Attachment 1 – Comment Letters

Response to Comments

Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area that are Members of a Third-Party Group

	Commenter
1	Southern San Joaquin Valley Water Quality Coalition
2	Kern River Watershed Coalition Authority (4 April 2013)
3	Kern River Watershed Coalition Authority (15 April 2013)[1]
4	Agricultural Organizations
5	Community Water Center, Clean Water Action CA, CA Rural Legal Assistance Foundation
6	California Farm Bureau Federation
7	Innovative Ag Services, LLC
8	Excelsior /Kings River Resource Conservation District
9	Arvin-Edison Water Storage District
10	Kern-Tulare Water District
11	North Kern Water Storage District[1]
12	Wheeler Ridge-Maricopa Water Storage District
13	Paramount Farming Company (11 April 2013)
14	Paramount Farming Company (15 April 2013)
15	Grimmway Farms
16	Bolthouse Farms, Inc.
17	California Grape Co., LLC
18	Val-Mar Farms, LLC
19	Munger Farms
20	Dan Andrews Farms
21	LT Farm, Inc.
22	Carreon Vineyards, Inc.
23	Leland Bell Farms, Inc.
24	South Valley Farms
25	Snell Partnership
26	AMA Pistachio Development
27	D.M. Camp & Sons
28	Stiefvater Orchards, LP
29	Gardiner Farms
30	King & Gardiner Farms, LLC
31	Pacific Ag Management Inc.
32	Rosedale Ranch
33	Sierra Land & Farming, LLC
34	Wasco Real Properties
35	Wise Farming

[1] Technical documents attached to this letter are available for download at http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/long_term_program_development/tulare_lake_basin_area_wdrs/index.shtml

36	Nickel Family, LLC
37	Giumarra Vineyards
38	Pioneer Nursery
39	NeuHouse Farms
40	John Andreas Ranch
41	Gless Ranch
42	Maricopa Orchards, LLC
43	Johnson Drilling Corp
44	Kirschenmann Farms, Inc.
45	Stull Farms
46	M. Caratan, Inc.
47	Edison Highway Ranch, LLC
48	Argo Farming Corporation
49	NJL Ranch
50	SVS Viticulture, LLC
51	Porter Citrus, Inc.
52	Lehr Brothers, Inc.
53	Handel and Wilson Farms, LLC
54	Starrh & Starrh Family Farms
55	Steven M. Goddard Company, Inc.
56	Way Gin, LP
57	Wayde S. Kirschenman, Et. Al
58	Sonshine Properties, LLC
59	Caffee Family Trust
60	Taylor Farms
61	Andrew S. Pandol
62	Donald Urfrig
63	Gwendolyn Neufeld
64	Hannah M. Neufeld
65	James K Pflugh
66	Jeff Siemens
67	Matt Pandol Jr.
68	Matthew Fisher
69	Peter Ermigarat
70	Tim Holtermann
71	Tom Fry
72	Wayne & Virginia Kirschenman

Letter 1

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April 15, 2013

VIA EMAIL

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Jennifer Moffitt, Vice Chair
Jon Costantino, Board Member
Sandra Meraz, Board Member
Carmen Ramirez, Board Member
Robert Schneider, Board Member
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Joe Karkoski
Clay Rodgers
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Rancho Cordova, CA 95670-6114

Re: Comments on the Tentative Order for Growers within the Tulare Lake Basin Area

Dear Board Chair, Board Members, Ms. Creedon, and Messers Karkoski, Rodgers, Laputz and Sholes:

The Southern San Joaquin Valley Water Quality Coalition (SSJVWQC) submits these comments on the Tentative Order for Growers within the Tulare Lake Basin Area (the "Tentative Order"). SSJVWQC is the existing third-party water quality coalition assisting growers in the Southern San Joaquin Watershed area and, at this writing, the entity that intends to submit a Notice of Intent to continue as the third-party coalition to assist its members in the Tulare Lake Watershed area under the applicable new General Order.

The SSJVWQC and its member subcoalitions have participated in many meetings with Regional staff and testified in writing and in presentations before the Board at workshops and at the hearings held in respect to the East San Joaquin General Order. Throughout all these events and in many discussions with the Regional staff, it has always been stated that there would be some general structural conformity between the several emerging General Orders; however, each would be crafted so as to reflect the characteristics of the particular coalition area. This has not 1

yet transpired in respect to the Southern San Joaquin Coalition area, as it seems this approach has been overridden by considerations of absolute uniformity and administrative convenience.

The record is very clear that the Southern San Joaquin Valley Water Quality Coalition area is unique and particularly distinguishable from the East San Joaquin River's area, and therefore many regulatory adjustments must be included to make this general order harmonize with the actual hydrology and conditions in the Tulare Lake Basin area. This would also be required for this order to be in conformity with the statutory requirements of the California Water Code (CWC). 1

This General Order is predicated on compliance with CWC section 13263, which demands consistency with CWC section 13241 so as to "ensure the reasonable protection of beneficial uses . . . however, it is recognized that it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses." Similarly, Water Code section 13050(1) defines "pollution," which is what the Regional Board is to prevent, in part as the "alteration of quality of waters of the state by waste to a degree which unreasonably affects …waters for beneficial uses" (emphasis added). CWC section 13300 also limits regulatory actions by demanding they "reasonably considering demands being made on these waters." 2

For this order to meet this reasonable test, it must reflect the distinguishing characteristics of the Tulare Lake Basin. Some of those factors which are totally inconsistent with the East San Joaquin River area are that these surface waters have few water quality exceedances attributable to agriculture, very few 303d listings and no TMDLs. Our coalition area has fully engaged water districts which have been administering the waiver and will be doing so as to the General Order. The SSJVWQC area is totally covered with SB 1938 management plans and some of the state's leading Integrated Regional Management Plans. As to groundwater, the Tulare Lake Basin has limited rain, limited irrigation volumes, few live water courses running through the coalition area, and some of the state's greatest depths to groundwater. This area leads the state in groundwater banking and in other large areas of the coalition are historic lake beds where salts have accumulated and have impacted groundwater historically. 1

In order for this General Order to meet its statutory requirement of reasonableness, certain amendments from the provisions of the General Order adopted in the East San Joaquin River area must be included in the Tulare Lake Basin order.

Follows are several points which should therefore be addressed before adoption.

I. NEW PROPOSED FINDINGS

In light of recent discussions, meetings and court decisions, some additional findings would be advisable. 3

A. The federal Clean Water Act does not regulate non-point source agricultural irrigation. The federal Antidegradation Policy does not apply to groundwater. California, through the Porter-Cologne provisions of the California Water Code and the State Water Board's Antidegradation Policy of 1968 and Non-Point Source Policy, do extend to groundwater. These emerging General Orders are, therefore, the state's initial regulatory effort to deal with agricultural irrigation influences on underlying groundwater. The Central Valley region involves some 8-9 million irrigated acres encompassing over 35,000 farmers operating hundreds of thousands of farm fields. This initial regulatory effort constitutes an aggressive regulatory process, which will over time build on these initial regulatory provisions as further information is gained and additional efforts can be targeted. This is a massive regulatory effort to deal with the nation's initial effort to regulate agricultural irrigation drainage.

B. The Order is an aggressive approach to prohibit the discharge of waste to groundwater.

C. The Order relies on a mix of groundwater monitoring of existing wells in all areas of the coalition and targeted shallow monitoring wells linked to the evaluation of management practices associated with the hundreds of commodities grown in the Tulare Lake Basin.

D. The groundwater trend monitoring provisions couple with management practice implementations and additional targeted groundwater monitoring as an ambitious first regulatory step to assure no further degradation of groundwater. 3

E. The Order advances a multi-faceted regulatory program involving trend and targeted groundwater monitoring, coupled with identification of Best Management Practices to ensure Best Practical Treatment and Control.

F. The Central Valley of California is renowned worldwide as the most productive food production region of the world. Agriculture is the principal element of California's economy and it is the lifeblood of the Central Valley. The Tulare Lake Basin contains three of the nation's four leading agricultural counties. Fresno, Tulare and Kern Counties lead the nation being the only counties in the nation each exceeding $5 billion in ag production.[1] Correspondingly, agricultural employment in the San Joaquin Valley generally exceeds 220,000.[2] The region is unparalleled in food production, economic contribution and rural employment; therefore, maintaining the region's viable agricultural industry is of maximum benefit to the state's public interest.

[1] California County Agricultural Commissioners Reports 2011 (published December 17, 2012).
[2] North American Industry Classification System Reports of California EDD.

II. WASTE DISCHARGE REPORT – GENERAL ORDER - FINDINGS

1. Pages 1 and 2 - All Irrigators are not Dischargers.

The Tentative Order seems to asserts, without evidence or scientific support, that all irrigators are potential dischargers of waste to groundwater, regardless of soil types, depth to usable groundwater, field practices and other conditions. The Kern subcoalition has recently arranged for several experts to submit data and testimony to this Board, specifically indicating that in many areas of our coalition it takes 50 or more years for any irrigation water to descent to aquifers and in other areas it is unlikely that such "discharge" ever occurs; therefore, the Board has either limited or no jurisdiction over these areas. The Regional Board must provide evidence to support this assertion of discharge to waters of the state and, without it, prescribe conditions that scientifically support the surface to groundwater connection. 2

2. Page 1, Footnote 1; Page 2, Finding 6 – Waste.

Finding No. 1 references that the Tentative Order applies to "waste" discharges. Footnote 1 provides that Attachment E defines the term "waste". Attachment E provides that the California Water Code defines "waste" in section 13050(d). Attachment E, however, goes well beyond statutory definition of "waste", and therefore is not the definition that is being used in the General Order. The Water Code defines "waste" as

> includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.

The Tentative Order, however, expands that definition of "waste" so as to include 4

> earthen materials (such as soil, silt, sand, clay, rock), inorganic materials (such as metals, salts, boron, selenium, potassium, nitrogen, phosphorus), organic materials such as pesticides, and biological materials, such as pathogenic organisms. Such wastes may directly impact beneficial uses (e.g., toxicity of metals to aquatic life) or may impact water temperature, pH, and dissolved oxygen.

The Board has not provided the basis and authority for departing from the definition of waste provided by the Legislature in the Water Code. SSJVWQC requests that the Board present the authority that allows it to circumvent the State Legislature so that the public may review and comment.

Further, the definition of "waste" in the Tentative Order is ambiguous. The definition does not explain how or when sediment, nitrate or any other constituents become a "waste." If the constituent does not exceed the Basin Plan objective or trigger limit, does the Tentative Order label it a "waste"? These points need to be expressly identified and clearly stated in the General Order. 4

If the surface waters applied for irrigation of crops does not contain a constituent that exceeds the Basin Plan water quality objectives, or if such discharge is not classified as a "waste" as defined by Porter-Cologne [CWC, § 13050(d)], there seems to be no authority for the Regional Board to regulate or require a report of waste discharge, nor is there authority for the Board to control a landowner's operations.

3. Page 2, Finding 5, and Footnote 2 – Scope.

Finding 5 provides that the Tentative Order does not "regulate water quality as it travels through or remains on the surface of a Member's agricultural fields or the water quality of soil pore liquid within the root zone?" Footnote 2 provides that "[w]ater that travels through or remains on the surface of a Member's agricultural fields includes ditches and other structures (e.g., ponds, basins) that are used to convey supply or drainage water within that Member's parcel or between contiguous parcels owned or operated by that Member." Footnote 2 is helpful, but may remain somewhat ambiguous as to its trailing language, "owned or operated by that member." That should not be construed to mean the structure must only be owned by a single member. 5

Additionally, manmade conveyance structures, distribution systems, ancillary structures and canals are not waters of the state, irrespective of their size. If a farm has large retention ponds, or wide conveyance canals or distribution systems, that does not change their character as farm distribution or ancillary irrigation structures. Accordingly, the Tentative Order should state that it does not apply to manmade conveyance structures, distribution systems, ancillary structures and canals.

4. Page 3, Finding 12 and Attachment A, Page 24 – Small Farms.

We support the additional flexibility afforded the small farmers. Care should be given, however, to assure this now bifurcated system has the time deadlines sequenced so that this does not create unreasonable duplicative obligations on the coalitions at the same or overlapping times. 6

Additionally, the acreage and grower figures in Finding 12 should fully harmonize with the cost figures in Finding 39, addressed below.

5. Pages 3 and 4, Findings 13 and 14, (also Page 24, Section VII.A. on Reports).

There are nearly two million irrigated acres in the Southern San Joaquin which will have to be brought into the Regional Board's jurisdiction and this ILRP for the very first time. This is equivalent to the total size of the East San Joaquin, the San Joaquin and Delta, and the San Joaquin River Coalition combined areas. This effort is unique to our coalition, and is over and above the efforts of signing up the existing members. This will require extraordinary efforts by the coalition, and calls for total coordination and joint effort with the Regional staff. Therefore, this requirement needs to be afforded at least 180 days. We appreciate the proposed amendment to extend the member sign-up to 150 days; however, that is still insufficient and will merely result in many (perhaps hundreds) of operations being outside the coalition and order's coverage, and therefore those properties will become the responsibility of the Regional staff to impose individual WDRs on those operations, many of which will be very small operations. 7

6. Page 5, Finding 17 - Nitrate Exceedances.

Nitrates should not generally be classified as contaminants unless they cause or contribute to an exceedance of a water quality objective in a water of the state as so stated. It should also be balanced, however, by also stating that nitrate is the most essential nutrient for life and growth and that nitrogen is the most prevalent element in our atmosphere. 8

We have no problem with the first several lines before the footnote, which factually reflect the objective levels. The language which follows the footnote is background only, rather than a statement of the objective. That language should be in a separate paragraph or separate number altogether.

7. Page 6, Finding 21 - Section 13267 Reports.

Under Porter-Cologne, the Regional Board, or the Executive Officer through its delegated authority, have the authority to require technical reports, as necessary, under section 13267. However, section 13267 is not without limits. When the Regional Board is issuing such an order, section 13267 requires the Regional Board to show "[t]he burden on discharges of the Order, including costs to develop these reports which must bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring these reports, the statute compels that the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person provide the reports." (Wat. Code, § 13267(b)(1).) These requirements should be reflected in Finding 21. 9

8. Page 6, Finding 22 - Vulnerability.

We support the amendment clarifying that it is the coalitions who are charged with identifying their high vulnerability areas. The language can be read, however, that this is a false give as the revised language gives the Executive Officer total discretion to set these areas. Language needs to be added stating that, "the Executive Officer, upon review and making a finding that the proposed high vulnerability area is significantly inadequate, may make an amendment." 10

9. Page 7, Finding 24 - Water Quality Objectives.

The confusion as to the proper EC objective level needs to be clarified such that the general objective is 1000 EC unless there is a sensitive crop in the area, where the level would then be 700. Also, such sensitive crops need to be expressly identified.

The Tentative Order also need to include a provision to provide relief from several provisions of the Tentative Order dealing with groundwater for those areas where groundwater already exceeds water quality objectives and for water for which there is no actual beneficial use. 11

10. Page 9, Findings 34, Page 11, Finding 39 – The Inadequate EIR Alternative. Adoption.

Finding No. 34 and 39 incorrectly state that there were "2-6 alternatives in the EIR". This is expressly false, as only five alternatives were advanced and reviewed. This fact is well known by staff; however, they insist on continually advancing this falsehood. As the Board is aware, this matter is presently before Superior Court Judge Frawley, and his tentative order, the discussion at hearing and his supplemental brief order all indicate the EIR will be overturned expressly on this point and it will be required to recraft this EIR accordingly. 12

11. Page 10, Findings 37 and 38 – High Quality Water.

In 1968, the State Board wanted to provide special protection for the state's pristine "high quality waters," as distinct from mere "quality waters," which would be those represented by waters meeting the Basin Plan standards. For those pristine high quality waters, the antidegradation policy provided for specific regulatory efforts. This General Order should identify those waters which are classified as high quality, and those which are only quality waters. Certainly, the ag water in our distribution, conveyance and drainage systems are not pristine high quality water. Our Tulare Lake basin plan expressly states that some surface waters are not even suitable for some beneficial uses and it is widely recognized that much of the Southern Valley's ground water is not high quality. Consequently, these 1968 high quality waters must be specified. 13

12. Pages 10 and 11, Finding 39 – New Costs of Compliance.

Each recent version of the General Order has presented different figures for new costs associated with the new General Order. The actual EIR economic analysis targeted that this would require a new cost of $19 per acre. We have previously indicated that this $19/ac is under-evaluated. This most recent finding asserts that some $15.87 is presently borne for the current surface water waiver. This is certainly not true even where the surface water program applies, and our coalition has well over a million acres which are not in the existing program, which totally belies this analysis. All costs will be new as to those farmers. 14

There is also a discrepancy between the finding language and recent representations made at our sessions with Regional Board staff. It was represented that this cost finding anticipates only the costs of the third party coalitions and not the overall farmer compliance costs. Our sub-coalitions have analyzed these additional coalition costs of this new General Order and believe these new coalition costs will initially be between $4 and $5 per acre. The actual text language, however, asserts that these figures also cover the grower compliance for new monitoring wells and implementation of management practices. This is totally untrue. Such compliance costs are over and above the coalition costs addressed by this finding.

13. Page 11, Footnote 12 – Manner of Compliance.

This footnote is appropriately added and we concur that the Water Board cannot dictate to farms the specific manner of compliance with water quality objectives.

14. Page 11, Finding 39 – CWC Section 13141 Applicability.

Section 13141 of the Water Code states that "prior to implementation of any agricultural water quality control program, an estimate of the total cost of such a program, together with an identification of potential sources of financing, shall be indicated in any regional water quality control plan." (Wat. Code § 13141.) The fact that the long-term irrigated lands regulatory program is being implemented through a series of waste discharge requirements does not negate the applicability of section 13141 of the Water Code. Regardless, the costs of this program are significant and need to be considered by the Regional Board in its adoption of the Tentative WDR and all its requirements. By the Board's own assertion, thousands of acres would be regulated out of business, and the real costs will augment that impact greatly. 15

15. Page 12, Finding 42 – CV-SALTS.

The CV-SALTS process is not a codified regulatory program; therefore, it is improper to state that this order would be amended to conform to actions of an unofficial stakeholder process. The statement that salts and nitrates are "increasing" in the region, is not believed to be universally true, therefore it is improper to include that statement in a Finding. 16

Lastly, the proposal identified "reduction of salt imported with out-of-basin water supplies" as the only remedial option is inadequate. It should at least also identify salt disposal as an important remedy option. 16

16. Pages 12-13, Finding 44 – Coordination with the Dairy Order.

There has been considerable uncertainty regarding the interface of the Dairy Order and the existing ILRP waiver. This has been particularly evident involving the dairy operations' farm properties, whether they spread manure on such property or not. It has been stated by staff that the Dairy Order would be amended to require similar testing for constituents as required by this order, but that has yet to be accomplished by the Board. 17

17. Page 14, Findings 50 and 51 – Enforcement.

These Findings regarding enforcement clearly indicates that the Regional Board intends to hold growers responsible for meeting water quality objectives at the end of the field, and that the failure to do so will result in a priority enforcement action. End of field discharge limitations are not, nor have they ever been, appropriate waste discharge requirements. Such limitations are unreasonable and fail to comply with the Legislative intent of Porter-Cologne. By creating such limits here, the Regional Water Board is embarking on a completely different regulatory program than that which was evaluated in the Programmatic Environmental Impact Report, or as is conveyed publically to growers and Regional Board members. This is merely one example where the staff alternative adopted by the Regional Board went well beyond the five alternatives reviewed in the EIR.

18. Page 15, Finding 51b - Edge of Field Discharge.

Regulation at the end of the field is inappropriate and exceeds the Regional Board's authority. First, the Porter Cologne Water Quality Control Act (Porter-Cologne) states that "activities and factors that may affect the quality of the waters of the state shall be regulated to attain the highest water quality which is <u>reasonable, considering all demands</u> being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible." (Wat. Code, § 13000.) Regulating water quality directly at the end of the field is NOT reasonable and directly violates the legislative intent with respect to Porter-Cologne control of non-point discharges. Second, waste discharge requirements must be related to the conditions in the receiving waters upon or into which the discharge is made, or is proposed. (Wat. Code, § 13263(a).) Irrigation return flows or stormwater leaving a field may or may not discharge to or affect a water of the state. This is particularly true of the SSJVWQC coalition where about half of the irrigated lands do not drain to surface water and many of our irrigation wells exceed 800 feet. Accordingly, it is inappropriate to set forth requirements that specifically apply to water leaving the field. 18

III. WASTE DISCHARGE REPORT PROVISIONS

19. Page 18, Section III.A. and B. – Grower Responsibility for Each Molecule. Page 18, Section III.C - Ensure

The language "cause or contribute" to an exceedance is overbroad. It should state merely "cause" because a single molecule or grain of sediment would be a "contribution" to the exceedance, and that should not make a farmer wholly responsible. The "contribute" language is apparently sourced from non-applicable provisions of federal regulations and must be stricken. There is no federal or state law that compels this "no contribution" provision. If the groundwater is at its objective level, no further contribution would be allowed. If the groundwater is not at its objective level, then any contribution which does not exceed the objective would be lawful. 19

The word "ensure" in III.C. requires a "guarantee," which is an unreasonable standard to utilize in this context. At our recent meeting, staff seemed open to more reasonable terms.

20. Page 19, Section IV.B.6. – Sediment.

Add the clarifying words "as a result of irrigation" to the following quote: "All Members shall implement effective sediment discharge and erosion prevention practices to minimize or eliminate the discharge of sediment above background levels <u>as a result of irrigation</u>." 20

21. Pages 21-22, Section IV.C.9 – Coalition Reporting/Enforcement.

This section is a serious overreach as it compels coalitions to assume the reporting/enforcement of the General Order. Since the outset of the Region's ag waiver in 2004 it was a fixed agreement that the coalitions will not be the enforcing agency. The first phrase (reporting on the members implementing farm practices) will not be known by the coalition and they should not be the farm cop. The second phrase (report on farmers failure) is also likely unknown and it is improper to call for the coalitions to be the general order police. The forth and new provision calls for conformation of participation at meetings. This is inconsistent with section IV.B.4. and this should be modified to be consistent therewith. The coalition will not know all the water training sessions the farmer will attend as many different parties will conduct these sessions. 21

22. Page 22, Section IV.C.11 - Requirements for the Third-Party Group – Fees.

The present language states:

> Collect any fees from Members required by the State Water Board pursuant to the fee schedule contained in Title 23 CCR. Such fees shall then be submitted to the State Water Board. The fees invoiced by the State Water Board will be based on the Membership List submitted by the third-

> party group. The third-party group is responsible for ensuring the Members identified in the Membership List have provided their required portion of the State Water Board fees.

21

The coalition is only the depositary for required fees submitted; but is not the collection agency for the State Board. The coalition remits to the state those fees paid through them. The Member is the responsible party for paying the fee. Therefore, the State should act as a collection agency not the coalition.

23. Page 22, Sections V.2, 3, 4 – Effective Dates.

The initial enrollment period needs to be extended from 150 days to 180 days. The SSJVWQC will have to enroll from one to two million irrigated acres that have not previously been subject to these Regional Board Orders. (See point 5 above.)

7

24. Page 24, Section VII.A. - Required Reports and Notices-Members.

The Notice of Confirmation/Notice of Intent/Membership Application language should be modified as follows:

> "Beginning 180 days after the Executive Officer issuance of a NOA to the third party, any growers within this Order's boundaries that are not yet Members of the third-party or a Coalition governed by the Coalition Group Conditional Waiver must submit…"

We should also add a new provision on page 24:

> "Any landowner or grower that either regains control or acquires control through a leasehold interest for land previously covered by this Order may be covered by providing within 180 days a completed membership application to the third party containing the information and certifications required in Section VII A. 2."

22

25. Page 26, Section VII, C.1. – Sediment Control Plan.
Page 26, Section VII, D.1.c. – Low Vulnerable Area Reports

The Sediment Water Management Plan (SWMP) is a new requirement which has not had sufficient discussion or understanding on what triggers the report or as to its content. It is peculiar that the small farmers in low vulnerable areas have only one year to submit their plans. This period should be lengthened. We appreciate the amendments to the plan requirements and the self-certification provisions.

23

As to reports by members in low vulnerable areas, it seems it is regulatory overreach to identify areas without significant contribution to nitrate groundwater problems and notwithstanding require them to prepare the same burdensome reports on nitrates as areas associated with nitrate problems. 24

26. Page 29, Section VIII.C. – Required Reports and Notices – Third Party.

These templates are now to be developed by the coalitions as is reflected in section C.1. It is appropriate for the coalitions, coordinating together, to develop these templates. (See our detailed discussion under the MRP, points 37, 38 and 39.) The MRP language is problematic as staff have now inappropriately reversed their position on these templates several times.

27. Pages 29 - 31, Section VIII.D. and Footnote 26, Page 32 – Groundwater Quality Management Plans.

It is unclear as to what constitutes a groundwater exceedance. It should be made clear that for this Order a groundwater exceedance is limited to a drinking water nitrate basin plan exceedance when it reaches a usable aquifer.

Groundwater quality conditions are contributed to by widespread non-point sources over wide geographical areas, perhaps far removed from the monitoring point, and perhaps many years prior. Therefore, they do not lend themselves to the same "management plan approach" as surface water.

25

The Trend Groundwater Monitoring Program is designed to determine baseline quality of groundwater in the third-party area, and to develop long-term groundwater quality information that can be used to evaluate the regional effects (i.e., not site-specific effects) of irrigated agriculture and its practices. Long periods or many decades may be needed depending on the hydrogeologic setting. Groundwater trend monitoring describes water quality results collected over a long period that are symptomatic of practices associated with regional land uses. The groundwater actually measured may have sourced many miles away, some 20 to 30 years previous.

The groundwater plans should identify areas where the coalition should concentrate its efforts on education and outreach to its Members, as well as identifying appropriate management practices for implementation. These areas would be prioritized based on a number of factors, including but not limited to, groundwater monitoring information, locations to urban areas, constituents of concern, and other influences.

28. Page 31, Section VIII.H.1. – SQMP/GQMP.

The second paragraph calls for the coalition to also submit their SQMP/GQMPs dealing with salt or nitrates to the CV-SALT Program. It is improper for a regulatory program to compel coalition or farmer filings to an unofficial non-regulatory group. (See point 15 above.) 16

29. Pages 32 and 33, Sections VIII.H.2 and 3 - SQMP/GQMP - Aquifer Ambient Conditions.

The following sentence should be added at the end of the section:

> "A GQMP may not be required if the Executive Officer determines that ambient background water quality exceeds (is better than) water quality objectives or if the beneficial uses have been de-listed through the Basin Plan amendment process." 16

30. Page 34, Section IX.2. – Reporting Provisions.

It needs to be clarified that the third party coalition managers are authorized to sign such reports.

31. Page 34, Section IX – Filings by Members.

This provision calls for the members to file reports. It does not, however, appear that the members are required to directly file <u>any</u> reports to the Board. If that is now not the case, why have this provision? 26

32. Page 34, Section IX.3. – Certifications.

The certification language raises particular problems in light of the extensive amendments in the General Order. The first clause of the second sentence should be eliminated as it would compel the coalition to affirmatively "inquire of the member farmers" as to their filed information. This is an unnecessary and problematic clause. Therefore, strike these words.

33. Page 36, Section XII. – Time Schedule.

The regulatory requirement that all surface and groundwater tests must not exceed required standards within ten years is unreasonable as to surface water and is totally improper as to groundwater. That has been directly expressed in the Harter report, and elsewhere, where he has publicly recognized these types of regulations will not have favorable impact on aquifers for perhaps 40 years. The ten-year restriction must be amended. 27

Irrigated agriculture is in compliance with water quality objective limitations if its discharges are not the principal cause, or do not significantly contribute to water quality

objective exceedances even if the surface water or groundwater in question does not meet applicable water quality standards. The time schedules for compliance must also be specifically related to causing or significantly contributing to exceedances and not guaranteeing full compliance in the receiving water itself. 27

34. The Water Code Prohibits Unreasonable Regulations.

Throughout the Porter-Cologne Act, there is an underlying requirement of reasonableness to the regulation of water quality in the state. For example, under section 13300, the State may only regulate water quality "reasonabl[y], considering all demands being made and to be made on those waters." Similarly, under section 13050, "pollution means any alteration of the quality of water which may unreasonably affect" the waters of the state. While each regional board is required to ensure the "reasonable protection of beneficial uses,…it is recognized that it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses." (§ 13241 [setting forth the Act's water quality objectives].) These multiple references to reasonableness indicate the legislature's desire for moderation and balance. This General Order falls well short of that statutory requirement. 28

IV. MRP, ATTACHMENT B

35. MRP, Page 17, Section IV.A.5. – Irrigated Acres Information.

The MRP calls for the coalition to identify the commodities making up 80% of the coalition (or subcoalition) area in the high vulnerable areas. This is reasonable, but it goes on to also require review of the "irrigation and fertilization practices." It must be understood that because there would be several hundred combinations of such practices employed this report will by necessity be both general and summarized. 29

36. MRP, Pages 17 and 18, IV.B. – Achieving Objectives.

This section uses overly strong language. It requires the development of a work plan that will "achieve the MPEP requirement." It should be softened to something like "may lead to," "may," or "is likely to achieve" such requirements. 30

37. MRP, Page 18, Section IV.B.1 – Mass Balance.

The new bullet calls for calculating "mass balance models." Not only is this impossible, but is an unreasonable regulatory demand. It has also been stated in several meetings that staff would eliminate these mass loading and ratio references/requirements; however, this has not been done. In our more recent discussions with staff, they have been unable to clarify how a farmer would calculate mass balance analysis of nitrate use, uptake or loss. 31

At our most recent meeting with staff there was much confusion as to what is even to be required. Additionally, there has been no one at the Board who can even offer an opinion, much less definitively describe how the following language will be interpreted or how it can reasonably be complied with. "A mass balance and conceptual model of the transport, storage, and degradation/chemical transformation mechanisms for the constituents of concern…" 31

38. MRP, Pages 17, 18, Section IV.B.1 – Coalition MPEP.

The new language would compel reports identify site-specific and/or commodity-specific management practices. The staff continues to fail to understand that there are dozens of farm management practices, often varying between fields of the same farmer and same commodity. It is both unreasonable to require each management practice to be evaluated and nonsensical to demand some determination of each practice's connection to groundwater protection. 32

39. MRP, Pages 23, 24, Section V.C (Report 17) – Nitrogen Data.

The new language requires the coalitions to summarize several items which are excessive and unreasonable obligations. Those include:

1. Input, uptake and loss of nitrogen fertilizer.
2. Comparisons of the management of farms growing the same crops. 33
3. Summary of "nitrogen consumption ratios," "crop nitrogen needs."
4. Nitrogen conservation ratio (total nitrogen available vs. crop consumption).

It then requires summarizing at the township levels. Township summarizing is the right level, but the four components above are excessive.

40. Attachment E, Page 5, Section 39 – Subsidiary.

What is the purpose of the detailed definition of a subsidiary operation? 34

41. Attachment E, Page 5, Section 41 – Surface Water.

This definition of surface water points out that this may include waters in the agricultural drains and agricultural dominated waterways and irrigation channels. It needs to be recognized, however, that most of these surface waters are not waters of the state and therefore not subject to this General Order. This needs to harmonize with point 3 above. 5

42. Attachment E, Page 6, Section 47 – Waste. 4

See our comments in point 2 above.

Sincerely,

William J. Thomas
for BEST BEST & KRIEGER LLP

WJT:lmg

Letter 2

Kern River Watershed Coalition Authority

A joint powers authority to serve as coordinator and coalition group under the Irrigated Lands Regulatory Program in the Kern River watershed portion of Kern and Tulare Counties

Business Address:
c o Rosedale Rio-Bravo Water Storage District
P.O. Box 20820, Bakersfield, CA 93390-0820
661-589-6045

Financial Address:
c o Wheeler Ridge-Maricopa Water Storage District
12109 Highway 166, Bakersfield, CA 93313-9630
661-858-2281

President: Eric Averett
Vice-President: Jason Gianquinto
Treasurer: Robert Kunde
Secretary: Lori Honea

APRIL 4, 2013

VIA EMAIL TO:
dsholes@waterboards.ca.gov

Karl Longley, Chair
Jennifer Moffitt, Vice Chair
Jon Costantino, Board Member
Sandra Meraz, Board Member
Carmen Ramirez, Board Member
Robert Schneider, Board Member
Pamela Creedon, Executive Officer
Clay Rodgers, Assistant Executive Officer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

Re: Kern River Watershed Coalition Authority/Request for Cessation of Comment Period and Further Processing of Proposed General Order for Growers within the Tulare Lake Basin

Dear Board Chair, Vice Chair, Members, Ms. Creedon and Mr. Rodgers:

On behalf of the Kern River Watershed Coalition Authority ("Authority"), I write this letter to respectfully request that the Regional Board suspend further processing of the proposed General Order for the Tulare Lake Basin Area pending compliance with the California Environmental Quality Act by way of a Return to the Writ of Mandate to be issued shortly by Sacramento Superior Court Judge Timothy M. Frawley.

As the Board is aware, Judge Frawley's Tentative Ruling grants significant portions of the relief sought by both the California Sportfishing Protection Alliance and the San Joaquin County Resource Conservation District in their respective Petitions for Writ of Mandate. It is apparent, by any account of the proceedings on Friday, March 29, 2013, that the Court is likely to issue a Writ which is consistent with (or even expands upon) the grounds for relief sought in the respective petitions. This will necessitate significant revisions to the PEIR as well as the Irrigated Lands Regulatory Program itself. 1

It is also worth noting that the Tentative Ruling contemplates issuance of a Writ of Mandate commanding the Board to prepare, circulate and certify "**a legally adequate**

EIR…before proceeding with any additional project approvals". (Tentative Ruling p.22) (emphasis added). Certainly, continuing the process of drafting, circulating, soliciting public input and responding to comments on a series of proposed General Orders which themselves recite full CEQA compliance constitutes "proceeding" with additional project approvals, and is manifestly inconsistent with the Court's ruling.

1

In light of the above, and in order to eliminate any perception that the PEIR is little more than a post-hoc rationalization of a predetermined result, the Board should immediately suspend processing of the proposed General Order until it has satisfied the requirements of the Writ of Mandate, and made such revisions to the overall Irrigated Lands Regulatory Program as are necessary in light of the Court's ruling and the revised PEIR.

The Authority has expended thousands of hours, and significant funds, in responding to and commenting upon the proposed General Order. With the deadline for public comment less than two weeks away, and significant work to be performed by our consultants, we see little value in commenting upon an order which will almost certainly be significantly revised. It is a waste of scarce resources, on the part of all parties, to continue the current effort.

Accordingly, we would respectfully request the immediate cessation of processing of the proposed General Order for the Tulare Lake Basin Area pending compliance with the California Environmental Quality Act and the Return to the Writ of Mandate. Thank you for your time and consideration of this request. We look forward to your prompt reply.

Sincerely,

Eric L. Averett, President

Letter 3

APRIL 15, 2013

VIA EMAIL TO:
dsholes@waterboards.ca.gov

Karl Longley, Chair
Jennifer Moffitt, Vice Chair
Jon Costantino, Board Member
Sandra Meraz, Board Member
Carmen Ramirez, Board Member
Robert Schneider, Board Member
Pamela Creedon, Executive Officer
Clay Rodgers, Assistant Executive Officer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Chair, Vice Chair, Members, Ms. Creedon and Mr. Rodgers:

Introduction/Summary

As you are aware, the Kern River Watershed Coalition Authority ("KRWCA") is a joint power authority comprised of most of the agricultural water districts within that portion of Kern County that would be subject to the above referenced draft order, including portions of southern Tulare County within multi county districts. It administers the existing surface water program under the Coalition Group Conditional Waiver for the Kern River Sub-watershed ("Kern") of the Southern San Joaquin Valley Water Quality Coalition ("SSJ Coalition"), of which we are a part. The Kern area includes the watershed areas of the Kern River, Poso Creek, Rag Gulch and White River.

This letter consists of two separate parts. In the first section of the letter, we will address the unique characteristics of the Kern sub-basin, and how those unique characteristics render the proposed General Order both unnecessarily costly and ineffective from a regulatory standpoint. In the second section of the letter, we will briefly summarize how the Nitrate Hazard Index ("NHI"), which is more specifically described in Dr. Joel Kimmelshue's report, is a more effective tool for characterizing each and every parcel of land within the Kern sub basin, and prioritizing the regulatory scheme. We specifically propose the use of the NHI to exempt from the General Order those parcels with little or no potential to negatively impact groundwater, and the implementation of the NHI as a "pilot project" which can be used for future comparison with the general orders issued in other regions.

For sake of brevity, we incorporate by reference the comments submitted by the SSJ Coalition, dated April 15, 2013, and supplement them as follows, as it relates to the Kern area. This letter

further supplements our letter of August 10, 2012 regarding an earlier draft of the proposed Order.

The KRWCA and its public agency water districts are concerned with water quality in our area. After all, it is our landowners and residents that drink the water and use it for beneficial uses outside of agricultural uses. Our member districts have for many decades been engaged in monitoring of groundwater levels and quality and have implemented some of the most state-of-the-art water management and water banking programs within the State. As the local officials charged with managing water resources in Kern, we are the best prepared to address water quality issues in our area and are doing so.

We have provided extensive comments and technical information in the past, including our letter of August 10, 2012 on a draft very similar to the Tentative Order, and provided expert testimony at the November 30, 2012, workshop in Bakersfield, along with verbal testimony and information at various workshops and meetings. The Board and staff in public meetings have provided assurances that different situations in the Central Valley will be taken into account and that a "cookie cutter" approach will not be followed. Unfortunately, that is absolutely what is presented in the Tentative Order—a draft that is almost identical to the Order adopted for East San Joaquin watershed, with apparently no further consideration of the significant information we and others in the SSJ Coalition have presented.

Our consistent position has been that the Order should be based on sound science and be practical and cost effective to implement. As will be demonstrated below and in the Exhibits hereto, the Tentative Order is not based on sound science and will result in unnecessary regulatory costs without meeting the objective to protect water quality. Below we will provide for your consideration an alternative approach that we believe is more workable for Kern and based on sound science. 1

As we have previously noted, this **Tentative Order appears to be a "rush to regulate".** Normally, to solve a problem, the first step is to educate others affected as to the existence, extent and gravity of a problem. This would usually be followed by a request for input and suggestions from those affected as to how to solve the problem. Voluntary attempts to solve the problem would then be encouraged. If these voluntary approaches do not work, then it would be time to ask for or propose regulation. The Regional Board has followed none of these preliminary steps. Aside from the November 30th workshop (and we appreciate you accommodating our request in that regard) the only interaction with the agricultural community in the KRWCA area to date has been initiated by us.[1]

[1] Further evidence of the Board's apparent rush to regulate is found in its refusal to suspend, even temporarily, the public review process for the Tentative Order in light of Judge Frawley's Tentative Ruling granting significant portions of the relief sought by both the California Sportfishing Protection Alliance and the San Joaquin County Resource Conservation District in their respective Petitions for Writ of Mandate. The Court is likely to issue a Writ which is consistent with (or even expands upon) the grounds for relief sought in the respective petitions. This will necessitate significant revisions to the PEIR as well as the ILRP itself.

Background—Characteristics of the Kern Area

There are approximately 1,000,000 irrigated acres in the Kern sub-watershed area, of which approximately 325,000 acres are enrolled in the present surface water program under the Conditional Waiver. The limited area under the present surface water program is because there are very few streams and creeks in our area (and is probably "overly inclusive" as many growers out of an abundance of caution enrolled in the waiver program that probably didn't need to). The present surface water program is successfully being implemented. We have actionable "exceedances" only in one area and for that area a Management Plan has been approved by the Regional Board and is being implemented.

Other distinguishing characteristics of the Kern area include:

1. We have some of the most advanced and clearly the largest water banking projects in the world in Kern. (Attached as **Exhibit A** is a map showing the location and general characteristics of each.) Some of these projects are "partnerships" with urban agencies throughout the State. Some of the projects involve pumping stored groundwater back to facilities owned and/or operated by the State of California and the Federal Government. All return water is already subject to guidelines to insure that it meets water quality criteria developed by the respective agencies. The fundamental purpose of these banks would be threatened by the intrusion of poor quality groundwater. This clearly creates motivation within Kern to protect our groundwater quality. It is also noted that banking programs cause increased horizontal flows adding complexity to any groundwater monitoring program (See Exhibit D, p. 4-4). 1

2. There are a few areas (approximately 4% of Kern area water systems serving about 0.2% of the overall population) on the valley floor, where communities have drinking water systems which have delivered water that exceeded the nitrate MCL since 2005. In conjunction with EPA's Safe Drinking Water Search (SDWIS) database and the California Department of Public Health (CDPH), we have compiled a table, attached as **Exhibit B,** summarizing water systems within the KRWCA area with reported nitrate MCL exceedances in the last seven years, along with resolution of each, if known.[2] In several instances, these issues have already been addressed and <u>in all cases a solution has been identified</u> and CDPH or the County are working with the system operators to implement the solution. Fortunately in Kern, most of our population is in larger metropolitan areas or towns where there has been adequate funding to address water quality issues, although the record will show most of the problems are for constituents other than nitrates. We are prepared to assist with resolution of any remaining issues. "Bottom line", this multi-million dollar per year regulatory program will do very little if anything to provide safe drinking water to our residents!

3. In areas where drinking water sources have in the past had higher nitrate levels exceeding the MCL, it is evident that much of that "pollution" came from sources other than agriculture. The most significant area of nitrates in drinking water is the Rosedale area,

[2] There have been several instances where inaccurate reports and press releases concerning conditions in the Kern sub-watershed have been published—this information is accurate as recently verified by the affected agencies.

generally west of the City of Bakersfield, which for the most part is in an unincorporated non-sewered area, with residents relying on septic systems. This has been substantiated by the Kern County Public Health Department.

4. Essentially the entire Kern sub-watershed is "covered" with organized water and similar districts and agencies (see attached map), those being the members of the KRWCA. All of these agencies manage groundwater as part of their responsibilities, to the extent that they have usable supplies. Most of them have long adopted AB 3030 or SB 1938 groundwater management plans that include groundwater quality monitoring components (the only districts without such plans are the Westside districts as they have no usable groundwater). 1

We also note, although not unique necessarily to our area, to the extent the Regional Board and staff may place any reliance on the report entitled "Addressing Nitrate in California's Drinking Water" (Harter and Lund, January, 2012), many of the assumptions and calculations in that report are clearly in error. Please refer to our letter of May 23, 2012, to the State Board providing our preliminary review, a copy of which is attached as **Exhibit C**. 2

It should also be noted that in limited areas of the Kern sub-watershed, as an example the historic Buena Vista and Kern Lake bed region, high salinity shallow groundwater is present due to the accumulation of salt over the millennia. This accumulated salt in the lake bed(s) deposits and shallow groundwater is due to the very thick stratified layers of heavy clay soil, closed nature of the basin(s) and the past evaporation of water. The clay and other fine-grained layers are effective confining beds that limit the downward flow of water to greater depths. Because of these features, the first encountered groundwater is very shallow (6 to 20 feet below surface) and is very saline, yet due to the arbitrary MUN beneficial use classification of this groundwater, operators in the areas will be subjected to burdensome regulatory oversight, including but not limited to monitoring and reporting requirements.

Shortcoming of Tentative Order as Applied to KRWCA.

We have retained Robert M. Gailey, P.G., C.HG. of the Source Group, Inc, and Dr. Joel Kimmelshue of NewFields Agricultural and Environmental Resources to evaluate the Tentative Order and provide recommendations. You heard their preliminary results at the November 30th workshop in Bakersfield. Attached as **Exhibits D and E** are their respective final reports. We will summarize their recommendations for an alternative regulatory program for Kern below. First we summarize their findings as to the unique conditions in Kern: 1

In summary, Mr. Gailey notes:

1. "From a hydrogeologic perspective, the KRWCA area is notably different from the other parts of the Tulare Lake Hydrologic Region (TLHR) and also the East San Joaquin Watershed (ESJW) . . ."(p. 2-1). In particular he points to (a) much less rainfall, (b) much greater groundwater recharge and extractions, (c) significantly greater groundwater depths than to the north, and (d) less pronounced nitrate impacts than to the north (p. 3-3);

2. In part because of significantly deeper groundwater in Kern, there are significant transit times between surface water application and any changes in groundwater quality (p. 4-1/2). He calculated the following average depth to groundwater (p. 3-4):

East San Joaquin Watershed	88'
Kings Subbasin	87'
Kaweah subbasin	102'
Tulare Lake Subbasin	77'
Tulare subbasin	159'
Kern Subbasin	**265'**

3. About 85% of the groundwater in the Kern area is at depths greater than previous studies cited in the draft Order as the basis for the regulation (p. 4-1, Figure 11). 1

In summary, Dr. Kimmelshue notes:

1. "For a variety of reasons (e.g. water availability, water cost, soil type, crop mix, market conditions, effective rainfall, etc.) the relative water use and nitrogen use in the Kern Sub-Basin is generally more efficient as compared to other areas of the Southern San Joaquin Valley and the remainder of the Central Valley as a whole. This is also supported by research conducted by others. . .." (p. 1-2) He notes that average annual precipitation is as follows (p. 45):

Sacramento	18.7"
Merced (in ESJ watershed)	13.1"
Fresno	11.1"
Bakersfield	6.5"

2. "A preliminary NHI [Nitrate Hazard Index] was developed for the Kern Sub-Basin (specific to its conditions) and compared to previous years. In relative comparisons, the potential for nitrate leaching [in the KRWCA area] has decreased significantly over the past 20 years <u>and in many areas is negligible</u> due to the rapid conversion to highly-efficient irrigated perennial crops from historic surface irrigated row and field crops." (p. 3, emphasis added) 3

3. "In general, results confirm that perennial crops on high efficiency irrigation systems (common to the Kern sub basin), result in limited return flows to groundwater. Largest return flows occur under corn/wheat, sudan/wheat or alfalfa crop rotations that are commonly associated with feeding operations for dairies. The majority of these systems are currently regulated under the Dairy General Order (2007-035)." (p. 3) 1

In addition to their descriptions of the unique characteristics of the KRWCA, Messrs. Gailey and Kimmelshue describe various shortcoming of the Tentative Order, at least in so far as meeting what we understand to be its principal objective, to protect water quality.

Mr. Gailey notes, among other things that nitrates residing in the unsaturated zone are a significant ongoing and legacy source for years to come, regardless of current farming practices (p. 4-2/3). He also concludes the Tentative Order would result in significant costs (with 4

KRWCA area costs being significantly higher because of deeper groundwater), and not achieve the objectives of the draft Order (p. 4-5). He concludes, "A trend monitoring program conducted under such conditions cannot meet the monitoring goals of the tentative order because there is a temporal disconnect between actions at ground surface and reactions in groundwater located at depth. Changing current irrigation and fertilization practices cannot affect what has occurred in the past" (p. 4-2). 4

Dr. Kimmelshue notes, among other things that the Nitrate Hazard Index (NHI), which he describes in great detail, is more reflective of what potential risks are actually posed to groundwater in the KRWCA area than the approach in the Tentative Order. He points out his conclusions are similar to those reached by other researchers (some of which has been funded by the State Board), although his analysis is specific to the KRWCA area.[3] He notes that NHI studies demonstrate that the nitrate risk to groundwater in the KRWCA area is clearly much less than other areas to the North. (p. 30-31) 5

These observations point to the broader, more **fundamental problem** with the Tentative Order as applied to the KRWCA; namely, its presumption that every irrigator in the SSJ Coalition is a "discharger" and subject to this Order or the Individual Order (for example see finding 12 at 3-4). However, other portions of the Tentative Order seem to recognize that every irrigator may not be a "discharger" subject to regulation, particularly Finding 20 (at page 6, emphasis added) providing: 6

"Whether an individual discharge of waste from irrigated lands may affect the quality of the waters of the state depends on the quantity of the discharge, quantity of the waste, the quality of the waste, the extent of treatment, soil characteristics, distance to surface water, depth to groundwater, crop type, management practices and other site-specific factors. These individual discharges may also have a cumulative effect on waters of the state. Waste discharges from some irrigated lands have impaired or degraded and will likely continue to impair or degrade the quality of the waters of the state within the Central Valley Region if not subject to regulation pursuant to the Porter-Cologne Water Quality Control Act (codified in California Water Code Division 7)."

We certainly agree with statement at Finding 20 and believe it is appropriate. However, the problem is there is **no objective standard** for an individual grower to determine, or for a coalition or even the Regional Board staff, to advise a grower whether he/she meets the standard, taking into account all the factors listed at Finding 20. This places the growers, our Coalition and the Regional Board in an untenable position which will undoubtedly lead to mass confusion and probably non-compliance with the Order, as growers will take the position they are not "dischargers" under the Order, without any objective standard. 7

Accordingly, we propose that a Nitrate Hazard Index be developed and used as a pilot , to establish an objective standard to determine which growers will not be subject to the Order, 8

[3] Although as noted above and at Exhibit C hereto many of the assumptions and calculations in the Harter and Lund report are clearly in error, we note that they did focus on the NHI and noted (Tehcnical Report 3 at p. 15):
"The authors of the HI proposed that fields identified as having an overall index below 20 are of low concern and that average management practices are usually adequate. As such, although continued vigilance is necessary for all fields, attention to optimizing NUE via good management practices is best focused in areas with greater risk for leaching"

which will be in a Low Vulnerable area and which in a High Vulnerable area, as described further below under "Our Proposal." 8

Cost Estimates Inaccurate.

In Finding 39 (at p. 11) of the Tentative Order, the staff provides a startling estimate that the incremental "total annual cost of compliance with this Order" will be approximately $1.90 per acre. As you are aware dramatically varying estimates in the cost of implementing the Tentative Order have been prepared and published by the Regional board staff throughout this process. (Those Staff estimates have varied from $70/ac/yr based on the July 2010 staff report, to $120/ac/yr based on the July 2012 draft for our area, to $3.40/ac/yr based on a September 28, 2012 Q&A posted to the web.) The dramatic variation in the Staff's estimates illustrates the great uncertainty of estimated costs. 9

We have engaged Provost and Pritchard Consulting Group to provide a cost estimate and their report is attached as **Exhibit F**. Their approach was to focus only on the cost to implement the Tentative Order, both costs incurred at a Coalition level and a grower level (including his/her time to comply), and assume no costs for implementation of new management practices, as it is believed in Kern most growers are already implementing the most effective practices available.[4] They conclude that in the Kern area, the average total cost to implement the Order will be $16.04 per acre per year, with $2.08 attributed to Coalition efforts (which ultimately is paid by the growers) and the balance of $13.96 attributed to direct grower costs and time.

Regulation Must be "Reasonable"

To state the obvious, this proposed regulation is subject to a "reasonableness" standard. Among other things Water Code section 13263, under which this proposed General Order would be advanced, provides in part "The requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration . . . the provisions of Section 13241." Water Code Section 13241 in turn provides in pertinent part that water quality control plans are to "ensure the reasonable protection of beneficial uses. . .however, it is recognized that it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses." Similarly, Water Code section 13050(l) defines "pollution", which is what the Regional Board is to prevent, in part as the "alteration of quality of waters of the state by waste to a degree which unreasonably affects. . .waters for beneficial uses" (emphasis added). 10

Furthermore, in Finding 21 and 22 (at page 6) of the Tentative Order, Water Code Section 13267 is cited as partial source of authority for the proposed order. Along the same lines of the cited authorities above requiring "reasonableness," it is noted that Section 132367(b)(1) provides in

[4] A number of assumptions are identified in Provost and Pritchard's report, based on, among other things, information developed by the Regional Board and their own experience in implementing other orders of the Regional Board. Included in the assumptions is that the templates and process submitted to the Executive Officer on April 11, 2013 by the East San Joaquin Water Quality Coalition would be accepted and applicable in the Kern sub-watershed—if it is not accepted and more onerous requirements required by the Executive Officer, of course the estimated cost would exceed the estimates in the Report.

part "The burden, including costs of these reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports" (emphasis added).

That is, the Board's authority to adopt a general order pursuant to section 13263 is subject to providing "reasonable protection" of beneficial uses of groundwater and it does not have the authority to adopt regulations that do not reasonably protect groundwater from some "waste". Based on the facts as we know them to be in our area, we do not believe anyone can credibly assert that the Tentative Order meets this standard, at least as it applies to the Kern area, particularly taking into account the costs to implement the program, estimated to be $ $16,700,000 per year (based on the Provost and Prichard estimate). 10

In light of this extreme cost , and lack of any clearly defined benefits to be obtained through the Tentative Order as documented by our experts (at least as applied to Kern), how can it be said that the proposal meets the legal standard of a "reasonable" regulation of water quality?

Failure to Comply with CEQA

It would also appear that the Tentative Order is fundamentally flawed, because it was prepared based on the Regional Board's certification of a "Final Program Environmental Impact Report for the Long-Term Irrigated Land Regulatory Program" (Resolution No. R5-2011-0017) ("PEIR") in violation of the California Environmental Quality Act, Public Resources Code section 21000 et seq. ("CEQA"). As you know, Petitioners San Joaquin County Resource Conservation District, et al. ("Ag. Coalition") and Petitioners California Sportfishing Protection Alliance, et al. ("CSPA"), filed separate petitions for writ of mandate against the Regional Board alleging, among other things, that the PEIR violates CEQA (Sacramento County Superior Court, Case Number 34-2012-80001186 [Consolidated Case Number RG12632180]). On Friday, March 29, 2013 the Honorable Judge Timothy M. Frawley issued a Tentative Ruling in those matters. The Tentative Ruling was to grant Ag. Coalition's Petition because the PEIR violated CEQA and to issue a: 11

> "writ of mandate ...commanding the Board to set aside its certification of the PEIR, and to prepare, circulate, and certify a legally adequate EIR (consistent with this ruling) before proceeding with any additional project approvals." (Tentative Ruling, p. 22.)

The matters were heard on Friday, March 29, 2013. While the Court has not yet issued a final ruling or judgment, the Judge gave no indication that he was going to change his opinion that the PEIR must be set aside for violating CEQA and that a new EIR will need to be prepared before any additional project approvals (such as the proposed Order) are made by the Regional Board. This is entirely consistent with CEQA. It would defeat the purposes of CEQA to require environmental review to be performed after project approval (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 130 [purpose of EIR is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made]; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal 3d 553, 564 [same]; see also *Laurel Heights*

Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 394 [at a minimum an EIR must be performed before a project is approved, because if post-approval environmental review were allowed, EIR's would likely become nothing more than post hoc rationalizations to support action already taken].) Therefore, if the Regional Board approves the Tentative Order or issues any approval based on the flawed PEIR, the approval will be without proper CEQA review, illegal and void.

As illustrated by the above CEQA case law, the Regional Board's decision with respect to potential approval of any new order must *follow* – not proceed – certification of the new EIR as required by CEQA. Otherwise, the Regional Board's new EIR will be nothing more than a post hoc rationalization to support decisions already made. Therefore, in light of the likely invalidity of the PEIR, the most prudent course at this point in time would be for the Regional Board to vacate or stay it consideration of approval of the Tentative Order pending final judgment in the existing litigation, and not develop or consider approval of the Tentative Order or any long-term ILRP general order until any required additional CEQA review has been completed to the satisfaction of the Court. 11

We reserve the right to proivde further comments on the Tentative Order, pending the outcome of any revisions of the PEIR that is ordered by the Court.

Our Proposal

For the reasons stated above, we do not believe the Tentative Order can be justified, nor meet the "reasonable" standard required by the Porter-Cologne Act and otherwise as a matter of law. The KRWCA believes that a more scientifically based approach will allow for a more results based regulation. As such, we propose a pilot program within the KRWCA area, without waiving any rights we and our growers may have.

Our proposal would be for the KRWCA area only and would be adopted on a trial basis for 7 to 10 years, subject to specific review at that time for the Regional Board to determine its effectiveness in light of our unique conditions in Kern. The key elements are: 12

1. The NHI would be utilize to assess risks of current farming practices for leaching of nitrates to groundwater. Attached as **Exhibit G** is a technical memorandum prepared by Dr. Kimmelshue summarizing the NHI and its benefits, and outlining how it would be developed and implemented for use in Kern. The final components would be developed in consultation with the Regional Board staff and subject to approval of the Executive Officer. In general, lands would be classified as follows:
   a. Exempt Lands —These lands, the lowest risk under the NHI classification system and lands that do not overly usable groundwater, would be classified as exempt and would not be subject to further regulation as they would fit the definition of Finding 20 of the Tentative Order as not reasonably being considered a potential "discharger" to groundwater, subject to written confirmation by the Grower that the crops and irrigation practices in the NHI data base are correct;
   b. Moderate Risk—These lands would be in the middle range of the NHI and treated as Low Vulnerability under the Tentative Order;

c. Higher Risk—These lands would be the higher risk under the NHI and treated as Vulnerable under the Tentative Order. 12

2. For the reasons documented by Mr. Gailey, except possibly limited areas with shallow groundwater, trend monitoring is of little benefit in Kern and very expensive because of groundwater depths, and is not reflective of current farming practices. We propose that monitoring continue utilizing wells that have historically been monitored by our district members and other agencies (and where we have historic data which would be more usefully to estimate trends), but not develop a new program which would be very costly and not provide meaningful information. 13

3. The Management Practices Evaluation Program as applied to reflect Kern's unique conditions may have to be "customize" and we assume the language of the Tentative Order is intended to provide that flexibility. 14

Conclusion

For reasons noted above, we do not believe the Regional Board has jurisdiction to impose the Tentative Order upon the Kern area as it relates to groundwater and/or that the Tentative Order would constitute an unlawful overly burdensome and unreasonable regulation. If, however, the Regional Board provides for an Order applicable to the Kern area, we request that it be modified as described above , which reflect a more reasonable and scientific approach based on advice of experts, in light of Kern's unique conditions as compared to other portions of the Central Valley. Finally, the processing of the proposed Order should be suspended pending full compliance with CEQA.

We stand ready to work with you and your staff to implement such an approach.

Thank you for consideration of our views.

Very truly yours,

Eric Averett, Chairman

cc:
Senator Jean Fuller
Assemblywoman Shannon Grove
Assemblyman Rudy Salas
Kern County Board of Supervisors
David Orth, Coordinator SSJ Coalition

Exhibit A-Map of Groundwater Banking Projects
Exhibit B-Table of Water Systems within the KRWCA with Nitrate Exceedences
Exhibit C-Letter to Regional Board Dated 5/23/2012
Exhibit D-Report by Robert M. Gailey, P.G., C.HG of the Source Group, Inc.

Exhibit E- Report by Dr. Joel Kimmelshue of NewFields Agricultural and Environmental Resources

Exhibit F-Cost Estimate Prepared by Provost & Pritchard Consulting Group

Exhibit G-White Paper/Technical Memorandum on the Nitrogen Hazard Index by Dr. Joel Kimmelshue of NewFields Agricultural and Environmental

Letter 4

California Citrus Mutual
California Cotton Growers and Ginners Associations
California Grape & Tree Fruit League
California Farm Bureau Federation
Nisei Farmers League
Western Agricultural Processors Association

April 15, 2013

Mr. David Sholes
Central Valley Regional Water Quality Control Board
1685 "E" Street
Fresno, CA 93706

submitted via email to: dsholes@waterboards.ca.gov

Re: Comments on Tentative Waste Discharge Requirements for the Tulare Lake Basin

Dear Mr. Sholes:

The agricultural organizations identified above appreciate the opportunity to review and comment on the tentative waste discharge requirements for the Tulare Lake Basin, excluding the area of the Westlands Stormwater Coalition.

I. Nitrogen Management Planning in High Vulnerability Areas

Management planning is one of the key aspects of all farming entities and is a necessity to remain economically viable in producing food and fiber in the Central Valley. The complexity and diversity of how this is done varies by locations, crops, farm size, and rotations. The tentative order states that members in high vulnerability areas must use the Nitrogen Management Plan Template provided by the Executive Officer. We understand the rationale for wanting standardized information, but would also like some flexibility for growers to be able to reduce redundant paperwork requirements. We request the language be changed to indicate that the member must use the approved NMP Summary Report template and that the calculations used to come up with the information in the Summary Report template be consistent with the EO approved template. Growers would then be required to provide documentation similarly to those who fill out the Nitrogen Management Plan Worksheet Template. We believe this should satisfy the Board's desire to get consistent information and

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reduce the paperwork burden for growers who are already implementing nitrogen management planning on their farms. 1

II. Nitrogen Management Planning in Low Vulnerability Areas

The documentation requirement for nitrogen management planning in Low Vulnerability areas was added at the late stages of the Eastern San Joaquin River WDR. We understand that flexibility is allowed in these low vulnerability areas for an "equivalent" to the Nitrogen Management Plan. While we remain supportive of the previous language recommending Nitrogen Management Plans in low vulnerability areas, we do need further discussion with the Executive Officer on how growers can comply with the order using alternative approaches to satisfy the BPTC requirement. 2

III. Designation of Vulnerability Areas

The current language in the tentative order gives the Third-Party the ability to propose high and low vulnerability areas with the final approval from the Executive Officer. We believe this approach is more workable than the previously suggested boundaries and associated process. A more focused approach will allow third-parties and growers to address the areas where farm nitrogen use has an affect on drinking water sources. Additional time and resources spent in areas where there is no usable drinking water is time and money which could have been allocated to a more beneficial use. 3

IV. Sign-up Period

We appreciate the Regional Board moving the sign-up period from 120 days to 150 days in the Tentative Order, but we still believe that our request of 180 days from the Notice of Applicability (NOA) was reasonable and adequate. Currently, two-thirds of the acreage in the Tulare Lake Basin is not subject to the ILRP due to the fact that they have no surface water discharge. In addition, small farming operations represent 58% of the estimated 10,700 growers in the region, but only account for 4.6% of the acreage. This will mean that more time will be needed to reach each and every grower. Ethnic and language barriers that are prevalent in the region will make the challenge that much greater. We are only requesting that the Coalition group have an additional 30 days for outreach and education of the adopted program, and not a delay in the other requirements of the order. 4

V. Township Reporting

We continue to support Nitrogen Management Plan Summary Reporting to the Regional Board at the township level. The township level allows coalition groups to properly compare crop data, evaluate nitrogen management trends, and manage in an efficient manner the enormous amounts of data being collected from its members. We do not support the comparison of data at the field level by the Regional Board with or without the member's parcels being identified. The Regional Board has the ability to audit the Coalition's data when deemed necessary or when a problem arises. Reporting data at the field level directly to the Regional Board is an inefficient use of resources and compromises the Third-Parties from proactively working with outliers. Field level comparisons in parcels which are not permanently planted on a year by year level are not effective, nor warranted. It was our initial understanding that information was being reporting by crop per township, which we believed was an adequate use of resources. The language as drafted in the ESJ order and in this Tentative Order more closely resembles individual parcel reporting and not spatially at the township level as was our understanding. 5

VIII. Cost Impacts

We remain concerned that costs associated with implementing this order will be substantially higher than the Regional Board's estimates. We encourage the Regional Board to continue to look at the costs associated with the program and look for ways to implement the order in more cost effective ways. We remain committed to working with the Board to find ways to reduce the burdens placed on growers through on-farm and Third-Party costs. 6

IX. Conclusion

On behalf of the above listed groups, we appreciate the opportunity to comment on the Tentative Waste Discharge Requirements for the Tulare Lake Basin and look forward to continuing to work closely with you to find practical solutions to improving water quality. If you have any questions, please contact Casey Creamer at (559) 252-0684 or casey@ccgga.org.

Sincerely,

California Citrus Mutual
California Cotton Growers and Ginners Associations
California Farm Bureau Federation
California Grape & Tree Fruit League
Nisei Farmers League
Western Agricultural Processors Association

cc: Joe Karkoski, CVRWQCB

Clay Rodgers, CVRWQCB

Pamela Creedon, CVRWQCB

Letter 5

April 15, 2013

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

Re: Tulare Lake Basin Tentative WDR Comments

Dear Mr. Longley,

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

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

- An enforceable program with appropriate triggers and limits can provide a source of funding for communities without safe drinking water. The 2012 UC Davis nitrate report clearly identifies the impact of groundwater pollution by nitrates in the Tulare Lake Basin and Salinas Valley. Nearly a quarter million residents were directly exposed to nitrate contamination through their tap water between 2006-2010.

- Early and effective implementation of best practices will help the entire basin. According to the Nitrate Report, more than half of the residents of these regions receive their water from a community water system with at least one exceedance of the nitrate standard in their raw water supply in that same 5 year period – and that number was estimated to grow to 80% by 2050 *if current practices continue*. Nitrate contamination of

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

- No one knows how long full remediation will take, but some improvements in water quality can occur quickly. Remediation is a gradual process, but, just as shallow domestic wells currently reflect the greatest amount of contamination,[1] they can also respond more quickly to improvements in management practices on the surface. This is not a small population; information collected in the Tulare Lake Basin pilot project reinforces prior USGS estimates that as many as a quarter million residents of the basin are not served by a public water system.

- The oft-stated assumption that nitrate buildup in the vadose zone will inflate nitrate contamination for decades to come is not informed by an effective monitoring program and a robust Management Practices Effectiveness Program, and therefore it is unclear where and how much that will be an important piece of understanding impacts from current practices and informing groundwater management plans. It is important to note, however, that any "legacy" contamination problems are relevant to determining impact of current discharges. Nitrate concentrations already in high concentrations below the root zone and in unsaturated zone may still be discharges if continued irrigation practices move it to drinking water aquifers. Changing current irrigation and fertilization practices cannot affect what has occurred in the past, but it can affect the fate and continued movement and migration of already existing contaminants. For example, current and on-going groundwater pumping and recharge move those contaminants to different aquifers and locations, and can dilute or exacerbate concentrations of contaminants in the groundwater and therefore domestic water supplies.

- The major problem preventing better definition of the pathways of contamination is lack of information on farm practices and site conditions, and this permit must require sufficient reporting to collect this information. This is also relatively low cost, compared to installing monitoring wells on each field. Yet this Tentative Permit does not collect basic data on the farm level, particularly for all areas outside of high vulnerability areas.

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

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

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

Support for Small Grower Technical assistance

We trongly support provision of technical assistance for small and disadvantaged growers in development of farm evaluation and management plans, etc. We believe everyone would be better served if the regional board and third party coalitions provided targeted technical assistance to those farmers, rather than just more time, as is provided in the revisions to this order. As implementation continues, we would appreciate it if the Board required regular reporting on whether and how such assistance is being provided. 1

[2] California Water Code §§ 13000 et seq.

[3] Resolution 68-16.

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

Obligations Under the Human Right to Water Act

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

The intent of the legislation is to ensure that all Californians have access to affordable, accessible, acceptable and safe water and sanitation in sufficient amounts to protect their health and dignity. In accordance with domestic law and human rights principles, access for human consumption should be prioritized over other water uses—including water for agriculture and industry—and should be non-discriminatory. Special attention must be given to those who do not have access to safe water. 2

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

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

publically disclose efforts to consider the human right to water policy as well as the impact of these efforts on its final action. 2

Concerns and recommendations for the order

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

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

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

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

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

1. Trend Monitoring Plans do not require monitoring of all Constituents of Concern. 3

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

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

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

2. Regional monitoring and reporting is inadequate

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

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

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

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degradation is occurring and a way of determining whether BPTC is being implemented. *Asociacion de Gente Unida por el Agua* at 1274. 5

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

The Receiving Water Limitations in the General Order fail to comply with Anti-degradation Policy or the Basin Plans, and do not support the findings in the order. The order only requires that "wastes discharged from Member operations shall not cause or contribute to an exceedance of applicable water quality objectives in the underlying groundwater, unreasonably affect applicable beneficial uses, or cause or contribute to a condition of pollution or nuisance," and then, through the applicable footnote, allows at least up to 10 years of continued contribution to exceedances, pollution or nuisance. This means that the Tentative Order is not only authorizing the maximum amount of degradation possible, but also authorizing continued pollution or nuisance or exceedences of water quality objectives and undermining any ability to take enforcement actions for those causing or contributing to that. This is entirely unacceptable. 6

The groundwater limitations should 1) include a limitation on degradation consistent with minimizing degradation to ensure the highest water quality consistent with the maximum benefit to the people of the State and BPTC, as well as 2) delete the footnote in order to omit altogether any authorization of continued contribution to pollution, nuisance or exceedences of water quality objectives. Without clear compliance standards in the groundwater limitations, the Board undermines its own ability to conduct enforcement actions and therefore eliminates the basis for its own findings, and renders its protection measures illusory. 7

Similarly, the undue delay in the Management Practices Effectiveness Report – not due until 2023! – undermines the enforceability of BPTC and violates the Board's duty to ensure rapid compliance through this order. 8

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

9

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

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

Thus, analysis of whether the General Order violates the anti-degradation policy is a 3 step process: (1) Will baseline water quality be maintained; (2) If not, has the board demonstrated that the change in water quality (a) will be consistent with the maximum benefit to the people of the state; (b) will not unreasonably affect present or probable future beneficial uses of such water; <u>and</u> (c) will not result in water quality less than prescribed in state policies <u>and</u> (3) has the Board established that the activities subject to this order that will or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained. 9

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

Baseline water quality has been interpreted to mean "the best quality of the receiving water that has existed since 1968,… unless subsequent lowering was due to regulatory action consistent with State and federal anti-degradation policies." APU 90-004. *See* Associacion de Gente Unida Para el Agua, at 1270. Additionally, the California Environmental Protection Agency, and the Regional Water Quality Control Board Central Valley Region's, *A Compilation of Water Quality Goals* (August 2003), defines background levels to be maintained as "the concentration of substances in natural waters that are unaffected by waste management practices or contamination incidents." p. 6. Under either interpretation, the Tentative Order would fail to protect baseline water quality. The Tentative Order fails entirely to protect baseline water quality by failing to establish a baseline or set in place a mechanism for doing so. 10

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

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

We understand that it is difficult to determine historic baseline levels in every area under a general permit that covers such a large geographic area. However, the Regional Board must make best efforts to determine a baseline in order to provide a basis for any finding or determination of the level of degradation that is in the maximum benefit to the people of the State. At the very least, the Board should require the Groundwater Assessment Reports (GAR) to develop a basic analysis of baseline water quality utilizing available existing data to estimate historic baseline levels for at least the constituents of concern in the region. There is no such requirement in the Tentative Order for the GAR or any other report, analysis or action included in the Tentative Order. While establishment of an estimate of a baseline through the GAR would not inform the Board prior to approval of the WDR, it would at least provide the information needed to incorporate anti-degradation analysis into the implementation and enforcement of the permit going forward. 10

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

A determination as to whether degradation is consistent with maximum benefit to the people of the state is made on a case-by-case basis and is based on considerations of reasonableness under the circumstances. Factors to be considered include (1) past, present, and probable beneficial uses of the water (specified in Water Quality Control Plans); (2) economic and social costs, tangible and intangible, of the proposed discharge compared to the benefits, (3) environmental aspects of the proposed discharge; and (4) the implementation of feasible alternative treatment or 11

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

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

If the General Order allows degradation up to water quality objectives and only sets that as the enforceable compliance goal, then it will permit all degradation from baseline up to just below the level of exceedance. If the Board wants to permit this maximum level of degradation, it needs to determine that this is the highest water quality for the maximum benefit to the people of the state. There is no such finding, nor any analysis or basis for such a finding. 11

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

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

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

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

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

This Tentative Order would allow for discharge of pollutants above baseline, or highest quality, levels into the region's groundwater,[8] without imposing the best practicable treatment or control ("BPTC") requirements, which by definition require first determining that it will not result in degradation that will unreasonably affect present or probable beneficial uses and that it will result in maintaining the highest water quality consistent with maximum benefit to the people of the State.[9] As by definition BPTC cannot result in pollution or nuisance, while the requirements of the order expressly allow for those results for up to 10 years through a groundwater management plan, the permit on its face fails to meet BPTC requirements. For the reasons outlined above, this permit not only fails to make the necessary findings and determinations, but fails to require sufficient requirements to ensure those standards can be met. As such, this permit does not require the BPTC or adequate performance standards or sufficient reporting and monitoring requirements to protect high quality groundwater. 11

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

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

[9] State Water Resources Control Board Resolution No. 68-16.

may therefore be different depending on conditions of receiving waters. Therefore, if a discharger is discharging into water at or above the water quality objective, it must, at a minimum, ensure it is not contributing to that exceedence in order to comply with BPTC. That may mean that dischargers in these areas must take extra measures to reduce loading impacts by current irrigation practices and comply with BPTC, including pump and fertilize, targeted recharge of high quality water to dilute discharge, in addition to instituting highly efficient nutrient management practices. More information on these practices is included in the UC Davis technical reports prepared and provided to the Board as part of SB2x1. 11

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

2. The Order allows unlawful pollution and nuisance to groundwater

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

a) Allowing degradation up to the water quality objectives without the required findings permitting such degradation
b) Allowing discharges to contribute to exceedances of water quality objectives and nuisance for up to 10 years 12
c) Failing to establish a baseline to assess and analyze degradation or the impacts of discharge.
d) Failing to establish adequate monitoring and reporting procedures to adequately monitor degradation or potential impacts to beneficial uses.

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

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

By allowing degradation of groundwater up to the water quality objective, by disregarding relevant public health goals in favor of often less protective water quality objectives, by failing to monitor for all constituents of concern, and allowing continued discharger contribution to exceedences of water quality objectives and nuisance for up to the next ten years, this Tentative Order would allow for discharge of waste that is both injurious to health and interferes with the enjoyment of property for those whose domestic water quality will be impacted. 12

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

3. <u>Violation of Civil Rights and Anti-Discrimination Laws</u>

This Tentative Order, if implemented, would disproportionately impact low income communities and communities of color by failing to protect groundwater from continued degradation. The Tentative Order would allow further groundwater degradation, particularly nitrate contamination, which is the number one cause of drinking water well closure in the State. Already Latino and low-income communities are more likely to have contaminated drinking water in the Central Valley region, and this is most often due to high levels of nitrate in the groundwater.[10] Specifically in the San Joaquin Valley, small communities with high concentrations of Latinos are disproportionately impacted by nitrate contamination from agricultural waste, meaning Latino communities are more likely to have higher levels of nitrates in their drinking water[11]. Additionally, Latino and low-income communities are less likely to have health care and access to treatment or substitute water sources, and are more likely to be exposed to cumulative deleterious environmental impacts through other media (such as air). 13

[10] Environmental Justice Coalition for Water, *Thirsty for Justice: A People's Blueprint for California Water (2005)*
[11] Carolina Balasz, et.al., *Social Disparities in Nitrate Contaminated Drinking Water in California's San Joaquin Valley,* Environmental Health Perspectives June 2011.

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

By disparately impacting low income, communities of color, the Board's failure to enact adequate groundwater protections, violates our states commitment to equality and freedom from discrimination as laid out in California Government Code, Section 11135 which states that no person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency. Furthermore, the Board's failure to enact groundwater protections threatens California's Fair Employment and Housing Act, California Government Code 12900, et seq., which guarantee all Californians the right to hold and enjoy housing without discrimination based on race, color or national origin. 13

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

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

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

The continued delay in implementing basic groundwater protections has harmed hundreds of thousands of Central Valley residents. This order does little to remedy that inequity, with delays of at least a decade before growers must demonstrate that their actions are improving water quality. 14

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

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

* Estimated dates based upon the terms of the draft order

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

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

COMMUNITY WATER CENTER
EL CENTRO COMUNITARIO POR EL AGUA

CLEAN WATER ACTION
CALIFORNIA

California Rural Legal Assistance Foundation

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

Another barrier to enforcement is the limited amount of information to be made public by the 3rd party coalitions in their reports to the Board. While nitrogen budgets are extremely useful, they fail to provide needed information about nitrogen loading. <u>The order should require reporting of fertilizer application</u> which will, when combined with the nitrogen budget ratio, provide important information about nitrogen loading to groundwater. This information will be critical both to understanding groundwater monitoring data and in prioritizing growers for inspection and enforcement. Fertilizer use, much like pesticide use, is not a confidential trade secret and is an indicator that should be provided as part of the nutrient budgets to determine nitrogen loading of groundwater. This was one of the State Water Board's recommendations regarding the Nitrate Report. 15

Finally, as we have stated previously, this order contains little data to inform the Board's decision, and as implementation proceeds over the next decade, the Board has no continuing decision-making role. The Executive Officer, on the other hand, can make large-scale changes to the order – amending vulnerability areas, reducing reporting requirements, and determining where and how monitoring of constituents of concern will occur. The Board has a responsibility to ensure that this order is effectively and adequately implemented and enforced and should identify a trigger for ensuring that this responsibility is carried out. 16

Conclusion

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

Sincerely,

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

Jennifer Clary
Water Policy Analyst
Clean Water Action

Phoebe Seaton
California Rural Legal Assistance Foundation

Letter 6

CALIFORNIA FARM BUREAU FEDERATION
OFFICE OF THE GENERAL COUNSEL
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Sent via E-Mail
DSholes@waterboards.ca.gov

April 15, 2013

David Sholes
Central Valley Regional Water Quality Control Board
1685 "E" Street
Fresno, CA 93706-2007

Re: Comments on the Tulare Lake Basin Area Tentative WDRs/MRP for Discharges from Irrigated Lands

Dear Mr. Sholes:

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

Farm Bureau appreciates the opportunity to provide comments on the Tulare Lake Basin Area Tentative Waste Discharge Requirements ("Tentative WDR") and Monitoring and Reporting Program ("MRP") for Discharges from Irrigated Lands and respectfully presents the following remarks. Farm Bureau also respectfully incorporates the comments made in its previously submitted comment letter on the Draft WDR as well as the comment letter submitted by a collective of agricultural organizations on April 15, 2013.

Upon reviewing the Tulare Lake Basin Tentative WDR as well as the previously adopted Eastern San Joaquin River Watershed WDR, Farm Bureau is concerned that the general orders are not being individually developed and tailored, but rather are duplications of previously prepared orders. Each coalition represents unique geographic characteristics, including rainfall, hydrology, drainage, commodities grown, topography, 1

NANCY N. MCDONOUGH, GENERAL COUNSEL
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etc. Given all of these vast differences, each general order should be individually drafted specific to the region it regulates. 1

General Order Page 1, Finding 1—Definition of "Waste"

The Tentative WDR seeks to regulate discharges of "waste" from irrigated lands. As referenced in the footnote to Finding 1, Attachment E defines the term "waste" to not only include the statutory definition found in Water Code section 13050(d), but also adds additional language to include the regulation of "earthen materials, inorganic materials, organic materials such as pesticides and biological materials" as wastes which "may directly impact beneficial uses or may impact water temperature, pH and dissolved oxygen." (Tentative WDR, Attachment E, p. 6.) No rationale is provided for the overly broad expansion of a statutorily defined term; as such, the term "waste" should be limited to its definition found in Water Code section 13050(d). 2

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

The Tentative WDR amends the scope of regulatory coverage by deleting specific provisions limiting the regulation of water traveling through particular structures. (Tentative WDR, p. 2.) These deletions cause concern regarding the regulation of on-farm conveyances and between-farm conveyances, causing potential ambiguity regarding the point of demarcation for regulation. In order to provide clarity, Finding 5 should be revised.[1] 3

General Order Pages 9-10, Findings 32-36—Compliance with the California Environmental Quality Act

The Tentative WDR relies upon the environmental analysis conducted in the Program Environmental Impact Report ("PEIR") and concludes that "[a]lthough the Order is not identical to any of the PEIR alternatives, the Order is comprised entirely of elements of the PEIR's wide range of alternatives." (Tentative WDR, p. 9, ¶¶ 33-34.) Relying on such analysis, the Tentative WDR further concludes "the PEIR identified, disclosed, and analyzed the potential environmental impacts of the Order" and the "potential compliance activities undertaken by the regulated Dischargers…fall within the range of compliance activities identified and analyzed in the PEIR." (*Id.* at ¶ 33.) Notwithstanding pending actions challenging the adequacy of the PEIR, the Tentative WDR is not within the realm of alternatives analyzed within the PEIR, but rather goes beyond those alternatives as it includes provisions substantially different from elements in those alternatives, especially alternatives 3 through 5. These new components do not represent merely a "variation" on the alternatives in the PEIR but rather are elements that were not thoroughly considered previously and are likely to result in the imposition of new burdens on irrigated agricultural operations that that would have a significant and cumulatively considerable impact on the environment. 4

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

Given the vastly new provisions in the Tentative WDR, such as provisions creating end-of-field discharge limitations as well as the farm management performance standards, not all potentially adverse environmental impacts of the Tentative WDR have been identified, disclosed, and analyzed in the PEIR. Thus, reliance on the PEIR for CEQA compliance is inappropriate.[2] 4

General Order Page 11, Finding 39—California Water Code Sections 13141 and 13241

Pursuant to the Water Code, the Regional Board is obligated to consider costs associated with the entire Long-Term Irrigated Lands Regulatory Program, as well as each individual general order, such as the Tulare Lake Basin Area WDR. (Wat. Code, § 13141.) Finding 39 incorrectly states that Section 13141 "does not necessarily apply in a context where an agricultural water quality control program is being developed through waivers and waste discharge requirements. (Tentative WDR Order, p. 11, ¶ 39.) Nothing within Section 13141 provides such limitations. Rather, a proper reading of Section 13141 *requires* looking only at the plain meaning of the statutory language. (*Riverview Fire Protection Dist. v. Workers' Comp. Appeals Bd.* (1994) 23 Cal.App.4th 1120, 1126, ["we first look to the plain meaning of the statutory language, then to its legislative history and finally to the reasonableness of a proposed construction."].) Upon examining the plain language of Section 13141, it does not state or imply that an estimation of costs is only required if an agricultural water quality control program is adopted into a Basin Plan. Rather, the plain and straightforward language states that "prior to implementation of *any* agricultural water quality control program, an estimate of the total cost of such a program, together with an identification of potential sources of financing, shall be indicated in any regional water quality control plan." (Wat. Code, § 13141.) Therefore, notwithstanding the fact that this agricultural water quality control program, the Long-Term Irrigated Lands Regulatory Program, is comprised of waste discharge requirements, the Regional Board is still statutorily obligated to conduct a cost estimation of the program. Given that this Tentative WDR proposes new costly regulatory components not previously analyzed during the environmental review stage, the Regional Board must analyze, evaluate, and estimate all of the costs of these new regulatory requirements. 5

General Order Page 15, Provisions III. A and III. B—Discharge Limitations

The use of "shall not cause *or contribute*" to an exceedance of applicable water quality objectives is overly expansive and creates an unreasonable standard that is undefined, ambiguous, and holds farmers and ranchers liable for even the smallest de minimus contribution. Accordingly, discharge limitations for both surface water and groundwater should be rewritten to state "wastes discharged from Member operations 6

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

shall not cause an exceedence of applicable water quality objectives in surface water [or the underlying groundwater], unreasonably affect applicable beneficial uses, or cause a condition of pollution or nuisance." 6

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

Provision 7 requires all members to prepare and implement an annual nitrogen management plan. Such plans should analyze "nitrogen" application rather than "nutrient" application. (Tentative WDR Order, p. 19, ¶ 7.) As seen in previous drafts, only members in high vulnerable areas where nitrate is a constituent of concern were required to prepare annual nitrogen budgets and management plans. Rather than requiring all members to prepare nitrogen budgets and plans, as Provision 7 is currently written, the WDR should be revised to allow flexibility in the requirements for those areas that have no or a lower propensity to impact water quality. 7

General Order Pages 24-27, Provisions B, C, and D; Pages 20-24, Attachment A, Information Sheet—Template Requirements for Farm Evaluations, Nitrogen Management Plans, Nitrogen Management Plan Summary Reports, and Sediment and Erosion Control Plans

In previous discussions, as well as previous drafts of the WDRs, templates for Farm Evaluations, Nitrogen Management Plans, Nitrogen Management Plan Summary Reports, and Sediment and Erosion Control Plans were to be developed by the coalitions and approved by the Executive Officer. The Tentative WDR substantially changes how these documents will be developed, as they will no longer be developed by the coalitions, but rather by the Regional Board. (See Attachment A, Information Sheet, p. 20.) This change is problematic as all of these documents need to be developed by those directly in agriculture, with the assistance of professionals that work with agriculture (for example, qualified agronomists and/or agricultural engineers). Further, by substantially changing the process, the development of the templates has become akin to new permit requirements that require action and adoption by the Central Valley Board. (See Wat. Code, § 13222(a) limiting the duties that may be delegated from the Regional Board to the Executive Officer.) 8

Attachment B, MRP, Pages 10-11, Provision III. B. 3—Toxicity Testing

As currently drafted, the Tentative MRP suggests that both acute and chronic toxicity testing is required for all toxicity tests. (See Tentative Attachment B, MRP, pp. 10-11, footnotes 5 and 6 stating that chronic and acute toxicity testing should be completed in accordance with USEPA testing methods.) As stated in Farm Bureau's previous comments on the Eastern San Joaquin Administrative and Tentative WDR drafts, all MRPs for the Irrigated Lands Regulatory Program should only require acute toxicity testing. Since the inception of the Irrigated Lands Regulatory Program, surface water monitoring has occurred and has utilized acute aquatic toxicity testing. Given that the MRP contains no evidence to indicate that acute testing is no longer adequate, and since chronic testing is more costly, thus triggering the need for a new economic analysis of impacts, Farm Bureau respectfully requests that requirements for "chronic" testing be 9

removed from the WDR, footnote 6 deleted in its entirety, and the continuation of the existing surface water acute toxicity testing be added in its place. 9

Thank you for the opportunity to provide our comments and concerns. We look forward to further involvement and discussion with the Regional Board on the Tulare Lake Basin Area WDR and MRP for Discharges from Irrigated Lands.

Very truly yours,

Kari E. Fisher
Associate Counsel

KEF:pkh

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Letter 7

April 12, 2013

David Sholes
CVRWQCB
1685 E. Street
Fresno, CA 93706

Re: Regional Water Quality Control Board (RWQCB) Central Valley Region Tentative Order R5-2013-XXXX, Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area that are Members of a Third-Party Group.

Dear Mr. Sholes and Members of the Board,

Thank you for the opportunity to comment on the Central Valley Regional Water Quality Control Board's Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area (herein after "Tentative Order"). We appreciate the opportunity to review, and hope that you take our thoughts into consideration.

Innovative Ag Services, LLC provides agronomic and environmental services to the agricultural industry in the Central Valley. We have a strong history of working with many agricultural groups and individual producers to improve their bottom line while faced with increased regulations. We have a team of professional agronomists and environmental professionals that work closely with the Dairy General Order, No. R5-2007-0035 and other waste discharge requirements. As such, we can provide a unique and valued prospective toward the proposed Tentative Orders in the Irrigated Lands Regulatory Program (ILRP). We hope the RWQCB will adopt a cost effective and practical means in protecting water quality and the agricultural community we live in. We hope that you may use our comments to strive toward these endeavors.

In our review of the Tentative Order, we have found the following points of concern:

1. **The Draft Order does not have the information needed to evaluated its effectiveness to protect water quality nor its effect on our agricultural community:**
   a. Throughout this lengthy and changing Tentative Order, there is very little information to evaluate what will be implemented with the adoption of this law. Instead, the Executive Officer (EO), of the RWQCB, will be given the discretion and authority to implement this law without a due process for interested parties and the public to evaluate the effects of the law. Each of the following are critical components identified within the Tentative Order that are left to the discretion and approval of the EO:
      i. Those who can operate as a third-party
      ii. Surface Water Quality Monitoring and Reporting
      iii. Groundwater Quality Assessment, Monitoring and Reporting
      iv. The Farm Evaluation Template and Reporting
      v. The Sediment and Erosion Control Plan Template and Reporting
      vi. The Sediment Discharge and Erosion Assessment and Reporting
      vii. Annual Nitrogen Budget Worksheet Template and Reporting
      viii. Management Practices Evaluation Workplan
      ix. Additional Technical Reports
      x. "Any information which the EO may request"
      xi. The format of any information being submitted

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b. We recommend adding more descriptive parameters to guide the EO in establishing components to be established by the EO. By leaving these components open to the discretion and approval of the EO, the margin of interpretation is greatly and unnecessarily, increased. 1

2. **Agronomic Terminology:**
   a. Innovative Ag Services, LLC's experience with providing agronomic and environmental services to dischargers who comply with the WDRs has shown that the incorrect use of terminology creates confusion and misunderstanding.
   b. We recommend defining a "Nitrogen Management Plan" as a plan for what will happen with the nitrogen being applied and removed during a season. 2
   c. The Tentative Order identifies the use of a "Nitrogen Management Plan Summary Report". It is unclear what is meant with this terminology. The word 'plan' implies what will occur, yet we believe this report is asking for a historical summary of the nitrogen that was applied and removed. For historical reports, we recommend the use of a "Nitrogen Management Record Summary".
   d. These terms and others should be added within the definitions of the Tentative Order.

3. **Proprietary Nitrogen Management Plans and Nitrogen Application Records:**
   a. The Central Valley is home to some of the most progressive and innovative farmers in the world. Agronomist and farmers alike have dedicated their lives to the management of crops and the nutrients that are applied to the land. The success of a farmer is dependent on the management of nutrients and it is what gives them their competitive edge over other producers. 3
   b. While many growers have invested significant money into professional consultants like Innovative Ag Services, LLC, others have developed their unique Nutrient Management Plans over years of experience with a specific crop and/or specific property. A Nutrient Management Plan and the actual records of nutrient applications are proprietary information that should not be submitted for public record that can be easily accessed, and potentially misused or copied.
   c. We encourage the RWQCB to continue to protect the propriety information of individual growers, trade groups, and professionals with any proposed order.

4. **Define Nitrogen:**
   a. The Tentative Order most commonly addresses "nitrate-nitrogen" as the form of nitrogen identified as a water quality pollutant. Nitrate-nitrogen is also the most common form of nitrogen adsorbed by plants. Yet, this Tentative Order also refers to the "total nitrogen" and the "total nitrogen available".
   b. Similarly, the Information Sheet refers to "nitrogen fertilizer data", without clarifying what type of nitrogen this is accounting for. Chemically, there are many different forms of nitrogen and the use of different terminology to describe nitrogen should be carefully used and defined within the definitions of this order. As written, it is unknown if the Tentative Order will regulate only; nitrate-nitrogen, total nitrogen, available nitrogen, or other forms of nitrogen. 2
   c. As agronomist, we strive to educate and equip ourselves to provide professional agronomic services that will produce the best crop while protecting the environment. This includes addressing the many different forms of nitrogen they may all affect crop nutrition, soil health, and pollution. Agronomically, we must address the different forms of nitrogen to address crop health as nitrogen will change its chemical form according to many environmental conditions and cultural practices. We respectfully ask that the RWQCB specify the requirements in regards to the different forms and terminology of nitrogen.

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5. **Include an Educational Component:**
   a. Innovative Ag Services, LLC has often worked with growers, dischargers, regulators and environmental groups to find acceptable outcomes. The first step to this process is providing understanding to each other's position. Clearly, there is significant misunderstanding between the different groups that will be affected by this Tentative Order.
   b. We recommend that the RWQCB include an educational component within the Tentative Order that will provide a better understanding to growers, discharges, interested parties and the general public. There is a time to push and a time to pull. The sheer size and geography of this Tentative Order will limit the effectiveness of a regulatory push. We believe pulling with an educational component will provide a more effective solution and should be incorporated within this Tentative Order. 4

Thank you for your time and consideration. We welcome the opportunity to work with the RWQCB to improve this Tentative Order. We believe that the issues outlined in this letter should be addressed before the Tentative Order is presented to the members of The Board for their consideration of adoption. Clearly more information is needed to develop technical standards of agronomic requirements, in which Innovative Ag Services, LLC is ready and willing to address with RWQCB staff.

Additionally, we hope sufficient time will be given for growers and professional service providers alike to comply with new and/or revised Waste Discharge Requirements on irrigated lands. We hope, and respectfully ask, that the RWQCB take additional steps to include more growers and service providers in the future development of this Tentative Order, and future orders alike.

We look forward to speaking with you soon.

Sincerely,

Warren Hutchings

Nathan Heeringa

DAS

Excelsior/Kings River Resource Conservation District

Letter 8

RECEIVED
APR 15 2013
RWQCB-CVR
FRESNO, CALIF.

April 5, 2013

David Sholes
CVRWQCB
1685 'E' Street
Fresno, CA 93706

Re: Irrigated Lands Regulatory Program, Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area that are Members of a Third-Party Group.

Dear Mr. Sholes and members of The Board,

Thank you for the opportunity to comment on the Central Valley Regional Water Quality Control Board's (RWQCB) Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area (herein after "Tentative Order"). The Excelsior/Kings River Resource Conservation District (RCD) appreciates the opportunity to review and comment of the Tentative Order and we hope that you take our comments into careful consideration.

The Excelsior/Kings River RCD works within the agriculture industry and the local community to conserve and protect our limited water resources within the Southern San Joaquin Valley. We have a strong history of working with many agricultural groups and individual producers to improve and protect groundwater and surface water. We hope that you may use our comments to strive toward these mutual goals.

In our review of the Tentative Order, we have found the following points of concern:

1. **Laws should include all major pollution sources:**
   a. While the Central Valley has a clear history with irrigated agriculture, there are many other major sources that can degrade and/or pollute water quality. The Central Valley has experienced a significant population increase, and each person living in this valley increases the risks to water quality. In addition to the population, the use of and affect each person has on water quality has significantly increased over the past few decades. Due to the population increase, comes the rise of the following risks:
      i. Private waste treatment systems (septic systems), particularly in "disadvantaged communities".
      ii. Nearly every residence in this valley is irrigated and applying nutrients to irrigated landscape.
      iii. Community irrigated landscape:
         1. Parks
         2. Golf Courses
         3. Cemeteries
         4. Schools
         5. Roadside landscaping
      iv. Community and Industrial Development:
         1. Right-of-ways and roads
         2. Storm Drainage
         3. Waste Treatment Facilities
   b. It is easy to see the new housing complexes, city parks, schools, golf courses being constructed. Each of these types of developments includes significant irrigation and nutrient applications that create significant risks to our limited water resources. Yet, the Irrigated Lands Regulatory Program and this Tentative Order do not address these significant and growing risks.

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c. Similarly, we see pollution growth in unincorporated communities throughout this valley without waste treatment facilities. Most of these un-incorporated communities rely on septic waste systems that create direct nutrient and biological risks to water quality. Any regulations imposed on irrigated agriculture should be made in conjunction with all major risks to water quality. 1

2. **The Tentative Order and any other regulations must consider the costs involved:**
   a. As you are aware, the Central Valley of California is facing significant financial challenges such as: high unemployment, high levels of poverty, and limited economic growth. Our agricultural society cannot afford to lose economic development from cost-prohibitive and restrictive laws. 2
   b. This Tentative Order does not provide the necessary information to evaluate its cost effects on water quality or the community.

3. **These laws are untested and should be proven before they are imposed on society:**
   a. The Tentative Order is unclear as to whether or not these laws will improve water quality.
   b. If this cannot be proven, with certainty, then there are significant risks being imposed with an unknown reward. As public leaders, we ask that you be diligent and do not take significant risks to our society and resources. 3
   c. More time should be taken to ensure proposed regulations will actually provide the desired outcome.

4. **Regulations must include an educational component:**
   a. Excelsior/Kings River RCD improves resource conservation of individual producers with incentive programs to implement better management practices. Education and training are essential to ensure a management and practice change. 4
   b. We recommend that the RWQCB include an educational component within the Tentative Order that will provide a better understanding to growers, discharges, interested parties, and the general public. There is a time to push and a time to pull. The sheer size and geography of this Tentative Order will limit the effectiveness of a regulatory push. We believe pulling with an educational component will provide a more effective solution and should be incorporated within this Tentative Order.

Thank you for your time and consideration. We welcome the opportunity to work with the RWQCB to improve this Tentative Order. We believe the issues outlined in this letter should be addressed before the Tentative Order is considered for adoption.

Additionally, we hope sufficient time will be given for our society to comply with new and/or revised Waste Discharge Requirements on irrigated lands. We hope, and respectfully ask, that the RWQCB take additional steps to include more growers and industry groups in the future development of this Tentative Order as well as any other regulations.

Sincerely,

Jeff Gilcrease
Chairman

Letter 9

ARVIN-EDISON WATER STORAGE DISTRICT

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DIVISION 7
CHARLES FANUCCHI
DIVISION 8
DONALD VALPREDO
DIVISION 9
KEVIN E. PASCOE

April 15, 2013

California Regional Water Quality Control Board, Central Valley 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670-6114	Karl E. Longley, Chair Jennifer Moffitt, Vice-Chair Jon Constantino, Board Member Sandra O. Meraz, Board Member Carmen Ramirez, Board Member Robert Schneider, Board Member Pamela Creedon, Executive Officer Clay Rodgers, Assistant Executive Officer Kenneth Landau, Assistant Executive Officer Clint Synder, Assistant Executive Officer Andrew Altevogt, Assistant Executive Officer Richard Loncarovich, Assistant Executive Officer

RE: Tulare Lake Basin Waste Discharge Requirements Tentative Order Comments

Dear Board Chair, Vice Chair, Members, Executive Officer and Assistant Executive Officers:

Arvin-Edison Water Storage District (District) hereby incorporates by reference the extensive comments submitted this date by the Kern River Watershed Coalition Authority (Coalition), among other things pointing out the board application to all groundwater within our Coalition boundary (mainly Kern County) of the subject Tentative Order (Order). The District provides the following additional comments, including incorporating the Coalition comments, and on behalf of this District and our landowners, which covers approximately 130,000 acres in southeastern Kern County. The District defers to the expertise of the Coalition in these matters as it applies to the Southern San Joaquin Valley generally, and wish to point out the "real world" factors as it relates to water quality in our area.

The District has been engaged in conjunctive use of surface and groundwater as well as groundwater banking projects since the mid '60s and since then has imported approximately 7.3 million acre-feet to the area for various purposes. As pointed out in the Coalition comments and particularly the engineering analysis, the best way to maintain and improve groundwater quality is to import water. In our case, the base supply is high quality Friant-Kern water which the District aggressively and actively defends. Maintenance of this and other high quality supplies will have a better effect and potentially improve groundwater quality than any of the means proposed by Regional Board staff, many of which proposals are draconian and unnecessary. 1

The District has an extensive on-going water quality program for both surface water and groundwater on a monthly and annual basis. District records includes a wide spread source dating back to 1966. Review of District records, with Order and associated monitoring requirements in mind, fail to exhibit any true findings and indicate that certain proposed Order requirements like "trend monitoring" will not provide a decisive conclusion and will obviously be ineffective and an unjustifiably expense on landowners. 2

It shall be noted, over several decades District landowners have transitioned cropping patterns to more permanent crops with high efficient irrigation systems that are designed to reduce deep percolation past the root zone. As you may know the depth to groundwater in Kern County is much deeper than coalition areas to the north. District area depth to groundwater is some of the deepest in Kern County given our geologic features (foothills of Tehachapi Mountains) and range from static levels of 300 to 550 feet below sea level. 3

As previously mentioned, the District has operated a conjunctive use program for its landowners with groundwater banking facilities (spreading ponds and extraction wells) since July 1966. The District began a groundwater banking program with the Metropolitan Water District of Southern California (MWD), one of the largest urban purveyors in the nation in December 1997. As a part of the banking program, it is a requirement that District return previously banked water (local groundwater) to MWD in the California Aqueduct. The District has an extensive water quality monitoring program and blending model to predict water quality that is introduced into the California Aqueduct. To this date, District groundwater quality has never been a concern to MWD or Department of Water Resources, especially in reference to nitrates. 1 4

The communities of Arvin, Lamont, Metter and East Bakersfield rely on the same groundwater supply and each community service district or urban purveyor in our area do not exhibit problems with nitrates.

The District believes the best strategy for the Regional Board to pursue to maintain and improve water quality would be to encourage its sister agencies, such as the State Board and Department of Fish and Wildlife, to take appropriate actions to maintain import of surface water to the San Joaquin Valley to insure those historical imports continue and, to among other things, maintain groundwater quality. Irrigating agricultural lands by importing surface water is beneficial to the groundwater basin. Therefore the erroneous link, made by Regional Board Staff, that irrigated agriculture and resultant activities are a potential waste discharge to groundwater is greatly simplified and a false assumption. 5

The District encourages you to work with the Coalition and follow the advice of its comments to implement meaningfully measures to help maintain water quality in our region.

Sincerely,

Steve C. Collup
Engineer-Manager

cc: Board of Directors
Jeevan Muhar, Staff Engineer
Kern River Watershed Coalition Authority
Ernest Conant, Esq.

SCC:JSM:sj\AEWSD\ILRP\ AE.Comments.to.CRWQCB.Tentative.Order.04.13.doc

KERN-TULARE Water District

Letter 10

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BOARD OF DIRECTORS
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CURT HOLMES, DIRECTOR

STEVEN C. DALKE, GENERAL MANAGER
DAN ANTONINI, SUPERINTENDENT
SKYE GRASS, OFFICE MANAGER

APRIL 12, 2013

VIA EMAIL TO:
dsholes@waterboards.ca.gov

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

Kern-Tulare Water District (the District) is located on the eastern side of the San Joaquin Valley in Kern and Tulare Counties. The District provides irrigation water to over 17,000 acres of high-value permanent crops. The current annual irrigation demand is approximately 53,000 acre-feet (AF), of which approximately 36,000 AF is provided from the District. The remaining approximately 17,000 AF is from groundwater pumped by Growers. At the present time, approximately 99 percent of irrigated lands are permanent crops.

We are writing to express our objection to the Tentative Order. The District is a participant of the Kern River Watershed Coalition Authority and we concur with their comments on the Tentative Order. We do not believe the Tentative Order is appropriate for our area, which we understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different. 1

The Growers in the District have permanent crops irrigated by drip systems and micro sprinklers. The average cost of water from the District is $197 per AF. Growers use highly efficient irrigation and fertilizer systems to avoid wasting money and energy. 2

Wells drilled in the District tap predominetly into the confined aquifers of the Santa Margarita formation and Olcese sand deposits. These deposits contain useable groundwater and are located beneath fine-grained deposits that limit the natural recharge from the land surface. In addition, the average depth to groundwater is 450 feet. Due to the confined nature of the aquifer, the depth to groundwater and the low volume irrigation practices, it is highly unlikely that water from the surface can reach the useable groundwater aquifer. 3 4

As the Kern River Watershed Coalition Authority attested to in its technical comments, the amount of time it takes to get from the District surface by way of agricultural means is extraordinarily long if at all given the geological setting. It is unreasonable to assume that activity on the surface can be correlated to the groundwater quality below the surface. 5

Furthermore, any change in activity on the surface will not provide meaningful results in the groundwater that can be quantified. 5

As it applies to the District's area, the District does not believe the Tentative Order is reasonable. Based on the District's experience, current farming practices do not have an adverse impact on groundwater quality. Past farming practices may have contribute to nitrate contamination of groundwater, in addition to other factors, however the District understands the focus of the proposed Tentative Order is current farming practices. 6

The District requests the Central Valley Regional Water Quality Control Board not to adopt the Tentative Order and instead develop in cooperation with representatives, an alternative that makes sense for the District's area.

Sincerely,

Steven C. Dalke, P.E.
General Manager

Letter 11

P.O. Box 81435
Bakersfield, CA 93380-1435
Administration
Telephone: 661-393-2696
Facsimile: 661-393-6884

33380 Cawelo Avenue
Bakersfield, CA 93308-9575
Water Orders and Operations
Telephone: 661-393-3361
www.northkernwsd.com

NORTH KERN WATER STORAGE DISTRICT

April 15, 2013

California Regional Water Quality
Control Board, Central Valley
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

Karl E. Longley, Chair
Jon Constantino, Vice Chair
Jennifer Moffitt, Board Member
Katherine Hart, Board Member
Sandra O. Meraz, Board Member
Carmen Ramirez, Board Member
Robert Schneider, Board Member
Pamela Creedon, Executive Officer
Clay Rodgers, Assistant Executive Officer

RE: Tulare Lake Basin Waste Discharge Requirements General Order Comments

Dear Board Chair, Vice Chair, Members, Ms. Creedon and Mr. Rodgers:

North Kern Water Storage District (NKWSD or District) hereby incorporates by reference the extensive comments submitted this date by the Kern River Watershed Coalition Authority (Coalition), among other things pointing out the broad application to all groundwater within our Coalition boundary (mainly Kern County) of the subject Tentative Order (Order). The District provides the following additional comments, including incorporating the Coalition comments, and on behalf of this District and our landowners, which covers approximately 70,000 acres in northern Kern County. The District defers to the expertise of the Coalition in these matters as it applies to the Southern San Joaquin Valley generally, whereas this letter focuses on the "real world" factors relating to water quality in our area.

Since all of NKWSD overlies areas classified as "high vulnerability" by the Regional Board, the District and its landowners have a keen and vested interest in the regulatory structure described in the Order. NKWSD has been proactive in both participating in the Coalition and independently evaluating conditions within the District on a "field-by-field" basis. More specifically, several months ago the District entered into a contract to have Dr. Joel Kimmelshue of New Fields Agricultural & Environmental Resources apply the "Nitrate Hazard Index" (NHI) approach to the District based on up-to-date, field-by-field data available from the District. A copy of Dr. Kimmelshue's summary technical memorandum is attached to this letter and provided into the record. This memorandum indicates that, to highly substantial degree, it is unlikely that elevated nitrate levels underlying the District result from current overlying cultivation practices. This is true because District landowners have transitioned cropping patterns

1

2

3

to more permanent crops with high efficient irrigation systems that are designed to reduce deep percolation past the root zone. Furthermore, the depth to groundwater in Kern County is much deeper than coalition areas to the north. District area depth to groundwater is some of the deepest in Kern County given our geologic features and range from static levels of 300 to 400 feet below ground surface. More specifically, the conclusion section from Dr. Kimmelshue's memorandum states: 3 4

> "There are a few areas within the NKWSD that have a higher nitrate leaching risk than other areas. For the vast majority of this area however, the risk of nitrate leaching within NKWSD is negligible due to the reasons previously mentioned. That being said, NKWSD is currently completely contained with an area classified as "high vulnerability" by the CVRWQCB. These two classifications are currently in complete opposition to one another. 1
>
> Current land use and management practices at the land surface were not taken into consideration when establishing the generalized and broad-reaching "high vulnerability" classification. This is a significant omission because the majority of the groundwater quality issues present today are relics of different cropping systems and land management strategies that were in place decades ago."

The fundamental disconnect between the Regional Board's "high vulnerability" regulatory approach and the actual on-the-ground risks for additional nitrate contamination is very troublesome. Rather than imposing burdensome regulation in areas of low risk, the Regional Board should implement measures that will directly address the real issue: existing "legacy" nitrates. These measures might include support for the continuation of importation of high quality surface water supplies (as discussed below) and proposals to recover and reuse groundwater nitrate to meet the nitrogen needs of current overlying plantings. 1 5

In addition to the low risk posed by current practices, the District has been engaged in conjunctive use of surface and groundwater as well as groundwater banking projects since the 1950s, and since that time has imported approximately 10 million acre-feet to the area for various purposes. As pointed out in the Coalition comments and particularly the engineering analysis, the best way to maintain and improve groundwater quality is to import water. In our case, the base supply is high quality Kern River water which the District aggressively and actively defends. Maintenance of this and other high quality supplies will have a better effect and potentially improve groundwater quality than any of the means proposed by Regional Board staff, many of which proposals are draconian and unnecessary. 6 7

The District has an on-going water quality monitoring program for both surface water and groundwater on annual basis when the District is pumping wells. District records include a source data back to 1977. Review of District records, with Order and associated monitoring requirements in mind, fail to exhibit any true findings and indicate that certain proposed Order 8

requirements like "trend monitoring" will not provide a decisive conclusion and will obviously be ineffective and an unjustifiably expense on landowners. 8

The District encourages you to work with the Coalition and follow the advice of its comments to implement meaningfully measures to help maintain water quality in our region.

Sincerely,

Richard A. Diamond
General Manager

Attachment:

Technical Memorandum – Summary of Nitrate Hazard Index (NHI) Analysis for NKWSD (New Fields Agricultural & Environmental Resources)

Letter 12

WHEELER RIDGE-MARICOPA WATER STORAGE DISTRICT

12109 Highway 166, Bakersfield, CA 93313-9630
Telephone: 661.858.2281 ◆ Fax: 661.858.2643 ◆ Water Orders: 661.858.2296
www.wrmwsd.com

File 103.4.2

ROBERT J. KUNDE
ENGINEER-MANAGER

MARK E. GARDNER
CONTROLLER

THOMAS R. SUGGS
STAFF ENGINEER

STEPHEN L. DUNN
O&M SUPERINTENDENT

April 12, 2013

Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114
Email: dsholes@waterboards.gov

Subject: Comments on Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

The Wheeler Ridge-Maricopa Water Storage District (District) is a public agency that supplies agricultural water to approximately 90,000 acres of irrigated farmland in the southern end of the San Joaquin Valley and a member of the Kern River Watershed Coalition Authority. I am writing on behalf of the District to express my objection to the Tentative Order. Firstly, the unique conditions in the Tulare Lake basin make the Tentative Order inappropriate for our area. 1

Farm management practices are highly efficient in this part of the state. Efficient irrigation practices coupled with great depth to local groundwater and the presence of impeding layers make a persuasive argument that in many parts of the Tulare Lake basin, no anthropogenic nutrients have ever reached the water table. 2 Within the Tulare Lake basin and across the state, economics, market forces, and innovations in cultural practices have already done more to reduce potential nutrient inputs to groundwater than nutrient management plans will ever do. 3

We continue to be concerned about the members of disadvantaged communities who are faced with the choice of either buying bottled water or drinking domestic well water, some of which is of questionable quality. 4 Unfortunately, the current ILRP will not put one drop of drinkable water into the hands of those community members who need it. Due to lag times and legacy nutrients in the vadose zone, it will be tens, if not hundreds of years before source control can possibly improve water quality for domestic water users. Expecting irrigators to pay an excessive cost for measures in the Tentative Order which are neither justified by current farm practices nor capable of producing the desired result fails to meet the reasonableness standard of the Porter-Cologne Act. 5

In conclusion, I ask that you not adopt the Tentative Order and instead develop an alternative that makes sense for our area in cooperation with the Coalition Groups.

Respectfully,

Thomas Suggs

Thomas Suggs, P.E., P.G., H.G.
Staff Engineer

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Letter 13

PARAMOUNT
FARMING COMPANY

33141 E. Lerdo Highway
Bakersfield, CA 93308-9767

(661) 399-4456
(661) 399-1735 Fax

APRIL 11, 2013

VIA EMAIL TO:
dsholes@waterboards.ca.gov

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

Paramount Farming Company is a grower of almonds, pistachios and pomegranates. This letter refers specifically to our farming operations on the west side of Kern and Kings Counties.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative Order, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern and in particular the Westside, is appropriate for our area. Groundwater beneath the Westside of Kern County (generally the lands within Belridge Water Storage District and Berrenda Mesa, Lost Hills and Dudley Ridge Water Districts), is not usable to meet municipal standards and has severe limitations for most agricultural uses. Groundwater in these areas should be exempt from the order. The Westside Districts have, through separate correspondence with Regional Board staff, sought an exemption from the groundwater regulatory provisions of the ILRP, however, to date, staff has yet to respond to our request and the current Tentative Order does not appear to consider the unique groundwater conditions on the Westside. 1

I believe that there are much more effective, efficient, economical, and appropriate alternatives, which have been pointed out to board staff members repeatedly, than those proposed in the Draft Order. We would welcome the opportunity to work cooperatively with staff to develop measures that make sense for our area.

In the meantime, I request that you not adopt the Tentative Order in its current form.

Sincerely,

Joseph MacIlvaine
President

Letter 14

33141 E. Lerdo Highway
Bakersfield, CA 93308-9767

PARAMOUNT
FARMING COMPANY

Bus: (661) 399-4456
Fax: (661) 399-1735

April 15, 2013

VIA E-MAIL

Attn: David Sholes
Central Valley Regional Water Quality Control Board
1685 "E" Street
Fresno, CA 93706-2007
dsholes@waterboards.ca.gov

Dr. Karl Longley, Chair
Jennifer Lester Moffitt, Vice Chair
Jon Costantino, Board Member
Sandra Meraz, Board Member
Carmen Ramirez, Board Member
Robert Schneider, Board Member
Pamela Creedon, Executive Officer
Clay Rogers, Assistant Executive Officer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

RE: Review of the tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area that are Members of a Third Party Group (March 2013)

Dear Board Chair, Vice Chair, Members, Ms. Creedon, Mr. Rogers and Mr. Sholes:

The Central Valley Regional Water Quality Control Board ("Regional Board") recently released for review the tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area that are Members of a Third Party Group ("Tentative TLB Order"). The below comments on the Tentative TLB Order are submitted on behalf of Paramount Farming Company and Paramount Citrus and their related entities ("Paramount"). These comments are in addition to those submitted by Paramount on April 11, 2013 which referred specifically to our farming operations on the west side of Kern and Kings Counties. Paramount has been engaged in the development of the various general orders making up the proposed Long-Term Irrigated Lands Regulatory Program ("ILRP") and is concerned the current process will not achieve the Regional Board goal of protecting and preserving groundwater, but instead will merely apply a standardized and ineffective administrative burden on landowners with no measurable benefit. 1

Paramount is a grower and processor of almonds, pistachios, pomegranates, and citrus. Agriculture is a critical component of the economy of the Central Valley. In order to grow crops and contribute to the economy, Paramount relies on, and is a steward of, our local groundwater and surface water supplies. Paramount supports meaningful, results oriented, cost effective and collaborative solutions, including, when appropriate, regulation, however opposes the Tentative TLB Order and the current framework being forwarded by the Regional Board in the ILRP process.

The ILRP should properly evaluate the cost and benefits of the reporting and monitoring requirements, assess potential alternatives, define and account for baseline conditions by specific geographic areas and provide measurable goals for each level of regulation, that if obtained, result in a defined, decreased level of future reporting and monitoring. Such a program would incentivize action where needed without burdening growers whose practices are already protective of groundwater or who do not have a "potential to discharge." 2

The ILRP, including the Tentative TLB Order, wrongfully assumes all irrigators are dischargers, is unnecessarily costly, fails to meet the "reasonable" standard of Water Code Section 13241 and lacks incorporation of data and research on current practices and approaches that have been presented to the Regional Board as effective implementation methods. For sake of brevity, Paramount incorporate by reference the comments submitted by the Kern River Watershed Coalition Authority ("KRWCA") and the Southern San Joaquin Valley Water Quality Coalition ("SSJWQC") which provide detailed technical background and research supporting the above topics. Additionally, Paramount incorporates its previous comments submitted on the Eastside Order, the TLB Order and the Individual Order as no substantive changes have been made to the underlying ILRP. We do however feel it is necessary to reiterate key comments that apply to the ILRP as a whole and specifically the Tentative TLB Order. 3 4

The Tentative TLB Order is a mirror of the Eastern San Joaquin Order adopted in December 2012 and previous draft orders on which we, and others, have provided significant comments and suggestions. The Regional Board and its staff have, on several occasions, committed to review and take into account in the general orders developed for the various third party areas and the individual order, the unique characteristics of areas throughout the Central Valley. Substantive comments and research, including a formal proposal for designating and assessing specific site's "potential to discharge" through use of a Nitrogen Hazard Index have been submitted on multiple occasions by the KRWCA, the SSJWQC and various members, including Paramount, with no response or recognition from the Regional Board. The process to date has not been a meaningful public input process, but merely a deadline driven, rush to regulate. 5 6 7

Paramount's position has consistently focused on cooperatively developing a cost effective, scientifically based, practical and meaningful ILRP. This necessitates site specific considerations, which can best be understood by working with those who have been engaged in local groundwater and surface water monitoring within the various areas under the scope of the Regional Board, using existing data and systems and identifying focal areas. The "one size fits all" program currently proposed will fail to improve groundwater quality and will simply increase regulatory burden. 8

The regulatory burden is currently undefined. The Regional Board has provided several cost estimates that vary tremendously. The incremental cost identified in the Tentative TLB Order is $1.90/acre, however previous Regional Board estimates reached $120/acre/year. Even the $120/acre/year drastically underestimates the program costs as demonstrated through estimates submitted by the KRWCA and any expense shouldered by growers who do not have a potential to discharge is overly burdensome and unreasonable. The Regional Board needs a defined and cost breakdown to justify each component and to aide grower in understanding each component, including a method to exclude lands from regulation that have little or no potential to discharge. 9

The Tentative TLB Order was prepared based on the Regional Board's certification of a "Final Program Environmental Impact Report for the Long-Term Irrigated Land Regulatory Program" (Resolution No. R5-2011-0017) ("PEIR") which was challenged in court alleging, among other things, that the PEIR violates CEQA (Sacramento County Superior Court, Case Number 34-2012-80001186 [Consolidated Case Number RG12632180]). A Tentative Ruling on March 28, 2013 by the Honorable Judge Timothy M. Frawley stated the PEIR violated CEQA and commanded the Board to, "set aside its certification of the PEIR, and to prepare, circulate, and certify a legally adequate EIR (consistent with this ruling) before proceeding with any additional project approvals." 10

The Court has not yet issued a final ruling, the Judge gave no indication that he was going to change his opinion. It is suggested the Regional Board forgo approval of the Tentative TLB Order, at least until the completion of the new EIR, and use this time to work cooperatively towards two goals; designing a reasonable and cost effective reporting program that accounts for site specific considerations and assessing and selecting methods to address drinking water quality issues. We do not believe these two goals can be achieved merely through the on-farm regulations presented in the Tentative TLB Order and other proposed and adopted orders by the Regional Board.

As drafted, we oppose the Tentative TLB Order as it fails to incorporate scientific data supporting the need for variations in the regulation based on unique characteristics of irrigated agriculture throughout the Central Valley. We ask that you forgo adoption of the Tentative TLB Order and pursue review of the technical work presented to the Regional Board by the KRWCA, its various constituents and others. We reserve the right to provide further comments on the Tentative Order, pending the outcome of any revisions of the PEIR that is ordered by the Court. If you have any questions, please do not hesitate to contact Kimberly Brown or me at the contact information listed above. 11

Sincerely,

Joseph C. MacIlvaine
President

cc: State Water Resources Control Board

Letter 15

A family of *Growing* companies.

APRIL 15, 2013

VIA EMAIL TO:
dsholes@waterboards.ca.gov

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

Grimmway Farms is the operator of 24,500 acres of farmland in the Tulare Lake Basin of Kern County. We have concerns that the current rules that are being proposed in the General Order are over reaching for the area. I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments to the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin Watershed, North of Fresno, where conditions are significantly different than Kern. 1

For over a decade, Grimmway Farms has employed professional agronomists, researched and experimented with contemporary agricultural disciplines, and utilized advanced machinery in a focused effort to maximize viable economic farming practices while enhancing the environment. To ensure optimal efficacy, prevent significant leaching, and insure optimal yields, our farming operation has developed a site specific fertility management program centered on seasonal soil testing. Prior to planting, each field is grid sampled; this soil fertility data along with relevant retrospective field knowledge, yield expectations, and crop specific needs is then used to determine fertilizer rates. The result of this process is a fertilizer program that not only optimizes economic and agronomic efficiency, but also actively cultivates the improvement of our soil resources. Through the use of several forms of organic matter, soil amendments, and agricultural by-products, Grimmway is constantly reinvesting in the land. The efficient use of valuable water resources coincides with this fertility management system; making use of drip irrigation, cutting edge sprinkler technology, as well as modern piping systems to prevent backflow into underground aquifers. It is and has always been in our best interest to improve the health of all environmental systems to assure long term productivity and production. Grimmway farms strives to develop new ways to plant, cultivate, harvest and distribute crops to be able to meet the food needs of the world's population, while maintaining the integrity of our natural resources and prevent the migration of nitrate into the groundwater. 2

Farming Division
P.O. 81498 • Bakersfield, CA 93380-1498
tel: (661) 845-5289 • fax: (661) 845-5248
www.grimmway.com

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. It would seem to make more sense to deal with areas with known nitrate problems on a case by case basis, instead of creating a bureaucratic quagmire for farmers to deal with that does not solve the problem. 1 2 3

I ask that you not adopt the tentative order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Kevin Pascoe
V.P. Farming Operations
Grimmway Enterprises Inc.

Letter 16

Wm. Bolthouse Farms, Inc.
7200 East Brundage Lane • Bakersfield, CA 93307-3016
661/366-7205 • Fax: 661/366-0297

April 15, 2013

Central Valley Regional Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114
Email: dsholes@waterboards.ca.gov

Re: Comments of Kern River Coalition Authority
Re: Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

Our company, Wm Bolthouse Farms, Inc. is a Bakersfield, CA-based farming operation that has been in business since 1915. We are known primarily for our carrot farming and premium juice operations. We have over 2,000 employees and consider ourselves good stewards of the land.

We take our environmental obligations very seriously, and consider any discharge into 'waters of the state" that now includes groundwater – that water that lies below the surface of the land we farm – as something that is a serious matter.

Our staff has attended workshops and two Board sessions in an effort to more completely understand the proposed regulations that our company and other farmers in the area would have to observe when a General Order is enacted.

We are gravely concerned that the Board's desire to monitor discharge into groundwater is going to result in a General Order that far exceeds what is necessary to monitor the discharge of nitrates into the soil that might migrate into the groundwater aquifers that could then migrate into the drinking water of local (or remote, depending how the aquifers flow) communities.

I am writing to express our company's objection to the Tentative Order. It seems to be a solution in search of a problem – a problem that is not proven to exist to the extent that such a costly and far-reaching regulatory program calls for.

A portion of our farming operations is within the Kern River Watershed Coalition Authority, and we incorporate the Coalition's comments on the Tentative Order. Our company does not believe that the Tentative Order is appropriate for our area. It is our understanding that the Tentative Order was based on the program developed for the East San Joaquin watershed, north of Fresno, where conditions are significantly different from the conditions in the Kern County area. 1

An orchard farmer, at the November 30th Board Meeting, during the public comments section, said that he "spoon fed" fertilizer onto his trees. The concept of "spoon feeding" – applying no more fertilizer than would penetrate to the root zone – is an application method that we use, as well. The days of saturating field with manure or other nitrogen-rich fertilizers have passed, not only because of the dangers of over-penetration of nitrates into groundwater or runoff off the property, but because farmers 2

are watching costs more than in the past. The margin of profitability continues to shrink. Adding more costs per-acre as this Tentative Order would are going to impact farmers no matter what size they are. 3

As you well know, the cost of water and applying it to the soil, whether it is from a canal system maintained by a water district or by privately-owned water wells with pumps, continues to rise. Our company uses sophisticated methods to reduce the amount of water we use. We use the latest form of sprinkler heads and in some areas we use overhead pivot irrigation systems that tightly control the amount of water. We are currently testing the viability of drip irrigation to grow our carrots. These methods ensure that we do not overwater our crops and keep the water within the root zone of the carrots and other crops. We believe that we do not have "nitrogen build up" in the soil and that nitrogen is not migrating down into the water system. 4

The bottom line is: will these proposed new regulations make the waters of the state safer by reducing nitrates? We do not believe it will. We believe that a scaled-back program, using different forms of monitoring will give the same degree of data monitoring that Executive Officer, Pamela Creedon, asked for at the November 30, 2012 Central Valley Water Board Meeting at the Doubletree Hotel in Bakersfield. At that meeting, the study* cited by Timothy Souther and Gary Kramer, from AMEC Environmental and Infrastructure, Inc. (Fresno, California) showed that it takes from 55 to 60 years for nitrates to migrate down 300 feet below the surface. They stated that the average depth of groundwater in this area is from 200 feet to 600 feet. Some of the wells in the southern part of the valley are drawing from groundwater over 1,000 feet below the surface. 5

In this "low saturation ground" – land in this Mediterranean climate that receives less than 7 inches of rainfall per year – nitrates are not a problem in most areas. In the disadvantaged communities, such as East Orosi, CA and Monson, CA where nitrate levels are significantly higher than the NCL ("Nitrate Contamination Level"), efforts must be made to help the people there secure clean drinking water. In areas where nitrate levels are not shown to be above the NCL, regulations should not be a "one-size-fits-all" Order. 6

Our company asks that you not adopt the Tentative Order. We ask that, instead, you develop an alternative, in cooperation with our representatives, that makes sense for our area.

We understand and appreciate your efforts to ensure clean air and water for the people of California. We publicly support this goal. We do, however at this time, differ in how to reach this goal.

*This study can be found at
http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/130102/ilrp_ind_wdrs/13_ind_wdr_krwca.pdf

Sincerely,

Michael W. Kovacevich
for Darren Filkins
V.P. of Agricultural Operation
Wm. Bolthouse Farms, Inc.
dfilkins@bolthouse.com
(661) 366-7205, Extension 1711

Letter 17

California Grape Co., LLC
5201 California Ave., #460
Bakersfield, CA 93309

April 11, 2013

Via Email To: dsholes@waterboards.ca.gov

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

RE: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

We farm table grapes and citrus in the Arvin/Lamont area in Kern County, California. Our farm consists of approximately 1400 acres of grapes and 250 acres of citrus.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly than Kern. 1

Our water supplies are fairly limited and expensive. We utilize both well water and district water. All of the grapes are farmed under a fan jet system, which allows for direct and accurate water placement. The citrus is flood irrigated. We have a water monitoring service that sends weekly updates on soil moisture. They have placed sensors at 12, 24, & 36 inch depths to record and monitor the water moisture in the soil. Grapes require very low levels of nitrogen. We are careful not to over apply nitrogen. Not only is it costly to waste nitrogen, but it also slows the coloring process of red grapes. It can also be a problem with fruitfulness. The grapevine, if over fertilized, can make too much canopy and produce less bunches. We take soil and petiole samples in the spring and fall before dormancy. We also have a PCA who issues fertilizer recommendations. Most of the table grapes in our area are farmed similarly by our observation. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Arnold S. Kirschenmann
Landowner/Grower

Letter 18

Val-Mar Farms, LLC
2101 Mettler Frontage East
Bakersfield, CA 93307
(661) 858-2888 Fax: (661) 858-2558

APRIL 15, 2013

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

Our farm is located in the Mettler / Wheeler Ridge area which is just north of the grapevine off of Hwy 99 and Hwy 166. We farm conventional and organic vegetables of which are sold throughout United States and Canada. We enjoy the work we do and are proud to be part of the many farmers that provide nutritious healthy food out of this part of the great San Joaquin Valley.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

Water is a precious resource that we must have and by using drip irrigation, we have been able to reduce the amount per acre feet we apply in each crop. Over the years we have implemented micro-irrigation, soil sampling, tissue sampling, and various other measures to assist us in our inputs to grow our crops. Due to the rising costs of water, fertilizers, and other inputs, we had to adopt ways to stay competitive in the market place. We are using less of these costly, but necessary, resources and continue to learn new ways of how to more efficiently grow our crops. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Catalino Martinez
Member
Val-Mar Farms, LLC.

Letter 19

April 15, 2013

Via Email To:

dsholes@waterboards.ca.gov

Central Valley Regional Water Quality Control Board

11020 Sun Center Drive, #200

Rancho Cordova, CA 95670-6114

Re: Comments re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

We farm pistachios, blueberries, almonds and olives in four different counties in the SJV. We are three generations of farmers. We are concerned about the environment and are doing our best to preserve our children's heritage.

All of our crops everywhere are either drip or micro sprinkler. Water is limited and expensive. We do not over water. We treat each block as a separate cost center, monitoring all input costs and results. We do not waste money or over apply fertilizer. 1

We object to your Tentative Order. We have attended several meetings to learn more about your plans. 2
We are very alarmed at the lack of science and limited amount of research was conducted. And even more alarmed that your Tentative Order assumes, without proof, that the problem was caused by farmers and that regulating current farming practices will somehow change something that occurred many years ago when irrigation methods were vastly different and less precise than they are today. Plus, it attempts to apply its unproven conclusions to a wide area where conditions and water tables vary widely. 3 4

As being proposed, I don't believe the Tentative Order is reasonable.

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for the various regions within the San Joaquin Valley.

Sincerely,

Cliff Woolley

Chief Administrative Officer

Munger Farms

Letter 20

From: Dan Andrews [mailto:dan@danandrewsfarms.com]
Sent: Friday, April 12, 2013 8:58 AM
To: Sholes, David@Waterboards
Subject: comments re: tentative waste discharge requirments

April 12, 2013
Via Email To:
dsholes@waterboards.ca.gov
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114
Re: Comments re Tentative Waste Discharge Requirements General Order for Growers within the Tulare
Lake Basin that are Members of a Third-Party Group (March 15, 2013)
Dear Board members:
My name is Daniel Andrews, and I am a third generation grower packer shipper of lettuce and melons in
the southern end of Bakersfield, CA. My operation has no water wells and obtains water from the
Wheeler Ridge Maricopa Water Storage District via the California Aqueduct.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed
Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the
tentative Order is appropriate for our area, which I understand was first developed for the East San 1
Joaquin watershed, North of Fresno, where conditions are significantly different than Kern.
My neighbors and I carefully manage our water supply, especially this year when our allotment from the
state has been reduced. I have fallowed 120 acres of prime farm land, set up drip irrigation on another
120 acre parcel to save water and fertilizer usage, and I have 5 tail pond reservoirs throughout the ranch 2
that collect water and redistribute to the land for late season final irrigation's rather than using state
water or turnout water to reduce my usage.

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal 1
experience, current farming practices are not having an adverse impact on groundwater quality. It may
be that in the past farming practices did contribute to nitrate contamination of groundwater (along with
other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming 2
practices.
I ask that you not adopt the Tentative Order and instead you develop in cooperation with our
representatives an alternative that makes sense for our area.
Sincerely,
Daniel Andrews
Owner
Dan Andrews Farms LLC
--
Danny Andrews
Dan Andrews Farms
8924 Bear Mountain Blvd.
Bakersfield, CA 93311
office (661) 832-1100
fax (661) 832-1114

cell (661) 331-0723
www.DanAndrewsFarms.com

Letter 21

April 14, 2013
email to: dsholes@waterboards.ca.gov
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, Ca. 95670-6114

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge
Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

My name is Daniel Tran, President of LT Farm, Inc. I raise Asian Vegetables year around in the Arvin, Ca., area.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which, I understand, was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than in Kern. 1

Since our business is very competitive, we carefully consider expenses in growing our crops. We use the minimum amount of fertilizer and crop protection materials. Our crops are irrigated with sprinklers, using only what is needed to activate nutrients and keep the plants from wilting, and preventing run-off. 2

I don't believe the Tentative Order is reasonable in our area. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that, in the past, farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks), but, I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead, you develop, in cooperation with our representatives, an alternative that makes sense for our area.

Thank you for your time and consideration of my request.

Sincerely,

Daniel Tran
President
LT Farm, Inc.

Carreon Vineyards, Inc.

Letter 22

April 15, 2013

Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114
Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

Our vineyards and orchards are all on drip type irrigation systems for water conservation and to help manage limited water supplies and to help control cost. In most cases we us liquid type fertilizers to conserve resources which also helps the environment and lowers air pollution. Our average well depth is 240 feet which is much deeper then that of wells north of Fresno. 2 1

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Darrell McElwee
Carreon Vineyards, Inc.

Operations
14124 Weedpatch Highway
Bakersfield, CA 93307
(661) 845-2309

Accounting
6016 E. Texas, Suite 100
Bakersfield, CA 93307
(661) 366-5432

JK

Letter 23

SACRAMENTO
CVRWQCB
12:52

Leland Bell Farms Inc.
1499 East Los Angeles Ave.
Shafter, CA. 93263
(661) 746-4455

April 8, 2013

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

Re: Comments on Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group

Dear Board members;

We are a small family farm from Shafter farming a total of 200 acres of almonds. I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority (KRWCA) and we incorporate their comments on the Tentative Order. I understand the Tentative Order for the KRWCA area is nearly identical to the one developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

All of our acres are watered with Micro-jets, so we can give the trees exactly the amount of water they require and not waste water; which is exspensive to pump from a average groundwater depth of 280 feet. We also use all of our surface water when available. 2

The Micro-jets are also useful in feeding the tree nitrogen fertilizer just the amount it needs during the whole year. We can minimize groundwater contamination at the same time maximize efficiently nitrogen for the almond tree. This means greater yields and lower costs because nitrogen is very expensive.

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that past farming practices did contribute to nitrate contamination of groundwater along with septic tanks and other sources including natural; but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead develop, in cooperation with the KRWCA, an alternative that makes sense for our area.

Sincerely;

David Bell

David Bell, President
Leland Bell Farms Inc.

Letter 24

April 15, 2013
Via Email To:
dsholes@waterboards.ca.gov
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114
Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

I manage a large farm in Kern County growing almonds and pistachios. Our organization has been farming and investing here for over 20 years using the best technology available to maximize efficiency of both water and fertilizer.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

Our very first field planted to trees back in 1989 utilized a state-of-the-art micro-jet irrigation system which applies water, at a third party verified distribution uniformity of 90%+. As we have developed other orchards on our property throughout the past 20+ years, the old flood irrigation systems were closed and abandoned and we spent millions of dollars installing additional micro-jet systems on every field. Our entire property is now irrigated with these state-of-the-art irrigation systems. 2

Additionally, we monitor the quantity of water applied during each irrigation cycle, utilizing the best techniques and systems available such as CIMIS, neutron probes, Watermarks, etc. These techniques and systems ensure we are not leaching expensive water and nutrients past the root zone. Many of our neighbors have developed their fields in a similar manner over the years. The result of all of this is that we are not contributing to the nitrate load of the groundwater lying 350 feet below the surface of our property.

As applied in our area, I do not believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past others farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop, in cooperation with our representatives, an alternative that makes sense for our area.

Sincerely,

Eric J. Miller
General Manager – South Valley Farms

Letter 25

April 3, 2013

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

Re: Comments re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

I own and/or lease 160 acres of almonds and DOV Raisin Grapes in Northern Kern County close to McFarland, CA. These crops are irrigated with various types of irrigation systems including (1) double-line buried drip system, (2) a surface and buried drip line system, (3) fan jet/micro sprinkler systems, (4) and border-check flood irrigation system. We run many of our inputs through the drip/fanjet/micro sprinkler systems. Regarding the orchards with the flood system, we apply our Nitrogen and many other inputs by means of a surface-applied dribble tank and/or material spreader.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority (KRWCA) and we incorporate their comments on the Tentative Order. I understand the Tentative Order for the KRWCA area is nearly identical to the one developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

We have limited supplies of expensive water in Kern County, and thus, we don't apply any more water than is necessary. The same can be said of our fertilizer applications. The costs of fertilizer have more than tripled over the last five years. As it is, we don't and haven't used any more water or fertilizer than we need to in order to produce a profitable crop of almonds or raisin grapes. We also don't apply large amounts of fertilizer at any one time, Nitrogen in particular. On our almonds, we have been dividing our Nitrogen needs into five equal applications, one at post-harvest then beginning again throughout the spring and early summer growing seasons. We do this so that we don't apply more Nitrogen at any one time than the trees need. This keeps us from leaching the Nitrogen below the root zone. In our raisin grapes, we use a minimal amount of Nitrogen. We apply approximately 10 pounds of Nitrogen weekly during the spring growing season for approximately 7 weeks beginning the first week of April or so. 2

Two of the major differences between us and areas North of Fresno are that we receive approximately 1/3rd or less of the annual rainfall of our Northern neighbors, and another is that our water table is at approximately 250 feet below the surface of the soil, considerably deeper than theirs. I have difficulty getting water down to six feet, much less ten, 50, or 250 feet deep. 3 We do our best to apply the least amount of water, Nitrogen, and other inputs as possible, while still maintaining the maximum crop possible. We also work to closely match our irrigations with the amount of ET for our crops throughout the growing season. In doing 4

so, we don't apply any more water than is needed, thus keeping any leaching below the root zone to a minimum. From my observations, we are doing what the better farmers in our area are doing, in terms of splitting our Nitrogen applications and minimizing our inputs while maximizing our profits. 4

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past, farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 4

I ask that you not adopt the Tentative Order and instead you develop, in cooperation with representatives from the KRWCA, an alternative that makes sense for our area.

Sincerely,

David M. Snell
Snell Partnership

Letter 26

April 10, 2013

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers Within the Tulare Lake Basin that are members of a Third-Party Group (March 15, 2013)

Dear Board members:

My family has been farming on the west side of Kern County since 1969, and we now farm 140 acres of Pistachios within the boundaries of the Lost Hills Water District.

I am writing to express my opposition to the tentative waste discharge requirement order for growers within the Tulare Lake Basin. It is my opinion that the four Westside districts, Brenda Mesa Water District, Lost Hills Water District, Dudley Ridge Water District , as well as Belridge Water Storage District should be excluded from this order. There are very few usable underground aquifers under the four districts on the west side of Kern County. 1

The growers in these districts utilize some of the highest tech irrigation systems that are available in the industry. We monitor evapo-transpiration rates, we maintain neutron probes in the fields to monitor soil moisture, and we have installed the latest technology in drip irrigation all in an effort to assure that every drop of water is utilized to its fullest. 2

Water is just too valuable of a commodity to allow any surface runoff from any of our farms in these four Westside districts. It is because of this fact that I believe the Order is not a reasonable regulation that should be put on the growers and districts on the Westside. We are continually striving to improve our farming techniques and our water management. We simply do not need another regulatory agency constantly looking over our shoulders. 3

Thank you very much for your consideration,

Doug Anderson, Partner
AMA Pistachio Development

DA/lm

DKP

Letter 27

DM CAMP & SONS
SINCE 1936

RECEIVED
APR 18 2013
RWQCB-CVR
FRESNO, CALIF.

RECEIVED
SACRAMENTO
CVRWQCB
2013 APR 17 PM 12:48

April 15, 2013
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

Dear Board Members:

We are a 3rd generation family farm located in Kern County growing nuts, vines and vegetables.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

I would first like to state that we consider water a precious item as it is the basis for our existence here in the desert. With a limited amount of, and a high cost of water, and fertilizer, we employ drip, fanjet and solid set sprinkler irrigation on all of our acres to be as efficient as possible with water and fertilizer, using farm-site weather stations, soil probes, low pressure nozzles and other technology to predict, track, and ensure we use only what we need in the way of inputs, without wasting, and losing them beyond the root zone. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Edwin Camp
D. M. Camp & Sons
31798 Merced Ave.
Bakersfield, CA 93308

Letter 28

STIEFVATER ORCHARDS, LP

13 APR 15 PM 2:18
SACRAMENTO
CVRWQCB

April 9, 2013

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

RE: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

We are a farming family growing California Pistachios on the West Side of Kern County, directly south of Lost Hills, California. We obtain limited surface water delivered from the Belridge Water Storage District and blend natural well water.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

Water is a precious commodity in our area, as we only receive district allocations of sixty (60) percent in wet years and thirty (30) percent in dry years. To make up the differential required by our permanent crops, outside water purchases are negotiated at $350 to $500 per acre foot. Believe me, we do not waste precious water through the root zone. All calculations are made via water sensors and fertilization is strictly followed at the recommendations of licensed PCAs. 2
Ground water, in all three aquifers, comes from the coast range and has too many minerals for drinking. It is useless, impact farming, with cumbersome regulations, when the natural aquifers, in our area, cannot be used for human consumption. 3

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. 1
It may be, that in the past, farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks), but I understand the focus of the proposed Order is current farming practices. 2

I ask that you not adopt the Tentative Order and instead you develop, in cooperation with our representatives, an alternative that makes sense for our area.

Sincerely,

STIEFVATER ORCHARDS, LP
BY: GARY STIEFVATER

*1090 Vallombrosa Avenue * Chico, CA 95926*

*Phone: 530-893-8611 * Fax: 530-893-1240 * E-mail: gssales.gary@gmail.com*

Letter 29

Gardiner Farms

April 8, 2013

Central Valley Regional Quality Control Board
11020 Sun Center Dr, #200
Rancho Cordova, Ca 95670-6114

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirement General order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 1S, 2013)

Dear Board Members,

Gardiner Farms is a 3rd generation land owner who operates 2500 acres of irrigated almonds and row crops. Our goal is to manage our properties professionally, implementing Good Agricultural Practices while increasing efficiencies, in order to sustain these properties for generations to come.

We understand that the Tentative Order for the KRWCA is identical to the one developed for the East San Joaquin watershed. However, we believe the conditions in Kern County are significantly different. As applied in our area, we do not believe the Tentative Order is appropriate, and therefore will not be effective in achieving the desired outcomes. 1

Based on our personal experience, our current farming practices are not having an adverse impact on groundwater quality. Past farming practices may have contributed to the nitrate contamination of the groundwater, hence we have a legacy issue. However, our understanding is that the Tentative Order is focusing on current farming practices. These practices have been implemented to achieve greater efficiencies through intentional water and fertilizer placement. Engineered irrigation systems have been installed to achieve 95-98% irrigation efficiencies. These irrigation systems are design to be precise in their placement of water, leaving very little room for irrigation water to be wasted through leaching or run-off. With improved water efficiencies, it has allowed us to better regulate our applications of fertilizers. Fertilizers are now metered in smaller doses and only applied at critical growth stages in the plant's life cycle. Overlay these highly precise irrigation systems, with real time irrigation monitoring systems; we are able to monitor three critical root depths. This allows us to design the frequency and duration of irrigations so the soil is positioned for maximum yields. Using this scientific approach, we are able to achieve greater water, energy, and fertilizer efficiencies, which convert to savings. 2

California agriculture, and more specifically Kern County agriculture, is a bread basket to the world. We focus our attentions everyday on sustainable practices resulting in efficient operations, while protecting our employees and the environment at the same time. The Tentative Order is not designed to achieve the intended outcomes, while placing a significant burden of expense and time on growers. We ask that you NOT adopt the Tentative Order as structured. Instead, an alternative needs to be developed, in cooperation with representatives from the KRWCA that appropriately addresses our area to achieve the goals of your Agency. 3

Sincerely,

Geordy Wise

Geordy Wise
Gardiner Farms, Ranch Manager

P.O. Box 1200, Wasco, CA 93280 Tel. 661-587-2250
Fax 661-587-2254

Letter 30

King & Gardiner Farms, LLC

April 8, 2013

Central Valley Regional Quality Control Board
11020 Sun Center Dr, #200
Rancho Cordova, Ca 95670-6114

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirement General order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members,

King & Gardiner is a 3rd generation land owner who operates 2100 acres of irrigated almonds and pistachios. Our goal is to manage our properties professionally, implementing Good Agricultural Practices while increasing efficiencies, in order to sustain these properties for generations to come.

We understand that the Tentative Order for the KRWCA is identical to the one developed for the East San Joaquin watershed. However, we believe the conditions in Kern County are significantly different. As applied in our area, we do not believe the Tentative Order is appropriate, and therefore will not be effective in achieving the desired outcomes. 1

Based on our personal experience, our current farming practices are not having an adverse impact on groundwater quality. Past farming practices may have contributed to the nitrate contamination of the groundwater, hence we have a legacy issue. However, our understanding is that the Tentative Order is focusing on current farming practices. These practices have been implemented to achieve greater efficiencies through intentional water and fertilizer placement. Engineered irrigation systems have been installed to achieve 95-98% irrigation efficiencies. These irrigation systems are design to be precise in their placement of water, leaving very little room for irrigation water to be wasted through leaching or run-off. With improved water efficiencies, it has allowed us to better regulate our applications of fertilizers. Fertilizers are now metered in smaller doses and only applied at critical growth stages in the plant's life cycle. Overlay these highly precise irrigation systems, with real time irrigation monitoring systems; we are able to monitor three critical root depths. This allows us to design the frequency and duration of irrigations so the soil is positioned for maximum yields. Using this scientific approach, we are able to achieve greater water, energy, and fertilizer efficiencies, which convert to savings. 2

California agriculture, and more specifically Kern County agriculture, is a bread basket to the world. We focus our attentions everyday on sustainable practices resulting in efficient operations, while protecting our employees and the environment at the same time. The Tentative Order is not designed to achieve the intended outcomes, while placing a significant burden of expense and time on growers. We ask that you NOT adopt the Tentative Order as structured. Instead, an alternative needs to be developed, in cooperation with representatives from the KRWCA that appropriately addresses our area to achieve the goals of your Agency. 3

Sincerely,

Geordy Wise

Geordy Wise
King & Gardiner, Ranch Manager

P.O. Box 1200, Wasco, CA 93280
Tel. 661-587-2250 Fax 661-587-2254

Letter 31

PACIFIC AG
Management Inc.

Tel: 661-587-2250
Fax: 661- 587-2254

P.O.Box 1200
29341 Kimberlina Rd.
Wasco, CA 93280

April 8, 2013

Central Valley Regional Quality Control Board
11020 Sun Center Dr, #200
Rancho Cordova, Ca 95670-6114

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirement General order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members,

Pacific Ag Management Inc. is an agricultural development and farm management company operating 12,000 acres for our clients. Clients, which are either new, or 2nd and 3rd generation land owners. Our goal is to manage their properties professionally, implementing Good Agricultural Practices while increasing efficiencies, in order to sustain these properties for generations to come.

We understand that the Tentative Order for the KRWCA is identical to the one developed for the East San Joaquin watershed. However, we believe the conditions in Kern County are significantly different. As applied in our area, we do not believe the Tentative Order is appropriate, and therefore will not be effective in achieving the desired outcomes. 1

Based on our personal experience, our current farming practices are not having an adverse impact on groundwater quality. Past farming practices may have contributed to the nitrate contamination of the groundwater, hence we have a legacy issue. However, our understanding is that the Tentative Order is focusing on current farming practices. These practices have been implemented to achieve greater efficiencies through intentional water and fertilizer placement. Engineered irrigation systems have been installed to achieve 95-98% irrigation efficiencies. These irrigation systems are design to be precise in their placement of water, leaving very little room for irrigation water to be wasted through leaching or run-off. With improved water efficiencies, it has allowed us to better regulate our applications of fertilizers. Fertilizers are now metered in smaller doses and only applied at critical growth stages in the plant's life cycle. Overlay these highly precise irrigation systems, with real time irrigation monitoring systems; we are able to monitor three critical root depths. This allows us to design the frequency and duration of irrigations so the soil is positioned for maximum yields. Using this scientific approach, we are able to achieve greater water, energy, and fertilizer efficiencies, which convert to savings. 2

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Sincerely,

Geordy Wise

Geordy Wise
Sr. V.P. Farming Operations
Pacific Ag Management Inc.

Letter 32

ROSEDALE RANCH

April 8, 2013

Central Valley Regional Quality Control Board
11020 Sun Center Dr, #200
Rancho Cordova, Ca 95670-6114

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirement General order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members,

Rosedale Ranch is a 3rd generation land owner who operates 2800 acres of irrigated almonds. Our goal is to manage our properties professionally, implementing Good Agricultural Practices while increasing efficiencies, in order to sustain these properties for generations to come.

We understand that the Tentative Order for the KRWCA is identical to the one developed for the East San Joaquin watershed. However, we believe the conditions in Kern County are significantly different. As applied in our area, we do not believe the Tentative Order is appropriate, and therefore will not be effective in achieving the desired outcomes. 1

Based on our personal experience, our current farming practices are not having an adverse impact on groundwater quality. Past farming practices may have contributed to the nitrate contamination of the groundwater, hence we have a legacy issue. However, our understanding is that the Tentative Order is focusing on current farming practices. These practices have been implemented to achieve greater efficiencies through intentional water and fertilizer placement. Engineered irrigation systems have been installed to achieve 95-98% irrigation efficiencies. These irrigation systems are design to be precise in their placement of water, leaving very little room for irrigation water to be wasted through leaching or run-off. With improved water efficiencies, it has allowed us to better regulate our applications of fertilizers. Fertilizers are now metered in smaller doses and only applied at critical growth stages in the plant's life cycle. Overlay these highly precise irrigation systems, with real time irrigation monitoring systems; we are able to monitor three critical root depths. This allows us to design the frequency and duration of irrigations so the soil is positioned for maximum yields. Using this scientific approach, we are able to achieve greater water, energy, and fertilizer efficiencies, which convert to savings. 2

California agriculture, and more specifically Kern County agriculture, is a bread basket to the world. We focus our attentions everyday on sustainable practices resulting in efficient operations, while protecting our employees and the environment at the same time. The Tentative Order is not designed to achieve the intended outcomes, while placing a significant burden of expense and time on growers. We ask that you NOT adopt the Tentative Order as structured. Instead, an alternative needs to be developed, in cooperation with representatives from the KRWCA that appropriately addresses our area to achieve the goals of your Agency. 3

Sincerely,

Geordy Wise

Geordy Wise
Rosedale Ranch, Ranch Manager

P.O. Box 1200, Wasco, CA 93280 Tel. 661-587-2250
Fax 661-587-2254

Letter 33

Sierra Land & Farming, LLC

April 8, 2013

Central Valley Regional Quality Control Board
11020 Sun Center Dr, #200
Rancho Cordova, Ca 95670-6114

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirement General order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 1S, 2013)

Dear Board Members,

Sierra Land & Farming is a partner who operates 250 acres of irrigated almonds. Our goal is to manage our properties professionally, implementing Good Agricultural Practices while increasing efficiencies, in order to sustain these properties for generations to come.

We understand that the Tentative Order for the KRWCA is identical to the one developed for the East San Joaquin watershed. However, we believe the conditions in Kern County are significantly different. As applied in our area, we do not believe the Tentative Order is appropriate, and therefore will not be effective in achieving the desired outcomes. 1

Based on our personal experience, our current farming practices are not having an adverse impact on groundwater quality. Past farming practices may have contributed to the nitrate contamination of the groundwater, hence we have a legacy issue. However, our understanding is that the Tentative Order is focusing on current farming practices. These practices have been implemented to achieve greater efficiencies through intentional water and fertilizer placement. Engineered irrigation systems have been installed to achieve 9S-98% irrigation efficiencies. These irrigation systems are design to be precise in their placement of water, leaving very little room for irrigation water to be wasted through leaching or run-off. With improved water efficiencies, it has allowed us to better regulate our applications of fertilizers. Fertilizers are now metered in smaller doses and only applied at critical growth stages in the plant's life cycle. Overlay these highly precise irrigation systems, with real time irrigation monitoring systems; we are able to monitor three critical root depths. This allows us to design the frequency and duration of irrigations so the soil is positioned for maximum yields. Using this scientific approach, we are able to achieve greater water, energy, and fertilizer efficiencies, which convert to savings. 2

California agriculture, and more specifically Kern County agriculture, is a bread basket to the world. We focus our attentions everyday on sustainable practices resulting in efficient operations, while protecting our employees and the environment at the same time. The Tentative Order is not designed to achieve the intended outcomes, while placing a significant burden of expense and time on growers. We ask that you NOT adopt the Tentative Order as structured. Instead, an alternative needs to be developed, in cooperation with representatives from the KRWCA that appropriately addresses our area to achieve the goals of your Agency. 3

Sincerely,

Geordy Wise

Geordy Wise
Partner, Ranch Manager
Sierra Land & Farming

P.O. Box 1200, Wasco, CA 93280
Tel. 661-587-2250 Fax 661-587-2254

Letter 34

Wasco Real Properties

April 8, 2013

Central Valley Regional Quality Control Board
11020 Sun Center Dr, #200
Rancho Cordova, Ca 9S670-6114

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirement General order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members,

Wasco Real Properties is a 3rd generation land owner who operates 3200 acres of irrigated almonds. Our goal is to manage our properties professionally, implementing Good Agricultural Practices while increasing efficiencies, in order to sustain these properties for generations to come.

We understand that the Tentative Order for the KRWCA is identical to the one developed for the East San Joaquin watershed. However, we believe the conditions in Kern County are significantly different. As applied in our area, we do not believe the Tentative Order is appropriate, and therefore will not be effective in achieving the desired outcomes. 1

Based on our personal experience, our current farming practices are not having an adverse impact on groundwater quality. Past farming practices may have contributed to the nitrate contamination of the groundwater, hence we have a legacy issue. However, our understanding is that the Tentative Order is focusing on current farming practices. These practices have been implemented to achieve greater efficiencies through intentional water and fertilizer placement. Engineered irrigation systems have been installed to achieve 95-98% irrigation efficiencies. These irrigation systems are design to be precise in their placement of water, leaving very little room for irrigation water to be wasted through leaching or run-off. With improved water efficiencies, it has allowed us to better regulate our applications of fertilizers. Fertilizers are now metered in smaller doses and only applied at critical growth stages in the plant's life cycle. Overlay these highly precise irrigation systems, with real time irrigation monitoring systems; we are able to monitor three critical root depths. This allows us to design the frequency and duration of irrigations so the soil is positioned for maximum yields. Using this scientific approach, we are able to achieve greater water, energy, and fertilizer efficiencies, which convert to savings. 2

California agriculture, and more specifically Kern County agriculture, is a bread basket to the world. We focus our attentions everyday on sustainable practices resulting in efficient operations, while protecting our employees and the environment at the same time. The Tentative Order is not designed to achieve the intended outcomes, while placing a significant burden of expense and time on growers. We ask that you NOT adopt the Tentative Order as structured. Instead, an alternative needs to be developed, in cooperation with representatives from the KRWCA that appropriately addresses our area to achieve the goals of your Agency. 3

Sincerely,

Geordy Wise

Geordy Wise
Wasco Real Properties, Ranch Manager

P.O. Box 1200, Wasco, CA 93280
Tel. 661-587-2250 Fax 661-587-2254

Letter 35

Wise Farming

April 8, 2013

Central Valley Regional Quality Control Board
11020 Sun Center Dr, #200
Rancho Cordova, Ca 95670-6114

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirement General order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members,

Wise Farming Concepts is a 1st generation land owner who operates 225 acres of irrigated row crops. Our goal is to manage our properties professionally, implementing Good Agricultural Practices while increasing efficiencies, in order to sustain these properties for generations to come.

We understand that the Tentative Order for the KRWCA is identical to the one developed for the East 5an Joaquin watershed. However, we believe the conditions in Kern County are significantly different. As applied in our area, we do not believe the Tentative Order is appropriate, and therefore will not be effective in achieving the desired outcomes. 1

Based on our personal experience, our current farming practices are not having an adverse impact on groundwater quality. Past farming practices may have contributed to the nitrate contamination of the groundwater, hence we have a legacy issue. However, our understanding is that the Tentative Order is focusing on current farming practices. These practices have been implemented to achieve greater efficiencies through intentional water and fertilizer placement. Engineered irrigation systems have been installed to achieve 95-98% irrigation efficiencies. These irrigation systems are design to be precise in their placement of water, leaving very little room for irrigation water to be wasted through leaching or run-off. With improved water efficiencies, it has allowed us to better regulate our applications of fertilizers. Fertilizers are now metered in smaller doses and only applied at critical growth stages in the plant's life cycle. Overlay these highly precise irrigation systems, with real time irrigation monitoring systems; we are able to monitor three critical root depths. This allows us to design the frequency and duration of irrigations so the soil is positioned for maximum yields. Using this scientific approach, we are able to achieve greater water, energy, and fertilizer efficiencies, which convert to savings. 2

California agriculture, and more specifically Kern County agriculture, is a bread basket to the world. We focus our attentions everyday on sustainable practices resulting in efficient operations, while protecting our employees and the environment at the same time. The Tentative Order is not designed to achieve the intended outcomes, while placing a significant burden of expense and time on growers. We ask that you NOT adopt the Tentative Order as structured. Instead, an alternative needs to be developed, in cooperation with representatives from the KRWCA that appropriately addresses our area to achieve the goals of your Agency. 3

Sincerely,

Geordy Wise

Geordy Wise
Partner, Ranch Manager
Wise Farming

P.O. Box 1200, Wasco, CA 93280
Tel. 661-587-2250 Fax 661-587-2254

Letter 36

NICKEL FAMILY LLC

15701 Highway 178 • P. O. Box 60679 • Bakersfield, CA 93386-0679
(661) 872-5050 • Fax: (661) 872-7141

April 8, 2013

Via Email to:
dsholes@waterboards.ca.gov
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova CA 95670.6114

RE: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements
General Order for Growers with the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

We farm approximately 1200 acres of permanent crops on the east side of Bakersfield along both sides of the Kern River, all of which is irrigated with drip or micro-sprinklers. There is no irrigation runoff into the river. All nutrients are applied either through the irrigation system or foliar applied, except for compost that is spread annually on some of the acreage. We have two irrigation wells on the property, which are approximately 2000 feet deep, with approximately 800 feet of overburden before water yielding sands are encountered. Based upon the above facts, we do not think our farming practices contribute to nitrate contamination of the groundwater. Hence, we do not feel the tentative Order is appropriate for our area. 1 2

We ask that you not adopt the Tentative Order, but instead develop a sensible alternative that applies to our area.

Sincerely,

James L. Nickel
President/CEO

JLN/rrd

Letter 37

Giumarra VINEYARDS

April 15, 2013

Via E-mail to: dsholes@waterboards.ca.gov

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

Re: Comments of Kern River Watershed Coalition Authority re: Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

Giumarra Vineyards is a diversified farming operation in the southern end of the San Joaquin Valley. We are primarily known for growing table and wine grapes, but we also grow citrus, potatoes and other row crops. We have been farming in the area since the 1930s and we now have our 3rd generation of family members actively involved in the business.

I want to write to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

As farmers, we take pride in the conservation and efficient use of water, fertilizers and other products required to grow our crops. Therefore, we have converted several thousands of acres over to highly efficient drip-irrigation systems, capable of very precise nutrient application. The marketplace for our products is far too competitive for us to waste money on excessive fertilizer or water. We have made large capital expenditures to make our operations increasingly efficient, and I see our neighbors and competitors doing the same. It is frustrating to see additional financial burden associated with unreasonable regulatory oversight and compliance further compromising agriculture's ability to compete in a global marketplace. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact of groundwater quality. It may be that the past practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

P.O. Bin 1969, Bakersfield, California 93303/telephone (661) 395-7000

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our region.

Sincerely,

Jeffrey Giumarra

Letter 38

APRIL 10, 2013

VIA EMAIL TO:
dsholes@waterboards.ca.gov

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

My name is Jeremy Blackwell. I work for a medium-sized farming operation based in the Central Valley, Pioneer Nursery. Our main focus is the production of Pistachios but do have other crops such as citrus and ornamental Palms. I am writing this letter on behalf of both Pioneer Nursery and myself because I hope to one day have my own farming operations.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

I will speak specifically about pistachios only because they are what I am most involved with, but I know that the same conclusions can be carried across all crops grown in Kern County. California is home to some of the best agricultural universities in the world and we make use of the research being done on a daily basis. I firmly believe that both my practices and those of all of my neighbors and colleagues should be considered part of what I call "normal-modern farming." This modern farming practice involves utilizing our resources in an extremely efficient matter that wasn't even conceivable thirty years ago. We have modern research that helps guide exactly how much water is needed and at what times, we have weather stations in the fields that stream real-time data to our iPads including soil moisture to ensure water is not wasted. We are a new generation of efficiency. There is not enough water to waste nor are there cheap enough forms of Nitrogen that we can afford to be wasteful. 2

We fund new research projects every year that bring us closer to a true understanding of the exact amounts and the exact timing of Nitrogen and other fertilizer applications. This is a new world and a new day. We have University of California tested fertilizer budgets that allow us to estimate crop load and properly take tissue analysis to get the specific doses we require. There are no more "gut-feelings" and hunches when it comes to water and fertilizer use. We track our fertilizer use, our tissue and soil samples and our crop yield every year and make adjustments for the following crop. In fact there are too many budgets. We have financial budgets as well as water budgets and fertilizer budgets. We are almost too knowledgeable. Farming is a business now. It has a corporate culture but retains the "down to earth" lifestyle that keeps many of us 2

here doing what we do. We are good stewards of the land. We are forward thinking, generational-minded people. We want to raise the next generation to be able to carry on with the great traditions of California farming. So we must be good stewards, we must utilize our resources in the most efficient way to have long-term sustainability both for the land and for the profitability of the business.

Regulations will impact the economics of sustainability. We can do our part. We can make improvements. But we cannot go down a road of such restriction that we are unable to farm economically. 3

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Jeremy Blackwell

Pioneer Nursery
5401 Business Park South, #214
Bakersfield, CA 93309

Letter 39

April 15, 2013
Via Email To:
dsholes@waterboards.ca.gov
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114
Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge
Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party
Group (March 15, 2013)

Dear Board members:

Our family operation is located near Wasco, California where we have been farming some 60 years
producing carrots, garlic, almonds, peppers, wheat, pima cotton, tomatoes and other crops.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed
Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the 1
tentative Order is appropriate for our area, which I understand was first developed for the East San
Joaquin watershed, North of Fresno, where conditions are significantly different than Kern.

Currently we monitor and have reduced our water irrigation, fertilizer and pesticides use by field stations
directly linked to our computers. This saves cost and resources to our operation 2
while maximizing
production. We are able to do this through drip irrigation where fertilizer and water are only are able to
reach the root zone for limited but full use of these resources. No sumps are even needed for runoff do
to irrigation.

As applied in our area, I don't believe the Tentative Order is reasonable. Based on 1
my personal
experience, current farming practices are not having an adverse impact on groundwater quality. Past
farming practices did not have access to these practices and facilities which could have contributed to
nitrate contamination of groundwater (along with natural and other causes, such as 2
septic tanks)
especially in other areas. I understand the focus of the proposed Order is current farming practices.

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our
representatives an alternative that makes sense for our area.

CONFIDENTIALITY NOTICE: The communication and any accompanying document(s) are confidential and privileged. They are intended for the sole use of the addressee. If

you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon the communication is strictly
prohibited. If you have received this communication in error, please contact Jim Neufeld at (661)758-2455

Letter 40

APRIL 15, 2013

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

I am an almond grower farming near Delano within the Delano-Earlimart Irrigation District. My family has farmed in this valley since very early in the 1900's, growing a variety of row crops over the years, table and raisin grapes, beans, cotton and small grains. Our desire and mission has always been about "care taking" as we are privileged to live in this incredible world and have been charged with its care. We have the desire to pass it to another generation as it was given to us. We have grown sustainably since the 1980's, always looking for products and tools to minimize fertilizer inputs, and actually grew organic raisin grapes starting in the "70's" before it was "the thing to do".

We are writing to express our objection to the Tentative Order. Our farm is located within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. We don't believe the tentative Order is appropriate for our area, which we understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

Because of this farms long history of sustainability, we do nothing without sound reason, i.e. spoon feeding fertilizer applications through micro sprinkler irrigation for greatest efficiency, nitrogen applications based on multiple tissue tests per year; yearly soil testing to back up tissue testing; regular use of mineral inputs to balance and strengthen trees and minimize the need for excessive nitrogen rates; heavy reliance on carbon based and soil biological products for blending with nitrogen materials to complex the nitrogen, minimize the leaching and hold the product in the root zone; and oversight by a CCA as we monitor the needs of our orchard. The cost of farming, fertilizer and other inputs is too high to not put great thought and care in the use of such expensive materials, including precious water. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. With today's low volume irrigation systems, it is difficult enough to meet the trees water needs and keep soil wet to a depth of 3 feet without applying so much water as to drive contaminants into the aquifer. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Best Regards,

John & Mary Andreas
John Andreas Ranch

John Gless

GLESS RANCH

Letter 41

RECEIVED
SACRAMENTO
CVRWQCB
13 APR 22 PM 1:36

April 19, 2013

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

I farm citrus in the Arvin Edison area along the Maricopa Highway, and am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

We currently utilize tensiometers to indicate the moisture of the soil and perform leaf and soil analysis to indicate the fertilization levels needed per tree. To be successful, at today's cost of water, I carefully manage how much is used in my irrigation practices. 2

As applied in our area, I don't believe the Tentative Order is reasonable. 1 Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

John J. Gless

John J. Gless

Ranch Market
(951) 653-5991
19985 Van Buren Blvd.
Riverside, California 92508

Orchard Care
(951) 780-8458
1441 Ravenswood Lane
Riverside, California 92506

Letter 42

SACRAMENTO
CVRWQCB
2013 APR 11 PM 12:51

MARICOPA ORCHARDS, LLC

ADMINISTRATION OFFICE
1306 W Herndon Ave, Suite #101, Fresno, CA 93711
Phone (559) 440-8350 • Facsimile (559) 432-2214

FARMING OFFICE
11701 Hwy 166, Bakersfield, CA 93313
Phone (661) 858-2881 • Facsimile (661) 858-4519

APRIL 9, 2013

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

Re: Comments re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

Maricopa Orchards, LLC, C & A Farms, LLC and ACDF, LLC each own land within the area to be governed by proposed General Order for Growers within the Tulare Lake Basin area. The only crops grown by these farming entities are permanent crops on drip irrigation systems.

I am writing to express our objection to the Tentative Order. Our farms are within the Kern River Watershed Coalition Authority (KRWCA) and we incorporate their comments on the Tentative Order. I understand the Tentative Order for the KRWCA area is nearly identical to the one developed for the East San Joaquin watershed, North of Fresno, where conditions are dramatically different than Kern. Because of related entities in that area, we are familiar with the groundwater conditions in that area, especially the depth to groundwater, and they are dramatically different than the Tulare Lake Basin area. 1

As you must be aware and as was brought to your attention at one of your hearings on the proposed general order, the days of flood irrigation on a vast scale are gone. Due to the high cost of water supplies and fertilizer inputs, there is almost no extra water or fertilizer that is permitted to go beyond the root zone of our crops. All water and inputs are closely monitored and metered through the meters on water district outlets and farm irrigation systems, as well as below ground sensors placed in our orchards to track the depth of water penetration. We have invested significant amounts of money in water sensors and database technology to monitor essentially every drop of water and fertilizer applied to our orchards. 2

The depth of water penetration is available to our personnel via the internet on a continuous basis for the sole purpose of making sure that we do not over irrigate our lands or allow water to escape beyond the root zone where it would be wasted. 2

We are not the only farm in our area with this technology since there are multiple companies in the areas in which we farm that provide this service. As farmers with an extremely limited water supply which comes at an expensive price, we are constantly on the lookout for ways to reduce water usage and other inputs. There is no reason we would want to over irrigate and every reason (both for tree health and cost savings) to reduce the amount of water or fertilizer applied to our orchards to the minimum amount required to produce a crop. 2

Further, several of our farms do not overlie usable groundwater or even any groundwater based on our own research in connection with looking for areas to drill irrigation wells. As a result, the Tentative Order would require us to take actions and incur additional expenses to protect groundwater which is either nonexistent or unusable for farming or domestic use. 3

As applied in our area, we do not believe the Tentative Order is reasonable. At best, the Tentative Order will require farmers to waste money on compliance that will have no impact on groundwater quality. At worst, the Tentative Order will further the general consensus that governmental regulations are unnecessarily overbroad. 4

In summary, most of our current farming practices are not having an adverse impact on groundwater quality in the Tulare Lake Basin area and the Board's attempt to regulate areas where the groundwater is over 100 feet below surface, nonexistent or otherwise unusable imposes unreasonable burdens on agricultural businesses. While it may be that past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) for those areas which actually have usable groundwater, the focus of the proposed Order is on current farming practices. 2

Based on the above, we request that you not adopt the Tentative Order and instead develop, in cooperation with representatives from the KRWCA, a region specific alternative that makes sense for our area.

Very truly yours,

Jon Reiter
Chief Executive Officer

JR: ja

cc: Ernest Conant, Esq.

Letter 43

JOHNSON DRILLING CORP

PO BOX 769
McFarland, CA 93250

VIA EMAIL TO:
dsholes@waterboards.ca.gov

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

I am a landowner in Kern County; currently I do not irrigate my property, however when I do it is for livestock pasture. I am also one of the owner/operators of a water well drilling company that services the Central Valley. I have a vested interest in the quality of our ground water not only for my own economical means, but also for the health of my family and community.

I am writing to express my objection to the Tentative Order. My property is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal & professional experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Joy E. Ash

Letter 44

KIRSCHENMANN
FARMS, INC.

April 10, 2013

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

Our company is located in Kern County, where we mostly farm potatoes and carrots. Our farms are set-up for sprinkler irrigation and we have tail water sumps to recover any runoff water from the fields which is put back into the irrigation system and re-used, mostly on our rotation crop of wheat. We use well water and surface water from Arvin Edison Water Storage District.

Our wells pump from 350' – 450'. Our irrigation time frame is late-February to late July on the potatoes and mid-August to mid-October on the carrots.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

We normally apply a ¼ to a ½ inch of water every 3-4 days and try to maintain the available moisture for growth and any fertilizer applied within that zone of about 18"of depth. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense four our area.

Sincerely,

P.O. BOX 577 · LAMONT, CA 93241 · (661) 845-2165 · FAX (661) 854-4579

Letter 45

From: Louis Stull [mailto:louis@stullfarms.com]
Sent: Monday, April 08, 2013 1:42 PM
To: Sholes, David@Waterboards
Subject: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge
Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party
Group (March 15, 2013)

Dear Board members:

I am a Citrus Farmer with a family business in the Bakersfield/Edison Area with nearly
500 Acres. We are historically a family of Naturalists so rational conservation and

utilization of the environment is important to us. Our farm is within the Kern River Watershed
Coalition Authority. I am extremely concerned with the General Order.

I am writing to express my objection to the Tentative Order. I don't believe the tentative Order is
appropriate for our area, which I understand was first developed for the East San Joaquin watershed, 1
North of Fresno, where conditions are significantly different than Kern. I understand that the order may
be highly appropriate for the East San Joaquin watershed area.

Due to the high cost and scarcity of water as well as the high cost of fertilizer, we use a
drip system which incorporates fertilizer application. This ensures that these two
precious resources are not squandered. It is in our best interest to keep fertilizer in the 2
root zone as otherwise this is simply money wasted. My understanding and
observations are that most (most likely all) of my "neighbors" employ similar practices
for the same reason. We do use well water, as well as District Water, so it is in our
best interest to ensure that the ground water is not contaminated with anything, nitrate
included. I understand that you are concerned with the environment and that too is
another factor that we try and take into consideration.

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal 1
experience, current farming practices are not having an adverse impact on groundwater quality. It may
be that in the past farming practices did contribute to nitrate contamination of 2
groundwater (along with
other causes, such as septic tanks and city runoff) but I understand the focus of the proposed Order is
current farming practices.

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our
representatives an alternative that makes sense for our area.

Sincerely,

Louis Stull
President
Stull Farms

P.O. Box 248
Edison CA 93220

661-872-2099
louis@stullfarms.com

M. CARATAN, INC.

COLUMBINE Vineyards

Letter 46

APRIL 12, 2013

VIA EMAIL TO:
dsholes@waterboards.ca.gov

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

I am the ranch agronomist, licensed pest control advisor at M. Caratan, Inc., a family owned farm in the Delano area. The third and now the fourth generation is farming table grapes planted by their grandfather. This family, like many others here, uses science and art to produce the finest produce in the world, in a sustainable way. They are farmers, not miners of resources. There is a critical difference in the definitions.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

I have a master's degree in soil and water science. I worked for a Kern County hydrologist/geologist and for the Dept. of Soils and Environmental Sciences at University of California, Riverside. Nitrogen use by many crops can be quite variable (*"The amount of nitrogen needed for a specific crop is not a constant but varies…" pg. 37 Ideas in Soil and Plant Nutrition by Joe Traynor, 1980*). Nitrogen leaching to usable groundwater is not at all clear and simple and is essentially eliminated under current practices. (*"Where water is costly or scarce, there is more likelihood that it will be managed intensively". "The southern San Joaquin Valley is a region where water is relatively scarce. The frequency of deficit irrigation as well as the general absence of runoff and run-on from or to irrigated fields are obvious symptoms of this fact." An Assessment of Irrigation Technology Performance in the Southern San Joaquin Valley of California" Water Resources Research, Vol 26. No1. Pgs. 35-41, Jan. 1990. Vaux, et.al.).* 2

As an agronomist, I take great pride in the conservation and efficient use of water, fertilizers and other products required to grow our crop. We use drip irrigation. Taking soil and plant measurements, we schedule our irrigations with the support of a professional consultant. We use 2

33787 Cecil Avenue • Delano, CA 93215-9597 • 661.725.2566 • fax 661.725.7233

the most current fertilizer technology and practices, utilizing professional consultants. We generate crop nutrient demand information from in-house plant tissue, soil and water analyses and production records. Market forces demand these practices. The continued employment of many people and the support of their families and health of our local communities compel this. The financial burden and potential adverse impact on our ability to produce, due to unreasonable regulatory oversight and compliance will compromise agriculture's ability to compete in a global market and may drive agriculture, like so many other tax paying industries, out of the state of California. To no benefit. There will be no improvement in the quality of our groundwater, no matter how onerous the regulations. At stake are businesses, the lives of employees and their families, our communities and the food security of this nation. 2 3

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. Many areas of Kern County have high nitrates and other salts often due to geologic or 'natural causes'. It may be that in the past, old farming practices did contribute to nitrate contamination of groundwater. Certainly, septic tanks continue to do so. Every day truckloads of southland sewage sludge continue to be dumped in an obscene disposal operation over and adjacent to the Kern Water Bank. In both the case of septic tanks and sludge dumping the Regional and State Boards have chosen to avoid doing what really needs to be done. The Board has chosen instead, to focus it's efforts, as all regulatory agencies do, on agriculture, the traditional whipping boy for nearly any public issue of interest. As long as septic tanks and sewage sludge disposal remains without address, the Board will not show progress. Regarding agriculture's role, the focus of the proposed Order, is current farming practices. I would hope that the Board make an informed decision and begin that process by supporting the appropriate studies to ***identify the current contributors to the problem***. This is opposed to relying on a non-peer reviewed document (Harter) that attempts to infer past practices from the current condition of the California's ground water. That horse is long gone from the barn. Furthermore, rather than taking the usual heavy handed regulatory approach, I would suggest that the ***Board assist in appropriate research and promotion of technologies and practices that are protective of the groundwater. It would be most productive if the Board chose to play an educational role in providing outreach of groundwater protective practices to the farming community through the coalitions, the University of California, resource conservation districts, and other means. These activities would likely result in greater success in a much less adversarial way***. 1 2 4

I ask that you not adopt the Tentative Order and instead, you develop in cooperation with our representatives, an alternative that makes sense for our area.

Sincerely,

Paul Giboney
Ranch Agronomist/Pest Control Advisor
M. Caratan Inc.
33787 Cecil Ave.
Delano, CA, 93215
(661) 720-2735
Fax (661) 720-2739
pgiboney@mcaratan.net

Letter 47

EDISON HIGHWAY RANCH, LLC

P.O. Box 446
Arvin, CA 93203

Phone No. (661)854-5750
Fax No. (661)854-2203

13 APR 15 PM 1:43
SACRAMENTO
CVRWQCB

April 11, 2013

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15,2013)

Dear Board Members:

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

We are a permanent crop grower, mostly wine grapes. We use very little fertilizer, about 40 units of Nitrogen per acre yearly. We water in a very strict manner, using the vines to tell us when it is necessary. All of the water is 100% contained in the vineyard. Water is a expensive commodity and in our operation we are very serious about using it wisely and wisely only. 2

We also use soil and leaf tests to check on Nitrogen needs, sometimes if warranted we use no Nitrogen, probably an average use is 40 units of Nitrogen per year.

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Ray Etcheverry
President, Agro Farming Corporation

KLR

Letter 48

AGRO FARMING CORPORATION

P.O. Box 446
Arvin, CA 93203

Phone No. (661)854-5750
Fax No. (661)854-2203

April 11, 2013

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

13 APR 15 AM 10: 20
SACRAMENTO
CVRWQCB

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15,2013)

Dear Board Members:

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

We are a permanent crop grower, mostly wine grapes. We use very little fertilizer, about 40 units of Nitrogen per acre yearly. We water in a very strict manner, using the vines to tell us when it is necessary. All of the water is 100% contained in the vineyard. Water is a expensive commodity and in our operation we are very serious about using it wisely and wisely only. 2

We also use soil and leaf tests to check on Nitrogen needs, sometimes if warranted we use no Nitrogen, probably an average use is 40 units of Nitrogen per year.

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Ray Etcheverry
President, Agro Farming Corporation

Letter 49

NJL RANCH

P.O. Box 446
Arvin, CA 93203

Phone No. (661)854-5750
Fax No. (661)854-2203

April 11, 2013

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15,2013)

Dear Board Members:

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

We are a permanent crop grower, mostly wine grapes. We use very little fertilizer, about 40 units of Nitrogen per acre yearly. We water in a very strict manner, using the vines to tell us when it is necessary. All of the water is 100% contained in the vineyard. Water is a expensive commodity and in our operation we are very serious about using it wisely and wisely only. 2

We also use soil and leaf tests to check on Nitrogen needs, sometimes if warranted we use no Nitrogen, probably an average use is 40 units of Nitrogen per year.

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Ray Etcheverry
President, Agro Farming Corporation

Letter 50

SVS VITICULTURE, LLC

P.O. Box 446
Arvin, CA 93203

Phone No. (661)854-5750
Fax No. (661)854-2203

April 11, 2013

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

Re : Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15,2013)

Dear Board Members:

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

We are a permanent crop grower, mostly wine grapes. We use very little fertilizer, about 40 units of Nitrogen per acre yearly. We water in a very strict manner, using the vines to tell us when it is necessary. All of the water is 100% contained in the vineyard. Water is a expensive commodity and in our operation we are very serious about using it wisely and wisely only. 2

We also use soil and leaf tests to check on Nitrogen needs, sometimes if warranted we use no Nitrogen, probably an average use is 40 units of Nitrogen per year.

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Ray Etcheverry
President, Agro Farming Corporation

Letter 51

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

April 9, 2013

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are members Of a Third=Party Group (March 13, 2013)

Dear Board members:

My company is a medium sized family owned citrus growing operation located in the Arvin- Edison area. My family has been in the farming business since the early 1900s. Our operation consists of growing about 350 acres of citrus using micro-jet sprinkler irrigation. We apply 100% of our tree's nitrogen requirements via foliar (not soil) applications of N. This has been the case for at least fifteen years.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalitions Authority and we incorporated their comments on the Tentative Order. I do not believe the tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different from Kern. 1

As I stated above, we use micro-jet sprinkler systems coupled with moisture reading indicator equipment which read moisture levels at depths of 12, 36 and 48 inches. This allows us to deliver water ONLY to the root zones of our trees. All of our water is sourced from wells. We closely monitor salt levels and Ph levels. All of our nitrogen is applied via foliar applications, not water or soil applications. 2

As applied in our area, I do not believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past, farming practices did contribute to nitrate contamination of groundwater. However I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Richard T. Porter
President, Porter Citrus, Inc.

PHONE: 661/747.4921 • E-MAIL: bzyfrmr@aol.com • P.O. BOX 535, LAMONT, CALIFORNIA 93241-0535

Letter 52

April 15, 2013
Via Email To: dsholes@waterboards.ca.gov

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

Re: **Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)**

Dear Board Members,

I am a Third Generation operator of a fully integrated vegetable and citrus farm located in the Edison and Arvin areas of Kern County. Our Company has been in operation in excess of 70 years, and I believe this long successful tenure serves as testimony to our responsible stewardship of this land.

I am writing to express my objection to the Tentative Order. Our Farm is within the Kern River Watershed Coalition Authority and we incorporate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different that Kern. 1

I believe our modern practices and those of my neighbors are not currently aggravating any existing ground water problem. One factor is pure economics. This is no longer post WWII farming where synthetic Nitrogen fertilizers were "New", "Plentiful" and "Cheap"! In recent years fertilizer costs have risen dramatically while commodity prices have not. It is not exaggerating to state that while cyclical, the wholesale prices for potatoes that we receive today, is no different than that of 40 years ago. To remain economically competitive, we must spend our fertilizer dollars wisely. With the aid of soil and tissue testing, wasteful applications are avoided. 2

The second factor is the cost of water and irrigation technology. More than ever, water is our most precious resource and input. Just as in the case of fertilizer, recent years have seen its cost to us soar to all-time heights. The days of flood and furrow irrigation methods do not exist in our part of the valley. Sprinkler, micro-jet and drip are the only methods feasible. As a result, only the amount of water needed to produce the crop is used and placed in a fashion the plants can best use it. The days of high volume irrigation, where water was pushed beyond the "root-zone" are gone.

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. 1
It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is 2

Current farming practices.

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Ron Lehr Jr.

Ron Lehr, Jr.
Vice-President
Lehr Brothers, Inc.

Letter 53

HANDEL AND WILSON FARMS, L.L.C.

GROWERS OF ALMONDS, GRAPES, COTTON & POTATOES

(661) 746-4423 • (661) 746-1620 FAX

P.O. Box 699, Shafter, California 93263

April 12, 2013

Via Email To:
dsholes@waterboards.ca.gov

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

RE: Comments regarding Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

I represent a family farming operation that has farmed in the Shafter area for over 90 years. Our operation grows grapes, almonds, potatoes, carrots, and miscellaneous crops.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority (KRWCA) and we incorporate their comments on the Tentative Order. I understand the Tentative Order for the KRWCA area is nearly identical to the one developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

Due to the high cost & limited supply of water, we are very careful in irrigation not to apply more water than necessary. We have 500 acres under micro irrigation and another 300 acres under sprinklers. Daily ET values are used to determine irrigation needs. Likewise fertilizer needs are determined by soil and petiole testing to ensure proper amounts. We are not unlike our neighbors who also employ similar techniques to measure water and fertilizer. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop, in cooperation with representatives from the KRWCA, an alternative that makes sense for our area.

Sincerely,

Stanley D. Wilson

Stanley D. Wilson
Manager

Letter 54

-----Original Message-----
From: Jay Kroeker [mailto:jaykroeker@gmail.com]
Sent: Friday, April 12, 2013 4:38 PM
To: Sholes, David@Waterboards
Subject: Tentative WDR General Order for Irrigated Lands Regulatory Program

CVRWQCB Board members,

I am writing my comments regarding the tentative agricultural WDRs for possible nitrate levels in the ground water.
The bulk of our family farm is located on the western side of Kern County. We grow almonds, pistachios and oats on the west side ranch. We had grown cotton and alfalfa, but the crop income for those could not pay for the higher surface water costs. Our west side ranch has used surface irrigation water from the State Water Project (SWP), since the SWP was built. Starrh & Starrh Farms started farming on our west ranch location in 1992. Fred Starrh has farmed the same ranch since 1974. The SWP water has always been very expensive, with the cost increasing every year. After 2003, SWP water deliveries were being reduced dramatically, due to "environmental " concerns.
Our farm had to start a water bank account in the Pioneer Water Bank Project, just to be able to survive the SWP entitlement losses we were enduring. 2013 will be the 8th season to fallow over 1500 acres of our irrigated land, in order to have enough SWP water, to farm the balance of our acreage already in permanent crop production. We have been in a deficit irrigation status for many years on our present crops. Our west ranch has also had irrigation water monitoring for many years, because the SWP water deliveries have been expensive. These monitoring results have revealed that the irrigation water applied, has not traveled past the root zone for all the crops that were monitored. There has been a very intense irrigation water and fertilizer usage trial being conducted on our west ranch for over 10 years by the UC Extention, funded by the state of California and other sources. This trial has very detailed mapping of the irrigation water and fertilizer usage in pistachios, cotton and alfalfa. Seminars and workshops have been conducted for several years, using the data from these trial results coming from our west ranch farming operation. 1

In 2000, we discovered that our ground water had been polluted by the neighboring oil companies, Shell and Mobil, with their oil production waste water that was percolated through unlined waste disposal ponds, located up gradient and adjacent to our farming property. We filed a lawsuit with Aera Energy in 2001 for continuing trespass. We installed monitoring wells as we discovered more about the pollution of our ground water. Our monitoring wells on our property, revealed that the polluted water levels were very close to the soil surface at that time. There was trial evidence showing that the native ground water under our property, before it was polluted, had a useable quality, if blended with

SWP water. Since we
have had dramatically reduced water deliveries, we could have been using this previously unpolluted
native ground water to supplement our irrigation needs by blending with SWP water, helping us get
through the dry years with lower SWP entitlement deliveries. The state of the present ground water
under our property is massively high in concentrations of boron, chlorides and other constituents that
are harmful for growing crops as they reach toxic levels. There is even an elevated amount of radiation
in our ground water now, due to it being already in the oil field waste water, that comes from very deep
in the oil producing zones. Trial evidence has also indicated the role and involvement of the RWQCB in
this trespass incident. This pollution plume will out weigh any other ground water issues if it travels to
ground water underlying municipal areas in Kern County.

Fertilizer is expensive, as are the many other costs of growing a production crop for market. Fertilizer
cannot be wasted by letting it travel past the root zone. We have been diligent on our farm, in
monitoring our nutrient usage through tissue and soil sampling data. When nutrients get close to a level 1
that is recommended, that nutrient application is decreased or halted, until the tissue data indicates a
decreased recommended level. Then the particular nutrient in question, is applied until it reaches the
recommended level again. We will oppose further regulation of the nutrient monitoring practices that
we already must engage in, to have an efficient farming operation and survive the increasing growing
costs and fluctuating market pricing that always occurs with production agriculture. 2
We don't need
more enemies to agriculture and our freedom.

Starrh & Starrh Family Farms

Letter 55

STEVEN M. GODDARD COMPANY, INC

April 15, 2013

RECEIVED
SACRAMENTO
CVRWQCB
13 APR 22 PM 1:55

Central Valley Water Control Board

11020 Sun Center Dr. #200

Rancho Cordova, Ca. 95670-6114

Re: Tentative Water Discharge Requirements

Dear Board Members,

I am a small farmer in the South Bakersfield (Kern Co.), Ca. area. I am writing to express my very strong objection to The Tentative Order. The Tentative Order could be appropriate for other areas however it is very inappropriate for the Kern County area. ! 1

We use the utmost care in the use and application of fertilizers, etc to assure minimal impact on the environment, minimal waste of expensive products and to assure absolute minimal leaching beyond root zones. 2

Again, I am very strongly opposed to The Tentative Order in our Kern Co. area. The Tentative Order does not make good sense in the Kern Co. area. 1

Candidly Yours,

Steven Goddard

Steven Goddard

2076 White Lane #167 Bakersfield, Ca. 93304
661.979.4451 smgco@sbcglobal.net

Letter 56

Way Gin LP
P.O.Box 27
Edison, CA 93220

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

April 12, 2013

RE: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for growers within the Tulare Lake Basin that are members of a Third-Party Group (March 15, 2013)

Dear Board Members:

My family has farmed a wide variety of row and permanent crops south of Bakersfield in the Arvin-Edison Water Storage District for over 60 years. Over the years the acreage devoted to our crops has increased to approximately 3,000 acres.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin Watershed, north of Fresno, where conditions are significantly different than Kern. 1

Due to the competitive pressures inherent in our business combined with inflation on crop inputs we are extremely conscious of minimizing detrimental impacts to the land from which we earn our living. As mentioned above we have farmed for over 60 years and this requires a long term sustainable approach. To minimize the impact on the land and the use of costly inputs we utilize drip irrigation wherever possible tailoring the crop inputs through continual monitoring by our trained personnel. Concerning water we continually monitor the crop needs in light of evaporation/ transpiration rates to ensure water does not penetrate beyond the root zone. The water monitoring relies on trained personnel utilizing soil probes to prevent water penetration beyond the root zone. Regarding fertilizer inputs, on permanent crops we use plant leaf tissue analysis to customize the application rate of nutrients and apply the nutrients in foliar applications to provide the nutrients on an as-needed basis. With the row crops, soil nutrient composition is tested at least annually and oftentimes twice a year depending upon our crop rotation. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based upon my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed order is current farming practices

I ask that you not adopt the Tentative Order and instead you develop in cooperation with your representatives an alternative that makes sense for our area.

Sincerely,

Wayde Kirschenman,
General Partner

Letter 57

Wayde S. Kirschenman, Et. al
P.O. Box 27
Edison, CA 93220

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

April 12, 2013

RE: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for growers within the Tulare Lake Basin that are members of a Third-Party Group (March 15, 2013)

Dear Board Members:

My family has farmed a wide variety of row and permanent crops south of Bakersfield in the Arvin-Edison Water Storage District for over 60 years. Over the years the acreage devoted to our crops has increased to approximately 3,000 acres.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin Watershed, north of Fresno, where conditions are significantly different than Kern. 1

Due to the competitive pressures inherent in our business combined with inflation on crop inputs we are extremely conscious of minimizing detrimental impacts to the land from which we earn our living. As mentioned above we have farmed for over 60 years and this requires a long term sustainable approach. To minimize the impact on the land and the use of costly inputs we utilize drip irrigation wherever possible tailoring the crop inputs through continual monitoring by our trained personnel. Concerning water we continually monitor the crop needs in light of evaporation/ transpiration rates to ensure water does not penetrate beyond the root zone. The water monitoring relies on trained personnel utilizing soil probes to prevent water penetration beyond the root zone. Regarding fertilizer inputs, on permanent crops we use plant leaf tissue analysis to customize the application rate of nutrients and apply the nutrients in foliar applications to provide the nutrients on an as-needed basis. With the row crops, soil nutrient composition is tested at least annually and oftentimes twice a year depending upon our crop rotation. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based upon my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed order is current farming practices 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with your representatives an alternative that makes sense for our area.

Sincerely,

Wayde Kirschenman

Letter 58

Sonshine Properties LLC
P. O. Box 27
Edison, CA 93220

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

April 12, 2013

RE: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for growers within the Tulare Lake Basin that are members of a Third-Party Group (March 15, 2013)

Dear Board Members:

My family has farmed a wide variety of row and permanent crops south of Bakersfield in the Arvin-Edison Water Storage District for over 60 years. Over the years the acreage devoted to our crops has increased to approximately 3,000 acres.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin Watershed, north of Fresno, where conditions are significantly different than Kern. 1

Due to the competitive pressures inherent in our business combined with inflation on crop inputs we are extremely conscious of minimizing detrimental impacts to the land from which we earn our living. As mentioned above we have farmed for over 60 years and this requires a long term sustainable approach. To minimize the impact on the land and the use of costly inputs we utilize drip irrigation wherever possible tailoring the crop inputs through continual monitoring by our trained personnel. Concerning water we continually monitor the crop needs in light of evaporation/ transpiration rates to ensure water does not penetrate beyond the root zone. The water monitoring relies on trained personnel utilizing soil probes to prevent water penetration beyond the root zone. Regarding fertilizer inputs, on permanent crops we use plant leaf tissue analysis to customize the application rate of nutrients and apply the nutrients in foliar applications to provide the nutrients on an as-needed basis. With the row crops, soil nutrient composition is tested at least annually and oftentimes twice a year depending upon our crop rotation. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based upon my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed order is current farming practices 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with your representatives an alternative that makes sense for our area.

Sincerely,

Wayne Kirschenman
Partner

Letter 59

Caffee Family Trust
P.O.Box 27
Edison, CA 93220

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

April 12, 2013

RE: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for growers within the Tulare Lake Basin that are members of a Third-Party Group (March 15, 2013)

Dear Board Members:

My family has farmed a wide variety of row and permanent crops south of Bakersfield in the Arvin-Edison Water Storage District for over 60 years. Over the years the acreage devoted to our crops has increased to approximately 3,000 acres.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin Watershed, north of Fresno, where conditions are significantly different than Kern. 1

Due to the competitive pressures inherent in our business combined with inflation on crop inputs we are extremely conscious of minimizing detrimental impacts to the land from which we earn our living. As mentioned above we have farmed for over 60 years and this requires a long term sustainable approach. To minimize the impact on the land and the use of costly inputs we utilize drip irrigation wherever possible tailoring the crop inputs through continual monitoring by our trained personnel. Concerning water we continually monitor the crop needs in light of evaporation/ transpiration rates to ensure water does not penetrate beyond the root zone. The water monitoring relies on trained personnel utilizing soil probes to prevent water penetration beyond the root zone. Regarding fertilizer inputs, on permanent crops we use plant leaf tissue analysis to customize the application rate of nutrients and apply the nutrients in foliar applications to provide the nutrients on an as-needed basis. With the row crops, soil nutrient composition is tested at least annually and oftentimes twice a year depending upon our crop rotation. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based upon my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed order is current farming practices 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with your representatives an alternative that makes sense for our area.

Sincerely,

Letter 60

April 3, 2013

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

Re: Comments re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

I own 250 acres of almonds in Northern Kern County close to McFarland, CA. These almonds are irrigated with a double-line drip system. It is through this drip system that many of the orchards' nutrients are delivered to the trees, including Nitrogen, Potassium, and Gypsum.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority (KRWCA) and we incorporate their comments on the Tentative Order. I understand the Tentative Order for the KRWCA area is nearly identical to the one developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

We have limited supplies of expensive water in Kern County, and thus, we don't apply any more water than is necessary. The same can be said of our fertilizer applications. The costs of fertilizer have more than tripled over the last five years. As it is, we don't and haven't used any more water or fertilizer than we need to in order to produce a profitable crop of almonds. We also don't apply large amounts of fertilizer at any one time, Nitrogen in particular. We have been dividing our Nitrogen needs into five equal applications, one at post-harvest then beginning again throughout the spring and early summer growing seasons. We do this so that we don't apply more Nitrogen at any one time than the trees need. This keeps us from leaching the Nitrogen below the root zone. Two of the major differences between us and areas North of Fresno are that we receive approximately 1/3rd or less of the annual rainfall of our Northern neighbors, and another is that our water table is at approximately 250 feet below the surface of the soil, considerably deeper than theirs. I have difficulty getting water down to six feet, much less ten, 50, or 250 feet deep. We do our best to apply the least amount of water, Nitrogen, and other inputs as possible, while still maintaining the maximum crop possible. We also work to closely match our irrigations with the amount of ET for our crop throughout the growing season. In doing so, we don't apply any more water than is needed, thus keeping any leaching below the root zone to a minimum. From my observations, we are doing what the better farmers in our area are doing, in terms of splitting our Nitrogen applications and minimizing our inputs while maximizing our profits. 2 1 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on 1 2

groundwater quality. It may be that in the past, farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices.

I ask that you not adopt the Tentative Order and instead you develop, in cooperation with representatives from the KRWCA, an alternative that makes sense for our area.

Sincerely,

Wendel Nicolaus
Taylor Farms

Letter 61

April 12, 2013

Via Email To:
dsholes@waterboards.ca.gov

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

I am a 3rd generation table grape grower in the Delano area. July will be my 37th year of employment with our company (not bad for a 47- year old). I serve as the ranch agronomist as well as a farm manager. My family are pioneers in the United States, installing the first computer controlled drip irrigation/fertilization systems in the early 1980's. The technology was imported from Israel and driven by a common goal of water conservation efficiently and "laser precision" fertilization. While the equipment has changed a bit, the practice of spoon feeding nutrients at specific plant use timings has not. The ongoing result is as close to 100% utilization as can be expected from the applied irrigation to the root zone. It is for these reasons that I feel the Tenataive Order is not applicable or reasonable for our water shed. 1

Thus, I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 2 1

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Andrew S. Pandol

Letter 62

April 12, 2013

Via Email To:
dsholes@waterboards.ca.gov

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

I own and operate a 105 acre wine grape vineyard) adjacent to the city of Arvin in Kern County (APNs 189-352-12 and 189-352-14).

I am writing to express my objection to the Tentative Order. Our vineyard is within the Kern River Watershed Coalition Authority and would be subject to the Tentative Order. I don't believe the tentative Order is appropriate for our area. I understand the order was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

The vines are covered 100% by a drip irrigation system so we rarely if ever flood irrigate. Our flat terrain is such that irrigated waters (flood or drip) **never** leave our property. The flat terrain is typical of the Bakersfield Arvin area, so, like my neighbors, our runoff is very well controlled and non-existent. 2

We draw all water from our own, recently drilled, deep well, which has a standing water level in excess of 200 feet. Hence, there is extensive filtration of the low volume drip waters prior to reaching the water table. Water analysis shows that we have reasonably low nitrate levels; we even attempt to take those levels into consideration when establishing our chemical program. 2

As you can see, we have gone to significant expense to establish farming practices that carefully manage fertilizer and limited water supplies. We farm with a goal of limiting fertilizer applications so there is no significant leaching below the root zone. My farm manager, who operates well in excess of 1,000 vineyard acres in the Bakersfield/Lamont/Arvin area, uses these practices throughout his properties. 2

We carefully guard selected cultural practices with regard to timing and relative application amounts. We consider these practices as proprietary and are fearful that they may be disclosed in records or reports available to the public. 3

From a broader perspective, I am not clear on what the discharge objectives are and specifically what is the impact of our area's unique circumstances. It appears the board is attempting to establish a "one size fits all" which is likely to impose inconsistent, unnecessary and costly burdens on each of us. While we all have a vested interest in preserving the environment, we should do so in a fashion that does not impose any unnecessary hardship. 1

In Summary:

- Given our flat terrain, drip systems, management practices, and our area's deep standing water levels, it is difficult for me to understand how my practices can have any impact on either ground water or surface water. 1

- I object to the imposition of burdensome order, which requires a costly process, and which will draw upon and divert my limited manpower and resources to prepare reports, submit reports, hire consultants, and fund intermediary groups to represent my interests. 4

- Further, I am fearful that some of our proprietary practices, with regard to the timing and relative amounts of certain applications may be disclosed in public records or reports. 3

- As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on either groundwater or surface water quality. 1 2

Recommendation:

- Do not adopt the Tentative Order

- Consider either abandoning the order or exempting drip-irrigated properties in our area from any order. 1
    - Exempting drip growers could be an incentive for non-drip growers to install drip systems. This would be a positive move for better water management in Kern County and thereby further progress towards our irrigated lands objectives.

Please feel free to contact me regarding these comments

Sincerely,

Donald Urfrig

2910Club Drive
Los Angeles, CA 90064
310.497.3117 (Cell)
310.837.2222 (Res)

Letter 63

-----Original Message-----
From: gwen@gwensite.com [mailto:gwen@gwensite.com]
Sent: Thursday, April 11, 2013 4:21 PM
To: Sholes, David@Waterboards
Subject: Tentative Waste Discharge Requirements

April 11, 2013

Via Email To:

dsholes@waterboards.ca.gov
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements
General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group
(March 15, 2013)

Dear Board members:

Our family operation is located near Wasco, California where we have been farming some 60 years
producing carrots, garlic, almonds, peppers, wheat, pima cotton, tomatoes and other crops.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River
Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't
believe the tentative Order is appropriate for our area, which I understand was first developed for the
East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

Currently we monitor and have reduced our water irrigation, fertilizer and pesticides use by field
stations directly linked to our computers.
This saves cost and resources to our operation while maximizing production. We are able to do this
through drip irrigation where fertilizer and water are only are able to reach the root zone for limited but
full use of these resources. No sumps are even needed for runoff due to irrigation. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal
experience, current farming practices are not having an adverse impact on groundwater quality. Past
farming practices did not have access to these practices and facilities which could have contributed to
nitrate contamination of groundwater (along with natural and other causes, such as septic tanks)
especially in other areas. I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our
representatives an alternative that makes sense for our area.

Sincerely,

Gwendolyn (Wendy) Neufeld

Letter 64

From: Hannah Neufeld [mailto:hannahneufeld@hotmail.com]
Sent: Friday, April 12, 2013 6:10 AM
To: Sholes, David@Waterboards
Subject: Tentative Order

April 15, 2013
Via Email To:
dsholes@waterboards.ca.gov
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114
Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge
Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party
Group (March 15, 2013)

Dear Board members:

Our family operation is located near Wasco, California where we have been farming some 60 years
producing carrots, garlic, almonds, peppers, wheat, pima cotton, tomatoes and other crops.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed
Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the 1
tentative Order is appropriate for our area, which I understand was first developed for the East San
Joaquin watershed, North of Fresno, where conditions are significantly different than Kern.

Currently we monitor and have reduced our water irrigation, fertilizer and pesticides use by field stations
directly linked to our computers. This saves cost and resources to our operation while maximizing
production. We are able to do this through drip irrigation where fertilizer and water are only are able to 2
reach the root zone for limited but full use of these resources. No sumps are even needed for runoff due
to irrigation.

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal 1
experience, current farming practices are not having an adverse impact on groundwater quality. Past
farming practices did not have access to these practices and facilities which could have contributed to
nitrate contamination of groundwater (along with natural and other causes, such as septic tanks) 2
especially in other areas. I understand the focus of the proposed Order is current farming practices.

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our
representatives an alternative that makes sense for our area.

Respectfully Submitted,
Hannah M. Neufeld

Letter 65

From: James Pflugh [mailto:jkpflugh@yahoo.com]
Sent: Monday, April 08, 2013 7:24 PM
To: Sholes, David@Waterboards
Subject: Water Quality Control

To whom It may concern

April 10, 2013
Via Email To:
dsholes@waterboards.ca.gov
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114
Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General
Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

I have a small farming operation (40 Acres, Permanente crop – nuts)

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River
Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I 1
don't believe the tentative Order is appropriate for our area, which I understand was first
developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern.

I have limited money and have to watch every dollar I spend, I limit the funds I 2
spend on water & fertilizer and make every dollar count!!

As applied in our area, I don't believe the Tentative Order is reasonable. Based on 1
my personal
experience, current farming practices are not having an adverse impact on groundwater quality.
It may be that in the past farming practices did contribute to nitrate contamination 2
of
groundwater (along with other causes, such as septic tanks) but I understand the focus of the
proposed Order is current farming practices.

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our
representatives an alternative that makes sense for our area.

Sincerely,

James K Pflugh

Letter 66

Jeff Siemens

P.O. Box 471

Buttonwillow, CA. 93206

April 14, 2013

Via Email To:

dsholes@waterboards.ca.gov

Central Valley Regional Water Quality Control Board

11020 Sun Center Drive #200

Rancho Cordova, CA. 95670

Re; Comments of Kern River Watershed Coalition Authority, ie: Tentative Waste Discharge Requirements

Dear Board Members,

I am currently the V. P. of Operations for Nickel Family L.L.C. just East of Bakersfield, growing approximately 1200 acres of citrus, almonds and olives. I was previously a self employed farmer in the Shafter & Buttonwillow areas growing cotton, alfalfa, sugar beets and wheat for 19 years. In both cases irrigation and fertilization are and have been very closely monitored and metered due to the high cost of each and continuous improvement through the utilization of technological advancements in water application methods, soil & petiole sampling & analysis for nutrient requirements, as well as soil moisture monitoring programs have become an economical neccessity and standard operating procedure. When these practices are combined with the depth to water (800 feet East of Bakersfield and 220 to 300 feet to the West) and our average rainfall of 6" or less, leeching Nitrates into the groundwater table via agricultural irrigation is not a reasonable expectation. Because of these facts I would like to urge the Board to not adopt the proposed Tentative Order for the Tulare Basin Area, rather a reasonable alternative that actually applies to our area. 1

Thank you,

Jeff Siemens

Letter 67

April 12, 2013

Via Email To:
dsholes@waterboards.ca.gov

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board Members:

Our family farms from Delano to Arvin and has for the past six decades. We have grown a host of vegetables and row crops, tree fruit and citrus, table grapes which are our primary focus.

Not excluding other properties in other water districts, the Arvin Edison Water Storage District is especially challenging. Water is expensive and limited in supply. Water conservation efforts are a day to day focus. The management practice lends itself to fertility input conservation as well. Every acre is drip. Total annual crop use is generally 2.5 - 3.25 acre ft/acre per year. That pretty much matches for a growing season if not less. Common sense tells you that not much water is traveling past the root zone, nor are any of the applied fertilizer. 1

Keeping this in mind I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 2 1

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Matt Pandol Jr.

Matt Pandol Jr.

Letter 68

APRIL 15, 2013

VIA EMAIL TO:
dsholes@waterboards.ca.gov

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

Re: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

Our family is now into the fourth generation as a California Citrus farming family operation. Our roots began developing in the mid 1930's here in the Great San Joaquin Valley. We are presently responsible for over 4,ooo acres state wide. Vertically integrated and horizontally spread throughout the citrus industry.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. 1

Our farming practices are cutting edge, technology based, and yet hands on practical. We use solid set fan jets and drip irrigation though out our orchards. Our Wells and Booster pumps are designed to high level efficiencies so as to not waste our most precious resource "water". We strive on a daily basis to manage and circumnavigate the daily requirements of our trees so as not to lose opportunity to grow the finest citrus in the world. Our use of soil supplements and nutrients are blended carefully so as to diminish and restrict subsurface loss of any product due to leaching. The ongoing escalation of cost continues to sharpen our needs to the utmost in our responsibilities so as to no waste or be irresponsible in the stewardship of operations. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense for our area.

Sincerely,

Matthew Fisher

BCS

Letter 69

April 10, 2013

Central Valley Regional Water
Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, Ca 95670-6114

RE: Comments re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

My father came to the United States in 1910, settling in Kern County in 1920. He started a 40-acre dairy farm with 35 cows. His land was located on lots 19 and 20 in Section 5, T31S, R28E in Bakersfield, California. I started farming in 1948. The lands I farm are lots 16, 17, 18, 31, and 32 in Section 5, T31S, R28E.

I do not have wells for irrigation, but I have surface water rights from the Kern River through Kern Delta Water District. I have never put down any commercial fertilizer on pre-irrigation for cotton, wheat or alfalfa for fear of leaching. When I did fertilize I only applied enough to grow the crop and the same approach was taken with the use of water. Due to very little percolation, I do not believe there was any contamination to impact the quality of the groundwater. I drilled a domestic well 63 years ago. The water level was 40 feet deep and today it is 100 feet deep. I am still drinking the same water without any detectable difference in the quality. 1 2

Therefore, I am writing to express my objection to the Tentative Order. Instead, I request that you work in cooperation with the representatives from the KRWCA to develop an alternative that makes sense for our area. 3

Sincerely,

Peter Ermigarat

Peter Ermigarat
1304 Curnow Road
Bakersfield, Ca 93307

Letter 70

From: Tim Holtermann [mailto:timh@bak.rr.com]
Sent: Friday, April 12, 2013 12:56 PM
To: Sholes, David@Waterboards
Subject: Tenative Order for KRWCA Area

HOLTERMANN FARMS
P O Box 8008
Wasco, CA 93280-8069

April 12, 2013

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

Re: Comments re Tentative Waste Discharge Requirements General Order for Growers
within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013)

Dear Board members:

My family has farmed in the Wasco area since the early 1920's. Our family farming operation
currently grows only almonds.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River
Watershed Coalition Authority (KRWCA) and we incorporate their comments on the Tentative 1
Order. I understand the Tentative Order for the KRWCA area is nearly identical to the one
developed for the East San Joaquin watershed, North of Fresno, where conditions are
significantly different than Kern.

Due to the scarcity and high prices of water and fertilizers, Holtermann Farms has converted
almost ninety percent of its acreage from flood to drip irrigation. Our plan is to convert the
remaining ten percent of acreage to drip irrigation as these old orchards are replanted. Drip 2
irrigations allow us to make multiple applications with smaller application amounts. Drip
irrigation has enabled us conserve and better direct and hold our water and fertilizer to the root
zone. This system provides us the ability to prevent significant leaching out of the root
zone. Our neighbors also use similar practices.

As applied in our area, I don't believe the Tentative Order is reasonable. Based on 1
my personal
experience, current farming practices are not having an adverse impact on groundwater
quality. It may be that in the past farming practices did contribute to nitrate contamination of 2
ground water (along with other causes, such as septic tanks) but I understand the focus of the
proposed Order is current farming practices.

I ask that you not adopt the Tentative Order and instead you develop, in cooperation with
representatives from the KRWCA, an alternative that makes sense for our area.

Sincerely,

Tim Holtermann

Letter 71

Central Valley Regional Water Quality Control Board

11020 Sun Center Drive #200

Rancho Cordova, Ca. 95670-6114

RE: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin that are Members of a Third-Party Group (March 15, 2013).

Dear Board Members: We are a privately owned farming company in the Lamont/Arvin area of southern Kern County. We farm about 4500 acres of crops including Pistachios, Grapes, Alfalfa, Corn, Cotton and assorted feed crops.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the tentative order is appropriate for our area, which I understand was first developed for the East San Joaquin watershed, North of Fresno, where conditions are significantly different than Kern. On our farm we have raised organic matter in the soils by the addition of Compost from ½% to 3% in order to increase holding of water and nutrients in the soil. We have also utilized drip tape everywhere we can in order to conserve water. In addition we take petiole samples from our crops and perform annual laboratory soil test to further confirm that nutrients are used in proper agronomic amounts and do not leach into the soil profile.

1

2

As applied in our area, I don't believe the Tentative Order is reasonable. Based on my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination in groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed Order is current farming practices. 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with our representatives an alternative that makes sense in our area.

Sincerely,

Tom Fry

1261 N. Wheeler Ridge Rd.

P. O. Box 716

Lamont, Ca. 93241-0716

Letter 72

Wayne & Virginia Kirschenman
P.O. Box 27
Edison, CA 93220

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

April 12, 2013

RE: Comments of Kern River Watershed Coalition Authority re Tentative Waste Discharge Requirements General Order for growers within the Tulare Lake Basin that are members of a Third-Party Group (March 15, 2013)

Dear Board Members:

My family has farmed a wide variety of row and permanent crops south of Bakersfield in the Arvin-Edison Water Storage District for over 60 years. Over the years the acreage devoted to our crops has increased to approximately 3,000 acres.

I am writing to express my objection to the Tentative Order. Our farm is within the Kern River Watershed Coalition Authority and we incorporate their comments on the Tentative Order. I don't believe the Tentative Order is appropriate for our area, which I understand was first developed for the East San Joaquin Watershed, north of Fresno, where conditions are significantly different than Kern. 1

Due to the competitive pressures inherent in our business combined with inflation on crop inputs we are extremely conscious of minimizing detrimental impacts to the land from which we earn our living. As mentioned above we have farmed for over 60 years and this requires a long term sustainable approach. To minimize the impact on the land and the use of costly inputs we utilize drip irrigation wherever possible tailoring the crop inputs through continual monitoring by our trained personnel. Concerning water we continually monitor the crop needs in light of evaporation/ transpiration rates to ensure water does not penetrate beyond the root zone. The water monitoring relies on trained personnel utilizing soil probes to prevent water penetration beyond the root zone. Regarding fertilizer inputs, on permanent crops we use plant leaf tissue analysis to customize the application rate of nutrients and apply the nutrients in foliar applications to provide the nutrients on an as-needed basis. With the row crops, soil nutrient composition is tested at least annually and oftentimes twice a year depending upon our crop rotation. 2

As applied in our area, I don't believe the Tentative Order is reasonable. Based upon my personal experience, current farming practices are not having an adverse impact on groundwater quality. It may be that in the past farming practices did contribute to nitrate contamination of groundwater (along with other causes, such as septic tanks) but I understand the focus of the proposed order is current farming practices 1 2

I ask that you not adopt the Tentative Order and instead you develop in cooperation with your representatives an alternative that makes sense for our area.

Sincerely,

Wayne Kirschenman