



# 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 13: Comment Letters

All of these letters were received after the deadline of April 1<sup>st</sup>, 2010.

Comment ID	Individual Submitting	Affiliation	Date Received
A25	Justin Brown	Golden State Bulb Growers	4/2/2010
A27	Karen Franck	Central Coast Greenhouse Growers Association	4/5/2010
A28	Andrew Mills	Santa Barbara County Cattlemen's Association	4/5/2010
A29	Hank Giclas	Western Growers	4/17/2010
A30	Theresa A. Dunham	Somach Simmons & Dunn	4/5/2010
D5	Stanley Borello	Borello Farms Inc.	4/5/2010
F51	Martin Jefferson and April England-Mackie	Private Individual	4/5/2010
F52	Thomas N. Gibbons	Bodger Seeds, Ltd.	4/5/2010
F53	Wayne Gularte	Private Individual	4/5/2010
F54	George and Elizabeth Kendall	Private Individual	4/5/2010
F55	Kenneth H. MacIntyre	Private Individual	4/5/2010
F56	John D'Arrigo	D'Arrigo Bros. Co.	4/5/2010
F57	Nick Huntington	Private Individual	4/5/2010
F58	Jerry J. Rava II	Private Individual	4/13/2010
F59	Richard E Adam	Brenneman Juarez & Adam LLP	4/5/2010
F60	Daryn Miller	Private Individual	4/23/2010
FB7	Kari Fisher	California Farm Bureau	4/23/2010
L7	Ann R. Myhre	Private Individual	4/5/2010
M11	Simon Salinas and Eric Lauritzen	Monterey County Board of Supervisors	4/14/2010
N35	Harrison Higaki	Bay City Flower Company	4/12/2010
N36	Dave Pruitt	Ball Tagawa Growers	4/5/2010
P7	Kendra Gonzales	Private Individual	4/7/2010
P9	Shelly Cobb	Edible Santa Barbara	4/2/2010
P12	Richard Frickmann	Private Individual	4/6/2010
P13	Lee E Heller	Private Individual	4/19/2010
P14	Susan Epstein	Private Individual	4/5/2010
U5	Alan Sanders	Ormond Beach Observers	4/1/2010
U13	Jeffery W. Pipes	Upper Salinas-Las Tablas Resource Conservation District	4/1/2010
V9	Matt Dusi	Private Individual	4/7/2010

**From:** "Justin Brown" <jbrown@goldenstatebulb.com>  
**To:** <rbriggs@waterboards.ca.gov>, <jyoung@waterboards.ca.gov>, <aschroeter@w...>  
**CC:** <rdolezal@cangc.org>, <traci@montereycfb.com>, <kschmidt@ccwqp.org>  
**Date:** 4/2/2010 8:16 AM  
**Subject:** new Ag Waiver proposal

Central Coast Regional Water Quality Control Board

Dear Board Members,

I am a fourth generation owner of a family run nursery business here in Monterey County. I am very concerned about the newly proposed so called 'Ag Waiver' water discharge regulations. These proposed regulations are extensive and do not appear to be addressing the water quality problems, only emphasizing processes that may or may not be needed.

There are many new regulations in this draft that are simply untenable for the nursery industry here in California and particularly for my business. In this letter I am only going to focus on some of the most draconian measures that are un-workable for our industry. As a nursery producer who grows product both in the field and at a greenhouse facility with outdoor shade production as well, we are affected by almost everything in this draft proposal.

In reviewing the information I have been provided, these are the areas of maximum concern for our business:

Management Practice Implementation Requirements Discharge Elimination:

In this section there are a number of regulations and timelines associated with the discharge of irrigation runoff (or any other non-rain water runoff) within 1,000 feet of any waterbody. The regulations proposed on turbidity and nutrients/salts is unrealistic at best. In our business we not only can have irrigation runoff but we also must wash our bulbs and have discharge from our sediment ponds that will surely have high turbidity levels. If this water cannot be discharged, what will be done with it? It will not evaporate in the middle of winter and not all the particulates will settle.

Additionally, there is restriction on salts in groundwater discharges. With the water quality at a number of our ranches in a relatively medium to high EC range, leaching salts is essential to growing our crop successfully. We must be able to continue doing this or we will not be able to grow our crop. Even where we have water delivered to us in the CSIP project, the water is too high in salts to use without regular leaching practices. To 'minimize percolation of water and waste below the root zone', is contrary to good horticultural and agricultural practices. High EC soil is not acceptable and will kill crops.

#### Pesticide Runoff / Toxicity Elimination:

The buffers proposed in this regulation seem excessive. It is critical for our farming operation to be able to apply herbicides on the perimeters of our fields near drainage ways to eliminate harmful pest and vector habitat. If we have to leave excessive buffers, the cost to leave large swaths of farmland unused except for habitat for pests, is again contrary to good farming practices.

#### Commercial Nursery Stock Production and Greenhouse Requirements:

This area of regulation is really poorly thought out. There are a number of serious flaws in this section that if attempts were made to implement, would put 90% of the nursery operations out of business. The simple fact that some nurseries would be required to apply for individual WDR's because they have impervious floors means that they would be treated no differently than an industrial site. How does this fall into the category of an Agricultural Waiver? No nurseries should be required to do individual WDR's.

In regard to the issue of co-mingling of rainwater/stormwater and irrigation runoff, the proposal to not only keep these types of water separate and in fact keep rainwater off of outside container plants is quite frankly, absurd.

Water will flow to the lowest spot whether it is rainwater or irrigation runoff. How certain types of water can be directed to different locations on a site and not co-mingled, is mind-boggling. I don't think it can be done.

#### Groundwater protection requirements;

In this section the mandatory destruction of all abandoned groundwater wells is addressed. There are many old abandoned wells across the Central Coast. It would be a very expensive process for landowners to destroy all of these old well that are no longer under pressure and probably are having little to no effect in the deterioration of any aquifer.

It appears that another unreasonable rule is being proposed which seems to be suggesting that evaporation ponds be set up to collect excess irrigation water to avoid leaching of salts and nutrients. If this is indeed the suggestion then huge ponds would have to be built on every farm to collect leachate excess water. How would this water then not get co-mingled with rainwater? Would covered ponds be required? This has not been thoroughly thought out at all.

Lastly, it appears that the regulatory agencies once again want to shift the burden and cost of monitoring wells over to the individual farmers. The idea that a farmer would be responsible for conducting sampling of neighboring domestic wells, not only sounds like an absolving of responsibility by the regulatory agency responsible for this activity, but possibly illegal. The end result clearly is to have the farmer responsible for

any degradation of water quality of neighboring domestic wells.

This entire proposal seeks to shift responsibility and cost from government entities onto the farmers. It also creates a huge bureaucracy revolving around data collection on water quality that may have no use whatsoever. The bottom line is that we only need to collect data in areas that are showing a significant level of water quality degradation whether it be surface water or groundwater. If the monitoring of discharges into waterways indicate that there are quality problems with nitrates or chemicals, then further monitoring back up-stream of the problem is warranted. In this way we can find the source of any problem without having everyone do huge amounts of monitoring and data collection that probably will have little or no value if the water source is relatively clean and stable.

Any extension of the Ag Waiver should build off of the current policies that are properly designed to look for problems without undue burden on the farming and nursery community. The collection of vast quantities of data, the implementation of unrealistic surface and groundwater discharge measures, and the expansion of a bureaucracy to track all of the information does no more to solve the problem than what we are currently doing.

In this difficult economic time, in conjunction with increasing competition from out of state and imported products, adding layers and layers of regulations that are not addressing the problem directly, are not only unnecessary, but destructive. Next year will be our 100th year in business, I hope. We very much want to continue our business here on the Central Coast and continue to employ our 220 year-round employees but I am very fearful of whether we can do this with the unrealistic business climate our State and Local government agencies are providing for us.

Sincerely,

Justin Brown

President

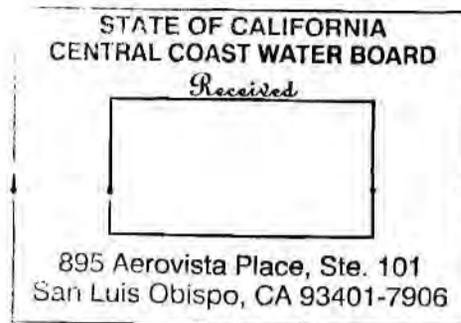
Golden State Bulb Growers

CENTRAL COAST  
**GREENHOUSE  
GROWERS**  
ASSOCIATION  
www.ccgga.com

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jm

March 28, 2010

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



The Central Coast Greenhouse Growers Association (CCGGA) represents the concerns of 17 member nurseries throughout South San Luis Obispo County. It is in the best interest of our businesses to have good quality water to produce our crops and agree that a workable solution towards this common goal is a priority.

Our member nurseries employ up to 1,000 workers and cover approximately nine million square feet of greenhouse space. We produce an array of products that include:

- **Vegetable transplants** for the agriculture industry throughout the state of California
- **Fresh cut flowers and foliage** for florists, hotels, weddings and events
- **Tropical foliage plants** for homes, businesses and municipalities
- **Citrus, ornamental trees and native plants** for commercial and landscape use
- **Potted flowering plants** for sales to retailers throughout the United States

Our industry has been devastated by the current economic downturn. We battle stiff competition from foreign producers in Central and South America where products are grown on less expensive land, with less than minimum wage employees and minimal government regulations.

CCGGA member nurseries have made great strides implementing best management practices, including reduced runoff, irrigation conversion, and erosion control. Our pesticide applications are in compliance with label requirements already regulated by the Department of Pesticide Regulation which include development and adoption of approved IPM (Integrated Pest Management) practices and the use of significantly safer pesticides. However, we cannot quantify the economic impact of achieving key elements of the proposed Ag Waiver due to many undefined and impractical requirements including:

- *Eliminating all tail water in two years*
- *Removing 100 feet of crop land to create riparian habitat next to streams*
- *Restricting all fertilizer applications to 72 hours before and after rains*

**Central Coast Greenhouse Growers Association strongly urges the review of Staff's Proposal to include achievable objectives and alternative proposals developed by the Agriculture Community. We believe in the common goal of quality water but not at the expense of the growers that provide food and jobs here on the Central Coast.**

Respectfully,

Karen Franck

*President, Central Coast Greenhouse Growers Association*

**REPRESENTING CCGGA NURSERY MEMBERS:**

Ball Horticulture • Ball Tagawa Growers • Brassica Nursery • C & M Nursery • Cal Seedling  
Clearwater Nursery • Corey Nursery • DoVer Enterprises • Euforia Flowers • Excel Floral  
Greenheart Farms • Koch California Ltd. • Native Sons Nursery • Ocean Breeze International  
Pacific Sun Growers • Speedling, Inc. • Viva Farms, LLC

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Group 13 - A27

May 12, 2010 Workshop

Preliminary Draft Agricultural Order

# Santa Barbara County Cattlemen's Association

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Telephone: (805) 245-4229 or (805) 686-8986

April 1, 2010

Mr. Jeffrey S. Young, Chair  
Central Coast Regional Water Control Board  
C/o Mr. Roger W. Briggs, Executive Officer  
895 Aerovista Place, Suite 101  
San Luis Obispo, Ca 93401



**Re: Draft Conditional Agricultural Waiver Dated February 1, 2010, Proposed  
Agricultural Order to Control Discharges from Irrigated Lands; Comment  
Deadline April 1, 2010**

Dear Mr. Young and Honorable Members of the Board:

The Santa Barbara County Cattlemen's Association represents 148 members engaged in productive agricultural ventures within Santa Barbara County. We have reviewed the staff's proposed waiver program and write to communicate to you the profound distress that this program will cause for our members. Most agriculture on the Central Coast, particularly that practiced by our members, has a narrow profit margin (if any profit at all) and involves long hours and hard work. Our members cannot afford to hire administrative and office staff. The paperwork generated by this proposal will have to be completed by our members themselves. The only other alternative is to retain a private, expensive consultant to help our members comply with regulations that are gross over-kill.

**The Staff Proposal Is Fundamentally Flawed and Reflects a Lack of Understanding of the Needs of Agriculture to Remain Viable**

The program is unrealistic and unjustified for the reasons stated below. We urge you to abandon this proposal and to return to the drawing board, directing your staff to develop a waiver program and application materials that (a) are comprehensible to an ordinary farmer and rancher; (b) are attuned to the unique needs of agriculture; (c) reflect an understanding of what farmers and ranchers can and cannot control on their hundreds, thousands, and tens of thousands of acres; (d) take into account the fact that virtually every farm and ranch in this area has multiple creeks and drainages running through it; (e) consider, and avoid duplicating, the many pesticide and herbicide regulations already imposed upon farmers and ranchers; (f) don't require that productive agricultural land be taken out of production to accommodate vast retention basins; and (g) incorporate input from the local agricultural community to whom this program will apply. A review of the proposed program reveals that the authors are not knowledgeable about agriculture. The result will drive many operators out of business or into non-compliance.

The members of the Santa Barbara County Cattlemen's Association are proud stewards of the land. We agree with your staff that this region "supports some of the most significant biodiversity of any temperate region of the world and is home to many sensitive natural habitats

and species of special concern.”[Staff Report, Page 4] It is our members’ property, in addition to the vast acres of public lands, that play host to these habitats and species. It is our members who make this biodiversity possible. Good quality water benefits our members and the habitats that their operations protect and preserve. No one has a bigger stake in water quality issues and in the environment than the people who make their living from working the land. Ranchers have no expectation that they will get rich in their line of work, but they love the land and the ranching life style. They forfeit wealth for quality of life. Water quality is part of maintaining that quality of life. Placing the burden of a widespread problem on the backs of ranchers will make it infeasible for them to continue to supplement their grazing income with orchards and row crops. We also agree with your staff that “the Central Coast Region is one of the most productive” regions in the nation [Staff Report, Page 4]. Our members do not enjoy much of the profit to which the Staff Report refers so they are not capable of absorbing new costs.

The staff proposal describes a 2-headed beast. The first head is reflected in the statement that “the Water Board and the public have no direct evidence that water quality is improving due to the 2004 Conditional Waiver.” [Staff Report, Pages 6-7] We submit that the staff has not provided sufficient evidence that regional water quality is *not* improving and that agriculture is causing water quality degradation (in ground and surface water). Of the hundreds of thousands of acres in the Region, the Staff Report identifies only a handful of water bodies that are “seriously polluted” and acknowledges that in some areas, surface water quality is improving or flow volumes are declining. [Staff Report, Pages 11-13] The Staff Report also acknowledges large gaps in data [Staff Report, Page 13]. The second head is the assumption, reflected in the repeated reference to “the agricultural industry” [Staff Report, Page 7], that the entire industry region-wide is responsible for addressing what actually are site-specific problems that may or may not have any relationship to agriculture. Before the beast can be conquered it must be better understood. That is not the responsibility of agricultural operators. Neither should it be assumed that agricultural operations throughout the region uniformly are causing water degradation. Before your staff launches the “actions necessary to achieve water quality,” shouldn’t there first be more extensive study of the relationship, on a stream reach by stream reach basis, between agriculture and areas with troubled water quality? We find no evidence that such a study has been conducted by impartial scientists.

**The Santa Barbara County Cattlemen’s Association Supports the California Farm Bureau Federation Proposal and Asks that the Regional Board Develop a Reasonable and Affordable Approach to Discharge Regulation**

Our Association supports the alternative proposal presented to you by the California Farm Bureau Federation, including the proposal that the Central Coast Regional Water Quality Control Board (CCRWQCB) work closely with the agricultural community to develop *jointly* a reasonable and appropriate discharge regulatory program that won’t drive farmers and ranchers out of business. Agriculture is such an important industry in California and on the Central Coast that neither the locals nor, indeed, the nation, can afford to impair the long-term viability of our agricultural operations. We urge continuing with the 2004 Conditional Waiver program until a new, collaboratively-developed (by farmers and ranchers educating your staff and working with them to develop a new program), Conditional Waiver can be adopted.

***Farm Plan*** – Our Association opposes the proposal that Farm Plans be submitted to the CCRWQCB and become part of the public record. The information included in a Farm Plan is proprietary and of great value in a competitive market. Staff should be allowed to inspect the

Farm Plan *onsite* after reasonable advance written notice but should not be allowed to copy or incorporate the Farm Plan into the public record where others can inspect it.

**Implementation of Practices** – Because water is so precious and because of sensitivity to potential offsite water quality impacts, virtually all farmers and ranchers have instituted practices that reduce or eliminate irrigation water runoff. Controlling irrigation runoff protects the quality of water in our drainages, but also benefits the farmer by increasing efficiency and reducing costs. The cost to pump and apply water is one of the highest items of overhead for irrigated crop operations. **Our members do not waste water.** Farmers can document the efficiency of their irrigation methods without undertaking the outrageously expensive amount of paperwork that your staff proposes.

**Monitoring** – Our Association concurs with the California Farm Bureau Federation that the existing Cooperative Monitoring Program is the most reasonable, economical and viable approach to monitoring. Requiring expensive and complicated monitoring for every individual farm is unreasonable and infeasible. Our members simply lack the resources to conduct this type of monitoring or to prepare the paperwork required for reporting the monitoring results. Please consider the work and expense involved in preparing and submitting the reports proposed by your staff for a 1,000 acre ranch that includes orchard and/or row crops as well as steep forested slopes, grazing land, and several creeks/drainages. Be aware, too, that virtually all of our members irrigate from private wells so the quality of the water that comes out of the ground is the quality of the water that goes back into the ground through irrigation. If our members are required to treat groundwater to improve the quality of outflow or recharge to anything near drinking water standards, their irrigation operations are over. Our members work long hours just to keep their operations afloat. The additional burden of measuring and monitoring is just too much.

Assuming that improving surface water quality is the ultimate goal, would it not make far greater sense for the CCRWQCB to expend its staff time on determining which streams or reaches within streams within the District are most profoundly in need of water quality improvement and to direct attention to determining the cause of the water quality degradation and area-specific solutions rather than processing mountains of paperwork generated by hardworking farmers who can ill-afford to generate that paperwork and conduct the monitoring required? Many area creeks flow through urban and suburban areas as well as agricultural lands. No one controls the pesticides, herbicides, and fertilizers applied by homeowners, regardless of the size of their lot or the extent of their landscaping. Because the waterways are shared by farmers, who already comply with the Agricultural Commissioner's strict regulation of their application of chemicals, it's unfair to assume that elevated levels of these chemicals are attributable to agricultural operations then to adopt requirements that overburden the agriculturalists.

Tons of sediment flows off erosive (unfarmed) steep slopes and crosses irrigated orchards and croplands on the gentler slopes and flatter lands before reaching a creek or drainage. This flow often occurs during "flash flood" conditions when heavy rain falls for hours or days at a time, saturating the soil and running off in large quantities. Testing the water as proposed would be challenging enough, but this program also requires that the landowner reduce the turbidity of this silt-laden water to an impossibly low level (0.5 NTU). This turbidity level falls well within the world-wide accepted level for ***drinking water*** (the World Health Organization – WHO – standards for drinking water go as high as 5.0 NTU with the ideal being less than 1.0 NTU).

The only way to reduce the turbidity of stormwater runoff is to impound **all** of the overland flow crossing the orchards and cropland to allow **all** of the sediment to settle out before releasing the water to the stream or drainage. It is impossible for farmers to contain any significant amount of flash flood flow without creating retention basins on their productive farmland, much of which is prime soil. The fast-moving water flows over a short time period and in enormous quantities. At the same time, the creek water, because it originates from highly erosive slopes and often flows through erosive stream banks, has a naturally high turbidity level. Reducing the sediment load of the overland flow through a retention process is a waste of expense and a loss of productive agricultural land. These storm flows are vital to the life of our streams and riparian zones but they come with a price – heavy sedimentation loads. This is a natural occurrence, not a human-caused phenomenon. Imposing upon our members responsibility for intercepting this sediment not only results in overwhelming costs in capturing and retaining overland flow, but it also deprives our beaches of the natural sand replenishment vital to their survival. What your staff regards as unwanted sediment actually provides valuable and natural protection against ocean erosion and makes our beautiful beaches what they are today. No creek sediment ultimately leads to no beaches. Interruption of this flow of sediment to the ocean will radically alter the natural process, resulting in a significant adverse environmental impact.

The retention process also will reduce stream recharge. If farmers are required to retain the normal overland flow to reduce turbidity, much of this water will percolate into the soil over time, rather than flowing unimpeded to the streams. This may result in more groundwater but it also will have a significant adverse environmental impact upon stream flows. In some years when rainfall is relatively light, the overland flow that actually reaches the stream could be drastically reduced or eliminated as a result of the retention basin, where the water evaporates or percolates.

**Groundwater Management** – In the absence of scientific data demonstrating that agricultural operations are impacting groundwater quality to a significant degree, this entire section of the staff proposal should be eliminated. The Staff Report states that “Thousands of people rely on **public supply wells with unsafe levels of nitrate and other pollutants.**” [Staff Report, Page 5] Although the Staff Report identifies specifically identified problem areas for groundwater quality, these are site-specific [Staff Report, Pages 14-15] and could better be addressed with a site-specific analysis rather than a broad brush approach that affects all farmers. The vast majority of water wells in and adjacent to our members’ lands are private and are deep enough (with sanitary seals) that nitrate and other surface contamination is not a factor. Why should our members be saddled with regulations that have no applicability to their operations?

The program proposed is a “one size fits all” approach that is of questionable value but extremely costly to the regulated community. Farmers are not scientific researchers and requiring them to submit a conceptual plan for a groundwater monitoring program has no rational basis. It is nothing less than mandatory funding by the farmers of research on groundwater that is impacted by a vast array of sources, none of which may be agriculture. Because irrigation water is so expensive, our members are exceedingly thrifty with their application of water. Our members strive to apply only as much water as is necessary to satisfy the growing needs of our crops. The likelihood of this water being of sufficient quantity to reach the aquifers is zero or very close to it.

**Vegetation Regulation** – We concur with the California Farm Bureau Federation that

land use regulation is outside the CCRWQCB's jurisdiction. Of equal importance is that the lack of adequate riparian vegetation and the existence of warmer than desirable summer water temperatures can be attributed to a variety of factors other than agriculture. In fact, agriculture generally plays no causation role. Riparian vegetation along streams and rivers often results from drought and from dams that change the flow regime. The same is true of water temperature. As water levels in the stream fall, the waters warm. The staff justifies imposition of a riparian vegetation buffer upon a single survey conducted in 2007 in Monterey County, concluding that 15% of growers surveyed removed or failed to maintain vegetation on their ranches [Staff Report, Page 16]. Where is the evidence that this limited sampling is relevant to the rest of the ranchers in the region? There is no vegetation removal program (other than prescribed burns to prevent future erosion from super-heated fires that scorch the earth) occurring on an area-wide basis in Santa Barbara County. There is no rational basis for imposing these buffer and riparian protection/restoration requirements on our members.

On the other hand, requiring our members to establish minimum vegetated buffers between agricultural operations and streams or wetlands will have a potentially significant impact upon existing farmland that falls within these buffer areas. For most of these operations, the farmland did not infringe upon the natural riparian corridor so establishing an artificially mandated buffer interferes with agricultural productivity while accomplishing nothing constructive for the habitat. Taking existing land out of production because of an imagined "need" to establish additional riparian habitat makes no logical sense. The alternative of being required to implement a "Riparian Function Protection and Restoration Plan" is not acceptable. Not only are the details of such a plan unknown at this time, but there is nothing to protect and restore. Because our members are such good stewards of the land, they have not removed riparian vegetation to farm. They don't want to be required to plant additional riparian vegetation at the cost of productive farmland.

The Staff Report fails to mention the steps taken on the Santa Ynez River to improve summer flows for habitat maintenance and salmonid protection.

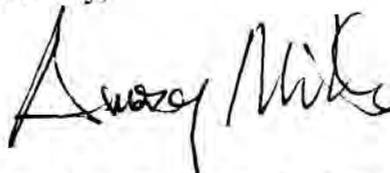
### Conclusion

The proposed program doesn't work for our members. The enormous cost and effort being imposed upon all agricultural operators, regardless of their location, is overkill. For our members, orchards and cropland supplement their grazing income. If the cost of complying with these proposed regulations exceed the profit from the orchard or crops, these areas will just be fallowed. That hurts agriculture, deprives the ranchers of vital revenue, and significantly reduces the overall agricultural viability of the operation. We urge you not to proceed further with a program that will not necessarily improve water quality where improvement is most needed, but will impair what now are viable farming and ranching operations. Instead, we ask that you require your staff to begin a comprehensive program of visiting a wide variety of farming and ranching operations to understand the obstacles with which the operators must deal on a daily basis. With a better understanding of how agriculture works, and how competitive it is, your staff will be able to work more productively with a coalition of agriculturalists to develop a meaningful, effective, non-intrusive program that will address the site-specific water quality problems described in the Staff Report and Attachments.

This program simply adversely affects far too many farmers and ranchers without identifying and implementing the steps necessary to actually solve existing problems rather than

lining the pockets of consultants and generating reams of useless paper.

Sincerely,

A handwritten signature in black ink that reads "Andrew Mills". The signature is written in a cursive, flowing style.

Santa Barbara County Cattlemen's Association, by  
Andrew Mills, Secretary



April 17, 2010

Mr. Jeffrey Young,  
Chairman  
Regional Water Quality Control Board  
895 Aerovista  
San Luis Obispo, CA 93446

Dear Chairman Young:

Western Growers appreciates the opportunity to provide feedback on the “Preliminary Draft Staff Recommendations for an Agricultural Order” on behalf of over 500 grower/shipper members in the central coast region. As acknowledged in the document, this region is one of the largest agricultural regions in the U.S., “reflecting a gross production value of more than six billion dollars in 2008, contributing 14 percent of California’s agricultural economy.”<sup>1</sup> Western Growers members make up a large part of the agricultural base in this area and grow, pack and ship many of the fresh fruit, nut and vegetable commodities for which this region is known and are committed to working with the Regional Board and other regional interests to perfect an agricultural order that improves water quality while ensuring the continued viability and vitality of the regions agricultural sector.

Western Growers has reviewed the “Preliminary Draft Staff Recommendations for an Agricultural Order” prepared by the Central Coast Regional Water Quality Control Board staff (hereafter referred to as “Staff”) dated February 1, 2010 and disagrees with the report and in particular with the proposed preliminary draft reporting requirements. While Staff has suggested that “resolving agricultural water quality issues will require changes in farming practices, will impose increasing costs to individual farmers and the agricultural industry at a time of competing demands on farm income, regulatory compliance efforts, and food safety challenges, and may impact the local economy”<sup>2</sup> Western Growers is concerned that there has been no effective effort to collaboratively work on cost-effective solutions to the issues and that the solutions proposed in fact will ensure that growers and landowners in the central coast region will in fact bear immense burden with no clear and corresponding delineation of benefit to regional water quality.

The agriculture industry in California is currently faced with high unemployment rates, severe water shortfalls, increasing regulatory demands and other economic setbacks and as such, cannot handle the economic burden associated with a top down promulgation of regulation in which agriculture has little to no input. In fact, it is the growers in the region who actually have the

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<sup>1</sup> Central Coast Regional Water Quality Control Board,” Preliminary Draft Staff Recommendations for an Agricultural Order” (CCRWQCB), page 4, February 1, 2010.

<sup>2</sup> CCRWQCB, page 8.

ability to craft solutions that will minimize agricultures contributions to impaired waters and they should be encouraged to work towards this end through a collaborative process that recognizes water quality goals, attainable over time that do not jeopardize the viability of the agricultural sector.

The staff recommendations are sweeping changes to the current Conditional Waiver of July 9, 2004 that are being presented since the “current Conditional Waiver...lacks clarity and does not focus on accountability and verification of directly [sic] resolving the known water quality problems.<sup>3</sup> Instead of following the 2004 model of public/private sector collaboration, the Staff proposes a shift to a strict regulatory program that is inflexible and punitive. Unlike the July 9, 2004 Waiver, the current recommendations were developed without the benefit of stakeholder, financial or scientific analysis of the proposal recommendations. Staff also does not present any type of business case demonstrating quantitatively how water quality will improve under the proposed ruling. Furthermore, no information is provided documenting the water board’s efforts since 2004 under the existing Waiver to improve water quality, nor is any documentation provided to support the scientific rationale and rationale for modifying management practices or additional testing requirements. Simply modifying the existing ruling without providing data on its shortcomings, effectively replaces the cooperative agreement between the agricultural community in the central coast and the Central Coast Water Board with a regulatory program lacking any stakeholder input.

After a thorough review and analysis of the February 1, 2010 proposed “Preliminary Draft Staff Recommendations for an Agricultural Order” prepared by the Central Coast Regional Water Quality Control Board staff , Western Growers is deeply concerned that CCRWQCB staff has 1) relied on inconclusive and incomplete data sets to make decisions and policy recommendations; 2) overstated the actual contributions of area agriculture to water quality degradation; 3) underestimated or ignored contributions from other sources and regional legacy issues/uses; 4) overstated the health risk to the public in the Central Coast region; 5) failed to acknowledge other controls, programs and authorities that mitigate agricultural discharges; 6) exceeded the authority of the CCRWQCB in key areas and 7) placed the entire burden for improved water quality on the region’s agricultural producers in a prescriptive and inflexible fashion that prohibits growers from collaboratively bringing workable solutions to the forefront.

For these reasons, Western Growers cannot support the proposal and instead calls for a stakeholder initiative to document and publicly examine both the Central Coast Water Board’s efforts to implement the 2004 Waiver and the resulting data and then to work on proposed modifications to the 2004 Waiver if needed.

Western Growers comments on specific sections of the document are as follow:

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<sup>3</sup> CCRWQCB, page 6.

## Source of Water Quality Impairment

- 1 On page 4, the statement is made that “Agricultural discharges (primarily due to contaminated irrigation runoff and percolation to groundwater) are a major cause of water quality impairment.”

In the 2006 Clean Water Act (CWA) Section 303 (d) Impaired Water Bodies List of the Central Coast Plain<sup>4</sup>, 109 watersheds are listed requiring a Total Maximum Daily Load (TMDL) process requiring load reductions. This list was approved by the EPA in 2007 and includes all of the watershed areas in the Central Coast Region “not meeting water quality objectives and not supporting their beneficial use... In addition to identifying the waterbodies that are not supporting beneficial uses, the list also identifies the pollutant or stressor causing impairment, and establishes a priority for developing a control plan to address the impairment.”<sup>5</sup> In the list of 109 impaired watersheds, agriculture is not identified as the sole potential source of water quality impairment in any of the watersheds. All watersheds name multiple potential sources or are unable to identify the source of some or all of the potential pollutants. Furthermore, at least one study in the region does not support the CCRWQCB’s determination of the major cause of water impairment. In the Salinas Valley Basin, seawater intrusion is the most serious threat to groundwater quality.<sup>6</sup> The data concerning watershed impairment indicates a variety of potential pollutants, many with an unknown source, as threatening or adversely impacting watersheds. In addition to unknown sources, urban runoff and storm sewers, range grazing and natural sources are other potential pollutants.

- 2 The report on page 5 reads, “The majority of creeks, rivers and estuaries in the Central Coast Region are not meeting water quality standards. Most of these waterbodies are impacted by agriculture. These conditions were determined and documented on the Central Coast Water Board’s 2008 Clean Water Act Section 303 (d) List of Impaired Water Bodies.”

These claims are based on a 2008 draft report that has not undergone public review and comment nor has it been submitted to the USEPA for approval. According to the state of California, “The 2008 Integrated Report for the Central Coast Region has been submitted to the State Water Resources Control Board to be incorporated into a statewide 2010 California Integrated Report. A draft 2010 California Integrated Report is scheduled to be released for public review and comment in early 2010. The 2010 California Integrated Report is scheduled to be brought before the State Water Resources Control Board at a public hearing in spring of 2010 for approval, and then submitted to the USEPA. Updates to the 303(d) list must be finalized by USEPA before becoming effective. **Therefore, until the 2010 Integrated Report is approved by USEPA, the 2006 303(d) List of Impaired Waterbodies is the current and active List.**”<sup>7</sup>

As previously stated, the 2006 list identifies surface water impairments for 109 water quality limited segments related to pollutants in the Central Coast Region. Of these, “agriculture” is listed as one of the potential sources of water quality impairment for 34 segments, or 31%<sup>8</sup>. The

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<sup>4</sup> [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/docs/303dlists2006/epa/r3\\_06\\_303d\\_reqtmdls.pdf](http://www.waterboards.ca.gov/water_issues/programs/tmdl/docs/303dlists2006/epa/r3_06_303d_reqtmdls.pdf)

<sup>5</sup> [http://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/tmdl/303d\\_list.shtml](http://www.waterboards.ca.gov/centralcoast/water_issues/programs/tmdl/303d_list.shtml)

<sup>6</sup> <http://www.ambag.org/publications/reports/Regional%20Housing%20Needs%20Plan%2000-07/Appendix%20D.pdf> (p. 4).

<sup>7</sup> [http://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/tmdl/303d\\_list.shtml](http://www.waterboards.ca.gov/centralcoast/water_issues/programs/tmdl/303d_list.shtml)

<sup>8</sup> [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/docs/303dlists2006/epa/r3\\_06\\_303d\\_reqtmdls.pdf](http://www.waterboards.ca.gov/water_issues/programs/tmdl/docs/303dlists2006/epa/r3_06_303d_reqtmdls.pdf)

majority of the creeks, rivers and estuaries that are impaired are impacted by an unknown source. The major water quality issues in the Central Basin are fecal coliform (34 segments, of which 16 are natural sources and 13 name agriculture), sedimentation/siltation (21 segments and only 9 name agriculture), nitrate (20 segments and only 3 name agriculture), pesticides (12 segments and a nonpoint source is named in 10 segments as a potential source with agriculture), pathogens (15 segments and only 3 name agriculture), and ammonia (12 segments, all from unknown sources).

- 3 Continuing on page 5, the report also states, “The three main forms of pollution from agriculture are excessive runoff of pesticides and toxicity, nutrients, and sediments.”

It is unclear what information led to the above broad conclusion. In the 2006 List, toxicity or unknown toxicity was named in four watershed areas as a pollutant/stressor; however, agriculture was not named as potential source in any of the four cases. The only identified potential pollutant associated with toxicity was urban runoff/storm sewers. In the case of sedimentation/siltation, the most frequently named sources were nonpoint source (13 segments), road construction (10 segments), erosion/siltation (10 segments), silviculture (9 segments), agriculture (9 segments) and disturbed sites or land development (8 segments). Of the 8 segments listing nutrients as a pollutant/stressor, 4 segments list agriculture or agriculture and non-point sources, 1 names agriculture and municipal sources, and 3 name nonpoint sources and septage disposal. For pesticides, agriculture was named in 12 out of 16 segments and nonpoint sources were named in 9 segments. Still, there is no evidence staff considered historical land use in developing the Central Coast List.

These uncertainties do not support the conclusion that agriculture is the source or even a major source of water quality impairment in the region. In fact the need to develop additional data to quantitatively identify key contributors (sources) for water quality impairment in the region underscores the need for the continuation and targeted expansion of the Cooperative Monitoring Program as called for in the alternative agricultural proposal. It is by developing additional data and following up strategically with additional sampling in areas of higher concern that we will be able to more accurately determine and subsequently address key sources. This approach is far more efficient and cost effective for all involved parties than an unrefined declaration that all agriculture is a source of water quality impairment.

## Nitrates

- 4 On page 4 again the statement is made, “In the Central Coast Region, thousands of people are drinking water contaminated with unsafe levels of nitrate or are drinking replacement water to avoid drinking contaminated water. The cost to society for treating polluted drinking water is estimated to be in the hundreds of millions of dollars.”

Nitrates are naturally occurring chemicals found in air, food, and water. Common sources of environmental nitrate are from fertilizers, animal wastes, septic tanks, municipal sewage treatment systems, and decaying plant debris. Most nitrates are consumed in food; the average adult intake is 40 to 100 mg per day.<sup>9</sup> For 99 percent of the U.S. population, only 1 to 3 percent

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<sup>9</sup> [http://oehha.ca.gov/water/phg/pdf/nit2\\_c.pdf](http://oehha.ca.gov/water/phg/pdf/nit2_c.pdf)

of nitrate exposure is due to drinking water.<sup>10</sup> One source of environmental nitrate in foods is from nitrate fertilizers. Like all living things, plants require nitrogen and are able to use nitrate found naturally in soil. As soil nitrate is depleted, nitrate fertilizers are able to provide supplemental nitrate for growth.

The claim that thousands of people are drinking contaminated drinking water is not substantiated with data supplied in the report. Drinking water obtained through public systems is treated to remove contaminants so consumers are not exposed to levels that could produce health issues. For domestic wells, no data is referenced depicting the number of domestic wells, the quality of the well water, or the drinking patterns of the residents using those wells. Based on DHS data through 2000, 616 of approximately 16,000 public drinking water wells (active and standby status) in California have had concentrations of nitrate  $\geq 45$  mg/L, prior to treatment, with most detections occurring in Los Angeles, San Bernardino and Kern Counties.<sup>11</sup> Of those counties, only a small part of Kern County is considered as part of the Central Coast Region. There is also no data supporting the cost claim stated above. Even without manmade sources contributing to water pollutants, municipalities would still need to treat water.<sup>12</sup>

5 “Agricultural discharges of fertilizer are the main source of nitrate contamination to groundwater based on local nitrate loading studies,” according to page 5 of the report.

The nitrate loading studies, as described in Attachment 1, are based on data obtained from the CDFA fertilizer tonnage reports for the period between 1997 and 2007. Based on the reported tonnage, a maximum estimate of the amount of nitrate in applied fertilizer that may leach to groundwater is developed. While Attachment 1 page 22 also references other possible sources of nitrate including: septic tanks, sewage treatment facilities, animal feeding operations, and greenhouse operations, it is not clear how those inputs are used to evaluate potential nitrate contributors in each watershed segment.

A 2005 study by the State Water Resources Control Board indicates that human activities that contribute nitrate to groundwater include “animal operations, crop fertilization, wastewater treatment discharge, septic systems...” To support predictions of the amount of nitrate in groundwater coming from fertilizer, they use tracer studies, by which they attribute most of the nitrate contamination to fertilizer, but also report that septic discharges are relevant: “In rural residential areas, nearly every parcel has a septic tank for wastewater treatment.” A previous study estimated potential nitrate loading from septic tanks at 53 to 151 thousand pounds per year over the study area.<sup>13</sup> The other sources considered in the study were agricultural lands fertilized by commercial N-fertilizer (227 thousand pd/yr), agricultural lands fertilized by cattle manure (8 to 30 thousand pd/yr), rainwater (14 thousand pd/yr), 4 existing dairies (4.6 to 6.9 thousand pd/yr), 20,000 to 50,000 cattle, including some small feed lots of up to 200 cattle (162 to 538 thousand pd/yr assuming no waste management), 4 egg farms (one with 230,000 chickens; 90 to 151 thousand pd/yr assuming no waste management), wastewater from three food packaging

<sup>10</sup> [http://oehha.ca.gov/water/phg/pdf/nit2\\_c.pdf](http://oehha.ca.gov/water/phg/pdf/nit2_c.pdf)

<sup>11</sup> [http://www.swrcb.ca.gov/gama/docs/nitrate\\_oct2002\\_rev3.pdf](http://www.swrcb.ca.gov/gama/docs/nitrate_oct2002_rev3.pdf)

<sup>12</sup> <http://www.epa.gov/safewater/consumer/pdf/hist.pdf>

<sup>13</sup> State Water Resources Control Board, 2005. California GAMA Program: Sources and Transport of nitrate in shallow groundwater in the Llagas Basin of Santa Clara County, California.

operations (3.5 to 5.2 thousand pd/yr), process wastewater from 2 wineries, wastewater from a cogeneration facility that converts agricultural waste into electrical energy, a sewage treatment facility (2.1 to 3.1 thousand pd/yr), and 602 acres of greenhouse operations (11 to 54 thousand pd/yr). Several of the potential sources decreased in number or extent in the study area over ensuing decades. For example, before about 1970 several large feedlots with more than 2000 cattle existed in the area, and the number of dairies has likewise decreased from more than 20 to 4 since the 1960's. The study concludes that the two main sources are likely septic discharges and inorganic fertilizer from agricultural lands."<sup>14</sup>

According to the California Department of Health Services Fact Sheet on nitrates in water, the "elevated nitrate levels in drinking water are often caused by groundwater contamination from animal waste run-off from dairies and feedlots, excessive use of fertilizers, or seepage of human sewage from private septic systems. Microorganisms in the soil, water and sewage change the nitrate to nitrite."<sup>15</sup>

In the 2006 Clean Water Act (CWA) Section 303 (d) Impaired Water Bodies of the Central Coast Plain, out of 109 watersheds listed, 20 of the watersheds list nitrate as a pollutant.<sup>16</sup> Of those 20 watersheds, 17 list the source of the nitrate as unknown. Of the three known sources, the potential sources are: agriculture, nonpoint source, urban/storm sewer runoff, and pasture grazing. Therefore, it is unclear if agricultural discharges of fertilizer are the main potential sources of nitrate contamination to ground water.

6 On page 5 it says, "Seventeen percent of public supply wells surveyed by the Department of Water Resources (DWR) showed contaminants above the drinking water standard, with nitrate as the most frequent chemical to exceed the drinking water standard."

The cited source for DWR data reference does not include raw data. The DRW citation states, "From 1994 through 2000, 711 public supply water wells were sampled in 38 of the 60 basins and subbasins in the Central Coast HR. Analyzed samples indicate that 587 wells, or 83 percent, met the state primary MCLs for drinking water. One-hundred-twenty-four wells, or 17 percent, have constituents that exceed one or more MCL." It then states that 55% of those exceedences involved nitrate.<sup>17</sup> However, as explained above, the existence of nitrate levels in well water exceeding the recommended limits does not mean agriculture is the source. In the Central Coast area, only 30 percent of the measured sites had nitrate levels that exceeded the drinking water standard. The worst twenty (out of 250) nitrate sites had mean concentrations that ranged from 32.6 to 93.7 mg/L. Although staff states on page 8 of Attachment 1 that row crop operations serves as an indicator or risk for nitrate contamination, the data they have do not support this assertion. They state "though overall acreage of irrigated agriculture can serve as an indicator of risk for nitrate contamination, it can't predict locally-scaled impacts."

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<sup>14</sup>State Water Resources Control Board, 2005. California GAMA Program: Sources and Transport of nitrate in shallow groundwater in the Llagas Basin of Santa Clara County, California., page 6-8

<sup>15</sup> <http://www.ehib.org/cma/papers/NitrateFS.pdf>

<sup>16</sup> [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/docs/303dlists2006/epa/r3\\_06\\_303d\\_reqtmlds.pdf](http://www.waterboards.ca.gov/water_issues/programs/tmdl/docs/303dlists2006/epa/r3_06_303d_reqtmlds.pdf)

<sup>17</sup> Division of Water Resources, Bulletin 118, California's Groundwater Update 2003, Chapter 6.

7 According to a statement on page 5, “In a Monterey County study, in portions of the Salinas Valley, up to 50 percent of the wells surveyed had concentrations above the nitrate drinking water standard; with average concentrations nearly double the drinking water standard and the highest concentration of nitrate approximately nine times the drinking water standard.”

In a 2005 study of ground water quality in the Monterey Bay and Salinas Valley Basins, nitrate levels were tested in 94 public supply wells and 3 monitoring wells in Monterey, San Luis Obispo and Santa Cruz counties and the results showed two wells with nitrate levels exceeding 10 mg/L. Nitrite levels detected were all below the MCL of 1 mg/L.<sup>18</sup>

8 On page 5 it reads, “Water Board staff estimate several additional thousands of people are drinking from shallow private domestic wells. For these wells, water quality is not regulated, is often unknown, not treated, or treated at significant cost to the well owner.”

In Attachment 1 page 24, staff states that “...the number of residential wells in the Central Coast Region that exceed the nitrate MCL is likely several hundred.” Staff’s uncertainty regarding the exact number of wells is a reflection of both how incomplete the data currently are and how difficult collecting private well water quality information can be. As part of the Irrigated Agriculture Order renewal, staff is currently gathering groundwater data.<sup>19</sup> There is also a reference to a domestic sampling program: “As of the summer of 2002, over 100 domestic wells have been sampled in a focused area” by the SWRCB.”<sup>20</sup> In any event, even if domestic private wells are polluted, the cause is unknown; it could be from the owner’s own septic system.

The Environmental Working Group summarized tap water data for Salinas from the CWCS (California Water Service Company) collected from 2004-2009, including nitrate levels. The average nitrate concentration is reported as 6.01 ppm, the maximum is 19.01 ppm, and 14 of 491 samples are described as being above the legal limit.<sup>21</sup> For Salinas, 2008 drinking water quality data are provided for several regions. Nitrate (as NO<sub>3</sub>) concentrations were reported for those regions (note, the MCL for nitrate as NO<sub>3</sub> is 45 ppm), as follows. **None of the drinking water samples exceeded the MCL:**

- Buena Vista: 2.6-9.2 ppm (avg. 6.4 ppm)
- Country Meadows: 3-11 ppm (avg. 7 ppm)
- Foothill Estates: 16-17 ppm (avg. 16 ppm)
- Los Lomas: ND-17 ppm (avg. 9 ppm)
- Oak Hills: 3-24 ppm (avg. 18 ppm)
- Salinas Hills: 2.6-9.2 ppm (avg. 6.4 ppm)
- Salinas: ND-41 ppm (avg. 22 ppm)

<sup>18</sup> U.S. Department of the Interior, U.S. Geological Survey, Ground-Water Quality Data in Monterey Bay and Salinas Valley Basins, California 2005, Results from the California GAMA program, page 21.

<sup>19</sup> [http://www.swrcb.ca.gov/rwqcb3/water\\_issues/programs/ag\\_waivers/docs/2009\\_06\\_renewal\\_%20background\\_final.pdf](http://www.swrcb.ca.gov/rwqcb3/water_issues/programs/ag_waivers/docs/2009_06_renewal_%20background_final.pdf)

<sup>20</sup> <http://projects.nytimes.com/toxic-waters/contaminants/ca/monterey/ca2710010-cwsc-salinas>

<sup>21</sup> <http://www.ewg.org/tap-water/whatsinyourwater/CA/Cwsc-Salinas/2710010/>

The EPA provides links to drinking water quality reports from locations throughout California.<sup>22</sup> Some drinking water quality reports for 2008 for agriculture regions in Monterey County and Santa Clara (and elsewhere of interest) that reported concentrations of nitrate (as NO<sub>3</sub>) are as follows. **None of the drinking water samples exceeded the MCL:**

- Ryan Ranch (Monterey)<sup>23</sup> Nitrate not listed
- Monterey<sup>24</sup> ND-33 ppm (avg. 13 ppm)
- Hidden Hills (Monterey)<sup>25</sup> avg. 5.3 ppm (none reported as exceeding MCL)
- Toro (Monterey)<sup>26</sup> avg. 10.6 ppm (none reported as exceeding MCL)
- Marina<sup>27</sup> ND-20 ppm (avg. 4.4 ppm)
- King City<sup>28</sup> 2-14 ppm (avg. 5 ppm)
- City of Morro Bay (data are for 2005)<sup>29</sup> “State water” 1.8-7.6 ppm (avg. 4.44 ppm) ; “Well water” 8.5-32 ppm (avg. 22 ppm)
- Gilroy<sup>30</sup>: 15-44 ppm (avg. 28 ppm)

Elsewhere in the Order, Morro Bay, San Jerardo, and San Martin are identified as communities particularly affected by nitrate in their drinking water supply. Morro Bay data are shown above. West San Martin Water Works serves 289 people in this community.<sup>31</sup> According to the Environmental Working Group, there were no exceedances of nitrate standards for drinking water from this utility in 2008.<sup>32</sup> Most people probably use private wells there. San Jerardo appears to be served by Alisal Water Corporation.<sup>33</sup> It appears that people in that community (of about 250 people) now use bottled water. No water quality report for Alisal was located.

The USGS measured groundwater quality in the Salinas Valley and Morro Bay Basin from July-October 2005.<sup>34</sup> Samples were collected from 94 public-supply wells and 3 monitoring wells in Monterey, Santa Cruz, and San Luis Obispo Counties. Note, they state “this study did not attempt to evaluate the quality of water delivered to consumers; after withdrawal from the ground, water typically is treated, disinfected, and (or) blended with other waters to maintain water quality. In addition, regulatory thresholds apply to treated water that is served to the consumer, not to raw ground water.” Nitrate plus nitrite was detected in 24 of the 34 groundwater samples. Concentrations of nitrate plus nitrite ranged from 0.04 to 37.8 mg/L (as nitrogen), and two samples had concentrations above the health-based threshold for nitrate of 10 mg/L (as nitrogen). None of these data support the staff assertion that thousands of people rely on public supply wells with unsafe levels of nitrate and other pollutants or are drinking

<sup>22</sup> <http://yosemite.epa.gov/ogwdw/ccr.nsf/California?OpenView>

<sup>23</sup> [http://www.amwater.com/files/CA\\_2701466\\_CCR.pdf](http://www.amwater.com/files/CA_2701466_CCR.pdf)

<sup>24</sup> [http://www.amwater.com/files/CA\\_2710004\\_CCR.pdf](http://www.amwater.com/files/CA_2710004_CCR.pdf)

<sup>25</sup> [http://www.amwater.com/files/CA\\_2710022\\_CCR.pdf](http://www.amwater.com/files/CA_2710022_CCR.pdf)

<sup>26</sup> [http://www.mcwd.org/docs/ccr/mcwd\\_ccr\\_2008.pdf](http://www.mcwd.org/docs/ccr/mcwd_ccr_2008.pdf)

<sup>27</sup> [http://www.amwater.com/files/CA\\_2710021\\_CCR.pdf](http://www.amwater.com/files/CA_2710021_CCR.pdf)

<sup>28</sup> [http://www.calwater.com/your\\_water/ccr/2008/king-city-kc-2008.php](http://www.calwater.com/your_water/ccr/2008/king-city-kc-2008.php)

<sup>29</sup> [http://www.morro-](http://www.morro-bay.ca.us/documents/Public%20Services/Water%20Division/Annual%20Water%20Quality%20Reports/2005%20Water%20Consumer%20Confidence%20Report.pdf)

[bay.ca.us/documents/Public%20Services/Water%20Division/Annual%20Water%20Quality%20Reports/2005%20Water%20Consumer%20Confidence%20Report.pdf](http://www.morro-bay.ca.us/documents/Public%20Services/Water%20Division/Annual%20Water%20Quality%20Reports/2005%20Water%20Consumer%20Confidence%20Report.pdf)

<sup>30</sup> [http://www.ci.gilroy.ca.us/cityofgilroy\\_files/city\\_hall/community\\_services/water/CCR08.pdf](http://www.ci.gilroy.ca.us/cityofgilroy_files/city_hall/community_services/water/CCR08.pdf)

<sup>31</sup> [http://docs.epuc.ca.gov/PUBLISHED/FINAL\\_RESOLUTION/93553.htm](http://docs.epuc.ca.gov/PUBLISHED/FINAL_RESOLUTION/93553.htm)

<sup>32</sup> <http://projects.nytimes.com/toxic-waters/contaminants/ca/santa-clara/ca4300543-west-san-martin-water-works-inc>

<sup>33</sup> [http://www.reclaimdemocracy.org/articles/2006/corporatized\\_water\\_california.php](http://www.reclaimdemocracy.org/articles/2006/corporatized_water_california.php)

<sup>34</sup> (Kulongoski and Berlitz, 2007)

replacement water to avoid drinking contaminated water. The data do not support that there is an incremental cost to society attributable to agricultural operations for treating polluted drinking water or that those costs can be estimated to be “in the hundreds of millions of dollars.” The report uses tonnage purchased to reflect what is applied in the field so an accurate assessment of what agriculture’s contribution to nitrate levels in regional waters is uncertain as are other sources not adequately documented throughout the report. Finally the health impacts of nitrate in water are greatly overstated as limitations on the body’s ability to take up iodine are not an adverse health effect.

Growers are very focused on getting nitrogen to the plant. They work diligently to improve methodologies and technologies to ensure that they are not oversupplying nitrogen as this is an inefficient use of a costly input. As Western Growers has previously proposed, methodologies and solutions to reduce excess nitrogen in the field should come from area producers and not as a prescriptive reporting program that requires sign-off by an independent third party such as proposed by the regional board staff.

In addition to the limitations and uncertainties associated with the rationale utilized by regional board staff in the proposed waiver there has been no attempt to factor in the dramatic reductions in nitrogen that have occurred through fewer concentrated feeding operations, dairies and the reductions in row crop usage reflected by fewer pounds purchased in the region in the last 10 years. Those reductions coupled with the fact that water concentrations in area aquifers change in geologic time. The reductions made in agricultural sources over time will not be reflected in area groundwater for decades.

### **Aquatic Organisms and Endangered Species**

- 9 On page 5, the report says, “Agricultural discharges have impaired surface water quality in the Central Coast Region, such that some creeks are found toxic (lethal to aquatic life) every time the site is sampled and as a result many areas are devoid of aquatic organisms essential to ecological systems.”

The Central Coast Ambient Monitoring Program (CCAMP) website says testing methods for toxicity are based on U.S. EPA Whole Effluent Toxicity (WET) testing for wastewater effluents.<sup>35</sup> The U.S. EPA WET test methods measure aggregate acute and chronic effects on aquatic organisms.<sup>36</sup> The CCAMP methods propose using *Ceriodaphnia dubia*, *Pimephales promelas*, *Selenastrum*, and *Hyalella azteca*. The WET methods allow for either calculation of LC<sub>50</sub>, EC<sub>50</sub>, and IC<sub>25</sub> or NOEC and LOEC. CCAMP later goes on to state, “The median concentration that is lethal to 50% of test organisms (the “LC<sub>50</sub>”) for permethrin for *Hyalella* is 10.53 µg/g; for other common pyrethroids it ranges between 0.45 and 1.54 µg/g (Starner and Kelley, 2004). These LC<sub>50</sub> values are very low because pyrethroids are highly toxic to amphipods and fish.”<sup>37</sup> Therefore, it is likely that when CCAMP refers to “toxicity” in water, it is referring to water samples that were lethal to 50 percent of a test organism as compared to

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<sup>35</sup> [http://www.ccamp.net/ag/index.php/Toxicity\\_Methods](http://www.ccamp.net/ag/index.php/Toxicity_Methods)

<sup>36</sup> <http://www.epa.gov/waterscience/methods/wet/pdf/wetguide.pdf>

<sup>37</sup> [http://www.ccamp.net/ag/index.php/Background\\_Information\\_on\\_Toxicity\\_Testing](http://www.ccamp.net/ag/index.php/Background_Information_on_Toxicity_Testing)

laboratory water. This is opposed to direct measurements of pollutants (e.g., specific pesticides) where there are published LC<sub>50</sub> data.

10 On page 4 it reads, “Aquatic organisms in large stretches of rivers in the entire region’s major watershed have been severely impaired or completely destroyed by severe toxicity from pesticides.”

Although there was no information available for sample collection, it does not seem like excessive sediment may constitute a toxicity issue. Rather, since many pesticides tend to adsorb on to soil particles, excessive sedimentation may actually decrease the availability of chemicals in water.

CCAMP states that pesticides that are measured in agricultural runoff “...routinely exceed the toxicity water quality standard (lethal to aquatic life).” This is unclear as written. This may refer to aquatic toxicity tests such as WET where the LC<sub>50</sub> is used as the standard dose. However, it is also possible that this refers to the allowable concentration in water as it applies to aquatic organisms. For example, dieldrin has standards based both on human health (0.05 ng/l) and freshwater aquatic life (0.002 µg/l). There is no set “standard” for an aquatic toxicity test, but an LC<sub>50</sub> is the general demarcation.<sup>38</sup> The proposed testing requirement is for “no toxicity.” Presumably, this is no significant difference in toxicity compared to control.

Finally, although the document states that agricultural runoff is responsible for aquatic toxicity, the WET methods do not allow one to determine origin of the contaminants. First, the individual contaminants are not tested so it is unknown whether one specific chemical is causing lethality or several chemicals. Toxicity may be due to a pesticide or may be due to an industrial chemical that was released upstream. The WET test can only measure the lethality of the mixture. If the sample is collected directly from an agricultural site, it may be possible to determine the source. Second, pesticides, nitrates, and other chemicals that contribute to aquatic toxicity can also be released by residential users and industrial/commercial sources. The document provides no reference for these statements.

11 The assertion is made on page 5 that, “In a statewide study, the Central Coast Region had the highest percentage of sites with pyrethroid pesticides detected and the highest percentage of sites exceeding toxicity limits. In addition, there are more than 46 waterbodies that exceed the nitrate water quality standard and several waterbodies routinely exceed the nitrate water quality standard by five-fold or more.”

Although sediments and water samples from some areas of the Central Coast are toxic to aquatic organisms, the exact source of that toxicity is poorly characterized. In order to better and more efficiently focus best management practices to decrease toxicity, more research on the source of the toxicity (i.e., which pesticides and/or water quality parameter as primarily responsible) is necessary.

“CCAMP has not routinely monitored pesticide concentrations in the water column. Also, because we do not monitor sediment discharge in storm events, we do not have a reliable

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<sup>38</sup> [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/records/region\\_3/2008/ref2327.pdf](http://www.waterboards.ca.gov/water_issues/programs/tmdl/records/region_3/2008/ref2327.pdf)

estimate of sediment loading to the ocean for our coastal watersheds. Just recently, we have begun monitoring sediment chemistry and toxicity at eleven of our major river mouths through the Surface Water Ambient Monitoring Program Stream Pollution Trends Program (SPoT), and so will soon have more data about which rivers discharge sediment with toxic properties. However, we can make professional judgments about the level of risk of pesticide toxicity to individual MPAs. We have approached the potential for impacts from pesticides by first examining watershed applications (pounds) of pesticides known to attach to sediment, developing toxic load potential by weighting pounds applied by several risk factors, including solubility, adsorption coefficient, half-life, and toxicity (as described by Long et al., 2005), and then evaluating potential for loading to the marine environment based on this information. This approach assumes that some percentage of these pesticides run off of the land into our waterways. Though this assumption will not be equally true for all growers and all watersheds, there is no doubt that some significant amount does leave the land, because of the high levels of sediment toxicity found in many agricultural areas monitored by the Cooperative Monitoring Program for Agriculture. We have used information on MPA proximity to river mouths and current patterns to assess which MPAs are likely at risk. We will be comparing our estimates of risk to measurements of sediment toxicity and chemistry in lagoon environments from the SPoT program once that data becomes available.<sup>39</sup>

There are many assumptions built into the CC staff analysis of possible risk to MPAs. There are many factors that might influence pesticide fate, transport, and toxicity prior to MPAs, and using vague assumptions to estimate risk is not appropriate in this situation. After the data is available through the SPoT program, this risk should be reevaluated.

12 “On page 6 it reads, “...these high levels of nitrate are impacting sensitive fish species such as the threatened Steelhead, endangered Coho Salmon, by causing algae blooms that remove oxygen from water, creating conditions unsuitable for aquatic life. The water quality conditions throughout the region are also impacting several other threatened and endangered species, including the marsh sandwort (*arenaria paludicola*), Gambel’s watercress (*nasturtium rorippa gambelii*), California least tern (*sterna antillarum browni*) and red-legged frog (*Rana aurora*). The last remaining populations of the two endangered plants marsh sandwort and Gambel’s watercress, occur in Oso Flaco Lake, are critically imperiled and depend upon the health of Oso Flaco watershed to survive.”

The staff assumes that because pesticides at concentrations measured in Salinas River, Santa Maria River, and others (esp. diazinon, chlorpyrifos, and pyrethroids) are associated with toxicity to invertebrates in bench scale tests, and because diazinon and chlorpyrifos are associated with agricultural use and are measured at higher concentrations in the Salinas Valley, etc., then agriculture must be associated with toxic effects in aquatic systems.

The assumption is that water quality, etc. is impaired due to agriculture and that this region is the home of a number of endangered species; therefore, agriculture is a threat to the endangered species. An EPA assessment of these endangered species states, “Only one marsh sandwort population, with fewer than 10 individuals, is known to exist; it occurs in San Luis Obispo County, California. Four populations of Gambel’s watercress are currently known, one with

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<sup>39</sup> [http://www.ccamp.net/ag/index.php/Estimating\\_Pesticide\\_Risk](http://www.ccamp.net/ag/index.php/Estimating_Pesticide_Risk)

about 500 individuals near the marsh sandwort population, two others with about 300 individuals each, also in San Luis Obispo County, and a fourth population of approximately 100 plants on Vandenberg Air Force Base in Santa Barbara County. Both species are threatened by encroaching native and alien vegetation associated with lowered water tables, agricultural and residential development, and off-road vehicle use.”<sup>40</sup>

They further state, “Wetland habitats have been disappearing from the Pacific Coast of North America at a rapid rate since the early part of the century. The conversion of wetland habitat to agriculture, ranching activities, and increased urbanization, and the use of off-road vehicles for recreation, have eliminated or degraded habitat. Additionally, the groundwater table in the lower canyon has been dropping steadily in the past few years, possibly due to water drawdown from well-drilling, water uptake and transpiration from the many introduced eucalyptus trees in the area, and the drought in California during the past decade.”

### Surface Water Quality

13 On page 11 it says, “The 2008 Clean Water Act Section 303 (d) List of Impaired Waterbodies for the Central Coast Region (Impaired Water List) identified surface water impairments for approximately 167 water quality limited segments related to a variety of pollutants (e.g., salts, nutrients, pesticides/toxicity, and sediment/turbidity). Sixty percent of the surface water listings identified agriculture as one of the potential sources of water quality impairment.”

Until the 2010 Integrated Report is approved by US EPA, the 2006 303(d) List of Impaired Waterbodies is the current and active List. Because a complete “integrated” 2008 list was not located online, it is not clear how the sixty percent figure was derived using the 2008 draft list; available online versions of the 2008 list would indicate that the percentage is lower. The 2006 list identifies surface water impairments for 109 water quality limited segments related to pollutants in the Central Coast Region. Of these, “agriculture” is listed as one of the potential sources of water quality impairment for 34 segments, or 31%<sup>41</sup>. The majority of the creeks, rivers and estuaries that are impaired are impacted by an unknown source. The major water quality issues in the Central Basin are fecal coliform (34 segments, 16 are natural sources and 13 name agriculture), sedimentation/siltation (21 segments and only 9 name agriculture), nitrate (20 segments and only 3 name agriculture), pesticides (16 segments), pathogens (15 segments and only 3 name agriculture), and ammonia (12 segments, all from unknown sources).

14 On page 11 it says, “Agricultural discharges most severely impact surface waterbodies in the lower Salinas and Santa Maria watersheds, both areas of intensive agricultural activity. Evaluated through a multi-metric of water quality, 82 percent of the most degraded sites in the Central Coast Region are in these agricultural areas.”

The assumption is being made that water quality impairment results when agriculture is located near a watershed. The statement that 82 percent of the most degraded sites in the Central Coast

<sup>40</sup> <http://www.epa.gov/EPA-SPECIES/1997/June/Day-23/e16327.htm>

<sup>41</sup> [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/docs/303dlists2006/epa/r3\\_06\\_303d\\_reqtmlds.pdf](http://www.waterboards.ca.gov/water_issues/programs/tmdl/docs/303dlists2006/epa/r3_06_303d_reqtmlds.pdf)

Region are in these agricultural areas ignores historical and current land uses beyond agriculture, as well as ignores the fact that agriculture is located in every area of the region.

15 Page 11 states, “Nitrate concentrations in areas that are most heavily impacted are not improving in significantly or in any widespread manner and in a number of sites in the lower Salinas and Santa Maria watersheds appear to be getting worse in the last few years (from CCAMP and CMP data).”

It is unclear what the potential source or sources of the nitrate concentrations may be. In the 2006 Clean Water Act (CWA) Section 303 (d) Impaired Water Bodies of the Central Coast Plain, out of 109 watersheds listed, 20 of the watersheds list nitrate as a pollutant.<sup>42</sup> Of those 20 watersheds, 17 list the source of the nitrate as unknown. Of the three known sources, the potential sources are: agriculture, nonpoint source, urban/storm sewer runoff, and pasture grazing. Therefore, it is unclear if agricultural discharges of fertilizer are the main potential sources of nitrate contamination to ground water.

16 On page 11 it says, “Thirty percent of all sites from CCAMP and CMP have average nitrate standards that exceed the drinking water standard and approximately 57 percent exceed the level necessary to protect aquatic life.”

The existence of nitrate levels in well water exceeding the recommended limits does not mean agriculture is the source. In the Central Coast area, only 30 percent of the measured sites had nitrate levels that exceeded the drinking water standard. The worst twenty (out of 250) nitrate sites had mean concentrations that ranged from 32.6 to 93.7 mg/L. Although Staff state that row crop operations serves as an indicator or risk for nitrate contamination, the data they have do not support this assertion. They state “though overall acreage of irrigated agriculture can serve as an indicator of risk for nitrate contamination, it can’t predict locally-scaled impacts.”<sup>43</sup>

17 On page 12 it says, “Discharges from some agricultural drains have shown toxicity every time the drains are sampled.”

Staff is again using data associated with the draft 2010 303(d) List, a list which has not been approved by the USEPA. In the current 2006 USEPA accepted List, there is no toxicity pollutant/stressor reported naming agriculture as a potential source in the Central Coast Region.

18 On page 12 it says, “Agricultural discharges contribute to sustained turbidity with many sites heavily influenced by agricultural discharges exceeding 100 NTUs as a median value.”

According to the turbidity data on the CCAMP website, the exact number of sampling sites that had median turbidity values > 100 NTUs was 8 out of approximately 125 waterbodies all of which had multiple sampling sites.<sup>44</sup> Sampling data on the CCAMP site is through 2006. In the current 2006 USEPA accepted List, there is no turbidity pollutant/stressor reported. In addition, there is no discussion of natural erosivity of native soils. For example, soils in the Cuyama and

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<sup>42</sup> [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/docs/303dlists2006/epa/r3\\_06\\_303d\\_reqtmlds.pdf](http://www.waterboards.ca.gov/water_issues/programs/tmdl/docs/303dlists2006/epa/r3_06_303d_reqtmlds.pdf)

<sup>43</sup> [http://www.ccamp.net/ag/index.php/Main\\_Page#Toxicity\\_and\\_Pesticides](http://www.ccamp.net/ag/index.php/Main_Page#Toxicity_and_Pesticides)

<sup>44</sup> [http://www.ccamp.org/ca300/3/Cwq/TURB\\_N\\_H2O.htm](http://www.ccamp.org/ca300/3/Cwq/TURB_N_H2O.htm)

Siquoc Rivers that form the Santa Maria River are naturally highly erosive.

19 On page 12 it says, “Agricultural discharges result in water temperatures that exceed levels that are desirable for salmonids at some sites in areas dominated by agricultural activity.”

For salmonids, there appears to be no clear Staff plan as to the desired habitat outcome. Is the goal to return salmonids to native habitat or to create new habitat? Regardless of the desired outcome, Staff is using a measure of water temperature associated with the 2010 303(d) List, a list which has not been approved by the USEPA. In the current 2006 USEPA accepted List, there is no agriculture-related water temperature pollutant/stressor reported in the Central Coast Region.

20 On page 12 it says, “Bioassessment data shows that creeks in areas of intensive agricultural activity have impaired benthic communities.”

Aquatic habitat is defined by Staff in Attachment 3 as: “The physical, chemical and biological components and functions of riparian areas and wetlands and their buffer zones.”<sup>45</sup> The Central Coast Water Quality Control Board has authority under the Water Code and the Basin Plan to regulate acts that may result in discharge to water bodies. The Board does not have the authority to regulate acts that are unrelated to discharge to water bodies. Aquatic habitat defined as riparian areas, wetlands, and their buffer zones by Staff, are not water bodies. It is not clear if acts with regards to aquatic habitat as defined by Staff are within the limits of the Board’s authority or if these are land use issues. Furthermore, even if the Board did have the authority, they do not have a baseline for their bioassessment data. Using Big Sur as a baseline is not representative of an alluvial plain similar to that of the Salinas and the Santa Maria rivers.

21 On page 12 it says, “Several Marine Protected Areas (MPAs) along the Central Coast are at risk of pollution impacts from sediment and water discharges leaving river mouths.”

According to the Central Coast Agricultural Surface Water Assessment Wiki, the risk to MPAs has not been quantified because there is very little data available. Staff completed a qualitative assessment they used to rank the MPAs “most likely to be impacted by agricultural chemicals.”<sup>46</sup> Here again, Staff cites agriculture as the source of pollution based on assumptions and not data.

22 On page 12 it says, “For Moro Cojo Slough and Elkhorn Slough, nitrates, pesticides and toxicity are documented problems. These two watersheds have more intensely irrigated agricultural activity than does the Morro Bay watershed.”

Agriculture is only one potential pollutant source for both the Moro Cojo Slough and the Elkhorn Slough; other potential sources identified are natural, nonpoint and channel erosion.

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<sup>45</sup> CCRWQCB, Attachment 3, page 31.

<sup>46</sup> Central Coast Agricultural Surface Water Assessment Wiki, February 3, 2010.  
<http://www.ccamp.net/ag/images/c/c0/AgWiki02032010.pdf>

## Groundwater Quality

23 On page 14 it says, “Groundwater contamination from nitrate severely impacts public drinking water supplies in the Central Coast Region.”

Drinking water obtained through public systems is treated to remove contaminants so consumers are not exposed to levels that could produce health issues. Based on DHS data through 2000, 616 of approximately 16,000 public drinking water wells (active and standby status) in California have had concentrations of nitrate  $\geq 45$  mg/L, prior to treatment, with most detections occurring in Los Angeles, San Bernardino and Kern Counties.<sup>47</sup> Of those counties, only a small part of Kern County is considered as part of the Central Coast Region. Even without manmade sources contributing to water pollutants, municipalities would still need to treat water.<sup>48</sup>

The Environmental Working Group summarized tap water data for Salinas from the CWCS (California Water Service Company) collected from 2004-2009, including nitrate levels. The average nitrate concentration is reported as 6.01 ppm, the maximum is 19.01 ppm, and 14 of 491 samples are described as being above the legal limit.<sup>49</sup> For Salinas, 2008 drinking water quality data are provided for several regions. Nitrate (as NO<sub>3</sub>) concentrations were reported for those regions (note, the MCL for nitrate as NO<sub>3</sub> is 45 ppm), as follows. **None of the drinking water samples exceeded the MCL:**

- Buena Vista: 2.6-9.2 ppm (avg. 6.4 ppm)
- Country Meadows: 3-11 ppm (avg. 7 ppm)
- Foothill Estates: 16-17 ppm (avg. 16 ppm)
- Los Lomas: ND-17 ppm (avg. 9 ppm)
- Oak Hills: 3-24 ppm (avg. 18 ppm)
- Salinas Hills: 2.6-9.2 ppm (avg. 6.4 ppm)
- Salinas: ND-41 ppm (avg. 22 ppm)

The EPA provides links to drinking water quality reports from locations throughout California.<sup>50</sup> Some drinking water quality reports for 2008 for agriculture regions in Monterey County and Santa Clara (and elsewhere of interest) that reported concentrations of nitrate (as NO<sub>3</sub>) are as follows. **None of the drinking water samples exceeded the MCL:**

- Ryan Ranch (Monterey)<sup>51</sup> Nitrate not listed
- Monterey<sup>52</sup> ND-33 ppm (avg. 13 ppm)
- Hidden Hills (Monterey)<sup>53</sup> avg. 5.3 ppm (none reported as exceeding MCL)
- Toro (Monterey)<sup>54</sup> avg. 10.6 ppm (none reported as exceeding MCL)

<sup>47</sup> [http://www.swrcb.ca.gov/gama/docs/nitrate\\_oct2002\\_rev3.pdf](http://www.swrcb.ca.gov/gama/docs/nitrate_oct2002_rev3.pdf)

<sup>48</sup> <http://www.epa.gov/safewater/consumer/pdf/hist.pdf>

<sup>49</sup> <http://www.ewg.org/tap-water/whatsinyourwater/CA/Cwsc-Salinas/2710010/>

<sup>50</sup> <http://yosemite.epa.gov/ogwdw/ccr.nsf/California?OpenView>

<sup>51</sup> [http://www.amwater.com/files/CA\\_2701466\\_CCR.pdf](http://www.amwater.com/files/CA_2701466_CCR.pdf)

<sup>52</sup> [http://www.amwater.com/files/CA\\_2710004\\_CCR.pdf](http://www.amwater.com/files/CA_2710004_CCR.pdf)

<sup>53</sup> [http://www.amwater.com/files/CA\\_2710022\\_CCR.pdf](http://www.amwater.com/files/CA_2710022_CCR.pdf)

<sup>54</sup> [http://www.mewd.org/docs/ccr/mewd\\_ccr\\_2008.pdf](http://www.mewd.org/docs/ccr/mewd_ccr_2008.pdf)

- Marina<sup>55</sup> ND-20 ppm (avg. 4.4 ppm)
- King City<sup>56</sup> 2-14 ppm (avg. 5 ppm)
- City of Morro Bay (data are for 2005)<sup>57</sup> “State water” 1.8-7.6 ppm (avg. 4.44 ppm) ; “Well water” 8.5-32 ppm (avg. 22 ppm)
- Gilroy<sup>58</sup>: 15-44 ppm (avg. 28 ppm)

Elsewhere in the Order, Morro Bay, San Jerardo, and San Martin are identified as communities particularly affected by nitrate in their drinking water supply. Morro Bay data are shown above. West San Martin Water Works serves 289 people in this community.<sup>59</sup> According to the Environmental Working Group, there were no exceedances of nitrate standards for drinking water from this utility in 2008.<sup>60</sup> Most people probably use private wells there. San Jerardo appears to be served by Alisal Water Corporation.<sup>61</sup> It appears that people in that community (of about 250 people) now use bottled water. No water quality report for Alisal was located.

The USGS measured groundwater quality in the Salinas Valley and Morro Bay Basin from July-October 2005.<sup>62</sup> Samples were collected from 94 public-supply wells and 3 monitoring wells in Monterey, Santa Cruz, and San Luis Obispo Counties. Note, they state “this study did not attempt to evaluate the quality of water delivered to consumers; after withdrawal from the ground, water typically is treated, disinfected, and (or) blended with other waters to maintain water quality. In addition, regulatory thresholds apply to treated water that is served to the consumer, not to raw ground water.” Nitrate plus nitrite was detected in 24 of the 34 groundwater samples. Concentrations of nitrate plus nitrite ranged from 0.04 to 37.8 mg/L (as nitrogen), and two samples had concentrations above the health-based threshold for nitrate of 10 mg/L (as nitrogen).

In the 2006 Clean Water Act (CWA) Section 303 (d) Impaired Water Bodies of the Central Coast Plain, out of 109 watersheds listed, 20 of the watersheds list nitrate as a pollutant.<sup>63</sup> Of those 20 watersheds, 17 list the source of the nitrate as unknown. Of the three known sources, the potential sources are: agriculture, nonpoint source, urban/storm sewer runoff, and pasture grazing. Therefore, it is unclear if agricultural discharges of fertilizer are the main potential sources of nitrate contamination to ground water.

24 On page 14 it says, “Groundwater contamination from nitrate severely impacts shallow domestic drinking water supplies in the Central Coast Region.”

The statement goes on to acknowledge that data on domestic drinking wells is limited. The staff also makes a conjecture as to the number of wells exceeding the nitrate drinking standard.

<sup>55</sup> [http://www.amwater.com/files/CA\\_2710021\\_CCR.pd](http://www.amwater.com/files/CA_2710021_CCR.pd)

<sup>56</sup> [http://www.calwater.com/your\\_water/ccr/2008/king-city-kc-2008.php](http://www.calwater.com/your_water/ccr/2008/king-city-kc-2008.php)

<sup>57</sup> <http://www.morro-bay.ca.us/documents/Public%20Services/Water%20Division/Annual%20Water%20Quality%20Reports/2005%20Water%20Consumer%20Confidence%20Report.pdf>

<sup>58</sup> [http://www.ci.gilroy.ca.us/cityofgilroy\\_files/city\\_hall/community\\_services/water/CCR08.pdf](http://www.ci.gilroy.ca.us/cityofgilroy_files/city_hall/community_services/water/CCR08.pdf)

<sup>59</sup> [http://docs.cpuc.ca.gov/PUBLISHED/FINAL\\_RESOLUTION/93553.htm](http://docs.cpuc.ca.gov/PUBLISHED/FINAL_RESOLUTION/93553.htm)

<sup>60</sup> <http://projects.nytimes.com/toxic-waters/contaminants/ca/santa-clara/ca4300543-west-san-martin-water-works-inc>

<sup>61</sup> [http://www.reclaimdemocracy.org/articles/2006/corporatized\\_water\\_california.php](http://www.reclaimdemocracy.org/articles/2006/corporatized_water_california.php)

<sup>62</sup> (Kulongoski and Berlitz, 2007)

<sup>63</sup> [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/docs/303dlists2006/epa/r3\\_06\\_303d\\_reqtmlds.pdf](http://www.waterboards.ca.gov/water_issues/programs/tmdl/docs/303dlists2006/epa/r3_06_303d_reqtmlds.pdf)

Conjecture aside, there is no cited linkage between nitrate levels in domestic drinking wells in the Central Coast Region and the cause of the elevated nitrogen levels.

25 On page 14 it says, “In Monterey County, 25 percent of 352 wells sampled (88 wells) had concentrations above the nitrate drinking water standard in the northern Salinas Valley.”

The EPA provides links to drinking water quality reports from locations throughout California.<sup>64</sup> Some drinking water quality reports for 2008 for agriculture regions in Monterey County and Santa Clara (and elsewhere of interest) that reported concentrations of nitrate (as NO<sub>3</sub>) are as follows. **None of the drinking water samples exceeded the MCL:**

- Ryan Ranch (Monterey)<sup>65</sup> Nitrate not listed
- Monterey<sup>66</sup> ND-33 ppm (avg. 13 ppm)
- Hidden Hills (Monterey)<sup>67</sup> avg. 5.3 ppm (none reported as exceeding MCL)
- Toro (Monterey)<sup>68</sup> avg. 10.6 ppm (none reported as exceeding MCL)
- Marina<sup>69</sup> ND-20 ppm (avg. 4.4 ppm)
- King City<sup>70</sup> 2-14 ppm (avg. 5 ppm)
- City of Morro Bay (data are for **2005**)<sup>71</sup> “State water” 1.8-7.6 ppm (avg. 4.44 ppm) ; “Well water” 8.5-32 ppm (avg. 22 ppm)
- Gilroy<sup>72</sup>: 15-44 ppm (avg. 28 ppm)

26 On page 15 it says, “In many cases, whole communities relying on groundwater for drinking water purposes are affected. Local agencies have reported the shut down of domestic drinking wells due to high nitrate concentrations. In addition, local agencies and consumers have reported impacts to human health resulting from nitrate contaminated groundwater likely due to agricultural land uses, and spent significant financial resources to ensure proper drinking water treatment and reliable sources of quality drinking water for the long-term. In the Central Coast Region, the Monterey County community of San Jerardo, the San Martin area of Santa Clara County, and the City of Morro Bay are among the local communities affected by nitrate.”

While no references were cited for the claims, it appears as if the only human health impact noted was a skin rash in San Jerardo. “In March 2006, members of the San Jerardo, CA community reported skin rashes from water use. Upon testing the water, nitrates and trichloropropane (TCP) were both found to be at levels well above the regulatory limit.”<sup>73</sup> Therefore, in the case of San Jerardo, there are co-contaminants and no named single source.

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<sup>64</sup> <http://yosemite.epa.gov/ogwdw/ccr.nsf/California?OpenView>

<sup>65</sup> [http://www.amwater.com/files/CA\\_2701466\\_CCR.pdf](http://www.amwater.com/files/CA_2701466_CCR.pdf)

<sup>66</sup> [http://www.amwater.com/files/CA\\_2710004\\_CCR.pdf](http://www.amwater.com/files/CA_2710004_CCR.pdf)

<sup>67</sup> [http://www.amwater.com/files/CA\\_2710022\\_CCR.pdf](http://www.amwater.com/files/CA_2710022_CCR.pdf)

<sup>68</sup> [http://www.mcwd.org/docs/ccr/mcwd\\_ccr\\_2008.pdf](http://www.mcwd.org/docs/ccr/mcwd_ccr_2008.pdf)

<sup>69</sup> [http://www.amwater.com/files/CA\\_2710021\\_CCR.pdf](http://www.amwater.com/files/CA_2710021_CCR.pdf)

<sup>70</sup> [http://www.calwater.com/your\\_water/ccr/2008/king-city-kc-2008.php](http://www.calwater.com/your_water/ccr/2008/king-city-kc-2008.php)

<sup>71</sup> [http://www.morro-](http://www.morro-bay.ca.us/documents/Public%20Services/Water%20Division/Annual%20Water%20Quality%20Reports/2005%20Water%20Consumer%20Confidence%20Report.pdf)

[bay.ca.us/documents/Public%20Services/Water%20Division/Annual%20Water%20Quality%20Reports/2005%20Water%20Consumer%20Confidence%20Report.pdf](http://www.morro-bay.ca.us/documents/Public%20Services/Water%20Division/Annual%20Water%20Quality%20Reports/2005%20Water%20Consumer%20Confidence%20Report.pdf)

<sup>72</sup> [http://www.ci.gilroy.ca.us/cityofgilroy\\_files/city\\_hall/community\\_services/water/CCR08.pdf](http://www.ci.gilroy.ca.us/cityofgilroy_files/city_hall/community_services/water/CCR08.pdf)

<sup>73</sup> [http://www.water.siemens.com/en/applications/groundwater\\_remediation/pages/sanjerardo\\_ca\\_cs.aspx](http://www.water.siemens.com/en/applications/groundwater_remediation/pages/sanjerardo_ca_cs.aspx)

In the San Martin area, there was an abandoned flare factory in San Martin, and perchlorate was an issue there.<sup>74</sup> In Morro Bay, septic systems are at least partially responsible for high levels of nitrate. “Two decades of discharge from septic tanks and fertilizers are being blamed for tainting part of Morro Bay’s drinking water supply. High levels of nitrates found in six Morro Bay water wells last week likely accrued at a steady rate for the past 20 years, City Manager Bob Hendrix said Monday. The city learned Wednesday that nitrate levels in its groundwater wells were above acceptable drinking levels.”<sup>75</sup>

## **Aquatic Habitat**

Aquatic habitat is defined by Staff in Attachment 3 as: “The physical, chemical and biological components and functions of riparian areas and wetlands and their buffer zones.”<sup>76</sup> The Central Coast Water Quality Control Board has authority under the Water Code and the Basin Plan to regulate acts that may result in discharge to water bodies. The Board does not have the authority to regulate acts that are unrelated to discharge to water bodies. Aquatic habitat defined as riparian areas, wetlands, and their buffer zones by Staff, are not water bodies. Acts with regards to aquatic habitat as defined by Staff are land use issues and not within the limits of the Board’s authority.

## **Preliminary Draft Monitoring and Reporting Requirements**

27 On page 21 it reads, “To address the critical need for additional data for groundwater quality, source identification, source control and/or compliance and riparian condition, Water Board Staff considered various monitoring options. In the Preliminary Draft Agricultural Order, Water Board staff recommends a monitoring program that requires four categories of monitoring: Individual Discharge Characterization Monitoring, Individual Discharge Monitoring, Watershed (receiving water) Monitoring, and Additional Monitoring if required by the Executive Officer (receiving water and/or discharge).”

It is unclear how this information will be used to establish trends in discharge, particularly since this Order specifies that decreases in discharges must be shown within two years. Further, it is unclear how data collected by individual dischargers will be compared to data collected elsewhere in a water basin; in order to be comparable, data must be collected using comparable methodologies and controlling in a similar way for variables that can influence measurements at specific locations.

For example, as stated by Renwick et al. (2008)<sup>77</sup>, “Two factors combine to make statistical analyses of water quality trends difficult: (i) inherent variability and (ii) multiple independent variables influencing water quality.” For example, high discharge rates as during storm events can substantially influence water quality measures, and the influence of storm events on water quality can vary depending on whether the source of a constituent is largely dominated by

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<sup>74</sup> <http://www.nrdc.org/water/pollution/ccg/ccg.pdf>

<sup>75</sup> [http://www.foley.com/files/tbl\\_s31Publications/FileUpload137/3734/StormwaterNews11-29-2006.pdf](http://www.foley.com/files/tbl_s31Publications/FileUpload137/3734/StormwaterNews11-29-2006.pdf)

<sup>76</sup> CCRWQCB, Attachment 3, page 31.

<sup>77</sup> Renwick WH, Vanni MJ, Zhang Q, Patton J. 2008. “Water quality trends and changing agricultural practices in a Midwest U.S. watershed, 1994-2006.” *Journal of Environmental Quality*. 37:1862–1874.

groundwater sources (in which case, a storm event may dilute the concentration) or surface runoff sources (in which case, a storm event may increase concentrations). Further, seasonal land management activities, such as fertilization, could substantially impact measurements that occur shortly after the activity. Other factors, such as lack of vegetation in winter, can impact measured concentrations.

Renwick et al. (2008) argue that “downstream water-quality responses to changing agricultural practices will be muted.” For example, they cite “only weak downward trends in dissolved inorganic nitrogen ( $\text{NO}_3\text{-N} + \text{NO}_2\text{-N} + \text{NH}_4\text{-N}$ ) after a 15-fold decrease in mineral fertilizer use and fourfold decrease in livestock populations between 1987 and 1996” in Latvia. They note a “strong seasonal pattern in nitrate concentrations is driven by two factors: (i) high spring runoff rates, primarily from shallow subsurface flow, at the same time of year that N fertilizers are being applied and (ii) uptake in stream and riparian ecosystems during summer. Plant uptake of nitrate in the growing season may also reduce concentrations in shallow ground water.”

Examination of water quality plots for nitrate at individual monitoring locations illustrated at the [www.ccamp.org](http://www.ccamp.org) website shows substantial variability in nitrate measurements at each site, presumably largely due to seasonal influences.<sup>78, 79, 80</sup>

28 On page 22 it reads, “To establish the need for one time and/or continuous monitoring at an individual farm operation, farm operations (Dischargers) will be required to evaluate their farms individually. The first step under this option is a requirement that all farm operations conduct an “individual discharge characterization” of their farm operation. The characterization will require a farm operation to identify if they have non-stormwater discharge(s) to either surface or ground water. Examples of non-stormwater discharges include agriculture tailwater, irrigation runoff, tile drain water, pond water discharge, ponded furrows, and/or another intermittent agriculture water discharge.”

Determining the requirement for individual monitoring based on stormwater versus non-stormwater discharge is guaranteeing the inclusion of most farms in the central coast region since even the most rigorous irrigation management practices do not eliminate all irrigation runoff. With the number of farms that are enrolled in the current Ag Waiver estimated at upward of 10,000 individual farms, this will generate an excessive amount of data and questionable given Staff capacity that it would be utilized effectively.

29 On page 22 it says, “Each operation without an identified non-stormwater discharge must conduct watershed monitoring for stormwater and long-term in-stream trend.” Later on page 23 it says, “Watershed Monitoring - Sites on main stems of rivers and tributaries in agricultural areas of the region must be monitored on a regular basis to evaluate in-stream stormwater trends and long-term trends in water quality and associated beneficial uses. All Dischargers must conduct watershed monitoring program.”

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<sup>78</sup> [http://www.ccamp.org/ca300/3/Sites/309dav/Cwq/309DAV\\_NO3\\_NO3\\_H2O.htm](http://www.ccamp.org/ca300/3/Sites/309dav/Cwq/309DAV_NO3_NO3_H2O.htm)

<sup>79</sup> [http://www.ccamp.org/ca300/3/Sites/314syn/Cwq/314SYN\\_NO3\\_NO3\\_H2O.htm](http://www.ccamp.org/ca300/3/Sites/314syn/Cwq/314SYN_NO3_NO3_H2O.htm)

<sup>80</sup> [http://www.ccamp.org/ca300/3/Sites/305cor/Cwq/305COR\\_NO3\\_NO3\\_H2O.htm](http://www.ccamp.org/ca300/3/Sites/305cor/Cwq/305COR_NO3_NO3_H2O.htm)

Any particular watershed in the Central Coast Region may be affected and used by a variety of industry. To ask agriculture to bear the cost of monitoring an entire watershed on behalf of all users is unmerited.

30 On page 22 it reads, “If a farm operation has an identified non-stormwater discharge to either surface or ground water, that discharge must be sampled and analyzed for the following discharge characterization parameters:

- Flow
- Toxicity
- Total Nitrogen (mg/L)
- Nitrate-Nitrite (mg/L)
- Total Ammonia (mg/L)
- Ortho-Phosphosphate [SIC] (mg/L)
- Turbidity (NTU)
- Water Temperature (degrees C)
- pH
- Total Dissolved Solids (mg/L)

The following parameter must be calculated (based on Ammonia and pH):

- Un-ionized Ammonia (mg/L)”

Various sampling parameters for monitoring are given throughout Staff documents, and it is not clear which parameters are required for which specific monitoring events and why they differ for similar monitoring events that are completed at different times. For instance surface water sampling parameters recommended for characterization monitoring differ from surface water sampling parameters recommended for continuous discharge monitoring. The list above is from the *Individual Discharge Characterization Monitoring* section on page 22 and is less extensive in nature than the list of parameters for surface water and riparian sampling in Attachment 4. Why are the parameters in Attachment 4 different (i.e. more extensive) from the discharge characterization parameters given above? Additionally, it is not clear if Attachment 4 list of sampling parameters is exclusively for individual discharge monitoring or if these sampling parameters also apply to watershed monitoring.

31 On page 23 it states, “Individual Discharge Monitoring - For a farm operation with continuous discharge(s), the discharge(s) must be monitored until the discharge(s) is terminated or controlled so that it meets water quality standards (within a time frame specified in the Order). Data collected through individual monitoring will be used to verify that individual operations are progressing towards or have succeeded to eliminate or adequately control discharges that are impacting waters of the state and associated beneficial uses.”

The assumption that data collected through individual monitoring can be used to verify an individual operations progression towards or success at eliminating or controlling discharge is seriously flawed for the following reasons.

- It ignores geological factors such as the complexity of groundwater systems, source of well recharge waters, interconnection between groundwater and surface waters, soil types, etc.

- It ignores the quality of water with which any particular growing operation is supplied.
- It assumes that data collected through individual sampling reflects what the grower is doing currently and does not consider “upstream” impacts nor any historical land uses or legacy loading of pollutants such as nitrates and pesticides.

In a reference cited by Staff in Attachment 1, Dr. Thomas Harter, Robert M. Hagan Endowed Chair in Water Management and Policy and specialist for the UCCE Groundwater Hydrology Program says, “More successful regulatory approaches use groundwater monitoring not as a landowner- or site-specific regulatory tool, but to evaluate the success of regulating nitrogen (or other contaminant sources) management practices across entire watersheds.” He goes on to cite examples of how others have used collective monitoring to adjust and refine management practices for specific locations. One example is how the California Department of Pesticide Regulation uses survey results for pesticides from a network of randomly selected domestic wells to adjust management practices in specific areas for specific pesticides. In the Netherlands monitoring stations for soil and shallow and deep groundwater are randomly located on farms that are grouped by soil and hydrogeologic regions and farm categories. This allows for a comprehensive assessment of groundwater nitrate trends in a particular area under particular conditions to further refine farm management practices without prosecution of individual farms.<sup>81</sup>

32 On page 25, “Water Board Staff considered a time schedule that would support timely and effective implementation. Under this Preliminary Draft Agricultural Order, either irrigation runoff will need to be eliminated within two years of adoption of the Order or the following pollutants in irrigation runoff will need to be eliminated and/or treated or controlled to meet applicable water quality standards by the dates specified:

- Toxicity – within two years of adoption of the Order
- Turbidity – within three years of adoption of the Order
- Nutrients – within four years of adoption of the Order
- Salts – within four years of adoption of the Order”

With optimal trend analysis dependent on data variability, given the typical variability often associated with water quality data, it is reasonable to expect several years’ worth of data will be necessary to acquire a robust dataset required to evaluate any trends in the data. This has serious business ramifications for growers. After making decisions to implement practices that may be expensive, they will need to wait for the benefit to be confirmed by the data this is assuming that all data is compiled and analyzed in real time as it is developed and does not factor in any backlog or delay in data compilation.

33 On page 24, it states, “Representative surface water samples shall be collected and analyzed for the parameters listed in Attachment 4. Also, two stormwater events shall be monitored for the parameters listed in Attachment 4 during the rainy season (October 15 – March 15). Rainy season sampling is typically conducted during or shortly after runoff events, preferably including the first event that results in significant flow increase.”

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<sup>81</sup> Harter T. 2009. “Agricultural impacts on groundwater nitrate.” *Southwest Hydrology*, 8(4):21-23.

The list of parameters (Attachment 4) that the Staff recommends for sampling, many of which are to be collected monthly, is not only costly to a farming operation, but unwarranted. What is Staff's justification of this list? The data for many of these parameters have serious ramifications for individual farming operations and public access to individual data not only presents potential financial harm due to liability issues, but affects growers' ability to effectively compete in the marketplace.

In a 2007 summary report regarding fecal coliform issues in the Salinas River and its tributaries, Staff reported the following:

“Staff reviewed water quality data and other information in an effort to determine whether irrigated agriculture is a source of indicator bacteria in the Project area. Data and information suggest that irrigated agriculture is not a source of indicator bacteria causing exceedance of water quality objectives. Growers in the project area are highly aware of food safety issues; their livelihood depends on providing a crop that is safe for consumers. As such, growers practice methods that minimize the potential of crop contamination. Staff conducted reconnaissance in the project area for a period of two years, and did not document land or field practices that would result in a controllable discharge of indicator bacteria to surface waters. Staff is proposing that discharges from irrigated lands in the project area are not causing exceedance of water quality objectives related to indicator bacteria.”

Best practices with regards to food safety are widespread throughout the growing regions of California with corresponding high awareness of these issues, and therefore, Western Growers affirms Staff's assessment of growers as “highly aware of food safety issues” with diligent extensive efforts to provide a safe crop for consumers. However, Western Growers also questions the validity of including fecal coliforms as a sampling parameter for surface water in light of Staff's identification of wildlife, livestock (in particular “backyard livestock owners”), and humans, and not irrigated agriculture as contributing factors to the elevated levels of fecal coliforms.

In addition, it is not clear how Staff intend to use the data for the proposed monitoring of two stormwater events. Considering the multitude of factors that can impact runoff during a stormwater event, it is highly unlikely that the sampling of two events could be used to support statistically significant trend analysis, or to draw meaningful correlations between discharge patterns and specific causes. The differences in farm practices such as application time and methods would make a statistically significant inter-farm analysis extremely difficult.

### **Economic and Production Practice Considerations**

The timeline for response to the February 1, 2010 “Preliminary Draft Staff Recommendations for an Agricultural Order” did not permit the completion of a comprehensive assessment of the economic and farm practice impacts of the proposed plan; however, several initial studies indicate the burden farmers would face is prohibitive. According to research conducted by Kay Mercer, the Agricultural Watershed Coalition southern management unit coordinator, a grower has estimated that a cool season vegetable grower with a 400 acre farm would face incremental

costs of at least \$199,975 or \$250 per acre to comply with the Preliminary Waiver. This represents a 6% increase in current operating costs. These costs do not include lost marketing opportunity costs of replumbing tile drains. Other growers who are not as well capitalized could face higher costs.

In preparing these initial studies, a number of issues and associated costs were identified demonstrating the economic burden and impracticality of implementing and operating under the “Preliminary Draft Staff Recommendations for an Agricultural Order” including:

- The complexity of nutrient budgets: Growers who plant multiple crops will need budgets for each of those crops based on soil/crop requirements. Intended use i.e., fresh market or processed will need to be considered as well. Additionally, the grower will need to consider how his irrigation wells are connected.
- UC guidelines lack of relevancy to newer production practices and local production complexities: While UC guidelines may be information for older production practices, they do not take into account more recent high-density planting scenarios. According to one grower, if he applies the UC guidelines to his high-density production practices, he might lose up to 25% of his production during certain times of the year.
- The difficulties of tracking nutrient budget components: Tracking irrigation scheduling, IPM scouting and decision making and fertilizer applications so that all of the data is collected and available to a grower in his office will require new systems and data management tools. Given the seasonality of crops and the lack of technical sophistication of many growers, tracking will be extremely difficult.
- The difficulty of meeting irrigation efficiency and distribution uniformity goals: Fifty percent of the water growers use is for stand establishment. For some soil types, the only irrigation option in this case is by sprinkler irrigation systems. Therefore, irrigation efficiency and distribution uniformity goals are impossible to meet due to wind effects during sprinkler irrigation.
- The prohibition against the use of fertilizers or pesticides either pre or post rainfall could result in as much as 25% yield loss. Depending on the quality criteria in a production contract, this could result in the loss of an entire crop if quality standards are not met.

Prior to modifying the existing waiver, Western Growers strongly recommends the Water Quality Control Board complete an economic assessment of the cost financial impact any waiver will have not only on growers but also on the counties themselves.

## **Legislative Considerations**

Aside from the scientific and economic considerations discussed above, the “Preliminary Draft Staff Recommendations for an Agricultural Order”, is contrary to the existing legislation and legislative intent especially of the Porter-Cologne Water Quality Act (P-C). A complete discussion of the legislative issues can be found in the letter to Mr. Roger Briggs from Somach Simmons & Dunn dated April 1, 2010. Several of the legislative issues discussed in the letter are highlighted below.

The “Preliminary Draft Staff Recommendations for an Agricultural Order” exceeds the Central Coast Water Board’s authority in several areas:

- Discharge prohibitions. Porter-Cologne does not authorize a regional board to prohibit discharges as part of a waiver issued pursuant to Water Code section 13269.
- Excessive use of fertilizers. The Central Coast Water Board has no authority to dictate or control the amount of fertilizer used by any grower. Furthermore, the Central Coast Water Board does not have the ability or expertise to determine if fertilizer application is in fact in excess of crop needs.
- Prohibiting the degradation of habitat. The Central Coast Water Board has no authority to prohibit the degradation of habitat. Many of the activities relating to the degradation of habitat are under the authority of the California Department of Fish and Game.
- Requiring farmers to identify certain management practices including the use of IPM. In California pesticides are regulated by the Department of Pesticide Regulation. The Central Coast Water Board does not have the authority to direct growers with regard to pesticide applications, storage and use records, or to direct the means to comply with a permit.
- Establishing minimum irrigation system distribution uniformity requirements and requiring the submittal of irrigation management information.
- Requirements for management practices relating to aquatic habitat protection.
- Eliminating tailwater discharges.

Contrary to Porter-Cologne, the “Preliminary Draft Staff Recommendations for an Agricultural Order” places an unfair burden on growers requiring information and cost expenditures not bearing a reasonable relationship to the Central Coast Water Board’s need for information. In Porter-Cologne, a regional board’s request for technical information may not be unreasonable as compared to the burden of compiling the information, including costs. Several examples of unreasonable requests unfairly burdening growers include:

- Requiring farms to submit farm plans at any time, upon request of the Executive Officer presents an unfair burden on the farmer and makes available proprietary information to the public.
- Requirements for management practice implementation including aquatic habitat protection, IPM practices, and nutrient management.
- Requirements for monitoring and reporting requirements relating to individual discharge, watershed monitoring and individual discharge characterization monitoring.
- Establishing aquatic habitat provisions that could unreasonably impair the value or use of private property.

In conclusion, after a thorough review and analysis of the February 1, 2010 proposed “Preliminary Draft Staff Recommendations for an Agricultural Order” prepared by the Central Coast Regional Water Quality Control Board staff, Western Growers is deeply concerned that CCRWQCB staff has 1) relied on inconclusive and incomplete data sets to make decisions and policy recommendations; 2) overstated the actual contributions of area agriculture to water quality degradation; 3) underestimated or ignored contributions from other sources and regional legacy issues/uses; 4) overstated the health risk to the public in the Central Coast region; 5)

failed to acknowledge other controls, programs and authorities that mitigate agricultural discharges; 6) exceeded the authority of the CCRWQCB in key areas and 7) placed the entire burden for improved water quality on the regions agricultural producers in a prescriptive and inflexible fashion that does not allow growers to collaborate in bringing workable solutions to the forefront.

Western Growers has approximately 3,000 members, many who grow, pack and ship fresh fruits, nuts and vegetables in the Central Coast region. Each member is committed to improved water quality and to doing their part to reduce their discharge and/or improve its quality. As a trade association we are dedicated to assisting them in their efforts to understand water quality issues, develop and employ prudent and proven practices to improve water quality and to increased collaboration with both the regional Board and area water quality interests to enhance water quality throughout the region. We remain convinced that growers are the individuals who can innovate to improve water quality and that a top down regulatory program as proposed will not succeed in this important effort. We strongly support the "Alternative Agricultural Proposal" submitted by the California Farm Bureau and many other agricultural organizations. We believe that the Regional Board should instruct staff to implement a program as outlined in the alternative. In doing this, agriculture and the Board could also agree on measurable milestones with reasonable times to achieve them so as to improve water quality for all in the Central Coast.

Respectfully,



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April 1, 2010

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Subject: Preliminary Draft Staff Recommendations for an Agricultural Order Conditionally Waiving Individual Waste Discharge Requirements for Discharges From Irrigated Lands

Dear Mr. Briggs:

Our firm represents the Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties (GSA) in the Central Coast Regional Water Quality Control Board's (Central Coast Water Board) matter for adoption of new regulations pertaining to discharges from irrigated lands. On behalf of GSA, we have reviewed the Preliminary Draft Staff Recommendations for an Agricultural Order (Preliminary Draft Staff Report), the Preliminary Draft Order Agricultural Order No. R3-2010-00XX (Preliminary Draft Order), and other associated documents.

The GSA is a non-profit agricultural trade association organized in 1947 to promote the general welfare of the produce industry in Santa Barbara and San Luis Obispo Counties. The GSA has 135 members who farm vegetables and strawberries in the Santa Maria, Arroyo Grande, and Lompoc valleys of central California. The GSA estimates its members annually ship over 60 million cartons of produce representing approximately \$500 million in gross sales. The GSA employs in the aggregate approximately 15,000 workers. The GSA and its members will be directly impacted by the proposed staff recommendations contained in the February 1, 2010 Preliminary Draft Order.

In general, the Preliminary Draft Order includes significant and prescriptive requirements that gravely impact growers and the agricultural industry in the Central Coast. The proposed requirements are not only unlawful but put Central Coast growers at a severe disadvantage in a very competitive marketplace. If the Preliminary Draft Order is adopted as is, many growers in the Central Coast will no longer be able to afford to grow vegetables in this region, and potentially in California. Considering the devastating impact that this Preliminary Draft Order would have on the region's economy, we encourage you to direct staff to rescind the Preliminary Draft Staff Report and Preliminary Draft Order in their

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entirety and instead enter into a constructive dialogue with the local agricultural community. To that end, the GSA supports the alternative agricultural proposal that has been submitted to the Central Coast Water Board under separate cover.

In the unfortunate event that the Central Coast Water Board staff proceed with recommending adoption of the Preliminary Draft Order, we submit the following significant comments on the Preliminary Draft Staff Report, Preliminary Draft Order, and associated documents.

As a preliminary matter, we must express our outrage with the tone and representation of information contained in the Preliminary Draft Staff Report. Never before have we experienced such biased hostility in a public document that should objectively explain the issue of concern and provide a well-balanced, rational basis for the requirement being proposed. Furthermore, the Preliminary Draft Staff Report makes blanket inflammatory statements but fails to provide any evidence to support staff's conclusion. For example, it states that because "evidence of on-farm improvements and reductions in pollution loading from farms is not required, . . . [it] therefore probably does not exist for most farms." (Preliminary Draft Staff Report, p. 7.) The statement implies that because reporting on-farm information is not required, farmers are not making on-farm improvements and reductions in pollutant loading. This type of a conclusion is unwarranted and not supported with any evidence. In fact, many growers in the Central Coast have changed cultural practices to better protect water quality. A lack of reporting such changes to the Central Coast Water Board in no way constitutes evidence that improvements are not being made.

We also take issue with the claim that "[t]he agricultural industry must implement the most effective management practices (related to irrigation, nutrient, pesticide and sediment management) that will most likely yield the greatest amount of water quality protection, and verify their effectiveness with on-farm data." (Preliminary Draft Staff Report, p. 7.) This statement is directly contrary to the legislative intent and purpose of the Porter-Cologne Water Quality Control Act (Porter-Cologne), Assem. Bill 413 Stats. 1969, ch. 482, codified at Water Code section 13000 et seq. Specifically, Porter-Cologne requires the Central Coast Water Board to regulate "to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters . . . ." (Wat. Code, § 13000.) Thus, any regulation of the agricultural industry must be reasonable considering a number of factors, including cost. Effectiveness alone is not a legal requirement in Porter-Cologne.

Additionally, the Preliminary Draft Order proposes to regulate agricultural discharges in a manner that far exceeds requirements imposed on municipal stormwater discharges subject to federal National Pollutant Discharge Elimination System (NPDES) permits. Agricultural discharges are specifically exempt from the NPDES permit provisions of the federal Clean Water Act (CWA), codified at 33 U.S.C. section 1251 et seq. (See 33 U.S.C. § 1342(l); CWA § 402(l); see also 40 C.F.R. § 122.3(e).) However, discharges from agriculture and municipal stormwater are similar in nature and include similar types of

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pollutants (e.g., pesticides, nutrients). Although subject to different regulatory schemes (i.e., *CWA v. Porter-Cologne*), it makes no sense to regulate agricultural discharges more prescriptively than discharges from municipal stormwater.

Specifically, the CWA requires controls on municipal stormwater discharges to reduce pollutants “to the maximum extent practicable.” (See 33 U.S.C. § 1342(p); CWA § 402(p).) The CWA *does not* require municipal stormwater discharges to comply with water quality standards, nor does it require the application of effluent limitations to the discharge. (*Defenders of Wildlife v. Browner* (1999) 191 F.3d 1159, 1166.) Like CWA requirements for municipal stormwater, *Porter-Cologne* does not require agricultural discharges to meet water quality standards at the end of the field. With respect to adopting a waiver, the Central Coast Water Board is required to ensure that the waiver is “consistent with any applicable state or regional water quality control plan and is in the public interest.” (Wat. Code, § 13269(a)(1).) The Water Quality Control Plan for the Central Coast Region (Basin Plan) indicates that the Central Coast Water Board is implementing controls on nonpoint source pollution through outreach, education, public participation, technical assistance, financial assistance, interagency coordination, demonstration projects, and regulatory activities such as imposing septic tank area prohibitions. (See Basin Plan at p. IV-42 (Sept. 8, 1994).) Further, the Basin Plan states agricultural wastewaters and the effect of agricultural operations are a result of land use practices. (See Basin Plan at p. IV-46.) Nowhere does the Basin Plan state that the Central Coast Water Board is required or encouraged to adopt permit conditions on agriculture which require irrigation runoff to meet water quality standards at the end of the field. Considering the economic impact that the Preliminary Draft Order will have on individuals and the region in general, and the lack of consistency with the Basin Plan, the Preliminary Draft Order fails to meet the requirements for adoption as expressed in Water Code section 13269 because it is not consistent with the Basin Plan or in the public interest.

As a final general comment, the Central Coast Water Board must comply with Water Code section 13141 by first amending the Basin Plan to estimate the total cost and potential sources of funding for such a program. (See Wat. Code, § 13141.) In their current form, neither the Preliminary Draft Staff Report nor the Preliminary Draft Order indicate that the Central Coast Water Board intends to adopt a Basin Plan amendment that estimates the total cost and potential sources of funding for such a program. Failure to adopt a Basin Plan amendment with this information in advance of adopting a new agricultural water quality program would violate *Porter-Cologne*. (See Memorandum to Roy C. Hampson, Executive Officer of the Lahontan Regional Water Quality Control Board from the Office of the Chief Counsel (Jan. 21, 1983, at p. 6).)

When Water Code section 13141 was amended to include requirements related to agricultural water quality control programs, it was clear that these requirements would be met before implementation of any such program, including the type and nature of programs identified in the Preliminary Draft Order. More specifically, the State Water Board stated in its Enrolled Bill Report to the Governor’s office that “[t]his bill will not prevent

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implementation and enforcement of agricultural water quality control programs. It will require, however, that the State and Regional Boards consider, and include in the basin plans, an economic study of an agricultural water quality control program in terms of total cost estimate and potential sources of financing *before* implementing such a program.” (See Enrolled Bill Report to SB 904 from State Water Resources Control Board at p. 1, emphasis added.) The purpose of this provision, and the State Water Board’s reason for encouraging signature of the legislation, was further expressed as follows:

This bill is consistent with existing SWRCB policy regarding regulation of agricultural wastewater discharges.

Agriculture is presently the largest user of the State’s freshwater resources. The Board recognizes that in many instances discharges of agricultural wastewaters create water quality problems. However, the Board also recognizes that there are inadequate institutional, financial, and technological means at this time for the development and management of a comprehensive and effective agricultural water quality control program. While, in specific instances, agricultural discharges can and should be dealt with under existing law, long-term water quality problems, such as nonpoint source control and salinity control programs, represent more difficult problems and the costs associated with implementation of these programs can be enormous. *Therefore, it is the Board’ policy that any agricultural water quality control program must be carefully examined and formulated before it is implemented, and the costs and sources of financing would be a material consideration before any decision is made. (Id. at p. 2, emphasis added.)*

In light of the requirements expressed in Water Code section 13141, and the clear intent with respect to application of these requirements, the Preliminary Draft Staff Report must reflect the Central Coast Water Board’s obligation to pursue a Basin Plan amendment accordingly prior to adoption of the program described in the Preliminary Draft Order. Further, as indicated above, the Central Coast Water Board must materially consider the costs associated with the program prior to adoption. Thus, we encourage the Central Coast Water Board to immediately commence development of cost information.

**I. The Terms and Conditions in the Preliminary Draft Order Exceed the Central Coast Water Board’s Lawful Authority to Protect Water Quality**

The Preliminary Draft Order consists of many different parts, all of which are objectionable. The actual “waiver” is set forth in the Preliminary Draft Order and consists of 25 pages and 141 findings. The inaccuracy and unlawfulness of the findings are too many to address here. Further, the findings express the same hostility and bias found in the Preliminary Draft Staff Report. As stated earlier, we find the tenor and tone of the staff recommendation to be completely offensive as it fails to review information objectively and fails to propose a reasonable program to control agricultural discharges. Additionally, the

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operative provisions of the Preliminary Draft Order contained in the various attachments are unlawful for many reasons, which are addressed below.

Attachment B to the Preliminary Draft Order, titled *Terms and Conditions for Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands* (Attachment B) contains most of the substantive provisions that would be applied to agricultural growers in the Central Coast Region. In general, Attachment B includes significant substantive provisions that exceed the Central Coast Water Board's legal authority to protect water quality. As indicated earlier, activities which may affect the quality of waters "shall be regulated to attain the highest water quality which is *reasonable*, considering all demands being made and to be made on those waters, . . . ." (Wat. Code, § 13000, emphasis added.) The Central Coast Water Board is required to conform to and implement these policies. (See Wat. Code, § 13001.) Significant provisions of Attachment B which fail to comply with the Legislature's intent, as well as other requirements in Porter-Cologne, include but are not limited to certain general provisions specified in Part A, certain discharge prohibitions in Part B, technical report requirements in Part C, management practice implementation requirements in Part E, groundwater protection requirements in Part F, and aquatic habitat protection requirements in Part G. Water quality standards identified in Part D are discussed with our comments on application of water quality objectives.

#### **A. General Provisions – Part A**

Part A provides general provisions with which growers would be required to comply. Failure to comply with the general provisions or any other provision in Attachment B may result in an enforcement action under the California Water Code. Enforcement under the Water Code may include the assessment of significant monetary penalties for failing to comply. Considering the potential impact that may result from a grower's inability to comply with the proposed conditions set forth in Attachment B, it is imperative that all of the terms and conditions be reasonable and feasible. Unfortunately, this is not the case. Many of the requirements expressed in Part A are not applicable to agricultural discharges, are inconsistent with Porter-Cologne, and/or are not reasonable.

For example, Part A would require dischargers to comply with the Basin Plan and all other applicable water quality control plans identified in Attachment A, *Applicable Water Quality Control Plans and Definitions for Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands* (Attachment A). (Attachment B at p. 52.) However, Attachment A identifies several plans and policies that are not applicable to discharges from agricultural operations. In particular, the following policies listed in Attachment A do not apply: *Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California*, *Water Quality Control Policy for Enclosed Bays and Estuaries of California*, *Sources of Drinking Water Policy* (except as incorporated directly into the Basin Plan), *Policy for Implementation of*

*Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, and Water Quality Control Plan for Ocean Waters of California.*

In another example, Part A would require agricultural growers to not “(a) cause, (b) have a reasonable potential to cause, or (c) contribute to an excursion above or outside the acceptable range for any Regional, State or Federal numeric or narrative water quality standard . . . .” (Attachment B at p. 52.) The terms “cause,” “have the reasonable potential to cause,” “or contribute to an excursion” are legal terms used in the federal regulatory scheme for the application of water quality based effluent limitations to point sources subject to NPDES permit requirements. (See 40 C.F.R. § 122.44(d)(1)(i).) Such a requirement is inapplicable to agricultural discharges because discharges from agriculture are specifically exempt from the NPDES permit provisions of the CWA. (See CWA § 402(1); see also 40 C.F.R. § 122.3(e).)

Additionally, Part A would require irrigation water to be of a quality that complies with groundwater quality objectives at the time of application. (See Attachment B at p. 52.) Although the language used attempts to connect the requirement to excess irrigation water as it “enter[s] the ground,” in reality the only way to “assure” protection is to control the quality of water used for irrigation. This requirement is unreasonable and inconsistent with Porter-Cologne because the use of water for irrigation is not a “discharge of waste.”

The legislative history of Porter-Cologne indicates “[t]he discharge of waste does not take place while water is still being used to irrigate crops in the fields.” (Report of the Assembly Committee on Water concerning Assem. Bill 413 (Assembly Report) at p. 3.) The Legislature also made the following clarification: “after the irrigation has taken place and after a subsequent discharge into a watercourse or other waters of the state of runoff water or return flows from the irrigated fields, it is not intended to limit the existing authority of the regional boards to issue waste discharge requirements that are needed to protect the quality of the waters of the state.” (Assembly Report at p. 3.) The State Water Board’s Office of Chief Counsel further explained “discharges of agricultural drainage which seep through the soil and reach groundwater come under the regulatory authority of the Regional Board.” (Analysis of Legal Issues Raised by the San Joaquin River Basin Technical Committee, Prepared by Sheila K. Vassey, Office of Chief Counsel, State Water Resources Control Board (Feb. 1987, as amended April 1987) (Analysis) at p. 45.)

The Legislature has not defined what constitutes “agricultural drainage.” The regulatory distinction between percolation from irrigation and agricultural drainage resulting in discharge is unclear. The State Water Board Office of Chief Counsel appears to support the argument that the discharge of agricultural drainage occurs after the drainage water has been collected and stored in a manner that then seeps through soil to reach groundwater. (Analysis at p. 45 [“]b[ecause irrigation return flows and agricultural drainage waters constitute waste, the discharge of these wastes into a disposal area or into receiving waters is subject to regulation if the discharge could affect either surface or groundwaters”].) Further,

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the State Water Board's regulations governing the appropriation of water rights specifically provide that "[n]o permittee shall be required to file a report of waste discharge pursuant to Section 13260 of the Water Code for percolation to the groundwater of water resulting from the irrigation of crops." (Cal. Code Regs., tit. 23, § 783.) Thus, the State Water Board does not consider the percolation of irrigation water to groundwater a "discharge of waste."

Based on the State Water Board's treatment of the distinction between percolation and discharge, agricultural activities subject to regional board authority for the protection of groundwater is limited to those activities that collect and store agricultural drainage water versus the application of water for irrigation that may percolate to groundwater. Thus, the Central Coast Water Board proposes to exceed its authority by requiring irrigation water to be of a quality sufficient to protect beneficial uses.

Part A also includes mandates for compliance that apply to more specific provisions contained in other parts of Attachment B (e.g., Farm Plans and monitoring requirements). Our concerns with these provisions are addressed below.

#### **B. Discharge Prohibitions – Part B**

Part B includes discharge prohibitions that exceed relevant provisions in Porter-Cologne. Porter-Cologne provides "[a] regional board, in a water quality control plan or in waste discharge requirements, may specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted." (Wat. Code, § 13243.) Porter-Cologne does not authorize a regional board to prohibit discharges as part of a waiver issued pursuant to Water Code section 13269. (Wat. Code, § 13269.)

Furthermore, the discharge prohibition provisions proposed undercut the primary purpose for adoption of a waiver, or any order for that matter. Waivers from waste discharge requirements and water discharge requirements in general are intended to ensure that discharges of waste are controlled to protect water quality considering the beneficial uses of waters of the state, and water quality objectives reasonably required for the purpose of protecting beneficial uses. (See Wat. Code, §§ 13263, 13269.) Part B would propose blanket prohibitions on any discharge that may violate applicable water quality standards. For example, provision 21 directly contradicts provision 4 in Part A. Provision 4 in Part A provides for a compliance schedule in which discharges may not violate water quality standards. In contrast, provision 21 in Part B constitutes a direct prohibition without any consideration or application of time schedules contained in the Preliminary Draft Order.

Other discharge prohibitions in Part B are unlawful because they are completely unrelated to the discharge of waste and outside the Central Coast Water Board's authority to regulate and protect water quality. In particular, provisions 27 and 31 would prohibit activities that are NOT a discharge of waste. Provision 27 would prohibit the use of fertilizers in excess of crop needs. The Central Coast Water Board has no authority to dictate or control the amount of fertilizer used by any grower. Furthermore, the Central Coast Water Board

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does not have the ability or expertise to determine if fertilizer application is in fact in excess of crop needs. As a practical matter, growers do not typically apply fertilizers in excess of crop needs because to do so is expensive and wasteful.

With respect to provision 31, the Central Coast Water Board is attempting to prohibit the degradation of habitat, which again exceeds the Central Coast Water Board's authority. Prohibiting activities that may degrade habitat is unrelated to a prohibition against a discharge of waste. Moreover, many of the activities identified in provision 31 are subject to review and regulation by the California Department of Fish and Game and its authority to regulate any activity that may substantially impact any bed, bank or channel of any stream. (See Fish & G. Code, § 16000 et seq.)

### **C. Technical Reports – Part C**

According to Part C, the Central Coast Water Board is requiring technical reports pursuant to Water Code section 13267. The Central Coast Water Board's ability to require reports pursuant to this provision is not without constraints. In order for a section 13267 request to be upheld, the Central Coast Water Board has the burden of explaining to the discharger the need for the information and for identifying substantial factual evidence that supports requiring the reports, *i.e.*, demonstrates a nexus between the requested information and the Central Coast Water Board's statutory authority to investigate water quality. Mere assertions that such a nexus exists are insufficient to support a section 13267 request. Most of the technical report requests proposed in Part C, and the specific information required in Part E discussed in section J.D below, fail in whole or part to meet the Central Coast Water Board's statutory authority. Further, many of the technical report requirements include substantive provisions that exceed the Central Coast Water Board's authority.

#### **1. Notice of Intent (NOI)**

To be classified as a "Low-Risk Discharge," a grower would need to demonstrate in the NOI that all tailwater has been eliminated and the farm is not within 1,000 feet of an impaired surface water body. Additionally, the NOI would need to demonstrate effective use of integrated pest management (IPM), a certified nutrient management plan and use of stormwater control measures. In this case, if the discharger is able to demonstrate that tailwater has been eliminated, there is no need for the discharger to provide information regarding location of the operation versus impaired water bodies. Also, the burden of demonstrating effectiveness of IPM and use of nutrient management plans bears no reasonable relationship to the Central Coast Water Board's need for the information.

For those that do not meet the eligibility requirements as a "Low-Risk Discharge," the NOI must include information regarding crops, chemical inputs used, irrigation system type, and nitrate concentrations in irrigation source water, among other things. In particular, the NOI would need to include an identification of "[c]hemicals applied in a manner that may result in the material coming in contact with irrigation water, stormwater, surface water, or

groundwater[,]” and would require identification of “nitrate concentration in irrigation source water.” (Attachment B at p. 58.) The request for this information does not meet the Central Coast Water Board’s burden because the Central Coast Water Board has failed to explain how the burden of providing such information assists them in investigating water quality associated with “discharges of waste.” For example, chemicals are often applied to crops through the irrigation system (i.e., chemigation). However, the use of chemigation does not mean that agricultural tailwater will in fact include concentrations of these chemicals in levels that will impact water quality standards, which are applicable to the receiving waters.<sup>1</sup> Thus, this information would provide the Central Coast Water Board with no real information regarding water quality levels in nearby waters of the state. In contrast, the burden of identifying all potential chemicals that might be used within the five-year term of the waiver by an ever-changing farming operation would be speculative, and leave the grower in peril if a chemical needed in five years was not identified with the original NOI.

Similarly, the Central Coast Water Board fails to properly support its request for nitrate concentrations in irrigation source water. The level of nitrate in irrigation source water does not necessarily predict the level of nitrate that may result in receiving waters due to discharges of agricultural waste. The cost of testing irrigation source water that may be used within the next five-year period, however, is unreasonable as compared to the usefulness of the information. Thus, the request for this information in the NOI does not satisfy the requirements specified in Water Code section 13267.

## **2. Farm Water Quality Management Plan (Farm Plan)**

Under the Preliminary Draft Order, the required Farm Plan would need to identify certain types of management practices including the use of IPM. In fact, the Farm Plan would require a grower to maximize IPM practices. However, the Central Coast Water Board has no authority to mandate or require the use of IPM by individual growers. IPM is defined in Attachment A to mean a pest management strategy that focuses on long-term prevention or suppression of pest problems and uses pesticides only when necessary according to pre-established guidelines or treatment thresholds. (Attachment A at p. 33.) In other words, through the Farm Plan, the Central Coast Water Board is attempting to prohibit the use of pesticides except in accordance with IPM guidelines and treatment thresholds.

In California, pesticides are regulated by the California Department of Pesticide Regulation (DPR). (Food & Agr. Code, § 11454.) The DPR’s primary purposes include (1) providing for the proper, safe, and efficient use of pesticides essential for production of food and fiber; (2) protecting public health and safety; (3) protecting the environment; (4) protecting agricultural and pest control workers; (5) assuring consumers and users that pesticides are properly labeled; and (6) encouraging the development and implementation of pest management systems that stress application of biological and cultural pest control

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<sup>1</sup> As discussed further in section II below, water quality standards apply to waters of the state, not tailwater leaving an agricultural property.

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techniques with selective pesticides when necessary. (Food & Agr. Code, § 1501.) In 1984, the California Legislature declared that, “matters relating to (pesticides) are of a statewide interest and concern and are to be administered on a statewide basis by the state unless specific exceptions are made in state legislation for local administration.” (Stats. 1984, ch. 1386.) To ensure that the state maintained sole jurisdictional authority over the regulation of pesticides, the California Legislature adopted a statute that vested complete control and regulation of pesticides including the registration, sale, transportation, or use of pesticides with the state, and the DPR in particular. (Food & Agr. Code, § 11501.1.)

Although the Central Coast Water Board is a state agency, it is not vested with the authority to regulate or restrict pesticide use by individuals. As the Food and Agricultural Code indicates, the DPR is vested with the authority to regulate and restrict the use of pesticides in California. The Central Coast Water Board’s authority is limited to matters that pertain to water quality. (Wat. Code, § 13225.) It does not include the authority to direct growers with regard to its pesticide applications, storage and use records, or to direct the means to comply with a permit. Thus, the requirements in the Preliminary Draft Order that direct the growers to implement IPM practices are unlawful.

Additionally, Attachment B would require growers to submit the Farm Plans at any time, upon the request of the Executive Officer. (Attachment B at p. 60.) The burden of submitting Farm Plans, which will automatically make them public documents, does not bear a reasonable relationship to the Central Coast Water Board’s need. Farm Plans contain significant amounts of proprietary information. Those individuals required to submit Farm Plans will be at a competitive disadvantage versus those that are not. In the meantime, the Central Coast Water Board has the authority to visit grower operations and review Farm Plans on-sight without requesting their submittal. Thus, the Central Coast Water Board is able to review Farm Plan content without placing an undue burden on some by requiring them to submit Farm Plans to a public agency thereby making public previously held proprietary information.

#### **D. Management Practice Implementation Requirements – Part E**

As discussed in part above, many of the Farm Plan requirements exceed the Central Coast Water Board’s legal authority specified in Porter-Cologne. Part E provides further detail with respect to those Farm Plan requirements and therefore provides additional information to further support the fact that the Central Coast Water Board is attempting to place unlawful requirements on growers under the guise of protecting water quality. Applicable in all of the management practice implementation requirements is a prohibition of irrigation runoff from a farming operation that is “adjacent to, or in close proximity” of an impaired water body or a tributary to an impaired water body. (See Attachment B at pp. 62-65.) “Adjacent to or close proximity” is defined to mean within 1,000 feet. As stated previously, the Central Coast Water Board has the authority to place conditions on dischargers through waivers to protect beneficial uses and reasonable water quality objectives,

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however, the Central Coast Water Board has no authority to require the elimination of tailwater discharges altogether. Further, discharge prohibitions must be adopted as part of a water quality control plan or waste discharge requirements, and are limited in scope and area. (See Wat. Code, § 13243.) Defining “adjacent to or in close proximity” to mean 1,000 feet is unreasonable and hardly limited in scope and area. To put it into perspective, 1,000 feet exceeds the distance of three football fields. The Central Coast Water Board has provided no justification or evidence to support the need for a discharge prohibition within 1,000 feet of an impaired water body or its tributaries.

We address other specific management practice implementation requirements in more detail here.

### **1. Irrigation Management**

Attachment B would require submittal of irrigation management information that exceeds the Central Coast Water Board’s authority pursuant to Water Code section 13267. As discussed above, Water Code section 13267 requires that technical report information bear a reasonable relationship to the Central Coast Water Board’s need for the information. Further, a regional board bears the burden of showing that the request is reasonable. Part E would require a Farm Plan to include in relevant part information regarding: type of irrigation system, distribution efficiency, and distribution uniformity; average total water demand per crop; total water applied per crop; and, schedule, duration, and frequency of irrigation waters. The burden on a grower to prepare and put forward this type of information in a Farm Plan for the Central Coast Water Board’s purposes is significant. Specifically, agriculture is not a static endeavor that remains the same on an annual, or seasonal basis. Irrigation demand is constantly changing due to hydrology and crop needs. It is not possible for a Farm Plan that is supposed to be prepared prospectively to include the schedule, duration, and frequency of irrigation for any crop. Thus, to meet the Farm Plan requirements, growers will need to speculate on future irrigation schedules. In contrast, speculative information regarding irrigation schedules provides the Central Coast Water Board with no useful information regarding potential impacts to water quality.

In another egregious example, Attachment B would set minimum irrigation system distribution uniformity requirements. (See Attachment B at p. 62.) As explained previously, the Central Coast Water Board has the authority to place conditions on waste discharges to protect waters of the state, not dictate agricultural irrigation management. Further, this requirement violates Water Code section 13360, which prohibits the regional board from dictating the particular manner of compliance.

### **2. Pesticide Runoff/Toxicity Elimination**

As indicated above, the Central Coast Water Board does not have the legal authority to require growers to implement IPM, or the legal authority to restrict the use of pesticides. However, the pesticide runoff and toxicity elimination management measures include

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requirements with respect to IPM and pesticide use restrictions that are outside the Central Coast Water Board's water quality authority. Specifically, Attachment B would require growers to use University of California IPM program guidelines and set buffers for pesticide applications. The use of IPM is voluntary and may not be mandated by the Central Coast Water Board, or for that matter, the DPR. More importantly, restrictions on the use of pesticides are solely within the DPR's legal authority. (Food & Agr. Code, § 11501.1.) Buffers are established on labels for specific pesticides, where appropriate. Moreover, the DPR is considering the adoption of *Restrictions to Address Pesticide Drift and Runoff to Protect Surface Water* (Surface Water Regulations).<sup>2</sup> In the draft Surface Water Regulations, DPR proposes to restrict ground applications of pesticides within 25 feet of any sensitive aquatic site. (See DPR's Draft Surface Water Regulations at § (a)(1).) Contrary to DPR's proposed regulations, the Central Coast Water Board proposes to limit ground applications of pesticides within 50 feet of *any* surface water body. (Attachment B at p. 64.) Regardless of the conflict, the Central Coast Water Board has no authority to restrict the use of pesticides in the manner proposed.

Further, the buffer requirements specified in Attachment B violate Water Code section 13360. As stated before, section 13360 prohibits the Central Coast Water Board from dictating the manner of compliance. In this case, Attachment B proposes to set forth specific prescriptions for which growers would need to comply. As such, the buffer requirements dictate the manner of compliance and are unlawful. (See *In the Matter of the Petition of the United States Department of Agriculture, Forest Service, etc.* (April 21, 1983) Order No. WQ 83-3, at pp. 4-6, State Water Board found certain best management practices to require dischargers to follow certain prescriptions and such prescriptions specified the manner of compliance in violation of Wat. Code, § 13360.)

### 3. Nutrient and Salt Management

The Central Coast Water Board proposes to regulate the use of fertilizers in a manner that far exceeds its authority to protect water quality. As stated previously in many ways, the Central Coast Water Board's authority to protect water quality is not without constraints. In general, Porter-Cologne requires a regional board to regulate in a manner that is reasonable, considering all the demands being placed on the water. Porter-Cologne also asserts that a regional board's request for technical information may not be unreasonable as compared to the burden of compiling the information, including cost. The proposed requirements related to nutrient and salt management clearly exceed any normal person's perception of what is reasonable.

For example, the nutrient management element of the Farm Plan must be approved by a Certified Crop Advisor, and would be required to include, in part, the following:

(1) average total crop nutrient demand and method(s) of determination per crop; (2) average

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<sup>2</sup> DPR is currently holding workshops on the proposed regulations and anticipates submitting them to the Office of Administrative Law in June of 2010. For more information, visit <http://www.cdpr.ca.gov/docs/emon/surfwtr/regulatory.htm>.

total water demand per crop and total water applied per crop; (3) monthly record of fertilizer applications per crop; (4) nitrate concentration of irrigation source water; (5) timing of fertilizer application to maximize crop uptake; (6) estimation of the amount of fertilizer applied in excess of crop needs; and (7) estimation of excess or residual fertilizer/nutrients in the root zone at the end of the crop growing season. While most of this information may be useful to a grower for business purposes, this information provides no benefit to the Central Coast Water Board to determine if best management practices are being implemented to protect water quality. Further, the request to compile this information into a Farm Plan that may become a public document upon the Central Coast Water Board's request is unreasonable as compared to the burden on the individual grower. Not only is there the cost of having a Certified Crop Advisor prepare and certify the nutrient management element, but it also provides for public access to proprietary information.

With respect to salt management, the provisions in Attachment B are *not* consistent with the salt management provisions in the Basin Plan. For example, Attachment B would propose to eliminate the use of leaching to control salt in the soil profile. However, the Basin Plan provides that implementation of leaching with the use of low leaching fractions can be beneficial. (See Basin Plan at p. IV-48.) The Basin Plan also recognizes that with salts the issue is much larger to solve than can be accomplished on an individual farm basis, yet the Preliminary Draft Order fails to recognize the need to address the issue regionally. (See Basin Plan at p. IV-49 [“The off- farm part of drainage, however, is too big for individual farmers to solve, and some form of collective, organized large scale action is needed.”].)

#### **4. Aquatic Habitat Protection**

As with the other management practice implementation requirements, the information requested in conjunction with the aquatic habitat protection element of the Farm Plan exceeds the Central Coast Water Board's authority to request information. The burden of preparing the information does not bear a reasonable relationship to the Central Coast Water Board's need for the information. For example, the Farm Plan would need to document a wetland area habitat. The term wetland is somewhat ambiguous and has yet to be defined by the State Water Board. The definition identified in Attachment A is a definition developed for the Technical Advisory Team for the California Wetland and Riparian Area Protection Policy. The document that discusses the definition states upfront that “[t]his is not a draft or final California state wetland definition. This is the wetland definition recommended by the Technical Advisory Team to the Policy Development Team for the California Wetland and Riparian Area Protection Policy.” In other words, the definition is not one proposed or adopted by the State Water Board in any way. Thus, it is inappropriate for the Central Coast Water Board to use the definition here. Further, it is unreasonable to request growers to identify wetland areas when such a term is not currently defined by the State Water Board for water quality regulatory purposes. Considering the controversy surrounding what constitutes a wetland, such an exercise would be futile.

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Moreover, the requirements specified in Part G for which implementation is required as part of the Farm Plan, are unlawful and must be removed. We provide more specific comments on Part G below.

#### **E. Groundwater Protection Requirements – Part F**

The Central Coast Water Board may not require dischargers to construct and maintain ponds, reservoirs, and other containment structures to avoid leaching of waste to groundwater. (See Attachment B at p. 69.) As discussed previously, prescriptive requirements such as these are considered to dictate the manner of compliance, which is unlawful. (See section I.D.2, *ante*.) With respect to provision 77, it is unnecessary for the Central Coast Water Board to identify actions that the Central Coast Water Board “might” take. In this provision, the Central Coast Water Board attempts to threaten growers by stating that the Executive Officer may require sampling of private wells pursuant to Water Code section 13267, however, the provision does not indicate under what circumstances the Executive Officer would issue such an order. As indicated above, the Central Coast Water Board’s authority, as implemented here through the Executive Officer, is not without constraints. Before requiring a grower to conduct such sampling, the Executive Officer would need to provide sufficient evidence to show that the cost and burden of collecting the information was necessary for the Central Coast Water Board’s purposes.

Provision 77 further attempts to threaten growers by stating that the Central Coast Water Board may require growers to provide alternative water supplies pursuant to Water Code section 13304. Unfortunately, the references to this authority are incomplete and fail to fully explain how the Central Coast Water Board might be able to require growers to provide alternative water supplies. Water Code section 13304 is an enforcement mechanism that allows regional boards to issue Cleanup and Abatement Orders where waste is, or probably will be, discharged into waters of the state, and threatens to create a condition of pollution or nuisance. As part of a Cleanup and Abatement Order, a regional board may require replacement water be provided. To issue a Cleanup and Abatement Order, the Central Coast Water Board will need to provide substantial evidence that the grower in question was causing the condition of pollution or nuisance. It is not an authority that the Central Coast Water Board may use without appropriate due process. Nor is it appropriate to reference the Central Coast Water Board’s enforcement authority here because it implies that it is a substantive provision of the Preliminary Draft Order itself.

#### **F. Aquatic Habitat Protection Requirements – Part G**

The aquatic habitat provisions in Part G are unlawful and impractical for many reasons. Among other things, the provisions result in an unconstitutional taking of private property, unlawfully dictate the manner of compliance, supersede the authority of the Department of Fish and Game, prevent waterway maintenance activities for flood control, prohibit growers from complying with buyer specifications that may be necessary for food

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safety reasons, and unlawfully require federal permits under the CWA for activities that are specifically exempt.

### **1. The Aquatic Habitat Restrictions Are an Unconstitutional Taking of Private Property**

The Preliminary Draft Order proposes minimum riparian buffer widths of 50 feet, 75 feet, and 100 feet for tier 1, 2, and 3 streams, respectively. The Preliminary Draft Order argues that the buffers are necessary to protect aquatic habitat. Additionally, the Preliminary Draft Order would mandate that growers maintain vegetation in the buffer zones, and would prohibit the removal of vegetation for food safety reasons. Individually and collectively, the aquatic habitat requirements are governmental regulations that deprive agricultural landowners near streams of the economic benefit of their private property. Deprivation in this manner constitutes a taking under the State and Federal Constitutions. (See *Penn Central Transp. Co. v. City of New York* (1978) 438 U.S. 104; see also *Allegretti & Co. v. County of Imperial* (2006) 138 Cal.App.4<sup>th</sup> 1261.) Pursuant to current regulatory takings jurisprudence, in making this determination courts examine the economic impact on the land in question, the investment-backed expectations of the landowner, and the character of the government action. For the reasons below, the Central Coast Water Board's aquatic habitat provisions would meet the balancing test set forth by the courts, and would be considered a taking of private property.

First, to address economic impact, it must be determined if the regulation unreasonably impairs the value or use of the property in light of the owner's general use of that property. The economic impact of the aquatic habitat regulations on growers in the Central Coast is potentially significant. Productive farmland will be forced out of production and produce buyers may not purchase product from growers where there is significant vegetation near the edge of the field. Thus, not only will growers lose valuable farmland in the buffer area, but the crop as a whole may be unmarketable because of the vegetation that would be required in the buffer area. Second, the general use of land affected by the proposed regulation is most likely designated for and dedicated to the production of agriculture. This general use would be completely eliminated by the regulatory requirements mandating the maintenance of a riparian buffer zone, thereby causing an unquestionably severe economic impact on the landowner. Next, the regulations proposed by the Central Coast Water Board would almost certainly interfere with the investment-backed expectations of the landowners. Agricultural land is purchased with the expectation that it is productive ground—suitable for the crops grown by the grower. With the purchase of agricultural land, growers also invest in machinery and a labor force necessary to grow and harvest the commodity in question. By depriving landowners of all economically beneficial use of the land by designating a riparian buffer zone and requiring maintenance of vegetation regardless of food safety concerns, the proposed regulation will severely interfere with the investment-backed expectations of the landowners. Finally, while the proposed regulation may not constitute a typical physical invasion or appropriation of the land, the proposed regulation would effectively appropriate

these riparian buffer zones to the Central Coast Water Board for their perceived public benefit. Even if no such appropriation is found, the severity of the economic impact and the devastation of the investment-backed expectations of the landowners are sufficient to demonstrate a regulatory taking.

**2. The Aquatic Habitat Regulations Unlawfully Dictate the Manner of Compliance**

As discussed previously (section II.D.2, *ante*), the Central Coast Water Board is prohibited from prescribing the manner of compliance. (Wat. Code, § 13360.) A regional board may adopt waiver conditions that identify what must be done (i.e., protect aquatic habitat); however, a regional board cannot prescribe how it should be done. In the Preliminary Draft Order, the Central Coast Water Board proposes to dictate that buffers of certain sizes must be maintained, vegetation must be maintained, clearing of beneficial vegetation is prohibited, clear cutting or creating bare dirt is prohibited, and channel clearing is prohibited. All of these requirements clearly dictate how to comply with the general requirement to protect aquatic habitat. Furthermore, the requirement for clear cutting or creating bare dirt would apply to all areas of the agricultural operation and not just the riparian buffer areas. In other words, growers would be prohibited from removing vegetation and debris prior to preparing ground for the next planting.

**3. The Central Coast Water Board Is Attempting to Supersede the Department of Fish and Game's Requirements for Streambed Alteration Requirements**

In Part G, the Central Coast Water Board is attempting to take control of decisions that are rightfully administered by the California Department of Fish and Game (DFG). Department of Fish and Game Code section 1600 et seq. provide the DFG with the authority for reviewing and approving any proposed activity that may substantially, "divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel or bank of, any river, stream, or lake . . . ." (Fish & G. Code, § 1602.) Without the DFG's approval, the activity is prohibited. (*Id.*) Here, the Central Coast Water Board is attempting to interfere with the DFG's authority by prohibiting any such activities altogether. We contend that the Central Coast Water Board has neither the authority nor the expertise to prohibit activities in the stream.

First, relevant portions of the Fish and Game Code may only be administered and enforced through the DFG. (Fish & G. Code, § 702.) Second, staff at the DFG have the expertise to determine what activities in streams may be detrimental to aquatic life—not Central Coast Water Board staff. Instead of adopting blanket prohibitions, the Central Coast Water Board should merely reference the need to comply with Fish and Game Code section 1600 et seq., as administered by the DFG.

#### **4. The Central Coast Water Board Is Attempting to Expand Application of CWA Requirements**

Provision 80 of the Preliminary Draft Order implies that an agricultural discharge to a water of the United States is subject to CWA permitting requirements. (Attachment B at p. 70.) If that is so, the Central Coast Water Board is ignoring the provisions in the CWA that specifically exempt agricultural discharges from the NPDES permitting requirements of the CWA. Further, the primary purpose of the Preliminary Draft Order is to provide growers with the ability to comply with Porter-Cologne. As worded in provision 80, the Preliminary Draft Order would not provide the regulatory mechanism for discharges to surface waters that are considered waters of the United States.

#### **II. Preliminary Draft Order Inappropriately Proposes Application of Water Quality Objectives to Irrigation Runoff and Unlawfully Creates Unadopted Water Quality Objectives**

Buried in the preface to Tables 1A and 1B in Attachment A is the statement that “water quality objectives indicated by a double asterisk (\*\*) must be met in irrigation runoff per the compliance time schedule contained in the Preliminary Draft Agricultural Order, Part H and are included as individual discharge monitoring requirements.” (Attachment A at p. 40.) Water quality objectives identified with the double asterisk include toxicity, ammonia, nitrate, pH, temperature, total dissolved solids, and turbidity. By requiring irrigation runoff to meet water quality objectives, the Central Coast Water Board is in effect adopting end-of-pipe effluent limitations for all irrigation runoff. Additionally, Tables 1A and 1B include numeric values as “Indicators of Narrative Objective” that are de facto water quality objectives.

Water quality objectives are defined to mean, “the limits or levels of water quality constituents or characteristics which are established for the *reasonable* protection of beneficial uses of water . . . .” (Wat. Code, § 13050(h), emphasis added.) Porter-Cologne requires each regional board to establish water quality objectives in Basin Plans, and to adopt the Basin Plans through a public hearing process. (Wat. Code, §§ 13241, 13244.) More importantly, when adopting water quality objectives, regional boards must comply with Water Code section 13241, which requires consideration of a number of factors, including economics and the feasibility of the meeting the objective. (See Wat. Code, §§ 13241(c), (d).) Table 1A identifies many “Indicators of Narrative Objectives.” For example, the Biostimulatory Substances objective includes an indicator of 1 mg/L of nitrate to protect aquatic life beneficial uses from biostimulation. (Attachment A at p. 43.) The source for this indicator is a technical paper prepared by the Central Coast Water Board staff. The indicator of 1 mg/L for nitrate has never been proposed or adopted as a water quality objective. Thus, it has not been found to be necessary to *reasonably* protect the aquatic life beneficial use. Without going through the formal adoption process, it is impossible to know the economic impacts associated with meeting this objective, and if it could reasonably be achieved. The Central Coast Water Board cannot ignore its legal responsibility to adopt water quality

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objectives pursuant to Porter-Cologne by claiming that they are "Indicators of Narrative Objectives." Unless the Central Coast Water Board adopts the pseudo water quality objectives pursuant to the law, the "indicator" values identified are unlawful and must be removed from Tables IA and IB.

Next, water quality objectives are adopted to protect the beneficial uses of the *receiving water*. In other words, water quality objectives apply to the receiving waters of the state and not irrigation runoff at the end of the field. It is inappropriate for the Central Coast Water Board to adopt blanket end-of-field effluent limitations for constituents by claiming that the objectives must be met in irrigation runoff. Effluent limitations are typically ordered by a regional board through the adoption of waste discharge requirements under Water Code section 13263. When adopting waste discharge requirements, a regional board is required to consider a number of factors, including the provisions of Water Code section 13241 (e.g., economics). (Wat. Code, § 13263(a).) A blanket effluent limitation as proposed for adoption here ignores the requirements of Water Code section 13263. Further, the adoption of effluent limitations is not consistent with adoption of a waiver from waste discharge requirements, and the Central Coast Water Board's adoption of a waiver cannot be used to circumvent requirements in Porter-Cologne that would otherwise apply.

As a practical matter, some of the constituents identified with a double asterisk cannot be applied directly to irrigation runoff. For example, the water quality objectives for pH and turbidity specifically refer to ambient, or receiving water conditions. Thus, it is impossible to apply these objectives directly to irrigation runoff. Attachment A and Tables IA and IB must be revised to indicate that the water quality objectives identified apply only to waters of the state, and not at the end of the field or in agricultural drainage facilities. Further, only actual water quality objectives adopted legally into the Basin Plan should be included in the tables. All others must be deleted, as they are unlawfully adopted water quality objectives.

### **III. The Burden of Preparing and Complying With the Monitoring and Reporting Requirements Fails to Bear a Reasonable Relationship to the Need, and Therefore are Unlawful**

The Preliminary Draft Report describes the monitoring and reporting requirements anticipated for growers subject to the Preliminary Draft Order, including as follows: (1) Individual Discharge Characterization Monitoring; (2) Individual Discharge Monitoring; (3) Watershed Monitoring; and (4) Additional Monitoring Required by the Executive Officer. (See Preliminary Draft Report at pp. 19-25.) Although the details of the proposed monitoring programs have yet to be released, the descriptions provided indicate that the burden of preparing the individual discharge characterization and conducting individual discharge monitoring will not bear a reasonable relationship between the Central Coast Water Board's need for the information as compared to the benefits to be obtained. (See Wat. Code, § 13267(b)(1).) In particular, as part of the characterization report, individual growers will be required to monitor, among other things, flow, toxicity, total nitrogen, nitrate, and ammonia in

both surface and groundwater discharge. The brief description provided does not explain how or where a grower is to measure "discharge to groundwater." Further, the brief description does not indicate the frequency of monitoring that will be required as part of the characterization report. Based on the information obtained from the individual characterization report, we can anticipate that individuals will then be required to continue to monitor for these and perhaps other constituents on an ongoing basis. Individual growers will also be required to participate in watershed monitoring efforts for both surface water and groundwater. The collective costs for monitoring on an individual basis and participating in watershed monitoring efforts are likely to be extensive. In exchange, the Central Coast Water Board obtains reams of information that would not directly relay data results regarding water quality in waters of the state. For example, monitoring irrigation runoff is not useful for it fails to account for dilution and degradation of constituents that may occur prior to entering or impacting a water of the state. Considering the costs associated with individual monitoring, and the Central Coast Water Board's inability to determine water quality impacts to waters of the state from concentration levels in irrigation runoff, the burden does not bear a reasonable relationship to the benefits.

In light of the significant legal and practical failings in the Preliminary Draft Order, Central Coast Water Board staff have no alternative other than to rescind the Preliminary Draft Order in its entirety. Once rescinded, Central Coast Water Board staff can then turn their attention to working with the Central Coast agricultural community to draft a reasonable program as set forth in the agricultural alternative that GSA, Farm Bureaus, and others support.

Sincerely,



Theresa A. Dunham

cc: Jeffrey S. Young, Chair, CCRWQCB (via U.S. mail only)  
Russell M. Jeffries, Vice Chair, CCRWQCB (via U.S. mail only)  
Gary C. Shallcross, Member, CCRWQCB (via U.S. mail only)  
Tom P. O'Malley, Member, CCRWQCB (via U.S. mail only)  
John H. Hayashi, Member, CCRWQCB (via U.S. mail only)  
David T. Hodgin, Member, CCRWQCB (via U.S. mail only)  
Dr. Monica S. Hunter, Member, CCRWQCB (via U.S. mail only)  
Angela Schroeter, Agricultural Regulatory Program Manager  
(via email only [aschroeter@waterboards.ca.gov](mailto:aschroeter@waterboards.ca.gov))  
Howard Kolb, Agricultural Order Project Lead Staff  
(via email only [hkolb@waterboards.ca.gov](mailto:hkolb@waterboards.ca.gov))  
Richard S. Quandt, President, GSA (via email only)

TAD:cr

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



**Re: CCRWQCB Request for Public Comments on Preliminary Draft Agricultural Order  
Dated February 1, 2010**

I am Stanley B. Borello of Borello Farms Inc, which has been located in Morgan Hill, Santa Clara County since 1960. I/We are Growers of apricots, peppers, walnuts, cherries, and we process dried tomatoes we provide jobs to 50 employees and cultivate 120 acres located in Region 3.

I have been following the progress of this Board's renewal of the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands ("Ag Order") and am concerned with Staff's draft Ag Order. The draft Ag Order will negatively impact my ability to continue producing row crop. Of particular concern to my operation is the ability to hold back storm water, keeping rain water and storm water separate from farm water and irrigation run-off. This is very concerning to me/us because of the slope of the ground it would be impossible to build or change the natural flow of the water . I/We already implement numerous best management practices to insure the least amount of run off by complying with all pesticide labels and incorporating practices to control sediment erosion, including a sediment retainer which holds back erosion installing drip irrigation and microsprinklers, we have tried to do away with the old fashioned sprinklers, all of this at a very high cost to our company This is

very concerning to me/us because farming is a needed commodity Water is a costly and precious resource, and we have implemented a variety of practices to reduce the amount we use and limit/prevent discharges, including implementing burms, and installing a waddle.

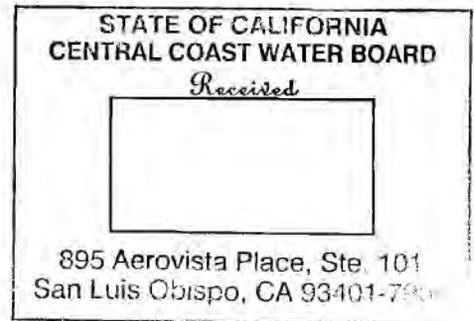
I urge the Board to listen to growers' feedback and suggestions, including mine, and to incorporate all of this feedback into the draft Ag Order. Any future Ag Order must be designed with achievable objectives and must be a transparent and collaborative process that utilizes agricultural stakeholders. The proud Farmers are the backbone of this country, the need to keep our commodities in our own country are important. Don't bite the farmers hands that feed you. Loss of grower cooperation will be counterproductive to improving water quality...

Additionally, with the value added tax "Cap and Trade" , Ag mitigation fees, pump tax fees increasing, health care bill, etc. this is just another hard row for the farmer to hoe. Please listen to the men who have fed this country , the men who have worked from sun-up to sundown, the men who feed your children.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steve Borello". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Vice President, Borello Farms Inc



P.O.Box 56  
Salinas, CA 93308

Phone: (831) 384-1300 Fax: (831) 422-0755

March 29, 2010

Ms. Angela Schroeter;

It is very demoralizing to be writing you today regarding the recent draft of the Conditional Waiver of Discharges from Irrigated Agricultural Lands for Region 3 that the Staff developed. As 6<sup>th</sup> generation landowners and farmers in the Salinas Valley we are appalled at the recommendations of the Region 3 Staff and take it as a personal jab against our family and our operation.

Representatives from our family's company have been extremely pro-active in the multiple processes that have taken place over the past 15 years regarding creation of the old ag-waiver as well as trying to participate in the process for developing the new ag-waiver. The prior collaboration of growers, industry groups as well as previous staff and board members proved to be extremely successful in adoption of the ag-waiver. The process was honored and recognized by the community and the state regarding its successes. However the recent ag committee process was an extreme waste of time for everyone involved because it became evident that the Regional Board Staff was bound and determined to create a destructive fate for the ag industry.

Part of the successes of our business is that we stay abreast and flexible to change within our industry and in our operation. We understand the need for changes and improvements, but most often these tweaks are exactly that, "tweaks" not leaps. I highly encourage you and your Board to review the industry's recommendations that have been created regarding this process and consider the "tweaks" being proposed by the ag industry rather than the "leaps" that are being dictated by Region 3 Staff.

Just to give you an example of some issues that as a grower we will NOT be able to comply or are concerning in the staffs' proposal

- 1) A huge concern is the multiple references in the document regarding riparian area, wetland habitat and buffers. This is NOT the jurisdiction of the Regional Water Quality Control Board and we are already heavily regulated by the Department of Fish and Game, US Fish and Wildlife Services, the Leafy Greens Marketing Agreement, and other

such agencies. There are heavy regulations already in these areas and the proposed rules in the new-ag waiver do NOT provide any scientific proof that they would provide any benefit to water quality.

- 2) We are heavily concerned with the enforcement aspect of the new waiver. It was evident from the prior years that the RWQCB was unable to staff the correct personnel or delegate the time to staff to actually regulate the process. It is extremely unfair to “threaten” regulation, ask growers to comply and pay money into the process to inadequately have the RWQCB maintain a proper database as well as conduct actual regulatory procedures. The economics of this entire process do not make a bit of sense especially now in the troubled economic climate of our nation, state and industry.
- 3) Heavy investments have been made by the industry by buying into the monitoring programs that Preservation Inc conducts. It has been scientifically proven that 10 years worth of data is just the STARTING point of a valid set of water quality data. Why change this, discourage this or re-invent the program and procedures, there is no need!
- 4) There is a portion in the ag-waiver requiring a nutrient management plan to be prepared and approved by and Certified Crop Advisor (CCA). I pose this question for you; do you know how many CCA’s are in the state or our region? Hardly any!
- 5) Regulations regarding pesticide application buffers and requirements are onerous and already exist through the regulatory channels of the Department of Pesticide Regulations and safeguarded by the County Ag Commissioner. This entire section of the Staff’s draft is redundant to existing regulations.
- 6) One of the most bothersome portions of the staffs’ version of the new ag-waiver is the submission of a grower’s Farm Water Quality Plan. Any type of farming data that becomes PUBLIC RECORD IS RIDICULOUS! Even though we as growers work together within our industry groups to protect agriculture, we each have our own “recipe” for success in order to maintain our competitive edge. If we were required to submit information regarding our day to day farming practices that would become public record, it would kill the industry, eliminating the entire structure of agriculture on the Central Coast.
- 7) Lastly, the most ridiculous “concept” in the Staff’s version is regarding the “conceptual plan for groundwater monitoring”, the timelines associated with elimination of irrigation runoff and the sediment and turbidity standards. Are they for real? The timeline proposed is preposterous; not containing any scientific reasoning behind it and creating a no win situation for the industry and fostering a negative image that will be placed on the

RWQCB when these standards cannot be achieved. Then, the RWQCB will be charged with the truth that they have literally flushed the leading industry out of the Central Coast.

It will be absurd if the RWQCB and the State Board approve the proposed document that was presented by the Staff because it will directly affect an industry and a way of life that has been providing healthy, wholesome, safe food for multiple generations. The rules and regulations that are proposed will literally run farmers and ranchers out of business in this state; creating fallow ground which will further increase any sedimentation issues that exist and create a loss of tax revenue to the state of California and our local communities.

I challenge you to consider:

- 1) The document that the agriculture industry is proposing.
- 2) Analyzing the "STAFF" at the Region 3 Water Quality Control Board. Any regulator or staff member, who does not understand that agriculturalists have maintained stewardship of the land to the best of their ability utilizing the best science and technology for multiple generations, deserves to STARVE!

Good luck with this tough decision and we really hope that you will be able to enjoy the fresh fruits, vegetables, meats and flowers that California producers pride themselves in producing; or else, enjoy it from lightly regulated countries such as Mexico or China!

Thank you for your time on this matter,



Martin Jefferson  
Owner/Farm Manager

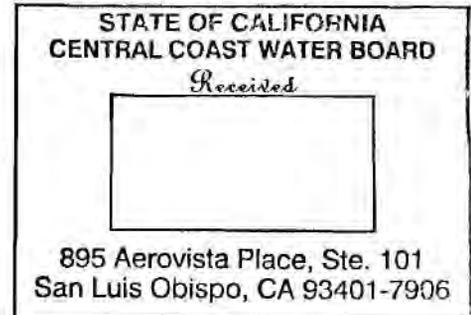


April England-Mackie  
Water Quality, Food Safety and Organic Products Manager

SEEDS, LTD.   
DIVISION OF JOHN BODGER & SONS CO.   
TELEX: 69-1511. CABLE: BODGER EL MONTE  
TELEPHONE: 442-6161 AREA CODE 213   
 BOX 5090, EL MONTE, CALIFORNIA, U.S.A. 91734

March 30, 2010

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



Dear Ms. Schoreter,

I am writing in response to your staff's draconian approach to the proposed Agricultural Wavier. In the process of obtaining information as to what and where the problems may lay, your staff at the direction of your board scraped the process and went directly to enforcement as means to obtain an end result. The time lines laid out in the proposed wavier cannot be reached, I do not care about what you have written as guidelines, they cannot be obtained in the time frames lay out. The science either peer reviewed or where ever your staff obtained these numbers cannot be reached. Your Staff has rebuffed the technical expertise of University of California scientist stating, we will use our own experts. I am only one person making this observation, but it appears the manner this proposed Agricultural Wavier is written your board wants the agricultural industry, out of business in California and will go to any means to see that take place. I am currently the production manager for John Bodger and Sons Co. dba: Bodger Seeds, Ltd. in Lompoc and we raised flower and ornamental seeds. We have been in business for 120 years and have employed about one hundred people during peak growing season.

I am a college graduate with a degree in Agronomy and have attended all of the classes that help me to make the decisions affecting all avenues of a farming operation. My family has been farming for several generations not in California, but farming knowledge has been valuable to our survival process for five generations. I am a licensed Pest Control Advisor and have been since 1979; I fully understand all the ramifications and liabilities of spraying all classes of pesticides. Believe me with the high costs of these materials a farming organization does not want to arbitrarily spray pesticides without a reason. The industry as a whole has been using the Integrated Pest Management approach to keep the balance of beneficial to predators, once that balance becomes a problem then a spray becomes necessary. The reasoning behind the program has been driven by the University of California Cooperative Extension and the guide

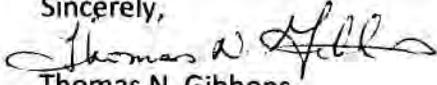
Group 13 - F52  
May 12, 2010 Workshop  
Preliminary Draft Agricultural Order

lines have also been set by Cooperative Extension. The Department of Pesticide Regulation through the label renewal process will take care of all of the criteria your staff is trying to address in the proposed wavier on where and how close a material can be sprayed to a water way. Another point, there are multiple agencies looking at ways to make sure one of the highest income (tax base) generators in California again is ruled and regulated out of existents. They have set label tolerances so low that there is no way we can operate without facing a potential law suit every time we spray, another means of tying our business operations into knots. The statement of proper calibration of equipment and surrounding conditions are all common sense, again why would any farming operation waste money by not using properly calibrated equipment.

I have been involved with the operation of Preservation Inc. and the Seven County Coalition and have seen the good that both organizations have brought to the table. I am also the immediate past President of Santa Barbara County Farm Bureau and have been involved since 2004 with the Wavier on our county level. What, I do not understand is how these organizations and the Agricultural Industry can go from the poster child to the bastard child in a five to six year period of time. In 2007, it became apparent that your board and staff had a change of heart with Agriculture. We noticed a change in the manner grant funding was being handled and we no longer were able to control our confidentiality and that is a non-negotiable point to agriculture. I was one of the principals involved with the refusal of the Guadalupe Settlement Funds because of the reporting by GPS location and again reporting of confidential information to the public via freedom of information act. Farmers are hyper competitive and confidential documents are a must to us, we compete on many different levels, but confidentiality and or company trade secrets are a must to keep the competitive edge in business. So, your requirement that we turn over our farm plans becomes a non-negotiable issue in the proposed wavier, no matter how you perceive them, they are and will remain confidential and proprietary business documents. A couple financial points, in 2006 with the advent of the Leafy Greens agreement we picked up an additional 3 to 6 percent increase in operational costs due to assessments to operate the LGMA program. Secondly, with the proposed wavier monitoring cost of \$1126.00 per farm site or a 41 percent increase to our operating cost that we cannot pass on because our customers will not pay those kinds of add-ons, we basically absorb them to a certain degree or go out of business. In Santa Barbara County alone the total income generated by agriculture in 2008 was \$2.2 Billion dollars including the multiplier effect, an increase of \$34 million dollars over the totals from 2007.

In closing, Ms. Schoreter region 3 board and staff need to look at this picture from a couple different aspects, first how do you explain to the people of California why they are paying more for fruits and vegetables that are grown as cheaply and abundantly as possible and why California Agriculture is systemically being put out of business. Secondly, how much more the tax base will increase once California Agriculture is no longer in business to help provide the revenue stream that we are currently providing by the sales of our products and the trickledown economics through the people we employee.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas N. Gibbons". The signature is fluid and cursive, with a prominent initial "T" and a long, sweeping underline.

Thomas N. Gibbons

John Bodger & Sons Co.

Production Manager

P.O. Box 2709

Lompoc, CA 93438

March 30, 2010

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



Dear Ms. Schroeter,

My name is Wayne Gularte, a 23 year seasoned organic and conventional vegetable farmer.

The proposed draft ag waiver, as in its current form, is irresponsibly written and will create undue hardship to California agriculture, its farms, employees, and associated support industries. It is so restrictive and cost prohibitive, it will ultimately create economic collapse.

One area of concern in the draft is the proposed spray-free buffer zone of 50-150 feet. It is of no fault to the farmer that urban sprawl comes on the farm doorstep and now we farmers have to make the buffer zone outward from the urban encroachment. These large buffer zones must be taken out as a requirement in the waiver because of lack of proof that they would help water quality any better than what already exists for buffer zone guides in the existing groundwater monitoring program that we use.

Another area of concern is the 1000 foot aquatic and riparian buffers. There is no scientific verification that such a large buffer will help water quality. Contrarily, the spiraling economic loss of farmland because of such a restriction will be very huge and largely verifiable. Food safety restrictions because of riparian and aquatic buffers create large hardship because of lost production on ground fallowed by buffers.

For the staff to submit to board a recommendation about us farmers needing to adhere to certain irrigation efficiency, irrigation timing, and fertilization timing guidelines is both insulting and ridiculous for many reasons and scenarios. For example, you can have periods of weeks of rain every 2 days in the winter and therefore never be able to apply fertilizer with the rules proposed. Or if a farmer has one well pumping 500 gallons per minute on 60 acres (requiring a full-time irrigation scheduling based on less than ten gallons per minute per acre), he cannot wait until an exact timing of when crops need water by some science or instruments telling him to wait because he can get only a fraction of his crops watered in time if they all needed water at the same time. The rest of the crops would suffer by the time substantial water is applied to the first crops; therefore, huge yield losses and waste of resources will result into wasting much more water than saving. This is just one example of showing that a farmer has to plan way ahead very often and has to water early, before a tensiometer or other instrument or person tells him it's time to water. If he can't water on his own judgment, it's too late for all of the rest of the crops he has, resulting in crop losses, economic waste of natural resources, inefficient use of all resources, and horrific potential of farm bankruptcies.

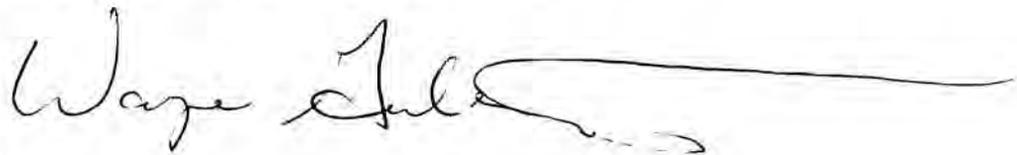
In regard to tile drains, they were installed for reason of keeping most valuably productive farmland in its most efficient producing conditions. Without tile drains, salt buildup will occur in those soils and destroy the soils, land, crops, economy, jobs, and efficiency of the crops to be grown there.

As far as requiring sediment or catchment basins, we already have very solid guidelines in the existing ag waiver for this.

I can go on and on about how more than a hundred different proposals and restrictions written throughout the proposed waiver will cause excess expense to farmers such as myself that it will shut me and my neighbors down and out of farming. When that starts happening, we may have a food shortage. As a nation we will have to get many of our foods from foreign countries and they will control our food supply, over time. Prices will skyrocket if waivers such as this get started here and get spread and implemented to more and more regions and other states.

So many of the proposals in this draft waiver, if implemented, are going to cause such inefficient waste of human, monetary, natural, environmental, and physical resources, in the big picture, creating more environmental harm than good in the long run. In many facets the proposal illegally attempts to override our right-to-farm ordinance we have in this state. Such closed-minded nonsense in this draft waiver has no regards to production of food and fiber for our nation. Proof can be provided by history showing that when nations run out of ways to produce their own food, as this proposed ag waiver would cause, they go ultimately to war and famine. It would literally shut down production of many foods that we need to survive as a people and a nation. Please disregard this entire draft and let us use the current groundwater monitoring waiver we already have in existence.

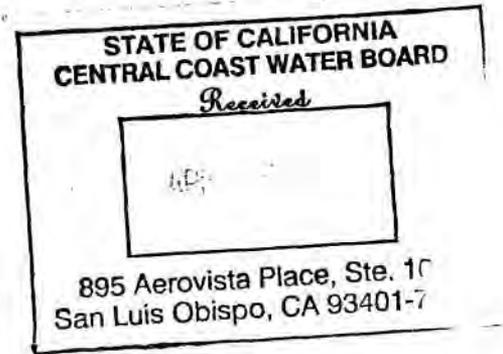
Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Gularte", with a long horizontal flourish extending to the right.

Wayne Gularte  
Rincon Farms, INC.  
PO Box 616  
Gonzales, CA 93926

George and Elizabeth Kendall  
4330 Santa Rosa Creek Road  
Cambria, CA 93428

Mr. Jeffrey Young, Chair  
Central Coast Regional Water Quality Control Board  
895 Aerovista Pl., Suite 101  
San Luis Obispo, CA 93401



Dear Sirs:

We have read the February 1, 2010 Draft Agricultural Order and considered how it would affect our small farm. We have approximately 27 irrigated acres on a total of 90 acres located near Santa Rosa Creek in rural Cambria, San Luis Obispo County. We grow avocados (10 acres), citrus (8 acres), winter squash (about 50 varieties on about 4 acres), plus nopales (1/2 acre) and sunflowers (1/2 acre). About 4 acres of our vegetable land is fallow each year. We have been farming since 1998; prior to 1998 we were both professional geologists.

Over the past several years, partly because of the conditions in the conditional irrigated agriculture waiver and partly because of our continuing experience and education, we have initiated a number of practices that are good for the environment. We have planted a filter strip and several hedge rows; we plant a cover-crop on our flat ground each winter; we have planted native grasses to address soil erosion; we have mulched (wood chips) heavily in our avocado orchard; we maintain grass drive rows in the citrus orchard and are encouraging the same in the avocados; we have planted many native trees and shrubs on slopes and in drainage swales to promote wildlife habitat and control erosion; we have worked with the NRCS to install a buried outlet drain; we store our chemicals under cover and on containment; etc.

It should not be necessary to state that avocado, citrus and winter squash (one crop per year) farming on the clay soils of northern coastal San Luis Obispo county is very different from the industrial scale, multiple crops per year, vegetable farming on sandy soils in Salinas or Santa Maria. Our farming methods and geography are very different. It appears to us that the proposed regulations in the Agricultural Order are designed for the excess of the latter not the moderation of the former.

Without going into too much detail, allow us to make a few general comments:

The required vegetation buffers of approximately 75 feet along intermittent and/or ephemeral streams would reduce the size of our winter squash fields and citrus orchard. We are very concerned that the regulations could require removal of several rows of permanent plantings and restrict the area for crop rotation.

We are concerned that our farm plan could become available to the general public. To share our agricultural practices in confidence with a regulatory agency and its professional staff is one thing. To potentially open our private operation and practices to the public concerns us greatly. Considering the wide range of knowledge and understanding of agricultural and environmental issues in the public and considering the passion that some people have for these issues, we think any possible public exposure is unwise. Unintended consequences could include unwarranted and unfair public harassment of individual farmers for any number of real or perceived reasons.

It has taken several years for us to develop our irrigation and fertilization methods and strategies, and we think they provide us some real marketing advantages. We know at least some of our methods are different from those of some other farmers. We do not wish to share our methods with other farmers or the public. Regarding irrigation, we closely monitor soil moisture, evapotranspiration and weather and base our irrigation scheduling and amounts on these on-going observations. Fertilization is based on soil analysis and especially tissue analysis plus knowledge of crop size and other factors. We think that spending excessive time documenting, justifying and reporting our farming decisions and activities is unreasonable and will do little to address water quality issues.

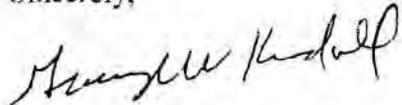
We are aware that nitrate levels are excessive and problematic in some intensely farmed areas. The most recent nitrate level measured in our irrigation well was <2ppm. There are several avocado and citrus orchards, two vineyards, many septic tanks and thousands of acres of grazing land upstream from us. Most of the orchards are located on frost-free high ground, and there is generally significant vegetation between orchards and streams. We think concern about nitrate and fertilizer contamination in this area should not be a major issue.

We know there is concern about pesticide use and contamination in some areas. Our main chemical use is glyphosate for broadleaf weeds. It has a strong affinity for soil particles as opposed to water. We think that controlling soil erosion should be an effective way to reduce glyphosate risk. We note that the Central Coast Vineyard Sustainability certification program allows the use of glyphosate in sustainable operations. We think that it is inconsistent for the agriculture order to list glyphosate in Appendix A.

In conclusion we would like to convey that we are very concerned about the quality of our environment. We think that the best way to maintain and improve our environment is to focus our efforts on the sort of practices that we have initiated in the past several years. We urge the water quality control board to encourage continuing education and adoption of good agricultural and environmental practices as it did with the conditional agriculture waiver of six years ago. We think that requiring extensive paperwork and costly universal testing would dilute financial resources and hinder the time and effort needed to accomplish the goal of improving water quality.

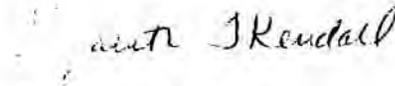
Thank you for taking the time to read and consider this letter.

Sincerely,



George W. Kendall

3/30/2010

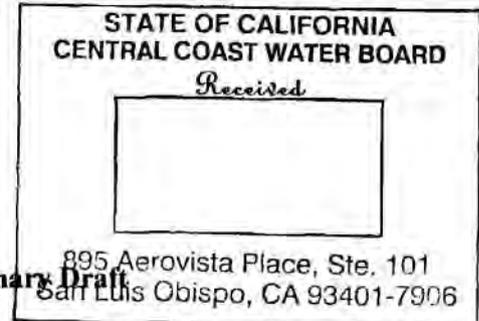


Elizabeth T. Kendall

March 30, 2010

Kenneth H. MacIntyre  
Owner  
MacFarms  
1277 Little Morro Creek Road  
Morro Bay, CA 93442

Ms. Angela Schroeter  
Agricultural Regulatory Program Manager  
Mr. Howard Kolb  
Agricultural Order Project Lead Staff  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401-7906



**Re: CCRWQCB Request for Public Comments on Preliminary Draft  
Agricultural Order dated February 1, 2010**

Ms. Schroeter and Mr. Kolb:

I am the owner of MacFarms, which has been located in Morro Bay since October 2000. My wife and I and are growers of hass avocados and maintain 10 acres located in Region 3.

I have been following the progress of this Board's renewal of the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands ("Ag Order") and am concerned with the Staff's draft Ag Order. The draft Ag Order contains many undefined and potentially highly impractical requirements for all agricultural operations. Of particular concern to my operation is regulating non-storm water discharge that must have no toxicity, drinking water standards for nitrates, low turbidity, and temperatures below 68 degrees F; keeping rainwater and/or stormwater separated from wastewater and irrigation runoff; additional surface water sampling; inclusion of groundwater sampling; installations of pesticide and riparian buffers; the revised Farm Water Quality Management Plan and the nutrient management element of the Farm Plan.

This is very concerning to us because our small operation simply cannot afford the additional costs associated with your unrealistic and impractical proposed requirements. We already implement numerous best management practices such as: reduce runoff, apply pesticides in compliance with label requirements and requirements set by my Ag Commissioner, have practices in place to control erosion, sediment, and nutrients. Water is costly and a precious resource, and we have implemented a variety of practices to reduce the amount we use and limit/prevent discharges such as micro sprinklers and drip irrigation.

I urge the Board to listen to grower's feedback and suggestions, including mine, and incorporate all of this feedback into the draft Ag Order. Any future Ag Order must be designed with achievable objectives and must be a transparent and collaborative process that utilizes agricultural stakeholders. Loss of grower cooperation will be counterproductive to improving water quality.

Respectfully submitted,

Kenneth H. MacIntyre  
Owner, MacFarms

CCRWQCBtr33010



## **GROUND WATER NITROGEN CONTENT**

The agricultural waiver proposed by the Region 3 staff makes impossible demands of growers to reduce nitrogen levels in the ground water in an impossibly short time. Some of the nitrogen in the ground water is undoubtedly the effect of intensive farming operations in the last 40 years.

However, the nitrogen infiltration started well before irrigated agriculture as it is practiced now. After the turn of the century, dairies in the valley numbered in the hundreds with thousands of dairy cattle being raised. In the 1970's, studies were conducted to see what was the cause of the nitrogen in the ground water. Analysis at that time indicated that plumes of nitrogen were streaming from the sites of the many dairies.

For the staff of Region 3 to ask growers to clean up a problem from decades ago in a short time is not reasonable or economically feasible.

## **DECREASE IN LAND VALUES BECAUSE OF WAIVER**

One proposal by Region 3 staff that will have severe unintended consequences is the requirement that farmers set aside a riparian habitat buffer next to water ways. This requirement would decrease land farmed in Monterey County from three percent to seven percent depending on the definition of water way.

That decrease in land farmed, I am sure, would be considered a "taking". In addition, farmers and land owners would immediately ask the assessor's office for a new appraisal which by law they would have to do. This would reduce the counties income flow by the same percentage. In a time of severe economic crisis, to demand a riparian habitat which has questionable water quality benefits but will cost local government is ludicrous.

## **FARM PLAN**

Farm Plan is burdensome and uneconomic and would reveal proprietary management practices to competitors. It is unreasonable to expect growers to give up trade secrets.

The Farm Plan irrigation efficiency portion requires documentation that is unreasonable and will not achieve better water quality but will cost the growers tremendous amounts of time and money. For example, the soils of the Salinas Valley are extremely variable with some farms and blocks containing two or three different soil types. To map these out to put in a farm plan is costly and unnecessary.

## **MONITORING**

The proposed Ag waiver requires monitoring far and above the reasonable level and would be extremely costly and not economically logical.

The cost of the individual discharge characterization report for each farm is estimated to be almost \$1200 per site.

The proposed waiver does not indicate the frequency of subsequent monitoring. Those dollars would be much better spent on water quality improvement.

Monitoring should continue to be done on a water shed basis and analyzed for long term trends. In addition, to monitor for a group of metals that are not added to the system by agriculture is totally ludicrous.

### **RIPARIAN AND AQUATIC HABITAT**

Proposed waiver is excessive, unreasonable and the costs will be economically ruinous. Without proper maintenance, drainage ditches, intermittent creeks and streams and rivers will become overgrown with invasive and native vegetation and will fill with debris and sediment. This will cause storm waters to overflow the old drainage systems and create new systems that devastate farmland, infrastructures, and potentially, homes.

The proposed waiver obviously does not consider the unintended consequences of such drastic measures. The cost of this measure in the proposed waiver will eventually cost millions. Can you imagine the Highway 68 bridge crossing a sediment filled Salinas river while the river channel has jumped over to Blanco Road.

### **NITRATES IN TAIL WATER**

The regulations being proposed by Region 3 staff regarding nitrates in tail water are unreasonable and economically ruinous. Of the approximated 2,000 wells in Monterey County, a substantial number of them pump water far in excess of the amount of nitrates that would be allowed in the tail water or that would percolate.

Many wells have nitrate levels in excess of 200 ppm. I do not know of any way to achieve the stated goals of Region 3 staff in the short run. In the long run, judicious use of fertilizer will reduce the nitrate levels in the wells.

The nitrate concentrations have accumulated over the past 50 to 100 years. To expect to clean up the problem in under five years is not reasonable and is technically impossible.

### **TILE DRAINS – BLANCO**

The proposed Ag waiver from the Region 3 staff would require the capping or stopping the drainage from tile lines in the Blanco. By doing this, 30,000 acres of the most productive and valuable land on earth would ultimately become so water logged and salt laden as to be unfarmable.

I do not believe that water quality would be improved with these draconian steps. This regulation is certainly not reasonable or economically logical.

Most of the water from tile lines winds up in the Blanco Drain. Since the area using tile lines is underlain by an impermeable clay lens the tile line water will not percolate to be aquifer below.

Furthermore, the water from Blanco Drain flows into the Salinas River upstream of the Salinas River Diversion Facility from where it is pumped up to the treatment plant, mixed with treated effluent and used to irrigate the CSIP area.

### **PESTICIDE MANAGEMENT**

The staff of Region 3 Central Coast Regional Water Quality Control Board is creating Pesticide Management Criteria that is duplicative and will be impossible to enforce. Pesticide management should be controlled by the label restriction on each chemical. That becomes a reasonable and economic practice that is easy to enforce.

In California, the application of any pesticide has to be recommended by a licensed Pest Control Advisor who has regulations he must adhere to. For Region 3 to put other restrictions on pesticide management will not improve water quality but will make the management of pesticide applications unreasonable and burdensome to growers.

Rec'd 4-5-10  
TO RB

March 28, 2010  
Huntington Farms  
PO Box 398  
Soledad, CA 93960

Chairman Charles R. Hoppin  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100



Dear Mr. Hoppin,

My name is Nick Huntington and I am writing to you to express my concerns about the new ag waiver. I am a 3<sup>rd</sup> generation farmer in the Salinas Valley and would like to continue growing healthy produce here. If the ag waiver is adopted as staff has written it there will be an onerous burden on farmers here as we try to comply with regulations that seem to ignore a few realities.

The first one is the proposal to not allow any foliar fertilizer applications 72 hours before or after a forecasted rain. During the winter I am often limited to small windows of opportunity between storms to get work done. This regulation would tie my hands for 3 days before and after a forecasted rain. Also as everyone but the staff who drafted this waiver realizes is that weather forecasting is not an exact science. Many times a storm will be forecast to come in on a certain day and then be stalled before it hits us if it hits us at all.

Another is the adoption of drinking water standards for runoff from my ranch. Since most of the water I am using to grow vegetables with doesn't meet drinking water standards when it comes out of the ground how am I to ensure that it will after it has been used to irrigate crops?

Staff also recommends re-vegetation along perennial, intermittent or ephemeral streams or riparian or wetland area habitat and the implementation of mandatory buffers. This will take productive farmland out of production, in my case over 100 acres of land would have to be idled. This will of course have many negative economic consequences including the reduction of property taxes for the county.

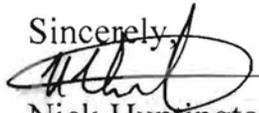
Among the most appalling measures in the draft is the proposal that my farm plan must include every input and irrigation on my ranches. This would become a public document if the agency requested a copy of it. I am in a very competitive business and feel that the way I farm and the inputs I

use are a trade secret. To have to give this information away to an agency that then must make it available to the public is a very disturbing proposition.

Finally I am appalled that the draft has no education component to it. A lot of progress has been made in this area during the past ag waiver and for staff to ignore this in their draft was a slap in the face to a lot of people who have put in many hours of work learning better ways to operate.

I believe that if the ag waiver is adopted as written it will lead to a situation where growers will be left facing a hugely complicated and time consuming set of regulations that they will be unable to comply with a still operate a viable farming business. I recommend that the old 5 year waiver be used as a model for the next one.

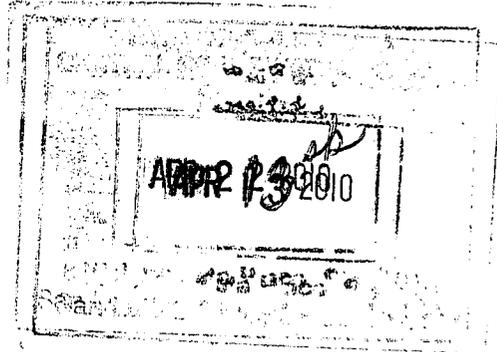
Sincerely,



Nick Huntington

President Huntington Farms

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



March 31, 2010

Dear Chairman Young,

I am writing this letter due to my concern with the Preliminary Draft of the Proposed Agricultural Order. I am currently both a landowner and a vegetable farmer in Monterey County. Thus this Agricultural Order directly affects my business operations. Agricultural has been in my family for over three generations and I still love farming today. This Ag Order will change the industry of farming and take the competitiveness and possibility of profitability out of farming. I can assure you that many of the proposals if passed will decrease the attractiveness of doing agricultural in the Salinas Valley where we are considered the "Salad Bowl" of America. Compared to the current 2004 Ag Waiver there have been some drastic changes with the new 2010 Draft Order. These are a few:

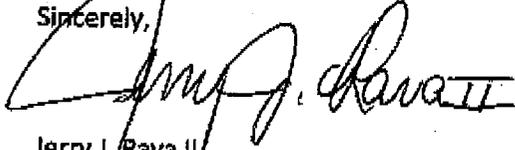
- The proposal requires maintaining and increasing the aquatic and riparian areas up to 1,000 feet of certain water areas. With strict food safety regulations being imposed on our industry this contradicts all the new practices mandated to meet these practices. Increasing these buffer zones will remove valuable farm land and render that land useless.
- The proposal states there will be no fertilizing within a 72-hour "forecasted" rain event and 72 hours after it rains. Using the possibility of rain as the basis of fertilizing as a management practice is extremely unreasonable.
- The plan states there will be complete elimination of tailwater runoff within 2 years. The farmer must eliminate toxicity, sediment, turbidity, nutrient and salt levels in irrigation runoff within 2 to 6 years and requires all runoff to be at drinking water standards. The quality requirement of rainwater runoff will also have to be at the same standards. The plan does not take into consideration the current quality of well water. These runoff and water quality requirements are unreasonable.
- The Ag Waiver would make our Farm Water Quality Management Plan public record. I disagree with this due to the competitive edge being taken away. The "Plan" should be kept confidential and stay at the farmer's office.
- The Farm Plan will require irrigation recording by schedule, duration and frequency to include total water applied per crop. Recording all this information in the Farm Plan is unreasonable.
- I have listed only a few of the items which need to be addressed with the differences between the two waivers and strongly encourage that the 2004 Ag Waiver stay in force as is.

With all the economic issues and mandates imposed today, it is hard to imagine someone dreaming up this proposal, removing valuable time from the management practices and production of producing quality and marketable product. It is important that the new Ag Waiver work with the farming and

ranching community to develop water quality protection goals that are science driven and economically feasible. Imposing more paperwork, regulations, and restrictions will only decrease the attention needed to farm the quality of product for the consumer. Not only does the Ag Waiver impose unreasonable requirements and reporting for all operators, it also has unreasonable requirements that will affect food safety issues. With food safety being a public topic today, this could affect our farming industry in California by forcing current suppliers to seek product elsewhere.

I would like to invite these board members, and any other interested party, to visit my ranches for both an enlightening and educated tour.

Sincerely,



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

Received

Notes and Comments on Draft Report  
On Discharge Requirements for Agricultural Lands

1) This draft report is flawed, short on current metric, evaluation, and research, and full of narrative attacks on commercial agriculture, especially as it relates to the Santa Maria Valley.

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

a) A comment on the hydrology of the Santa Maria Valley. Most water originates in the hilly water shed east of Santa Maria. As such, the Cuyama River is managed at Twitchell Reservoir and the Sisquoc River is free flowing. Major percolation to the underground water table takes place from Fuglers (Garey) to Highway 101. The basin is also augmented by rainfall and the delivery of varying amounts of state water since o/a 2000. Santa Maria underground water in its native condition has always been marginal or less by current state drinking water standards (Lippincott 1931). Add to this the degradation of water from three sewer plants, drainage and storage basins in the three major urban areas and their run off and you can see that agriculture is not the only contributor to basin degradation. Water in Santa Maria underground and surface moves from east to west, so under native conditions water would pick up contaminants from east to west. Requiring agriculture in the lower valley to clean up the aquifer to drinking water standards when they started above drinking water standards is untenable. More publicity to the research finding (if verifiable) is required.

b) Fertilizer applications in commercial farming are predicated on the tissue and soil requirement for that crop. Leaching can occur, especially with rain events, that may require additional amounts, largely in agreement with University of California recommendations. Pesticides are applied on a permit basis county and in particular are state supervised as to the authorization and "time to break down" studies. Water for the most part is applied by sprinklers and drip tubing, producing no or negligible discharge, rain events excepted. Nitrogen amounts are not verified as not coming from urban use and high nitrates in domestic wells are often associated with septic tanks and cesspools

at the rural living home sites. The steelhead run written about in the Santa Maria River are anecdotal and are undocumented. The percolation sand beds of the Santa Maria River preclude steelhead/salmon up stream movement and the irregular flow makes fish movement up or down nearly (if not) impossible. In my 79 ½ years of life as an agriculturist in the area I have never seen a fish in the Santa Maria River.

In that respect, aquatic activity is very limited in the Santa Maria basin drainage, whether the cause is from urban, agriculture, or insufficient water. One further thing that has not been touched on in the draft report is the more recent court case (Santa Maria Valley Conservation District vs City of Santa Maria) in which it was found that the Santa Maria basin was not in overdraft, and as such the water in the lower valley that the draft report so disparages, actually outflows to the Pacific Ocean, at rain events on top of the confining layer and at other times below the clay layer, venting approx. 5 miles off shore in a formation known as the Carreaga Sands.

Sedimentation (and turbidity) as referenced in the report (except in rain events) is virtually nil because of the more recent move to total drip and sprinkler water application methods. If a sedimentation issue exists it is from the basin eastern watershed area, where fire events (La Brea and Zaca) have recently denuded many acres and the ensuing rains have caused considerable sediment relocation. It should be noted that the Santa Maria Valley is basically a product of this sedimentation over time.

As you can see by the foregoing, I believe the draft report to be short of scientific and proven evidence, and draconian in its remedy. Please study the situation in more detail, with peer review, publish the finding, and think, of a more rational solution to what you think is a problem.

*Richard E. Adams*

*P.O. Box 512  
Santa Maria, CA 93456*

*Cell #  
805-310-3857*

>>> Daryn Miller <[millern88@gmail.com](mailto:millern88@gmail.com)> 4/23/2010 5:10 PM >>>

Dear Mrs. Schroeter,

I am a young man who grew up on a ranch in Cayucos and have lived around the central coast my entire life. My parents raised us on principles of hardwork, strong ethics, and an appreciation of the opportunities granted to us in this great nation. I have worked on our farm since I was very little, helping my dad in order to gain his respect and make his days a little less tiring. I have to be honest that I am strongly opposed to this new legislation because this policy will do more harm to ranchers and farmers in SLO county than good for society. While I will agree with the facts that a clean water supply is crucial to ensuring the public's safety, I cannot stand by and let more and more restrictive policies in this county be passed. Times are tough for everyone right now with unemployment being so high and the value of our dollar decreasing, therefore I must express my thoughts to you that this policy will be very expensive and very much a pain in the ass for every rancher and farmer on the central coast. Having to remove large portions of orchards or removing fence lines to build new ones will be a very large unnecessary task to all land owners. Cost to producers will outweigh the preceived hazards to society. Many Americans agree that farms should be small and family owned to ensure the existence of an adequate food supply, but with more and more regulation pressures upon local farmers and ranchers will force many out of business. Therefore in order to be fair to all producers the county should cover costs or compensate those who have to spend the time and money to alter their operations in order to meet your requirements, but can I ask if you think this will actually happen? In my experience most of the time the producers get screwed and are never fully reimbursed for their efforts. One crucial part of this policy is that it will make the public more safe, but in many areas runoff into creeks and rivers do not affect the public because not all creeks and rivers run through the towns in this county. I ask that you and your colleagues reassess your policy and alter it in order to focus more on which farms actually have runoff that affect the public's water supply or the habitats of fish. Please realize that for small farmers such as my dad this will only hurt our way of life and make it even harder to get by growing oranges and avocados.

Thank you for your consideration

Sincerely,

Daryn Miller



# CALIFORNIA FARM BUREAU FEDERATION

NATURAL RESOURCES AND ENVIRONMENTAL DIVISION

2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 · PHONE (916) 561-5665 · FAX (916) 561-5691

*Via US Mail and Email*

*rbriggs@waterboards.ca.gov*

April 23, 2009

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

**Re: *Public Workshop to Discuss Preliminary Draft Staff Recommendations for Renewing the Conditional Waiver of Waste Discharge for Discharges from Irrigated Lands, Public Comments, and Alternatives***

Dear Mr. Briggs,

On behalf of the Santa Barbara County Farm Bureau, the San Luis Obispo County Farm Bureau, the Monterey County Farm Bureau, the San Benito County Farm Bureau, the Santa Cruz County Farm Bureau, the Santa Clara County Farm Bureau, and the San Mateo County Farm Bureau, the California Farm Bureau Federation respectfully presents the following concerns regarding staff's current process in preparation for the May 12, 2010 workshop.

It has come to our attention through verbal and written communications with your staff that staff is asking us to assist them in determining which public comments should be placed in the binders for Board Members and which public comments should be reviewed and analyzed by staff prior to the May 12, 2010 workshop.

Such information and requests are highly disconcerting. All public comments should be put before all Board Members in a hard copy format prior to the workshop. In addition, all public comments, including comment letters and proposed alternatives, should be thoroughly reviewed by staff and responses should be included in a staff report issued prior to the workshop. In order for this opportunity to meet with Board Members to be successful, especially in light of the importance and controversial nature of this topic, full, thorough, and meaningful review and analysis of all comments must be done by both

Letter to Roger Briggs

April 23, 2010

Page 2

staff and Board Members. If such tasks are not able to be fully completed, the May 12, 2010 workshop should be postponed.

Sincerely,

A handwritten signature in black ink, appearing to read "Kari Fisher". The signature is fluid and cursive, with the first name "Kari" and the last name "Fisher" clearly distinguishable.

Kari E. Fisher  
Associate Counsel

cc: John H. Hayashi, Board Member  
David T. Hodgin, Board Member  
Dr. Monica S. Hunter, Board Member  
Russell M. Jeffries, Vice Chairman of the Board  
Gary C. Shallcross, Board Member  
Jeffrey S. Young, Chairman of the Board

**Ann Myhre**  
**PO Box 459**  
**San Ardo CA 93450**

March 30, 2010

Angela Schroeder, Agricultural Regulatory Program Manager  
Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

RE: Draft Irrigated Ag Waiver

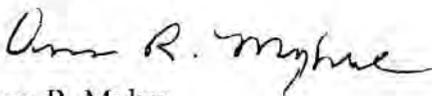
As a small landowner I am concerned about the scope of proposed changes to ag waivers in part because I question whether imposing additional regulatory demands will result in improved water quality.

Many naturally occurring features cannot be controlled by either governmental order or best farming practices. Certain aspects of the proposed order ignore the distinctive character of soils and topographical features unique to each location.

Furthermore, demands for additional testing and documentation are particularly burdensome. The economic impacts of this order should be evaluated. How will the order influence individual farmers; how will the order influence the overall central coast economy.

There are other issues which need to be examined as well so I urge the Regional Water Quality Control Board to exercise restraint when considering modifications to the expiring ag waivers program.

Best regards,

  
Ann R. Myhre



# MONTEREY COUNTY

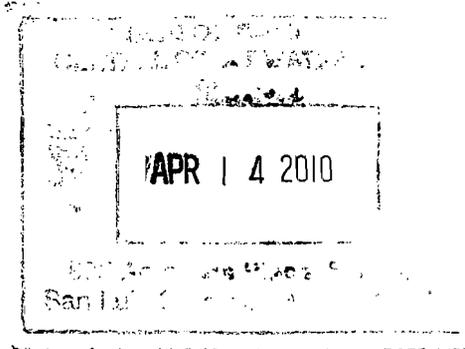


## THE BOARD OF SUPERVISORS

**SIMÓN SALINAS**, SUPERVISOR - THIRD DISTRICT

DARLENE DUNHAM, AIDE TO THE SUPERVISOR

168 WEST ALISAL STREET, 3<sup>RD</sup> FLOOR  
SALINAS, CA 93901  
district3@co.monterey.ca.us  
TELEPHONES: (831) 755-5033  
647-7733  
385-8333  
FAX: (831) 796-3022



April 6, 2010

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

RE: Central Coast Regional Water Quality Control Board's Preliminary Draft Agricultural Order to Control Discharges from Irrigated Lands

Dear Chairman Young:

Thank you for the opportunity to review and provide comment on the Preliminary Draft Agricultural Order. Our Monterey County Agricultural Advisory Committee reviewed the proposed Agricultural Order in detail. While we recognize the importance of water quality protection and fully support efforts to protect water quality, our preliminary economic analysis, provided in detail below, indicates that the proposed Agricultural Order's regulatory framework may result in substantial economic impacts to Monterey County. The regulatory parameters may likely put tremendous economic pressure on the agricultural industry, public agencies, and the local economy. We ask the Central Coast Regional Water Quality Control Board (RWQCB) to consider our comments carefully, and in doing so, develop a regulatory approach that meets water quality protection goals and is economically feasible.

Each of the nine RWQCBs in California has the discretion to create a regulatory framework appropriate for their unique region of the State. However, the Central Coast RWQCB's proposed regulatory approach appears to be far more costly and burdensome to agricultural producers within the Central Coast RWQCB area than the Agricultural Waivers which have been developed and/or proposed for other regions. This discrepancy of regulatory standards and requirements may put the agricultural industry in Monterey County at a significant competitive disadvantage to other regions of the State.

There are issues of both technical and economic feasibility with the proposed Agricultural Order. It is the understanding of County Staff that the technical and agronomic considerations are being addressed by other organizations, associations, and industry. We hope that your Board will take

technical and agronomic feasibilities into consideration. Our letter is focused specifically on some of the economic implications associated with the Agricultural Order that may directly impact the economy of Monterey County.

Our analysis indicates that the proposed Agricultural Order could significantly impact the County of Monterey, including:

1. Significant loss of farmland, including prime farmland and farmland of statewide importance: in the three watersheds analyzed, 14,343.36 acres would be taken out of agricultural production;
2. Impacts to the local economy, including loss of gross crop production value of over \$237 million and loss of property tax revenue due to changes in land use;
3. Potential increase in demand for social services due to loss of jobs and personal income;
4. Costs and unanticipated impacts associated with invasive species and management of buffers;
5. Jurisdictional overlap with local government and other regulatory agencies, particularly related to land use, planning, and zoning, which is governed locally by numerous public agencies and boards.

To our knowledge, these potentially significant impacts have not yet been analyzed or considered in detail by the Central Coast RWQCB.

1. **Loss of Farmland:** The proposed regulation would result in the loss of farmland, including prime farmland and farmland of statewide importance. Specifically, the proposed Agricultural Order requires up to a 100 feet of riparian buffer to be actively installed and maintained along rivers and streams. The installation of new riparian habitat would result in significant loss of agricultural land in Monterey County. In addition to the required riparian buffer itself, common farming practices ensure that crops have a 50 foot buffer from adjacent riparian habitat (Ag Advisory Committee, 03/25/2010). To minimize wildlife intrusion and food safety risks, bare ground buffers, roads, and/or filter strips are installed between the crops and the riparian habitat (Central Coast RWQCB Preliminary Draft Report, 02/01/2010).

County of Monterey Staff conducted a Geographic Information Systems (GIS) analysis to determine an estimate of the number of acres that would be taken out of agricultural production as a result of the proposed buffer requirements. Due to the magnitude of the project and time constraints, our analysis was limited to three watersheds: Pajaro River Watershed (within Monterey County only), Alisal and Elkhorn Sloughs, and the Salinas River Watershed. Areas along the rivers and creeks were overlaid with the Monterey County Agricultural Commissioner's 2008 Ranch Map to determine agricultural acreage impacted by the required riparian habitat buffer. The proposed Draft Agricultural Order includes "tiers" of riparian buffer widths, based on daily natural flows. The Salinas and Pajaro Rivers are in Tier 3 (100 foot buffer); buffer widths for Alisal and Elkhorn Slough watersheds are not specified; accordingly we assumed the 100 foot buffer would also

apply in these watersheds. For the purposes of this analysis, a 150 total buffer was analyzed to capture both the Central Coast RWQCB's proposed riparian habitat/buffer as well as a crop production/food safety buffer that the proposed Agricultural Order would necessitate (Agricultural Advisory Committee, 03/25/10).

The GIS analysis indicates that in these three Monterey County watersheds, which comprise the majority of irrigated agricultural land in the County, 14,343.36 acres would be taken out of production. Please refer to the Table 1 below. It should be noted that our analysis is for only three watersheds and is not inclusive of the full loss of crop acreage in Monterey County, or the Central Coast region.

**Table 1: Total acreage of 150' buffer per watersheds intersecting with selected ranches**

<b>Watershed</b>	<b>Stream Buffer Acreage in Selected Ranches</b>
Pajaro	417.31
Alisal-Elkhorn Sloughs	5002.77
Salinas	8923.28
<b>Total Acres</b>	<b>14,343.36</b>

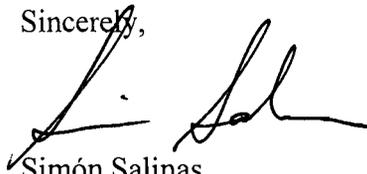
2. Economic implications to local and regional economies: According to the Monterey County 2008 Crop Report, the gross production value of crops in Monterey County is over \$3.8 billion; for the purposes of the economic analysis, Staff subtracted livestock, poultry, and apiary categories, bringing the gross production value to just over \$3.7 billion (\$3,786,517,400). Economic analysis indicates the proposed Agricultural Order could result in a significant impact on the economy of Monterey County, as follows:
  - a. Loss of Gross Crop Production Value (over \$237 million): Gross production value in Monterey County is \$16,585 per acre (228,315 irrigated acres (California Department of Water Resources) divided by the gross production value of \$3,786,517,400 (2008 Monterey County Crop Report)). Loss of gross production value totals \$237,879,168.
  - b. Loss in Rental Income from change of land use (over \$20 million): Land values and corresponding rent values would decline to reflect the changes in land use from agricultural to wildlife/riparian/conservation uses. Applying the average rent value of \$1,400/acre (County of Monterey Assessor's Office, Pers. Comm. 3/30/10), the proposed buffer would result in a direct economic impact totaling \$20,080,704.

- c. Loss of Property Tax Revenue Due to Changes in Land Use: We anticipate that the changes in land uses required by the proposed Agricultural Order could have an impact on property values and could result in the loss of property tax revenue for local governments. The County of Monterey is currently facing over a \$30 million budget deficit; additional decrease in tax revenue could have implications on the local budget.
  - d. Agriculture is the top economic driver in Monterey County. A recent study for the County of Monterey (conducted by Applied Development Economics) showed that a \$2.9 billion crop production sales value expands to about \$5.2 billion in direct, indirect and induced economic activity. We ask the Central Coast RWQCB to consider not only the direct economic implications, but also the economic multiplier affect of the proposed Agricultural Order.
  - e. The cost of plant materials, design, labor and irrigation for the installation of new riparian habitat would also be costly and should be analyzed by the Central Coast RWQCB.
3. Our local communities rely on the agricultural economy. It is reasonable and prudent to anticipate that the financial impact on local residents (loss of jobs, loss of health insurance, reduced work hours, etc.) may result in an increased demand for County social services, further straining local budgets and jurisdictions. We ask the Central Coast RWQCB to analyze and consider such impacts.
4. Costs and impacts associated with the management of riparian buffers and habitat, including the management of invasive species should be analyzed and considered. Riparian habitat restoration would first require the management and eradication of invasive species; doing so is critical for successful native re-vegetation and would be a significant cost. For example, *Arundo donax* is one invasive plant prevalent along the Salinas River that chokes out native riparian species. It is estimated to cost over \$3 million to treat *Arundo* along the Salinas River (Monterey County Weed Management Area, 2009).
5. Overlap with local land use and regulatory agencies. It appears as though the proposed Agricultural Order may go beyond the jurisdiction and common practice of the Central Coast RWQCB by attempting to indirectly regulate *land use*. Land use is regulated by a myriad of local agencies and governing boards including but not limited to: the Board of Supervisors, Planning Commission, LAFCO, County of Monterey and other local agencies. We ask the Central Coast RWQCB to address how the proposed Agricultural Order's effects on riparian buffers and the loss of farmland will overlap with the jurisdiction of local land use and regulatory agencies and affect local land use policies.

A healthy vital agricultural sector is critical to the economy of Monterey County. Our economic analysis was preliminary and only accounts for one component of the proposed Agricultural Order. Our analysis clearly indicates that the proposed regulatory parameters could have a

significant impact on our local economy. We hope that the Central Coast RWQCB will take such potentially significant impacts into consideration and further examine the costs, benefits, and economic implications of the proposed Agricultural Order in its entirety. To do so, it is vital that the Central Coast RWQCB engage and work with the regulated community to develop a regulatory framework that meets water quality protection goals and is both economically and technically feasible.

Sincerely,



Simón Salinas  
Chair  
Monterey County Board of Supervisors



Eric Lauritzen  
Monterey County Agricultural Commissioner

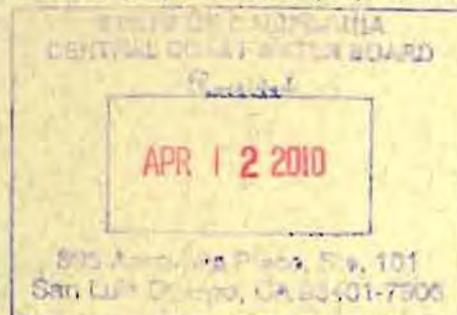
CC:

Roger Briggs, Executive Officer, Central Coast RWQCB  
Russell Jeffries, Vice Chairman, Central Coast RWQCB  
John Hayashi, Board Member, Central Coast RWQCB  
David Hodgin, Board Member, Central Coast RWQCB  
Charles Hoppin, Chairman, State Water Resources Control Board  
Monica Hunter, Board Member, Central Coast RWQCB  
Eric Lauritzen, Agricultural Commissioner, Monterey County  
Tom O'Malley, Board Member, Central Coast RWQCB  
Lisa McCann, Watershed Protection Section Manager, Central Coast RWQCB  
Monterey County Agricultural Advisory Committee  
Angela Schroeter, Agricultural Regulatory Program Manager, Central Coast RWQCB  
Gary Shallcross, Board Member, Central Coast RWQCB

# Bay City Flower Co., Inc.

P.O. Box 186, Half Moon Bay, CA 94019 (650) 720-2000 Fax (650) 720-2010

4/9/10



Ms. Angela Schroeter, Agricultural Regulatory Program Manager  
Mr. Howard Kolb, Agricultural Order Project Lead Staff  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401-7906

Re: CCRWQCB Request for Public Comments on Preliminary Draft Agricultural Order dated February 1, 2010

Dear Ms. Schroeter and Mr. Kolb,

I am the owner, and President of Bay City Flower Company, located in Half Moon Bay, CA. We are celebrating our 100 year history as a family business this year (2 disruptions: the Great Depression, WWII). We are growers of flowering potted plants, producing in 1 million + sq ft of greenhouses, plus 25 -35 acres of field production. We are located in Region 3.

I have been tracking the progress of this board's renewal of the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated land ("Ag Order") and am concerned with the staff's draft Ag Order. The draft Ag Order will adversely impact our ability to continue producing potted flowering plants. The draft Ag Order contains many undefined and potentially highly impractical requirements for nursery operations such as ours. Of particular concern are:

1. Regulation of non-storm water discharge that must have no toxicity, drinking water standards for nitrates, & low turbidity;
2. Keeping rainwater and/or storm-water separated from wastewater and irrigation runoff;
3. Having to prevent all rainwater from coming into contact with our potted plants. This is very concerning to us because the majority of our plants some time in their life cycle must be grown in the open. To cover them with the required greenhouses would be cost prohibitive. Forcing us to cover all of our plants would be forcing our 100 year old company out of business due to the cost that it would take to accomplish that. The government forced Japanese Americans to go to relocation camps & our family lost our business during World War II. Now the government will force us out of business by requiring us to cover our plants during rainfall events?



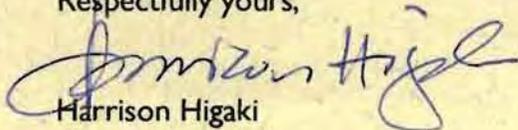
Group 13 - N35

May 12, 2010 Workshop  
Preliminary Draft Agricultural Order

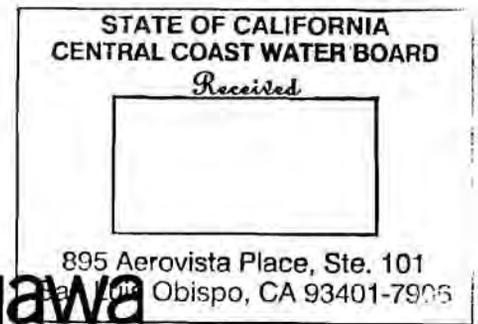
At our nursery, we already implement many best management practices to reduce the environmental impact related to irrigating our potted plants. They include such practices as strict adherence to chemical use requirements set by our Ag Commissioner, reduction of run-off achieved by recirculation of much of our irrigation water. To reduce chemical usage, one of our larger facilities utilizes biological sand filtration to address fungal water-born pathogens. Furthermore, we purchase most of our water at very high rates because we have poor quality under-ground water. Needless to say, we are highly motivated to employ practices to reduce water usage to the greatest extent possible. These include such practices as drip irrigation & using ebb/flood benches. We also monitor our water usage on a monthly basis.

We urge the Board to listen to growers' feedback and suggestions, including ours, then incorporate that feedback into the draft Ag Order. We sincerely ask that any future Ag Order be designed with achievable objectives and be an open and collaborative process that includes agricultural stakeholders. Loss of grower cooperation will be counterproductive to improving water quality.

Respectfully yours,



Harrison Higaki  
Owner, President  
Bay City Flower Company



March 29, 2010

Re: Comments to RWQCB Recommendation for Renewal of Agricultural Waiver

My name is Dave Pruitt and I am the General Manager of Ball Tagawa Growers, a young plant grower on the Arroyo Grande Mesa established in 1991. I am writing to comment on the effects of the proposed recommendations to the Waiver that will have detrimental effects on our business, our employees, our community and our customers. Our business is based on providing nurseries and cut flower growers with their seedlings and liners to start their production. Our sales are predominantly in California and through the Pacific North West but also throughout the whole United States. Our production is in greenhouses to get the seeds and cuttings started and continues outside to acclimate the plants before they are shipped to our customers. We are also proud to be the first container nursery to be certified sustainable under the requirements of the VeriFlora standards. (Pamphlet enclosed). We average 50 employees during the year and as part of our sustainable practices, we work hard to use our community to support our business by buying locally whenever possible and giving back by supporting local programs like Arroyo Grande in Bloom, scholarships, Cal Poly and local high schools.

Farming on the Central Coast has its challenges with a high cost of living, high property tax and a constant increase in regulations. With the economic pressures presently we have lost sales due to companies either going out of business completely or falling behind on the payables and using up their credit with our company. Competition from producers in other areas selling direct to our customers and larger companies doing their own young plant production in an effort to save money has greatly impacted our business. Because we are located in the Central Coast we also have an increased cost for transportation and Ag inspections which we have to subsidize the cost in order to remain competitive with other suppliers.

The following are some of the impact this new Waver will have on our business;

- Because we have impermeable floors we will have increased permitting and paper work but the tail water never leaves our property and cannot enter any water ways. This requirement seems to create a circle that I am afraid we will be caught up in a constant flow of bureaucracy.
- The tail water purity requirements are equal to city water creating the demand for a municipal level water treatment plant. This alone would be a greater expense any one company could bear.
- The waver enters into pesticide regulations which is already controlled by DPR, if passed we would have yet another agency to deal with on Pesticide issues.
- The 100 ft set back will decrease the production for our customers and either reduce their production, increase food safety issues, and put them out of business or cause imports to be a larger part of our consumption. This will cause a decrease in our sales and economic hardship to our company and employees.
- Fertilizer applications on outside crops is vital during the winter so we can keep our plants growing. By not applying feed 3 days before or 3 days after we would have to be better weather men than the people on TV and decrease the health of our plants. Many of the larger containers in our side production have slow release fertilizer in the soil so there is always some feed for the plants. The feed can last up to 6 months and releases slowly over time. We all work hard to not waste fertilizer because it is expensive. We don't use more than is necessary to maintain our crops.
- By adding a Certified Crop Advisor we run the risk of increasing our fertilizer usage. Most CPA's are connected with companies whose business is to sell fertilizer so we increase our expenses by paying for a consultant and we may not achieve our goals.
- To have our nursery separate our rain water from our tail water would be another large expense. We have recently installed a complete drainage system on our property centralizing our tail water and rain water in the same pond so we can recover it and use it on our landscape and stock plants growing outside. Separating the two water sources would cause duplicate systems to recover the water (a project that originally cost \$75,000.00) or reduce the amount of water we

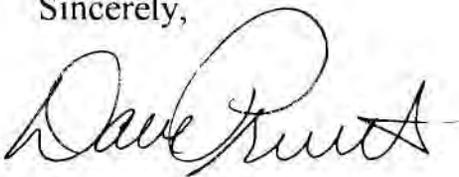
can recover causing us to pump more ground water. In addition we would have to rebuild our drainage systems to separate the two sources of water.

- The other change I cannot understand is that nurseries will have to cover any container plants that would come in contact with rain water. This requirement will causing us to build thousands of acres of new greenhouses, enormous time and cost for permits if we can get them and increased issues to control the runoff from additional covered acres of land. It is often overlooked that nurseries are not only for ornamental plants but container nurseries produce our vegetables, fruit trees and wine grape plants to list a few. All this container production will be affected and the related businesses that they supply, increasing the cost of operations or eliminating most of Agriculture on the Central Coast.

I want to encourage the Board to seek a system that all parties can work together for the common goal of improving our water quality. We all rely on a supply of quality water to operate and live on the Central Coast but this has to be accomplished in a sustainable manner to also maintain our business and the employment of the citizens that live, work and support our communities.

There are alternative proposals that can be adopted from the agricultural community I would hope that will be considered by the Board.  
Thank you for the opportunity to address this very important issue that impacts our future as a Central Coast growing company.

Sincerely,

A handwritten signature in black ink that reads "Dave Pruitt". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Dave Pruitt  
General Manager  
Ball Tagawa Growers

>>> Kendra Gonzales <[earthworks\\_works@yahoo.com](mailto:earthworks_works@yahoo.com)> 4/7/2010 9:52 PM >>>

\* On the Central Coast, thousands of people are drinking water contaminated with unsafe levels of nitrate or are drinking replacement water to avoid consuming contaminated water. The cost to society for treating polluted drinking water is estimated to be in the hundreds of millions of dollars.

\* Aquatic organisms in large stretches of the region's rivers have been severely impaired or completely destroyed by severe toxicity from pesticides. Please do the right thing and strongly regulate agriculture run-off. Set standards that support good human, animal, and environmental health. Do not let the agricultural industry call the shots. We all deserve better, and it simply makes more economic sense to set the bar high now, then all have to pay for it later. The agricultural industry argues they will be put out of business by over-regulation. This is always the argument but not the reality. The reality is that we cannot afford the health care costs, biodiversity losses, and pollution clean-up caused by poisoned run-off. Our children, our grandchildren, and theirs.....yours, do not deserve to be poisoned.

Thank you,

Kendra Gonzales  
Camarillo

**From:** Shelly Cobb <cobb.shelly@gmail.com>  
**To:** <aschroeter@waterboards.ca.gov>  
**Date:** 4/2/2010 9:56 AM  
**Subject:** I support stronger protections for our surface/groundwater

I appreciate and applaud your efforts to educate farmers about the toxicity of the ag runoff and how to prevent it. The toxicity of nitrates in our Salinas and Santa Maria watersheds greatly concerns me greatly.

On the other hand, we need to eat and I want to support our small local farmers so they can be profitable and stay in the business. How can farmers use alternatives to toxic nitrates?

Please continue your hard work to achieve both goals.

It would be most helpful if you could also inform the public about which food/farm providers are "doing the right thing" with respect to water management and minimization of nitrates. We can support them with our \$\$ if you simply provide a list of these farms/farmers.

Thank you,  
Shelly

.....  
Shelly Cobb  
Edible Santa Barbara  
Office Phone (805) 617-0359  
Office Fax (208) 445-6242  
Cell (805) 452-1440  
shelly@ediblesantabarbara.com  
www.ediblesantabarbara.com

Shelly Cobb  
Edible San Luis Obispo  
Office Phone (805) 617-0359  
Office Fax (208) 445-6242  
Mobile (805) 452-1440  
shelly@ediblesanluisobispo.com  
www.ediblesanluisobispo.com

**From:** Rick Frickmann <rfrickmann@cox.net>  
**To:** <aschroeter@waterboards.ca.gov>, <hkolb@waterboards.ca.gov>  
**Date:** 4/6/2010 9:23 AM  
**Subject:** Protect water from agriculture pollutants

Dear Angela Schroeter & Howard Kolb

Central Coast Regional Water Quality Control Board

Please protect the water quality of the Central Coast by making sure agriculture runoff does not contain pollutants.

Thank you,

Richard Frickmann

**From:** Lee Heller <lee@leeheller.net>  
**To:** <ASchroeter@waterboards.ca.gov>  
**Date:** 4/18/2010 4:39 PM  
**Subject:** Central Coast and agricultural runoff

Dear CCRWQCB,

I am writing to urge that the CCRWQCB adopt strong regulations to limit harmful agricultural runoff, stronger regulations than we have yet had, and that we sorely need.

I delight in the fact that Santa Barbara and San Luis Obispo Counties remain heavily agricultural. And I support farmers in their efforts to make a living and keep their lands in agricultural production. But such support does not mean there should be carte blanche to dump harmful pollutants into our watersheds.

It is critical that the CCRWQCB institute clear limits on the amount of pesticides, herbicides, and fertilizer that farms may allow into runoff. Only in this way can we protect creeks, streams, and the ocean itself from the negative consequences of these substances. That protection extends to humans as well: for many years I've lived with the ambient odor of fertilizers from local farm, as they run downstream past areas where I walk and run. The resulting headaches and nausea are not just unpleasant, but likely indicative of toxic exposures that may lead to future illnesses like cancer.

More stringent regulation, with an understanding of what farmers can and need to do, is the logical next step.

Thank you for your attention.

Lee E Heller, Ph.D., J.D.  
PO Box 1592  
Summerland CA 93067  
805-695-8101



Alan Sanders, President 232 N. Third St. Port Hueneme, Ca 93041 805-469-8359  
alancatdaddy@aol.com



**APRIL 2, 2010**

**Angela Schroeter/ Howard Kolb  
Central Coast Regional Water Quality Control Board  
E-mail: [aschroeter@waterboards.ca.gov](mailto:aschroeter@waterboards.ca.gov), [hkolb@waterboards.ca.gov](mailto:hkolb@waterboards.ca.gov)**

**RE: OBO SUPPORTS STAFF'S RECOMMENDATION FOR A STRONG AG ORDER**

**Dear Regional Board member and staff,**

**Ormond Beach Observers supports staff's strong recommendation to protect our water quality and protect our groundwater, rivers and ocean from polluted runoff.**

**Ormond Beach Observers, (OBO), is a 501c3 organization that was formed in 1989 to provide public information regarding important biological resources at Ormond Beach. Our members started an Ormond Beach Wildlife Patrol, (OBWP) in that year to protect endangered California least terns and western snowy plovers. We also work to protect tidewater gobies, glubose dune beetles and all rare organisms in the greater Ormond Beach ecosystem. Since that time we have expanded our mission to work with all life forms and habitat types at Ormond. The OBWP erected protective fencing and signage to protect nest areas for 15 years and has collected data on activities at Ormond for the past 20 years.**

**Because the OBWP had a daily presence on the beach for many years it was often able to inform agencies of problems that affected both habitat and specific species at Ormond. Therefore, it should not be surprising that we have observed significant impacts due to poor water quality from agricultural runoff. OBWP produced a video in 1992 "DEATH OF THE TERNS," that alleged that water quality issues had resulted in significant unlawful "take" of federally listed species including site abandonment by California least terns.**

**Throughout the 1990's OBWP has reported alterations to area streams and the Ormond lagoon. Photos of these activities have been provided to the City of Oxnard, the California Coastal Commission, The U. S. Army Corps of Engineers, U.S. Fish and Wildlife Service and the California Department of Fish and Game.**

**It is our hope that we might provide meaningful comments to all decisionmakers on this decision.**

Alan Sanders, President 232 N. Third St. Port Hueneme, Ca 93041 805-469-8359  
alancatdaddy@aol.com



## **Ormond Beach Observers**

**The citizens of the Central Coast deserve clean water. This is even more important for sensitive receptors like endangered habitats and endangered species.**

### **Agriculture**

**should not be treated any differently from industry or private citizens. In fact, rules must be stronger because of the sheer volume of water discharged by agriculture. Chemical pesticides and fertilizers must not be allowed to pollute surface or groundwater and greater testing must be done in areas of sensitive receptors like ESHAs.**

**Every grower should be required to monitor and know what is in the runoff leaving their farm. Growers should not be allowed to discharge water off their property or into the groundwater that is toxic to aquatic life. Farmers should use only the amount of fertilizer needed to grow their crop; excess fertilizer cannot be allowed to pollute our groundwater or rivers where treatment costs are unjustly passed on to municipal drinking water users. Streamside vegetation is wildlife habitat and actually helps improve water quality; farmers should be required to protect riparian vegetation and should maintain a vegetated buffer between their crops and any waterways.**

**Alterations to the area hydrology are an indirect impact created by agricultural runoff that could hinder Ormond Beach Lagoon restoration plans by reducing the size and volume of water in the lagoon.**

**In all likelihood ag runoff will result in take of tidewater gobies, perhaps resulting in local extirpation**

**Effects of water quality on the lagoon from ag runoff have not been given serious consideration. There is an assumption that increased volume of water would have no effect. But no documentation has been provided to support this theory.**

**The Board continues to base its theories on area hydrology on flawed information from the mid 1990s.**

**Moreover ag runoff threatens the entire portion of Hueneme and Ormond Beach that qualify as Environmentally Sensitive Habitat Area (ESHA) under coastal Act Section 30240. Failure to discuss these issues and viable alternatives could**

Alan Sanders, President 232 N. Third St. Port Hueneme, Ca 93041 805-469-8359  
alancatdaddy@aol.com



**Ormond  
Beach  
Observers**

**prevent the issuance of appropriate rules.**

**The Board has the legal responsibility to protect the integrity of our water and rivers.**

**Thank you for the opportunity to comment on this decision.**

Sincerely,

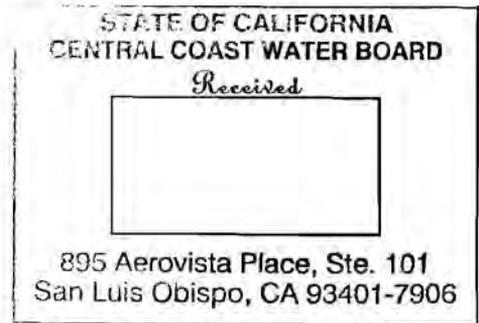
Alan Sanders

<b>Alan Sanders</b>
<b>President</b>
<b>Ormond Beach Observers</b>



April 1, 2010

Jeffrey S. Young, Chairman of the Board  
California Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401



**RE: Support for Preliminary Alternative Agricultural Proposal to Regional Board Staff Recommendations**

This letter is in support of the Preliminary Alternative Agricultural Proposal (Ag Proposal) submitted by the California Farm Bureau Federation. The Ag Proposal as written and approved by respectable agricultural organizations working directly with farmers is a comprehensive document. This letter eloquently explains the need to protect water quality while maintaining the livelihoods of growers.

It is essential to collaborate between the Central Coast Regional Water Quality Control Board (CCRWQCB) and farming communities and organizations to establish a workable long term solution. We ask that the Board consider extending the current Ag Waiver by making participants accountable for updating their Farm Plans regularly. It would also be pertinent to enforce existing Ag Waiver requirements. Education is a key element to improving water quality so participants should be required to complete a set number of continuing education hours.

On May 6, 2008 the Upper Salinas-Las Tablas Resource Conservation District (US-LT RCD) presented a proposal for Grazing Lands Water Quality Incentives Program to assist in education and outreach, grant management for farm assistance projects, watershed working groups, beneficial ag management practices grants to farmers and mobile water lab assistance. We feel strongly that the proposed Program is a viable way to achieve the goals and objectives identified in the State Water Resources Control Board's "California Rangeland Water Quality Management Plan". The US-LT RCD is a non-profit organization who over the past 59 years has established a symbiotic relationship with farmers, ranchers and landowners. We have the ability and expertise to assist the RWQCB in conducting educational training, working directly with landowners to apply beneficial ag management practices and can assist with mobile water evaluations.

It is vital to maintain positive relationships with landowners, agencies and organizations so it is important that the CCRWQCB work with the agricultural communities to establish an attainable long term program whose progress can be easily evaluated over time.

The US-LT RCD can be a valuable resource to your agency and we hope your Board will choose to partner with us as you develop the Agricultural Order.

Thank you for your consideration in this matter.

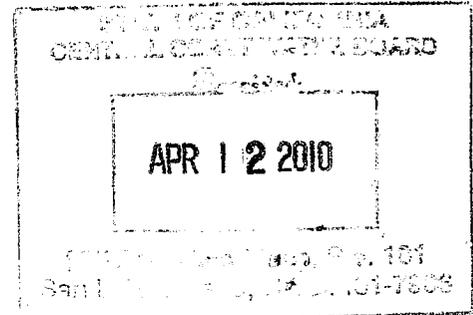
Sincerely,

Upper Salinas-Las Tablas Resource Conservation District  
By: Jeffrey W. Pipes  
Vice President

Matt and Ali Dusi  
2325 Fortini  
Paso Robles, CA 93446  
OFC: 805-237-0954

April 7, 2010

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



Re: Comments to RWQCB Preliminary Recommendations for Renewal of Ag Waiver

Dear Mr. Young:

My name is Matt Dusi, and I am involved in my family's vineyard farming operation in both Templeton and Paso Robles. My family has been part of the community and farming wine grapes in the area for over 80-years. Over that 80-years, we have employed several people on a year round basis and hire many people through local labor contractors for peak labor needs. In addition to providing jobs directly, we require many supplies, vehicles, contracting services, and accounting services. In total, our vineyard operation contributes \$300,000 annually to the local economy as raw product, which is further processed into a higher value bottled product.

Over the generations, our farming practices have slowly changed, but remain very similar to how my great-grandfather farmed in the 20's. What has changed significantly is the amount of government reporting, oversight, and overall costs of doing business. While we are fortunate enough to have a market for our product, it appears that local, state, and federal agencies not only have their hand out for money every time we turn around, but are imposing more and more restrictions on what can be done on land we have been good stewards of for four generations. Intervention has come not only in the form of increased taxes (property, federal, state, personal property), but just as costly have been the programs and overall liability we now face as farmers.

In a brief review of the restrictions that are being presented, at first I laughed, as there was no way a reasonable person could have put forth this proposal in all seriousness. On a second review, I was horrified, as I realized the Staff Proposal was meant to be made law. Following are a few brief examples of items in the proposal, and issues I see with those proposals:

1. *"Removing 100-feet of cropland to create riparian habitat next to streams"* – as we are a very temperate climate, most streams are seasonal, often change channel, can be very wide during wet years, and non-existent during dry years. Who is to say where the streamline is and where the 100 feet is to start and end. Also, if there are several streams on a property, it may become worthless entirely due to multiple 100-foot buffers.
2. *"Restricting all fertilizer applications to 3 days before and after it rains"* - There's a reason that people joke about the weatherman giving a forecast by flipping a coin.....it is very unpredictable. Also, if it's going to rain, putting down a fertilizer that could be washed away is not the best economic decision. I suspect common sense is getting lost in this situation – a farmer only gets

benefit if a fertilizer reaches the roots and is taken up by the plant. Any fertilizer that leaches in the soil, or makes it to a body of water costs the farmer money without any benefit. The farmer knows this, and legislating it only serves to create a situation where a farmer is under more scrutiny and risk of penalty.

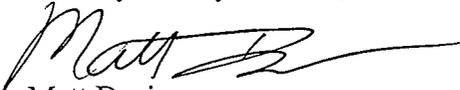
3. *“Nutrient management plan prepared by a certified crop advisor and within 4 years lowering nitrate levels of tailwater to 1mg/L”* – I would have to assume that Staff has no idea how many certified crop advisors there are in SLO County, and Staff has absolutely zero understanding/concern about increasing costs this will create. When there are only a few advisors available, costs will undoubtedly go up (not to mention that this will pressure already tight margins).
4. *“On the farm monitoring of tailwater”* – not only do I now have to pay to have a plan drawn up by a certified advisor, now we are paying to train someone to come onto my property and monitor tailwater that never existed in the first place. Ridiculous.

As I read through the proposal, I can't help but notice the irony between what the proposal will do, and what the “Sustainable Farming” model/ideal espouses. Much press has been devoted lately to the “Factory Farms” that produce much of our food. The theme being presented is that the large farms are bad for society as a whole, while small farms are more healthy, sustainable, and encouraged. No matter where a person stands on that debate, the result of water legislation such as this being proposed is that the small farmer will be hurt in a greater proportion than the large farms. Smaller farms will not have the funding, acreage, pricing power, or manpower to keep up with the increasing regulations and will eventually be forced out of business. The larger farms are the only ones who can set aside funding and manpower to deal with the regulations.

For example; A small organic farm of 5 acres that happens to have a stream on their property may lose up to 20% of farmable ground due to the setbacks, must pay for a nutrient program at a higher cost per acre, and must keep up with legislation himself. The 2,000 acre farm will hire a salaried employee to wade through the bureaucratic mess, set aside 1% of their land, and cost less overall on a per acre basis. At the end of the day, everyone loses; the small farm is out of business, the big farm has a smaller net margin, and the consumers pay more for their produce.

I understand the need for rules and regulations, but I have a serious problem with a Staff Panel telling me what is best on property that my family has been excellent stewards of for four generations without any input from the farming community. I implore you to consider proposals as put forth by the agricultural community. The farming community has a vested interest in doing the right thing for their land, and for surrounding communities. It just makes good sense, which appears to be lacking in this process. My fear in this process is that the farming community that will be hurt by this legislation are too busy working hard in their fields to make ends meet and will not be heard while individuals who have the “good intentions” of society in mind destroy their livelihood.

Thank you for your time,

  
Matt Dusi