

December 15, 2017

Jean-Pierre Wolf, Chair
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA. 93401-7906

SUBJECT: Request for Central Coast Regional Water Quality Control Board to Consider Lengthening Renewal Timeframe for Agricultural Order No. R3-2017-0002

Dear Mr. Wolff:

Grower Shipper Association of Central California, California Farm Bureau Federation, California Strawberry Commission, Western Growers, Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties, Monterey County Farm Bureau, Santa Clara County Farm Bureau, Santa Cruz County Farm Bureau, San Luis Obispo County Farm Bureau, Central Coast Groundwater Coalition, and KMI represent hundreds of growers, shippers and processor members on the Central Coast of California that are working diligently to comply with your recently adopted Agricultural Order No. R3-2017-0002 (Ag Waiver 3.0).

We are writing to express our concern with the Central Coast Regional Water Quality Control Board's (Regional Board) decision to expire the current order in March 2020, which may lead to a rushed and less than thoughtful adoption of the next Irrigated Lands Regulatory Program Permit. If you remember, the March 2020 deadline is a discretionary decision of the Board adopting a three-year Ag Waiver instead of one with a five year term as allowed by statute. Under Water Code section 13269, the Ag Waiver is eligible for a five-year term, which would expire in March 2022.

Our reasons for requesting an extension of the Ag Waiver to the full five year statutory term has to do with pending decisions that will have substantial impacts on the Regional Board's decisions with respect to its next order for irrigated agriculture. Specifically, Ag Order 2.0 is subject appeal pending in the Third District Court of Appeal in *Monterey Coastkeeper, et al., v. California State Water Resources Control Board*; the State Water Resources Control Board (State Water Board) has issued a Second Draft Order *In the Matter of Review of Waste Discharge Requirements General Order No. R5-2012-0116 for Growers within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group* (Draft East San Joaquin Order); and, Monterey Coastkeeper has challenged Ag Waiver 3.0 in Sacramento Superior Court (see *Monterey Coastkeeper1, et al, v. Central Coast Water Quality Control Board and California State Water Resources Control Board (Coastkeeper v. Central Coast Water Board)*).

All three of these legal proceedings will likely impact the state's approach to regulating discharges from irrigated agriculture, including in the Central Coast region. Although the State's current plan is to adopt the East San Joaquin order in January 2018, which would set some precedents statewide that would need to be adopted in the next iteration of the Central Coast's actions pertaining to irrigated agriculture, it is highly likely that the State Board's East San Joaquin Order will be challenged by one or more subsets of stakeholders. Such a challenge will cause continued uncertainty with respect to application of state water quality laws to irrigated agriculture.

In light of the uncertainties with respect to irrigated lands, the three-year timeline for implementation for Ag Waiver 4.0 seems to be too short to allow time for understanding the complicated and nuanced legal, political and technical issues that will be resolved in the coming three to four years. Until these uncertainties are resolved, we anticipate that any order adopted in advance (i.e., March 2020) will be fraught with challenges, and likely lead to a rushed patchwork regulation. At the writing of this letter, you have just over two years to meet the March 2020 deadline. This allows few opportunities for dialog with staff, stakeholders or the regulatory community.

We concur with concerns expressed by Water Board members during the September 2017 Board Meeting. These concerns were generated by the reality of making such momentous decisions within the short deadline, which was adopted in March 2017.

We strongly encourage the Central Coast Regional Board to reassess the current Ag Waiver 3.0 three-year term and extend the existing Ag Waiver to include a full five-year term set to expire in March 2022. The additional two years would provide additional time to reconcile: 1) the statewide precedential components of the State Water Board's East San Joaquin Order; 2) pending court decisions; 3) the required Anti-degradation analysis; and, 4) the current Ag Waiver 3.0 challenge. This timeline is aligned with the five-year timeline given by the State Water Board's Draft East San Joaquin Order to allow Regional Water boards to adopt precedential components of that Order.

We are dedicated to working with staff and Water Board Members to craft a permit that protects water quality, enables reasonable implementation by staff and Growers, and retains a viable agricultural industry in the Central Coast.

Thank you for your review of this request. Please contact us at the numbers below if you have any questions.

Sincerely,



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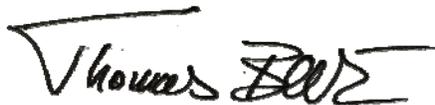
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cc:

Dr. Monica S. Hunter, Vice Chair
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Bruce Delgado, Board Member
Jane Gray, Board Member
Michael Johnston, Board Member
Jeffrey Young, Board Member
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Emel Wadwhani, California State Water Resources Control Board, Office of Chief Counsel
Jessica Jahr, Staff Counsel at State of California, State Water Resources Control Board
Harvey Packard, Central Coast Regional Water Board
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