



California Regional Water Quality Control Board Central Coast Region



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Edmund G. Brown Jr.
Governor

Draft Agricultural Order
Public Comments
for
March 17, 2011 Board Meeting

Environmental and Water Organizations
Letter No/Name
16 Pesticide Watch
31 Water Community Dialogue Effort
38 Sierra Club
47 Greywater Action
53 Salinas River Channel Coalition
57 Form Letter #4- 29 from SLO Unitarian Universalist Fellowship
80 Monterey Coastkeeper
85 Environmental Defense Center and Others
92 Fort Ord Environmental Justice Network, Inc.
93 Clean Water Action, Community Water Center
95 California Rural Legal Assistance, Inc.
104 Pacific Institute

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

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

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

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
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AgOrder - Ag Order Comment

From: Kelley Bell <Kelley.Bell@driscolls.com>
To: <AgOrder@waterboards.ca.gov>
Date: 12/30/2010 3:31 PM
Subject: Ag Order Comment

Attention: Howard Kolb, Agricultural Order Project Lead Staff
Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

Re: Ag Order Comment

To the RWQCB Chair,

This is an informational letter designed to bring awareness to your board about the work being done by our Pajaro Valley Community Dialogue effort related to the water issues in the lower Pajaro basin.

We began our effort in July of 2010 with over 50 diverse community stakeholders engaged in a comprehensive effort to identify and act on ways we as a community can address the severe overdraft in the Pajaro Valley. In our group we have representatives from large and small agriculture, farmers, environmental organizations, universities, rural residential, large and small land owners, the City of Watsonville, the County of Santa Cruz, County of Monterey and technical assistance providers such as RCD, NRCS, CAFF, and PVWMA all working together with the same vision in mind.

We have identified specific strategies to address the overdraft and have active working groups focused on the following:

- Land management opportunities including seasonal rotation or annual fallowing with cover crops
- Irrigation efficiency
- Soil moisture monitoring to aid in reduction of irrigation, which will also reduce percolation below the root zone, lessening potential impacts to groundwater
- Improved exchange of information and expanded technical assistance
- Large scale projects for consideration
- Recharge
 - Both Dr. Andrew Fisher of UC Santa Cruz and Dr. Marc Los Huertos of Cal State Monterey Bay are leading research in recharge with the intent of increasing water levels in the basin over time. In addition to their current efforts to map potential recharge zones in the Valley, through our effort they are collaborating on a private pilot recharge project with a grower and multiple land owners. Farmers in the Valley understand that recharge should be accomplished in a manner which improves the quality of the water in the aquifer, so we are attempting to trial an effort to do just that.

We have also been given a seat on the PVWMA Basin Management Plan Advisory Committee formed to revise the Basin Management Plan over the next 18 months.

We believe it is critical that the Ag Waiver accommodate managed groundwater recharge as an essential part of the solution to the overdraft. Every region is unique, and our great hope is that the Ag Waiver will be designed to allow for collaborative approaches to adaptive management and flexibility over time to address these complex water quality and water supply issues in the lower Pajaro basin for the long term.

Thank you for your consideration,

Signed the Water Community Dialogue Effort of Pajaro Valley, Co-Chairs and Planning Lead:

Chuck Allen

Kelley Bell

Frank Capurro

John E. Eiskamp

Dobie Jenkins

Katie Montano

Dave Runsten



California Regional Water Quality Control Board
Central Coast Region
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Attention:

Angela Schroeter, Agricultural Regulatory Program Manager
AgOrder@waterboards.ca.gov
aschroeter@waterboards.ca.gov
Howard Kolb, Agricultural Order Project Lead Staff
hkolb@waterboards.ca.gov.

Subject: DRAFT ORDER NO. R3-2011-0006
CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES FROM IRRIGATED LANDS

December 30, 2010

Dear Angela Schroeter and Howard Kolb

Thank you for the opportunity to review the DRAFT ORDER NO. R3-2011-0006 CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM IRRIGATED LANDS (Order). Our review of this Order is oriented from the Sierra Club's interests to preserve and protect natural resources and associated water quality benefits provided by properly functioning streams and wetlands.

We appreciate the recommendation discussed in the Staff Report, top of page 8, describing the tiers to implement a program to maximize water quality benefits and minimize implementation problems within the agricultural economy. We believe the draft order is on the right track to achieve the water quality objectives, and it appears compatible with some water resource and flood protection programs in the Central Coast that may contribute to solutions, perhaps offsetting costs to agriculturists. We are optimistic that the regulations in the Order will result in agricultural practices that are able to integrate with multi-objective water resource and flood protection infrastructure projects and thus distribute and reduce costs among stakeholders. Presently in the Pajaro River Watershed, there are a few such projects which are organized into an Integrated Resource Water Management Plan (IRWMP) intended to benefit agricultural and other stakeholders in the Watershed. We anticipate the "Farm Plan" development process discussed in the Order will provide for water quality improvements that can be credited to the Watershed Projects, increasing their "Benefit Cost" ratios thus making them more competitive for federal and state funding. Our comments below elaborate on this point in the Pajaro River Watershed, with which we are most familiar, but which we anticipate may be generic to the Central Coast region.

Our review comments are organized about appendix A, utilizing the page number and topic to list our comments as follows:

Page 20 item 72, 73 & 74 Farm Plan

72. Dischargers are encouraged to coordinate the implementation of storm water management practices with other Dischargers to maximize water quality protection and reduce costs.

Farm Water Quality Management Plan (Farm Plan) Requirements

*73. **Within 18 months** of the adoption of this Order or enrollment, Dischargers must develop and implement a farm water quality management plan (Farm Plan). Farm Plans must:*

a. Include a copy of this Order, a copy of the Notice of Intent (NOI) submitted to the Central Coast Water Board and a copy of the Notice of Enrollment (NOE) from the Executive Officer for reference by operating personnel and inspection by Central Coast Water Board staff.

b. Include a signed statement by the landowner(s), operator(s), and key operating and site management personnel, that they are familiar with this Order and contents of the Farm Plan.

c. Include the date the Farm Plan was last updated.

d. Indicate how water quality data from receiving water quality monitoring, groundwater monitoring and individual discharge monitoring was used to design and implement management practices that will achieve compliance with this Order.

e. Identify actual and potential water quality impacts associated with discharges specific to the agricultural operation(s) and design and implement management practices that will correct the water quality impacts and achieve compliance with this Order.

f. Describe the farm water quality management practices planned and implemented to insure discharges do not cause or contribute to exceedances of water quality standards in receiving waters. This includes, but is not limited to, irrigation management, pesticide management, nutrient management, salinity management, sediment and erosion control (including stormwater management), and aquatic habitat protection to achieve compliance with this Order.

g. Include a time schedule for implementation of farm water quality management practices, including a list of farm water quality management practices in progress (identify start date), completed (identify completion date), and planned (identify anticipated start date).

h. Demonstrate that discharges do not cause or contribute to exceedances of water quality standards in waters of the State or the United States by including methods and results to evaluate progress and effectiveness of water quality management practices, treatment or control measures, or changes in farming practices implemented to achieve compliance with this Order.

74. Dischargers must update their Farm Plans at least annually.

We agree that the Farm Plan needs to address “*resolving priority water quality issues related to individual operations and the watershed.*” However, it appears the Draft Order prioritizes irrigation run-off issues over the matter of storm water drainage. We appreciate that item 72 encourages both issues to be integrated when addressed. Poorly managed storm water has potential adverse water quality impacts to local drainage, regional receiving channels and

natural streams. Lower watershed communities are at a significantly greater risk than those in the upper watershed due to the accumulated impacts as the watershed area increases. Strategic storm water management on the other hand may address this disparity and conversely have greater potential positive impacts to receiving waters if multi-objective goals for drainage and flood control projects are pursued watershed wide. Contemporary state and federal flood protection programs are capable of accommodating such multi-objective planning, and there are such projects presently taking place in the Pajaro River Watershed. These projects include the USACE Upper Llagas Creek Project in the Morgan Hill area and the USACE Lower Pajaro River Project in the Watsonville area. Presently these projects are preparing environmental impact studies including NEPA and CEQA documents which are expected to be reviewed by the CCRWCB involving water quality compliance. The Sierra Club will advocate said contemporary multi-objective planning policy for these projects and point out how they can contribute or support the beneficial uses of water as discussed in the this Order. We believe water quality problem solving needs to occur at various scales and take into account the roles and responsibilities of all involved.

We support the CCRWQCB's focus on the "Farm Plan", and its role of contributing to solutions at the local scale, but believe it needs to be strategically linked to large scale solutions such as the aforementioned flood control projects. We are optimistic that the water resource-flood control infrastructure planned for the Pajaro River Watershed will provide for a robust agricultural economy because of the contemporary planning, cooperation and progress made in the water resources area. We believe the CCRWQC will need to issue a 401 Water Quality Certification for these projects and should condition them to require water quality improvement design and construction elements.

Despite the growing pains Pajaro River Watershed water agencies have endured lately, continued progress has prevailed producing work plans and funding to solve the Pajaro Watershed's water resource problems. The aforementioned Pajaro River IRWMP could study the pollution issues identified and reported in the Farm Plans. The Final Order should identify this potential IRWMP linkage to multi-objective problem solving to optimize private enterprise and government solutions and funding at the watershed scale.

Perhaps an International Standards Organization (ISO) protocol can ultimately be developed specific to Pajaro Valley excess irrigation/ storm water discharge practices adjacent to:

- Levees or modified floodplains
- reclaimed water pipelines
- wetlands
- groundwater recharge areas (instream and off stream)

Perhaps the universal recognition of an ISO for water quality could contribute to the array of solutions appropriate to address the food safety confidence issue.

Page 22, Aquatic Habitat Requirements;

*78. By **October 1, 2012**, and every three years thereafter, Tier 2 and Tier 3 Dischargers with operations adjacent to or containing a waterbody identified on the 2010 List of Impaired Waterbodies as impaired for temperature, turbidity, or sediment (identified in Table 1) must conduct photo monitoring per MRP No. R3-2011-0006. Photo monitoring must document the condition of perennial, intermittent, or ephemeral streams and riparian and wetland area*

habitat, the presence of bare soil vulnerable to erosion, and relevant management practices and/or treatment and control measures implemented to address impairments. Photo documentation must be submitted with Annual Compliance document

We agree that Aquatic Habitat requires protection as a beneficial use including aquatic life (warm or cold freshwater habitat, wildlife habitat). We view aquatic and riparian habitat as inter-dependent with water quality in its role hosting the chemical, physical, and biological processes that function to keep water clean and vital. It serves as an indicator of the integrity and health of a watershed and its resistance to water pollution and groundwater contamination. We are encouraged by the case studies cited in the earlier February 1,2010 PRELIMINARY DRAFT STAFF RECOMMENDATIONS FOR AN AGRICULTURAL ORDER page 17 where constructed wetlands were installed providing a measured level of water quality improvement. We anticipate that such wetland projects will require formal planning at the watershed scale in context with features such as river reaches or lakes that perhaps have been modified for flood protection or water supply purposes involving public works infrastructure. We believe the aforementioned projects in the Pajaro River Watershed (and projects in other locations in the region) provide opportunities to address agricultural run-off pollution issues to a significant degree. The local drainage collection and drainage system typically situated at the outboard toe of a flood protection levee could be designed to include a constructed wetland to receive pre-treated agricultural run-off. This run-off would originate from the tail water at the low end of an irrigated field shown on the Farm Plan and could drain into the levee drainage/wetland system for interim storage, treatment, monitoring, and appropriate remedial measures before it would be discharged onto the lower terrace floodplain and riparian corridor. This highly productive zone of hydrophilic vegetation could be managed to improve water quality in the receiving water body.

Thank you for the opportunity to comment on the Draft Order and we look forward to effective regulations.

Sincerely,
Kenn Reiller
Chair, Sierra Club Ventana Chapter
Water Committee

Greywater Action
for a sustainable water culture
935 Arlington St.
Oakland, CA 94608
www.greywateraction.org

January 3, 2011

To, Angela Schroeter/ Howard Kolb
Central Coast Regional Water Quality Control Board
Via E-mail: AgOrder@waterboards.ca.gov, or Fax: 805 543 0397.

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

Dear Regional Water Quality Control Board Members:

Thank you for the opportunity to continue to provide public comments on the Central Coast's 2011 Draft Recommendations for a Conditional Waiver for Irrigated Agricultural Discharges, released on November 19, 2010. On behalf of Greywater Action, we applaud your prioritization of this critical program that must protect and restore the quality of the Central Coast region's water. Greywater Action works to improve surface and groundwater quality by reducing municipal wastewater discharges and combined sewer overflows. We recognize that agricultural discharges are a significant source of contamination in California waters. On behalf of our 400 + members, we strongly support adoption of agricultural discharge rules that reduce these pollutant loads and the health risk they pose to groundwater-dependent communities.

The 2011 Draft Order's Executive Summary states 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) It is also clear that, "no industry or individual has a legal right to pollute and degrade water quality, while everyone has a legal right to clean water." (Pg 13, Staff Report)

This is especially important since groundwater contamination from nitrates severely impacts domestic drinking water supplies in the Central Coast region. 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) Domestic wells (wells supplying one to a few households) are typically shallower than public supply wells. Based on the limited data available, the number of

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domestic wells that exceed the nitrate drinking water standard is likely in the range of hundreds to thousands in the Central Coast Region.

At the workshops held at San Luis Obispo on May 12, 2010 and at Watsonville on July 8, 2010, it was repeatedly shown that water quality in the Central Coast is an environmental justice issue, and that water contamination severely hampers drinking water and human health of communities, especially poorer communities, farm-worker camps, etc. It was also repeatedly expressed that the economic and human health costs to society and to communities of nitrate contamination are very high, yet the polluters have been going scot-free.

The extent of nitrate contamination on the Central Coast has been well documented, and especially regions such as the Salinas Valley and Santa Maria have been referred to as “hotspots” by the Regional Board Members at the public workshops, where immediate action is essential.

We support the 2011 Draft Order to the extent that it is an improvement on the 2004 Conditional Waiver which lacked a focus on water quality requirements, and did not contain any compliance or verification monitoring provisions.

However, we are very disappointed that in spite of the verbal commitment to regulate agricultural discharges due to overwhelming 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 strong 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. This will cause a situation where growers in the highly nitrate-polluted 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 such as broccoli, cabbage, cauliflower, celery, etc.

This is especially a concern since it has been reported verbally by the Regional Board staff 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

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are for grazing operations and are not growing crops with high nitrate loading potential. Hence, this inadequate Tiering system may put growers with the capacity to increase groundwater nitrate contamination in the low-risk Tier 1. Tier 3 has significant regulation but it is defined so narrowly as to render the definition useless.

In addition, it is essentially our understanding that Tier 1 dischargers will be subjected to a very low level of regulation. They will be required to enroll and submit an NOI, to comply with general narrative standards, to create a Farm Plan, to complete education classes, to report groundwater quality results and participate in watershed-wide monitoring. Tier 2 dischargers will have to meet these requirements, plus photo reporting of impaired surface water bodies. 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, we feel strongly that such dischargers in “hotspots” of nitrate contamination are NOT low-risk and the criteria for Tiering must include groundwater nitrate 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

We agree 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 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 that has not even been properly understood or documented. 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 merely by shifting to other toxic pesticides. Hence, we feel strongly that Staff should not specify just these pesticides in the Tiering criteria, but rather focus on all pesticides that will increase toxicity and damage water quality.

(3). PROBLEMS WITH REMOVING REGULATION ON TILE DRAINS

In the list of changes made to the Draft Agricultural Order due to public input, 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) We feel that removing regulation on tile drains is a huge setback to address irrigation runoff in the short-term and the long-term, and will worsen groundwater contamination and will cause harm to human health. 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! Yet the 2011 Draft

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Order would remove regulation of tile drains until the long-term. This is unacceptable. We strongly urge that tile drains be regulated immediately.

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

The 2011 Draft Order removes essential provisions from the February Draft Order regarding the fact that dischargers must meet water quality compliance at the place where the water leaves their farms. It seems the 2011 Draft Order shifts compliance from the farm to the receiving waters. We feel this significantly weakens the ability of regulation to find the most contaminated dischargers and hold them accountable. In addition, it is unclear how compliance for drinking water standards for groundwater will be met. The Regional Board must focus not just on regulation but on actual outcomes, and hence must identify where the contamination is arising. We feel strongly that the point of compliance for drinking water standards must be the discharger's farm, as this will help to find sources of contamination.

(5). PROBLEMS WITH THE BACKFLOW PREVENTION DEVICES

Backflow prevention devices are being mandated in order to protect groundwater. However, we find it unjustifiable that 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

We also strongly encourage the Water Board to put in place non-compliance fines in cases when agricultural dischargers violate the stipulated conditions. As we have seen in the past Conditional Waiver, voluntary mechanisms to control agricultural discharges are not sufficient. The Water Board must use its' regulatory authority to regulate discharge, and this includes application of non-compliance fees.

2011 DRAFT ORDER PROVISIONS THAT WE SUPPORT:

There are many provisions in the 2011 Draft Order that we like and support, with 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.

Greywater Action
for a sustainable water culture
935 Arlington St.
Oakland, CA 94608
www.greywateraction.org

- 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 gone on too long at the expense of community and watershed health. Hence, we applaud your efforts to address water contamination by agriculture. We have strong amendments to the 2011 Draft Order, and support said Order with these amendments. We strongly urge you to take timely action to put in place stringent requirements for irrigated agriculture discharges so that California's water is truly protected and restored.

Thank you,

Cleo Woelfle-Erskine and Laura Allen
co-founders, Greywater Action

Salinas River Channel Coalition

Established 1995

P. O. Box 7602
Spreckels, CA 93962
(831) 682-0734

January 3, 2011

Mr. Jeffrey Young
Chairman
Regional Water Quality Control Board
895 Aerovista Pl, Ste 101
San Luis Obispo, CA 93401-7906
Fax: 805-543-0397
agorder@waterboards.ca.gov

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

Dear Mr. Young:

This letter is intended to provide comments to you, the regional board members and staff as to our concerns of the requirements in the draft order dated November 19, 2010. The Salinas River Channel Coalition (SRCC) represents landowners, growers, municipalities and other interested parties in issues surrounding the Salinas River and its tributaries; focus of the SRCC is the Channel Maintenance Program. We are concerned about the channel maintenance program for flood capacity, recharge, reservoir releases, and protection of infrastructure (i.e. roads & bridges) and controlling invasive, noxious weeds that are intense in water consumption, pose a flood and erosion threat to our land and reduces fish and wildlife habitat quality.

The Board of Directors and Members of the Salinas River Channel Coalition have been proactive and involved for many years with water quality solutions on the Central Coast. The first Ag Waiver process was about improvement of water quality which is documented we believe that on ground work needs to be done but, this current draft order has become nothing more than a regulation to develop fines and fees.

The Salinas River Channel Coalition Board is concerned that the staff does not understand the Salinas Valley, nor the watersheds of the Salinas River examples are as follows;

- "1,000 foot setback of 303(d) listed water bodies" within the tiers is NOT based on threat to water quality in many cases the private property owners have levees or have graded the agricultural farming operations away from the Salinas River.
- That operators must protect existing aquatic habitat by maintaining riparian functions such as stream bank shading, aquatic and wildlife support and maintain naturally occurring mixed vegetative cover in aquatic habitat areas that may not be the appropriate for maintaining the channel for flood control.
- That by October 1, 2012 Tier 2 and 3 dischargers with operations adjacent to or containing an impaired water body for sediment, temperature or turbidity must conduct photo monitoring to document the condition of the water body including the estimated widths of vegetative filter

strips and management practices or measures to address impairment. There are research gaps in the effectiveness of the use of vegetative filter strips for water quality improvement.

- That by October 1, 2015, Tier 3 dischargers with operations adjacent to or containing an impaired water body (listed in Table 1) must submit a Water Quality Buffer Plan that protects the water body and its associated perennial and intermittent tributaries that includes a minimum 30 foot buffer measured horizontally from the top of bank on either side of the waterway, vegetated zones within the buffer to control temperature, reduce velocity, control sediment deposition, provide treatment through infiltration. The terms, conditions and or requirements of the Water Quality Buffer Plan are unclear and again we believe there are research gaps in effectiveness for water quality improvements.
- Operations and/or ownership of 1000 acres or greater. Using ownership 1,000 acre standard appear to have nothing to do with the risk a growing operation poses to water quality.
- Proposed Standards and Timelines cannot currently be met the science and research must be completed that requires time. Some of these levels listed are due to agriculture (as a non-point source) and there is certainly room for growers to improve practices that impact water quality, but we request that you not set timelines and milestones for improvement in a matter of a few years to problems that were caused many years ago. Achieving real improvements to water quality in our region required standards have realistic goals and focus on where the problems truly lie.

The Salinas River Channel Coalition Board has been very involved with public/private partnerships in order to find solutions in balancing the many interests within its basin. Furthermore, the scope of the draft proposal which includes literally hundreds of pages of text due to its various attachments, all of which must be read, reviewed, and digested before comments may be intelligently does require that more time should be given to the public to prepare and make their comments. We request you to consider our comments and re-evaluative an Ag Waiver that is designed with achievable objectives, along with a transparent and collaborative process that encourages agricultural stakeholders and owners an opportunity to improve water quality— balancing all the interests those on the Central Coast.

Sincerely,



Benny Jefferson, Chairman
Salinas River Channel Coalition (SRCC)

cc: Board Members



California Regional Water Quality Control Board Central Coast Region



Linda S. Adams.
*Secretary for
Environmental Protection*

895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
(805) 549-3147 • Fax (805) 543-0397
<http://www.waterboards.ca.gov/centralcoast>

Edmund G. Brown Jr.
Governor

Public Comments to

Draft Agricultural Order, released 11/19/2010

57: Form Letter - this letter was received from the following 29 individuals:

Name	Date Received
Louise H. Stuart	01/03/2011
Andrea Brown	11/03/2011
Robert Frischmuth	01/03/2011
Helena Davis	01/03/2011
Nelle Jane Ryder	01/03/2011
H. Zarzow	12/30/2010
Robin Lee	12/30/2010
Joan Bennett	12/31/2010
Elise P.	12/31/2010
June Michel	12/31/2010
Louis Wagner	01/03/2011
Andy Pease	01/03/2011
Quin H.	01/03/2011
Joan Scott	01/03/2011
Janet Clarke	01/03/2011
Regina Whitah	01/03/2011
Ann Williams	01/03/2011
Norman Scott	01/03/2011
Richard D.	01/03/2011
Darlene S.	01/03/2011
Catherine Krupp	01/03/2011
A. Brown	01/03/2011
Eric Olsen	01/03/2011
A. Lutik	01/03/2011
Alaine Simer	01/03/2011
Richard Allen	01/03/2011
Joy A. Fault	01/03/2011
Barbara Watson	01/03/2011
Sonya Sukalski	01/03/2011

To:

Angela Schroeter/ Howard Kolb

Central Coast Regional Water Quality Control Board

Via E-mail: AgOrder@waterboards.ca.gov, or Fax: 805 543 0397

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

Dear Members of the Central Coast Regional Water Quality Control Board (Regional Water Board),

We applaud the Regional Water Board's efforts to regulate contaminated agricultural discharges. We are residents of the Central Coast region and we care about this issue as it affects our drinking water and health. Most communities and families in the Central Coast drink groundwater, but it is contaminated with nitrates and other pollutants, because of agricultural runoff. Nitrates in water can cause severe health impacts, including the fatal "blue baby syndrome". While many cities on the Central Coast are paying a high price to treat their water to remove nitrates, there are many communities who are forced to drink toxic water or are forced to pay a high price for buying replacement water.

We hope you will treat it as a priority to clean our drinking water. At the public meetings in San Luis Obispo in May and Watsonville in July, you acknowledged that nitrate groundwater contamination was a big problem and that human health and drinking water were crucial issues in considering the Staff Recommendations for the Agricultural Order. Yet we see that the new recommendations have removed many crucial protections for groundwater. We support many aspects of the 2011 Draft Order, but only with certain necessary amendments. We hope you will work to remedy this situation and pass an Order that fully protects human health and drinking water. Specifically, we strongly urge you the following amendments:

1. We support the Tiering system, but the Tiers have been set up in a manner that renders them useless. It is disappointing that there are no Tiers based on high nitrate contamination. In addition, we understand that over 98% of farms are under 1000 acres in the Central Coast, and will most likely be placed in the lowest category Tier 1, with almost no regulation, even if they pose a high threat to increased nitrate contamination. This would be a real travesty of justice and would not help to clean up our drinking water.
2. We are also disappointed that the regulation of tile drain areas has been delayed. Tile drain areas have shallow groundwater and are these areas are very polluted. We urge the Regional Board not to avoid action on one of its most critical problems but to include this provision in the recommendations immediately.
3. We are also disappointed that the Staff has specified 2 particular pesticides, Diazinon and Chloropyrifos, in the Tiering criteria, but have excluded many other toxic pesticides, and have also overlooked the fact that synergies between chemicals produce the most potent and dangerous impacts on human health. We urge you to not specify just these pesticides in the

Tiering criteria, but rather focus on all pesticides that will increase toxicity and damage water quality.

- 4. We also feel disappointed that the timeline is too liberal. Toxic discharges are illegal, and hence toxic runoff should be dealt with and stopped immediately.

However, there are aspects of this 2011 Draft Order that we support.

- a) We support the staff of the Regional Board in their brave attempt to address a serious problem and decide to stand up for drinking water issues and especially in support of poor communities.
- b) We are encouraged that the Regional Board is moving ahead to protect ground water, surface water and aquatic habitat.
- c) We are encouraged that the Regional Board will require monitoring and reporting by growers in high-risk situations.
- d) We are encouraged that the Regional Board will regulate landowners as well as operators.
- e) We support the provision that 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, and 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.

The 2011 Draft Order is a vast improvement on the 2004 Conditional Waiver, but is much weaker than the February Draft. We urge you to revert to the February Draft as that is more responsive to drinking water, public health and environmental justice concerns. We want you to regulate agriculture so that it does not contaminate the drinking water on the Central Coast. All polluters must be accountable.

Sincerely,

*Unitarian Universalist Fellowship of
 San Luis Obispo Co. (805) 544-1669*

*Elin Pritchard
 Jane Minikel
 Louis Weyer
 Andy Pease
 Quin Hauss*

San Luis Obispo, CA

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Sincerely

*Pursell Akin Legislative Ministry Rep - UUFSCC
 Unitarian Universalist San Luis Obispo Co. 0280
 (805) 534-*

*Wanda J. Scott
 Joan M. Acott
 Janet Clarke
 Regina Whitah
 Ann Williams
 Richard D. Dannelly
 Andrew M. Schaff
 Renee Stakovich*

*Catharine J. Krupp
 Andrew Stone
 Eric Oken
 Anne Jentick
 Elaine Simer
 Richard L. Allen
 Jay A. Gault
 Barbara Watson*

475 Washington Street, Suite A
Monterey, CA 93940
831/646-8837



January 3, 2011

Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Re: Conditional Waiver of WDRs for Discharges from Irrigated Lands

Dear Board Members,

Thank you for the opportunity to comment on the Conditional Ag Waiver. Monterey Coastkeeper (MCK) serves Monterey and Santa Cruz Counties as a program of The Otter Project, and protects the water, watersheds and coastal ocean for the benefit of wildlife and human populations alike. In addition to these comments, MCK has submitted comments together with the Environmental Defense Center, Santa Barbara Channelkeeper, and San Luis Obispo Coastkeeper. These comments are submitted solely on behalf of MCK.

Over the past year MCK has consistently and repeatedly reached out to agricultural stakeholders including the California Strawberry Commission, Western Growers, Grower-Shipper, Monterey County Supervisors, county Agriculture Commissioners and various Farm Bureaus. Our message has been consistent: We feel the new ag order must do much more than the old order, but will not be able to do everything overnight. We acknowledge that some problems, such as nitrates in groundwater, will take many years to correct. We acknowledge that one size does not fit all. We have asked these organizations to sit down with us and talk about water quality standards and monitoring, and a timeline that will work for growers and will still meet our concerns. In nearly every case we were told that our offer to find compromise was welcomed and someone would get back to us. Only the Monterey County Agriculture Commissioner has ever responded and that response was limited to sharing of views and not finding compromise.

On various occasions, some agricultural stakeholders have represented that they are offering a compromise position or that they "have come a long way." We ask that the Board realize that they have compromised WITHIN their own stakeholder group, but they have not compromised with other VALUES and viewpoints. MCK has tried to reach out to the ag community and we feel entirely rebuffed.

A second point this letter is meant to address is the management of the Cooperative Monitoring Program and Water Quality Preservation Inc. The old order gave management of the Cooperative Monitoring Program (CMP) to a closed group of growers. The CMP must be transparent and credibly managed and implemented. By placing the management of the program along with a very sizable budget entirely in the hands of the growers, the RWQCB has essentially created a grower's advocacy organization that controls and interprets much of the Region's water quality data. The new Draft Order is silent on this issue. Although it pains us to write such harsh words, we have no faith in Preservation Inc.. Preservation Inc has been unwilling to interpret data or release follow-up monitoring results that would reflect badly on individual growers. Consistently, Preservation Inc portrays itself as being about collecting data and improving water quality; yet time after time we see Preservation Inc. advocating a grower's point of view. Change is needed.

Thank you for allowing Monterey Coastkeeper the opportunity to comment on the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Shimek", written in a cursive style.

Steve Shimek
Executive Director



January 3, 2011

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

RE: Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands

Dear Board Members:

The Environmental Defense Center (EDC), Monterey Coastkeeper (MCK), Santa Barbara Channelkeeper (SBCK) and San Luis Obispo Coastkeeper (SLOCK) offer these comments on the November 19, 2010, Draft Order (November Draft Order), which revises the Central Coast Region Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Conditional Waiver), and on the related Draft Subsequent Environmental Impact Report (SEIR) prepared under the California Environmental Quality Act (CEQA). In general, we support a conditional waiver program that contains robust regulatory provisions to ensure that our waters are protected from agricultural discharges and which ensures that agriculture remains sustainable and productive.

EDC is a non-profit public interest law firm that represents community organizations in environmental matters affecting California's south central coast. MCK serves Monterey and Santa Cruz Counties as a program of the Otter Project, and protects the water, watersheds and coastal ocean for the benefit of wildlife and human populations alike. SBCK is a non-profit environmental organization dedicated to protecting and restoring the Santa Barbara Channel and its watersheds through citizen action, education, field work and enforcement. SBCK has extensive experience in conducting citizen water quality monitoring in agricultural watersheds. SLOCK, a program of Environment in the Public Interest, is dedicated to the protection of water quality, watershed and coastal regulations in San Luis Obispo and northern Santa Barbara Counties and has consistently participated in water pollution, environmental impact and endangered species permit processes via comments on particular permits, and when necessary has initiated citizen enforcement actions.

The November Draft Order improves upon some facets of the existing Conditional Waiver, which was promulgated in 2004 and renewed in July 2009 and again in July 2010.

Environmental Defense Center
906 Garden Street
Santa Barbara, CA 93101

Monterey Coastkeeper
475 Washington St., Suite A
Monterey, CA 93940

Santa Barbara Channelkeeper
714 Bond Avenue
Santa Barbara, CA 93103

The November Draft Order does not, however, contain adequate mechanisms to address the degraded state of our central coast waterways, which in some ways are worse than they were in 2004. In particular, the November Draft Order falls short of the previous Draft Order released in February 2010 (February Draft Order). The February Draft Order does comply with state and federal laws and is adequate to protect water quality. We therefore urge your Board to simply adopt the February Draft Order. In the alternative, the November Draft Order should be revised to incorporate necessary provisions of the February Draft Order. It is well past time to move forward with a revised Conditional Waiver for the Central Coast Region.

In comments that were provided to your Board in April 2010, we offered additional suggestions to make the February Draft Order even more protective of water quality, drinking water standards, associated public trust resources and the wider range of beneficial uses. Those comments are attached and incorporated herein, by reference, in their entirety. Below, we offer comments on the November Draft Order and accompanying CEQA documents, including, where appropriate, suggestions for harmonizing the November and February drafts.

I. Background

EDC, MCK and SBCK participated in multiple stakeholder processes which informed the existing Conditional Waiver, starting in 2003. In 2008, Central Coast Regional Water Quality Control Board (RWQCB) staff reconvened the Agricultural Advisory Panel (AAP), with fifteen individuals and organizations representing agricultural interests, a representative of the Monterey Bay National Marine Sanctuary, a representative from UC Davis, and representatives from our environmental organizations. Although the AAP did not reach consensus on recommendations for a new Conditional Waiver, the February Draft Order contained many of the elements discussed during 2009, including:

- A focus on dischargers with tailwater;
- A focus on dischargers in sub-watersheds with impairments;
- A common understanding of the value of individual monitoring (although there was no consensus on reporting of individual monitoring);
- Agreement that toxicity was more easily addressed than nitrate pollution;
- Agreement that nitrate groundwater pollution was a pervasive problem that would take more time to address;
- Agreement that growers did not want “one size fits all” management practices dictated to them; and
- Agreement that the RWQCB should actively enforce the Order.

The February Draft Order includes components that are necessary for the waiver to be consistent with California Water Code Section 13269, including enumerated water quality standards, explicit and liberal timelines for compliance with the Order, riparian setbacks and vegetated buffers, individual discharge monitoring and protections for drinking water. These

provisions are also consistent with proposed updates to the 2004 Order that staff discussed with the second AAP.

In a staff report accompanying the February Draft Order, staff set forth overwhelming evidence that the existing Conditional Waiver is now out of date and is inconsistent with water quality plans and standards, and is not in the public interest. (Regional Board Staff Preliminary Draft Report, Feb. 1, 2010.) The existing Conditional Waiver was intended to “regulate discharges from irrigated lands to ensure that such dischargers are not causing or contributing to exceedances of any Regional, State, or Federal numeric or narrative water quality standard.” (*Id.* at p. 8.) Six years after it was adopted, however, there is “no direct evidence that water quality is improving due to the 2004 Conditional Waiver.” (*Id.* at p. 7.) In fact, many water segments throughout the region are listed as impaired under Clean Water Act Section 303(d), nearly all beneficial uses are impacted by agricultural pollution, and these impairments remain “well documented, severe, and widespread” despite the fact that a number of dischargers have enrolled under the 2004 Order. (*Id.* at p. 4.) For this reason, staff concluded that “[i]mmediate and effective action is necessary to improve water quality protection and resolve the widespread and serious impacts on people and aquatic life.” (*Id.*)

Specific deficiencies in the existing Conditional Waiver are described in our April 1, 2010, letter and below.

II. The Existing Conditional Waiver

The AAP reviewed the existing waiver on numerous occasions. Several themes consistently emerged.

Water Quality

Results from both the Cooperative Monitoring Program (CMP) and Central Coast Ambient Monitoring Program (CCAMP) water quality testing are contained in the February 1, 2010, report, “Preliminary Draft Report on Water Quality Conditions in the Central Coast Region Related to Agricultural Discharges.” These findings indicate:

- In the Central Coast Region, thousands of people are drinking water contaminated with unsafe levels of nitrate or are drinking replacement water to avoid drinking contaminated water. The cost to society for treating and/or avoiding polluted drinking water is estimated to be in the hundreds of millions of dollars.
- While some positive reductions in nitrate pollution are occurring in the Santa Barbara region, additional improvement is possible.
- Endemic aquatic organisms in large stretches of rivers in the region’s major watersheds have been severely impaired or completely destroyed by severe toxicity from pesticides.
- Agricultural water quality impairments are widespread. For example, the 2010 Clean Water Act Section 303(d) List of Impaired Waterbodies for the Central Coast Region (Impaired Waters List) identified surface water impairments for approximately 182

water quality limited segments related to a variety of pollutants (for example, salts, nutrients, pesticides/toxicity, and sediment/turbidity). Sixty percent of the surface water listings identified agriculture as one of the potential sources of water quality impairment.

- Nitrate concentrations in areas that are most heavily impacted are not improving in a significant or widespread manner and a number of sites in the lower Salinas and Santa Maria watersheds appear to have become more polluted over the past five years.

The Preliminary Draft Report on Water Quality Conditions finds that there is enough high quality data to make the above findings with statistical certainty. In short, conditions have not improved generally, and conditions in bad areas are becoming worse. We acknowledge that some areas – notably areas with less intense row crop agriculture – are showing some signs of water quality improvement.

Enrollment

While enrollment numbers are high, there are significant numbers of growers and operations that are not enrolled in the existing Conditional Waiver. For the program to be ultimately successful there must be a higher rate of participation. It is far too easy for a small number of bad actors to spoil an otherwise productive regulatory program. It is inaccurate to state that any percentage of the dischargers or any percentage of the land is enrolled. The reality is that we don't really know. Without better data, it is impossible to identify the gaps.

Water Quality Monitoring

While the CMP has produced useful data, a critical weakness in the existing Conditional Waiver is a lack of individual discharge monitoring. Ambient data produced through the CMP does allow the RWQCB and stakeholders to identify general long-term water quality trends; however the data does not allow anyone to identify specific sources of pollution.

In addition, some CMP methodologies are flawed. For example, the CMP currently collects dissolved oxygen measurements in the middle of the day. Due to diurnal fluctuations in dissolved oxygen, measurements collected in the middle of the day do not accurately diagnose potential anoxic conditions and are actually misleading. In order for such measurements to be valid they must occur during periods when dissolved oxygen can be expected to be at a minimum, usually before dawn. Ideally, such measurements would be collected continuously throughout the day to capture the extent of diurnal fluctuation.

There is also a widespread gap in the availability of groundwater quality data throughout the region. Groundwater is directly linked to surface water quality through surface-to-groundwater interactions and through tail water discharges. Without groundwater data, the RWQCB and stakeholders are unable to evaluate whether the current program is improving groundwater quality over time. Without groundwater data, it is also impossible for growers to make certain informed decisions regarding nutrient management.

Reporting

Water quality data that is received by Central Coast Region staff is not always complete or available in a useful format. Part of this problem stems from a lack of on-farm data. The information also has not been made generally available to the public.

Enforcement

A serious problem under the existing Conditional Waiver is a lack of adequate enforcement on both enrolled and non-enrolled growers. Currently, there is no database of growers and the actual plots they farm.

The current program requires that Best Management Practices (BMPs) be implemented on-site to minimize the quantity and improve the quality of agricultural discharges. BMP implementation, however, varies from site to site by necessity depending on site-specific concerns. As a result, without defined water quality standards for discharges to surface and groundwater, it is impossible to determine whether or not agricultural operations are contributing to exceedances of basin plan objectives in surface water bodies.

Stormwater

The current program lacks standards and mechanisms pertaining to stormwater discharges. Crops such as strawberries are especially problematic, as ground is covered with impervious plastic during the rainy season which increases water volumes and velocities running through furrows and ditches – especially on steeper slopes. Grapes are also difficult, as rows are planted with little regard to slope.

There is particularly a gap in the current program when it comes to stormwater discharges from fallow agricultural fields. BMPs are frequently not implemented when agricultural fields are not in operation. From a stormwater quality perspective, fallow agricultural fields present a similar risk to surface water quality as would a large construction site.

Vegetated Buffers

The existing Conditional Waiver expresses no vision for maintenance of vegetated buffer areas between farm fields and aquatic habits, despite the fact that such buffers help filter pollutants from entering waterways. In fact, with the current focus on ‘food safety’ there are documented cases of removal of riparian vegetation. The riparian corridor along our creeks and rivers is the ultimate vegetated buffer before runoff enters our open waters. These riparian areas offer many public benefits including improvement of water quality.

III. The February Draft Order Improved Upon the Existing Conditional Waiver

We support an emphasis on clear standards and timelines, as opposed to an emphasis on training and education. The RWQCB is a regulatory agency, bound by the requirements of the Clean Water Act; there are multiple agencies and organizations – such as the Natural Resources Conservation Service (NRCS) and UC Davis – offering practical advice to growers. The RWQCB should set standards and targets and let the growers decide how to meet them. In the February Draft Order, water quality standards were enumerated for discharges to surface water and groundwater, including stormwater.

The February Draft Order also included new provisions that require “Individual Discharge Characterization Monitoring” and provisions related to groundwater monitoring. This recommendation is consistent with the AAP recommendation that “every grower should know what is in their water.”

In the February Draft Order, timelines for compliance were explicit and liberal:

- Elimination of tailwater within two years if near impaired waterbody. Growers have been informed by their peers that elimination of tailwater was an essential practice and irrigation management and use of tailwater ponds is standard procedure for most growers.
- Elimination of toxicity within three years. Toxic discharge is illegal, and modern pesticides degrade quickly.
- Eliminate sediment runoff within three years. Reducing soil loss and erosion is a common and accepted practice.
- Eliminate nitrate and salt in runoff above water quality standards within four years.
- Eliminate discharge of nitrate and salt to groundwater above water quality standards within six years.

In areas with high levels of contaminants in groundwater where growers continue to discharge waste, the staff draft recognizes the authority of Water Code Section 13304 that states the RWQCB can require clean up, remediation or abatement. Pollution of groundwater by agriculture represents a transfer of costs from agricultural to urban users who share the groundwater. The February Draft Order recognized both the seriousness of the problem and the length of time needed to see improvement. The February Draft Order required growers to discharge below the drinking water standard within six years, and also recognized that the drinking water standard is not entirely protective of aquatic life. This approach is reasonable and balanced.

IV. The November Draft Order Is Not Adequate To Protect Water Quality Or Associated Public Trust Resources

The citizens of the Central Coast deserve clean water, and your Board is required by law to draft an Order that is protective of water quality and associated public trust resources.

[T]he health, safety and welfare of the people of the state requires that there be a statewide program for the control of the quality of all the waters of the state [and] the state must be prepared to exercise its full power and jurisdiction to protect the quality of waters in the state from degradation

[T]he state board and each regional board shall be the principle state agencies with primary responsibility for the coordination and control of water quality.

(Cal. Water Code §§ 13000, 13001.)

In particular, the RWQCB regulates both point and non-point sources of water pollution. “Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state” must file a report of the discharge to the RWQCB. (Cal. Water Code § 13260.) The Board must then “prescribe requirements as to the nature of any proposed discharge [or] existing discharge.” The requirements shall take into consideration “beneficial uses to be protected,” “water quality objectives reasonably required for that purpose,” “other waste discharges,” and “the need to prevent nuisance.” (Cal. Water Code § 13263.)

Beneficial uses are described by the Central Coast Region Basin Plan and include: agricultural supply, cold fresh water habitat, preservation of biological habitats of special significance and migration of aquatic organisms. Surface water bodies that do not have designated beneficial uses are protected for both “municipal and domestic water supply” and “protection of both recreation and aquatic life.” (Central Coast Region Basin Plan, Chapter 2, “Present and Potential Beneficial Uses.”)

Section 13269 provides that the requirements of Sections 13260 and 13263 “may be waived by the state board or a regional board as to a specific discharge or type of discharge if [it is determined] that the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest.” According to Subsection 13269(a)(2), waivers may not exceed five years in duration and must be conditional. Conditions include “the performance of individual, group, or watershed based monitoring Monitoring results shall be made available to the public.”

The November Draft Order does not comply with the requirements described above.

Tile Drains

Surface and groundwater in areas drained by “tile drains” are sometimes heavily polluted with both nutrients and toxic chemicals. The February Draft Order addressed tile drains. However, Table 5 of the November Draft Order (Additional Time Schedule for Key Compliance Dates for Tier 2 and Tier 3 Dischargers) appears to exempt tile drains from having to comply with nutrient water quality standards by stating: “Demonstrate that discharge (*not including subsurface drainage to tile drains*) is not causing or contributing to exceedances of nutrient water quality standards in waters of the State or United States.” The

parenthetical should be removed, and the November Draft Order should be revised to be consistent with the February Draft Order.

The Salinas Watershed provides an unfortunate example. The Blanco Drain consistently has nitrate levels five-times greater than the drinking water standard. The Blanco Drain discharges very significant volumes of water with nitrate levels high enough to impact salmonids directly into the Salinas River – a river with endangered steelhead. The Santa Maria River is another unfortunate example where agricultural operations have degraded areas designated as Critical Habitat for endangered steelhead. It is critical that the new Order address farms with tile drains along with all other dischargers.

Tiering

The February Draft Order applied evenly to all dischargers and provided certainty to both regulators and the regulated community. The November Draft Order includes a tiering structure which may prove cumbersome. If tiering is applied properly, to prioritize efforts to work with high threat dischargers in areas with impaired waters, a more nuanced approach could be effective. We are concerned, however, that the proposed tiering structure is not scaled appropriately to address water quality issues on the Central Coast. In essence, very little is required of Tier 1 and Tier 2 operators. We believe every enrolled farm (in every tier) should document and report riparian habitat in year one, as a condition of enrollment.

The November Draft Order also fails by defining Tier 3 too narrowly. Tier 3 is defined as large farms (1000 or more acres) growing crops with high nitrate loading potential *or* large farms applying chlorpyrifos or Diazinon *or* farms adjacent to impaired waters and applying chlorpyrifos or Diazinon. Most operators can avoid being in Tier 3 simply by switching from Diazinon (a brand name) or chlorpyrifos to any of the other thousands of pesticides.

The Draft Order should address “toxicity” both generally and specifically. We understand that research indicates that Diazinon and chlorpyrifos are serious problems, and that the RWQCB has designated certain waterways as impaired for these specific chemicals. However, most toxicity on the Central coast is of an unknown chemical origin. Further, the synergistic impacts of various chemicals have not been studied. We believe that a focus on generic “toxicity” is most protective of human and aquatic health. Little will have been achieved if Diazinon and chlorpyrifos are eliminated but toxicity still exists. If the Conditional Waiver includes a tiering system, the tiers should be based on general toxicity and not unduly limited to specific pesticides.

According to data provided by staff, only 33 operators enrolled in the 2004 waiver were farming more than 1000 acres. In 2008, Monterey Coastkeeper identified, researched, and contacted many of the unenrolled large farms and found that at least some of them were cattle ranches not growing crops with high nitrate loading potential, and therefore we believe that the number of large operations that would fall into Tier 3 is lower than 33. Tier 3 seems to cast a very narrow (and inadequate) regulatory net.

In order for the Conditional Waiver to be effective, the new order must deal with all or a very high percentage of the highest threat dischargers using toxic chemicals or high amounts of nitrates. We suggest that, for Tier 3, the pesticide criteria be edited to state, “applies any pesticide that can cause toxicity in water or sediment” and the acreage criteria be edited to state, “total irrigated acreage greater than or equal to 100 acres.”

In addition, the November Draft Order considers proximity to 303(d) listed water bodies as a discharger tiering criteria. The specific threshold distance proposed is 1000 feet. 1000 feet is an inadequate and arbitrary distance to base tier categorization on. If hydrologic connectivity is present, it should be assumed that impacts to water quality may occur. These impacts may affect both 303(d) listed water bodies and their tributary streams. There are two problems with using the 1000 foot criteria.

- 1) 1000 feet is far too short. At a conservatively low stream velocity of one foot per second, it would take just over 16 minutes for a polluted discharge to travel 1000 feet. It is highly likely that polluted discharges to tributary streams occurring more than 1000 feet from 303(d) listed water bodies will still significantly impact the listed water body.
- 2) This criteria ignores impacts to tributary streams themselves, which may be polluted but may not be 303(d) listed due to lack of reported monitoring data

If the RWQCB wishes to use proximity to 303(d) listed water bodies as a tiering criteria, we recommend that the proposed threshold distance be increased to at least one mile. Alternatively, the RWQCB could consider utilizing a “stream order” approach. For example, a criterion could be that an operation does not discharge into a water body which is more than two stream orders higher than a 303(d) listed water body.

Water Quality Buffer Plans

The February Draft Order included protections for riparian areas adjacent to any discharger. The November Draft Order proposes that Water Quality Buffer Plans only be required for farms immediately “adjacent” to temperature, sediment and turbidity 303(d) listed water bodies. This criterion unreasonably limits protections granted to and by riparian buffers. Riparian buffers offer water quality benefits to all water bodies and not only those that are 303(d) listed. Beneficial uses are described by the Central Coast Region Basin Plan and include cold fresh water habitat and preservation of biological habitats of special significance. Surface water bodies that do not have designated beneficial uses are protected for both “municipal and domestic water supply” and “protection of both recreation and aquatic life.” Riparian buffer protections for all water bodies are necessary for the Conditional Waiver to be consistent with the Central Coast Region Basin Plan and for the Conditional Waiver to be “in the public interest.”

In addition, existing regional monitoring programs collecting data used to determine whether water bodies are impaired by sediment and temperature are inadequate for the reasons described below, and therefore the criteria may not be adequately inclusive.

- 1) Neither the CCAMP nor CMP water quality monitoring programs collect “peak” temperature measurements. Monitoring for these programs may occur early in the morning or late in the afternoon when peak temperatures would not be expected to occur. Since the Central Coast Region has relied heavily on CCAMP and CMP monitoring to make 303(d) listing decisions, it is likely that many existing temperature water quality impairments remain undocumented.
- 2) Turbidity measurements only apply to the water column at the moment of sample collection and do not necessarily reflect existing stream bed conditions. It is highly likely that sediment polluted discharges occurring during storms or other sporadic discharge events often result in turbid conditions that do not persist long enough to be captured during monthly sampling events; however, these discharges may still result in sedimentation of the stream bed that impairs beneficial uses. Neither CCAMP nor CMP water quality monitoring programs currently collect measurements (other than turbidity) that are directly used to evaluate for sediment or sedimentation impairments. Therefore it is highly likely that many sediment impaired water bodies are not listed on the 303(d) list, and there is currently no plan in place to improve their detection.

Due to these inaccuracies in the State’s current assessment of sediment and temperature 303(d) water bodies, the RWQCB’s proposed limitations of riparian buffer protections will result in the continued degradation of aquatic and riparian life and habitat. Finally, many smaller tributary streams contain aquatic and riparian habitat, but are not monitored, and therefore are not included on the 303(d) list.

The proposed limitations would provide no protection to these water bodies. Consequently, Water Quality Buffer Plans should be required for *all* growers in *all* tiers. Alternatively, at an absolute minimum, “toxicity” should be added to the list of impairments where vegetated buffers should be required. The State Water Resources Control Board has released a summary report showing that Central Coast waters are the most toxic in California, and vegetated buffer strips have been found to be highly effective at removing pesticides from surface waters.¹

New Listings and Delistings

The Draft Order should specify how new listings and delistings from the List of Impaired Waterbodies will be handled. Within the five-year term of the Order there will be

¹ Zhang, X. 2010. Mitigation Efficacy of Vegetated Buffers in Reducing Non-Point Source Pollution: A critical review and meta-analysis. Presented at the 239th Annual ACS National Meeting San Francisco, CA. March 22, 2010.

two new lists. New listings should require adjacent growers to comply with appropriate sections of the Order. Likewise, growers who improve their water quality and who are adjacent to delisted waterbodies should be rewarded for their efforts and should be relieved of appropriate requirements.

Point of Compliance to Numeric and Narrative Standards

The February Draft Order was very clear that the point of compliance to standards was where tailwater leaves a property (a double asterisk in Table 1A indicated that the criteria must be met in irrigation runoff). This appears to have been significantly changed in the November Draft Order. The November Draft Order does not include individual discharge "limits" or requirement for owners/operators to demonstrate compliance with numeric water quality standards in individual discharge at the point where water leaves the farm (but requires monitoring and reporting at this point for Tier 3 dischargers). Instead, the November Draft Order relies too heavily on ambient water quality. This application of standards is subjective and essentially unenforceable.

If there is a hydrological connection between tailwater and a water of the State, narrative and numeric standards should be applied at the point where the tailwater leaves the property. The November Draft Order may simply mean to indicate that water could be moved *within* a property without being considered a discharge. However, the Conditional Waiver must clearly indicate that the point of compliance is where the discharge leaves the farm property. It should be made clear that in most cases, the tailwater monitoring point and the point of compliance are the same. Our support of any Order is dependent upon the Order being enforceable through the application of numeric and narrative standards at a specific point of compliance.

“Sample” and “Sampling” Versus “Monitor” and “Monitoring”

At least one area of the Draft Order (pg 15, items 44 and 45) appears to use the words “sample” and “monitor” interchangeably. “Sample” and “sampling” should be changed to “monitor” and “monitoring” throughout the document.

Transparency and the CMP

We believe a true third party should be contracted to conduct CMP water quality monitoring, and an independent consultant should provide interpretation of the results. At the very least, as was required in the February Draft Order, the CMP should be carried out transparently, and data should be delivered on time. The board and management of the third party should not be dominated by any stakeholder group. Guidelines should specify that data be publicly available within 30 days of the end of the quarterly reporting schedule. Guidelines should also specify that any follow-up monitoring be publicly available within a similar timeframe.

Enforcement

The Draft Order must set forth clear guidelines on how RWQCB will enforce the Conditional Waiver. The November Draft Order is weak in outlining how a clear chain of evidence that would lead to effective enforcement will be gathered. The enforcement clause in the Conditional Waiver should be the same or very similar to that found in individual Waste Discharge Requirements (WDRs).

V. CEQA Process

The conditional waiver program described in the November Draft Order, while not adequately protective of water quality, would result in some beneficial environmental impacts and would not result in negative impacts to the environment. We appreciate that several potential impacts are analyzed in the Draft SEIR, and we agree that none of these potential impacts could rise to a level of significance.

The RWQCB approved a Negative Declaration when it adopted Order No. R3-2004-0117 in July 2004. In doing so, the RWQCB noted that the 2004 Order was “designed to reduce discharges of agricultural pollutants and improve water quality.” The Draft Order would “not require or allow any changes in practices that could degrade the quality of the environment or have environmental effects that could cause substantial indirect or direct adverse effects on human beings.” (2004 Negative Declaration, at p. 34.) The same finding holds true today, with respect to the November Draft Order.

Impacts to Agricultural Resources

The 2004 Negative Declaration provides guidance for analysis of farmland conversion:

Many [best management practices] may actually improve agricultural resources by reducing the loss of topsoil or improving soil quality

Conservation practices that could affect the amount of land used for producing crops include vegetating farm roads, installing vegetated filter strips along creeks and at the ends of field rows, planting cover crops, and installing sediment detention basins. The Regional Board has reviewed the potential cost of some commonly used practices that might be employed by growers. Practices vary widely in both their initial installation costs and in long-term costs associated with maintenance and reduced cropping area. In some cases practices can result in improved productivity that will offset costs associated with taking some land out of production for conservation practices. Some practices, such as improved irrigation efficiency and nutrient management, can result in cost savings over time.

(2004 Negative Declaration, at p. 29-30.) The Draft SEIR provides numeric support for a conclusion that agricultural resources will not be significantly affected.

Alternatives

In our August 27 scoping letter, we urged staff to examine an alternative that only implements WDRs, and a separate alternative that utilizes a combination of WDRs, waiver(s) and other tools at the RWQCB's disposal.

Page 26 of the Draft SEIR briefly discusses a WDR alternative and concludes that it would function similarly to the proposed Conditional Waiver. We do not wish to bog the CEQA process down in perpetual delay; as noted above, as it is far past time for an updated Conditional Waiver. However, we respectfully disagree with the assessment that individual WDRs would function almost identically to a Conditional Waiver program. For example, while individual monitoring *should* be an integral part of any Conditional Waiver, under a WDR program more site-specific monitoring would be required, and individual, on-site accountability would be much greater.

Any alternative examined by the Regional Board must meet objectives described in the Porter-Cologne Water Quality Control Act, the federal Clean Water Act and other statutes and regulations designed to protect water quality in the State of California.² It is possible that the waiver approach will no longer be sufficient, either wholly or in part, to meet the objectives described in our clean water laws. While potentially cumbersome, a WDR approach guarantees a finer-grain inspection of the root causes of water quality degradation.

If, for some reason, the Draft SEIR is revised before March 2011, this alternative must be analyzed in greater detail.

VI. Conclusion

It is clear that some, largely "industrial," agricultural operations cause "widespread and serious impacts on people and aquatic life" on a regular and ongoing basis. Domestic and public water supplies have been significantly contaminated with nitrates and other agricultural pollutants, in many cases at levels that far exceed applicable drinking water standards. Similarly, toxic surface water discharges from irrigation ditches continue to regularly violate water quality standards, despite claims of significant enrollment under the existing Conditional Waiver. And trends in the use of riparian vegetation buffers to protect against sedimentation, nutrient loading, and temperature increases are going in exactly the wrong direction. (Regional Board Staff Preliminary Draft Report, Feb. 1, 2010, *supra*, at p. 16.)

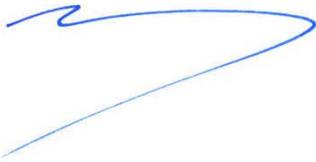
The severity of the problem is demonstrated by the existing Section 303(d) impaired waterbodies list for the Central Coast region and by the RWQCB's July 2009

² CEQA Guidelines section 15126.6 states that an EIR must describe a reasonable range of alternatives to a proposed project. Alternatives must feasibly attain most (but not all) project objectives and must avoid or substantially lessen any significant effects of the proposed project.

recommendations for updating that list. This Draft Order represents an opportunity for your Board to take an active leadership role in fixing the problems on our Central Coast and making sure that we all have water for drinking, for agriculture and for habitat, for the long and foreseeable future.

We appreciate this opportunity to comment on the November Draft Order. If you have any questions about our recommendations, please do not hesitate to contact any of our organizations.

Sincerely,



Nathan G. Alley
Staff Attorney
Environmental Defense Center



Steve Shimek
Executive Director
Monterey Coastkeeper



Ben Pitterle
Director of Watershed Programs
Santa Barbara Channelkeeper



Gordon Hensley
Executive Director
San Luis Obispo Coastkeeper

FORT ORD ENVIRONMENTAL JUSTICE NETWORK, INC.

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831-582-0803-----ejustice@mbay.net



JANUARY 3, 2010, 5pm

To, Angela Schroeter/ Howard Kolb
Central Coast Regional Water Quality Control Board
Via E-mail: AgOrder@waterboards.ca.gov, or Fax: 805 543 0397.

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

Dear Regional Water Quality Control Board Members:

Thank you for the opportunity to continue to provide public comments on the Central Coast's 2011 Draft Recommendations for a Conditional Waiver for Irrigated Agricultural Discharges, released on November 19, 2010. Oh behalf of the **FORT ORD ENVIRONMENTAL JUSTICE NETWORK, INC.**,

Since its inception, FOEJN has advocated for the participation of disenfranchised communities in the activities and decisions made regarding the cleanup of toxins, contaminated groundwater, 8,000 acres of military munitions and other contaminants that cause adverse health affects to impacted residents in and around Fort Ord, the Monterey Peninsula, the State of California and beyond. Water free from Agriculture run-off is a priority and must be restored at any cost.

Outreach to low-income and disenfranchised community members and organizations should not be neglected. The accomplishment of Environmental Justice should bring balance in the distribution of resources, involvement and participation, funding and a real show of care for those who are constantly left out of the decision making processes.

FOEJN also strives to involve low-income residents, as well as local residents in reuse plans, and economic development recovery efforts.

We are also involved in the clean-up of Fort Ord, an Army post that has been in existence since 1917, in the Monterey Peninsula of California, was decommissioned in 1991. This former Army base, like many military installations across the country, houses environmentally contaminated sites, due to past environmental practices of the Department of Defense (DOD).

The U.S. Environmental Protection Agency (US EPA) has listed Fort Ord on the National Priorities List (NPL), as one of the most contaminated Superfund sites.

we applaud your prioritization of this critical program that must protect and restore the quality of the Central Coast region's water.

FORT ORD ENVIRONMENTAL JUSTICE NETWORK, INC.

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The 2011 Draft Order's Executive Summary states that, "discharges of waste associated with agricultural discharges (e.g., pesticides, sediment, nutrients) are a major cause of water pollution in the Monterey County and 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) It is also clear that, "no industry or individual has a legal right to pollute and degrade water quality, while everyone has a legal right to clean water." (Pg 13, Staff Report)

This is especially important since groundwater contamination from nitrates severely impacts domestic drinking water supplies in the Central Coast region. 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) Domestic wells (wells supplying one to a few households) are typically shallower than public supply wells. 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.

I spoke at the workshop held at San Luis Obispo on May 12, 2010. I talked about having to travel all the way to San Luis Obispo to find out about how bad the Nitrate problem from AG run-off is for Monterey County. I talked about the lack of information sharing, outreach, involvement, funding and consideration for even organizations like ours in an inclusionary process. FOEJN provides a voice for disenfranchised communities, as well as dissimulation of information critical for the well being of our communities. Wherever a just system is not in place to provide care and involvement to everyone impacted by the decision of others, it presents an environmental Justice imbalance. By calling this an Environmental Justice problem does not fix the problem. It only creates an opportunity to make the funding that are available to address Environmental injustices available for the same cities, groups and agencies who claim that they are the experts on this topic of Environmental Justice.

The report was repeatedly shown that water quality in the Central Coast is an environmental justice issue, and that water contamination severely hampers drinking water and human health of communities, especially poorer communities, farm-worker camps, etc. It was also repeatedly expressed that the economic and human health costs to society and to communities of nitrate contamination are very high, yet the polluters have been going scot-free.

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Achieving Environmental Justice in this process or any other is crucial when it involves such a broad range of communities, races, cultures, and different ways of disseminating information. We need change and sincere efforts to bring our communities into decision making processes.

Thank you,

LeVonne Stone, Executive Director
Fort Ord Environmental Justice network
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(831) 277-5241



CLEAN WATER ACTION
CALIFORNIA



January 3, 2011

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

RE: Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands

Dear Board Members:

We are submitting comments on behalf of Clean Water Action, California Rural Legal Assistance Foundation and the Community Water Center on the Central Coast Regional Board's proposed regulatory program for discharges from irrigated agriculture. Clean Water Action is a national advocacy group that works to improve water quality. Community Water Center, based in Visalia, works with low-income communities in Tulare, Kern and Kings County to help them gain access to safe and affordable drinking water. California Rural Legal Assistance Foundation works to improve the quality of life for California farm-workers through a holistic approach that addresses a range of social, health, and economic issues

Our organizations also serve as environmental and environmental justice stakeholders in a process to develop a similar program in the Central Valley. For that reason, we have been very interested in the development of the Central Coast regulatory program, in particular the recommendations for protecting and improving groundwater quality.

Our organizations are deeply concerned that the November 19, 2010, Draft Order revising the proposed Central Coast Region Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Conditional Waiver) has been substantially weakened from staff's February 2010 proposal and is no longer sufficient to protect and restore water quality. Further, the related Draft Subsequent Environmental Impact Report (SEIR) fails to analyze deficiencies in the November draft order or to compare it adequately with the February proposal. Specifically, the current proposal fails to identify or mitigate continuing polluted discharges to groundwater from most irrigated agriculture, and fails to analyze the related costs to human health of that failure, most notably through the creation of tiers that ignore existing areas of high nitrate contamination.

Need for effective program to protect Central Coast communities

Staff has done an effective job of describing the plight of Central Coast communities and rural residents who struggle to access safe and affordable drinking water due to increasing contamination from agricultural discharges. These communities pay the price of the Board's reluctance to enact a regulatory program that protects public health and the environment. The cost to these communities comes in the form of higher prices for safe tap water (if available), the inconvenience and cost of obtaining alternative supplies, and the health impacts of unsafe water supplies. Because these communities tend to be predominantly low-income communities of color, the lack of adequate protective regulation of community drinking water supplies is an environmental justice issue.

Support for February 2010 program

Our organizations strongly supported the February 2010 draft order, which complied with state and federal laws and would protect water quality. We urge the board to adopt the previous Draft Order.

The February order had many strengths, some of which remain in the current document. This includes the acknowledgement of the Water Board's unique responsibility for regulating groundwater quality; information and acknowledgement of the impact of agricultural discharges upon surface and ground water quality; the need to provide protection for domestic as well as public water supply wells; and support for the State Water Board's anti-degradation policy.

The most encouraging part of the February proposal that remain in this draft is the requirement for mitigation of the impact of agricultural pollution on local drinking water supplies. Currently, the costs of providing safe drinking water are borne mainly by the impacted communities, with taxpayers also providing funding through state and federal grant programs. We appreciate the continued inclusion of this provision, but are also concerned that the provisions of this program result in the protection and restoration of drinking water quality for these communities.

November Draft Order fails to protect groundwater quality

Unfortunately, the November 2010 revised draft proposal has removed or altered many essential provisions that garnered our support for the prior draft. A partial list of our concerns includes;

- Lack of specific targets or timely requirements for improvement of groundwater quality;
- A tiering system that fails to appropriately prioritize those operations with the greatest impact on water quality;

- Inadequate monitoring and enforcement to ensure that objectives are achieved.

Our main concern is that this regulatory program will not be sufficiently rigorous to result in measurable improvements to water quality in both the short-and long-term. We offer suggestions below on how this program may be made more effective.

I. Proposed tiering system fails to incorporate threats to groundwater quality

Our organizations support the use of a tiering system to ensure that enforcement efforts focus on those operations that present the greatest threat to water quality. Tiers should first and foremost ensure that requirements are focused on high priority areas where agriculture is contributing to exceedances of water quality objectives, and should also ensure compliance with Basin Plans by also prioritizing those areas where agriculture is contributing to significant degradation. In addition, the criteria used should be flexible enough that a discharger can be moved to a different tier if changing water quality conditions or enforcement warrant increased oversight.

Unfortunately, November Draft Order fails to create such a prioritization. The tiering criteria utterly ignores the impacts on groundwater that these regulations are meant to address, and are instead based upon references to specific pesticides and farm size. This model renders this tool useless for the purpose of directing or focusing a program that otherwise has the potential to improve water quality.

Staff has recorded the continuing and growing threat to communities dependent upon groundwater in the region, so the exclusion of groundwater in the tiering criteria is baffling. It means that Staff would not be ensured of sufficient data to monitor groundwater quality or be able to develop an enforcement plan and schedule to protect public health and drinking water. The failure to identify high-priority groundwater basins as part of the tiering system creates uncertainty for farmers who may not realize that their operations are located in a hydrologically vulnerable area. Finally, this perpetuates the board's historic deficiency in its enforcement of the Porter Cologne Act, which requires equal protection of both ground and surface water quality.

The reference to the specific pesticides chlorpyrifos and diazinon as ranking criteria is overly specific. It limits the flexibility of the Board to include a broad range of toxins as potential contaminating activities that might impact the status of an operation. This program is not a snapshot in time, but is meant to adapt to evolving conditions and new water quality threats. A more generic reference to pesticides or toxins would provide that flexibility.

Finally, the proposal to use farm size rather than threat to water quality as a tiering criteria undermines the entire program. Staff has reported that 98% of the farms under irrigated agriculture in the Central Coast region are less than 1000 acres. Under this program, they would be classified as Tier 1 with limited oversight, regardless of their contribution to nitrate contamination of groundwater. The ability of this program to achieve water quality objectives is severely compromised due to this requirement.

To address the severe shortcomings of the proposed tiering system, we recommend the following changes in the criteria:

- Add groundwater contamination to the criteria for tiering. We suggest the following;
 - Tier 1 – discharger does not discharge to groundwater or lies within a basin not impacted by contaminants associated with the operation;
 - Tier 2 – aquifer is impacted by contaminants associated with the discharger but at low levels (less than half the regulatory standard or water quality objective);
 - Tier 3 – aquifer is impacted by contamination associated with the discharger at levels at or above one-half of the drinking water standard or water quality objective
- Replace citations related to the use of chlorpyrifos or diazinon with “pesticides that are identified as exceeding water quality objectives or that have been identified as contributing to the degradation of receiving waters or of the underlying groundwater aquifer”;
- Remove criteria related to the size of an operation, rather than its contribution to water quality, when assigning to a specific tier.

II. Proposed requirements are inadequate to ensure improvement in water quality

We strongly approve of the requirements for Tier 3 dischargers, particularly the measures to control nutrients and meet a nutrient balance ratio target. Unfortunately, there is a large dropoff in requirements for Tier 2 growers, and an even greater dropoff for Tier 1 growers, ensuring that water quality will continue to degrade. The Order also lacks the flexibility needed to require additional measures from Tier 2 dischargers, or to move them to Tier 3 if conditions warrant.

We appreciate the general directive that “all dischargers must minimize nutrient discharges from fertilizer and nitrate loading to groundwater so receiving water bodies meet water quality standards and safe drinking water is provided.” Unfortunately, the limited groundwater protection requirements of the program ensure that this cannot happen. Only Tier 3 has requirements stringent enough to protect groundwater, and the program does not provide for increasing restrictions for Tier 1 or Tier 2 dischargers (or a change in the Tier under which the operation is classified) if groundwater monitoring shows continuing degradation.

We recommend that Tier 2 dischargers with potential to impact groundwater also be required to develop and submit certified INMPs as part of their Annual Compliance Document. In addition, if groundwater degradation continues in areas populated by Tier 1 or Tier 2 dischargers, these operations should be subject to greater regulation, either by moving them up to a higher tier, or by revoking the waiver and issuing a WDR.

III.No standards or time schedules are identified for achievement of groundwater objectives

Despite the Board's expressed commitment to improve drinking water quality for communities dependent upon groundwater, the draft order includes no specific targets for improvement of groundwater quality. Staff states that "in a separate but related effort regarding regulation of agricultural discharges, staff is evaluating and developing a time schedule for actions and to meet interim milestones that extends out to 2025." It is unknown whether this schedule will include groundwater or ensure full compliance with water quality objectives. Moreover, a fifteen year timeframe for full compliance with water quality objectives exceeds the timeframe for reasonable compliance that is used in other nonpoint source programs. The schedule referred to should be completed and included in this order for public review to ensure that this program has clear targets for meeting water quality objectives.

The waiver program currently in place also contains no requirements for improvement of groundwater quality- with the result that groundwater has not improved in the six years since its implementation. We are extremely concerned that the limited groundwater objectives included in this order will cause an additional delay, and that we will be having this same conversation five years from now.

IV. Monitoring requirements are not sufficient to ensure program's effectiveness at protecting groundwater

The shortcomings of the tiering system recommended by staff are evident in the requirements of the Monitoring and Reporting program. We agree that low-threat dischargers should be able to limit monitoring. Unfortunately, by including small operations that grow high-threat crops in Tier 1 and not basing tier assignments on threats to groundwater, this proposal permits a major pathway for continued groundwater degradation.

We do not agree that minimal monitoring requirements (once every five years) are sufficient for Tier 2 operations. Since Tier 2 operations should include those that pose a threat to water quality, more frequent monitoring is needed to identify water quality trends. If none is found in the five years of the initial waiver, the operation could potentially be reclassified as Tier 1.

V. Enforcement program is not sufficiently defined to ensure compliance

Finally, this order does not adequately define how it will be enforced. The staff report identifies a significant lack of compliance in enrollment and monitoring of the current program; it is unclear how they plan to improve in both areas and also oversee the implementation of this program using the same resources. The economic analysis cites an undefined gain in efficiencies and improved data collection and management as sufficient to provide the resources needed to run the program. A more detailed outline of the intended program and costs would be helpful.

In order to ensure that individual farms comply with the order and, in particular, implement the required management practices, we strongly recommend that the Board or its contractor commit to conducting a minimum number of conduct surprise inspections of at least 5% of growers annually, prioritizing Tier 2 and Tier 3 dischargers, and focusing on operations located in hydrologically vulnerable areas

VI Draft Subsequent Environmental Impact Report fails to analyze cumulative effects of the current proposal.

The analysis of the current draft proposal is inadequate because it assumes that the program as described will achieve water quality objectives. However, since the program exerts minimal oversight over operations under 1,000 acres, that assumption is not defensible. The analysis should look at the cumulative impact of the reduced requirements for smaller operations, particularly in those areas that already have contaminated groundwater basins.

In addition, this SEIR fails to analyze the health impact on communities that must rely upon groundwater that remains contaminated because the amended proposal fails to improve groundwater quality to a level that meets drinking water standards. Given this lack of regulation, the SEIR proposal must assume that water quality will not improve in the timeframe (as staff's 2025 schedule for compliance indicates) and may continue to degrade, and analyze those impacts.

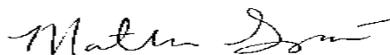
VII. Conclusion

Thank you for providing the opportunity to comment on the November Draft Order. If you have any questions about our recommendations, please feel free to contact us.

Sincerely,



Jennifer Clary, Water Policy Analyst
Clean Water Fund



Martha Guzman Aceves, Legislative Analyst
California Rural Legal Assistance Foundation



Laurel Firestone
Co-Executive Director & Attorney at Law
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Gilroy	Paso Robles	Stockton
Madera	Salinas	Watsonville

January 3, 2011

Angela Schroeter/Howard Kolb
Central Coast Regional Water Quality Control Board
Email: aschroeter@waterboards.ca.gov, hkolb@waterboards.ca.gov

Subject: COMMENTS on the Central Coast Regional Board's November Draft Order for Irrigated Agricultural Discharges

Dear Regional Water Quality Control Board Members:

Thank you for the opportunity to continue to provide public comments on the Central Coast's November 2010 Draft Order for a Conditional Waiver for Irrigated Agricultural Discharges. On behalf of California Rural Legal Assistance, Inc., we are concerned that the latest version of the Draft Order for Irrigated Agricultural Discharges fails to adequately protect the public and the environment from serious pollutants. Specifically, it fails to protect against pesticide, sediment, and nitrate pollution of ground and surface water.

California Rural Legal Assistance, Inc. represents migrant farmworkers throughout the region regulated by the Central Coast Regional Water Quality Control Board. Specifically we represent impacted populations in Monterey County, San Luis Obispo County, San Mateo County, San Benito County and Santa Cruz County. The communities we serve, and the communities most impacted by contaminated groundwater, are low income communities of color. Farmworkers are especially at risk of being exposed to polluted well water in migrant worker labor camps, or as a result of living in communities adjacent to farmland.

In Monterey County, 25 percent of the 352 wells sampled (88 wells) had concentrations above the nitrate drinking water standard in the northern Salinas Valley. In portions of the Salinas Valley, up to approximately 50 percent of surveyed wells had concentrations above the nitrate drinking water standard, with average concentrations nearly double the drinking water standard and the highest concentration of nitrate approximately nine times the drinking water standard. As acknowledged in the Executive Summary, "the water quality impairments are well-documented, severe, and widespread." (Pg. 7, Staff Report). Children and pregnant women are particularly at risk when exposed to toxic levels of nitrates and pesticides.

While we applaud the willingness to make revisions to the grossly inadequate 2004 Agricultural Waiver, the current revisions do not go far enough to mitigate the environmental, health, and cost impacts of agricultural runoff.

Lack of surface and groundwater protections have gone on too long at the expense of community and watershed health. Hence, we applaud your efforts to address water contamination by agriculture. We strongly urge you to take timely action to put in place stringent requirements for irrigated agriculture discharges so that California's water is truly protected and restored.

Thank you,

Phoebe Seaton, Program Director
California Rural Legal Assistance, Inc.





**PACIFIC
INSTITUTE**

Research for People and the Planet

January 3, 2011

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

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

Dear Board Members:

We offer these comments on the **Draft Agricultural Order – November 19, 2010** (Draft Order). The Pacific Institute is supportive of the direction that staff has taken but strongly urges several essential amendments to ensure adequate protection of water quality, drinking water standards, associated public trust resources, and the wider range of beneficial uses that the CCRWQCB is required to safeguard.

The Pacific Institute is a non-profit, non-partisan research institute that works to advance environmental protection, economic development, and social equity. We are based in Oakland, California and have been researching California water issues for over twenty years. Over the last three years, we have published three reports specifically on agricultural water uses and have worked closely with the agricultural community to better understand both the successes and failures of current agricultural water management practices. For more information see: California Farm Water Success Stories (Pacific Institute 2010), Sustaining California Agriculture in an Uncertain Future (Pacific Institute 2009), and More with Less: Agricultural Water Conservation and Efficiency in California – A Special Focus on the Delta (Pacific Institute 2008).

The high levels of toxic substances in the Central Coast's waterways and soil erosion from prime farmlands demonstrate the need for decisive action to safeguard both valuable agricultural lands and freshwater resources. We strongly support the requirement that all dischargers implement mandatory best management practices immediately to minimize toxicity and pesticide discharges, nutrient and salt discharges, erosion, and stormwater runoff. The continued pollution of surface and groundwater resources is not sustainable, and represents a transfer of costs from polluters to the general public and environment. Moreover, the public health risks are severe and in many cases, irreversible. The Draft

Order recognizes the clear risks to human and environmental health associated with current practices and requires growers to discharge below the drinking water standard within six years.

We support the Draft Order to the extent that it is an improvement on the 2004 Conditional Waiver which lacked a focus on water quality requirements, and did not contain any compliance or verification monitoring provisions. However, we are very disappointed that despite overwhelming evidence of human health and drinking water concerns, the Draft Order is significantly weaker than the Draft Recommendations released by the Regional Board Staff on February 1, 2010. Below we offer several essential amendments to the current Draft Order.

(1). REVISE THE TIER 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 Draft Order will not offer the level of protection needed in particularly sensitive areas because of the acreage requirements rather than the level of risk to human and environmental health. As it is currently written, the Draft Order places all dischargers with less than 1,000 acres into Tier 1 or 2, with minimal regulation, even if they are in areas with high levels of nitrate contamination and grow crops with high nitrate-loading potential.

Moreover, it has been reported that over 98% of farms on the Central Coast fall under the 1,000 acres limit. In fact only 33 farms out of 3,000 farming operations on the Central Coast are over 1000 acres, and it is likely that some of those are for grazing operations and are not growing crops with high nitrate-loading potential. Hence, the current Tier structure may put growers with the capacity to increase groundwater nitrate contamination in the low-risk tiers that are subjected to a relatively low level of regulation that will not safeguard the public trust resources that the CCRWQCB is charged with protecting.

Thus, it is critical that local levels of nitrate contamination are included as criteria for setting Tiers to ensure that the level of regulation is clearly linked to environmental and public health risks, rather than arbitrarily based on agricultural acreage. Farms in high nitrate contamination areas must automatically be classified as Tier 3 dischargers.

(2) ENSURE THAT LEVELS OF NITRATE CONTAMINATION ARE MEASURED AND UPDATED REGULARLY

Current levels of nitrate contamination are not necessarily indicative of future levels of nitrate contamination. Our analysis of the groundwater data from the Central Valley (also submitted to the Central Valley Regional Water Quality Control Board) shows that nitrate levels are increasing rapidly in many areas, and the number of wells where nitrate levels exceed federal health standards is likely to double in the next ten years.

Looking at wells monitored by the U.S. Geologic Survey's Groundwater Ambient Monitoring and Assessment (GAMA) Program in Kern County, we carried out a regression analysis to estimate the number of wells currently under the maximum contaminant level (MCL) that can be expected to rise above the 45 mg/L threshold in the next ten years. Using a database including all nitrate measurements from 1980 to present in the GAMA database for Kern County, we selected wells that had ten or more samples recorded (678 wells), and fit a trend line of nitrate concentration versus time, using ordinary least squares regression. We then calculated the percent likelihood of exceeding the MCL in 2010, 2015, and 2020.

Table 1. Trend analysis of nitrate levels in Kern County wells

Groundwater Basin	Total number of Wells	Number of wells with greater than 75% likelihood of exceeding MCL in 2010	Number of wells with greater than 75% likelihood of exceeding MCL in 2015	Number of wells with greater than 75% likelihood of exceeding MCL in 2020
Antelope Valley (6-44)	29	0	0	0
Brite Valley (5-80)	4	0	0	0
Castac Lake Valley (5-29)	6	0	0	0
Cuddy Canyon Valley (5-82)	5	0	0	0
Cuddy Ranch Area (5-83)	4	0	0	0
Cuddy Valley (5-84)	6	0	0	0
Cummings Valley (5-27)	14	2	2	3
Fremont Valley (6-46)	11	0	0	0
Indian Wells Valley (6-54)	36	0	0	0
Kern River Valley (5-25)	55	4	7	8
Mil Potrero Area (5-85)	2	0	0	0
No Basin Found	67	1	2	2
San Joaquin Valley - Kern County (5-22.14)	417	24	37	50
Tehachapi Valley East (6-45)	3	0	0	0
Tehachapi Valley West (5-28)	18	2	2	2
Walker Basin Creek Valley (5-26)	1	0	0	0
TOTAL	678	33	50	65

Based on our analysis, we found 33 wells where the likelihood of exceeding the MCL is 75%. In 2015, this increases to 50 and in 2020 rises to 65 (See Table 1). This is almost a doubling of the number of wells with nitrate levels above the MCL by 2020, an increase from 5% to 10% of monitored wells. Based on current trends, we estimate that the number of wells exceeding the MCL in Kern County will double in the next ten years. Therefore, it is critical that any inclusion of groundwater contamination levels be updated regularly.

(3). ENSURE THAT GROUNDWATER AND SURFACE WATER MONITORING PROGRAMS CAPTURE SEASONAL VARIATIONS ENDEMIC TO MEDITERRANEAN CLIMATES

Mediterranean climates throughout the world are defined as those that experience two distinct seasons – hot, dry summers and cool, wet winters. This intra-annual variation in precipitation and temperature results in varied water supply and demand conditions throughout the year. At minimum, groundwater monitoring should be required both in the fall and the spring to determine the impacts of summer water withdrawals and winter rains on the system. Similarly, individual discharge monitoring should also take into account seasonality and be required to occur in late fall/early winter after the first major rains, which mobilizes high concentration of contaminants at the beginning of the wet season and should be captured in monitoring efforts.

The current Draft Order does not specify when measurements intended to inform monitoring efforts should be taken, this could create a body of data that has little to no value, wasting time and resources. The Draft Order should be amended to take into account the seasonality of the Central Coast’s Mediterranean climate.

(4). STRENGTHEN COMPREHENSIVE COST CONSIDERATIONS

The draft “Cost Considerations” (Appendix F) appropriately include a crucial discussion of the environmental health costs of contaminated groundwater borne by the public at large and disadvantaged communities in particular. However, based on our ongoing research on the impacts of nitrate contamination in the neighboring San Joaquin Valley, we believe the analysis ignores several categories of costs and underestimates others.

For example, several options for impacted water systems to treat or lower nitrate concentrations (Section 5.2.2.2.1) are not considered. In addition to replacing a well or treating nitrates, nitrate-contaminated water systems may elect to install pipelines and other infrastructure after obtaining permission to connect to and secure water from a nearby water system. Our review of nitrate mitigation projects for community water systems funded by the California Department of Public Health shows that the costs of consolidation to address nitrate contamination may range from \$200,000 to \$1.5 million, depending on the number of users and other variables (Pacific Institute, *forthcoming*). In addition to being cost-prohibitive for many small community water systems, many options for addressing nitrate contamination in the short-term may not be sustainable in the long-run. Several systems have reported that they dug deeper wells to avoid nitrates only to then find groundwater with high arsenic levels and, as a result, incurred the additional costs of treatment for arsenic.

The costs of avoiding nitrate-contaminated water at the household level are also largely understated. It has been well documented that households impacted by groundwater contamination incur significant costs to avoid contaminated tap water. A series of studies using the “avoidance cost” method—that is, “assessing the costs of actions taken to avoid

or reduce damages from exposure to groundwater contaminants”—have demonstrated that household responses to contamination of domestic water supplies is far from inexpensive and that these expenditures must be taken into consideration in valuing the costs and benefits of groundwater protection.^{1,2,3} To avoid nitrate-contaminated tap water, households must install costly reverse osmosis filters, order domestic water service to their home, or buy gallons of vended and bottled water for consumptive household uses such as cooking and drinking.

In the summer of 2010, Pacific Institute conducted a survey of 21 out of the 28 households connected to the community water system, Beverly Grand Mutual Water Company in Tulare County, which was in violation of the 45 mg/L MCL for nitrate concentration. Respondents were asked a series of questions about household socioeconomic and demographic information, perception of contamination, household water use, and expenditures on tap water, filters, and alternative sources of water (such as vended and bottled water). Nearly half of the households surveyed reported exclusively using vended and bottled water for drinking and cooking. These households spent an average of \$5.37 per person per month on alternative sources of water, or \$258 per year for a family of four, which is 35% greater than the estimate put forth by the staff (Pacific Institute, *forthcoming*).

While the draft Cost Considerations recognizes that the cost of contaminated drinking water is disproportionately borne by disadvantaged communities, the Board could do more to characterize the burden of unsafe water on impacted households. Our survey demonstrated that 75% of households in Beverly Grand spend more than 2.5% of their income on water-related expenditures, exceeding U.S. EPA’s threshold for drinking water affordability⁴, with 30% of households exceeding the threshold based on expenditures on vended and bottled water alone.

Finally, the analysis fails to recognize an important group of stakeholders affected by nitrate contamination of groundwater: private domestic well owners. According to the Groundwater Ambient Monitoring & Assessment Program, there are an estimated 600,000 private domestic wells in California and 10 percent of those tested have nitrate levels above the legal limit.⁵ According to the USGS, using 2000 census data, there is a population of 243,780 in Central Coast counties who rely on domestic wells (See Table 3).⁶ While the percentage of domestic wells contaminated per county and the extent to

¹ Abdalla, Charles W. *Measuring Economic Losses from Ground Water Contamination: An Investigation of Household Avoidance Costs*. Water Resources Bulletin Vol. 26 No. 3, 451-463.

² Collins, Alan R. and Scott Steinback (1993). *Rural Household Response to Water Contamination in West Virginia*. Water Resources Bulletin Vol. 29 No. 2, 199-209.

³ Laughland, Andrew S., Musser, Lynn M., Musser, Wesley N., and James S. Shortle (1993). *The Opportunity Cost of Time and Averting Expenditures for Safe Drinking Water*. Water Resources Bulletin Vol. 29 No. 2, 291-299.

⁴ U.S. EPA (2003) *Recommendations of the National Drinking Water Advisory Council to U.S. EPA on its National Small Systems Affordability Criteria*. Accessed online December 20, 2010 from <http://water.epa.gov/infrastructure/drinkingwater/pws>.

⁵ State Water Resources Board, Groundwater Ambient Monitoring & Assessment Program (2010). *Summary of Detections Above a Drinking Water Standard, GAMA Domestic Well Project*. Accessed on September 20, 2010 from http://www.swrcb.ca.gov/gama/domestic_well.shtml.

⁶ USGS (2000) Estimated Use of Water in the United States County-Level Data for 2000. Online at <http://water.usgs.gov/watuse/data/2000/index.html>

which contamination originates from agricultural runoff is unknown, in part due to a lack of systematic monitoring of run-off and groundwater quality, most researchers agree that agriculture is a leading source of nitrate contamination of ground water in California⁷⁸.

Table 3. Population Served by Domestic Wells in Central Coast Counties

County	Total Population	Population served by domestic wells	As percentage of total population
Monterey	401,760	69,790	17%
San Benito	53,230	6,310	12%
San Luis Obispo	246,680	53,090	22%
Santa Barbara	399,350	46,910	12%
Santa Clara	1,682,590	16,450	1%
Santa Cruz	255,600	35,000	14%
Ventura	753,200	16,230	2%
TOTAL	3,792,410	243,780	6%

The CCRWQCB should revise the analytical approach based on previous studies by government agencies and leading economists and scientists to better answer the following question: *What are the costs to water system operators, well owners, and drinking water consumers due to agricultural activities regulated under Agricultural Regulatory Program alternatives?* This approach to assessing public costs of different regulatory options for addressing nitrate contamination was undertaken by the U.S. EPA in 2002, for concentrated animal feeding operations. For each regulatory option being considered the EPA reported expected reductions in nitrates with nitrate-contaminated wells and estimated the economic benefit to these households⁹.

(4). ENHANCE ENFORCEMENT

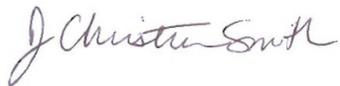
A second document should accompany the Draft Order, realistically detailing staff's plan to identify irrigated properties under production and how the owners or growers will be brought into compliance. The Enforcement Plan should detail how many farms will be inspected or audited each year, how quickly monitoring results will be made available to the public, how staff will handle the sheer volume of paperwork created from operations that are rotated annually, etc. The Enforcement Plan should have transparent, measurable goals. Finally, entities that guide and/or represent the Conditional Waiver should be inclusive and transparent. For example, it is critical that the Agricultural Monitoring Committee include non-industry stakeholders, particularly scientists, in order to preserve the integrity of the Draft Order and ensure its success.

⁷ United States Geological Survey (1995) *Water Quality in the San Joaquin-Tulare Basins, California, 1992-95*. Accessed on September 20, 2010 from <http://pubs.usgs.gov/circ/circ1159/sec6.html>.

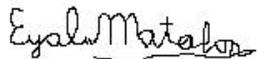
⁸ Harter, Thomas (2009) *Agricultural Impacts on Groundwater Nitrate*. Southwest Hydrology, volume 8, number 4.

⁹ U.S. EPA (2002) *The Benefits of Reducing Nitrate Contamination in Private Domestic Wells Under CAFO Regulatory Options*. Accessed online September 20, 2010 from http://www.epa.gov/npdcs/pubs/cafo_benefit_nitrate.pdf.

Sincerely,



Juliet Christian-Smith, Ph.D.
Senior Research Associate
Pacific Institute



Eyal Matalon
Research Associate
Pacific Institute



SIERRA
CLUB
SANTA LUCIA
CHAPTER



January 3, 2011

To, Howard Kolb/ Angela Schroeter
Central Coast Regional Water Quality Control Board
805 Aerovista Place, San Luis Obispo, CA 93401
By e-mail: AgOrder@waterboards.ca.gov

Re: COMMENTS on the Central Coast Regional Water Board's November Draft Conditional Waiver for Irrigated Agricultural Discharges

Dear Regional Water Quality Control Board Members (Regional Water Board):

We are writing on behalf of the Environmental Justice Coalition for Water (EJCW), the Central Coast Alliance United for a Sustainable Economy (CAUSE), Food and Water Watch, the Santa Lucia chapter of the Sierra Club, the Desal Response Group, the Southern California Watershed Alliance, Puente de la Costa Sur, and the North Richmond Shoreline Open Space Alliance (NRSOSA) to provide public comments on the Central Coast Regional Water Board's Draft Agricultural Order No. R3-2011-0006, released on November 19, 2010 ('November Draft Order'). For a description of each of these organizations, please see the signature pages below.

The Executive Summary of the November Draft Order states 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).

The Staff Report states that the Central Coast Regional 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 Staff

Report also clarifies that “no industry or individual has a legal right to pollute and degrade water quality, while everyone has a legal right to clean water.” (Pg 13)

An Effective Program to Protect Central Coast Communities is Necessary

This statutory responsibility of the Regional Board is especially crucial since groundwater contamination from nitrates severely impacts domestic drinking water supplies in the Central Coast region. In fact, the November Draft Order 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).

In the past year, affected communities have come before the Regional Water Board to request for the protection of drinking water and human health. These Central Coast residents have asked the Board to uphold stricter regulations of agricultural discharges and to support groundwater cleanup and to prevent further nitrate contamination. About 500 community residents sent letters to the Regional Board in support of the February 2010 Draft Agricultural Order and its commitment to protect drinking water. A multitude of supporters of the Order attended the public workshops held at San Luis Obispo on May 12, 2010 and at Watsonville on July 8, 2010. Community residents, low-income people, farm-worker women, and representatives from environmental justice, pesticide awareness, faith-based, and sustainable agriculture organizations shared stories of their struggles with drinking water contamination and the overwhelming need to cleanup groundwater. A common theme in their testimony is that water contamination severely hampers drinking water, human health and in turn, the health of communities. Residents highlighted the high costs to society and to communities of nitrate contamination, particularly for farm-worker camps, unincorporated areas, and disadvantaged communities. Allowing the agricultural industry to further pollute groundwater supplies is an environmental injustice.

The extent of nitrate contamination on the Central Coast and the urgent need to address the issue were acknowledged by Regional Board members in their closing comments following both workshops. Regions such as the Salinas Valley, Santa Maria and Pajaro watershed were referred to as “hotspots”, where immediate action is essential due to the extent of nitrate contamination. In fact, the November Draft Order acknowledges several times, that drinking water and highly contaminated areas are among their highest priorities. Key concepts identified in the Order:

- “Prioritize based on water quality impacts and make protection of human health and drinking water the highest priority” (Pg 8, Staff Report).
- “Among the highest priorities is to ensure that agricultural discharges do not continue to impair Central Coast communities’ and residents’ access to safe and reliable drinking water.” (Pg 12, Staff Report).
- “‘One size does not fit all.’ Require more of those discharging the most, creating the greatest impacts, or most threatening water quality.” (Pg 8, Staff Report).

We are very disappointed that in spite of the Board’s verbal commitment to regulate agricultural discharges due to overwhelming evidence of human health and drinking water concerns, the November Draft Order is significantly weaker than the Draft Recommendations released on February 1, 2010 (hereafter referred to as ‘February Draft Order’.

We support the November Draft Order ONLY to the extent that it is a vast improvement on the 2004 Conditional Waiver currently in place, which lacked a focus on water quality requirements, and did not contain any compliance or verification monitoring provisions. However, we strongly feel that the November Draft Order fails to adequately address human health concerns and contamination prevention. Hence, we urge the Regional Water Board to adopt the February Draft Order instead, which complied with state and federal laws and is adequate to protect water quality. Implementation of the February Draft Order would provide Central Coast communities with a tool to help them to achieve access to clean, safe, drinking water.

The November Draft Order Fails to Protect Groundwater Quality

The November Draft Order, while verbalizing its commitment to drinking water and community concerns, has actually removed many of the provisions found in the February Draft Order that would have allowed for an effective focus on water quality. Below please find our amendments to the November Draft Order. Our support of the November Order is contingent on the inclusion of amendments 1-6 below.

(1). CONCERNS 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 criteria outlined in the November Draft Order for setting up the Tiers are grossly inadequate.

First of all, we are disappointed that in spite of the verbal commitment to addressing the nitrate contamination “hotspot” regions, these have not even been considered as criteria for creating the Tiers. The Tiers are currently based on (1) size of the farm, (2) distance from an impaired surface water body, (3) use of the specific pesticides – chlorpyrifos and diazinon and (4) growing crops with high nitrate loading potential; however there is no groundwater contamination criterion for the Tiers. This can easily lead to a situation where, if Dischargers’ operations are less than 1000 acres, then they may be placed in the low-risk Tier 1 even if they grow crops with high nitrate loading potential such as broccoli, cabbage, cauliflower, celery, etc. If Dischargers are under 1000 acres but are farming high nitrate risk crops in the highly nitrate-polluted regions of Salinas Valley or Santa Maria, they may still be placed in the low-risk Tier 1, even though their impact to groundwater and hence to drinking water may be enormous. Contributing to groundwater contamination can be vast even from small farms.

The inadequate criterion for Tiering is an enormous concern since it has been reported by the Regional Board staff 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. It has further been reported by the Staff that there is still a significant acreage of Dischargers growing crops with high nitrate loading potential that fall over 1000 acres. But the reality is that we don’t have sufficient data on who is enrolled and who is not. In addition, there is no safeguard against Dischargers dividing up their farms so they appear to be separate smaller farms. Hence size of the farm by itself cannot address groundwater nitrate contamination.

Therefore, we feel strongly that Dischargers farming in “hotspots” of nitrate contamination should NOT be classified as low-risk Tier 1, and the criteria for Tiering must include groundwater nitrate contamination and trends as a factor. Farms located in high nitrate contamination areas that grow high nitrate risk crops must automatically be classified as Tier 3 dischargers regardless of the size of their farms.

Alternatively, Tier 1 Dischargers who are in high-risk nitrate contaminated areas must also be subjected to assessment and reporting of Nitrate Loading Risk, reporting of nitrogen usage, etc. Under the November Draft Order, Tier 1 Dischargers will, essentially, be subjected to a very low level of regulation, especially with regard to groundwater. They will be required to enroll, to comply with general narrative standards, to create a Farm Plan, to complete education classes, participate in watershed-wide monitoring, and Tier 1 dischargers only have to conduct groundwater monitoring twice in one year during the five years of the Draft Order. Beyond the groundwater sampling twice in five years, Tier 1 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. This low level of regulation is insufficient.

Tier 2 and 3 dischargers will have to meet additional requirements for groundwater protection, such as evaluation and reporting of nitrate loading risk, reporting of nitrogen usage, etc. This incomplete Tiering system may put growers with the capacity to increase groundwater nitrate contamination in the low-risk Tier 1. Tier 3 and, to some extent, Tier 2 has regulation but these are defined so narrowly as to render the definition useless.

In addition, it is unclear how Tier 2 Dischargers will be required to calculate their nitrate risk. Appendix A, pg 22 states that:

“Tier 2 and Tier 3 Dischargers must calculate the nitrate loading risk factor for each ranch/farm included in their operation. The nitrate loading risk factor is a measure of the relative risk of loading nitrate to groundwater. Tier 3 Dischargers must determine the nitrate loading risk factor for each ranch/ farm using the criteria below...

- a. Nitrate Hazard Index Rating by Crop Type
- b. Irrigation System Type
- c. Irrigation Water Nitrate Concentration”

This paragraph neglects to explain how Tier 2 Dischargers are to calculate their nitrate risk. The language must be amended to state that Tier 2 and Tier 3 Discharges must determine the nitrate loading risk factor. In addition, Tier 1 Dischargers located in “hotspots” growing high nitrate risk crops must also be made to assess their nitrate loading risk factor using the same method.

The Appendix A of the November Draft Order further states that,

“Within 10 years from adoption of this Order, Tier 2 Dischargers must demonstrate that they are not causing or contributing to exceedences of water quality standards for nitrate and salts in groundwater. Dischargers may have to implement best management practices, treatment or control measures, or change farming practices to achieve compliance with this Order.” (Appendix A, pg 29)

Firstly, it is hard to imagine that the issue of human health having been prioritized by the Regional Board, that such a long time-frame is being given to address this issue. Already, communities are paying with their health and their money for nitrate contaminated water. We

strongly urge that the Regional Board to implement a reasonable time-frame and regulations that ensure communities will not continue suffering from contaminated water for another ten years.

Secondly, as mentioned above, these provisions for reduction of nitrates in groundwater are meaningless if the Tiers continue to be defined as they currently are, as this will not address groundwater contamination at all.

(2). CONCERNS WITH REMOVING REGULATION ON TILE DRAINS

In the list of changes made to the Draft Agricultural Order due to public input, 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) We feel that removing regulation on tile drains is a huge setback to address irrigation runoff in the short-term and the long-term, and will worsen groundwater contamination and will cause harm to human health. For instance, the Blanco drain in the nitrate-contaminated “hotspot” Salinas Valley often registers nitrates at over 200 mg/L, or five times over the drinking water standard! Yet the November Draft Order would remove regulation of tile drains until later. We find this unacceptable and we strongly urge that tile drains be regulated immediately in order to safeguard groundwater quality.

(3). CONCERNS WITH SPECIFIC LISTING OF DIAZINON AND CHLORPYRIFOS PESTICIDES TO THE EXCLUSION OF OTHER TOXIC PESTICIDES

We agree that Diazinon and Chlorpyrifos 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 which may be just as harmful. In fact, the regulation of just these specific pesticides will provide an incentive to growers to switch to other pesticides, and will render this criterion useless.

This approach of naming two particular pesticides also ignores the public health concept of synergism: that two or more pesticides working together may create combined effects and public health harm that has not even been properly understood or documented. 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 merely by shifting to other toxic pesticides. Hence, we feel strongly that Staff should not specify just these pesticides in the Tiering criteria, but rather focus on general toxicity and damage to water quality.

(4). CONCERNS WITH CHANGES IN NUMERIC AND NARRATIVE STANDARDS

The November Draft Order removes essential provisions from the February Draft Order regarding the fact that dischargers must meet water quality compliance at the place where the runoff leaves their farms. It seems the November Draft Order shifts compliance from the farm to the receiving waters. We feel this significantly weakens the ability of regulation to find the most contaminated dischargers and hold them accountable. In addition, it is unclear how compliance for drinking water standards for groundwater will be met. The Regional Board must focus not

just on regulation but on actual outcomes, and must identify where the contamination is arising. We feel strongly that the point of compliance for drinking water standards must be the Discharger's farm, as this will help to find sources of contamination.

(5). CONCERNS WITH THE BACKFLOW PREVENTION DEVICES

Backflow prevention devices are being mandated in order to protect groundwater. However, we find it unjustifiable that 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 EFFECTIVE ENFORCEMENT AND FINES FOR NON-COMPLIANCE

The November Draft Order is very weak in explaining how enforcement will be implemented effectively. We feel that ultimately there must be an improvement in water quality and the Staff must include timelines, benchmarks and enforcement for the same. It is not sufficient merely to reduce nitrate use by some arbitrary amount, but it must be clear how water quality will improve.

We also strongly encourage the Regional Water Board to put in place significant non-compliance fines in cases when agricultural dischargers violate the stipulated conditions. As we have seen in the past Conditional Waiver, voluntary mechanisms to control agricultural discharges are not sufficient. The Water Board must use its' regulatory authority to regulate discharge, and this includes application of non-compliance fees.

Provisions From The November Draft Order That We Support:

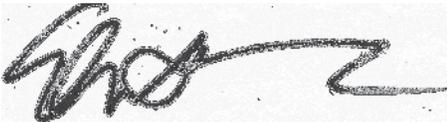
There are certain provisions in the November Draft Order that we like and support, with the above-mentioned amendments. Some of these provisions that we support are as follows:

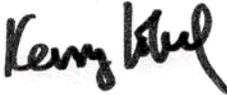
- a) Regulation of both land owners and operators.
- b) Development of nitrate loading risk factors and tracking and reporting requirements.
- c) Requiring installation of backflow prevention devices.
- d) Timelines for compliance.
- e) Dischargers are required to minimize nutrient discharges from fertilizer 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 gone on too long at the expense of community and watershed health. We applaud your efforts to address water contamination; however, the November Draft Order is significantly weaker than the February Draft Order. We support the February Draft Order and urge you to adopt it. We strongly urge you to take timely action to put in place stringent requirements for irrigated agriculture discharges so that California's water is truly protected and restored.

Thank you,

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The **Environmental Justice Coalition for Water (EJCW)** is a statewide coalition of more than 70 community-based and non-profit organizations working to achieve water justice in California. Water justice is the ability of all communities to access safe, affordable water resources for all beneficial uses. Most relevant to the Water Board’s efforts, we work with disadvantaged communities struggling to access to water for basic human needs, such as drinking, bathing, and cooking. These communities are often forced to drink contaminated groundwater, or to pay a high price for alternate water because their drinking water is non-potable.

The **Sierra Club** has been working to protect communities, wild places, and the planet since 1892. It is the oldest and largest grassroots environmental organization in the United States.

Central Coast United for a Sustainable Economy (CAUSE) builds grassroots power for environmental, social and economic justice in the California central coast region. In 2010, CAUSE spoke with 30,000 voters and organized a statewide forum with 1000 people from throughout California for state budget reform. In 2011, CAUSE is working on the redistricting of state assembly, senate and federal congressional districts for fair representation of low wage working families and people of color in the central coast.

Food & Water Watch is a national consumer advocacy organization with 30,000 members in the state of California. We work to ensure the food, water and fish we consume is safe, accessible and sustainable. So we can all enjoy and trust in what we eat and drink, we help people take charge of where their food comes from, keep clean, affordable, public tap water flowing freely to our homes, protect the environmental quality of oceans, demand that government to do its job protecting citizens, and educate about the importance of keeping shared resources transparently managed by public entities.

The **North Richmond Shoreline Open Space Alliance (NRSOSA)** is a group of neighborhood, social justice, community and environmental organizations and individuals committed to saving access to the last remaining open space along the northern shoreline of Richmond, California between Point Molate and Point Pinole.

Puente de la Costa Sur is a 10-year-old, nonprofit organization. Its mission is to provide vital services for men, women, children, and families living in the rural San Mateo South Coast communities of Pescadero, La Honda, Loma Mar, and San Gregorio.

The **Southern California Watershed Alliance** works to achieve sustainable water and watershed management for the long term health of our ecosystems and communities.

The **Desal Response Group** works to provide Californians with education that directly responds to ocean desalination by connecting diverse environmental and community organizations for the promotion of sustainable alternatives to ocean desalination.

References:

- Staff Report, Recommendations for Water Code Waiver for Agricultural Discharges, Central Coast Regional Water Quality Control Board. November 2010, available at http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/12_09_2010_staffrpt/AgOrder_StaffReport.pdf
- Appendix A, Draft Order No. R3-2011-0006, Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands, Central Coast Regional Water Quality Control Board, November 2010, available at: http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/12_09_2010_staffrpt/AgOrder_AppA.pdf
- Appendix B, Draft Monitoring and Reporting Program Order No. R3-2011-0006, For Dischargers Enrolled Under the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands, Central Coast Regional Water Quality Control Board, November 2010, available at: http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/12_09_2010_staffrpt/AgOrder_AppB.pdf
- Appendix C, Time Schedule for Draft Order No. R3-2011-0006, Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands, Central Coast Regional Water Quality Control Board, November 2010, available at: http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/12_09_2010_staffrpt/AgOrder_AppC.pdf