



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

July 3, 2014

Central Coast Regional Water Quality Control Board
Attn: Chair Wolff c/o Ken Harris
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Re: Items for Discretionary Review

Dear Regional Board:

This letter seeks discretionary review from the Central Coast Regional Water Quality Control Board (“Regional Board”) with regards to two aspects of the Central Coast Groundwater Coalition’s (“CCGC” or “the coalition”) groundwater monitoring program:

- 1) The coalition’s notification process for wells that have exceeded the nitrate Maximum Contaminant Level (MCL), and;
- 2) The manner in which the groundwater testing results of CCGC will be disclosed to the public.

I. The Board should bring the coalition’s notification process in alignment with the Regional Board’s individual monitoring notification process

In the coalition’s latest workplan, the coalition articulates that “the goal of the member notification system is to identify wells that have a concentration of nitrate above the MCL and to make sure users of the water are notified.” (CCGC November 2013 Final Workplan pg. 26)

This notification process is insufficient for two reasons:

- 1) The workplan does not affirmatively require any confirmation that users have been notified that the groundwater from their well is unfit for human consumption, and;
- 2) The notification process does not affirmatively inform the Regional Board staff of particular wells that contain nitrate MCL exceedances.
 - a. *Written confirmation that growers and well users have been notified of nitrate exceedance is necessary to ensure the coalition’s notification program is effective.*

Under the Regional Board’s individual monitoring program, individual dischargers are required to confirm that well users are aware that the domestic supply well exceed the drinking water standard and that the water poses a human health risk due to an elevated nitrate concentration. The letter sent by the Regional Board Staff also includes local public health agency contacts and resources regarding nitrate in drinking water, including health effects.

Effective notification of drinking water exceedance ensures that both the grower and the users of the domestic supply well are aware that the drinking water well exceeds the MCL for nitrate and

the water is unfit to drink and presents a health hazard if consumed.

Under the CCGC cooperative monitoring program workplan, there is no requirement that there be written confirmation that the affected well user has been notified of any exceedances. We request that the Board review the coalition's notification process for its members to ensure that their notification procedure contains a written confirmation component by which the Regional Board can hold the coalition accountable for the work it lays out within their workplan.

The Regional Board can only ascertain if CCGC notification is effective or not only if the Board receives written confirmation that both the grower and all users of the water supply are informed of nitrate exceedance.

The CCGC cooperative monitoring program covers over 1,500 landowner and grower memberships within portions of Santa Cruz, Santa Clara, San Benito, and Monterey Counties. (CCGC November 2013 Final Workplan pg. 5) Because the majority of landowners and growers in the region have elected to participate in a cooperative program to comply with the Agricultural Order, it remains critical that the notification process implemented by CCGC be as robust as the notification process implemented by the Regional Board Staff.

- b. *The coalition must inform the Regional Board of the particular wells that have nitrate exceedances.*

The coalition currently does not notify the Regional Board of the specific wells which have nitrate exceedances above the MCL. This is a serious deficiency. According to coalition presentations, the coalition only provides a summary table of wells tested that exceed the nitrate MCL but fails to provide information regarding which wells specifically exceed the drinking water standard.

If the Regional Board cannot discern which wells have specific nitrate exceedance in the way that it can under the individual monitoring program, how can the Regional Board properly assess priority areas of known nitrate contamination of drinking water wells?

The coalition must bring its notification process into alignment with the individual monitoring program with regards to its notification method to members and well users, and also to the Regional Board itself.

II. Contour mapping should supplement, not substitute the display of individual well location, obscured by ½ mile, on GeoTracker GAMA.

The July 11, 2013 CCGC approval letter states the following:

19. We understand that the cooperative program participants have significant concerns and objections to displaying individual well locations to the public on maps available on the Internet using GeoTracker. The Central Coast Water Board agrees to display cooperative program data as contour maps on GeoTracker after January 1, 2015 [...]

20. Withholding the display of individual well information on maps on the public side

of GeoTracker limits the Central Coast Water Board's ability to provide all members of the public with broad and convenient access to its records and to promptly make the fullest possible disclosure of its records. Therefore, I do not agree to withhold the cooperative program individual well data from maps on the public side of Geotracker in perpetuity unless reviewed and approved by the Central Coast Water Board as they evaluate and adopt future irrigated lands orders [...] Doing so affects the Central Coast Water Board's ability to adapt in the future to changing needs, and may have unanticipated consequences on the Central Coast Water Board's ability to readily provide information to the public in cases where there is an acute and imminent threat to public health and safety, or to address issues related to consistency between regions and regulatory programs.

I will agree to withhold the display of individual wells sampled by the cooperative program on maps on the public side of GeoTracker for at least the term of the Agricultural Order, which expires on March 14, 2017 [...] Further, if the existing Waiver expires prior to adoption of renewed Waiver or other similar orders, this data would remain on the regulatory-only side of GeoTracker until such time that a renewed Waiver or other similar order is adopted. (emphasis added)

- a. *Contour Mapping should act as a supplement to well location information and not as a substitute.*

There are two reasons why contour mapping should act as a supplement to well location and not as a substitute:

- 1) It is still uncertain if GeoTracker has the ability to display approved contour maps and it is also still uncertain what the contour confidence interval will be for the contour mapping. While contour mapping may satisfy the conditions set out by the Executive Officer within the confines of the cooperative program, it still remains critical that well location mapping be readily available on the public side for the duration of the ag waiver.

Public supply wells and monitoring wells are displayed on GeoTracker with an appropriate privacy measure. CCGC member wells deserve the same treatment as other wells. Given that the actual well locations of CCGC members will not be displayed on GeoTracker – the location will be blurred by a half mile square, pursuant to Provision 65 of the Ag Order—privacy and confidentiality concerns are satisfied by this blurring.

- 2) The Porter-Cologne Water Quality Control Act mandates an affirmative obligation that “[m]onitoring results shall be made available to the public.” (Cal Water Code 13269(a)(2)). In addition, because it is the policy of the Central Coast Regional Water Quality Control Board “to provide members of the public broad and convenient access to its records and to promptly make the fullest possible disclosure of its records,” the Regional Board should not allow the cooperative monitoring program to substitute display of well location information completely with contour mapping.

We are confident that contour mapping will aid in providing summary information and display of water quality information to the public. However, there is no legally adequate reason to completely substitute display of individual wells on GeoTracker with its

blurring reference of half-mile square of the actual well location, with contour mapping for the duration of the Agricultural Order, which expires in 2017.

We are dealing with a public health emergency that is widespread and only increasing. Thousands of Californians are at risk of consuming contaminated water from domestic wells. Water users of public water systems are protected because public water systems are legally bound to serve safe water under the Health Code.

Here, by contrast, we are looking at a whole universe of domestic wells that have no safety assurances under the law. It remains critical for water users to readily access information regarding possible contamination of their potable water supply. The public has a right to readily accessible information about their drinking water without having to wait *after* January 2015 to see a contour map or after at least March 2017 to see a map with individual well locations.

Contour mapping confidence intervals are dependent upon the number of wells sampled and so by design are an indirect way of displaying information. By contrast, GeoTracker allows for water users to identify with more precision whether they may be consuming water from a contaminated well by referencing concentration of sampling sites in their surrounding area, history of sampling events and exact nitrate concentrations associated with that sampling.

- b. *Well information displayed on GeoTracker can aid communities in finding alternate sources of clean drinking water.*

Well users can also integrate this broader set of parameters into a rudimentary evaluation of options for a long-term solution and thereby inform the need to invest in the services of a well driller, engineer, or consultant. The Regional Board should prioritize the most direct and efficient display of information so that potential users of contaminated water supply can take proper precautions to protect their health, make informed decisions, and explore solutions.

The technology that is available now through GeoTracker is both sufficiently protective of privacy concerns and descriptive enough to provide convenient access to the public. There is no justification for substituting GeoTracker display completely with contour mapping. Contour mapping should be a supplement and not a substitute for data available for public inspection.

III. Conclusion

The Regional Board Order No. R3-2012-0011 “encourages Dischargers to coordinate the effective implementation of ... cooperative monitoring and reporting efforts to lower costs, maximize effectiveness, and achieve compliance with this Order.” (R3-2012-0011, Finding 11) The purpose of forming a coalition groundwater monitoring group, such as the CCGC, is to lower costs and to maximize effectiveness for the purpose of achieving compliance with the Order. The purpose is not to develop an alternative mechanism of reporting that circumvents notification to the Regional Board.

The Regional Board should also ensure that the coalition does not violate the affirmative right of Californians to readily access public information by substituting display of well information on GeoTracker completely with contour mapping.

Thank you for this opportunity to seek discretionary review of the CCGC's cooperative groundwater monitoring plan. We look forward to your response.

Respectfully,

/s/ YPK

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