on February 1st, 2010).

Sincerely,


Larry Ferini

From: Lorene Saruwatari <lorenesaruwatari@att.net>
To: <aschroeter@waterboards.ca.gov>
Date: 3/28/2010 3:33 PM
Subject: new grading proposal rules

March 28, 2010

Dear Manager Schroeter:

Is your board just as out of touch as the government in Washington: We family farms are in dire financial straits, just as all of our other small business friends. We are trying to keep all of our present employees employed, and all the government seems to care about is to shrink the size of our farmlands and impose impractical rules such as your board proposes to do, and thereby shrink our ability to continue to produce enough to keep our income level sufficient enough to pay our bills, debt and payrolls. As with Obamacare, you're fixing of a cure for water issues is not really for fixing a "problem", but a means to create more governmental control, progressive socialism. One only needs to look to the delta smelt water issue, which is about control and nothing else. The Valley had 123 inches of rainfall this year, but Washington only released a trickle of water, and that was only to get Obamacare votes. Hundreds of people

lost their jobs, and businesses failed, for a fish, in these bad economic times, WHY? For control, dictators in other countries have done the same thing to keep people in line by rationing water. Why would the government not care about the plight of these farmers? Like one representative a couple of years ago said, we can get cheap food from other countries. Wouldn't that be swell, not only would we have to bow and scrape for our oil & fuel, but for our food as well. No one thinks about the fact that when we are no longer a world power, we won't have any say over what's in the food; we seriously doubt that begging and pleading will work, but perhaps there is another reason for eliminating multiple smaller companies. If all the small companies are gone they can better control just one or two big companies, just like they are instituting rules that will wipe out small bank, so only a handful of major banks controlled by the government

survive; much more efficient for them in making the changes that they want for the "greater good".

Thank God that at least there are several honest State Attorney Generals & Governors who will make Washington answerable for using abusive powers not given to them under the Constitution, of which CA is not one. Of course, gubernatorial candidate Jerry 'moonbeam' Brown, says they don't have a leg to stand on. Yes, like he was such a great governor and such an authority on Constitutional law. He referenced his opinion using a couple of constitutional law friends as his reason for his opinion, humm- wonder if one them was Obama. Odd that Obama taught constitutional law, but he actually embraces the teachings of Solinsky, who was an avowed Communist Socialist. The majority of people in this country are sick and tired of the usurping of individual rights, and the excessive controls of government, which only creates more bureaucratic jobs, and no real jobs that make this country grow. How does a country that only has 82 billion dollars

in revenue pay for trillions of dollars of debt? Borrow monies, print monies like Mexico, and tax, tax, and tax the people. Arnold's solution to the Medi-Cal deficit via Obamacare and state out of control spending will be to ask for a bailout, which will compound the need to crank up the printing press, which equals a more devalued dollar, and inflation of epic levels and not least of all more taxes and more people on government payroll, paid by us hard working real contributors to this country. If the overgoverning by government bodies and the ever increasing of taxes on small businesses doesn't stop in CA, all the portable businesses will be moving out, or out of business like we will be. It is already starting to happen in Silicon Valley, where Apple has already moved part of their office to Nevada, and bets are on that others are going to follow. Already, small businesses are leaving the state, we would've joined them already

if our business was portable. We find it very chilling that CA is making its move to control the one major business that is not portable, agriculture. Wow, what kind of power would government have controlling CA agriculture which supplies 80% of this country's foods. CA is really a microcosm of the Federal government in its embracement of progressive socialism. People who work for the government will not be

saved from the irresponsible actions of the the government they work for. Devalued dollars effect government employees as well, and loss of individual freedoms will not be saved for them either.

Imagine what it would be like if all the hard working people lived in a small group of states together, and left all the government workers and Washington to funds their own jobs and provide tax monies for their pet projects of which real wealth producing people provide, which states would survive, and which states would go under? Just a hint, government jobs and most elected representatives don't create any wealth. As many of our friends have said in last few months our country is going to face many crosswords, and the direction of our choices will mean the difference in the survival of our Republic based on democracy of individual rights, or will we fall to socialism of the Hugo Chavez nature of total governmental control with no personal rights. Hugo started with the control of national health care and then the take over of banks, businesses, education for political indocrination, and then for the final nail in the coffin, the silencing of dissent, total control of the all media avenues. Sounds too familiar for us. One might say Obama hasn't done anything against media dissent, but his communcation czar is probably working on that annoyance.

Joy Fitzhugh of the SLO Farm Bureau, has written about the absurd rulings for compliance for water control for agriculture for the next 6 years. If your board's intent is to put every small farming, vinyard, and cattle ranch out of business in 6 years, bravo, you will have succeeded. There is no way for small operations to comply or pay for the manpower for the kind of record keeping and controls that your proposals demand. We're all at the limits of what we can do in this economic envirnoment. Yes, let's have just one or two big corporate farms, winery, and cattle ranches to survive so that government can eventually dictate everything to these select few that are left, just like the banks. Then what happens next, why government controls what produces are grown, how much wines can be produced, how many cows a ranch can have; then what will probably be the be next step is how much they get paid for their products because won't that

fall into the line of 'share the wealth of' Obama political progressives. Of course, all this control will be justified because poor people need to have better affordability for more nutitional foods, rather than junk foods. All that the progressives are concerned about is the sound bite, to cover the real issue, control. Of course 'new' bigger Ag businesses that the progressssive liberls will have created, will in turn be willing to exchange donations for favors; improving the statis quo of sell your vote to stay in power, just what we want. Socialism by incremental take over is using 'clean water' as a way to control water, which in turn gives government the arm to control businesses - that is Hugo Chavez socialism. Just like the cigarette tax, well who doesn't want children not to be exposed to second hand smoke, only that isn't what the tax is actually being used for, but the government controls the message and the useage. Yes, and who doesn't want clean water too, but this is not about clean water, but another avenue of control by government. If you control the water, you control the whole of agriculture. This is the Obama progressive socialistic way of taking over the major food supplies of this country. That really gives us a chill.

Your board proposals are an afront to everything this country is supposed to be about.

Sincerely,

Leroy, Lorene, and Adam Saruwatari
Arroyo Fresh Inc
512 Launa Lane
Arroyo Grande, CA 93420

March 16, 2010
Huntington Farms
820 Park Row, # 501
Salinas, CA 93901



Ms. Angela Schroeter
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, Ca. 93401-7906

Dear Ms. Schroeter,

My name is Lou Huntington and I have farmed since 1963 in the Soledad area. I am writing to express my concerns if the 2010 draft ag waiver is implemented as currently written.

Just the 150 foot pesticide setback that I would suffer would require me to cease farming 104 acres along the 24,481 feet of Salinas River that I border with farm land that I lease and own. That amounts to over \$3,000,000 worth of land out of production. This will lead to lost jobs, lost property taxes and put me at a competitive disadvantage to those farmers who are fortunate enough not to abut a river or stream.

I am appalled that drinking water standards should be applied as the standard for our runoff. Most of my well water does not meet those standards. Those wells have had nitrate contamination since I was first farming in the 60s. That contamination came from lateral movement in the aquifer from the many dairies that populated the valley long before I farmed. There is an assertion that we should use this ground water nitrogen to fertilize our crops. The scientists (Dr. Tim Hartz and Richard Smith) who have studied the matter tell us that it would be unwise to rely on ground water nitrates to supply our nutrients. I can confirm this by my experience of accidentally missing a nitrogen application resulting in crop failure. As for the requirement that water quality standards be met in six years, a recognized authority on groundwater, Dr. Thomas Harter tells us it took 40 to 50 years to achieve the level of groundwater contamination that we have and it will take just as long to see improvements.

Why have educational requirements been removed? Farmers need to be subject to ongoing education that they might gain the knowledge to implement environmentally friendly practices.

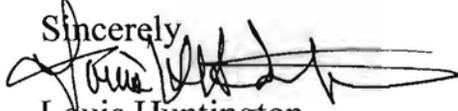
Sprinkler irrigation efficiencies required in our windy valley are impossible to obtain.

The 72 hour time constraints, before and after forecasted rain events, for timing foliar fertilizer applications is unrealistic and a farce.

This is but a partial list of the expensive and absurd requirements that I find in staff's proposal. It will be very expensive to implement as written.

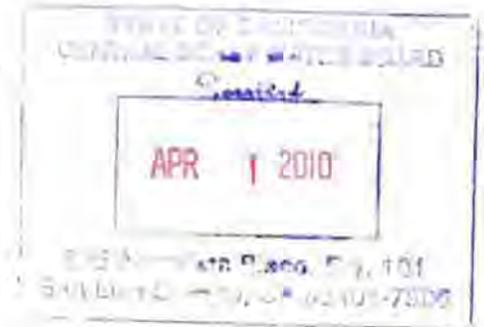
Please consider having staff come up with something Agriculture can live with. If you went through with staff's Draconian recommendations you would put many of us out of business. It would certainly give Mexican agriculture a huge boost and a competitive advantage.

Sincerely



Luis Huntington

8201 Santa Rosa Road
Buellton, CA 93427
pinot@sandpointvineyard.com



aschroeter@waterboards.ca.gov
CCRWQCB,
895 Aerovista Pl. Suite 101
San Luis Obispo, CA 93401

Dear Board Members and Staff:

I wish to offer recommendations on several components in the Preliminary Draft Agricultural Order No. R3-2010-00XX.

First, a word on my background. I own two farms in Santa Barbara County. The first is outside Carpinteria and is planted in avocados; I am the manager. The second is outside Buellton and is rented to a farmer who produces a variety of crops. Both farms are certified organic. The Santa Ynez River runs through the Buellton property. In addition to managing the Carpinteria farm, I was, up until three months ago when I took early retirement, a Professor of Marketing at Cal Poly Pomona, and hold a PhD in political science with a specialization in survey research. I consider myself a strong environmentalist committed to maintaining high quality water (and high quality air and soil) and protecting riparian (as well as non-riparian) habitat. My farms do not have irrigation run off; we plant cover crops; we do not clear riparian areas; we have planted the top of the bank as well as the hillside to prevent erosion; we are good stewards of the land and the water.

I am particularly concerned about 4 aspects of the Draft Order: (1) its undifferentiated approach rather than targeting segments of the watersheds with known problems, (2) its flawed definition of "Low Risk", (3) its inclusion of mandatory buffers or remediation plans, (4) its potentially high cost to farmers.

(1) Undifferentiated approach rather than targeting segments of the watersheds with known problems.

I am aware that several of the rivers and streams on the Central Coast are on the 303(d) List of Impaired Waterbodies and that the designation "Impaired" is much like "pregnant", there are no degrees implied. Yet, it is clear that not only do waterbodies differ in their levels of impairment, but there are great differences within waterbodies. The Draft Order should take this into consideration.

Throughout the narrative of the Preliminary Draft Order staff notes that some watersheds are more severely impaired than others and that some sections of specific waterbodies are more impaired than others :

- "These summary indices confirm that two areas of our region stand out in terms of severity of impact. These are the lower Salinas and Santa Maria watersheds, both areas of intensive agricultural activity. We have evaluated the water quality index at 250 individual sites. Of the 51 sites that score worst (less than 40 out of 100 possible points), 82 percent are in these two areas. index, where all of the worst scoring sites (less than 40 out of 100 points) fall in the Santa Maria and Salinas watersheds. . . . Several other areas in the Region are also in very poor condition. These include the lower Santa Ynez River (heavily influenced by a point source discharge), and the San Juan Creek and Watsonville Slough area in the Pajaro River watershed (heavily influenced by agricultural activities)." (Attachment 1, p 5-6)

- “56. Nitrate pollution in surface water is widespread in the Central Coast Region, with 46 waterbodies listed as impaired for this pollutant on Impaired Waters List. Seventy percent of all nitrate listings occur in the three major agricultural watersheds: Salinas River (15 waterbodies), Pajaro River (5 waterbodies) and Santa Maria River (12 waterbodies). Other significant nitrate listings fall in small drainages in areas of intensive agriculture or greenhouse activity along the south coast, including Arroyo Paredon, Franklin Creek, Bell Creek, Los Carneros and Glen Annie creeks.” (Attachment 3 p 11)
- “55. Data from CCAMP and CMP indicate that agricultural discharges most severely impact surface waterbodies in the lower Salinas and Santa Maria watersheds due to the intensive agricultural activity in these areas, and water quality in these areas are the most severely impaired in the Central Coast Region.” (Attachment 3 p 11)
- “64. In a statewide study of four agricultural areas conducted by the Department of Pesticide Regulation (DPR), the Salinas study area had the highest percent of surface water sites with pyrethroid pesticides detected (85 percent), the highest percent of sites that exceeded levels expected to be toxic and lethal to aquatic life (42 percent), and the highest rate (by three-fold) of active ingredients applied (113 lbs/acre). (Attachment 3 p 13)
- “66. The lower Salinas and Santa Maria areas have more overall water column invertebrate toxicity than other parts of the Central Coast Region, with much of the toxicity explained by elevated diazinon and chlorpyrifos concentrations.” (Attachment 3 p 13)
- 74. Biological sampling shows that benthic biota are extremely impaired in the lower Salinas and Santa Maria watersheds, and also shows that several measures of habitat quality, such as in-stream substrate and canopy cover, are also very low compared to high quality streams in the Central Coast Region and in the upper watersheds.” (Attachment 3 p 14)
- “75. Agricultural land use practices, such as removal of vegetation and stream channelization, and discharges from agricultural fields, cause the deposition of fine sediment and sand over stream bottom substrate. This problem is especially prevalent in areas dominated by agricultural activity (lower Salinas and Santa Maria rivers).” (Attachment 3 p 14)
- “78 . . . According to data reported by the State Water Board’s Groundwater Ambient Monitoring and Assessment Program (GAMA), recent impacts to public supply wells are greatest in portions of the Salinas Valley (up to 20 percent of wells impacted) and Santa Maria (approximately 17 percent) groundwater basins.” (Attachment 3 p 15)

The “Water Quality Results from Upstream Monitoring 2008” gathered by Central Coast Water Quality Preservation, Inc. documents distinct differences in water quality between and within waterbodies. The report clearly identifies source areas for water quality impairments and provides data that permit differentiation between agricultural and urban sources.

I have entered some of the Upstream Monitoring data into a spreadsheet to explore differences in levels of impairment between waterbodies as well as differences in impairment within one waterbody and the obvious predominant impact of urban sources. I focus on the Santa Ynez River because that is where one of my farms is located. (see next page)

Water Quality Parameter	314SYI	314SYL	314MCM	314SYF	314SYN	314DDE	309QUI	312ORC	
	SYRiver @ 101 at Buellton midway between Cachuma Reservoir and River Park in Lompoc	SYRiver @ HWY 246 Lompoc's eastern boundary; SYR water before Lompoc	SYRiver @ Miguelito Creek downstream of waste water treatment flows into SYL (all urban)	SYRiver at Floordale downstream of western urban boundary of Lompoc		SYRiver @ 13th West side of Lompoc	Channel at West Central b/t Douglass & DeWolf in Lompoc (all farming)	Quail Creek at Hwy 1	Orcutt Solomon Creek u/s Santa Maria River
Flow (CFS) avg	19.82	31.83	5.64	24.27	43.15	0.48	0.52	7.86	
Flow (CFS) med	3.78	0.00	4.99	4.45	6.05	0.12	0.01	7.78	
N (mg/L) avg	0.31	0.62	21.72	14.08	8.51	6.10	45.76	50.94	
N (mg/L) med	0.01	0.45	21.10	14.95	9.85	4.58	50.80	40.30	
N (lbs N/hr) avg	5.16	4.08	25.08	26.62	47.51	0.44	2.98	66.54	
N (lbs N/hr) med	0.00	0.00	22.96	20.78	15.35	0.08	0.13	58.58	
Orthophosphate (mg/L) avg	0.06	0.10	4.19	2.79	1.66	0.25	1.73	0.32	
Orthophosphate (mg/L) med	0.04	0.06	4.44	3.52	1.78	0.06	1.16	0.29	
Turbidity avg	208	272	11	136	227	114	1205	403	
Turbidity med	2	10	7	5	3	51	496	348	
Flow-weighted Turbidity avg	18685	8268	90	14569	30352	203	1214	3495	
Flow-weighted Turbidity med	5	0	38	24	25	5	1	2182	
Invert Tox, survival (% contr) med	100	100		95	90		0	0	
Invert Tox, reprod (% contr) med	80	100		75	80		0	0	
Algae Tox, cell gr (% contr) med	171	138	79	145	126		109	163	
Fish Tox, growth (% contr) med	100	106		100	100		95	100	
Fish Tox, survival (% contr) med	99	105		98	98		87	113	
Sediment Tox, survival (% contr) med	106	108		95	101		0	0	
Sediment Tox, growth (% contr) med	124	100		93	124		0	0	

The Upstream Monitoring data show clear differences in levels of Nitrate between and within waterbodies.

Between waterbodies there is substantial difference. While the median Nitrate (mg/L) at the worst point of the Santa Ynez River, Miguelito Creek, which is downstream from a waste water treatment center, is a horrifying 21.10, Quail Creek at Hwy 1 has 50.80 mg/L and Orcutt Solomon Creek upstream from the Santa Maria River has 40.30. Differences in toxicity as demonstrated by effects on aquatic life are equally obvious. The Santa Ynez River at its worst has minimal toxicity to invertebrates in water and sediment and no toxicity to fish or algae, Quail Creek at Hwy 1 and Orcutt Solomon Creek up stream from the Santa Maria River are essentially toxic to invertebrates (though fish and algae survive).

More important for the new Draft Ag Order are differences within waterbodies, for this analysis, I reference the Santa Ynez River. Note that Nitrate levels in the upper portions of the Santa Ynez River are considerably below 1 mg/L. [According to the Ag Order, the California Department of Public Health drinking water standard is 10mg/L nitrate and the Water Board staff estimates (is this an official standard?) that 1 mg/L is necessary to protect aquatic life. (Attachment 3 p 12)] Where the River crosses the 101 FRWY at about the center of Buellton, Nitrate is .01 mg/L and where the River crosses HWY 246 just before Lompoc begins, median nitrate is .45 mg/L. (Note, the higher level at 246 may reflect impacts from the Buellton wastewater treatment facility as well as impacts from the La Purisima golf course.) Survival, reproduction, and growth rates for all species tested at both locations are excellent.

These data suggest farms in certain areas are having minimal impact on surface water. As such, the Water Quality Board should distinguish between farms on impaired sections of a water body from farms on unimpaired sections of a waterbody. Farms on unimpaired sections should have the lowest priority for any regulatory action and be exempt from monitoring and reporting.

You state: "The Central Coast Water Board must focus on those areas of the Central Coast Region already known to have, or be at great risk for, severe water quality impairment." (Attachment 3 p 7) As such, the Draft Order should have less regulation for areas known to not be at great risk.

Please look at data from actual water tests to design a program that meets the goal of focusing on areas at the most risk.

(2) Flawed definition of "Low Risk"

As demonstrated above, the Order's assumption that farms "adjacent to or in close proximity (within 1000 feet) to an impaired surface waterbody identified on the Impaired Waters List" are not "Low Risk" is flawed. It fails to take into consideration that different parts of a waterbody have different levels of impairment. Only proximity to an **impaired section** of a waterbody should preclude classification as "Low Risk". Eliminate the criterion that farms within 1000 feet of a 303d water body cannot be "Low Risk" and specify farms adjacent to an impaired section of a 303d waterbody cannot be "Low Risk".

Let's be reasonable. If the Santa Ynez River is impaired because of point source pollution downstream at the City of Lompoc, why would you consider farms adjacent to the River upstream that are having no measurable impact to be "high risk"?

Certified Organic farming operations should be considered "Low Risk."

The narrative of the Draft Order sites concerns with pesticides:

- "65. Agriculture-related toxicity studies conducted on the Central Coast since 1999 indicated that toxicity resulting from agricultural discharges of pesticides has caused declining aquatic insect and macro-invertebrate populations in Central Coast streams." (Attachment 3 p 15).
- "69. Research has shown pyrethroid pesticides are a major source of sediment toxicity in agricultural areas of the Central Coast Region." (Attachment 3 p 16)

Since the National Organic Program standards restrict use of toxic pesticides, this is not an issue for Certified Organic operations.

NOP also regulates fertilizers. Organic fertilizers are less environmentally damaging, but they do contain nitrates. As such, organic farmers, like conventional farmers, should prevent irrigation runoff and should use cover crops where appropriate or other techniques where appropriate to minimize erosion and sediment deposition. If these practices are implemented, organic farming operations should be designated "Low Risk" and should not be subject to monitoring and reporting.

(3) Inclusion of mandatory buffers or remediation plans

Mandatory buffers will take a significant amount of land out of production.

If a mandatory buffer of 75 feet from the top of the bank were instituted, one field on my Santa Ynez farm would lose half of its production. The other would lose about 10%. Unless I will be compensated

for loss of productive land, mandatory buffers constitute a “taking.”

Attachment 5 p 16 & 17, states that the effect of buffers on the amount of land used for crops is not a significant CEQA impact because "overall land use would still be agricultural." The UC CEQA Handbook says this impact must: "Determine if the project (or the LRDP) would involve other changes in the existing environment which could result in the conversion of farmland to non-agricultural use or loss of productivity of Important Farmland." Buffers may not be what planners think of as “non-agricultural use”, but they will definitely take land out of production rendering them non-agricultural.

The alternative *Riparian Function Protection and Restoration Plan* certified by a State registered Professional Engineer or Registered Geologist would impose too great a financial burden. It could cost several thousand dollars for an engineer to come out, walk the site, and write a report, even if no remediation is needed (as demonstrated by Central Coast Water Quality Preservation data), with additional costs for monitoring.

(4)Draft Order's potentially high cost to farmers in non-impaired areas.

For Farm Plans to be useful, they should be brief and to the point, not the 2 inch binder required last time that many farmers likely never looked at after filling it out. A yearly report might be most useful. I recommend the Board follow the documentation used by organic certifiers. Please see sample forms from one of the Organic Certifiers at:
http://www.organiccertifiers.com/Application_Needed_Attachments.aspx.

The Farm Plan requirements articulated in General Provision #8 (Attachment 3 p 54), should only be required of farms in impaired areas and only if there is reasonable cause to believe those farms are the source of impairment.

Organic farmers should be able to use their Certification in lieu of the Farm Plan.

Waste monitoring should only be required in impaired areas of waterbodies and only if there is reasonable cause to believe it is farms, not urban, industrial, or historical causes that are the source of impairment. Regulate the sites that data show have nitrate concentrations that exceed drinking water standards or impair aquatic life.

Thank you for considering my comments,

Sharyne Merritt

MAR 30 2010

DEAR MRS. SCHROETER AND MR. KOLB:

I'M SENDING THIS LETTER TO LET YOU KNOW HOW HARD IT IS FOR TODAY'S SMALL FARMER.

EVERY YEAR THERE IS A NEW FEE, A NEW REPORT TO FILL OUT. I CAN UNDERSTAND HAVING REGULATION AND OVERSIGHT ON LARGE FARMS, LIKE THE ONES THAT HAVE TAIL WATER RUNNING INTO OSO FLACO LAKE. BUT SMALL FARMERS LIKE ME CANNOT AFFORD TO WASTE WATER, FERTILIZER OR ANYTHING ELSE.

I GROW ON 3-4 ACRES OF 14 ACRES THAT I OWN. I HAVE BEEN FARMING WITH MY WIFE, SON AND GRANDSON FOR 35 YEARS. AND EVERY YEAR IT GETS HARDER TO MAKE A LIVING DOING WHAT I LOVE.

PLEASE TAKE YOUR RULES AND REGS. TO THE LARGE FARMS AND GIVE THE SMALL FAMILY FARM A BREAK. WHAT YOU ARE DOING IS VERY MISS DIRECTED, YOU MIGHT AS WELL GO AFTER EVERY HOUSE HOLD IN THE COUNTRY FOR WATER, FERTILIZER AND OTHER CHEMICALS.

THANK YOU LYLE, BARBARA, LYLE AND TYLER
THE OVERLEY FARM

LYLE OVERLEY

960 SUNDALE WAY

NIADONG, CA. 93444



Major Farms, Inc.
Growing quality produce since 1934

P.O. Box 719 • Salinas, California 93902 • (831) 422-9616

(SUBMITTED VIA EMAIL & OVERNIGHT FED-EX MAIL)

March 31, 2010

Roger Briggs, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Ste 101
San Luis Obispo, California, 93401-7906

RE: Preliminary Staff Recommendations for an Agricultural Order to Control Discharges from Irrigated Lands

Dear Mr. Briggs:

On behalf of Major Farms, a medium-sized, family owned and operated farm in the Salinas Valley, I am writing to provide comments on the “Preliminary Staff Recommendations,” “Preliminary Draft Agricultural Order,” the “Preliminary Draft Report,” and various attachments and documents associated with the “Draft Agricultural Order.”

Admittedly, as a farmer, I am disappointed in the direction of the Water Board’s regulatory approach. Equally important, as a former Central Coast Regional Water Quality Control Board Member, I have serious concerns about the disintegration of both *objectivity* and *scientific integrity* at the management and staff levels of the Water Board. I sincerely hope that future Draft Agricultural Orders prepared, reviewed, and authorized for release by Water Board staff will properly reflect the responsibility of the Water Board to *serve the public*. Without objective, complete, and thorough information, the public and the regulated class alike are *underserved, misinformed, and misled*.

- I. The Staff Report, Draft Order and associated documents consistently:
 - a. Characterize water quality problems (and other alleged impacts from irrigated agriculture) with over-generalizations;
 - b. Provide vague unsubstantiated round numbers that appear to be pulled out of the air (like “thousands,” “millions,” etc.);
 - c. Do not provide adequate citations and references to support data/numbers provided, and/or statements made.

- II. In addition, the proposed Draft Agricultural Order:
 - a. Places unreasonable and unnecessary burdens on the regulated class.
 - b. Causes severe (or at a minimum “potentially significant”) economic impacts to local farmers and local economies that depend upon a thriving agricultural base.

- c. Includes water quality discharge standards that are unattainable and technically infeasible for the regulated class to comply with.

III. In addition to responding to each of my comments above, please:

- a. Provide detailed, objective justification for how the proposed Draft Agricultural Order is not unreasonable and does not unfairly burden the regulated class.
- b. Provide a detailed, objective analysis of how the Central Coast Ag Order compares to all other eight Water Boards in the State. Specify the costs, farmer/landowner responsibilities, regulatory requirements, water quality standards, etc. for each Region's regulatory framework. Given the demonstrated lack of objectivity and scientific credibility of Water Board staff, I highly suggest that this analysis is done by an independent third party. Without this information, it is impossible for the public or Water Board to determine whether the Central Coast approach is reasonable and for anyone to make an informed, responsible decision.
- c. Provide an economic analysis on the anticipated cost to small and medium sized growers for each aspect of the proposed order. An economic analysis of each requirement should be made available to the public, regulated class, and Water Board members. Without this information, it is impossible to conclude that the proposed Agricultural Order is economically reasonable and it is impossible for the Water Board to make an informed decision.
- d. Provide an economic analysis on the potential impact to local economies, including but not limited to loss of property tax revenue due to changes in land use, impacts on local governmental social services, job losses, wage losses, etc.
- e. Provide an analysis of the potential for the loss/conversion of prime farmland.
- f. Provide a thorough, detailed literature review that provides the scientific and technical justification for the feasibility of agricultural producers meeting the proposed water quality standards.
- g. Provide a detailed enforcement plan and the anticipated costs associated with the enforcement of the proposed Agricultural Order.
- h. Since this proposed Agricultural Order is a "Waiver of Waste Discharge Requirements," provide detailed information on how a farmer would obtain a Waste Discharge Requirement, including what costs and regulatory requirements are associated with a WDR. Please provide a comparison of water quality discharge standards, costs, and regulatory requirements that would apply for irrigated agriculture under a WDR.
- i. Please provide a comparison of the water quality discharge standards and regulatory requirements that currently apply to other industries that have Waivers of Waste Discharge Requirements. Are there different water quality standards for each industry or individual dischargers? If so, please describe. In addition, please specify discharge standards, monitoring, and regulatory requirements related to storm water for other industries, including but not limited to construction.
- j. Please provide a comparison of the water quality discharge standards and regulatory requirements for industries that have WDRs. Are there different water quality standards for different industries and/or individual dischargers? If so, please describe.

IV. Where water quality problems exist, those problems should be characterized using an objective, scientific approach. To do so:

- a. All monitoring data collected by the Cooperative Monitoring Program to date should be fully reviewed, analyzed and summarized in detail. Without this information it is impossible for the public to have the opportunity to be informed.
- b. Numbers within the reports should be accurate and reference sources should be footnoted for all numbers provided in the reports. Numbers like “thousands” and “millions” are unacceptable, as they provide no mechanism for public accountability or credibility.
- c. Serious effort should be made by staff to represent data objectively, and where discrepancies or inconsistencies in data/research results exist, those should be provided to the public for consideration. Without providing such information, it is impossible for the public to fully understand and evaluate the issues at hand.

There is great movement throughout California to support local farmers, source produce and food locally, and ensure a sustainable agricultural system. It appears that the direction of the Central Coast Regional Water Quality Control Board (Water Board) is in contradiction to the statewide and national public interest of protecting and encouraging local agriculture. The Water Board’s staff report states that the proposed Draft Agricultural Order is “in the public interest,” this finding is questionable and suspect.

The proposed Agricultural Order has the potential to cause serious impacts to local food systems and local economies. I strongly urge the Water Board to consider the economic impacts to farmers. I also strongly urge the Water Board to consider the technical feasibility of the proposed regulatory parameters. As written, the draft Agricultural Order is not economically reasonable or practical, places unreasonable burden on the regulated class, and includes regulatory requirements that farmers and agronomists would be unable to meet.

Sincerely,

(signed copy to be delivered by Fed Ex)

Sig Christerson, President
Major Farms, Inc.



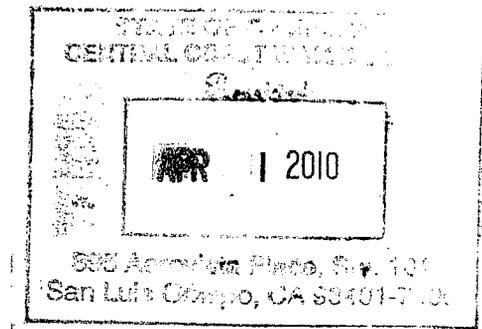
P.O. Box 1251

Salinas, CA 93902

(831) 443-8300

March 29, 2010

Jeffrey S. Young, Chairman of the Board
Roger Briggs, Executive Officer
California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401



Re: Response to Staff Recommendations for an Agricultural Order to Control Discharges from Irrigated Lands

Dear Mr. Young,

My family has been ranching and farming in the Salinas Valley since the 1860's. The family began ranching with cattle and grain, followed by dairy and sugarbeets and finally vegetables and strawberries. We have always been excellent caretakers of this legacy and each farm or ranch has always been left in better condition than when the property was acquired or rented.

This farming legacy includes the use of water and the application of fertilizer and chemicals. Modern farming incorporates the judicious application of these inputs which have led to increased quality and yield for the past 150 years. Quality and yield has allowed us to maintain our farming legacy and remain competitive in a world that leans toward foreign food imports.

The Salinas Valley is the "Salad Bowl of the World". Close to 80 % of all vegetable and strawberries consumed in the United States are seasonally shipped from the Salinas Valley and to many foreign countries, from March to November.

We are blessed with a beautiful climate and a source of water that allows us to supply nutritious vegetables and fruit nine months of the year.

We would not be able to accomplish this without constantly improving our farming operations using the latest seeds, production equipment, Agricultural Extension - Best Management Practices (BMP's), irrigation efficiency, fertilizer and chemical innovations, and down to earth practical observation.

The Proposed Water Order, the subject of this letter, assumes that farmers are doing their worst when it comes to farm water and fertilizer use. The exact opposite is true. We have been improving our water and fertilizer use for 140 years.

We used to apply an average of 400 pounds per acre of fertilizer to grow our crop. Now we are using 180 pounds per acre and that fertilizer is applied at the root zone with the use of drip irrigation. We test our well water yearly to determine the pounds of nitrate per acre inch to include in our fertilizer budget. We test the soil each Fall to determine the quantity of fertilizer, if any, to apply upon listing. That test alone has reduced Fall pre-plant fertilizer to about 5% of our fields.

We recently completed an Agricultural Extension test plot where we farmed as we normally do and the Ag Extension specialists used their BMP's to determine when to water and fertilize. At the conclusion of harvest the yield was statistically identical and water and fertilizer use was close to the same between the farmer and the BMP's. Fifteen years ago this would not have been possible, but because we are constantly striving to farm in the most efficient and cost saving manner, changes can occur for the good.

Our company has spent over \$1,200,000.00 since 1996 to switch to 100% drip irrigation for all lettuce crops, about 2500 acres per year. This required an investment in drip tape, filters, production equipment, layflat piping, main line and well renovation.

In our case, drip irrigation has made it possible to greatly reduce the amount of tailwater that might leave my farms. But one type of practice is not going to work for every farmer under every site condition. By requiring extensive, business information, the DRAFT Ag Order makes assumptions about what a farmer should do to make progress. This alone is likely to prevent many growers from participating with such an Order.

This Order requires that I eliminate, within 2 years, all tailwater. The investment I have made above has reduced tailwater substantially, but I will still use sprinklers to pre-irrigate and to germinate the seed and because of the slope and my soil type there will be run off. Farming adjacent to the

city has created runoff problems due to city engineering of roads. I once maintained a tailwater pond that infiltrated the water back to the aquifer, and then the city placed a road and a 6 foot culvert to divert water to the storm drain. The Order is not only penalizing farmers, but is apparently allowing the cities to divert water from streets, driveways, and parking lots into storm drains. The water that farmers use returns to the aquifer the majority of the time for use again and again. These Order mandates have not been thought through enough as it relates to the future of farming in the Salinas Valley.

As urban development and changes beyond our control take place, drainage conditions change that farmers should not be held responsible for outside the context of other land uses.

I farm adjacent to 6,900 feet of rivers and creeks. These rivers and streams have natural vegetation adjacent to the fields or farm roads. The acres farmed have been in continual farming since 1870, for 140 years. We have never harmed the rivers and creeks for 140 years and have no intention of doing so in the future. If I am required by this Order to eliminate the farmable acreage by up to 1000 feet, the landlords and I will lose the use of 158 acres. Fewer acres mean fewer employees, fewer contracted services, and less revenue to the Salinas Valley. It has been said by the Economic Development Commission that our Three Billion Dollar Ag Community in the Salinas Valley translates into Nine Billion Dollars of an economic engine in Monterey County alone. Reducing farmable acres does not make sense when it has been farmed for over 140 years.

We have changed the Valley for the better. Better vegetables, better jobs, better economic environment and better management of our natural resources.

Adding pages and pages of new unnecessary regulations and mandates will not accomplish your apparent goal of total control of the farming industry, but will only add more burden to the farmers and ranchers who remain focused on continuous improvements for BOTH protection of water quality/natural resources AND the viability of farming on the Central Coast.

Very truly yours,



William T. Tarp
President/Owner

With copies to:

Governor Arnold Schwarzenegger
Secretary of Agriculture, A.G. Kawamura

California State Water Resources Control Board

Chairman Charles R. Hoppin
Vice Chairwoman Frances Spivy-Weber
Arthur Baggett, Jr.
Tam Doduc
Walter Pettit
Executive Director Dorothy Rice
Mr. Johnny Gonzales

Region 3: Central Coast Regional Water Quality Control Board

Chairman Jeffrey Young
Vice Chairman Russell Jeffries
John Hayashi
David Hodgin
Monica Hunter
Tom O'Malley
Gary Shallcross
Roger Briggs, Executive Officer ✓
Angela Schroeter, Senior EG

County Boards of Supervisors

Monterey County

Supervisor Fernando Armenta
Supervisor Louis Calcagno
Supervisor Simon Salinas
Supervisor Jane Parker
Supervisor Dave Potter

California State

Senator Abel Maldonado (District 15)
Senator Jeff Denham (District 12)
Assembly Member Anna Caballero (District 28)
Assembly Member Bill Monning (District 27)

United States Senators

Senator Barbara Boxer
Senator Dianne Feinstein

United States House of Representatives

Congressman Sam Farr (District 17)

William Elliott
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Oceano, California 93445
Tel: 805.473.9377
e-mail: ElliottSLO@aol.com

By Hand Delivery

March 31, 2010

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Chair, Central Coast Regional Water Quality Board
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San Luis Obispo, California 93401

Mr. Russell Jeffries
Vice-Chairman, Central Coast Regional Water Quality Board
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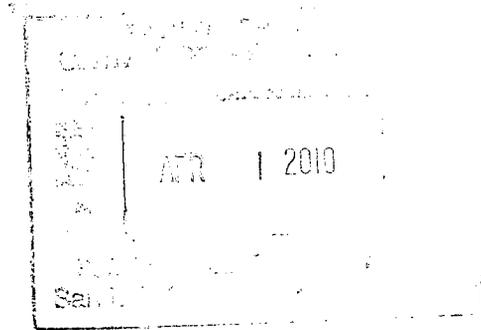
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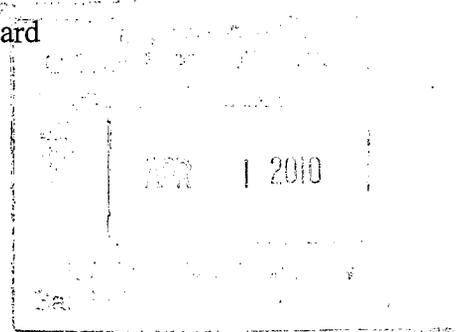
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Ms. Angela Schroeter
Senior EG, Central Coast Regional Water Quality Board
895 Aerovista Place Ste. 101
San Luis Obispo, California 93401



Re: Comments of Jensen Family Farms, Inc. To Preliminary Draft Report
and Staff Recommendation for Agricultural Order Conditionally Waiving
Individual Waste Discharge Requirements for Discharges from Irrigated Land,
Resolution No. R3-2010-00XX

Dear Gentilepersons:

This letter provides you with the views and comments of Jensen Family Farms, Inc. ("Jensen") concerning the Board's Preliminary Draft Report and Staff Recommendation for Agricultural Order Conditionally Waiving Individual Waste Discharge Requirements for Discharges from Irrigated Land, Resolution No. R3-2010-00XX ("Proposal). The author serves as a Jensen consultant and advisor.

Before proceeding to those comments, one essential matter should be appreciated. Jensen Family Farms, Inc., is a family-owned farming corporation that owns and/or operates six (6) separate farms in the Salinas Valley located between Chualar and Salinas which total approximately 1140 acres currently in production. Those farms are located on (1) Spence Road (which farm abuts Highway 101 as well as the Salinas River for over one mile and, in fact, straddles both sides of the River; (2) Somavia Road (which abuts Highway 101 as well as the Salinas River); (3) Old Stage Road; (4) Esperanza/Old Stage Road (which abuts Highway 101); (5) Potter Road (which abuts Highway 101); and (6) Blanco Road. It irrigates those farms from well water pumped to the surface. Various row crops consisting of iceberg lettuce, romaine lettuce, red leaf lettuce, broccoli and asparagus are grown on the respective farms. Jensen is the present corporate manifestation of what is a fourth-generation family farming operation in the Salinas Valley that dates back more than 100 years. It is among the leaders of "new" farming practices, having been among the first farming entity to engage in large-scale organic farming in the Salinas Valley, growing as it does organic asparagus on over 100 acres of its primary farming property located at the intersection of Old Stage and Esperanza Roads. As a non-multinational non-vertical agribusiness it thus has close ties to the Salinas Valley and, in fact, is preparing for the next generation to carry on family traditions of nurturing the land. Owned, in great part, by hunters, fishermen, and life-long farmers, it is dedicated to not only maintaining economically viable farming in the Salinas Valley but also in taking actions consistent with necessary reasonable environmental concerns about air, water, and the human environment. Unfortunately, the actions of the Proposal do not even come close to meeting this goal.

Having laid out on whose behalf these views are presented, we summarize what will be set forth in Jensen's comments concerning the Board's Proposal. The first (and noneconomic) concern is with the Proposal's failure to comply with the requirements of the California Environmental Protection Act, Cal.Pub.Res.Code § 21000 et seq. ("CEQA"). Specifically, a review of the requirements of the CEQA Environmental Checklist in the context of the discussion provided in the Staff Report and, notably in Attachment 5 (Preliminary Draft of Initial Study and Environmental Checklist), and an appreciation of apparent facts and analyses of studies undertaken by other agencies charged with environmental oversight (such as the California Air Resources Board and the Monterey Bay Unified Air Pollution Control Board) reveal that significant environmental concerns and impacts were either completely overlooked or underappreciated in conducting the Initial Study. The significant environmental impacts of the Proposal, once implemented, are great and have a definite cascading and cumulative impact on all areas of environmental concern (including air pollution, water pollution, and impacts on the human environment). These matters mandate that the Proposal be rejected in its entirety and that, at a minimum, further study be undertaken before further substantive action is taken or proposed. Indeed, the Proposal, as it now stands and once implemented, will create more significant water pollution and damage to the waters of the Coastal County Region than it is presently proposed to ameliorate.

The second group of comment concerns primarily the proposal that there be a "habitat buffers" (which are really nothing less than set offs) of 50, 75, and 100 feet from the stream bank (which must be implemented within four years of the Proposal's adoption. Sounding in terms of whether a farmer's operations are a "high" or "low" risk in terms of discharging water, the Proposal requires non-low-risk operators (no doubt the vast majority of farmers in the Region) to eliminate "tail water" and, among other things (such as taking stringent storm water control measures) to not farm adjacent to or in close proximity (1000) feet to an impaired surface water body identified on the Impaired Waters Lists. For purposes of these comments, "set offs" is used to describe all of the reference buffers and setbacks. Such waters either do or could include all tributaries into and, indeed, the Salinas River itself, other rivers located in the Central Coast District (such as the Santa Maria River in Santa Barbara County or the San Luis Creek located in San Luis Obispo County) or the Pacific Ocean. The inexactness of the Proposal raises serious due process constitutional vagueness concerns (such as the failure to specify whether the inception of measurement begins on the bank of the River, mid-stream, at the highest flow level, at the 30-year or 100-year flood levels). In other words, what is the "bank." That the boundaries of the Salinas River, for instance, change is one of those obvious facts that was overlooked in the Proposal. That is, indeed, strange since one of the greatest pieces of literature written about the Salinas Valley makes note of that fact in its opening paragraphs:

"From both sides of the valley little streams slipped out of the hill canyons and fell into the bed of the Salinas River. In the winter of wet years the streams ran full-freshet, and they swelled the river until sometimes it raged and boiled, bank-full, and then it was a destroyer. The river tore the edges of the farm lands and washed whole acres down ... Then when the late spring came, the river drew in from its edges and the sandbanks appeared. And in the summer the river didn't run at all above ground. ... The Salinas was only a part-time river. The summer sun drove it underground. It was not a fine river at all, but it was the only one we

had, and so we boasted about it – how dangerous it was in the wet winter and how dry it was in a dry summer. You can boast about anything if it’s all you have. Maybe the less you have, the more you are required to boast.”

John Steinbeck, East of Eden at 1 (Viking Press 1952). However, regardless of where the measurement begins one thing is quite certain: the effect will be the regulatory takings of thousands of acres of extremely valuable and productive agricultural land. The impact of the loss of that much farmland – when it is multiplied by the hundreds of other farms that would be subject to such a set-off -- is obvious both for the economy of the Central Coast counties, the welfare of the 300+ million consumers of produce grown in the nation’s “salad bowl” and drinkers of wine produced in Monterey, San Luis Obispo, and Santa Barbara County, respectively, and for the State of California and this Board against whom judgments for the regulatory taking totaling in the billions of dollars would be entered.

A. The Proposal Does Not Comply With The Requirements Of California’s Environmental Quality Act

The conclusion of the Board’s “Initial Study and Environmental Checklist Regarding Conditional Waiver for Discharges from Irrigated Lands” as set forth in Attachment 5 – if adopted – is inconsistent with and violates CEQA. That conclusion, of course, is that:

“The Central Coast Water Board concludes that adoption of and compliance with the Preliminary Draft irrigated Ag Order will not have a significant negative impact on the environment.”

Attachment 5, page 17. That is based on a determination, made with regard to the 79 (excluding subparts) sections appearing on the CEQA Environmental Checklist (which is composed of 17 separate categories), that the impact runs the gamut from “no impact” on 75 of them and “less than significant impact” on the remaining 4. Those four deal with the conversion of farmland to non-agricultural use and the effect on the riparian habitat or wetlands. Id., pages 10-11. As a result of that conclusion, no Environmental Impact Report (“EIR”) on the proposal as it would be adopted, including actions necessary to comply with its terms, would be required in the opinion of the Board. Such a conclusion is both factually and legally incorrect. Indeed, it either fails to recognize or take into account the actual or potential significant environmental impacts on 11 of the 17 categories listed in the CEQA checklist including, notably:

- (1) Aesthetics (impacts on scenic vistas and resources through, among other things, the construction of numerous and sizeable water treatment facilities (such as large reverse osmosis equipment) on lands abutting or otherwise adjacent to major scenic thoroughfares such as Highway 101, Highway 1 (Pacific Coast Highway), Highway 46 (in San Luis Obispo County), River Road (in Monterey County), Halcyon Road (in San Luis Obispo County), Vineyard Drive (in San Luis Obispo County), and Highways 154 and 246 (in Santa Barbara County);
- (2) Agricultural resources (the imposition of a 1000 buffer zone replacing agricultural lands abutting such things as the Salinas River and all streams and sloughs discharging water into the river or Monterey Bay translates directly into the loss of

- literally thousands of acres of now-fertile and producing agricultural lands);
- (3) Air quality (additional air pollution arising from the introduction of literally thousands of agricultural land-sited diesel-fueled water treatment facilities, as well as from additional vehicle traffic arising from the need to service such facilities (including the removal of the water purification chemical byproducts as well as the purified water [the latter being available for bottling and commercial sale as drinking water], pollution caused by the construction and working of local facilities to treat the chemical byproducts and to-be-bottled water);
 - (4) Biological resources (the potential loss of discharged water draining into the rivers and bodies of water in the Coastal Region due to the sale, by the farmers either independently or cooperatively, of the drinking-water pure water produced on their lands would directly impact the amounts of water in which protected or "of concern" species live);
 - (7) Hazards and Hazardous Materials (arising from the transport, use or disposal of chemicals and other by-products of the water purification process by farmers either independently or cooperatively);
 - (8) Hydrology and Water Quality (including those items discussed with regard to biological resources ante, depletion of ground water resources or interference with ground water discharge, alteration of the existing drainage patterns);
 - (11) Noise (the addition of noise from the operation of the treatment facilities, traffic-related-to the maintenance and care of those facilities as well as transportation of by-products);
 - (12) Population and Housing (including the loss of population that would result from the loss of land presently used for agricultural purposes from imposition of the various buffers and setbacks which would thus displace substantial numbers of people, necessitating the construction of replacement housing elsewhere);
 - (15) Transportation/Traffic (increase in the number and frequency of vehicle usage of the highways and roads due to the need for servicing of the treatment facilities, construction of those facilities, the removal of by-products, and other related matters);
 - (16) Utilities and Service Systems (construction of numerous new water treatment facilities on each farm or tract of land within the Region that presently "discharges" water that will produce the significant environmental effects discussed herein);
 - (17) Mandatory findings of significance (cumulative considerable impacts on the environment which will cause substantial adverse effects in terms of income and other matters relating to the human environment).

Quite simply, the information upon which the proposed negative impact finding is based is woefully incomplete as to the scope of matters considered, and woefully in error regarding the matters it has interpreted and applied as have just been listed and which will be further discussed below. That insufficiency and incorrectness may, among other factors, be due to the apparent lack of coordination and consultation with other governmental agencies, including those involved in pollution-control matters, as to the actual or likely negative significant affects on the environment posed by the Proposal. While this matter will also be discussed in greater length below, these agencies include the California Coastal Commission (which is charged with

responsibility for matters occurring in the coastal zone, an area that includes within its parameters much of the agricultural lands covered by the Proposal which are located on Monterey County's North Coast, San Luis Obispo County's South Coast, and Santa Barbara County's North Coast), the California Air Resources Board (that has issued regulations dealing with air pollution produced by diesel engines used in agricultural operations), the Monterey Bay Unified Air Pollution Control District (which has also issued Rules dealing with air pollution caused by diesel engines used in agricultural operations), and the federal Environmental Protection Agency (due to the significant amounts of land owned by the federal government and its agencies, including the Department of Agriculture's Old Stage Road operation and Hartnell College's East Campus in Salinas, are of which are located in the Region and directly impacted by the Proposal.¹)

At the end of the day, it all comes down to this: consideration of the actual water purification equipment and infrastructure that the Proposal requires farmers to build and install on their lands (with all of the related activities arising from the operation and maintenance of that equipment combined with the need to make up, wherever possible, the significant loss in income occasioned by having to retire a hefty portion of their land due to the 1000 foot setoff requirement) combined with just plain common sense clearly shows that the Proposal's impact on the environment would be, at a minimum, potentially significant (with or without any mitigation). There is, of course, more. All information leads to the conclusion that if this Proposal is adopted as proposed, the Board will violate CEQA by issuing what amounts to nothing more than a negative declaration (or, at the most, the "functional equivalent" of one) when a "full EIR" is required because "substantial evidence of a fair argument" exists that the Proposal and its implementation may result in "significant environmental impacts."

In order to make clear the requirements that are not being met by the Proposal's consideration of environmental impacts, Jensen's understanding of the requirements of CEQA should first be iterated. As the California Supreme Court noted in Sierra Club v. State Bd. Of Forestry, 7 Cal.4th 1215, 1233 (1994), "CEQA compels government first to identify the environmental effects of projects, and then to mitigate those adverse effects through the imposition of feasible mitigation measures or through the selection of feasible alternatives." If a project – such as the Proposal and its implementation – does not have feasible alternatives or mitigation measures that can substantially lessen or avoid those effect, the project should not be approved. See Mountain Lion Foundation v. Fish & Game Com., 16 Cal.4th 105, 134 (1997). CEQA is implemented through initial studies, negative declarations and EIR's. It requires a governmental agency – such as the Board in its capacity as Lead Agency on his particular "project" -- to prepare an EIR whenever it considers approval of a proposed project that "may have a significant effect on the environment." Quail Botanical Gardens Foundation, Inc. v. City of Encinatas, 29 Cal.App.4th 1597, 1601 (1994); Cal. Pub.Res. Code § 21100. Thus, if there is no substantial evidence a project "may have a significant effect on the environment" or the initial study identifies potential significant effects, but provides for mitigation revisions which make

¹ The failure to coordinate with the Department of Agriculture is particularly inappropriate since it is charged, by 7 C.F.R. § 377.5(d) with the preparation of National Environmental Protect Act Environmental Impact Statements for its projects (the substance of which might of proved useful to the Board in preparation of the Proposal).

such effects insignificant, a public agency must adopt a negative declaration to such effect and, as a result, no EIR is required. Cal.Pub.Res. Code §§ 21980(d), 21064. However, the Supreme Court has repeatedly recognized that an EIR must be prepared and a negative declaration cannot be certified :whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact. No Oil Co. v. City of Los Angeles, 13 Cal.3d 68, 75 (1974).

What constitutes a “significant effect on the environment” is has a common regulatory definition:

“Significant effect on the environment; means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.”

14 C.C.R. 15382.² A “significant effect on the environment’ is thus “limited to substantial, or potentially substantial, adverse changes in physical conditions which exist within the area as defined in Cal. Pub.Res. Code § 21060.5. Pub.Res. Code § 21060.5 defines ‘environment’ as ‘the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance.’ See also Lighthouse Field Beach Rescue v. City of Santa Cruz, 131 Cal.App.4th 1170, 1180 (2005).

There appears to be some uncertainty as to what specific requirements obtain under CEQA as well as the stringency with which the CEQA requirements must be met. This arises from confusion that has arisen from two telephonic inquiries made to the Board concerning whether the present “project” was certified by the Resource Agency or otherwise: in one instance, the response was affirmative while in the other the response was negative. In light of this it is necessary to address what is required under CEQA for a certified and uncertified program. “The Legislature has made certain categories of projects exempt from CEQA.” Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster, 22 Cal.App.4th 1165, 1191 (1997). See City of Sacramento v. State Water Resources Control Bd., 2 Cal.App.4th 960, 973-974 (1992), in which it was stated:

“In lieu of the requirement for preparing an EIR or negative declaration, CEQA provides a mechanism for the exemption of certain regulatory programs which themselves require a plan or other written documentation containing environmental information. [Citations.] This exemption applies whenever a program has been certified by the Secretary of the Resources Agency. [Citation.]

² The same is not necessarily true with regard when assessing a project under the National Environmental Protection Act (“NEPA) which requires a greater consideration be given to such factors affects on the human environment. See 40 C.F.R. § 1508.14.

After certification, the internal plan or other documentation containing environmental information is used for review purposes in lieu of an EIR.”

The CEQA implementation guidelines, [14 C.C.R. § 15000 *et seq.*], do not directly apply to a certified regulatory program's environmental document. See 2 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2005) § 21.10, p. 1086. However, “[w]hen conducting its environmental review and preparing its documentation, a certified regulatory program is subject to the broad policy goals and substantive standards of CEQA.” Ibid. In a certified program, an environmental document used as a substitute for an EIR must include

‘[a]lternatives to the activity and mitigation measures to avoid or reduce any significant or potentially significant effects that the project might have on the environment,’ and a document used as a substitute negative declaration must include a ‘statement that the agency's review of the project showed that the project would not have any significant or potentially significant effects on the environment and therefore no alternatives or mitigation measures are proposed to avoid or reduce any significant effects on the environment. This statement shall be supported by a checklist or other documentation to show the possible effects that the agency examined in reaching this conclusion.’”

14 C.C.R. § 15252(a)(2)(A).

Regardless of whether the project is certified or noncertified, the Board must nonetheless include a completed environmental checklist prescribed by the State, and a written report addressing reasonable alternatives to the proposed activity and mitigation measures to minimize any significant adverse environmental impacts. 23 C.C.R. § 3777(a). The governing regulations further provide that the “board shall consult with other public agencies having jurisdiction by law with respect to the proposed activity and should consult with persons having special expertise with regard to the environmental effects involved in the proposed activity.” 23 C.C.R. § 3778. The Board must also “prepare written responses to the comments containing significant environmental points raised during the evaluation process.” Id., at § 3779.

Assuming that the Proposal is certified as CEQA exempt, the preparation and approval process for basin plans is the “functional equivalent” of the preparation of an EIR contemplated by CEQA. It is as true in that instance, as it is where a noncertified program is involved, that in those instances where it is determined that a “negative declaration” is approved that such may not be based on a “bare bones” approach in a checklist. See Snarled Traffic Obstructs Progress v. City and County of San Francisco, 74 Cal.App.4th 793, 797 n. 4 (1998). In those instances, judicial review of the certified and noncertified project EIR or negative declaration mirror each other. See County of Santa Cruz v. State Bd. Of Forestry, 64 Cal.App.4th 826, 8309 (1998). As was noted in State Water Resources Control Bd. Cases, 136 Cal.App.4th 674, 723 (2006):

“In a mandate proceeding to review an agency's decision for compliance with CEQA, we review the administrative record to determine whether the agency abused its discretion. ‘Abuse of discretion is shown if (1) the agency has not

proceeded in a manner required by law, or (2) the determination is not supported by substantial evidence.’ ‘When the informational requirements of CEQA are not complied with, an agency has failed to proceed in “a manner required by law” and has therefore abused its discretion.’ Furthermore, ‘when an agency fails to proceed as required by harmless error analysis is inapplicable. The failure to comply with the law subverts the purposes of CEQA if it omits material necessary to informed decisionmaking and informed public participation. Case law is clear that, in such cases, the error is prejudicial.’ (Internal citations omitted)

See also County of Amador v. El Dorado County Water Agency, 76 Cal.App.4th 931, 945-946 (1999).

A review of the environmental impact report presented to the Board reveals that it does not comply with the mandatory provisions for completion of an environmental checklist and report that describes the proposed activity, addresses reasonable alternatives, and sets forth mitigation measures to minimize any significant adverse environmental impacts. What exists is a situation where, if approved in its present form, the Board will merely offer a checklist that denied the project would have any environmental impact and obviously intended its documentation to be the functional equivalent of a negative declaration. Quite frankly, the Board has not considered all significant implications on the environment. Moreover, it is obvious that the proffered checklist that specifies no significant effect on the environment is either the product of insufficient inquiry or is designed to mislead the public in its considerations.

The incepting point in discussing the significant impact on the environment that the Proposal will have upon its implementation is to describe the type of equipment or machinery that the Proposal requires the owners and operators of agricultural land to install on their land and operate in order to comply with the no-discharge requirements imposed by the Proposal. At no point was this done in the Proposal or related documents, indicating that the size, energy source, and other matters relating to those machines (including removal of the extracted chemicals and residues) was not factored into the environmental impact analysis. That, without more, is a fatal flaw. Current technology in these regards appears to present two different types of equipment: a reverse osmosis unit or a reverse ion unit. Siemens Water Technology Corp. (“Siemens”) is one of the prominent manufacturers and distributors of that type of equipment. A review of the various reverse osmosis equipment sold by them – all of which can be located at its official Internet website at **Error! Hyperlink reference not valid.** – reveals that the units necessary to do that which the Proposal requires to be done (and, particularly in view of the need under the Proposal for the farmer to err on the side of having equipment that has too large a volume than that which has a smaller volume in terms of the amount of water purified per minute) are diesel-fuel powered and quite sizeable.

One of the Siemens unit models that appear to be a prime candidate for agricultural use (since it has a flow rate of 25 to 150 gallons per hour, respectively) is described as having the overall dimensions (width x depth x height in inches) as follows:

168 x 40 x 78
201 x 41 x 78

196 x 56 x 90
277 x 56 x 91
277 x 58 x 91

In other words, these units generally are at least 14 (and as large as 23) feet wide, 3.5 feet to 5.75 feet deep and 6.33 (to 7.6) feet high. That is “one big honking machine.” Since such a unit would be needed at each discharge point (and since there are multiple discharge points per field), it can be easily comprehended (but certainly was not by the Proposal) that literally tens of thousands of these units would be placed on farm land in the Region. In each instance, operation of the equipment would produce by-products consisting of chemicals, salts, minerals, and other substances extracted from the water (which would likely have to be stored at least temporarily on site either in large metal storage containers or in lined open air pits in order to avoid leeching into the soil).

Of course, the number of units might be marginally reduced by the construction of infrastructure on each farm (such as above-ground pipes) that would more centralize the discharge points. The purified water produced in the process could also be allowed to run off the land or could be retained and stored for sale as bottled water. (A review of bottled water sold in stores and markets in California reveals that a large amount of it, according to the mandated label notation, is the product of reverse osmosis. A trip to Costco and inspection of the Kirkland brand bottled water reveals this to be so.) Since each is a relatively sophisticated piece of equipment, each would require on-site maintenance (on both a routine and special-needs basis) which would increase vehicle traffic. That increase in traffic would, of course, be made manifold by the increase in traffic occasioned by vehicles removing all of the by-products and sludge produced in the purification process (a particular need in order to avoid any untoward leakage back into the soil or discharge water). The cascading significant environmental impact caused by each unit – and, of course, the cumulative thousands of such units spread all over the 400,000 acres presently in production (although such acreage will be markedly reduced by the 1000 foot set off) – was simply overlooked by the Board in its environmental analysis.

So too was it overlooked that the Board is not the only body charged with being an environmental watchdog in the Coastal Counties. Surprisingly overlooked and apparently (if the Staff Report is to be believed) unmentioned was the California Coastal Commission which is charged with implementation and enforcement of the California Coastal Act of 1976. Cal.Pub.Res. Code § 30000 et seq. Pursuant to that Act, and specifically Pub.Res.Code § 30214, the Commission is charged with the following matter which most assuredly is impacted by the Proposal:”

“The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas’ agricultural economy.
...”

The Commission’s jurisdiction includes the Coastal Zone. As defined in Cal. Pub.Res. Code § 30103(a), the coastal zone consists

“that land ... of the State of California from the Oregon border to the border of the Republic of Mexico Extending inland generally 1,000 yards from the

mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas [such as Monterey County, San Luis Obispo County, and Santa Barbara County] it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less ...”

Thus, areas of the Monterey County North Coast – e.g., from Marina to and past Castroville (that represents more than 80% of the artichokes grown in the world), including the areas around Elkhorn Slough and northward -- subject to the Proposal are all located in the Coastal Zone and thus are also subject to Coastal Commission determinations, particularly regarding the scenic viewshed.

The Commission is, in fact, infamous for the zealotry with which it protects scenic views and viewshed of the California coast falling within its jurisdiction. It is difficult to believe that the Commission would not consider the placement of hundreds (and likely thousands) of large Siemens reverse osmosis units on farmland abutting the Pacific Coast Highway to not have a significant impact on that viewshed. Indeed, a coastal development permit is likely required for a farmer to even build such a facility on his land at all. See Cal.Pub.Res. Code § 30106, which defines a “development” subject to that permit to include

“... on land ... the placement or erection of any solid material or structure; discharge or disposal of any ... gaseous, liquid, solid... waste; ... change in the intensity of use of water or of access thereto; construction, reconstruction ... of ... any structure, including any facility of any private, public, or municipal utility
....”

The Commission, which is also well known for rejecting projects because the EIR’s or negative declarations submitted to it were deemed insufficient (although in comparison to the one done by the Board here such would be considered to the product of placing all considerations under a microscope and producing a tome on environmental impacts), would take great exception to a finding of “no impact” in terms of the traffic and vehicle air pollution that would accompany the installation, maintenance, and off-site removal of byproducts.

Concern with the scenic views along, for instance, the Highway 101 corridor from Buellton to Prunedale that would be significantly impacted by the placement of purification units all over the highway-adjacent fields was also overlooked by the Board. That such a scenic view exists is undeniable: it strikes something akin to awe to look on either side of Highway One at the long rows of green crops, the grape vineyards, the careful placement of walnut trees. The same is true when driving along Highway 46 surrounded on both sides by what seems to be miles of vineyards, or while driving to the top of Halcyon Road in Arroyo Grande (where it meets the Nipomo Mesa) and looking out at farm land stretching from the ocean to the bluffs and Highway 101.

Even more troubling than the failure to consult with the Coastal Commission is the failure to consult with or obtain air pollution information from the California Air Resources Board (“CARB”) or the Monterey Bay Unified Air Pollution Control District. Concerned with the amount of emissions being released into the atmosphere by diesel-fueled engines used in agricultural operations throughout California (including the Salinas Valley), CARB issued

regulations limiting such emissions. As set forth in CARB Resolution 3-30 (February 26, 2004, CARB had studied the effect of such emission and found:

“Excessive diesel exhaust particulate matter emissions for stationary compression-ignition engines, most of which are diesel-fueled, are a significant source of toxic air contaminants which contribute significantly to serious air pollution in communities and across the State.”

This and other documents providing studies and the views of CARB concerning pollution caused by diesel-fueled engines used in agricultural operations may be found at the CARB’s official Internet website at [Error! Hyperlink reference not valid.](#) Issued pursuant to Cal. Health & Safety Code § 39666,³ 17 C.C.R. § 93115 sets fuel and emissions standards for and applies to “any person who owns or operates” “stationary CI engine in California with a rated brake horsepower greater than 50 (>50 bhp).” Section 93115.2(b). The Monterey Bay Unified Air Pollution Control District, acting pursuant this authority, adopted and issued Rule 1010 which is entitled “Air Toxic Control Measure for Stationary Compression Engines,” has as its stated purpose:

“to reduce diesel particulate matter (PM) from stationary diesel-fueled compression ignition (CI) engines and consistent with California Health and Safety Code Section 39666(d) is a replacement rule for 17 California Code of Regulations Section 93116 [sic], Airborne Toxic Control Measure for Stationary Compression Ignition Engines.”

Rule 1010.1.1. It applies to, among others, “any person who owns or operates a stationary CI engine in the District with a rated brake horsepower greater than 50 (> 50 bhp).” While Rule 1010, subpart 1.3, specifically exempts agricultural CI engines from the operation of certain emission and fuel requirements and standards (including those for emergency standby diesel-fueled CI engines (> 50 bhp), [subpart 3.2], stationary prime diesel-fueled CI engines (>50 bhp), [subpart 3.3], and certain record-keeping, reporting and monitoring requirements, [Subpart 4.1.1]), it specifically imposes fuel and emission standards on diesel engines used in agricultural operations. I.e. :

”No person shall sell, purchase, or lease for use in the District any new stationary diesel-fueled engine to be used in agricultural operations that has a rated brake horsepower greater than 50, or operate any new stationary diesel-fueled engine to be used in agricultural operations that has a rated brake horsepower greater than 50, unless the engine meets all of the follow emission performance standards...”

Rule 1010.3.4.1. Serious penalties attach for the failure to register such engines and to otherwise comply with the emission standard. In other words, CARB and the Monterey Bay Unified Air Quality etc. Board have found and taken action pertaining to diesel-fueled engines used in agricultural operations throughout all, or most, of this Region.

³ H & S Code §39666, in pertinent part, provides: “(a) Following a noticed public hearing, the state board [CARB] shall adopt airborne toxic control measures to reduce emissions of toxic air contaminants from nonvehicular sources.”

These regulations and rules were issued due to documented concerns with the air pollution particularly caused by diesel-fueled engines used in agricultural operations. While those engines were traditionally used solely for purposes of pumping irrigation water (and were generally limited to a centralized engine per farm), the water purification reverse osmosis engines which each farmer must now install in multiple numbers on his farmland (and which are, in fact, of greater horsepower than generally exists with regard to pump engines) exacerbates the air pollution problem the CARB and Monterey Bay Unified etc. Board believed it necessary to limit by means of their respective regulations and rules. In light of this already patent concern by the California agencies charged with controlling air pollution and the significant impacts thereon of diesel-fueled engines used in agricultural operations, it defies both common sense and belief that the Proposal found no significant impact. That simply is unsupported and unsupportable.

This same point needs to be appreciated in terms of the failure to consult with the federal Environmental Protection Agency ("EPA"). In this instance, however, the failure is even more profound. Like CARB, the EPA has done numerous studies on the environmental impact of diesel-engine emissions used in stationary positions (in which presumably the purification units could be included). See, e.g., 40 C.F.R. Part 68 (listing stationary non-vehicular engines with emissions standards and referencing supporting environmental studies). Further, since vehicular traffic will no doubt increase in the Coast Counties due to the need for the construction and maintenance of the purification units (including the removal of the chemical, mineral, and other by-products, including purified water suitable for drinking), the EPA should have been consulted as well as to the significant environmental impacts such would have on the air and other areas of pollution concern (including water and the human environment). Indeed, CEQA even contemplates that joint CEQA and NEPA (National Environmental Protection Act) EIR/EIS will be done when appropriate. See 42 U.S.C. § 4321 et seq.; 14 C.C.R. §§ 15170, 15222, 15226 (requiring or encouraging preparation of joint CEQA/NEPA documents). The propriety and need to do so is borne out by reference to significant agricultural activities in, for instance, the Salinas Valley undertaken by the Department of Agriculture: not only does it have an agricultural facility at Hartnell College's East Campus in Salinas but it also has a significant row-crop operation (which includes a pesticide permit) at its facility on Spence Road/Old Stage Road to the south of Salinas.

The loss of agricultural land occasioned by implementation of the Proposal is patent and will have a significant environmental impact not only to agricultural resources (as set forth on the CEQA checklist) but on the human environment (in terms of lost agriculture jobs and the attendant affects such will have on the movement of large numbers of persons out of the Salinas Valley). At least in significant part (excluding, of course, the loss in land available to crop growth due to the installation of the water purification units and accompanying infrastructure), the various buffers and setbacks (including primarily the 1000 foot set-off due to the presence of impaired surface water body in which no agricultural pursuit may occur) is the source of such impact. It is beyond belief that the impact of that set-off could be treated as negligible when the areas affected by it in, for instance, the Salinas Valley alone is considered.

The Salinas River is approximately 85 miles long. It has a number of tributaries including

1. the Estrella River from the Carisa Plain (in San Luis Obispo County) that intersects the Salinas River near San Miguel;

2. the Nacimiento River;
3. the San Antonio River;
4. Poncho Rico Creek at San Ardo;
5. the San Lorenzo River which intersects it near King City;
6. the Bitterwater Creek which intersects it east of Greenfield;
7. the Arroyo Seco which intersects it west of Soledad;
8. the Johnson Creek drainage north of Gonzales;
9. the Old Stage Road drainage west of Chualar;
10. the Goat drainage west of Chualar;
11. the Quail Creek drainage west of Spence Road;
12. the Army Corps of Engineers Reclamation Ditch which interests with the Natividad and Gabilan Creeks when then bisects the City of Salinas and empties into the old Salinas River Channel west of Castroville;
13. the Blanco Drain which carries water moved by tile drainage from approximately 10,000 fertile acres west of Salinas and empties into the Salinas River southwest of Castroville;
14. Alisal Slough which carries water removed by tile drainage from approximately 8,000 acres of fertile farmland within the boundaries of the Castroville Irrigation project (which uses reclaimed treated water from the Monterey County Pollution Control Agency);
15. Santa Rita Creek which empties into the Reclamation Ditch;
16. Merit Lake drainage which also empties into the Reclamation Ditch.

There are, in addition, literally hundreds of small drainages which, when combined, accounts for thousands of additional miles of water-adjacent land. It is hard to imagine 1000 feet on either side of such tributaries which are now dedicated to the production of crops being retired from that use and allowed to lie fallow. (It is equally hard to imagine a 50 or 150 foot buffer in which no spraying or application of fertilizer/pesticides can occur, since such would not admit to the production of the same amounts or quality of produce that is obtained with the application of fertilizer or pesticides.)⁴ It is not, however, difficult to imagine the impact of that being done. Literally tens of thousands of acres of now-producing farm land would no longer exist for that purpose. The workers who earn their livings from tending that land would be accordingly

⁴ By the same means, an inability to fertilize, for instance, 72 hours prior to a forecast rainfall or 36 hours thereafter would have a significant impact on production. Since it is well-settled that weather forecasting, particularly along in the Central Coast counties is, at best, an inexact "science," this aspect of the Proposal could well result in literally weeks passing during the growing season (during the "rain" months of January-March) in which steps necessary to secure and obtain an even marginally profitable harvest could not be taken.

terminated. Those workers, particularly in the present economic climate, would have no other employment available to them in the agriculture-centered Salinas Valley. In addition to defaulting on home loans or just walking away from those houses, these displaced workers would be forced to move to other regions of the California (or, for that matter, elsewhere in the United States) and find not only new jobs but new homes (thereby requiring expansion of housing and infrastructure in those areas). The cascading affects of such a situation can hardly be overstated but were, incomprehensively, overlooked and completely discounted by the Board in its environmental analysis.

A partial answer to the enormous economic impact that would occur from adoption and implementation of the Proposal, however, itself poses significant impact on the water resources of the Coast Counties. The goal of the Proposal is to assure that all discharge water would be purified to the purity level of drinking water (including the removal of all sediments). That, of course, assumes that the purified water would be discharged from the agricultural land into, among other places, the Salinas River. There really is no sound basis underlying that assumption. Americans, to our national shame, are addicted to bottled water (the bottles being a great source of pollution to the oceans and rivers as well as the side-of-the-road).⁵ As the New York Times reported on March 19, 2008 in an article entitled “Rising sale of bottled water triggers strong reaction from US conservationists,” bottled water sales in the United States in 2007 were 8.82 billion gallons (having a value of \$11,700,000,000). See Error! Hyperlink reference not valid. So then why would the farmers of the Central Coast counties – who would have spent large amounts of money on the water purification units and otherwise suffered egregious reductions in their profitability due to the loss of land they could actually farm – not, either individually or on a cooperative basis, seek to store and sell (for human consumption) the water they have purified? That would quite obviously reduce the amounts of water going in to, for instance, the Salinas River. That would lower the water levels and just generally have deleterious effects that make the Proposal’s concerns with pollution by discharge water pale in comparison. But that too was ignored or overlooked by the Board.

B. The Proposal, When Implemented, Will Result In The Regulatory Taking Of Thousands of Acres of Agricultural Land

The Proposal, if adopted and implemented, will result in the regulatory takings of, among other things, the agricultural land contained in the buffer zones (including, notably, the 1000 feet set back from an impaired surface water body.

The Fifth Amendment of the United States Constitution, made applicable to the States (and its political subdivisions such as the Board by the Fourteenth Amendment) specifically protects private property from governmental incursions by preventing “private property [from] be[ing] taken for public use without just compensation.” U.S. Constitution, Amend. V.⁶ The

⁵ By the same means, the production of the bottles themselves used up hundreds of millions of barrels of oil, cause air pollution, and have other significant impacts on the environment. An increase in the number of bottles of water being marketed – as, for instance, “Steinbeck Water from the Salinas Valley” – would necessarily increase such pollution.

⁶ Yet, rather than the barrier of a property rule, the Constitution protects private property

“Fifth Amendment's guarantee that private property shall not be taken for a public use without just compensation was designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” Armstrong v. United States, 364 U.S. 40, 49 (1960). Indeed, James Madison, often described as “the Father of the Constitution,”⁷ explained that such protection is government's chief responsibility,⁸ because, in the words of Arthur Lee, a Founding Father from Virginia, property is the “guardian of all rights.”⁹

Over the years, the law has distinguished three broad categories of takings: those defined by the governments' powers of eminent domain,¹⁰ those resulting from a “physical invasion” by

by placing in front of the government the hurdle of a liability rule. See Preseault v. I.C.C., 494 U.S. 1, 11 (1990) (“[the Fifth Amendment] is designed ‘to secure *compensation* in the event of otherwise proper interference amounting to a taking’ ” (emphasis in original)). See generally Guido Calabresi & Douglas A. Melamed, Property Rules, Liability Rules and Inalienability: One View of the Cathedral. 85 Harv.L.Rev. 1089 (1972)(discussing property rules and liability rules).

⁷ See, e.g., Gonzales v. Raich, 545 U.S. 1, 57 (2005)(O'Connor, J., dissenting); West Lynn Creamery, Inc. v. Healy, 512 U.S. 186, 193 n. 9 (1994); Nelson v. Carland, 42 U.S. 265, 273 (1843). See generally Irving Brant, James Madison: Father of the Constitution, 1787-1800 (1950).

⁸ Thus, in a 1792 essay on property published in the National Gazette, James Madison contended that because private property is the foundation of a civil society, property, “being the end of government, that alone is a just government, which impartially secures to every man, whatever is his own.” James Madison, Property, in James Madison: Writings 515 (Jack Rakove ed.1999).

⁹ Indeed, Arthur Lee, a Virginia delegate to the Continental Congress, observed that “the right of property is the guardian of every other right, and to deprive a people of this, is in fact to deprive them of their liberty.” James W. Ely, Jr., The Guardian Of Every Other Right: A Constitutional History Of Property Rights 26 (2d ed.1998) (quoting Arthur Lee).

¹⁰ “Eminent domain refers to a legal proceeding in which a government asserts its authority to condemn property,” in exchange for payment of just compensation to the landowner. Agin v. City of Tiburon, 447 U.S. 255, 258 n. 2 (1980). “At the time of the writing of the Constitution and for many years thereafter a government taking meant exactly that-the Government would physically occupy the land.” Hendler v. United States, 952 F.2d 1364, 1371 (Fed.Cir. 1991). Before the Civil War, most constitutional issues concerning private property and economic rights and liberties arose under the Commerce Clause and the Contracts Clause. The federal government “undertook relatively few projects”; accordingly, it did not make much use of eminent domain. Due to its relative rarity, “the use of eminent domain to take private property did not receive much attention from the federal courts” during this period. Yet when the government did use eminent domain, it was clear that the Constitution required the government to pay the landowner just compensation. See Calder v. Bull, 3 U.S. (Dall.) 386, 400 (1798)(concluding that when landowners must give up their land for public use, “justice is done by allowing them a reasonable equivalent”). In fact, “[m]uch of the law of eminent domain-both

the government without bringing an eminent domain proceeding,¹¹ and those resulting from the impact of regulation.¹² **Error! Hyperlink reference not valid.** The first two, having an older lineage, could be referred to as “traditional takings,” and the latter two require a landowner to file an “inverse condemnation” suit seeking just compensation. “While the typical taking occurs when the government acts to condemn property in the exercise of its power of eminent domain, the entire doctrine of inverse condemnation is predicated on the proposition that a taking may occur without such formal proceedings.” First English Evangelical Lutheran Church v. County of Los Angeles, 482 U.S. 304, 316 (1987).. Traditionally, all three categories covered interference with private property “to an extent that, as between private parties, a servitude is taken.” United States v. Dickson, 331 U.S. 745, 748 (1947).

Of application here, of course, is regulatory takings. Although subject to a long period of evolutionary growth which may prove important in litigation (rather than here), such takings does apply to Jensen. It is settled now that Government regulation goes “too far,” and effects a total or “categorical” taking, when it deprives a landowner of all economically viable use of his “parcel as a whole.” See Palm Beach Isles Assocs. v. United States, 231 F.3d 1354, 1259-1360 (Fed.Cir. 2000) (differentiating categorical takings from partial ones). If the taking is not of the entire parcel as a whole, either temporally or by its metes and bounds, government regulation can still effect a partial taking pursuant to the fact-intensive Penn Central balancing test: i.e.,

“a court determines when regulation goes “too far” and effects a taking by balancing: (1) the “economic impact of the regulation on the claimant”; (2) “the extent to which the regulation has interfered with distinct investment backed expectations”; and (3) “the character of the governmental action.”

Penn Central Transportation Co. v. New York, 438 U.S. at 124. And, once an uncompensated taking has occurred, the remedy is for government to provide just compensation for what it has taken, even if the government action causing the taking is later rescinded, discontinued, or abrogated. Further, for a court to find an unconstitutional taking by applying either the per se rule or the Penn Central balancing test, the property owner must establish a legitimate property interest that is detrimentally affected by the governmental action. See, e.g., Air Pegasus of D.C., Inc. v. United States, 434 F.3d 1206, 1212 (Fed.Cir. 2005)(observing that only those with a valid property interest are entitled to just compensation).

Applying these factors, Jensen possesses the requisite property interest protected by the

statutory and case-developed for the purpose of providing the procedural structure for government takings; the main issue in the cases was what compensation was just.” Hendler, 952 F.2d at 1371.

¹¹ See, e.g., Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 441 (1982). The aftermath of the Civil War, coupled with industrialization and the growth of corporate enterprise, transformed economic life in America. Land became more valuable as the country became more prosperous and more settled; the states began to take a much more active role in regulating economic affairs and uses of property.

¹² See, e.g., Penn Central Transp. Co. v. New York, 438 U.S. 104 (1978).

Fifth Amendment: a fee simple in agricultural lands subject to the Proposal. So the inquiry then moves on to whether the Board's action constituted a taking" of that interest. The so-called "categorical test" – which applies only in those instances where government action has eliminated "all value" from the land does not apply here since some vestigial value remains (as, for instance, very large parking lots in the middle of the Salinas Valley). The Board's action does, however, deprive the Jensen's of the "highest and best use" of all the property (highly producing agricultural farm land). The takings still occurs and the only affected thing is the amount of compensation that needs to be paid. The regulatory character of the Board's action – based as it allegedly is a myopically narrow concern only with water pollution (even though, as noted, more significant negative impacts arise from the implementation of the Proposal than are affected by the Proposal) – does serve as an adequate excuse or preventative measure that overcomes the partial takings that is affected by the Proposal. See, e.g., Tahoe-Sierra Pres. Council v. Tahoe Reg'l Planning Agency, 535 U.S. 301 (2002).

The takings here extends to the width and breadth of the Coast Counties and implicates some of the most valuable farmland in the United States, having values from approximately \$20,000 an acre to \$50,000 per acre (even in these times of depressed real estate prices). With the legal sufficiency of the Proposal being as tenuous as it is due to the un- and non-considered significant environmental impacts that may be affected by the Proposal, the additional risk that a takings – even if temporary and lasting only one growing season – will occur should cause the Board to reject the Proposal and seek to find other ways to fulfill its statutory mandate.

C. Conclusion

In the final analysis, the Proposal is a monument to overreaching by those charged with protecting the water resources of the Central Coast counties. In its attempt to comply with a mandate to control water pollution in the Central Coast, the Board has ignored common sense and, in order to protect the water from pollution, has myopically overlooked or ignored the significant impacts on the environment relative to other areas of concern such as air pollution and the human environment that attend having farmers install water purification units and infrastructure on the land they are left with after losing any ability to effectively or, for that matter, actually farm within buffer and set back areas of, for example, the Salinas River or its tributaries. A regulatory taking of land having sufficient value to bankrupt the most solvent of States will result from the adoption and implementation of the Proposal. While this Board appears to have a concern about the use of the term "economic bloodbath" in connection with the affects that will arise from the Proposal, that is the net effect to the agricultural economy that drives the engine which keeps the Central Coast counties generating income (both personal and tax). That is neither a threat to the Board nor a nascent threat of terrorism but, rather, is the reality to the farmers, vintners, and nurserymen who would be subject to the Proposal and its draconian affects and significant impacts. To paraphrase President Reagan standing in front of the Brandenburg Gate near the Berlin Wall speaking to Russian President Mikhail Gorbachev on June 12, 1987: "Regional Board, tear up that Proposal."

Cordially yours,

A handwritten signature in black ink, appearing to read "William C. ...". The signature is stylized and somewhat illegible due to the cursive style.

Central Coast Regional Water Control Board
Senior EG, Angela Schroeter
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

March 31, 2010

Dear Ms. Schroeter,

I am writing in concern of the Preliminary Draft/Agricultural Order (dated 1 February 2010). As an employee of a leading farming operation in Monterey County I am concerned with how this waiver will not only affect my employer, but all of their employees. I have worked in agriculture for over 15 years and have been rewarded with not only great job opportunities, but with employers who have shown me great respect for what they do. Not only have I worked in agriculture, but my family has a cattle operation in South Monterey County where I foresee this Ag Order will eventually affect. So, with all that said, I am highly recommending that this Ag Order be tabled or set aside.

Too many rules, regulations, and requirements have been imposed to the agriculture community without taking into consideration the long-term affects this will have on their livelihood. Many farmers and ranchers have already lost their farming and cattle ground to suburbs, high rise buildings, and strip malls. Much of this ground was prime agriculture land that is now inundated with garbage, toxic oil and gas, and pollution from heavy traffic use. For the Ag Order to now require the farmer and rancher to solve the problems of water quality and quantity is a high order without imposing the same regulations on cities, towns, and unincorporated areas. I believe it states that the operator would have to eliminate irrigation runoff, toxicity, sediment, turbidity, nutrient, salts and nitrates in groundwater discharges within two to six years AND at levels to drinking water. These are unrealistic expectations.

Government has allowed too many "do-gooders" to impose upon businesses rules that they have no idea how it affects their community. These people have organizations that back them under the guise of protecting our world and animals for the future. It is these organizations with high dollar backing that get the attention, while the small farmer and cattle rancher are left with the consequences of the fall out. I had no idea how bad it had gotten until my 18-year old son came home from college last year stating that "city people" infuriated him. In a discussion in his college class at San Jose State University, he had been asked what his family did for a living. He stated that we had a cow/calf operation and explained what that meant. One student stated that he thought it was cruel that we raised cute cows and calves and then had them slaughtered. My son asked him, "Just where do you think hamburger comes from?" That student, being a college student and quite intelligent responded, "I buy mine from the grocery store of course!" My son, being ever so diplomatic and polite responded with, "Beef comes from cattle which have to be raised and then slaughtered for human consumption." True story! If we keep allowing these "concrete walkers," a name my family has now started calling city people, to impose regulations on the true "meat and potatoes" people, the rancher and farmer, we will no longer have fresh produce and meat to consume within our United States of America. This new Ag Order is just a start on closing doors to many small farming and ranching operations. These operations will no longer

be able to afford to stay in business in California where it takes more money to get documentation, testing and paperwork to designated Government or County organizations than it does to raise a profitable product. Without these jobs, many people are going to be looking for employment and already the economy in California is in a crisis state, why would we want to put more people in the unemployment line with no jobs available?

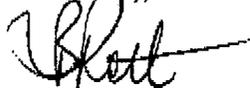
There are many things in the new Draft Ag Waiver that concern me. The 1000 foot aquatic and riparian buffer area is going to require many farmers and ranchers to fence off areas that they have been dependent on for many years. This takes land away from the owner/operator. What happened to property owner rights? Cattle or horses will no longer be allowed to cross streams, tributaries, or rivers because of fecal contamination to the water, yet wildlife is allowed and encouraged to be in these areas. I guess deer, pig, rabbit, raccoon, coyote, etc. poop isn't an issue. Not allowing maintenance to these areas will increase weeds, willows, pests and wildlife to areas that have been managed properly for years. These unmaintained areas will be a huge food safety issue problem for produce organizations. I highly recommend this gets removed entirely from the Draft Ag Waiver.

Reporting and documentation of irrigation, chemical and pesticide use will have to be maintained within the farm plan. There are already reporting requirements that are being done on much of this. Requiring more information is getting a bit overwhelming to any operation due to man-hours spent towards meeting these requirements. Plus some of the information would have to be certified by a crop advisor adding more expense to the operation.

Requiring the farmer to fertilize based on "forecasted" rain is so unreasonable. Many forecasts change daily and trying to keep your management practices based on a forecast would be highly impossible and also illogical. How does the board plan on monitoring this? Based on a forecast? Whose forecast and what time of day?

I, as a concerned employee of a farming operation, would like to recommend that the Draft Ag Waiver be removed for consideration of adoption. Let's impose the current 2004 Ag Waiver and find out results of the documentation already being provided prior to taking any steps with a new waiver. You must know that the farmer and rancher are the most concerned about maintaining their land and water quality/quantity. You must be aware that these owners/operators are the only ones that truly care to ensure that the land and water is there for future generations. Keep the "concrete walkers" out of the "meat and potatoes" world where they are not educated enough to recommend regulations they know nothing about.

Sincerely,



Betsy Roth
P.O. Box 103
Lockwood, California 93932

H. Kolb
MAR 29 2010
jm

Date: 26 March 2010

To: Roger W. Briggs
Executive Officer, Central Coast Regional Water Control Board

From: Helen T. Snyder
Managing Partner
Paul Tognetti Ranch Partnership

MAR 29 2010
San Joaquin River Water Control Board

Subject: COMMENT on Preliminary Draft/Agricultural Order (dated 1 February 2010)

As an "Interested Party" and in response to your request, as the Executive Officer, for comments, via letter of 1 February 2010, I submit to you comments on the subject Preliminary Draft of the Proposed Agricultural Order. I am submitting comments for the **Paul Tognetti Ranch Partnership** which owns land in King City, CA, that is leased to **Rava Ranches, Inc.**, one of the preeminent spinach growers in the United States.

The Tognetti Ranch has been a steward of the land in King City, CA since the early 1900s, on land adjacent to the Salinas River. I am the daughter of Paul Tognetti, who is 90 years old to date, and Managing Partner of the Paul Tognetti Ranch Partnership. As such, I am responsible for pursuing the best interests of my Dad, the other partners, and our lessee -- regarding this land.

I am writing to you today to convey our gravest concerns regarding the proposed Preliminary Draft of the Agricultural Order, dated 1 February 2010.

This proposed draft is a *dramatic shift* from the posture of the 2004 Conditional Waiver, on many levels -- it has shifted from *recommendations* in 2004 to *increased requirements* in 2010: with specific timelines for compliance, with increased data collection and reporting, increased oversight, while reducing the requirement for water quality education. The increased requirements, reporting, and new restrictions will all add a burden to operational costs if this is adopted. The 2004 document's primary intent was to *regulate* discharges from irrigated lands to ensure such did not cause or contribute to "exceedances of Regional, State or Federal water quality standards". In 2010 it appears that the primary intent is to mandate *eliminating*, not regulating, runoff; to mandate operators *eliminate* toxicity, sediment, turbidity, nutrients, salts, nitrates from irrigated lands runoff -- and all within 2 to 6 years of the Order's release. Implicit in these mandates are different operating practices, increases in manhours, expertise, and expense -- as well as in tests and testing regimens, adding costs to the individual operators who must now collect the data to prove that they are in compliance.

It is incredulous to me that in the current National business climate, with its recent serious economic downturn, that the State of California would seriously propose implementing such increases in operator requirements -- that will most certainly levy a significant increase in costs on California agricultural businesses -- and on consumers. The great State of California, this country's lettuce bowl and vegetable basket, should be seriously addressing ways to *increase the attractiveness of doing agricultural business* in the state -- to attract growers from other states

where the climate is less conducive to crop successes (due to environmental, climatic, weather and other factors).

The 2010 Draft order proposes mandatory individual operator monitoring (testing) to provide water quality data to demonstrate that any irrigation runoff has been sufficiently treated or controlled to meet water quality standards; or meet various specified timelines from 2 to 6 years, to eliminate or minimize nutrients, salts, nitrates, turbidity, sediments. It also requires plans to monitor groundwater quality. In the 2004 Conditional Waiver, no individual discharge/runoff monitoring was required; and no groundwater or irrigation source well water monitoring was required.

An entirely new requirement added in the 2010 proposal relates strictly to aquatic and riparian areas and wetlands – that, in part, adds requirements in direct contradiction to food safety mandates. It requires riparian buffer zones from 50 -100 feet, with photo documentation in the Farm Plan. Dischargers are required to protect existing aquatic habitat, maintaining “naturally occurring vegetative cover”, maintaining shade (e.g., trees) over surface waters, and **“no clearing of beneficial vegetation for food safety reasons”**. The latter requirement is 180 degrees off point. For California and elsewhere across the nation, produce buyers have directed growers to remove rogue vegetation and trees to thwart attracting birds and wildlife to crop lands, in order to eliminate the threat of fecal matter in water and on crops. Operators who adhere to the requirements proposed in this Draft Order could be in direct violation of mandates from their produce buyers to ensure food safety, mandates to rid lands of extraneous trees and vegetation to curb birds and other wildlife traffic to protect crops from fecal contamination. Another “outbreak” of bad press/unsafe food in California would directly impact their markets.

In addition, the 2010 proposal makes unreasonable proscriptive demands on operational business practices. For example, operators are prohibited from fertilizing 72 hours prior to a **forecast** rain event; and required not to begin fertilizing 72 hours after an **actual** rain event. Making the possibility of a rain forecast THE basis for a mandatory prohibition is not reasonable; one questions whether the accuracy of such forecasts warrants them being made THE basis for this added prohibition and change to management practices.

Surprisingly, in the 2010 proposal there is no incentive offered to “clean operators” who represent the “best practices” in meeting food safety and water quality requirements; i.e., there are no provisions for less oversight, or less frequent reporting schedules for those operators who have proven, tested “clean operations” – and therefore merit reduced reporting and operational oversight. I suggest one give serious consideration to incorporating incentives, of less reporting and less data collection for operations with exemplary ongoing performance for a documented period of time.

There appears to be no distinction made in the level of requirements levied, or the reporting/oversight for operators (on irrigated lands) based on actual discharges affecting water body quality or toxicity. That is, where there is hard evidence of individual operators contributing excessively to water body toxicity, there appears to be no greater reporting or increase in requirements or oversight, for them -- than for “clean operators” in areas with water bodies less impacted and less toxic.

You also asked for “*any alternatives or recommendations*”. In response to this request, I recommend a targeted deployment strategy be implemented, with deployment of your proposed 2010 increased requirements and reporting implemented first only for those lands and areas with the greatest water body toxicity and water quality standard exceedances.

This type of deployment, targeted at the worst polluters and worst polluted areas first, would create a **powerful and positive incentive** for operators to adopt and implement the best water quality management practices – to avoid the onerous task of increased data collection and reporting. One could envision an entire farming community utilizing this incentive (of less reporting, less oversight for clean operations) with individual operators all along a water body, to motivate cooperative, informal and self-maintained best practices and monitoring to engender maintaining the water body’s quality. In business, as in life, a single carrot is often worth far more than a flogging.

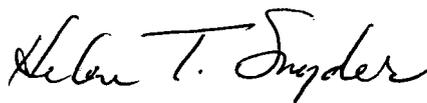
This targeted deployment strategy would also afford your office the most effective utilization of your limited resources and manpower, i.e., to review and assess that data and those reports from those areas most needing remediation, and to target those areas most needing improved operational practices. This “targeted deployment strategy” could also show the most tangible improvements in water quality and compliance results.

The proposed document is well intentioned but falls short on several fronts. It proposes costly increased requirements and reporting for all operators, **regardless of current track records**. It offers no incentives to those who are faithfully being good stewards now, who are doing “best practices.” And it mandates **some unreasonable and even unsafe new requirements**, from a **food safety standpoint**, for California growers trying to be responsive to their buyers and the public market’s concerns for food safety.

While I am not nor claim to be an agricultural business expert, I am a retired Bay Area/ Silicon Valley Aerospace employee who worked for 15 of my 25 years as Manager of Management Policy reporting to the Executive Vice President of Lockheed Martin. After spending a career in Aerospace contracting, working with the government, representing a major Corporation whose business it was to meet Federal, State, and local government requirements in product quality and processes, responsive to environmental regulatory requirements, I am only too knowledgeable of the importance of such policy matters.

Good policy – especially change in policy – is only as good as the “buy-in”; as it is taken to heart, and implemented in changed practices. Policy written that expects the worst will likely be a self-fulfilling policy. Policy that is fair, that is reasonable and not overly onerous will be accepted, taken to heart and be successful. It is with this in mind that I submit these comments to you, for your serious consideration.

Sincerely,



Helen T. Snyder, Managing Partner - Paul Tognetti Ranch Partnership

Cc: Timothy J. Morgan, Attorney At Law – Santa Cruz, CA
Rava Ranches, Inc., King City, CA
✓Angela Schroeter, Agricultural Regulatory Program Manager

Central Coast Regional Water Quality Control Board:

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Vice Chairman, Russell Jeffries
John Hayashi
David Hodgins
Monica Hunter
Tom O'Malley
Gary Shallcross

California State Water Resources Control Board:

Chairman, Charles R. Hoppin
Vice Chairwoman, Frances Spivy-Weber
Arthur Baggett, Jr.
Tam Doduc
Walter Pettit
Executive Director, Dorothy Rice

California Department of Food & Agriculture:

Secretary A. G. Kawamura

County Board of Supervisors: Monterey County

Supervisor Fernando Armenta
Supervisor Louis Calcagno
Supervisor Simon Salinas
Supervisor Jane Parker
Supervisor Dave Potter

California State Senators in Monterey, San Benito Counties

Senator Abel Maldonado (District 15)
Senator Jeff Denham (District 12)

California State Assembly Members:

Monterey/San Benito: Assembly Member Anna Caballero (District 28)
Monterey/Santa Cruz: Assembly Member Bill Monning (District 27)

US Senators – California

Senator Barbara Boxer
Senator Dianne Feinstein

US House of Representatives – Santa Cruz, Monterey, San Benito

Congressman Sam Farr (District 17)

Governor of California, Governor Arnold Schwarzenegger

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GARY R. RAY

GARY O. HAASE

DANIELLE GLEASON TARRICONE

ANA C. TOLEDO

GEORGE E. MCINNIS, OF COUNSEL

March 30, 2010

Executive Director Dorothy Rice
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Roger Briggs, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

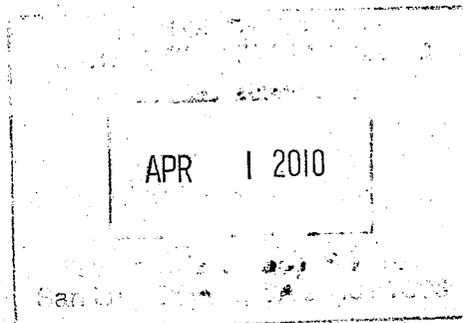
RE: Proposed Ag Waiver (R3-2010-00XX)

Dear Executive Director Rice and Executive Officer Briggs:

The undersigned represents Willoughby Farms, Inc., a California Corporation as its general counsel. Willoughby Farms currently farms approximately 5,000 acres in Santa Cruz, Monterey and Santa Clara Counties. A significant portion of their farming operations occur on parcels adjacent to the Pajaro River, in both Santa Clara and Santa Cruz Counties, as well as a number of other waterways in the Castroville area of Monterey. As such, they are extremely concerned about the proposed Ag Waiver and the additional requirements and burdens that will be placed on their business as a result thereof.

Specifically, my clients are concerned about the additional costs resulting from the proposal for an annual Farm Water Quality Management Plan, conceptual plan for groundwater monitoring and other regulatory requirements. Furthermore, the proposed mandatory buffers from streams, waterways or wetland areas will place a significant portion of farmable land out of production. My clients estimate that approximately 200 acres of their current ranches will be required to satisfy these buffer requirements. For purposes of illustration, my clients yield approximately 45,000 lbs. of fresh vegetables per acre (with two rotations per season). These proposed buffers will therefore reduce their yields by approximately 18,000,000 lbs. per year. This will require them to obtain additional farmland at a significant expense in order for them to satisfy their existing agreements with their customers and farming partners.

Furthermore, the labor costs in connection with the various monitoring and reporting requirements under the Proposed Ag Waiver are estimated to cost my client approximately



State Water Resources Control Board
Central Coast Regional Water Quality Control Board
March 30, 2010
Page 2

\$50,000 per year which will continue to add additional costs to an industry still suffering from the additional costs related to new regulations on food safety.

My clients have a good reputation as stewards of the land. This goes for both land that they currently own and land that they lease from third-parties. While they understand the need to review and revise existing regulations concerning discharge, they vehemently oppose the sweeping overhaul of the system in the Proposed Ag Waiver.

My clients request that this letter be added to the administrative record in this matter. If you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,



Matthew W. Ottone
For OTTONE LEACH OLSEN & RAY LLP

MWO:na

cc: Clients
Members, California State Water Resources Control Board
Members, Region 3: Central Coast Regional Water Quality Control Board
A.G. Kawamura, Secretary of Agriculture