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Via e-mail



Ms. Jeanine Townsend
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Re: Comments to A-2239(a)-(c).

Dear Board Chair Marcus and Members of the Board,

This year marks the 16th anniversary of the first petition to the State Board that Bill Jennings and I filed on behalf of San Francisco Baykeeper and Deltakeeper requesting that the State Board substantively address the rampant pollution and toxicity of rivers throughout the Central Valley that the agricultural community had grown accustomed to treating as their status quo. Since that time, the California Sportfishing Protection Alliance (“CSPA”) has played a significant role in reviewing and commenting on new iterations of the waivers and waste discharge requirements. After numerous additional petitions, lawsuits, and the agricultural community’s eventual realization that the term “waste discharge requirements” is not necessarily profanity, the State Board now has yet another opportunity to make substantial headway in bringing the agricultural communities’ irrigated lands pollution under control. Unfortunately, the current proposed order still clings to the same unwarranted hesitation that gave rise to the totally inadequate waivers of the early 1980’s that only encouraged unrestrained pollution by farmers and a decade-long process just to get the Central Valley Regional Board and State Board to acknowledge that a regulatory scheme that could not even identify individual dischargers was bound to fail.

Progress has been made over the last 16 years. However, the fact remains that vast stretches of Central Valley waters remain impaired, many at alarming levels of toxicity. CSPA concurs with and hereby incorporates by reference the many comments submitted by the California Coastkeeper Alliance. CSPA would like to reinforce its long-standing concerns regarding the inadequacy of an irrigated lands program that relies exclusively on regional monitoring. Although the increased regional monitoring over the years has confirmed adverse pollution effects that have been obvious since the late 1990s, the

Central Valley Board and State Board have still hobbled the program's effectiveness by failing to link the program's monitoring requirements to particular farm discharges or best management practices.

The State Board should incorporate the representative edge-of-field monitoring proposed by the California Coastkeeper Alliance in its comment letter. *See* CCKA Comments, pp. 8-9. The proposed order takes a step in the right direction by rejecting the very loose monitoring network that the Central Valley Board has allowed under the past waivers and current WDRs. However, ordering the Central Valley Board to revise the monitoring requirements to "be on a scale sufficient to track water quality progress across the entire basin and collect data sufficient to cover conditions throughout the watershed" still will not tell the Boards anything about the relative effectiveness of management measures being implemented nor would they identify any farms that are failing in their efforts to implement best practicable control measures. *See* Proposed Order, pp. 44-47. Likewise, even a more refined regional monitoring program will still not prevent degradation of waterbodies that already have been identified as impaired under the TMDL program while the monitoring slowly works its way upstream, all the while measuring violations of standards.

In order to evaluate management measure effectiveness, the WDRs must at least conduct edge-of-field monitoring at a statistically significant number of farms that are representative of irrigated land discharges and management practices within a given subwatershed area. An edge-of-field component is essential for the Boards to be able to extrapolate any inference that certain combinations of management practices have some certainty of removing and reducing pollutants from irrigated land discharges and complying with water quality standards. Merely "identify[ing] the approximate area and sources of the exceedances" will not provide insights as to what combination of farms and management measures has lead, at that point, to many years of standards violations. Proposed Order, p. 47. On the other hand, representative edge-of-field monitoring that focused on certain management practices could provide useful data in the short term as to whether common management measures are proving effective for various pesticides and other pollutants.

The Boards' hesitation appears to be based on the conception that farm owners, in general, are struggling and overregulated. Over the last two decades, CSPA has not seen any evidence of any general economic woes suffered by Central Valley farmers. Indeed, over the last few years, despite the implementation of the irrigated lands program and an historic drought, agricultural production in the Valley, in general, continues to break new records every year. The most recent Agricultural Commissioner crop reports for Stanislaus, Merced, and Madera counties, where most of the irrigated lands within the East San Joaquin Coalition occur, have all reported steadily rising farm production since 2011, with new record levels as of 2014. Given the serious impacts that pollution discharges from irrigated lands continue to cause in Central Valley waters and the relatively modest costs of representative edge-of-field monitoring, there is no reason for the State Board to refrain from incorporating representative edge-of-field discharge

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monitoring into the Coalition's monitoring programs. The difficult part of establishing a regulatory framework and, for better or worse, local coalitions capable of conducting monitoring, is largely past. There are no insurmountable difficulties for these organizations, perhaps supplemented by the Regional Board's own monitoring efforts, to add in an edge-of-field/management practice monitoring effort. Only by adding that component will the State and Regional Boards and the farming community begin to identify whether pollution control practices currently relied upon by farmers are indeed effective at controlling pollution or are merely window dressing claiming water quality benefits that do not actually exist.

Sincerely,



Michael R. Lozeau

Lozeau Drury LLP

on behalf of California Sportfishing Protection Alliance

cc: Bill Jennings