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

Re: CCRWQB Request for Public Comments on Draft Agricultural Order dated November 19, 2010

Dear Chairman Young and Fellow Board Members:

Thank you for the opportunity to provide comments on the Draft Agricultural Order dated November 19, 2010 and for your consideration of my observations of the process to date and suggestions for improving water quality with a "holistic approach". I support the Ag Alternative Proposal because of this approach focuses on water quality improvements using the "carrot and the stick approach" of incentives, science and research, implementing of management practices, and accountability through the use of coalitions.

I have been involved with agricultural issues for many years and have a strong understanding of the Clean Water Act and Porter-Cologne. Through Porter-Cologne, the Regional Water Boards have been entrusted with broad duties and powers to preserve and enhance all beneficial uses of the state's complex waterscape. A part of your charge is to reasonably oversee the state's water resources and balance the complex issues of the various entities and for diverse uses, that also requires understanding of complicated systems. A "balanced approach" is the key to improvement of water quality impairments that are well documented. The data provided by the Cooperative Monitoring Program (CMP) does indicate that discharges of waste associated with agriculture (e.g., pesticides, sediment, nutrients) are a major cause of water pollution in the Central Coast region. The general public that has brought this documented data to the Board Members have a valid concern regarding impairments. However, the solutions require complex answers. Agricultural operators recognize that changes in management practices, or "boots on the ground", can improve water quality provided that tools are available. Agriculture is requesting that a research-implementation coalition approach be the focus of the next waiver.

In my research on state and regional water board responsibilities for protecting the surface, ground and coastal waters of their regions I came across this quote from the late SWRCB chairman, Don Maughan, who wrote: *"The State Water Board has never had the luxury of*

advocating protection of just one water need, such as the environment or agriculture or that of large cities. Our charge is to balance all water needs of the state. Some call it a superhuman task, but through the years this Board, aided by its excellent staff, has done what I call a superhuman job of accomplishing that mandate despite the intensive historical, political, and economic pressures that always accompany California water issues."

Because a "superhuman job" is what is needed now I would request that the Board Members, the staff, and the public to re-engage in the process with the Ag Alternative as a basis, using the Coalition to focus grower management practices on watersheds and sub-watersheds shown by the CMP data to be priority areas. This approach allows the academic community to "catch" up with the regulatory data and provide the necessary research to address the challenges ahead. Ag is a non-point source discharger, meaning the solutions are complex and the research is ongoing. Understanding data and making on-farm decisions will make those improvements successful in the short term and the long term. Solutions must be adaptable within the framework of the farming system. I have serious concerns regarding the proposed Staff Draft of the Ag Waiver as the proposed changes will have a major economic impact to many growers in the region being that they're punitive in nature, although that may not have been the intent. The staff proposal will not allow funds to be used to implement management practices on many agricultural operations. Instead, they will need to be used to conduct individual monitoring. *Regulation* is not actual improvement; a *plan* is not actual improvement; *data* is a tool to measure; a *change continuum* is needed; *action* on the ground is the only way to get there. The continued development of the carrot and the stick approach needs to be our focus. It requires changes in farming (along with implementation changes) that allows growers to look for solutions within their own operations while working with their neighbors in the watershed to develop management practices that can show improvement. What is needed currently is governmental regulation with a holistic approach. Most regulations operate as though they're in "farm silos" (single focus, tall towers) that stand alone.

According to staff, healthy watersheds and a sustainable agricultural economy can coexist. We agree but it requires a different approach than the current staff report can model. It is my belief that the staff is using a point-source approach because that is the regulatory model they have a proven track record with to improve water quality. According to staff, *"healthy watersheds and a sustainable agricultural economy can coexist. Protecting water quality and the environment while protecting agricultural benefits and interests will require change, and may shift who bears the costs and benefits of water quality protection. Continuing to operate in a mode that causes constant or increasingly severe receiving water problems is not a sustainable model."* Let's look at the past twenty years of discussions around water quality issues so that we can move forward. The majority of that time was focused on data collection and understanding the sources of discharge, and rightly so. We first worked on "point-source" discharge because they were systems that could be controlled with a uniformed approach. Non-point source is complicated, the tools are limited, the research gaps are great, and the regulated community is just beginning to understand data. With this data in-hand, agriculture is beginning to understand why the regulations are needed, what the standards are, and most importantly "how" to comply to standards that appear unreachable. Regulation must take into account the "psychology of change" and allow for sufficient time for that change to occur. The staff report, with its standards and requirements, has outpaced technological "fixes" and tools available for on-the-ground management changes. The last waiver allowed for data collection, outreach and education. This

waiver should require an understanding of the data, “matching” the tools that we currently have along with investment of financial capital in science to develop and evaluate management practices to improve water quality.

I would suggest that the Board consider adoption of the Ag Alternative to the new Ag Waiver as submitted. I was involved in the process to develop the Ag Alternative and feel it, if adopted, would result in true improvements to water quality in the region by matching practices to data. The concept of a coalition-based approach has value and I believe is the best way to involve growers to make meaningful changes. Currently there are limited tools that improve water quality. Industry experience has shown the benefits of sharing ideas and technology on the ranch with the assistance of experts has improved practices. New ideas and practices need to be cultivated to achieve meaningful long-term improvements to water quality. A system in which growers can, through the coalition, share advances made on each ranch will be invaluable. I realize that many details of the proposed coalition have yet to be submitted, but the concept is sound. Details regarding how to aggregately report data of value to the Board, staff and public need to be further defined as well. The coalition’s technical team will need to include diverse experts to ensure accountability to the public.

The proposed Ag Alternative is designed to focus on those growers who pose the greatest risk to water quality. Efforts will be directed to address those problems which can result in the greatest improvements. It is my belief that the agricultural industry can address problems associated with water quality in a cooperative and effective way and the proposed growers will be held accountable to the coalition and, through it, to each other. Individual accountability is assured as those that do not cooperate will not be allowed to operate within the coalition without changing their practices.

As a part of the next waiver we understand that the Regional Water Quality Control Board is responsible for swift and fair enforcement when the laws and regulations protecting California's waterways are violated. Enforcement serves many purposes. First and foremost, it assists in protecting the beneficial uses of waters of the State. We understand that enforcement not only protects the public health and the environment, but also creates an "even playing field," ensuring that dischargers who comply with the law are not placed at a competitive disadvantage by those who do not. Enforcement is why we raise a concern with the Staff Draft order the standards requirement within the time frames cannot met, staff will be forced to “select” operations to enforce against which will not create an even playing field.

In fact, the “tiering” proposal embodied in the staff draft Ag Order is an example of an arbitrary and punitive approach in that it assigns select operations to high risk Tiers based on size, proximity to surface water and/or crops grown regardless of the actual risk those operations may present. Once in a higher Tier the requirements for an owner/operator are much more stringent and there are no clear paths out of that Tier despite the best practices, mitigation measures, or improvements present or made by the owner/operator.

Under the proposed standards, growers who farm within 1,000 feet of a 303(d) listed waterway and who farm over 1,000 acres or who rent from a landlord who owns over 1,000 acres in the region would find themselves in Tier 3, regardless of the nitrate loading potential of the crop they grow, the pesticides they use or the farming practices they utilize. The 1,000 acre standard

appears to be totally arbitrary and has nothing to do with the risk to water quality a growing operation may pose. In addition, many ranches adjacent to waterways do not discharge surface water into those waterways as they are graded to drain away from it. Growers long ago realized to mitigate potential problems associated with discharging into rivers and streams they could level their ranches to avoid direct discharge into them. Thus, the 1,000 acre standard and 1,000 foot from an impaired waterway standard appear to have nothing to do with the risk a growing operation poses to water quality. Growers who find themselves in Tier 3 with no hope of improving their position will not be motivated to make changes that result in true improvements to water quality.

The staff draft of the Ag Waiver does not take into account baseline levels of both nutrient and toxicity levels in either ground or surface water. These levels have been caused by decades of inputs, both agricultural and otherwise. The impact of practices long ago abandoned by the agricultural industry because of their impact on water quality is still being manifested in background levels in both ground and surface water. Undoubtedly, some of these levels are due to agriculture and there is certainly room for growers to improve practices that impact water quality, but to set timelines and milestones for improvement in a matter of a few years to problems that were caused many years ago is unrealistic and impossible for the industry to achieve.

Achieving real improvements to water quality in our region requires that standards have realistic goals and focus on where the problems truly lie. An Ag Order must be designed with achievable objectives and must be a transparent and collaborative process that encourages agricultural stakeholders. They are uniquely positioned to provide innovative solutions to enhance the region's water quality. The failure to constructively engage growers and landowners will be counterproductive to short and long-term efforts to improve water quality.

Thank you for considering my views.

Sincerely,

Darlene Din

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