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5 April 2011

Ms. Katherine Hart, Chair
Regional Water Quality Control Board, Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

Re: Irrigated Lands Regulatory Program Framework

Dear Chairperson Hart and Board Members:

As representatives of commercial and sport fishing communities in the Central Valley and throughout California, we write to encourage the Regional Board to embrace a regulatory framework that will meaningfully reduce the pollution caused by irrigated agriculture.

Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. This pollution is documented to be one of the principal causes of the collapse of Central Valley fisheries. Inexplicably, irrigated agriculture remains exempt from requirements to monitor discharges and identify measures implemented to reduce or eliminate pollution that have long been applicable to every other segment of society, from municipalities to industry to mom-&-pop businesses.

The present approach to regulating irrigated agriculture has grievously failed. After two iterations of the present regulatory scheme, the Regional Board doesn't know who is actually discharging, what pollutants are being discharged, the localized impacts to receiving waters and whether management measures (BMPs) have been implemented to reduce pollution or if implemented BMPs are effective. The Board simply cannot continue to cede its regulatory responsibilities to third-party industry advocacy groups if it hopes to succeed in reducing pollutant discharges from irrigated agriculture.

We urge the Regional Board to reject the Irrigated Lands Regulatory Program Framework proposed by staff and, instead, embrace an approach that has a reasonable chance of success. Continuing to avoid direct regulation of pollution dischargers cannot reduce the pollution of ambient waters.

Restoration of degraded waters and protection of water quality requires the following changes:

1. Eliminate third party coalitions and require instead that individual dischargers submit reports to the Regional Board identifying the location and content of discharges to both surface water and groundwater. The Regional Board has the duty to implement Porter-Cologne and to assure that farm dischargers do not pollute the Central Valley's waters. Third party coalitions add bureaucracy, obfuscate critical information the Regional Board needs to have, create permanent lobbies to weaken or undermine any true regulation of farm dischargers, and cannot be effectively enforced.

2. Monitor discharges to surface water and groundwater and the effectiveness of measures implemented to reduce pollution. The blunt fact is that water quality cannot be protected if you don't measure actual discharges to quantify pollution and evaluate the effectiveness of implemented management measures. If irrigated agriculture discharges pollution, they, like every other discharger in the state, should be required to measure what they are discharging and be able to show that their pollution is not harming any water of the State, whether the waters are flowing immediately adjacent to their fields or miles downstream.

3. Require all farm dischargers to prepare individual farm water quality management plans (FWQMPs) that identify measures implemented to reduce pollution. These plans must be made available to the Regional Board and the public. The proposed Framework fails to provide any scheme to track whether any management practices are being implemented or maintained, especially on a farm-specific basis. Nor does the Framework provide basic information about nutrients and pesticides being applied by specific farms for the Board to evaluate whether any installed measures are appropriate. The Regional Board must not tolerate another decade of delay waiting for dischargers to save the Board from its own failure to act. The Board has to stop putting off this first step and require FWQMPs be prepared by every discharger within 6 months of the termination date of the current waiver.

4. Require compliance with water quality standards in the near-term, not some uncertain distant future. Staff proposes three years to allow third-party coalitions yet another opportunity to show that whatever they are doing is resulting in implementation of effective management practices and improved water quality. The framework allows three months for coalitions to tell their existing members of the new requirements, an entire year for existing members to reconfirm their membership, and two and a half years to attract a few new members. Staff then further proposes to delay compliance by each of the categories of dischargers by another five to ten years. Given twenty-plus years of no regulation followed by seven years of failed regulation, additional delays are unacceptable.

5. Demonstrate consistency with the state's non-point source and antidegradation policies. An irrigated lands program relying upon third party coalition groups has no likelihood of ever achieving any water quality objectives. After seven years of oversight by the Regional Board, staff cannot point to a single farm that has implemented Best Practical Treatments or Controls. Staff cannot describe or quantify the management practices, if any, that have been implemented throughout the Central Valley. The data collected during the last seven-year period shows water quality continuing to be degraded throughout large areas of the Central Valley. Furthermore, we are unaware of any consequences to a farmer who did absolutely nothing for the last seven years as long as they could say they were enrolled in a coalition. As for the coalitions, the only consequences of their missing deadlines or not achieving any measurable water quality benefits is receiving additional extensions of time or weakening of requirements. They have utterly failed to facilitate implementation of controls as is required by the Non Point Source Policy.

The only way farm dischargers will recognize any consequences of not complying with conditions of an irrigated lands program is for the Regional Board to remove the coalitions from the equation and regulate the dischargers directly. The abject failure of the existing program and coalitions to regulate agricultural runoff, the largest source of water pollution in California, demonstrates that the Regional Board should move the irrigated lands program into a regulatory system similar to the industrial and construction storm water programs. We urge the Board not to abdicate its responsibility to protect the quality of water discharged from irrigated lands.

Sincerely,

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