

**Fwd: Pesticide Watch Education Fund's Comments on the Central Coast**

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**From:** AgOrder  
**To:** Howard Kolb  
**Date:** 12/28/2010 5:39 PM  
**Subject:** Fwd: Pesticide Watch Education Fund's Comments on the Central Coast Regional Board's 2011 Draft Conditional Waiver for Irrigated Agricultural Discharges (Ag Order Email Received)  
**CC:** Lindsay Ringer  
**Attachments:** Pesticide Watch Education Fund's Comments on the Central Coast Regional Board's 2011 Draft Conditional Waiver for Irrigated Agricultural Discharges

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Angela Schroeter/ Howard Kolb

Central Coast Regional Water Quality Control Board

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

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

**Subject: SUPPORT WITH ESSENTIAL AMENDMENTS** for the Central Coast Regional Board's 2011 Draft Conditional Waiver for Irrigated Agricultural Discharges

Dear Regional Water Quality Control Board Members:

Thank you for the opportunity to provide further public comments on the Central Coast's 2011 Draft Recommendations for a Conditional Waiver for Irrigated Agricultural Discharges, released on November 19, 2010. Pesticide Watch Education Fund appreciates that this critical program is being prioritized, as it is crucial that we protect and restore the quality of the Central Coast region's water so that it is safe for people to drink.

Pesticide Watch Education Fund (PWEF) is a non-profit organization which has helped dozens of community groups advocate for clean water through training residents to protect their communities from toxic hazards. PWEF works side-by-side with residents to clean up and prevent pesticide and other pollution such as toxic fertilizers from agriculture run-off in their communities. These communities which surround the agricultural fields depend on the

groundwater for drinking water and yet thousands of residents are forced to purchase their water because of pesticide and nitrate contamination.

The 2011 Draft Order's Executive Summary recognizes that, "discharges of waste associated with agricultural discharges (e.g., pesticides, sediment, nutrients) are a major cause of water pollution in the Central Coast region. The water quality impairments are well documented, severe and widespread." (Pg 7, Staff Report)

It has been mandated that the Central Coast Water Board has the "statutory responsibility to protect water quality and beneficial uses such as drinking water and aquatic life habitat... The Central Coast Water Board regulates discharges of waste to the region's surface water and groundwater to protect the beneficial uses of the water. In some cases, such as the discharge of nitrate to groundwater, the Water Board is the principle state agency with regulatory responsibility for coordination and control of water quality." (Pg 11, Staff Report)

The areas of the Central Coast which are already at high risk of groundwater contamination should have farm management plans which address how they will avoid exacerbating the pollution problem. This means farmers should receive assistance from groups such as UC Cooperative Extension to assess what type of treatment their farm actually needs, and how to use integrated pest management practices appropriate for their particular crop.

To facilitate protecting groundwater, this new program must ensure that the basic information on fertilizer and pesticide application on farms is shared by the Department of Pesticide Regulation (DPR). This information is necessary to establish a baseline to evaluate how much pesticide contamination there is and how to measure improvements in water quality and reductions in application. It will also help evaluate which farms are complying. However, there may currently not be an efficient mode of communication whereby this information will be shared.

This is especially important since groundwater contamination from nitrates severely impacts domestic drinking water supplies in the Central Coast region, and DPR needs to know to what extent water is being contaminated. The 2011 Draft Order Staff Report reports that, "thousands of people rely on public supply wells with unsafe levels of nitrate and other pollutants. Excessive nitrate concentration in drinking water is a significant public health issue." (Pg 33, Staff Report) Based on the limited data available, the number of domestic wells that exceed the nitrate drinking water standard is likely in the range of hundreds to thousands in the Central Coast Region.

The extent of groundwater contamination on the Central Coast has been well documented, and community groups with whom we work openly express concern about the safety of their drinking water. Regions such as the Salinas Valley have been referred to as “hotspots” by the Regional Board Members at the public workshops, where immediate action is essential. This is also a region in which the recently approved toxic chemical methyl iodide could be widely used, thus adding to its vulnerability.

Through our work with residents in the Central Coast region, and from the workshops held at San Luis Obispo on May 12, 2010 and at Watsonville on July 8, 2010, it has become clear that water quality in the Central Coast is an environmental justice issue, and that water contamination severely ruins drinking water and human health of communities, especially poorer communities, farm-worker camps, etc. While the farmworkers and local residents suffer significant economic and health impacts from the contamination, the agricultural polluters have been exempt from responsibility.

The 2011 Draft Order is an improvement on the 2004 Conditional Waiver which did not prioritize water quality requirements, and did not contain any compliance or verification monitoring provisions.

However, PWEF is very disappointed that in spite of the verbal commitment to regulate agricultural discharges due to immense evidence of human health and drinking water concerns, the 2011 Draft Order is significantly weaker than the Draft Recommendations released by the Regional Board Staff on February 1, 2010.

Below please find our proposed amendments to the current 2011 Draft Order:

#### (1). PROBLEMS WITH THE TIERING STRUCTURE

We support the idea of creating a tiered structure to regulate growers with differing water quality impacts; however, we find that the Tiers as they have been created in the 2011 Draft Order are grossly inadequate. First of all, we are very disappointed that nitrate contamination “hotspot” regions have not been considered as criteria for creating Tiers. Growers in the highly nitrate-polluted and potentially methyl iodide contaminated regions of Salinas Valley and Santa Maria may be placed in Tier 1 or 2, with minimal regulation, even though their impact to groundwater and hence to drinking water may be very high.

For instance, since there is no groundwater contamination criterion to set up the tiers, if a discharger's operation is less than 1000 acres, then they are placed in the low-risk Tier 1 even if they grow crops with high nitrate loading potential or even if they use toxic chemicals such as methyl iodide.

Tiers in this way are much less effective since the Regional Board staff has verbally reported that 98.4% of farms on the Central Coast fall under the 1000 acres limit. Only 33 farms out of 3000 farming operations on the Central Coast are over 1000 acres, and it is likely that some of those are for grazing operations. Hence, this inadequate Tiering system may put growers with the capacity to increase groundwater nitrate or methyl iodide contamination erroneously in the low-risk Tier 1 instead of Tier 3. Tier 3 has significant regulation but it is defined so narrowly that few farms will actually be regulated.

Tier 1 dischargers will be subjected to a very low level of regulation. Tier 1 and 2 dischargers only have to conduct groundwater monitoring 2 times in 1 year during the 5 years of the Draft Order. Hence, it is clear that, beyond the groundwater sampling, Tier 1 and 2 dischargers will not be held to any real regulation of groundwater, even though this has been identified as a human health and drinking water priority.

Hence, agricultural dischargers in "hotspots" of nitrate and other contamination should not be considered low-risk. The criteria for Tiering must include groundwater nitrate and pesticide contamination as a factor. Farms in high nitrate contamination areas must automatically be classified as Tier 3 dischargers.

## (2). PROBLEMS WITH SPECIFIC LISTING OF DIAZINON AND CHLOROPYRIFOS PESTICIDES TO THE EXCLUSION OF OTHER TOXIC PESTICIDES

PWEF agrees that Diazinon and Chloropyrifos are dangerous pesticides with high toxicity. However, we disagree with Staff's approach to specify just these pesticides in the Tiering criteria to the exclusion of other pesticides such as methyl iodide which may be just as harmful. This approach also ignores the public health concept of synergism: that two or more pesticides working together may create combined effects and harm. Toxicity does not arise merely from the use of these two pesticides, and we fear that many dischargers will escape Tier 3 high-risk monitoring. Hence, PWEF encourages that Staff should not specify just these pesticides in the Tiering criteria, but include all pesticides that will increase toxicity and damage water quality.

### (3). PROBLEMS WITH REMOVING REGULATION ON TILE DRAINS

In the Draft Agricultural Order, the Staff Report states that they have, “clarified the intent to address irrigation runoff in the short term with immediate conditions vs. tiledrains in the long term.” (Pg 32, Staff Report) However, PWEF feels that removing regulation on tile drains is a significant setback to address irrigation runoff in the short-term and the long-term. It will worsen groundwater contamination and will cause harm to residents. For instance, the Blanco drain in the contamination “hotspot” Salinas Valley often registers nitrates at over 200 mg/L, or five times the drinking water standard! Regardless, the 2011 Draft Order would remove regulation of tile drains until the long-term. This change is unacceptable; tile drains should be regulated in the short-term.

### (4). PROBLEMS WITH CHANGES IN NUMERIC AND NARRATIVE STANDARDS

The 2011 Draft Order removes essential provisions from the February Draft Order regarding point of compliance for drinking water standards. The 2011 Draft Order shifts compliance from the responsible farm to the receiving waters. PWEF feels that this will make it more difficult to regulate polluters and to hold farms accountable for their contamination. Also, the contamination will not just affect the receiving waters, but also groundwater. How will this be monitored? In order to know the sources of contamination, we feel strongly that the point of compliance for drinking water standards must be the discharger’s farm.

### (5). PROBLEMS WITH THE BACKFLOW PREVENTION DEVICES

Backflow prevention devices are being mandated in order to protect groundwater from pesticide contamination. However, dischargers are being given 3 years to comply with this requirement. We strongly urge that dischargers be required to install and maintain backflow prevention devices within 1 year.

### (6). NEED FOR FINES

It is crucial that the regulations are enforced, and if they are not adhered to, there needs to be a significant fine. PWEF feels that the Water Board needs to put in place non-compliance fines in cases when agricultural dischargers violate the stipulated conditions. Voluntary mechanisms to control agricultural discharges are not sufficient.

## **2011 DRAFT ORDER PROVISIONS THAT PWEF SUPPORTS:**

There are many provisions in the 2011 Draft Order that PWEF supports, given the above-mentioned amendments. Some of these provisions that we support are as follows:

- a) Regulation of both land owners and operators is essential.
- b) Development of nitrate loading risk factors and tracking and reporting requirements.
- c) Requiring installation of backflow prevention devices.
- d) Timelines for compliance.
- e) All dischargers are required to minimize nutrient discharges from fertilizer and nitrate loading to groundwater so receiving water bodies meet water quality standards and safe drinking water is protected.
- f) Tier 3 dischargers with a high nitrate loading risk must develop and initiate implementation of a certified Irrigation and Nutrient Management Plan (INMP) to meet specified nitrogen balance ratio targets.
- g) That the discharge of waste to groundwater with the beneficial use of municipal or domestic water supply that causes or contributes to an exceedance of drinking water standards established by the United States Environmental Protection Agency (USEPA) or California Department of Public Health (CDPH), whichever is more stringent, is **prohibited**.
- h) The application of fertilizer such that it results in a discharge of waste to groundwater, and causes or contributes to exceedances of water quality standards is **prohibited**.
- i) Dischargers must ensure that agricultural discharges percolating into groundwater must be of such quality at the point where they enter the ground to assure the protection of all actual or designated beneficial uses of groundwater, including drinking water.
- j) The Executive Officer may require Dischargers to locate (inventory) and conduct sampling of private domestic wells in or near agricultural areas with high nitrate in groundwater and submit technical reports evaluating the sampling results. In addition, in compliance with Water Code section 13304, the Central Coast Water Board may

require Dischargers to provide alternative water supplies or replacement water service, including wellhead treatment, to affected public water suppliers or private domestic well owners.

Lack of surface and groundwater protections have had significant impact on community and watershed health. Hence, we support your efforts to address water contamination by agriculture and pesticides. Pesticide Watch Education Fund supports said Order with the aforementioned improvements to the amendments. We urge you to take timely action to put in place strict requirements for irrigated agriculture discharges so that California's residents and water is truly protected and restored.

Sincerely,

/s/

Dana Perls

Community Organizer

cc: Paul Towers, Pesticide Watch Education Fund

Dipti Bhatnagar, Environmental Justice Coalition for Water

Dana Perls, MCP  
Pesticide Watch, Community Organizer  
Office: (916) 551-1883, x 111  
Cell: (925) 705-1074  
email: [dana@pesticidewatch.org](mailto:dana@pesticidewatch.org)  
website: [www.pesticidewatch.org](http://www.pesticidewatch.org)