

## Jimmerson, Chris@Waterboards

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**From:** jclary@cleanwater.org  
**Sent:** Monday, September 16, 2013 4:50 PM  
**To:** Jimmerson, Chris@Waterboards  
**Cc:** Karkoski, Joe@Waterboards; RC; Phoebe Seaton  
**Subject:** Comments on Delta and San Joaquin draft order  
**Attachments:** TLB Tentative WDR EJ comm April15.pdf; ESJR\_Draft\_order\_EJ\_comm.pdf

**Categories:** Ecase filed

Joe and Chris

In reviewing the Delta order, the problems seem to be pretty much the same as those in prior orders, so I'm attaching those comments so they can be added by reference. In addition, I notice two unique changes of concern:

1. The Groundwater Quality Assessment Report is being split into two sections with and ETA of one year and two years for Phase one and two respectively. Given the elongated time frame for these orders and the fact that timelines are already at least a year longer than those in the San Joaquin order, this is pretty troubling
2. We already had a problem with allowing the Executive Officer to reduce reporting requirements for Farm Evaluations and Nutrient Management Plans in Year 3 of reporting; this order goes one step further and allows the EO to reduce Farm Evaluation submittal in Year One. I don't understand the logic of allowing this for this specific order, and in fact totally disagree with it.

Thanks for accepting the comment.

Sincerely,

Jennifer Clary  
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**From:** [jclary@cleanwater.org](mailto:jclary@cleanwater.org)  
**To:** [Jimmerson, Chris@Waterboards](mailto:Jimmerson.Chris@Waterboards)  
**Cc:** [Karkoski, Joe@Waterboards](mailto:Karkoski.Joe@Waterboards); [RC](#); [Phoebe Seaton](#)  
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In addition, I notice two unique changes of concern:

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April 15, 2013

Karl Longley  
Chair, Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670

**Re: Tulare Lake Basin Tentative WDR Comments**

Dear Mr. Longley,

As representatives of environmental and environmental justice communities located in the Central Valley and throughout California, our organizations have closely followed the development of the Tulare Lake Basin Region's General Waste Discharge Requirements for Irrigated Agricultural Discharges. We appreciate the efforts made by staff as well as the regulated community to create an effective regulatory program for agriculture. Our comments on the current draft continue to reflect the urgent need to address widespread groundwater contamination attributable to irrigated agriculture, and your responsibility under the law to do so.

It is the responsibility of the Central Valley Regional Water Quality Control Board (Board) to protect both those communities currently affected by nitrate contamination and those that could be impacted in future, through the adoption of effective and enforceable regulations on agricultural discharges. Specifically:

- An enforceable program with appropriate triggers and limits can provide a source of funding for communities without safe drinking water. The 2012 UC Davis nitrate report clearly identifies the impact of groundwater pollution by nitrates in the Tulare Lake Basin and Salinas Valley. Nearly a quarter million residents were directly exposed to nitrate contamination through their tap water between 2006-2010.
- Early and effective implementation of best practices will help the entire basin. According to the Nitrate Report, more than half of the residents of these regions receive their water from a community water system with at least one exceedance of the nitrate standard in their raw water supply in that same 5 year period – and that number was estimated to grow to 80% by 2050 *if current practices continue*. Nitrate contamination of



groundwater is an economic as well as a public health threat to the residents of the Tulare Lake Basin. Limiting the increase in contamination is a clear Board mandate.

- No one knows how long full remediation will take, but some improvements in water quality can occur quickly. Remediation is a gradual process, but, just as shallow domestic wells currently reflect the greatest amount of contamination,<sup>1</sup> they can also respond more quickly to improvements in management practices on the surface. This is not a small population; information collected in the Tulare Lake Basin pilot project reinforces prior USGS estimates that as many as a quarter million residents of the basin are not served by a public water system.
- The oft-stated assumption that nitrate buildup in the vadose zone will inflate nitrate contamination for decades to come is not informed by an effective monitoring program and a robust Management Practices Effectiveness Program, and therefore it is unclear where and how much that will be an important piece of understanding impacts from current practices and informing groundwater management plans. It is important to note, however, that any “legacy” contamination problems are relevant to determining impact of current discharges. Nitrate concentrations already in high concentrations below the root zone and in unsaturated zone may still be discharges if continued irrigation practices move it to drinking water aquifers. Changing current irrigation and fertilization practices cannot affect what has occurred in the past, but it can affect the fate and continued movement and migration of already existing contaminants. For example, current and on-going groundwater pumping and recharge move those contaminants to different aquifers and locations, and can dilute or exacerbate concentrations of contaminants in the groundwater and therefore domestic water supplies.
- The major problem preventing better definition of the pathways of contamination is lack of information on farm practices and site conditions, and this permit must require sufficient reporting to collect this information. This is also relatively low cost, compared to installing monitoring wells on each field. Yet this Tentative Permit does not collect basic data on the farm level, particularly for all areas outside of high vulnerability areas.

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<sup>1</sup> USGS conducted a domestic well survey in Tulare County in 2006 for GAMA, and found that 40% of the wells tested exceeded the drinking water standard for nitrates.



The Porter Cologne Water Quality Control Act<sup>2</sup> and the State’s Anti-degradation Policy<sup>3</sup> require that the Regional Board issue waste discharge requirements that protect the region’s water quality for designated beneficial uses, as set out in the Basin Plans. However, this Tentative Waste Discharge Requirements General Order For Growers within the Tulare Lake Basin (TLB Tentative Order or Tentative Order) allows the *maximum* amount of groundwater degradation and even pollution to continue from the region’s approximately 2.9 million acres of irrigated lands in contravention of the Basin Plan, State Anti-degradation Policy, and the Porter Cologne Water Quality Control Act.<sup>4</sup> In doing so, the Tentative Order violates California’s Anti-degradation policy, permits pollution and nuisance in violation of the Water Code, unlawfully delegates authority exclusively held by the Board to the Executive Officer and disproportionately impacts low-income, communities of color, in violation of California’s Civil Rights and Fair Housing Laws.

Most fundamentally, the Board must stop continued contamination and pollution. The Board should not allow dischargers under any circumstance to continue to pollute water quality beyond the MCL, and instead, the Board should require dischargers to maintain the highest quality of water consistent with the maximum benefit to the people of the State. Unfortunately, this permit allows the maximum amount of degradation and even continued pollution to continue to impact the water we rely on for drinking water supplies and other beneficial uses, without any ability to do enforcement actions or require mitigation for impacted communities.

### **Support for Small Grower Technical assistance**

We strongly support provision of technical assistance for small and disadvantaged growers in development of farm evaluation and management plans, etc. We believe everyone would be better served if the regional board and third party coalitions provided targeted technical assistance to those farmers, rather than just more time, as is provided in the revisions to this order. As implementation continues, we would appreciate it if the Board required regular reporting on whether and how such assistance is being provided.

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<sup>2</sup> California Water Code §§ 13000 et seq.

<sup>3</sup> Resolution 68-16.

<sup>4</sup> See California Water Code §§ 13240, 13241, and 13263, requiring that waste discharge requirements implement the relevant water quality control plans, including the Basin Plans, which in turn include the Anti-degradation Policy, as well as water quality objectives.



### **Obligations Under the Human Right to Water Act**

While we appreciate finding 31 acknowledging the recently adopted state policy on the Human Right to Water, it does not sufficiently address the requirements of the statute. Beginning on January 1, 2013, AB 685 directs the Board to consider the human right to water “when revising, adopting, or establishing policies, regulations, and grant criteria.” The duty to consider is an ongoing obligation of the Board, which is not possible to discharge through a single administrative action. To fulfill the legislative directive “to consider,” the Board should undertake a range of activities based on legal precedent regarding similar statutes<sup>5</sup>. First, when considering a range of policies or regulations, the Board should give preference and adopt policies that advance the human right to water. Second, the Board should refrain from adopting policies or regulations that run contrary to securing equal access to safe drinking water. Finally, the Board should note in its record of decision the consequences that its actions have on access to safe drinking water in California.

The intent of the legislation is to ensure that all Californians have access to affordable, accessible, acceptable and safe water and sanitation in sufficient amounts to protect their health and dignity. In accordance with domestic law and human rights principles, access for human consumption should be prioritized over other water uses—including water for agriculture and industry—and should be non-discriminatory. Special attention must be given to those who do not have access to safe water.

A human rights approach to water challenges also requires that individuals and communities have meaningful opportunity to participate in decision-making affecting their access to safe and affordable water. Communities most in need of clean drinking water should be a focus of the process as well as the outcome of short-term and long-term planning regarding state water resources. Interested persons should have the opportunity to participate in administrative decisions through submission of written input or oral testimony. The Board should adopt an inclusive and transparent approach to decision-making by fostering participation by communities that historically have been impacted by source water contamination. The Board should also

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<sup>5</sup> See generally *City of Burbank v. State Water Res. Control Bd.*, 35 Cal. 4th 613, 625 (2005) (explaining that taking into consideration means “to take into account various factors,” including those specified in legislation). See also *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *City of Arcadia v. State Water Res. Control Bd.*, 191 Cal. App. 4th 156, 177 (2010); *City of Davis v. Coleman*, 521 F.2d 661, 679, 682 (1975); *San Joaquin River Exch. Contractors Water Auth. v. State Water Res. Control Bd.*, 183 Cal. App. 4th 1110, 1120 (2010).



publically disclose efforts to consider the human right to water policy as well as the impact of these efforts on its final action.

### **Concerns and recommendations for the order**

We continue to have the following major concerns with the order, as detailed below;

1. The Tentative Order violates the State’s Anti-degradation Policy, as outlined in detail below.
  - a. Fails to establish a baseline or require information that would inform a baseline determination for anti-degradation analysis purposes.
  - b. Fails to require sufficient monitoring and reporting to ensure that any prohibition or protection requirement in the Tentative Order is enforceable.
2. The Order allows unlawful pollution and nuisance to groundwater
3. Violation of Civil Rights and Anti-Discrimination Laws
4. The long timeline for implementation ensures that more communities will be impacted by groundwater contamination
5. Lack of transparency limits the public’s right to know and the Board’s ability to act to protect groundwater.

#### **1. The Tentative Order would violate the State Anti-degradation Policy**

##### *A. The Tentative Order fails to require sufficient monitoring and reporting*

The Tentative Order fails to require sufficient monitoring and reporting to ensure that any prohibition or protection requirement in the Tentative Order is enforceable. The Regional Board is relying on the Trend Monitoring to determine trends and degradation, and yet the monitoring requirements do not provide sufficient information to track trends or detect degradation for most contaminants.

1. Trend Monitoring Plans do not require monitoring of all Constituents of Concern. The Tentative Order does not require Trend Monitoring Plans to include all constituents of concern (COCs) related to agricultural discharges in the region – specifically, deleterious minerals, pesticide run-off or degradation products from pesticides. Only through inclusion of these products in trend monitoring wells, can the Tentative Order determine actual degradation trends and ensure the General Order adequately protects groundwater from these contaminants.



Similarly, lack of trend monitoring for Contaminants of Concern, particularly pesticides and degradants, means that the Board does not have a mechanism to detect degradation or ensure compliance with limitations for those constituents. The Order requires no continued monitoring for pesticides or degradates in groundwater.

The Tentative Order gives the Executive Officer the authority to require additional monitoring or the development of management plans if it is determined that “irrigated agriculture may be causing or contributing to a trend of degradation of groundwater.” But it is unclear how that determination can be made if trend monitoring is only focused on the narrow band of contaminants of concern identified in Table 3 of the Monitoring and Reporting Program.

2. Regional monitoring and reporting is inadequate

Township level monitoring and reporting, as opposed to monitoring and reporting at smaller geographic units undermines meaningful efforts to protect groundwater. The township-level reporting requirement has no hydrologic justification. A 36-square mile region can straddle groundwater basins, contain plumes of contamination and dozens of crops with differing nitrogen application rates. This gross level of reporting will make it difficult, if not impossible, to confirm compliance with the Waste Discharge Requirements. A better example is the United States Geological Survey (USGS), which served as the technical lead for the State Water Board’s Priority Basin Project, part of its Groundwater Ambient Monitoring and Assessment Program, beginning in 2004. The USGS was responsible for water quality sampling in California’s groundwater basins to characterize the water quality in each basin and identify trends in groundwater quality. USGS used a grid of one well per square mile to provide an accurate overview of the aquifer.

3. Reporting of Nitrogen use efficiency is not required for all waters

Reporting of nitrogen use efficiency should be required for all waters, not just high vulnerability areas. We agree with current provisions in the Tentative Order that all growers should be required to develop nitrogen management plans. However, given that they are developing the plans, they should provide that information to the 3<sup>rd</sup> party Coalitions and have it included in the annual summary report to the Board, as is required for high vulnerability areas. The costs of submitting and compiling those reports are relatively small, and the need it vital to compiling with the requirements of the law. In order to ensure that all high quality waters are adequately protected under the anti-degradation policy, there must be a mechanism to determine whether



degradation is occurring and a way of determining whether BPTC is being implemented. *Asociacion de Gente Unida por el Agua* at 1274.

*B. The Tentative Order fails to set appropriate Receiving Water Limitations for compliance to meet the requirements of anti-degradation.*

The Receiving Water Limitations in the General Order fail to comply with Anti-degradation Policy or the Basin Plans, and do not support the findings in the order. The order only requires that “wastes discharged from Member operations shall not cause or contribute to an exceedance of applicable water quality objectives in the underlying groundwater, unreasonably affect applicable beneficial uses, or cause or contribute to a condition of pollution or nuisance,” and then, through the applicable footnote, allows at least up to 10 years of continued contribution to exceedances, pollution or nuisance. This means that the Tentative Order is not only authorizing the maximum amount of degradation possible, but also authorizing continued pollution or nuisance or exceedences of water quality objectives and undermining any ability to take enforcement actions for those causing or contributing to that. This is entirely unacceptable.

The groundwater limitations should 1) include a limitation on degradation consistent with minimizing degradation to ensure the highest water quality consistent with the maximum benefit to the people of the State and BPTC, as well as 2) delete the footnote in order to omit altogether any authorization of continued contribution to pollution, nuisance or exceedences of water quality objectives. Without clear compliance standards in the groundwater limitations, the Board undermines its own ability to conduct enforcement actions and therefore eliminates the basis for its own findings, and renders its protection measures illusory.

Similarly, the undue delay in the Management Practices Effectiveness Report – not due until 2023! – undermines the enforceability of BPTC and violates the Board’s duty to ensure rapid compliance through this order.

*C. The Tentative Order allows for degradation without conducting the analysis needed, or requiring sufficient data to be collected, to form a basis for making required anti-degradation findings.*

State anti-degradation law requires that baseline water quality is to be maintained unless it has been demonstrated to the State that any change in water quality 1) will be consistent with the maximum benefit to the people of the state; 2) will not unreasonably affect present or probable future beneficial uses of such water; and 3) will not result in water quality less than prescribed in



state policies.<sup>6</sup> Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.

Thus, analysis of whether the General Order violates the anti-degradation policy is a 3 step process: (1) Will baseline water quality be maintained; (2) If not, has the board demonstrated that the change in water quality (a) will be consistent with the maximum benefit to the people of the state; (b) will not unreasonably affect present or probable future beneficial uses of such water; and (c) will not result in water quality less than prescribed in state policies and (3) has the Board established that the activities subject to this order that will or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.

1. The Tentative Order fails entirely to protect baseline water quality by failing to establish a baseline or set in place a mechanism for doing so.

Baseline water quality has been interpreted to mean “the best quality of the receiving water that has existed since 1968, ... unless subsequent lowering was due to regulatory action consistent with State and federal anti-degradation policies.” APU 90-004. *See* Asociacion de Gente Unida Para el Agua, at 1270. Additionally, the California Environmental Protection Agency, and the Regional Water Quality Control Board Central Valley Region’s, *A Compilation of Water Quality Goals* (August 2003), defines background levels to be maintained as “the concentration of substances in natural waters that are unaffected by waste management practices or contamination incidents.” p. 6. Under either interpretation, the Tentative Order would fail to protect baseline water quality. The Tentative Order fails entirely to protect baseline water quality by failing to establish a baseline or set in place a mechanism for doing so.

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<sup>6</sup> See California Environmental Protection Agency, Regional Water Quality Control Board Central Valley Region. *A Compilation of Water Quality Goals* (August 2003), p. 6.



The failure to establish a baseline means it is virtually impossible to enforce the anti-degradation policy. Furthermore, the failure to require any information to establish a baseline in any of the plans or reports or analysis developed to implement the Tentative Order, make it impossible to determine levels of degradation occurring and permitted under this permit. When undertaking an anti-degradation analysis, the Regional Board must compare the baseline water quality to the water quality objectives. *Asociacion de Gente Unida por el Agua* at 1270. By failing to establish a baseline, the Tentative Order, ipso facto, makes anti-degradation analysis impossible and is thus violative of the anti-degradation policy at all stages of the Order's approval, implementation and enforcement.

We understand that it is difficult to determine historic baseline levels in every area under a general permit that covers such a large geographic area. However, the Regional Board must make best efforts to determine a baseline in order to provide a basis for any finding or determination of the level of degradation that is in the maximum benefit to the people of the State. At the very least, the Board should require the Groundwater Assessment Reports (GAR) to develop a basic analysis of baseline water quality utilizing available existing data to estimate historic baseline levels for at least the constituents of concern in the region. There is no such requirement in the Tentative Order for the GAR or any other report, analysis or action included in the Tentative Order. While establishment of an estimate of a baseline through the GAR would not inform the Board prior to approval of the WDR, it would at least provide the information needed to incorporate anti-degradation analysis into the implementation and enforcement of the permit going forward.

D. *The Order fails to demonstrate that the change in water quality authorized by this permit will be consistent with the maximum benefit to the people of the state, and provides an inadequate basis for any determination that the benefits of the levels of degradation authorized are demonstrated to outweigh the costs of that degradation.*

A determination as to whether degradation is consistent with maximum benefit to the people of the state is made on a case-by-case basis and is based on considerations of reasonableness under the circumstances. Factors to be considered include (1) past, present, and probable beneficial uses of the water (specified in Water Quality Control Plans); (2) economic and social costs, tangible and intangible, of the proposed discharge compared to the benefits, (3) environmental aspects of the proposed discharge; and (4) the implementation of feasible alternative treatment or



control methods.<sup>7</sup> The Board, in this Tentative Order engaged in no such analysis, much less demonstrated that any change in water quality will be consistent with the maximum benefit to the people of the state. Furthermore, the Board neither demonstrated that the change in water quality would not unreasonably affect present or probable future beneficial uses of such water; nor result in water quality less than prescribed in state policies. To the extent that the Tentative Order conclusively states such, monitoring and reporting requirements, as discussed above, fail to ensure that this will be the case.

1. This permit allows the maximum level of degradation without any finding or basis for that finding.

If the General Order allows degradation up to water quality objectives and only sets that as the enforceable compliance goal, then it will permit all degradation from baseline up to just below the level of exceedance. If the Board wants to permit this maximum level of degradation, it needs to determine that this is the highest water quality for the maximum benefit to the people of the state. There is no such finding, nor any analysis or basis for such a finding.

2. The Order fails to demonstrate that degradation will not unreasonably affect present or probable future beneficial uses of such water.

Setting the effective level of degradation at essentially the same point as the level of exceedance creates a standard that will ensure impacts to domestic water users. Public water systems charged with treating drinking water to meet drinking water standards do not treat the water to just below the standard, but set a target well below that level to ensure that fluctuations in treatment or in the quality of the source water do not result in an exceedance of water quality standards. Additionally, systems that rely on source water that is near an MCL must meet significantly increased monitoring burdens to ensure that levels do not exceed an MCL (for example, if a system relies on water that is over ½ the MCL for nitrate they are required to conduct much more frequent monitoring, which can mean significant costs to systems and consumers). This order must set a goal for degradation far enough below that water quality objective to ensure that high quality waters do not exceed water quality objectives and beneficial uses are not impaired.

- E. The Tentative Order fails to establish that discharges to existing high quality waters will result in the legally adequate best practicable treatment or control (BPTC)*

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<sup>7</sup> See [State Board] Order No. WQ 86-17, at 22,



The Tentative Order fails to establish that discharges to existing high quality waters will result in the best practicable treatment or control (BPTC) of the discharge necessary to assure that (a) pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.

This Tentative Order would allow for discharge of pollutants above baseline, or highest quality, levels into the region's groundwater,<sup>8</sup> without imposing the best practicable treatment or control ("BPTC") requirements, which by definition require first determining that it will not result in degradation that will unreasonably affect present or probable beneficial uses and that it will result in maintaining the highest water quality consistent with maximum benefit to the people of the State.<sup>9</sup> As by definition BPTC cannot result in pollution or nuisance, while the requirements of the order expressly allow for those results for up to 10 years through a groundwater management plan, the permit on its face fails to meet BPTC requirements. For the reasons outlined above, this permit not only fails to make the necessary findings and determinations, but fails to require sufficient requirements to ensure those standards can be met. As such, this permit does not require the BPTC or adequate performance standards or sufficient reporting and monitoring requirements to protect high quality groundwater.

In particular, in the information sheet of the General Order, the Regional Board states that the SQMPs/GQMPs are reviewed periodically to determine whether adequate progress is being made to address the degradation trend or impairment. However, there is not only no determination of baseline, but there is no determination of the level of degradation allowed. At a minimum, any GWQMP that is determined to have shown "inadequate progress" should be immediately deemed to no longer meet the requirements of the Groundwater Limitations, and any member causing or contributing to unauthorized levels of degradation or exceedences of water quality objectives should be subject to enforcement actions. Fundamentally, the General Order fails to set the right goal and then fails to be able to measure whether it is meeting that goal. Therefore, by definition, this cannot be best practical treatment and control.

It is important to emphasize that where groundwater has already been polluted or degraded beyond the baseline, current dischargers should be required to do even more stringent management practices than they would have otherwise to ensure they are not contributing to exceedences of groundwater quality objectives, and therefore meet BPTC requirements. BPTC

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<sup>9</sup> State Water Resources Control Board Resolution No. 68-16.



may therefore be different depending on conditions of receiving waters. Therefore, if a discharger is discharging into water at or above the water quality objective, it must, at a minimum, ensure it is not contributing to that exceedence in order to comply with BPTC. That may mean that dischargers in these areas must take extra measures to reduce loading impacts by current irrigation practices and comply with BPTC, including pump and fertilize, targeted recharge of high quality water to dilute discharge, in addition to instituting highly efficient nutrient management practices. More information on these practices is included in the UC Davis technical reports prepared and provided to the Board as part of SB2x1.

It is important that requirements take into account that there are areas where very rapid improvements in water quality may be seen if adequate management practices are implemented. Even in the Kern sub-region of the TLB, there are regions with groundwater as shallow as 0-20ft and areas of course and sandy soils with significant recharge and groundwater pumping that can further accelerate observed changes in groundwater concentrations due to changes in practices at the surface.

## **2. The Order allows unlawful pollution and nuisance to groundwater**

According to the Water Code, "Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects ...: (A) The waters for beneficial uses. (Cal. Water Code 13050(1)(1)). For all the reasons that the Order violates the state's anti-degradation policies, the Tentative Order, too, if implemented would result in Pollution as defined by the Water Code, by:

- a) Allowing degradation up to the water quality objectives without the required findings permitting such degradation
- b) Allowing discharges to contribute to exceedances of water quality objectives and nuisance for up to 10 years
- c) Failing to establish a baseline to assess and analyze degradation or the impacts of discharge.
- d) Failing to establish adequate monitoring and reporting procedures to adequately monitor degradation or potential impacts to beneficial uses.

"Nuisance" means anything which is (1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, (2) Affects at the same time an entire community or neighborhood,



or any considerable number of persons, (3) Occurs during, or as a result of, the treatment or disposal of wastes. (Cal. Water Code 13050(m)).

By allowing degradation of groundwater up to the water quality objective, by disregarding relevant public health goals in favor of often less protective water quality objectives, by failing to monitor for all constituents of concern, and allowing continued discharger contribution to exceedences of water quality objectives and nuisance for up to the next ten years, this Tentative Order would allow for discharge of waste that is both injurious to health and interferes with the enjoyment of property for those whose domestic water quality will be impacted.

Separate and apart from prohibitions in the State's anti-degradation policy, California law prohibits outright pollution and nuisance with respect to the state's groundwater. (Cal. Water Code Section 13050 *et seq.*) These prohibitions in state law are applicable to both high quality waters, subject also to the anti-degradation policy and other waters. Thus to the extent that this order permits discharges that constitute nuisance or pollution, as discussed above, this Order violates California law with respect to its treatment of and failure to protect all groundwater in the Tulare Lake Basin.

### **3. Violation of Civil Rights and Anti-Discrimination Laws**

This Tentative Order, if implemented, would disproportionately impact low income communities and communities of color by failing to protect groundwater from continued degradation. The Tentative Order would allow further groundwater degradation, particularly nitrate contamination, which is the number one cause of drinking water well closure in the State. Already Latino and low-income communities are more likely to have contaminated drinking water in the Central Valley region, and this is most often due to high levels of nitrate in the groundwater.<sup>10</sup> Specifically in the San Joaquin Valley, small communities with high concentrations of Latinos are disproportionately impacted by nitrate contamination from agricultural waste, meaning Latino communities are more likely to have higher levels of nitrates in their drinking water<sup>11</sup>. Additionally, Latino and low-income communities are less likely to have health care and access to treatment or substitute water sources, and are more likely to be exposed to cumulative deleterious environmental impacts through other media (such as air).

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<sup>10</sup> Environmental Justice Coalition for Water, *Thirsty for Justice: A People's Blueprint for California Water* (2005)

<sup>11</sup> Carolina Balasz, et.al., *Social Disparities in Nitrate Contaminated Drinking Water in California's San Joaquin Valley*, Environmental Health Perspectives June 2011.



It is also important for the Board to understand that continued degradation and exceedences of groundwater objectives will cause less water availability for domestic and municipal use, resulting in fewer will-serve letters and therefore the inability to develop housing in the region.

By disparately impacting low income, communities of color, the Board's failure to enact adequate groundwater protections, violates our states commitment to equality and freedom from discrimination as laid out in California Government Code, Section 11135 which states that no person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency. Furthermore, the Board's failure to enact groundwater protections threatens California's Fair Employment and Housing Act, California Government Code 12900, et seq., which guarantee all Californians the right to hold and enjoy housing without discrimination based on race, color or national origin.

The California Government Code Section 65008 renders null and void any action undertaken by a local governmental agency that denies to any individual or group of individual the enjoyment of their residence, landownership or tenancy. The Board's decision, if it fails to protect the drinking water for California's most vulnerable communities through adoption of this Tentative Order may be null and void.

Therefore, this General Order would disproportionately impact low-income communities and communities of color, in violation of California Government Code Section 11135, Fair Employment and Housing Act and other state and federal civil rights laws.

**4. The long timeline for implementation ensures that more communities will be impacted by groundwater contamination**

The continued delay in implementing basic groundwater protections has harmed hundreds of thousands of Central Valley residents. This order does little to remedy that inequity, with delays of at least a decade before growers must demonstrate that their actions are improving water quality.

- 1989 – CDFA nitrate report identifies nutrient management as a tool to stem nitrate pollution



- 1999 – Senate Bill 390 is signed into law, required the Regional Water Boards to review their existing waivers and to renew them or replace them with WDRs
- 2003-2004 - surface water monitoring begins
- 2008 – board agrees to include groundwater in future regulatory program
- 2013\* – June: Tulare Lake Basin WDR approved
- 2013 (fall) – NOA issued for one or more 3<sup>rd</sup> party coalitions
- 2014 (1<sup>st</sup> quarter) – member enrollment closed -
- 2015 (spring)\* – first nitrogen budgets due
  - first summary report due
  - Groundwater Assessment report due
- 2014 (fall/winter)\* - trend and representative groundwater monitoring workplans due
- 2016\* – groundwater trend monitoring begins; annual data submission to GAMA
- 2017\* – Management Practices Effectiveness Program workplan due
- 2018 – first Farm Evaluation due for small operation in low vulnerability areas
  - Executive officer can relax reporting requirements
- 2023\*- first Management Practices Effectiveness Report Due
- 2023 – Date of Compliance in WDR

\* Estimated dates based upon the terms of the draft order

Under this timeline, the earliest results from trend monitoring won't be seen before 2017. Even worse, BPTC will only be confirmed (and then only for the highest priority crops and soils) in 2023, the same year that full compliance is required. It is clear that, if the order is adopted as currently written, enforcement based on actual impacts to water quality will not be possible for at least a decade, and communities will continue to suffer and pay for water quality degradation for the foreseeable future.

This order should have timelines that will provide for compliance by the date in the order, which means that the deadlines for trend monitoring and BPTC confirmation should be moved up. In the interim, the order can base enforcement upon reported nutrient ratios. The Water Board should set a level for appropriate deviation from median for crop-based nitrogen budgets, and issue violation notices and fines to those growers who report nutrient budgets outside of that deviation. This fine could be set at a minimal level initially, and increase with each nutrient report, with the fines generated going to a SEP established to provide safe drinking water to communities with nitrate contamination.



**5. Lack of transparency limits the public’s right to know about impacts to their water quality and the Board’s ability to act to protect it.**

Another barrier to enforcement is the limited amount of information to be made public by the 3<sup>rd</sup> party coalitions in their reports to the Board. While nitrogen budgets are extremely useful, they fail to provide needed information about nitrogen loading. The order should require reporting of fertilizer application which will, when combined with the nitrogen budget ratio, provide important information about nitrogen loading to groundwater. This information will be critical both to understanding groundwater monitoring data and in prioritizing growers for inspection and enforcement. Fertilizer use, much like pesticide use, is not a confidential trade secret and is an indicator that should be provided as part of the nutrient budgets to determine nitrogen loading of groundwater. This was one of the State Water Board’s recommendations regarding the Nitrate Report.

Finally, as we have stated previously, this order contains little data to inform the Board’s decision, and as implementation proceeds over the next decade, the Board has no continuing decision-making role. The Executive Officer, on the other hand, can make large-scale changes to the order – amending vulnerability areas, reducing reporting requirements, and determining where and how monitoring of constituents of concern will occur. The Board has a responsibility to ensure that this order is effectively and adequately implemented and enforced and should identify a trigger for ensuring that this responsibility is carried out.

**Conclusion**

We appreciate the opportunity to review this order and provide input. As you can see we continue to have significant concerns about this order. We trust that these faults so that we can fully support this order.

Sincerely,

Laurel Firestone  
Co-Executive Director and Attorney at Law  
Community Water Center

Jennifer Clary  
Water Policy Analyst  
Clean Water Action



Phoebe Seaton  
California Rural Legal Assistance Foundation



August 6, 2012

Karl Longley  
Chair, Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670

**Re: East San Joaquin Revised draft WDR**

Dear Mr. Longley,

As representatives of environmental and environmental justice communities located in the Central Valley and throughout California, our organizations have closely followed the development of the Eastside San Joaquin Region's General Waste Discharge Requirements for Irrigated Agricultural Discharges. We appreciate the efforts made by staff as well as the regulated community to create an effective regulatory program for agriculture. Our comments on the current draft continue to reflect the urgent need to address widespread groundwater contamination attributable to irrigated agriculture, and your responsibility under the Porter-Cologne Act to do so.

We greatly appreciate the clarifications provided by this revised draft order. We continue to have two major concerns;

- That the program fails to control contamination of groundwater from pesticide use;
- That the program does not provide adequate levels of enforcement capabilities to protect water quality.

**Pesticides**

The Board has apparently decided to cede regulatory authority over pesticides in groundwater to the Department of Pesticide Regulation (DPR). The order makes the assumption that monitoring performed by DPR is adequate to identify groundwater contamination trends due to pesticides. Unfortunately, DPR monitors for only about one-third of the pesticides on its



6800(b) list of likely groundwater contaminants. This order fails to identify which pesticides on the 6800 (b) list are used in the region, even as it acknowledges that monitoring data is not available for all pesticides in use in the region.

DPR's program as implemented does not comply with the Board's anti-degradation policy, or with DPR's own Pesticide Contamination Prevention Act. We've provided a short brief, attached to this letter, outlining our concerns. In sum, approximately 375 tons of pesticides from DPR's 6800(b) list were applied in the region in 2010, according to the departments pesticide use reporting data, of which approximately 60% by weight are included in either DPR's or CDPH's monitoring program. This seems to us to be clearly inadequate for ensuring the protection of groundwater quality.

The Board cannot cede its responsibilities for protecting water quality and preventing degradation to another agency, if that agency's program has demonstrated that it is not adequate to comply with California's water quality laws.

Recommendation: Require that groundwater trend monitoring workplans include monitoring protocol for those pesticides in use within DPR Groundwater Protection Areas that appear on the departments 6800 (b) list but are not being monitored by DPR's shallow groundwater or soil monitoring program.

## **Enforcement**

We appreciate that the East San Joaquin order is the first regional order, and agree that this region should not be subject to a timeline that penalizes it for being proactive. However, we are now looking at a very long timeline for implementation of the order and associated improvements in water quality:

- 1999 – Senate Bill 390 is signed into law, required the Regional Water Boards to review their existing waivers and to renew them or replace them with WDRs
- 2003-2004 - surface water monitoring begins
- 2008 – board agrees to include groundwater in future regulatory program
- 2012\* – October: East San Joaquin River WDR approved
  - December: application of 3<sup>rd</sup> party coalition approved
- 2014 (spring)\* – first nitrogen budgets due



- first summary report due

- 2014 (fall/winter)\* - trend and representative groundwater monitoring workplans due
- 2015\* – groundwater trend monitoring begins; annual data submission to GAMA
- 2016\* – second summary report due
- 2018\*- third summary report due – three years of GW quality monitoring information available for review/comparison

\* estimated dates based upon the terms of the draft order

Given the very long timeline for implementation of the plan, and estimates of several decades after that to realize significant improvements in groundwater quality, it is clear that any enforcement based on water quality monitoring will not be possible for at least a decade, and communities will continue to suffer and pay for water quality degradation for the foreseeable future. This order, therefore, must include reasonable measures for enforcement based on reporting that indicates use of protective practices, in addition to the water quality monitoring programs aimed at showing achievement of water quality objectives over the long-term. Even small token fines for exceeding nutrient budget parameters, for example, can ensure signal the importance of protecting water quality, while also generating funds to mitigate continuing community impacts.

As currently written, enforcement will be based upon administrative paper compliance – timely enrollment and report submittal – rather than improvements in water quality or adoption of protective practices, which is everyone’s goal. Information indicating on-giong impacts to water quality in the short term is limited to the required reporting of nitrogen budgets on a square mile basis. We strongly support this requirement, as well as the submittal of nitrogen budgets by crop and grower. This information also provides an opportunity for enforcement based on impacts to water quality.

Recommendation: The Water Board should set a level for appropriate deviation from median for crop-based nitrogen budgets, and issue violation notices and fines to those growers who report nutrient budgets outside of that deviation. This fine could be set at a minimal level for 2014, and increase with each bi-annual report, with the fines generated going to a SEP established to provide safe drinking water to communities with nitrate contamination.

Another barrier to enforcement is the limited amount of information to be made public by the 3<sup>rd</sup> party coalitions in their bi-annual reports to the Board. While nitrogen budgets are



extremely useful for planning and reporting, they only provide a ratio of nitrogen applied versus nitrogen removed. Reporting of fertilizer application on the same square mile basis will, when combined with the nitrogen budget ratio, provide important information about nitrogen loading to groundwater. This information will be critical both to understanding groundwater monitoring data and in prioritizing growers for inspection and enforcement.

Fertilizer use, much like pesticide use, is not a confidential trade secret and is an indicator that should be provided as part of the nutrient budgets to determine nitrogen loading of groundwater.

Recommendation: Include fertilizer use reporting on a square mile basis in 3<sup>rd</sup> party coalition's bi-annual reports.

## Conclusion

We appreciate the opportunity to review this order and provide input. Both staff and the East San Joaquin River Water Quality coalition have succeeded in developing a plan with clear timelines and responsibilities. We continue to be concerned about the limited amount of information that will be made available to the public, and about the establishment of clear mechanisms to enforce the order based upon threats to water quality. We trust that the final order will remedy these faults so that we can fully support this order.

Sincerely,

Laurel Firestone  
Co-Executive Director and Attorney at Law  
Community Water Center

Jennifer Clary  
Water Policy Analyst  
Clean Water Action

Phoebe Seaton  
California Rural Legal Assistance Foundation

Dear Mr.

As a farmer in San Joaquin County and a steward of the land, I am deeply concerned with the direction the Regional Water Quality Control Board is taking regarding water quality. As farmers, we work every day to grow food that feeds the world, contributes to our local economy and do so in a way that protects natural resources.

Until recently, we have been operating under a waiver to the waste discharge requirements and have seen water quality improve. We are very concerned about the implications the new waste discharge requirement as the administrative draft of this document that has been released is not practical for producers, particularly, the requirement of a certified Nitrogen budget.

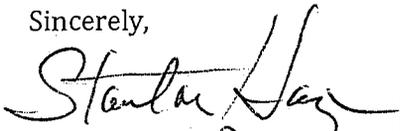
The requirement of maintaining a certified Nitrogen budget is nothing more than additional paperwork for growers that has no meaningful purpose and will be cost prohibitive for most farmers.

Creating a Nitrogen budget wastes precious resources on process rather than progress. The application of Nitrogen is only done when conditions require it and at the bare minimum levels. To give a more rounded picture of the amount of Nitrogen applied; it makes more sense for growers to only report the amount of Nitrogen they actually applied at the end of a growing season.

Additionally, a certified Nitrogen budget could potentially be cost prohibitive, depending on who has the authority to certify such a plan. The administrative draft of the WDR falls short on the specificity of this part of the requirement. I recommend that the Board create a comprehensive program for self-certification of growers. There are many benefits to moving to a self-certification program, the first of which is that it would be more cost effective for the grower because they wouldn't incur the cost of having another party certify the plan. There is also the additional benefit of having the opportunity to educate growers about groundwater discharge, which wouldn't exist if they were paying someone else to certify the budget.

As a grower, I would like to work with this new regulation. However, the idea of an inconsequential guideline is nothing short of nonsensical and at the very least, it should not be at my expense.

Sincerely,


RECEIVED  
ACRAMENTO  
CVR/WQCB  
13 SEP 16 PM 1:16

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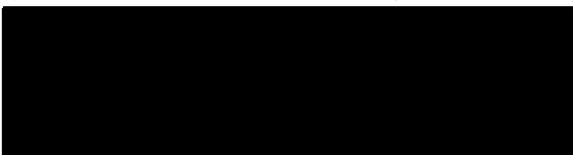
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Sincerely,

*Charles Starr*



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SACRAMENTO  
CVR/WQCB  
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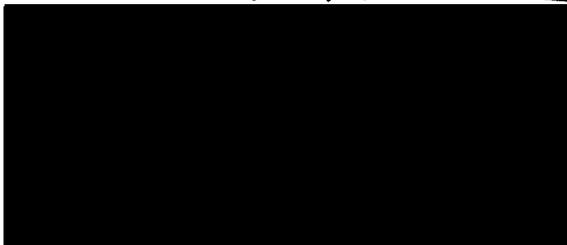
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Sincerely,



13 SEP 16 PM 1:19

RECEIVED  
ACRAMENTO  
CVRWQCB

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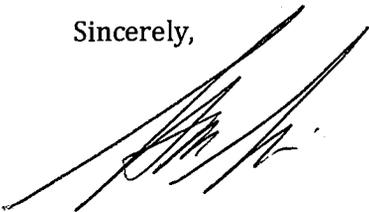
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RECEIVED  
CORAMMENTO  
CVR/WDCB  
13 SEP 16 PM 1:19

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Sincerely, 



RECEIVED  
GRAHNSANTO  
CVR/WQCB  
13 SEP 16 PM 1:19

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Sincerely,



13 SEP 16 PM 1:20

RECEIVED  
SACRAMENTO  
COURT HOUSE

Dear Mr. Longley,

As a farmer, protecting water quality is an essential part of what I do each day. Many of us are farmers, working every day to grow food that feeds the world, contributes to our local economy, and protects the environment.

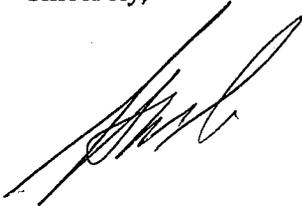
Until recently, we have been operating under a waiver to the waste discharge requirements that was to address water quality in our region. We are very concerned about the new WDR, specifically the enforcement capabilities.

The administrative draft of the WDR requires that growers keep farm management plans, nitrogen management plans, nitrogen summaries, and sediment/ erosion control plans on at the principle place of business for the operation.

For many growers in San Joaquin County, the principle place of business for the operation is the family home. It is inappropriate for any agency to require that a farmer grant access to their home available and produce these documents upon demand. Understandably, this is a significant invasion of privacy.

The enforcement section of the WDR must be rewritten to be more specific in what is required of growers and narrowed in a way that does not permit officials access to a family's home.

Sincerely,

A handwritten signature in black ink, appearing to be "John", written over a horizontal line.

13 SEP 16 PM 1:14  
RECEIVED  
SACRAMENTO  
CVR/WCCB

Dear Mr. Longley,

I am a farmer in San Joaquin County and believe there is a better way to address water quality in our region.

Until recently, we have been operating under a waiver to the waste discharge requirements that were working and served to educate growers in on water quality.

Growers in San Joaquin County fastidiously meet and comply with an ever-growing number of requirements and regulations. Our goal is to ensure that the new waste discharge requirements are implemented in a way that is understandable and accessible to every day growers.

To maintain compliance with the myriad of existing regulations, many growers rely on a variety of measures to stay up to date with the latest rules and regulations. However, the administrative draft of the WDR precludes the use of existing, widely utilized software because it calls for per crop/ per parcel reporting. This is a radical departure than how a grower would usually report, which is by APN number. Because of this discrepancy, the Nitrogen summary cannot be done with the same software that is widely available and affordable to growers. It is imperative that the regulation is implemented in a way that interfaces with current practices.

Further, you must realize that remote areas within our county mandate the use of paper forms for reporting and thus, paper forms need to be available and accessible as well.

For these reasons, we urge the Board to reconsider the per crop/ per parcel reporting requirement and to have paper forms available upon request.

Sincerely,

*Charles E. Starr*



RECEIVED  
SACRAMENTO  
CVR/WOCB  
13 SEP 16 PM 1:15

Dear Mr.

As a farmer, I must question the direction of the Regional Water Quality Control Board with the new WDR.

I believe any requirement to report a farm management practice is inappropriate and will not improve water quality. The first of which is that farm management practices are personal to a grower. You would not ask other businesses to disclose their trade secrets, and it is no different to ask growers to make their management practices common knowledge.

I fear that this information may be compiled and used to create region- wide standardization of Nitrogen application for specific crops. This would be short sighted as Nitrogen application not only depends on the crop, but also the soil type.

San Joaquin County has such a diverse topography that farm management is always going to be distinctive, depending on the particular crop and location.

It is because of these factors that I feel the scale heavily tips in favor of not requiring growers to report farm management practices and we suggest the Board strike this from the WDR.

Sincerely,



RECEIVED  
SACRAMENTO  
CVR/WQCB  
13 SEP 16 PM 1:16

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Sincerely,

*Joe Guis*

[Redacted signature block]

RECEIVED  
SACRAMENTO  
CVR/WOCB  
13 SEP 16 PM 1:17

Dear Mr.

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Sincerely,

*Phillip Brumley*  
PHILLIP BRUMLEY



RECEIVED  
ACORAHENTO  
CVR/WOCCB  
13 SEP 16 PM 1:17

Dear Mr. *Conley*

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Sincerely,

*Mike Liu*



RECEIVED  
SACRAMENTO  
CVRWOCB  
13 SEP 16 PM 1:17

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Sincerely,

*Karen Cultrera*



RECEIVED  
FOR AMENTO  
CVR/WOCB  
13 SEP 16 PM 1:17

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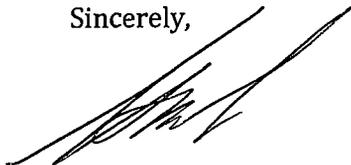
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To maintain compliance with the myriad of existing regulations, many growers rely on a variety of measures to stay up to date with the latest rules and regulations. However, the administrative draft of the WDR precludes the use of existing, widely utilized software because it calls for per crop/ per parcel reporting. This is a radical departure than how a grower would usually report, which is by APN number. Because of this discrepancy, the Nitrogen summary cannot be done with the same software that is widely available and affordable to growers. It is imperative that the regulation is implemented in a way that interfaces with current practices.

Further, you must realize that remote areas within our county mandate the use of paper forms for reporting and thus, paper forms need to be available and accessible as well.

For these reasons, we urge the Board to reconsider the per crop/ per parcel reporting requirement and to have paper forms available upon request.

Sincerely,



RECEIVED  
SACRAMENTO  
CVRW/OCB  
13 SEP 16 PM 1:17

Dear Mr.

As a farmer, I must question the direction of the Regional Water Quality Control Board with the new WDR.

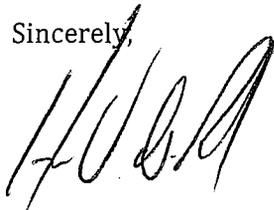
I believe any requirement to report a farm management practice is inappropriate and will not improve water quality. The first of which is that farm management practices are personal to a grower. You would not ask other businesses to disclose their trade secrets, and it is no different to ask growers to make their management practices common knowledge.

I fear that this information may be compiled and used to create region- wide standardization of Nitrogen application for specific crops. This would be short sighted as Nitrogen application not only depends on the crop, but also the soil type.

San Joaquin County has such a diverse topography that farm management is always going to be distinctive, depending on the particular crop and location.

It is because of these factors that I feel the scale heavily tips in favor of not requiring growers to report farm management practices and we suggest the Board strike this from the WDR.

Sincerely,



Henry VanderPl  
Escalon

RECEIVED  
SACRAMENTO  
CYR/WQCB  
13 SEP 16 PM 1:18

Dear Mr.

As a farmer, protecting water quality is an essential part of what I do each day. Many of us are farmers, working every day to grow food that feeds the world, contributes to our local economy, and protects the environment.

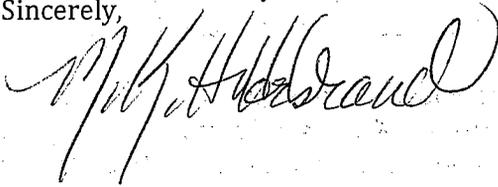
Until recently, we have been operating under a waiver to the waste discharge requirements that was to address water quality in our region. We are very concerned about the new WDR, specifically the enforcement capabilities.

The administrative draft of the WDR requires that growers keep farm management plans, nitrogen management plans, nitrogen summaries, and sediment/ erosion control plans on at the principle place of business for the operation.

For many growers in San Joaquin County, the principle place of business for the operation is the family home. It is inappropriate for any agency to require that a farmer grant access to their home available and produce these documents upon demand. Understandably, this is a significant invasion of privacy.

The enforcement section of the WDR must be rewritten to be more specific in what is required of growers and narrowed in a way that does not permit officials access to a family's home.

Sincerely,



RECEIVED  
SACRAMENTO  
CVR/WCCB  
13 SEP 16 PM 1:18

Dear Mr.

I am a farmer in San Joaquin County and believe there is a better way to address water quality in our region.

Until recently, we have been operating under a waiver to the waste discharge requirements that were working and served to educate growers in on water quality.

Growers in San Joaquin County fastidiously meet and comply with an ever-growing number of requirements and regulations. Our goal is to ensure that the new waste discharge requirements are implemented in a way that is understandable and accessible to every day growers.

To maintain compliance with the myriad of existing regulations, many growers rely on a variety of measures to stay up to date with the latest rules and regulations. However, the administrative draft of the WDR precludes the use of existing, widely utilized software because it calls for per crop/ per parcel reporting. This is a radical departure than how a grower would usually report, which is by APN number. Because of this discrepancy, the Nitrogen summary cannot be done with the same software that is widely available and affordable to growers. It is imperative that the regulation is implemented in a way that interfaces with current practices.

Further, you must realize that remote areas within our county mandate the use of paper forms for reporting and thus, paper forms need to be available and accessible as well.

For these reasons, we urge the Board to reconsider the per crop/ per parcel reporting requirement and to have paper forms available upon request.

Sincerely,

*John & Roxanne Augap*



RECEIVED  
SACRAMENTO  
CVR/WCCB  
13 SEP 15 PM 1:18

Dear Mr. Conroy,

As a farmer, I must question the direction of the Regional Water Quality Control Board with the new WDR.

I believe any requirement to report a farm management practice is inappropriate and will not improve water quality. The first of which is that farm management practices are personal to a grower. You would not ask other businesses to disclose their trade secrets, and it is no different to ask growers to make their management practices common knowledge.

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Sincerely,



RECEIVED  
ACRAHMENTO  
CVRW/COB  
13 SEP 16 PM 1:19

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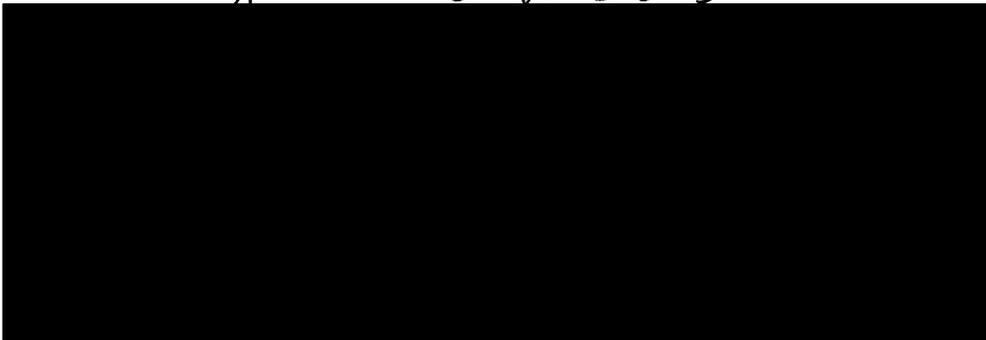
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Sincerely,

*Kenny Waters*



RECEIVED  
SACRAMENTO  
CVR/WCOB  
13 SEP 16 PM 1:19

Dear Mr. *Conley*

As a farmer, protecting water quality is an essential part of what I do each day. Many of us are farmers, working every day to grow food that feeds the world, contributes to our local economy, and protects the environment.

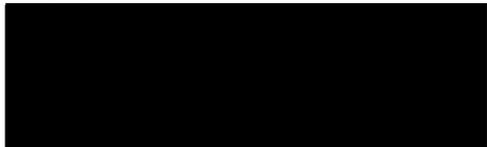
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The enforcement section of the WDR must be rewritten to be more specific in what is required of growers and narrowed in a way that does not permit officials access to a family's home.

Sincerely,



RECEIVED  
SACRAMENTO  
SVP/RV/DCB  
13 SEP 16 PM 1:18

Steve Senior

Sept 11, 2013

Dear Mr. Conley

As a farmer, I must question the direction of the Regional Water Quality Control Board with the new WDR.

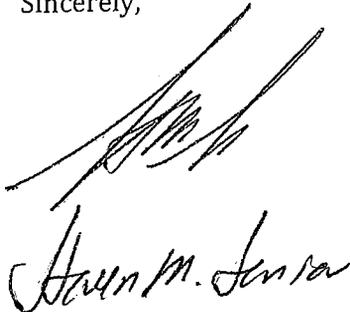
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Sincerely,



Steve M. Senior

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SACRAMENTO  
CVR WQCS  
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# CALIFORNIA FARM BUREAU FEDERATION

OFFICE OF THE GENERAL COUNSEL

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

Sent via E-Mail

[cjimmerson@waterboards.ca.gov](mailto:cjimmerson@waterboards.ca.gov)

September 13, 2013

Chris Jimmerson  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670-6114

**Re: *Comments on the San Joaquin County and Delta Draft WDRs/MRP for Discharges from Irrigated Lands***

Dear Mr. Jimmerson:

The California Farm Bureau Federation (“Farm Bureau”) is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home, and the rural community. Farm Bureau is California’s largest farm organization, comprised of 53 county Farm Bureaus currently representing more than 74,000 agricultural, associate, and collegiate members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California’s resources.

Farm Bureau appreciates the opportunity to provide comments on the San Joaquin County and Delta Draft Waste Discharge Requirements and Monitoring and Reporting Program (collectively “Draft WDR”) for Discharges from Irrigated Lands and respectfully presents the following remarks.

Upon reviewing the San Joaquin County and Delta Draft WDR, as well as the previously adopted Eastern San Joaquin River Watershed WDR and the tentative Tulare Lake Basin Tentative WDR, Farm Bureau is concerned that the general orders are not being individually developed and tailored, but rather are duplications of previously prepared orders with minor revisions. Each coalition represents unique geographic characteristics, including, but not limited, to rainfall, hydrology, drainage, commodities grown, and topography. Given all of these vast differences, each general order should be individually drafted specific to the region it regulates.

NANCY N. McDONOUGH, GENERAL COUNSEL

ASSOCIATE COUNSEL:

CARL G. BORDEN • KAREN NORENE MILLS • CHRISTIAN C. SCHEURING • KARI E. FISHER • JACK L. RICE

**General Order Page 1, Finding 1—Definition of “Waste”**

The Draft WDR seeks to regulate discharges of “waste” from irrigated lands. As referenced in the footnote to Finding 1, Attachment E defines the term “waste” to not only include the statutory definition found in Water Code section 13050(d), but also adds additional language to include the regulation of “earthen materials..., inorganic materials, organic materials such as pesticides and biological materials” as wastes which “may directly impact beneficial uses...or may impact water temperature, pH and dissolved oxygen.” (Draft WDR, Attachment E, p. 6.) No rationale is provided for the overly broad expansion of a statutorily defined term; as such, the term “waste” should be limited to its definition found in Water Code section 13050(d).

**General Order Page 2, Finding 5—Regulation of Water Quality**

The Draft WDR amends the scope of regulatory coverage by deleting specific provisions limiting the regulation of water traveling through particular structures. (Draft WDR, p. 2.) The current scope of coverage causes concern regarding the regulation of on-farm conveyances and between-farm conveyances, causing potential ambiguity regarding the point of demarcation for regulation; as currently written, the regulation could be read to regulate any water that leaves the root zone whether or not it reaches saturated groundwater. In order to provide clarity, Finding 5 should be revised.<sup>1</sup>

**General Order Page 8, Finding 27—Recognition of Differences; Amendments to Monitoring and Reporting Deadlines**

Farm Bureau appreciates the inclusion of Finding 27 that recognizes the unique topography and geography in the San Joaquin County and Delta area, including the naturally occurring constituents in groundwater, and acknowledges that specific beneficial use designations may be unattainable. Farm Bureau further appreciates that monitoring and reporting under these circumstances may temporarily operate under reduced monitoring and reporting,

**General Order Page 9, Findings 32-36—Compliance with the California Environmental Quality Act**

The Draft WDR relies upon the environmental analysis conducted in the Program Environmental Impact Report (“PEIR”) and concludes that “[a]lthough the Order is not identical to any of the PEIR alternatives, the Order is comprised entirely of elements of the PEIR’s wide range of alternatives.” (Draft WDR, p. 9, ¶¶ 33-34.) Relying on such analysis, the Draft WDR further concludes “the PEIR identified, disclosed, and analyzed the potential environmental impacts of the Order” and the “potential compliance activities undertaken by the regulated Dischargers...fall within the range of compliance activities identified and analyzed in the PEIR.” (*Id.* at ¶ 33.) The Draft WDR is not

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<sup>1</sup> Finding 5 could be potentially revised to state: “This Order is not intended to regulate water in agricultural fields, including, but not limited to, furrows, beds, checks, and ancillary structures, contained on private lands associated with agricultural operations. This Order is not intended to address the lawful application of soil amendments, fertilizers, or pesticides to land.”

within the realm of alternatives analyzed within the PEIR, but rather goes beyond those alternatives as it includes provisions substantially different from elements in those alternatives, especially alternatives 3 through 5. These new components, such as provisions creating end-of-field discharge limitations as well as the farm management performance standards, in addition to the associated costs, do not represent merely a “variation” on the alternatives in the PEIR but rather are elements that were not thoroughly considered previously and are likely to result in the imposition of new burdens on irrigated agricultural operations that would have a significant and cumulatively considerable impact on the environment. Thus, reliance on the PEIR for CEQA compliance is inappropriate.<sup>2</sup>

**General Order Pages 10-11, Finding 39-40—California Water Code Sections 13141 and 13241**

Pursuant to the Water Code, the Regional Board is obligated to consider costs associated with the entire Long-Term Irrigated Lands Regulatory Program, as well as each individual general order, such as the San Joaquin County and Delta WDR. (Wat. Code, § 13141.) Finding 39 incorrectly concludes that any new cost analysis is unnecessary given that “the Basin Plan includes an estimate of potential costs and sources of financing for the *long-term irrigated lands program*.” (Draft WDR, p. 10, ¶ 39, emphasis added.) Although the Basin Plan was amended to include costs associated with the *long-term irrigated lands program*, the Basin Plan Amendment did not include specific costs associated with the San Joaquin County and Delta WDR as it was not in existence at the time nor were the specific program requirements analyzed (such as the templates and individual reporting summarized by the third-party). Given that this Draft WDR proposes new costly regulatory components not previously analyzed during the environmental review stage or when adopted in the Basin Plan, the Regional Board must analyze, evaluate, and estimate all of the costs of these new regulatory requirements.

**General Order Pages 13-14, Provision 50—Nitrogen Management and Control**

Farm Bureau appreciates the acknowledgement of the assessment of nitrogen management and control currently underway by the California Department of Food and Agriculture’s Task Force, as well as the soon to be convened State Water Resources Control Board’s Expert Panel. Given the assessments and recommendations to be made by both processes to determine appropriate nitrogen tracking and reporting systems and management practices, adjusting the nitrogen management plan deadlines to allow for the incorporation of future recommendations is both appropriate and appreciated.

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<sup>2</sup> Farm Bureau also questions the Regional Board’s authority to require mitigation measures within the Draft WDR for farm level activities. Implementation of management practices at the farm level, which is the heart of the WDR, is not subject to a discretionary approval by the Regional Board. (See Pub. Resources Code, § 21080, CEQA generally applies only to discretionary projects.) Mitigation measures that cannot be legally imposed need not be proposed or analyzed. (CEQA Guidelines, § 15126.4(a)(5).)

**General Order Page 17, Provisions III. A and III. B—Discharge Limitations**

The use of “shall not cause *or contribute*” to an exceedance of applicable water quality objectives is overly expansive and creates an unreasonable standard that is undefined, ambiguous, and holds farmers and ranchers liable for even the smallest de minimus contribution. Accordingly, a qualifier should be added before “contribute” or the discharge limitations for both surface water and groundwater should be rewritten to state “wastes discharged from Member operations shall not cause an exceedance of applicable water quality objectives in surface water [or the underlying groundwater], unreasonably affect applicable beneficial uses, or cause a condition of pollution or nuisance.”

**General Order Page 19, Provision IV. B. 7—Nitrogen Management Plans**

Provision IV. B. 7 requires all members to prepare and implement an annual nitrogen management plan. Such plans should analyze “nitrogen” application rather than “nutrient” application. (Draft WDR, p. 19, ¶ 7; see also Attachment A, Information Sheet, p. 28 stating “the Order requires that Members implement practices that minimize excess **nitrogen** application relative to crop need” (emphasis added).) As seen in previous drafts for other WDRs, only members in high vulnerable areas where nitrate is a constituent of concern were required to prepare annual nitrogen budgets and management plans. Rather than requiring all members to prepare nitrogen budgets and plans, as Provision 7 is currently written, the Draft WDR should be revised to allow flexibility in the requirements for those areas that have no or a lower propensity to impact water quality.

**General Order Page 28, Provision VIII. B—Membership (Participant) List**

Farm Bureau suggests an addition to the last sentence of Provision B to specify contact with third-party office contacts must be during normal business hours. For example, potential revised language could be: “Any listed third-party office contact must be available for Central Valley Water Board staff to contact Monday through Friday during normal business hours (except established state holidays).”

**General Order Page 28, Provision VIII. C—Template Requirements for Farm Evaluations, Nitrogen Management Plans, and Sediment and Erosion Control Plans**

Farm Bureau appreciates the inclusion of language to allow third-parties the ability to modify the templates due to coalition-specific issues, including geographic area, the commodities grown, known water quality impairments, the propensity to impact water quality, and the size and scale of farming operations. Such tailoring will allow the Regional Board to obtain the most relevant information specific to the area being regulated while also allowing growers to minimize costs.

**General Order Pages 29-30, Provision VIII. D—Groundwater Quality Assessment Report and Evaluation/Monitoring Workplan**

For similar reasons expressed *supra* regarding Provision 27 on page 8, Farm Bureau appreciates the inclusion of a phased approach for the development of a GAR given the unique conditions in the Delta region and the lack of existing data.

**General Order Pages 33-34, Provision VIII. L—Basin Plan Amendment Workplan**

For similar reasons expressed *supra* regarding Provision 27 on page 8 and Provision VIII. D on pages 29-30, Farm Bureau appreciates the inclusion of a process for the third-party to pursue a basin plan amendment to address the appropriateness of a beneficial use.

**Attachment A, Information Sheet, Pages 24-25—Spatial Resolution of Nitrogen Management Plan and Farm Evaluation Information; Attachment B, MRP, Page 22-23, Reporting Components 17 and 18**

Reporting Components 17 and 18 outline the process in which a third-party will collect data from members and report the data to the Regional Board at the township level. As currently drafted, Farm Bureau supports the reporting at the township level. Reporting at the township level allows coalition groups to properly compare crop data, evaluate nitrogen management trends, and manage the data in an efficient and effective manner. The comparison of data at the field level, with or without the identification of a member's parcel, is not supported and would not result in an efficient use of resources or the ability to assess and evaluate trends.

Reporting Component 18—Summary of Management Practice Information further requires a third-party provide the individual data records to the Regional Board in addition to aggregating and summarizing information collected in the Farm Evaluations. (Attachment B, p. 23.) No explanation is given to support the necessity of needing the individual data records. Rather, the summary of management practices provided by the third-party will be more meaningful than the individual data records and will include the appropriate analysis needed by the Regional Board. Thus, Farm Bureau questions the need for third-parties to submit individual data records and suggests this addition to the management practices information reporting component be removed.

**Attachment B, MRP, Pages 9-10, Provision III. C. 4—Toxicity Testing**

As currently drafted, the Draft MRP's language could be interpreted that both acute and chronic toxicity testing is required for all toxicity tests. (See Draft Attachment B, MRP, p. 9, footnotes 5 and 6 stating that chronic and acute toxicity testing should be completed in accordance with U.S. EPA testing methods.) Since the inception of the Irrigated Lands Regulatory Program, surface water monitoring has occurred and has utilized acute aquatic toxicity testing, with no evidence of any shortcomings. If there is no U.S. EPA acute toxicity testing method of *Selenastrum capricornutum*, Farm Bureau recommends adding language to footnote 6 to specify that the use of chronic testing is appropriate *only* in this circumstance.

Letter to Chris Jimmerson  
Comments on the San Joaquin County and Delta Draft WDRs/MRP  
September 13, 2013  
Page 6

Thank you for the opportunity to provide our comments and concerns. We look forward to further involvement and discussion with the Regional Board on the Western San Joaquin County and Delta WDR and MRP for Discharges from Irrigated Lands.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kari E. Fisher".

Kari E. Fisher  
Associate Counsel

KEF:pkh

**From:** [Adrienne Ellsaesser \[EH\]](mailto:Adrienne.Ellsaesser@ehs.sjca.gov)  
**To:** [Jimmerson, Chris@Waterboards](mailto:Jimmerson.Chris@Waterboards.ca.gov)  
**Cc:** [Norman.Fujimoto@sbcphd.org](mailto:Norman.Fujimoto@sbcphd.org); [Ray.Ruminski@lakecountyca.gov](mailto:Ray.Ruminski@lakecountyca.gov)  
**Subject:** August 2013 Draft WDRs and MRP for Discharges from Irrigated Lands San Joaquin County and Delta Area.  
**Date:** Friday, September 13, 2013 4:39:23 PM  
**Attachments:** [Backflow Devices on Agricultural Wells WWTAC position paper7\\_25 \(4\).doc](#)

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Dear Mr. Chris Jimmerson,

We, the Water Well Technical Advisory Committee, are submitting the attached position paper to comment on the Draft WDRs Draft WDRs and MRP for Discharges from Irrigated Lands for San Joaquin County and Delta Areas. This document has CCDEH Land Use Policy Committee Approval. Due to the short time frame we do not have the position paper on CCDEH letterhead or their signature. Until we do please accept the attached email below showing their support and forth coming signature.

Regards,  
Adrienne

Adrienne Ellsaesser, REHS  
Program Coordinator  
San Joaquin County  
Environmental Health Department  
1868 East Hazelton Avenue  
Stockton , CA 95205  
Ph (209) 468-0343  
Fax (209) 468-0341  
[aellsaesser@sjcehd.com](mailto:aellsaesser@sjcehd.com)

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**From:** Porter, Corwin [<mailto:Corwin.Porter@dph.sbcounty.gov>]  
**Sent:** Friday, September 13, 2013 8:00 AM  
**To:** 'Sipe, Jerry'; Ray Ruminski; [svanstoc@rivcocha.org](mailto:svanstoc@rivcocha.org); Justin Malan ([justin@ccdeh.com](mailto:justin@ccdeh.com)); Schmidtbauer, Terry ([TSchmidtbauer@solanocounty.com](mailto:TSchmidtbauer@solanocounty.com)); Cbatson (E-mail) ([cbatson@co.slo.ca.us](mailto:cbatson@co.slo.ca.us)); Banner, Brad ([bbanner@buttecounty.net](mailto:bbanner@buttecounty.net)); Leslie Lindbo ; Levi, Ariu, Env. Health ([ariu.levi@acgov.org](mailto:ariu.levi@acgov.org)); Taber, Jeff ([Jeff.Taber@co.kings.ca.us](mailto:Jeff.Taber@co.kings.ca.us)); Angelo Bellomo ([abellomo@ph.lacounty.gov](mailto:abellomo@ph.lacounty.gov)); Robert Kostlivy ([RKostlivy@co.tuolumne.ca.us](mailto:RKostlivy@co.tuolumne.ca.us)); [emorgan@sierracounty.ws](mailto:emorgan@sierracounty.ws); Ng, Rebecca ([RNg@co.marin.ca.us](mailto:RNg@co.marin.ca.us)); Sanchez, Richard ([Richard.Sanchez@ochca.com](mailto:Richard.Sanchez@ochca.com))  
**Cc:** Sheryl Baldwin ([sheryl@ccdeh.com](mailto:sheryl@ccdeh.com)); Fujimoto, Norman  
**Subject:** RE: CCDEH Executive Committee Agenda August 14 2013

Did we get a second on this? If not, I will second. Thank you.

**Corwin Porter, MPH, REHS**  
Chief of Environmental Health Services  
San Bernardino County | Department of Public Health  
☎: (909) 387-3891 | ✉: [Corwin.Porter@dph.sbcounty.gov](mailto:Corwin.Porter@dph.sbcounty.gov)



## California Conference of Directors of Environmental Health

To: Regional Water Quality Control Boards  
From: CCDEH Land Use Policy Committee  
Water Well Technical Advisory Committee (WWTAC)  
Date: October 03, 2013  
Reason: Backflow Devices on Agricultural Wells

*Raymond K. Krumholz, chair*

### Background:

Recent Regional Board agricultural orders (see below) mandate the installation, maintenance and testing of backflow prevention devices (BFDs) on all agricultural well systems that inject either chemicals or fertilizers into the water produced by these well systems. Jurisdiction for the installation, operation and maintenance of agricultural BFDs is the local Agricultural Commissioner (AC), as delegated by the State Department of Pesticide Regulation (DPR) and title 3 of the California Code of Regulations (CCR). CCR Sections 6609 & 6610, state that the local AC enforces and requires installation of functional BFDs where application of a pesticide if applied through an irrigation system (aka chemigation). These regulations do **not** require BFDs when a fertilizer is applied through an irrigation system (aka fertigation).

Growers that apply pesticides which have a *restricted-use* status through an irrigation system must first file a Notice of Intent for use with the AC. The AC staff then determines if a BFD is necessary and notifies the grower. In many instances of chemigation, pesticides that are **not** *restricted-use* chemicals are being utilized. In these cases, the AC is not notified that chemigation is taking place and the AC does not have an opportunity to determine if BFDs are required.

Only agencies that are authorized as an *Enforcement Agency* may enforce the California Well Standards Bulletins 74-81 and 74-90 (Bulletins). These standards pertain to the construction, alteration, maintenance, and destruction of a well. Typically, it is the local public or environmental health agency that is the *Enforcement Agency* and has jurisdiction over the actual construction of the water wells per the Bulletins and any local ordinances. At the time the wells are constructed, the Enforcement Agency is able to require a single check valve or air gap on the discharge line of the well, as required in Section 10, F, of the Bulletins. This section states "All pump discharge pipes not discharging or open to atmosphere shall be equipped with an automatic device to prevent backflow and/or back siphonage into the well and irrigation well systems, including those used for landscape irrigation and other well systems that employ, or which have been modified to employ, chemical feeders or injectors shall be equipped with a backflow prevention device(s) approved by the enforcing agency".

At the time the well construction is finalized by the *Enforcement Agency*, frequently it is not apparent that a chemical feed system will be connected to the well's water system. Once the agricultural well is constructed and finalized, the jurisdiction for BFDs is passed to the local AC, as the *Enforcement Agency* does not have the legal authority to return to the property to ensure proper installation of a BFD.

Backflow prevention devices used for residential connections are regulated under Title 17 of Health and Safety Code and Chapter 6 of the California Plumbing Code. Local public and environmental health agencies use these regulations to ensure that such devices are appropriate and installed as required at small public water systems, sewage treatment plants, recreational pools, retail food facilities, housing facilities and other regulated facilities.

DPR and ACs are not authorized to enforce Title 17 of the Health and Safety Code when pertaining to the protection of drinking water. Title 3, Section 6610 of the CCR, does not empower ACs to enforce BFD regulations when pesticides are injected into an irrigation system.

**Agricultural Orders:**

1. Agricultural Order R3-2012-001 [www.waterboards.ca.gov/rwqcb3/.../final\\_agorder\\_atta\\_032612.pdf](http://www.waterboards.ca.gov/rwqcb3/.../final_agorder_atta_032612.pdf) states "By October 1, 2012, Dischargers that apply fertilizers, pesticides, fumigants or other chemicals through an irrigation system must have functional and properly maintained back flow prevention devices installed at the well or pump to prevent pollution of groundwater or surface water, consistent with any applicable DPR requirements or local ordinances. Back flow prevention devices used to protect water quality must be those approved by USEPA, DPR, California Department of Public Health (CDPH), or the local public health or water agency."
2. General Order for the Eastern San Joaquin River Watershed Attachment E: "Back flow prevention devices – Back flow prevention devices are installed at the well or pump to prevent contamination of groundwater or surface water when fertilizers, pesticides, fumigants, or other chemicals are applied through an irrigation system. Back flow prevention devices used to comply with this Order must be those approved by USEPA, DPR, CDPH, or the local public health or water agency."

**Concerns:**

1. The University of California Davis report *Addressing Nitrate in California's Groundwater* and the Technical Report 2, *Nitrogen Sources and Loading to Groundwater* contain sections on wells as being sources of nitrogen. The Groundwater Ambient Monitoring and Assessment (GAMA) Program is California's comprehensive groundwater quality monitoring program that has documented detections of nitrates and other pollutants found in groundwater wells throughout the state. These studies support the installation, maintenance and testing of the proper devices to prevent the entry of pollutants into the groundwater from agricultural wells and further degradation of the groundwater.
2. Local public and environmental health agencies have no jurisdiction over operation and maintenance of agricultural water wells and the installation of backflow prevention devices after the well construction inspection have been finalized.
3. Local public health and environmental agencies have been informed of conditions where the installed devices have not been regularly maintained and some backflow systems have been modified so that cross connection exists.
4. Agricultural wells have been associated with groundwater contamination related to backflow prevention device issues that include: no devices; improper device installed, device improperly installed; and device failure due to lack of maintenance.
5. With the exception of the proposed Orders of the Water Boards, there are no regulations or regulating agencies that requires the installation of a BFD to protect the well and ground water from backflow or backpressures of fertilizers down the well, when applied through an irrigation system.

**Examples:**

- A. A well driller submitted a complaint to the local Environmental Health Department (EHD) after observing well water, injected with fertilizer, running backwards into the well at 10 gallons per minute, after the single check valve had failed.
- R A Non-transient non-community water system that serves a public school that the FHD regulates has a well that is constructed with a 250-foot deep cement annular seal. The well tested with nitrates levels at 10 parts per million (ppm) for nine months of the year, but in the first quarter months (January, February, March) the well's nitrate levels tested at 30 ppm. A nearby irrigation well is suspected to be the culprit.
- C. During a routine inspection performed by the local EHD at a small community water system that serves both agriculture and domestic water, it was observed that the backflow devices had been bypassed at several irrigation connections. The drinking water supply was found to be interconnected with the irrigation chemical feed system.

**Conclusion:**

1. Regional Water Quality Control Board (RWQCB) should work with local environmental and public health agencies, AC, DPR, and CDPH staff to develop their Order requirements and inspection processes to ensure there is an agency inspecting the wells under regulation of the new RWQCB Orders. If local environmental and public health agencies, AC, DPR, and CDPH staff are not the authoritative agency to verify the new Orders or do not have the resources to enforce the new Orders, then RWQCB should incorporate the regulation of these wells into their own inspection activities to ensure groundwater is protected.
2. At this time, only the RWQCB is routinely inspecting wells at irrigation facilities to monitor fertigation and chemigation of non-restrictive use pesticide application activities. RWQCB should include inspections that verify that proper installment of BFDs or other wellhead protection when fertigation and/or chemigation activities are employed and should include verification that testable BFDs have been annually tested and repaired as needed.
3. RWQCB should work with local environmental and public health agencies, AC, DPR, and CDPH staff to determine the role these agencies will have under the new RWQCB Orders. During interagency discussions, RWQCB needs to determine a process to obtain inspection activity information from the local environmental and public health agencies, AC, DPR, and CDPH staff, especially as the information pertains to non-compliant facilities.

**From:** Sipe, Jerry [<mailto:JerrySipe@countyofplumas.com>]

**Sent:** Thursday, September 12, 2013 5:37 PM

**To:** Ray Ruminski; [svanstoc@rivcocha.org](mailto:svanstoc@rivcocha.org); Justin Malan ([justin@ccdeh.com](mailto:justin@ccdeh.com)); Schmidtbauer, Terry ([TSchmidtbauer@solanocounty.com](mailto:TSchmidtbauer@solanocounty.com)); Cbatson (E-mail) ([cbatson@co.slo.ca.us](mailto:cbatson@co.slo.ca.us)); Banner, Brad ([bbanner@buttecounty.net](mailto:bbanner@buttecounty.net)); Leslie Lindbo ; Levi, Ariu, Env. Health ([ariu.levi@acgov.org](mailto:ariu.levi@acgov.org)); Taber, Jeff ([Jeff.Taber@co.kings.ca.us](mailto:Jeff.Taber@co.kings.ca.us)); Angelo Bellomo ([abellomo@ph.lacounty.gov](mailto:abellomo@ph.lacounty.gov)); Robert Kostlivy ([RKostlivy@co.tuolumne.ca.us](mailto:RKostlivy@co.tuolumne.ca.us)); Porter, Corwin; Porter, Corwin; [emorgan@sierracounty.ws](mailto:emorgan@sierracounty.ws); Ng, Rebecca ([RNg@co.marin.ca.us](mailto:RNg@co.marin.ca.us)); Sanchez, Richard ([Richard.Sanchez@ochca.com](mailto:Richard.Sanchez@ochca.com))

**Cc:** Sheryl Baldwin ([sheryl@ccdeh.com](mailto:sheryl@ccdeh.com)); Fujimoto, Norman ([Norman.Fujimoto@sbcphd.org](mailto:Norman.Fujimoto@sbcphd.org))

**Subject:** RE: CCDEH Executive Committee Agenda August 14 2013

Thanks to the WWTAC for their work on this. I'll make a motion we send the position paper to each Regional Board under CCDEH letterhead and Land Use Policy Committee Chair signature.

Jerry Sipe

[REDACTED]

# San Joaquin County and Delta Water Quality Coalition

San Joaquin County Resource Conservation District  
3422 W. Hammer Lane, Suite A  
Stockton, California 95219  
209-472-7127 ext 125

September 13, 2013

VIA EMAIL TO Chris Jimmerson - [Chris.Jimmerson@waterboards.ca.gov](mailto:Chris.Jimmerson@waterboards.ca.gov)

Pamela Creedon  
Executive Officer  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670

Re: Comments on San Joaquin County and Delta proposed WDR General Order

Dear Ms. Creedon,

The San Joaquin County and Delta Water Quality Coalition (SJC & DWQC) appreciates the opportunity to provide these comments on the administrative draft San Joaquin County and Delta proposed Waste Discharge Requirements General Order. We also wish to thank your staff for the time and effort they have spent working with our coalition over the last several months.

## A. Over-Arching Policy Concerns

**The proposed order should not assume that all water that leaves the crop root zone is a discharge or threatened discharge to groundwater that can and should be regulated.**

On page 2 #5 of the draft WDR it states "This Order is not intended to regulate the water quality of soil pore liquid within the root zone." The scope of the intended regulation of water quality that leaves the root zone, but does not reach saturated groundwater, is unclear and may be read by some to imply regulation of any water that leaves the root zone. Molecules of water moving past the root zone are not "waters of the state" subject to the permitting authority of the Regional Board unless water leaving the root zone could impact the water quality of groundwater (in the saturated zone). The concept that all water that leaves the root zone becomes groundwater and carries all the constituents that were applied to the field with it to the groundwater basin is inherently wrong. How water travel through the soil strata is determined by a myriad of factors that include but are not limited to soil types, soil layers (e.g., clay layers and hardpan layers), soil density, rainfall, percolation and plant uptake. Also, many factors determine which constituents actually travel to the groundwater basin; factors such as microbial activity, half-life of active ingredients, and plant uptake.

Paragraph 8 correctly states that the order regulates lands "from which there are discharge of waste that could affect the quality of any waters of the state." We suggest that similar language

be added to Paragraph 5 so remove any implication that (1) the Regional Board intends to regulate water as it moves past the root zone when there is not a threat to waters of the state, or (2) that movement of water below the root zone is a de facto discharge of waste ó which it is not.

**The proposed order should not assume that “best management practices” can be clearly identified at the onset of the program.**

Throughout the order there is an underlying assumption that the Regional Board and third parties will be able to identify the precise conditions in the groundwater basin and the management practices that are and are not protective of groundwater quality. The order needs to recognize that this is not an exact science, but will be an on-going cooperative effort to learn and improve. It is more likely that we will learn that “best practicable treatment and control” is not a precise set of operational criteria for farming operations, but rather continued cooperative research to learn more.

**The proposed order imposes costly and burdensome regulations on all farmers without any evidence of a threat to water quality by most farmers or evidence that many of the new reporting requirements will improve water quality.**

Our coalition understands that there is a legacy nitrate groundwater contamination problem in the Central Valley. The Regional Board needs take action to ensure the problem does not get worse. However, the proposed order includes multiple layers of regulatory burden on all farms that will not achieve the Regional Board’s goal of improving water quality or preventing additional degradation, but will add a significant cost and burden to an entire industry. For example, many of the growers in our Coalition already use drip or low flow irrigation methods and good pesticide, herbicide and nutrient management practices that are protective of water quality. These good farmers are also already attending education conferences and reading about the newest research to farm better. While they may operate farms that overlie portions of a groundwater basin that the state deems “highly vulnerable,” these farmers and local water quality conditions will not benefit from the farmers’ required attendance at *annual* education programs, the required completion and submittal of *annual* farm evaluations, or the *annual* nutrient management plans or reports. Rather, these items will only represent duplicative paperwork and costly burdens on our individual members and on the Coalition ó burdens that utilize precious resources that should be spent on activities that will actually improve management practices and improve or prevent further degradation of water quality.

While we support and appreciate the language in the proposed order that allows the Executive Officer to relax the frequency of some of the reporting obligations after a few years, this does not fix the problem. We will still have at least three years of duplicative, expensive and unnecessary reporting obligations and no certainty that these will be relaxed. The coalitions will have to make substantial investments in overhead to properly process and summarize the unnecessary reporting.

We urge staff and the Board to reconsider the frequency of individual reporting required in the proposed order at the on-set. For example, is there really enough valuable information to be gained through annual submittals of Farm Evaluations in High Vulnerability areas to justify the

burden and expense of this annual requirement for all members in that designation? We submit that there is not. Nor will the annual task of completing this same form improve water quality. The same is true of Nutrient Management Plans and Reports for permanent crops that do not change from year to year or row crops in a regular rotation. The compilation of this information on a three or five year schedule is sufficient to track trends in management practices and educate growers on how nutrient application affects groundwater quality. Reducing the frequency of reporting would greatly reduce the burden and expense for members and the third party while still allowing the Regional Board to collect useful data and achieve the intent of the regulations.

**The cost of complying with the new order must be controlled or we will lose members and the program will fail**

In many of our comments you will see a common theme of with minor modifications to the order the Regional Board can obtain the same information relevant to its water quality goals at a lower cost. The reason for these comments is simple. If the cost of this program on a per acre-basis doubles or triples we will lose too many members and this Coalition will no longer operate. We do not want the program to fail.

**B. Deadlines for Individual Submittals**

The proposed order requires that the Notice of Confirmation and the Farm Evaluation Plans be completed by June 15 (years vary); however, the Nitrogen Management Plan and the Nitrogen Management Plan Summary Report are due by June 1 (years vary) (VII.D, Page 26-27). In addition, Member reporting on Mitigation Monitoring has an annual due date of June 1. Different dates for different reports increases work and expense for the members and coalition. We respectfully request that the deadline for all reports that the Member is required to submit to the third party be changed to June 15.

**C. Farm Evaluation**

The proposed order requires every member to submit an initial detailed Farm Evaluation. Members in high vulnerability area must continue to submit annually while other members submit every five years. After three years, the Executive Officer may reduce the frequency of required reporting.

We do not yet know the level of detail that will be required for these reports or whether they will be done on a parcel basis, total farm basis, or field basis. An evaluation of sufficient detail to be meaningful will be a time consuming paperwork exercise for members and a significant expense for the third party for data entry and analysis.

As we have discussed with staff, it is imperative that the requirement that these reports be submitted annually be modified. The annual reproduction and submittal of this detailed report is very costly for farmers and the third party and will not help identify or correct water quality problems. It is also critical that the template be user-friendly and simple enough to generate useful, accurate information for purposes of evaluation.

#### **D. Nutrient Management Budgets and Reports**

The proposed order requires certification of Nutrient Management Plans by certain identified professionals, or by self-certification if educational criteria are met. We encourage the Board to develop a template that can be used by farmers to supply useful information without the need for certification. While many farmers may seek additional education or the assistance of a professional, this should not be mandated as part of the regulation due to the additional expense. Farmers know their fields and applicable rates better than anyone else and are in the best position to supply this information.

#### **E. Annual Attendance at an Outreach Event**

Section IV-B-3 requires members to attend an outreach event every year. The Coalition agrees that outreach events are useful to educate growers. However, an annual attendance requirement is overkill. Research and management practices do not change fast enough to warrant an annual requirement. Attendance every 2-3 years would be sufficient to achieve the same benefits at one-half to one-third of the cost.

#### **F. Unique Circumstances**

The proposed order recognizes that there are unique circumstances in our region that will need to be addressed, including characterization of groundwater underlying the Delta and treatment of unusable groundwater in other parts of the defined regulated area. We appreciate the Regional Board's recognition of these unique geographic attributes and the willingness to customize the regulation to address them.

#### **G. Information Sheet**

Exhibit A to this letter contains a list of specific edits and comments to the Information Sheet Attachment.

#### **H. Monitoring and Reporting**

Exhibit B to this letter contains a list of specific edits and comments to the MRP Attachment.

#### **I. "Exceedances" must account for source water**

As written, the Monitoring and Reporting Program utilizes "exceedances" from water testing results to determine when additional monitoring requirements or management plans are triggered. ( See e.g., Attachment B, Section III). Water testing locations are designed to capture water discharged from irrigated fields. In many instances in our Coalition, discharge water will have an "exceedance" only because the source water diverted and applied to the farm started with the same "exceedance". In these cases, resources are wasted by allowing the "exceedance" in the discharge water to trigger additional regulatory requirements because the "exceedance" was not caused by farming. We respectfully request that Attachment B be modified to clarify that when an "exceedance" in test results can be traced to source waters, rather than the activity

of irrigated agriculture in the watershed area being tested, the test result will not be deemed an "exceedance" for purposes of triggering additional testing or management plan requirements.

#### **J. Use of Department of Pesticide Regulation Groundwater Protection Areas**

The proposed order references DWR Groundwater Protection Areas in several places as a source of information relevant to designation of high vulnerability areas for groundwater. While we agree that some information compiled by DPR may be useful in the Groundwater Assessment Report and monitoring plan design, significant care must be taken when using DPR data to generically characterize groundwater in an area as highly vulnerable or at risk of a discharge of waste from irrigated agriculture. DPR groundwater protection areas are designed for a specific constituent and are based on how that constituent travels through the soil and reacts with the soil types. To use these areas with a broad interpretation that any constituent applied in this area would have the potential to impact groundwater is inaccurate and unscientific. Just because this area might be susceptible to contamination by a certain constituent does not extrapolate into it being vulnerable to fertilizers or nitrates.

With this in mind, we respectfully request that the second paragraph in Section IV-A-4 (on page 14 of Attachment B) be revised. As written, the order states that if the GAR is not submitted by the third party by the required deadline, the Executive Officer will designate default high/low vulnerability area using:

“ 1) those area that have been identified by the State Water Board as Hydrogeologically Vulnerable Areas, 2) California Department of Pesticide Regulation groundwater protection areas, and 3) areas with exceedances of water quality objectives for which irrigated agriculture waste discharges may cause or contribute to the exceedance.”

As written, this language suggests that the Executive Officer would use DPR Groundwater Protection Areas as a form of default "high vulnerability" area for purposes of the WDR. This would be unscientific and unreasonable. While our Coalition has no intention of missing the required deadline for submittal of the GAR, missing a deadline should not be an excuse to set "high vulnerability" in an unscientific manner. If the Executive Officer is required to determine "high vulnerability" areas for purposes of the WDR, the Executive Officer should be required to use all relevant information to make that determination in a scientifically justified manner, just as the third party would do. The DPR groundwater protection areas should not be allowed as an automatic default.

#### **K. Method for development of water quality trigger limits and establishing water quality testing methods**

Our coalition is concerned about how water quality trigger limits are set and testing methods determined in the proposed order. As stated in this order, water quality triggers for those pesticides that do not have a criteria already established will need to be developed by the Regional Board staff with "stakeholder input." (See Attachment B page 25 section VII) This language is too vague because it could be interpreted to mean that stakeholders are merely given an opportunity to review and comment on the proposed trigger limits. The stakeholder input

should be in the form of a technical committee comprised of stakeholder representatives with appropriate expertise and scientific background. We respectfully request that Attachment B be revised to reflect the use of such a committee to set water quality trigger limits.

#### **L. CEQA Compliance**

We do not agree that the regulatory program included in the proposed order, or its estimated costs, is sufficiently within the range of the alternatives previously analyzed in the Programmatic EIR. To properly comply with CEQA, the Regional Board should prepare a supplemental EIR for this specific proposed order and should revise its costs estimates.

#### **M. Water Code sections 13141 and 13241**

Pages 10-11 of the draft order discuss cost estimates as required by the Water Code. We continue to believe that these cost estimates are unreliable. A good portion of the increased cost of the new regulations will be the increased individual reporting that the third party must summarize and analyze for the Regional Board. The templates for this reporting, as well as the instructions as to how frequently these reports must be completed and compiled, was not available when the cost study was performed and could not have been accounted for in that study. In short, the prior cost study is wholly unreliable. The Regional Board should update the cost study with the specific requirements of the current proposed order before proceeding.

#### **N. Other**

Section VI, paragraph 5 (page 23) cross-references Finding 50. It appears this may be incorrect.

There are other issues with section references in the text that should be double checked. For example, on page 21 of the Order, under IV.C.9, the second sentence references IV.B.4 regarding Member participation; the correct reference is IV.B.3.

Thank you again for the opportunity to comment on the proposed order. We look forward to providing additional comments at the October workshop.

Sincerely,



Mike Wackman  
San Joaquin County & Delta Water Quality Coalition

cc: San Joaquin County Resource Conservation District Board of Directors

## EXHIBIT A: Specific Comments on Information Sheet Attachment A

Page 5. There is a reference to Figure 5 but Figure 5 is not included in the Information Sheet.

Page 13. *E. coli* should be italicized, i.e., *E. coli*.

Page 14. Table 3.

- The column heading of the third column is “Range of Detected Levels.” The entries in the column are often ND which does not make sense. A detected level cannot be a non-detected concentration. The Toxicity section does complicate the column heading. A suggested column heading is “Range of Observed Results.”
- The trigger limit for HCH is 0.0039 µg/L, not 0.95 µg/L as indicated in the table.
- Under the Toxicity section of the table, the row that describes *Selenastrum* indicates an endpoint of survival. The endpoint is growth and the range does not range from 0-100%.
- Under the Metals section of the table, the row for Lead is not specified as to dissolved or total. Arsenic, listed above, is only measured as total so clarification is not necessary. But both the total and dissolved fractions are measured for lead, so the fraction needs to be specified. Also, the superscripts (3) are incorrect. The trigger limits for the dissolved fraction of copper and lead are based on hardness. The trigger limits for total copper and lead are numeric values that are independent of any parameter such as hardness. The trigger limit for copper, total is fixed at 1300 µg/L.
- Footnote 4 does not appear to be relevant to entries in the table.
- Under the Nutrients and Salts section of the table, the trigger limit of ammonia is listed as variable with a footnote that should be 5 because the trigger limit is based on pH and temperature.
- Electrical Conductivity should be Specific Conductance.
- Under the Other section of the table, the trigger limit for dissolved oxygen is stated to be >5 or >7 mg/L. The trigger limit is <5 or <7 mg/L.
- The first footnote states that ND = Not detected at measurable levels. The more appropriate footnote is simply ND = Not detected. However, although it may have been missed, there appears to be no footnote 1 in the body of the table.

Page 15, Table 4. The table should include the 6<sup>th</sup> high priority site, Drain at Woodbridge Rd. The text in the following paragraph should also reflect the addition of the 6<sup>th</sup> high priority site.

Page 15. There is a statement that “The Coalition conducted approximately 166 individual outreach....” The correct number is 173.

Page 22. In the next to last paragraph, there is a reference to “see section IV.B.21 of the Order.” The last section in the Order is section 20, which references management practices. It is unclear what is being referenced here.

## **EXHIBIT B: Specific Comments on MRP Attachment B**

There are a number of minor typographical and grammatical corrections that need to be made prior to the release of the public draft. For example, there is inconsistent use of capitals in the use of “Section” and “section,” “Site” and “site,” etc. These are not included in the comments that follow.

Specific comments

P3. Section III A 1. There is a statement that “When a water quality objective or trigger limit at a monitored Core site is exceeded, the parameter associated with the exceedance must be monitored for a third consecutive year.” Does this apply to TMDL constituents or does a single exceedance of a TMDL constituent trigger a Management Plan eliminating the need for the third year of monitoring?

P3. In the next to last sentence the term “Core” should be replaced with “Represented.”

P4. Section III A 2. There is a statement that “Any applicable surface water quality management plan (SQMP) actions associated with the Core site must take place in these watershed areas (represented drainages without monitoring sites).” The statement should be qualified to state that “unless there is evidence that the constituent of concern is not present in the waterway (e.g., through the use of Pesticide Use Reports, previous monitoring).”

P5. Table 1. There is an asterisk in the table title that does not have a table footnote.

P6. Section III C 1 b. The reference in the parentheses to Section VIII should be Section VII.

Page 6. Section III C 2. The first sentence of the second paragraph states, “For metals, ....” The sentence should read “For metals applied by agriculture, ....”

Page 6. Section III C 3. The third sentence of the paragraph states, “The pesticides identified as ‘to be determined’ (TBD) on Table 2 shall be identified as part of a process that includes input from qualified scientists and coordination with the Department of Pesticide Regulation.” The stakeholders involved in the process of determining pesticides the Coalition will monitor should include representatives of the Coalition.

Page 7. Table 2. Table 2 lists constituents to be monitored. As part of the metals list, both total and dissolved phase analyses are required for cadmium, copper, lead, nickel, and zinc. There is no need to analyze for the total fraction of these metals. The dissolved phase is the bioavailable phase and is the phase on which a determination of an exceedance is made. Analyzing for the total phase adds cost to the analyses for no increase in information.

P9. Section III C 4 a. There is a statement that “If within the first 96 hours of the....” The statement implies that the test duration is greater than 96 hours, but the test duration for the three required tests is 96 hours. Eliminate the term “first.”

Page 10. Section III C 4 b. In the third paragraph there is a statement that “Sediment samples that show significant toxicity to *Hyalella azteca* at the end of an acceptable test and that exhibit < 80% organism survival compared to the control will require pesticide analysis of the same sample in an effort to

determine the potential cause of toxicity.” The handling of the sediment used for toxicity testing and the preservation requirements/hold time of the sediment used for chemical analyses preclude the use of the same sample for both analyses. The statement should read “Sediment samples that show significant toxicity to *Hyalella azteca* at the end of an acceptable test and that exhibit < 80% organism survival compared to the control will require pesticide analysis of a *sample collected at the same time and location* in an effort to determine the potential cause of toxicity.”

Page 10. Section III C 4 b. In the same paragraph there is a reference to a “practical reporting limit.” Is the term supposed to be “practical quantification limit”? We are unable to find any usage of the term practical reporting limit in the literature and recommend that the term be changed to “practical quantification limit” to avoid confusion.

Page 10. Section III C 5. There is a statement that “The studies shall be representative of the effects of changes in management practices for the parameters of concern.” It is not clear what this statement means. Studies are not representative of anything. If the goal is to develop studies that evaluate the effects of the change in management practices on water quality, the statement should be reworded.

Page 12. Section IV. At the end of the first paragraph there is a statement that “The third- party must collect sufficient data to describe irrigated agricultural impacts on groundwater quality and to determine whether existing or newly implemented management practices comply with the groundwater receiving water limitations of the Order.” Practices cannot comply with receiving water limitations. The sentence should be reworded to state “The third- party must collect sufficient data to describe irrigated agricultural impacts on groundwater quality and to determine whether *existing or newly implemented management practices will result in discharges that will comply with the groundwater receiving water limitations of the Order.*”

Page 12. Section IV. Remove the term “overall” from items 2 and 3 as the term is unnecessary in the context of the statements.

Page 13. Section IV A 2. Change the language from “alkalinity and acidity” to “alkalinity or acidity.”

Page 14. Section IV A 5. The last bullet point makes reference to “relative toxicity.” It is not clear what relative toxicity means and the term should be dropped.

Page 19. Table 3. The table indicates “Nitrate as nitrogen” is the constituent to monitor. Although there is generally very little nitrite in groundwater, the constituent should be “Nitrate as nitrogen, or Nitrate+Nitrite as nitrogen.”

Page 23. Report Component 17. There is a statement that “The summary of nitrogen management data must include a quality assessment of the collected information by township....” For clarity, the statement should read “The summary of nitrogen management data must include *an assessment of the quality of the collected* information by township ....”

Page 23. Report Component 18. There is no footnote 12 so the numbering jumps from 11 to 13. Also, though there is a citation to footnote 13, there is no footnote 13 in the document.



SOUTH SAN JOAQUIN  
IRRIGATION DISTRICT

September 30, 2013

Dr. Karl Longley, Ph.D., Chair  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, # 200  
Rancho Cordova, California 95670-6114

Attn: Honorable Board Members: Jon Costantino, Jennifer Lester Moffitt, Carmen L. Ramirez, Sandra Meraz and Robert Schneider  
c.c.: Pamela Creedon, Executive Officer

**Re: Proposed Resolution, ORDER R5-XXXX-XXXX  
WASTE DISCHARGE REQUIREMENTS GENERAL ORDER  
FOR GROWERS WITHIN THE SAN JOAQUIN COUNTY AND DELTA  
AREA THAT ARE MEMBERS OF THE THIRD-PARTY GROUP**

Dear Dr. Longley,

This letter is submitted in behalf of South San Joaquin Irrigation District (District) for comments on the **Proposed Resolution, ORDER R5-XXXX-XXXX WASTE DISCHARGE REQUIREMENTS GENERAL ORDER FOR GROWERS WITHIN THE SAN JOAQUIN COUNTY AND DELTA AREA THAT ARE MEMBERS OF THE THIRD-PARTY GROUP**. These comments are intended to address those points of the subject matter that will impose a higher level of reporting than currently available and also the increased cost of implementing this order to our growers;

From the beginning of this program in 2004 the Discharges of Waste from Irrigated Lands Program has developed into Watershed Coalitions requiring every grower to join or enroll as an Individual Discharger of Waste from Irrigated Lands. Now we are widening the range to include Ranchers, Rangeland Management, field Crop Farmers and Orchard and Vineyard Growers, Nurseries and wetland management (Growers).

There are many aspects of this proposed new Conditional Waiver that are going to put excessive financial burdens on the Growers and the "Third Party Group". With ten years of monitoring conducted and reported we have found and addressed areas of exceedences to the water quality in our District. It is apparent from the proposed "Farm Management" requirements and monitoring requirements that the CVRWQCB staff has no practical understanding of the impact these requirements will have on the Growers. Today's Growers are more aware of their crops needs and cost per acre than previous generations. The ability

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to produce a crop for the marketplace requires a knowledge of their crops' nutrient needs, water requirements, insect pest control, weed control, from planting their crop to harvesting and preparing their fields for the next year's crop. Today's Growers know the nutrient specific water quality parameters for each farm, i.e.; salt and nutrient-specific source characterization of the water from their groundwater wells or surface water irrigation, pH of the soil and depth of the root zone of each crop. They have developed irrigation methods to increase their yields depending upon many of these parameters.

This new Order proposes to require 'Written Farm Management Plan', Nutrient Management Plans, (NMP), and a written Sediment & Erosion Control Plan for each farming operation with a Certified Declaration by a "Competent Person" who must state in writing whether or not this applies to each farming operation. For just the NMP an annual Report will be required in 2016 for large farms and 2017 for small farms and for what purpose? What will the Regional Board gain from crop nitrogen uptake values from over sixty soil types in San Joaquin County alone? When one determines the annual balance of nitrogen applied per crop in comparison to the typical crop nitrogen uptake on each farm, this differs with each crop because the amount of organic matter in the soil will change between double crops (an example would be winter wheat followed by corn), and the increase in organic material will affect available nitrogen. This available nitrogen may get tied up differently depending upon each soil type. Even the annual estimation of nitrogen loading to groundwater or runoff to surface water is dependent upon those same soil types. Every farm is different and one farm may have two to four different soil types in one field that have different water uptake and depth of penetration depending upon the method of irrigation. To have a qualified individual evaluate the reductions in nitrate loading to groundwater due to on farm practices and implementation would be speculative and therefore of questionable, if any, value. But this is required in the order and to develop this abstract a qualified individual would be required to study and interpret data to formulate a report. This will not be cheap, increasing costs to the Grower and it will definitely affect their cost per acre, and for what useful purpose?

At the 'Third-Party Group' (Coalition) level it is estimated that the Monitoring and Reporting Requirements of this new program will increase a Grower's cost per acre from five to an estimated eight dollars over what they are already paying.

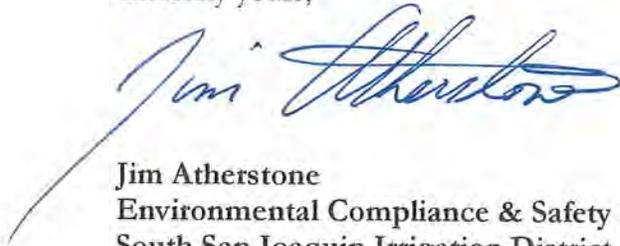
The District strongly recommends that the CVRWQCB reconsider the necessity of reporting requirements and increased expenses to Growers before approving the proposed Waste Discharge Requirements for Discharges from Irrigated Lands.

With over thirty-five years' experience as an Agricultural Pest Control Advisor and Qualified Applicator License holder in the Central Valley of California, graduating from SCU Fresno in 1977, I have seen the agricultural community change significantly to improve the efficiency of farming operations throughout the region. With over twenty-five years working for the District I have seen how incentives and enhancements have been provided by the District to

the benefit of the environment and our Growers. Since joining the San Joaquin County & Delta Water Quality Coalition, (Coalition), we have helped to increase Grower awareness and accountability to the Coalition.

Thank you for this opportunity to comment on behalf of South San Joaquin Irrigation District. Should you have any questions please contact Jim Atherstone, Environmental Compliance & Safety Officer for the District at (209) 993-7971.

Sincerely yours,

A handwritten signature in blue ink that reads "Jim Atherstone". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

**Jim Atherstone**  
**Environmental Compliance & Safety Officer**  
**South San Joaquin Irrigation District**