



California Regional Water Quality Control Board Central Coast Region



Linda S. Adams.
*Acting Secretary for
Environmental Protection*

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Edmund G. Brown Jr.
Governor

Draft Agricultural Order

Public Comments

for
March 17, 2011 Board Meeting

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From: Graham Edwards <grahamh.l.edwards@gmail.com>
To: <agorder@waterboards.ca.gov>
Date: 12/13/2010 10:49 AM
Subject: Toxic water

To whom it may concern,

I am writing to request that immediate and forceful action be taken to clean up agricultural runoff. This is an extremely serious problem that demands a policy with enough power to be effective. Often policies are too weak or contain loopholes that allow those that need to be regulated to slip through. For once lets not let powerful agricultural interests supersede the well being of the public at large. Please, for the good of your own families that may live here, and for your neighbors, make our water safe!

A concerned voter

Salt Water Intrusion in Monterey Bay Region

From: Douglas Deitch <ddeitch@got.net>
To: <agorder@waterboards.ca.gov>, Ddeitch <ddeitch@pogonip.org>, <rbriggs@waterboards.ca.gov>
Date: 12/14/2010 9:26 AM
Subject: Salt Water Intrusion in Monterey Bay Region

Roger Briggs,
 Central Coast Regional Water Quality Control Board

Please read the following email exchange between Daniel Press and myself from 2006 regarding our salt water intrusion catastrophe here.

Ag runoff is relatively inconsequential compared to this "water quality" problem/catastrophe we have experienced here for decades.

It has permanently ruined our 2 major ground water basins in both the Pajaro and Salinas Valleys...
 As I say..."this is a food security problem..."

www.douglasdeitch.com

I trust Dr. Press forwarded my concerns and emails from 2006 to the Central Coast Regional Water Quality Control Board, where he was then a board member, for your consideration and action....

I and the people of the Central Coast/Monterey Bay Region are still all waiting for you to address this catastrophe and water quality problem.

Will you, please?

Thank you,
 Douglas Deitch
 ED/MBC
 831-476-7662

www.pogonip.org/WaterDocs/SantaCruzWaterSolutionWeb.pdf

www.MontereyBayConservancy.org

www.begentlewiththeearth.com

www.OurInconvenientTruth.com

www.douglasdeitch.com

www.pogonip.org etc.....

Please read this sequence of emails from 2006.....they are in reverse order...

----- Original Message -----

Subject:Re: Water Quality Issues in Santa Cruz-Saltwater Intrusion-Monterey Bay Conservancy
 Regional Water Solution

Date:Thu, 22 Jun 2006 20:28:49 -0700

From:Douglas Deitch <ddeitch@got.net>

To:Daniel Press <dpress@ucsc.edu>

DP

Thank you, again!

You are very responsive! (no joke)

DP:"I can't tell you what the chancellor or any other campus top administrator is thinking about these topics, you'd have to ask them!"

DD:I try to

<http://www.santacruzsentinel.com/archive/2005/November/19/edit/let.htm>
(fourth letter)

and at times I succeed

Subject:

LAFCO/ANNEXATION/WATER NONDISCLOSURES

From:

Douglas Deitch <ddeitch@got.net>

Date:

Thu, 13 Oct 2005 06:27:35 -0700

To:

djones@santacruzsentinel.com, Tom Ragan <tragan@santacruzsentinel.com>, thonig@santacruzsentinel.com, ddeitch@got.net

Dear Donna and Tom,

Pat McCormack, Roger Anderson, and Judy Doering Nielson (at least) have been contacted by me, questioned, and then made aware by me that they do not understand Pajaro's water plan because the presentation they received from PVWMA was deceptive/deficient/defective.

In Roger's case, he has been unaware of the "doubling of PVWMA's groundwater by stopping pumping on the coast" for his entire tenure on LAFCO as "public member". I contacted him after the PVWMA presentation by Mary Bannister, found he was unaware of virtually everything, and requested of him (as my representative on LAFCO as a member of the public) to bring this to the commission's attention, hold annexation deliberations in abeyance, and request a new presentation by PVWMA prior to annexation hearing so the commission would be accurately briefed. Apparently, he (Roger) has done nothing in this respect. Nor has Pat McCormack the same requests were made of him.

Yesterday, I spoke w/ Pat about this (briefing the commission and suspending the annexation hearing until this was done...and he refused to do or say anything.

LAFCO is deliberating in the dark in respect to the water issue...and this is the critical issue because we are oversubscribed agriculturally and it's using up all our water.

Pat McCormack has known this for virtually years, yet has been negligent in informing/briefing the LAFOC commission on this because I have consistently informed him of the commissions lack of understanding of

the water plan. They are completely in the dark. He knows this, yet has not informed the entire LAFCO commission, as I have requested/instructed that he do.

They know this (see my attached article) and I advised all of them to bring this to the commission (LAFCO) and clear this up so everybody on LAFCO is accurately briefed and understand PVWMA's plan. The water issue is crucial in the deliberation over the present annexation request by Watsonville. Both Roger Anderson and Pat McCORMACK HAVE REFUSED/NEGLECTED TO DO THIS.

The proper course of action, this being the case, is to immediately suspend deliberations on annexation pending a proper complete rebriefing of LAFCO on what's really going on w/ the PVWMA Basin Management Plan

Both of these people have either intentionally or grossly negligently withheld critical information from the balance of the LAFCO commission during this critical period. They should both be either removed from their positions or should resign because of this misconduct, their negligence, and breach of their fiduciary responsibilities to both LAFCO and the public. I will be having a conversation w/ Don Ramos, chair, this am about this specifically. (684-9110)

Doug
476-7662
530-582-9185
oh yea....ps...FYI

http://dougforsupervisor.com/gary_patton_letter_1976.htm

http://dougforsupervisor.com/robly_levy_letter_1981.htm

Cheers,
DD

Daniel Press wrote:

```
> #1. "It" refers to the ex parte rule.
>
> #2. Lots of people on campus are aware and concerned about the
> university's growth plans and impacts -- one need only look at the
> comments received on the LRDP and its EIR. I can't tell you what the
> chancellor or any other campus top administrator is thinking about
> these topics, you'd have to ask them!
>
> DP
>
> On Thu, 22 Jun 2006 13:12:50 -0700
> Douglas Deitch <ddeitch@got.net> wrote:
>
>> DP,
>> Certainly.
>> I understand.
>>
>> Perhaps two questions, though, please....
>>
>> 1. What does "it" refer to in
>> "you can't imagine how many conversations it stifles! "
```

>>
>> 2. Why isn't the Environmental Studies Department (or any
>> Department or person, including the chancellor, I guess, as well) at
>> UCSC informed or concerned about our regional and local ground water
>> resources and their wasting through contamination by seawater, if
>> water is such a big concern in UCSC's growth plans and hugest of
>> environmental issues?
>>
>> Thank you,
>> Doug
>>
>>
>> Daniel Press wrote:
>>
>>> Yeah, I can't, I'm sorry -- you can't imagine how many conversations
>>> it stifles!
>>>
>>> DP
>>>
>>> On Thu, 22 Jun 2006 12:56:04 -0700
>>> Douglas Deitch <ddeitch@got.net> wrote:
>>>
>>>>
>>>>
>>>> DP,
>>>>
>>>> OK...
>>>>
>>>> so let's talk in your capacity as...
>>>> Professor and Chair
>>>> Environmental Studies Department, UCSC...
>>>>
>>>> instead...
>>>> I'm not proud...(joke)
>>>>
>>>> DD
>>>>
>>>>> Daniel Press wrote:
>>>>>
>>>>>
>>>>>
>>>>>
>>>>> Doug,
>>>>>
>>>>> If there's any chance that this issue might come before the
>>>>> Central Coast Regional Water Quality Control Board as an action
>>>>> item, then I really cannot speak with you about it -- there are
>>>>> pretty stringent rules on "ex parte" communications that bar me
>>>>> from discussing an agenda item, or possible agenda item outside of
>>>>> a public Water Board meeting.
>>>>>
>>>>> However, you can send me an e-mail saying that you have concerns
>>>>> that you would like the Board to address; I will forward it on to
>>>>> Roger Briggs, the Board's Executive Officer, urging him to have
>>>>> the right staff person contact you. We have had numerous agenda
>>>>> items come to the Board for action in this manner.
>>>>>
>>>>> Cheers,
>>>>>

>>>> DP
>>>>
>>>> Daniel Press
>>>> Professor and Chair
>>>> Environmental Studies Department, Room 429 ISB
>>>> Member, Central Coast Regional Water Quality Control Board
>>>> University of California, Santa Cruz
>>>> Santa Cruz, CA 95064
>>>> (831) 459-3263
>>>>
>>>> On Thu, 22 Jun 2006 10:08:47 -0700
>>>> Douglas Deitch <ddeitch@got.net> wrote:
>>>>
>>>>> Re: Water Quality Issues in Santa Cruz-Saltwater Intrusion
>>>>>
>>>>> Daniel,
>>>>>
>>>>> Could you please return my call @ 818-4201 regarding water
>>>>> quality issues - specifically saltwater intrusion-in the Central
>>>>> Coast Region.
>>>>> Thank you
>>>>> Doug Deitch
>>>>> ED
>>>>> Monterey Bay Conservancy
>>>>>
>>>>>
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>>>>> .
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> .
>

San Jerardo Cooperative, Inc.
24500 Calle El Rosario Salinas, CA 93908
Telephone :(831) 424-1947 Fax (831) 424-1948

December 28, 2010

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

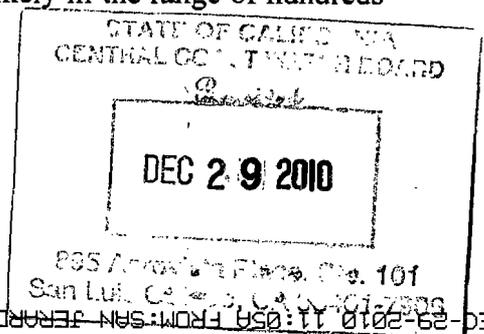
Dear Regional Water Quality Control Board Members:

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

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



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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 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

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

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(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.
- 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.

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- 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.

It is important that every Californian takes responsibility in taking care of the water, especially the people that are polluting the water. Everyday we must implement every solution that is available in order to correct the mistakes that have been done in the past and in the present. Water is the most precious liquid that supports life which is part of nature and not a commodity, so we must take care of it all the time.

"It doesn't matter how strong your opinions are. If you don't use your power for positive change, you are, indeed, part of the problem" (Coretta Scott King)

Thank you,


Horacio Amezcuita
General Manager
San Jerardo Cooperative Inc.

Julie Engell
331 Dry Creek Road
Monterey, CA 93940

January 2, 2011

Angela Schroeter/Howard Kolb
Central Coast Regional Water Quality Control Board
Via email: AgOrder@waterboards.ca.gov

RE: 2011 Draft Conditional Waiver for Irrigated Agricultural Discharges

Dear Members of the Regional Water Quality Control Board:

One of the highest priorities for members of the environmental community in Monterey County is the protection and restoration of our water quality. To that end, I testified at the public hearing held by the Regional Board on July 8, 2010 in Watsonville. I appreciate the opportunity to comment on the Central Coast's 2011 Draft Recommendations for a Conditional Waiver for Irrigated Agricultural Discharges, released November 19, 2010. This is a critical program which, if appropriately drafted and implemented, will effectively address what the Draft Order's Executive Summary characterizes as the "well documented, severe and widespread" discharges of pesticides, sediment and nutrients that cause water pollution in the Central Coast region.

Like most members of the public, I expect our government to implement regulations that are effective. To be effective, regulations must be based upon clear, enforceable criteria and must provide accountability and timely response to violations. Unfortunately, the Draft Recommendations released in February 2010 do a better job of meeting those standards than the significantly weakened revised recommendations released nine months later in November 2010. Although at page 13 of the Staff Report staff acknowledges that "no industry or individual has a legal right to pollute and degrade water quality," I am disappointed that the agricultural industry has so effectively lobbied to weaken the earlier recommendations. I agree with staff when it states that "everyone has a legal right to clean water;" and it is in that vein that I submit the following comments.

Compliance requirements should be based upon likelihood of impacts to water quality rather than upon acreage of the agricultural operation.

The concept of regulating growers through a tiered structure which recognizes differing water quality impacts is a good one. However, I strongly disagree with the complete absence of existing groundwater contamination criteria as the basis

for creating those tiers. Despite the fact that the Salinas Valley is identified as a “hotspot” for nitrate contamination of groundwater, the latest version of the recommendations would not prioritize regulation of Salinas Valley growers as anything greater than low-risk Tiers 1 and 2 unless, agriculture operations exceed 1000 acres.

Regional Board staff acknowledged verbally that only 33 out of 3000 farming operations in the Central Coast Region are larger than 1000 acres. This means that cumulatively huge water quality impacts could occur, because the vast majority of land in production would be automatically classified as low-risk. Even operations which grow crops like broccoli, cabbage, cauliflower and celery – crops that have high nitrate loading potential – would be classified as low-risk and subject to low levels of regulation.

As a long-time land-use activist, I would also like to point out that acreage size can be easily manipulated through the subdivision process, especially in Monterey County where subdivision of agricultural land is allowed without discretionary review as long as the land remains in agriculture.

While Tier 3 regulation is significant, because it applies to so few operations and can be so easily manipulated, it will do little to improve or protect water quality in the region. Tiers 1 and 2 rely on non-specific regulation. As I understand them, these are the requirements of Tiers 1 and 2.

Tier 1

- Enroll and submit a Notice of Intent to
 - Comply with general standards
 - Create a Farm Plan
 - Complete education classes
 - Report groundwater quality 2 times per year
 - Participate in watershed-wide monitoring

Tier 2

- All of the above plus photographic reporting of impaired surface water

Clearly, beyond infrequent groundwater sampling, Tier 1 and Tier 2 dischargers are not required to comply with any real groundwater regulation, even though Tier 1 and Tier 2 dischargers make up the vast majority of agricultural operations in identified “hotspots” of groundwater contamination. Because of the well-documented impacts to human health of degraded groundwater quality, I urge the Regional Board to automatically classify as Tier 3 all farming operations in contamination “hotspots.”

Water pollution should be halted at its source.

The February Draft Order required that dischargers must comply with water quality standards at the point where water leaves the farm. The 2011 Draft Order shifts the point of compliance from the farm to the “receiving waters.” Because all land in a watershed drains into the “receiving waters,” this change weakens the ability of regulators to locate and hold accountable the most egregious violators. It also unfairly shifts the burden for compliance onto other farmers who share the “receiving waters” and creates a significant disincentive to comply with higher standards. It is also unclear under this scenario how drinking water standards for groundwater will be met.

This shift from farm to receiving waters is a prime example of creating a regulatory framework that is unenforceable and ineffective. I urge the Regional Board to reinstate the original draft’s requirement that dischargers must comply with water quality standards at the point where water leaves the farm.

All pesticides that damage water quality should be included as criteria in defining regulatory tiers.

While I agree with staff that Diazinon and Chlorpyrifos are dangerous pesticides, I oppose using only these two pesticides in defining the regulatory tiers. This approach excludes other pesticides which may be just as dangerous or even more dangerous. It creates an incentive for dischargers to simply switch to other toxic pesticides in order to avoid Tier 3 regulation. Furthermore, it ignores the potential effects of multiple pesticides when combined and present at the same time. Instead of focusing exclusively on these two pesticides, the Regional Board should consider all pesticides that damage water quality when establishing regulatory tiers.

Fines for non-compliance are a necessary enforcement tool.

Voluntary mechanisms to control harmful agricultural discharges have been in place for years under the old Conditional Waiver program, which is being replaced because it has been ineffective in protecting and restoring water quality in the Central Coast Region. We have learned that voluntary compliance hasn’t worked. The Regional Board has the authority to regulate discharge. It will not succeed unless it applies fines for non-compliance.

Regulation of tile drains should not be delayed.

The revised Draft Agricultural Order has relegated tile drain regulation to the “long-term.” This is a change for the worse. The Blanco Drain, a tile drain in the

Salinas Valley, has a long history of contributing nitrates to both freshwater and saltwater habitats. It frequently contains nitrate levels five times the drinking water standard. Delaying regulation of tile drains, like the Blanco Drain, will continue to allow unnecessary degradation of water quality in the region.

Backflow prevention can and should be implemented immediately.

I strongly support installation of backflow prevention devices to protect groundwater quality. However, I can find no justification for delaying implementation of the requirement for 3 years. Certainly operators can install and maintain backflow prevention devices within 1 year of adoption of the order. Please require that they do so.

Conclusion

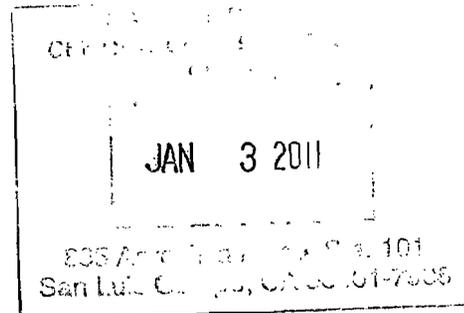
I appreciate that the Regional Board and its staff recognize the continuing degradation of surface and groundwater quality as one of the most important environmental, social and economic problems facing the Central Coast Region. I recognize the effort to improve upon the past Conditional Waiver, which has failed to adequately address the issue. However, I cannot support the Draft Order as currently proposed. I urge the Regional Board to seriously consider the objections I've raised in my comments; and I encourage the board to amend the Draft Order accordingly.

Sincerely,

Julie Engell

December 27, 2010

Central Coast Regional Water Quality Control Board
Att: Jeffrey Young, Chairman of the Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401



RE: Comments on Ag Waiver Order

Dear Chairman Young:

Small property owners are very easily harmed by unnecessary regulations. Our family has been involved in farming for over 100 years here in California. Keep us here.

Water regulations should follow scientific information not some guide lines that will not help have clean water. Putting out regulations based on unconfirmed information gathered by people who are just using this data will not create better water but cause great harm by making regulations that will put our farmers out of business.

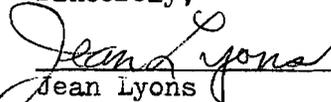
When more and more regulations are put into existence it begins to interfere with putting our food on the table for our state and country.

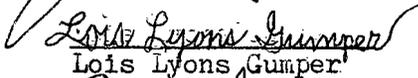
We in agriculture are just as concerned as anyone about our water quality and water ways. There are many reasons that may cause water concerns, but farmers and property owners are even more careful than most.

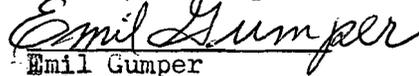
Do not believe that farmers and property owners do not care. We all live in California and are very involved in keeping California a Great Place.

We urge your adoption of the Ag Alternative Waiver proposal as the baseline for the new Ag Waiver for the coming 5 years in region 3.

Sincerely,


Jean Lyons


Lois Lyons Gumper


Emil Gumper

Jean Lyons 70 Armstrong Road Salinas, CA 93908

AgOrder

From: Ken Bradley <kbradley@anchorpointgilroy.org>
To: <AgOrder@waterboards.ca.gov>
Date: 1/3/2011 2:58 PM
CC: "Mr. White" <swhite@anchorpointgilroy.org>
Attachments: letter template for cc ag waiver_dipti_3jan11_edited.doc

To whom it may concern,

We are a small non-profit school located in Gilroy, CA. The cost that this nitrate problem has incurred on our organization is astronomical. The monitoring, testing by labs, posting of unsafe drinking water, installation of a Nitrate Reduction System, maintenance of this system, is harming our ability to provide a low cost Christian education to our community. To this date, the only problem we have experienced with the drinking water from our well is high levels of nitrates.

Please keep me posted on the development of rules and regulations in this area, as we must find some alternative other than to treat the water over and over again that another person is contaminating, making us responsible for the quality of water we serve to our students, staff and guest.

I would love a representative from your organization to call me directly.

Also, can you forward me information on when there are meeting on the drinking water in this area? Any information you can provide that effects the drinking water would also be helpful.

Kenneth Bradley
IT Manager/Water Operator
Anchorpoint Christian High School
2220 Pacheco Pass Hwy
Gilroy, CA 95020
Direct: 408-846-6642 x122
Cell: 408-722-2182
Fax: 408-848-4426
Email: kbradley@anchorpointgilroy.org
Website: www.anchorpointgilroy.org

Love the Lord your God with all your heart and all your soul and with all your strength. (Deuteronomy 6:5)

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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: 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 Draft Order for a Conditional Waiver for Irrigated Agricultural Discharges, released on November 19, 2010. On behalf of the Anchorpoint Christian Schools, we applaud your prioritization of this critical program that must protect and restore the quality of the Central Coast region's water.

The November 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 November 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.

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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 November Draft Order ONLY 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 November Draft Order is significantly weaker than the Draft Recommendations released by the Regional Board Staff on February 1, 2010. We urge the Regional Board to adopt the February Order. Below please find our strong amendments to the current November Draft Order, without which we cannot support this 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 November 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 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

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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 November

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Draft 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 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 water 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 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.

NOVEMBER DRAFT ORDER PROVISIONS THAT WE SUPPORT:

There are many 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 is essential.
- b) Development of nitrate loading risk factors and tracking and reporting requirements.
- c) Requiring installation of backflow prevention devices.

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- 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 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 November Draft Order, and support said Order ONLY with these amendments. Better still, we urge you to adopt the February Draft Order, as it was more protective of water quality. 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,

Ken Bradley
Water Distribution Operator II
Anchorpoint Christian Schools

Thomas R. Am Rhein
262 East Lake Ave.
Watsonville, CA 95076

Monday, January 03, 2011

TO: Jeffery Young, Chairman of the Board, Regional Water Quality Control Board, Region 3 (RWQCB)

RE: Proposed Staff Ag Order (released on November 19)

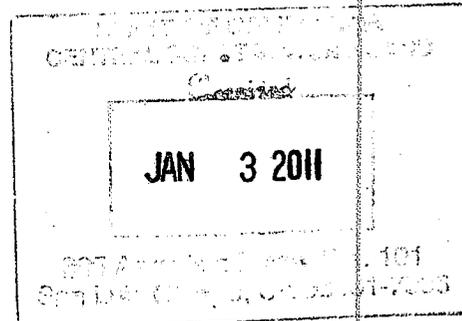
I have been a strawberry farmer in the Region 3 area for 30 years. I was actively involved in the "Fields to Ocean" farm water quality certification pilot project which developed management concepts which were incorporated in the first waiver. I have also served on the Board of Directors of Central Coast Water Quality Protection, Inc. (CCWQPI).

With the first waiver, the RWQCB had 5 years to come to an understanding of how the agricultural industry really works. In looking at the Proposed Staff Ag Order, it is not clear how much was learned. I am disappointed by the lack of scientific basis for decisions that were made by staff in creating the draft order. However, I will address only the administrative aspect of the order.

The Proposed Staff Ag Order increases focus on administrative oversight of individual farmers and/or farming operations. To the degree it does this, time and resources are wasted in managing the watershed itself. The first waiver suffered from the same flaw. Had it not been for CCWQPI intervening directly in the management of the RWQCB data base, from an administrative standpoint, the flaw would have been fatal. Despite the industry's best efforts to try and support the process, does the RWQCB itself have any idea how completely disorganized the data base from the first waiver is? Does the RWQCB realize that the second waiver, as proposed, will be an even more unwieldy and unmanageable?

The fact is that farming operations are fluid. They move from field to field, water shed to water shed, commodity to commodity. They do these on very short time cycles, sometimes 90 days or less, across wide geographic areas. Farming operations typically have lease holds that limit financial interest in any given piece of land to no more than 3 to 5 years and sometimes as short as 90 days. Planted field boundaries or farm boundaries vary and overlap just as quickly. *Attempting to manage a water shed by focusing on farming operations is futile and was proven so by the inability of the RWQCB to effectively administer even the relatively simple first waiver.*

Therefore, administration of the waiver should begin with the land owner, not a farm operator and the land owner, not a farm operator, should be responsible to answer to the RWQCB. Land ownership is stable. It is mapped and identified. Land boundaries, unlike farm boundaries, remain constant even if ownership or cropping patterns change. There are almost no investments that a short term tenant farmer can make which will give the farm operation a



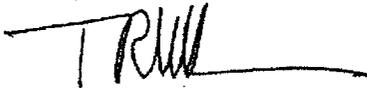
return on investment over the lease term and bring measurable improvement to water quality. On the other hand, land owners have a lot to gain or lose long term and therefore can make the decisions necessary to make long term investments which will bring measurable results in terms of improving water quality, regardless of who actually farms the land. The benefits of any long term investments will not pass to transient farm operations, they will pass on to the land owners.

The industry can spend millions of dollars and many years developing intricate crop specific management plans and protocols. However, I would submit that history shows that crop and production profiles in any given watershed change faster than that so what would be the point?

The order needs to incentivize land owners to create systems on their properties that permanently assure water quality no matter what commodity or individual grower is operating on the property in any given season. Some weeks ago, some members of the RWQCB Board and staff were able to meet with growers in the Castroville area and see the type of things that can be accomplished if this view is taken.

In closing, an administrative program based on managing farm operations instead of land owners would be built on a transient and amorphous foundation. If the goal here is improving water quality in the most efficient, shortest term possible, then the administrative program must be built on land ownership - a foundation that is fixed, definable, traceable and accountable. It would be a waste of time, energy, and money to do otherwise.

Sincerely,



Thomas R. Am Rhein

Cc: Angela Schroeter, Agricultural Regulatory Program Manager