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		<p>persons who discharge waste to waters of the state are required to control those discharges to comply with the Basin Plan standards. The 2011 Draft Ag Order does not change the compliance requirements as compared to the 2004 Ag Order. It continues to require use of management practices to comply with the Water Code; and it provides more detail and direction to assure compliance with the Water Code and additional monitoring to determine the effectiveness of the management practices. The Water Board may not specify the manner of compliance with its orders so it can only speculate on what methods growers may choose to comply with the Water Code and the Basin Plan. Among those methods are the use of buffer strips, sediment basins, and reduced water use that were identified in comments and staff review of the record. Those types of compliance methods are not any different than those that would be used to comply with the 2004 Ag Order. Because the 2011 Draft Order includes more specific conditions with respect to buffer strips for certain dischargers (some Tier 3 dischargers), the SEIR evaluates the possibility that all Tier 3 dischargers would use buffer strips to comply and that could have an impact on agricultural resources.</p> <p>The use of sediment basins is not explicitly a requirement of the 2004 Ag Order or the 2011 Draft Ag Order. There is nothing in the record to suggest that use of sediment basins would be any greater under a renewed Ag Order or under the 2004 Ag Order, so no detailed analysis was included. The SEIR has been clarified to address the commenter's concern.</p>
<p>Comment No. 557 from County of Santa Barbara Letter No. 97, p.3.</p>	<p>The SEIR should include a table illustrating the number of acres of irrigated farmland categorized by Prime Farmland, Farmland of Statewide Importance, Farmland of Unique Importance for each county analyzed in this SEIR.</p>	<p>The SEIR provides a sufficient description of the project area.</p>
<p>Comment No. 558 from County of Santa Barbara Letter No. 97, p.3.</p>	<p>The SEIR states that potential impacts to Farmland of Local Importance were not considered "because these lands are not irrigated and therefore not included in the Agricultural Order." In Santa Barbara County, many dry farm crop areas have been converted to irrigated crops, especially in the central and northern part of Santa Barbara County. For example; from 1995 to 2005, wine grape</p>	<p>If dry farm lands convert to irrigated agriculture, they would need to enroll in the Draft Ag Order. Staff used the most recent data available and performed analysis on those data.</p>

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	acreage increased more than 12,000 acres while dry farming decreased more than 14,000 acres.	
Comment No. 559 from County of Santa Barbara. Letter No. 97, p.3.	The section discusses the Williamson Act but does not address potential impacts to land enrolled in the Williamson Act. The SEIR should include analysis of the proposed project on lands enrolled in Williamson Act contracts within the project area.	The SEIR provides a sufficient project description and analysis of the potential impacts on farmland.
Comment No. 560 from County of Santa Barbara. Letter No. 97, p.3.	The SEIR references Appendix F of the Draft Staff Report for the Draft Agricultural Order as a source of information regarding analysis of proposed riparian habitat buffers. It is unclear if Appendix F is intended to substantiate the conclusions drawn in the environmental document as this information is not provided as an appendix to the SEIR. Analysis for this section should be included as an appendix in the SEIR with a discussion of the relationship of this information to pertinent sections of the document.	The SEIR references the Staff Report and Appendix F in its discussion of potential impacts. Section 4. E. of the Staff Report explains the relationship between the SEIR and Appendix F for cost related to as related to CEQA. Staff did use Appendix F of the Draft Staff Report as a source of information to evaluate impacts regarding riparian habitat buffers and other potential economic costs and impacts. Staff provided an active link in the report to direct readers to the Appendix instead of directly attaching it to the SEIR.
Comment No. 561 from County of Santa Barbara. Letter No. 97, p.4.	The SEIR should include analysis of the proposed project and recommended mitigation measures for operators that participate in the California Leafy Green Products Handler Marketing Agreements (LGMA). The California Department of Food and Agriculture (CDFA) provides oversight of the LGMA which promotes food safety practices designed to reduce the sources of potential contamination on farms or fields. Recommended methods for compliance with the proposed project include riparian habitat buffers and sedimentation basins. These options should consider compatibility with the requirements of the LGMA for operators in the proposed project area.	The conditions in the Draft Ag Order have been developed with awareness of the LGMA requirements. Staff is not aware of any conflicts with State or Federal regulations. See response to Letter 79, Comment 4.
Comment No. 562 from County of Santa Barbara. Letter No. 97, p.4.	The SEIR acknowledges that agricultural resources and farmland could be converted to non-farm uses due to new conditions, such as requiring buffers, or due to economic impacts that result in selling of farmland for other uses. The document further states that dischargers may choose to install riparian habitat buffer strips to comply with the Order which could result in taking land out of crop production. The SEIR indicates that approximately 82 to 233 acres of agricultural lands would be taken out of production as a result of the installation of riparian habitat buffers. The SEIR should	Appendix F to the Staff Report, which is clearly referenced in the SEIR, adequately explains how the number of acres was developed to evaluate the impacts to agricultural resources. See Staff Report, Appendix, F, Section 2.2.3.1. Spatial Analysis to Support Cost Analysis and Table 8.

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	include a table documenting these 82 to 233 acres, identified by APN's and by county.	
Comment No. 563 from County of Santa Barbara. Letter No. 97, p.4.	Mitigation Measure # 1 Dischargers could choose to install other practices besides buffers to insure turbidity, sediment and temperature water quality standards are met. This measure recommends "other practices" however presents no analysis or information as to what these practices might be and how they would effectively mitigate for the conversion of agricultural resources and farmland. The SEIR should include a description and analysis of these "other practices" with a discussion on their effectiveness in mitigating impacts to agricultural resources.	Persons who discharge waste to waters of the state are required to control such discharges to protect the beneficial uses. They may comply in any lawful manner. The Water Board may not direct the manner of compliance. The Water Board evaluated the environmental impacts of the 2004 Ag Order in the 2004 Negative Declaration. It is not required to prepare an entirely new CEQA document to reevaluate the renewal of the 2004 Ag Order. The SEIR evaluates only new potentially significant environmental impacts, not those already considered in the 2004 Negative Declaration that were found not to be significant. See also responses to Letter 79 (Comment No. 497 and Comment No. 500).
Comment No. 564 from County of Santa Barbara. Letter No. 97, p.4.	Mitigation Measure #2: Dischargers could plant ground cover, berry bushes and/or fruit/nutbearing trees which would serve as both agricultural land as well as a buffer. The land would not be converted to a non-agricultural use because it would still generate economically viable produce, but would function as a buffer. This buffer containing agricultural land would need to meet the requirements of the Agricultural Order. This statement assumes that planting ground cover, berry bushes and/or fruit/nut bearing trees on parcels subject to the requirements of this order would result in economically viable produce. There is no discussion of the cost to install, maintain and harvest these crops. Furthermore, it is unclear if any of these recommended buffer crops would require irrigation and as such be subject to the requirements of the Agricultural Order. Additional analysis of this measure should be included in the document.	The Water Board is not required to evaluate costs in the CEQA document. See responses to Letter 79 (Comment No. 497 and Comment No. 500). In addition, the 2011 Draft Ag Order does not propose to require dischargers to plant ground cover, berry bushes, etc. To comply with CEQA, the Draft SEIR identified possible mitigation measures – these are not required conditions of the Ag Order, since the Water Board may not specify the manner of compliance.
Comment No. 565 from County of Santa Barbara. Letter No. 97, p.5.	The SEIR should further analyze this measure and provide a list of appropriate and acceptable buffer crops, identify cost to install, maintain and/or harvest for potential economic profit, and substantiate how this measure reduces the conversion of farmland or agricultural resources to a level of less than significant.	The SEIR evaluates the worst case situation that all discharges include buffer strips, but is not required to evaluate economic costs under CEQA. Staff Report, Appendix F provides information about the costs of different methods to reduce erosion, which would be the purpose of buffer crops. See responses to Letter 79 (Comment No. 497 and Comment No. 500).
Comment No. 566 from County of Santa	Mitigation Measure #3: Dischargers could eliminate any activities that cause erosion, generate sediment, or otherwise may cause or contribute to exceedances of water quality.	The dischargers are required to develop and implement management practices to control discharges of waste to waters of the state, not the Water Board. See response to Letter 97.

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Barbara. Letter No. 97, p.5.	standards for turbidity, sediment and temperature, near a waterbody so may not need to install a buffer. The SEIR should identify the types of activities for this measure that cause erosion, generate sediment, or otherwise may cause or contribute to exceedances of water quality standards for turbidity, sediment and temperature, near a waterbody which, when eliminated, effectively mitigate this impact to a level of less than significant. Additional analysis of this measure should be included in the document.	(Comment No. 564).
Comment No. 567 from County of Santa Barbara. Letter No. 97, p.5.	Mitigation Measure #4. Dischargers may choose to install a riparian habitat buffer and find that it decreases erosion on the farm and serves to help maintain soil and sediment on the farm. The SEIR should identify the types of riparian habitat buffers that decrease erosion. There is no discussion of the type of vegetation, maintenance requirements, and/or irrigation needs for buffers that will help maintain soil and sediment on agricultural lands. Furthermore, there is no analysis demonstrating that this measure will effectively mitigate this impact to a level of less than significant. Additional analysis of this measure should be included in the document.	See response to Letter 97 (Comment No. 564).
Comment No. 568 from County of Santa Barbara. Letter No. 97, p.5.	It is unclear if the use of sediment basins is an agricultural resource impact or is presented as a mitigation measure. "Staff does not anticipate the installation of sedimentation basins taking a large amount of land out of production and does not find this impact to be significant." The SEIR should clarify if sediment basins are proposed as a mitigation measure to reduce the conversion of farmland or agricultural resources to a level of less than significant. As a mitigation measure additional discussion should be included which defines the thresholds which trigger the use of a sediment basin, appropriate type, size, level of permanence, cost to install, maintain and/or remove etc.	Sediment basins may be one method of compliance with the Ag Order to reduce discharges of waste to waters of the state, but is not a mitigation measure. See response to Letter 97 (Comment No. 564).
Comment No. 569 from County of Santa Barbara. Letter No. 97, p.6.	It is unclear if conversion of agricultural resources or farmland due to economic pressure is considered an agricultural resource impact. It is possible that the economic burden of new requirements for the draft 2011 Agricultural Order (i.e. fees paid for required studies and monitoring) and compliance (implementation of mitigation measures) may result in some agricultural businesses ceasing	The CEQA Guidelines state that economic or social effects of a project shall not be treated as significant effects on the environment. See Cal. Code Regs. tit., 14, §15131, subd. a). If economic or social changes result in physical changes to the environment, those impacts might be considered in certain cases. Conversion of agricultural resources due to economic pressure is not, therefore, considered a significant

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	operations. This may result in conversion of agricultural land to non-agricultural uses, particularly where those agricultural lands are nearby or adjacent to urban or suburban uses.	environmental impact. There is no significant evidence in the record to support a conclusion that economic or social effects will result in significant adverse physical changes in the environment. Commenters have suggested that may be the case, but have only speculated that growers might go out of business or reduce their business. The 2004 Ag Order and the 2011 Draft Order require dischargers to implement management practices to control discharges of waste to waters of the state. Dischargers are required by law to control such discharges; the 2011 Draft Ag Order does not require new or different management practices than were used to comply with the 2004 Ag Order. Staff has clarified the Draft SEIR.
Comment No. 570 from County of Santa Barbara. Letter No. 97, p.6.	The SEIR presents five activities that operators may adopt to reduce the cost of compliance with the proposed project. No analysis is presented which substantiates the relationship between implementation of these five activities and mitigation for potential loss of farmland and agricultural resources. The SEIR should clarify whether conversion due to economic pressure is an impact and provide additional analysis on measures that will mitigate this impact.	See response to Letter 97 (Comment No. 569).
Comment No. 571 from County of Santa Barbara. Letter No. 97, p.6.	<p>This SEIR acknowledges that the proposed project "...could result in reduction in surface water flows that could in turn result in potentially significant adverse environmental effects on biological resources that would be more severe than identified in the Negative Declaration for the 2004 Agricultural Order." This section also indicates, "Staff finds that implementation of the Order will have a net positive impact on biological resources, including reduction of pollutants in receiving water and groundwater and overall habitat improvements."</p> <p>It is unclear from the narrative presented in this section what impacts were identified and what, if any, mitigation measures are proposed. Table 1. Changes in Environmental Checklist from 2004 Agricultural Order to the 2011 draft Agricultural Order identified potentially significant impacts for Biological Resource areas A, B, C, and D. Table 1 should be expanded to include mitigation measures for potentially significant impacts to biological</p>	<p>The SEIR identified certain species that may be affected by reduced flow and explains why. "Some of the species that may be affected by reduced flow include: California red-legged frog, Gambel's water cress, La Graciosa thistle, least bell's vireo, marsh sandwort, seaside bird's beak, southern steelhead - southern California, steelhead - Central California Coast, steelhead - south/central California coast, southwestern willow flycatcher, and the tidewater goby. These species were singled out as potentially being affected because of their water requirements either for habitat and/or reproductive purposes." (Appendix H, Section 4.2.3, pg. 17) The SEIR also identifies some of the beneficial impacts of reduced flows. The CEQA Guidelines specify that no additional EIR shall be prepared except in very limited circumstances as set forth in CEQA Guidelines section 15162(a). The 2004 Negative Declaration found no impacts. The Water Board staff compared the 2004 Ag Order with the 2011 Draft Ag Order and other potential alternatives and found that there are changes proposed to the</p>

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	resources as well as beneficial impacts.	<p>2004 Ag Order that could potentially result in impacts more severe than evaluated in the 2004 Negative Declaration, so chose to prepare an SEIR for the specific impacts identified, in this case biological resources. Commenters asserted that the effects on biological resources would be more severe than under the 2004 Ag Order. The 2011 Draft Ag Order does not change the compliance requirements as compared to the 2004 Ag Order. It continues to require use of management practices to comply with the Water Code; and it provides more detail and direction to assure compliance with the Water Code and additional monitoring to determine the effectiveness of the management practices. The Water Board may not specify the manner of compliance with its orders so it can only speculate on what methods growers may choose to comply with the Water Code and the Basin Plan. Among those methods are the use of buffer strips, sediment basins, and reduced water use that were identified in comments and staff review of the record. Those types of compliance methods are not any different than those that would be used to comply with the 2004 Ag Order. Because dischargers may comply with the Ag Order in any lawful manner, staff can only speculate as to which methods and how many dischargers might choose to comply in a way that would result in significantly lower flows, that in turn could result in potentially significant environmental effects. The SEIR evaluates the possibility that a significant number of dischargers could implement management practices that could result in reduced flows. The reason for apparent inconsistencies in the SEIR is that it is unlikely that all growers will simultaneously take actions that would result in reduced flows on a particular watershed. In addition, reduced flows with reduced toxicity could be beneficial to the environment. The SEIR identifies benefits of reduced flows on the environment, but not specific mitigation measures. The Water Board will consider specific findings as required by the CEQA Guidelines. The Draft SEIR has been clarified to address the commenter's concern.</p>
<p>Comment No. 572 from County of Santa Barbara. Letter No.</p>	<p>The SEIR recommends that Mandatory Findings of Significance be changed from no impact to potentially significant impact. The SEIR should analyze, disclose, and mitigate for the potentially significant impacts identified in this document.</p>	<p>With respect to biological resources, the SEIR discloses that impacts could be more severe than those evaluated in the 2004 Negative Declaration, but since the Water Board may not specify the manner of compliance, it would only be speculation to determine what methods might be</p>

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97, p.6.		used that could result in the impacts. The SEIR identifies benefits of reduced flows on the environment, but not specific mitigation measures. The Water Board will consider specific findings as required by the CEQA Guidelines.
Comment No. 573 from County of Santa Barbara. Letter No. 97, p.6.	This section contains a discussion that provides no analysis of greenhouse gas emissions associated with the proposed project and recommended mitigation measures. Furthermore, the document concludes that there will be "no impact" as a result of the proposed project. This section should be expanded to include a thorough discussion, analysis, disclosure and mitigation for any adverse environmental impacts associated with greenhouse gas emissions.	Staff did analyze greenhouse gas emissions associated with the proposed project and found there would be no impact on greenhouse gas emissions and may in fact be a beneficial outcome. Staff clarified the Draft SEIR in response to the comment by noting the potential for less fertilizer use and likely less N ₂ O emissions.
Comment No. 574 from County of Santa Barbara. Letter No. 97, p.7.	<p>Pursuant to CEQA Guidelines Section 15128 the SEIR should include a discussion of the issues that were found not to be significant associated with the revisions to the agricultural order. This section states, "This SEIR addresses only those impacts found to be potentially more severe than previously identified in the 2004 Negative Declaration. See attached 2004 Negative Declaration for discussion of no impacts."</p> <p>A new Initial Study or other analysis which explicitly addresses the findings in CEQA Section 15162 is necessary in order to substantiate the conclusion that no other impacts in the 2004 Initial Study and Negative Declaration for the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands remain less than significant. The information as presented in the SEIR is unsubstantiated and conclusory.</p>	The SEIR includes a copy of the 2004 Negative Declaration and checklist and a portion of the checklist revised to identify the topics where new potentially significant environmental effects have been identified. The topics were identified based on comments received at the scoping meeting, written comments submitted to the Water Board, and the record.
Comment No. 575 from County of Santa Barbara. Letter No. 97, p.7.	This section refers to an evaluation of worst case scenarios with respect to agricultural and biological resources as discussed in a document that is not identifiable. The line item listing this document states "Error! Reference source not found." This section should be corrected to include the name of the document used to analyze cumulative impacts and this document should be attached as an appendix to the SEIR. The absence of this information as an appendix of the SEIR precludes substantive review of cumulative impacts.	This section was corrected. The correct reference is Section 4, Potential Impacts.
Comment	The parameters of the CEQ A analysis are too	The CEQA Guidelines preclude the Water Board

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No. 577 from Jensen Family Farms, Inc. Letter No. 109, p.3.	<p>narrow and are intentionally designed to produce a negative declaration rather than a realistic identification and assessment of the significant environmental impacts of the Proposal. Rather than, as it should have and as CEQA demands, consider the impacts on the environment that would be created by use of the two or three specific technologies available by which compliance with such guidelines may be accomplished, the Staff reasoned that the proscription of Water Code § 13360 which precludes the Board from specifying which technologies must be used created a purported lack of knowledge as to what those technologies are so that, in a syllogistically unsound conclusion, it "can only speculate with respect to the extent there could be adverse environmental effects because it is not known with specificity what actions dischargers may take to comply." That is wrong for numerous reasons and, in fact, creates a Catch-22 for the Board: since technological feasibility (the existence of technology by which compliance with the pollution guidelines can be accomplished) is a <u>sine qua non</u> requirement for the Proposal to not be arbitrary and unreasonable, either such technology exists and the Staff must set forth the foreseeable environmental impacts of its use) or no such technology exists in which case the Proposal may not be adopted.</p>	<p>from preparing an SEIR except in certain narrowly proscribed circumstances. See Cal. Code Reg. § 15162, subd. (a). The SEIR evaluates the likely methods of compliance and the potential adverse environmental impacts to the extent required by the CEQA Guidelines. The Water Board is not required to reconsider the 2004 Negative Declaration since the action proposed is to renew the 2004 Ag Order. See also response to Letter 79 (Comment No. 496).</p>
Comment No. 578 from Jensen Family Farms, Inc. Letter No. 109, p.4.	<p>The CEQA analysis of alternatives is facially inadequate in that it fails to include a discussion of the "no project alternative" option.</p>	<p>The SEIR includes a discussion of the "no project alternative." See SEIR at pg. 26, section 8.1. Under the CEQA Guidelines, when the project is the revision of an existing regulatory plan or policy, the "no project" alternative is the continuation of the existing plan or policy. See Cal. Code Regs. § 15126.6, subd. (c)(3)(A). In this case, the "no project" alternative would be the continuation of the 2004 Ag Order. As that Order was already the subject of a Negative Declaration, the Water Board is not required to conduct a new CEQA analysis of that alternative. See Cal. Code Regs. § 15162, subd. (a). The Water Board could consider the "no-project" alternative to be not to renew the 2004 Ag Order at all. However, the Water Board is not required to conduct a detailed analysis of alternatives that do not meet the project objectives. A "no order" alternative does not meet the project objectives to provide a waiver of waste discharge requirements as a mechanism for agricultural dischargers to comply with the</p>

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		Water Code. See Cal. Code Regs. § 15126.6, subd. (f). See also response to Letter 79 (Comment No. 496).
Comment No. 579 from Jensen Family Farms, Inc. Letter No. 109, p.4.	The CEQA analysis, including significant environmental effects of the application of the presently available technological means of obtaining compliance, requires the preparation of a full EIR prior to further consideration of the Proposal and ultimate rejection of the Proposal due to the significant negative impacts on the environment it would create.	See response to Letter 79 (Comment No. 496).
Comment No. 580 from Jensen Family Farms, Inc. Letter No. 109, p.4.	The underpinning of the entirety of the Proposal's reporting and compliance regime is based on what is, in the view of Staff, "administratively convenient" even though "administrative convenience" is a State interest that is inadequate to support such a regime and, in any event, the California Environmental Quality Act, Cal.Pub.Res.Code § 21000 et seq. ("CEQA"), precludes the elevation of administrative convenience over environmental concerns and interests.	Persons who discharge waste to waters of the state are required to comply with the Water Code either by obtaining waste discharge requirements or a waiver of waste discharge requirements. There are approximately 3000 farms in the Central Coast Region that irrigate and discharge waste to waters of the state, including groundwater and surface water. The Water Board could require each individual person to submit an application for (report of waste discharger under Water Code section 13260) and obtain waste discharge requirements or it can adopt a waiver of waste discharge requirements that simplifies the process for complying with the Water Code. The existing 2004 Ag Order and the 2011 Draft Ag Order provide a mechanism for dischargers to comply with the Water Code in a more efficient manner for both the dischargers and the Water Board. Administrative convenience was not a basis for preparing an SEIR, but is one of the reasons for using a waiver rather than issuing waste discharge requirements. The SEIR is consistent with the CEQA Guidelines. See also response to Letter 79 (Comment No. 496).
Comment No. 581 from Jensen Family Farms, Inc. Letter No. 109, p.8.	The Staffs failure to comply with the requirements of Water Code § 13260 not only dooms the environmental analysis but, more tellingly, highlights the intrinsic weaknesses of the CEQA analysis and conclusions contained in the Proposal (which is a matter discussed below): Section 13240, of course, commands the Regional Board to "formulate and adopt water quality control plans [4] for all areas within the region. "... During the process of formulating such plans the regional boards shall consult with and consider the recommendations of affected state and local agencies ..." (Emphasis supplied)	The adoption of an order waiving waste discharge requirements under Water Code section 13269 does not constitute the adoption of a plan under Water Code section 13240. Orders waiving waste discharge requirements must, in fact, assure implementation of plans adopted under Water Code section 13240. The existing 2004 Ag Order and the 2011 Draft Ag Order require dischargers to implement management practices or control or treatment technologies to comply with the Basin Plan. The Water Board complied with CEQA. Staff issued a notice of preparation to the Office of Planning and Research and to each responsible and trustee agency, including the Resources Agency, Department of Conservation, Department of Fish and Game, Region 4; Department of Fish

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		<p>and Game, Region 5; Department of Parks and Recreation; Department of Water Resources; Resources, Recycling and Recovery; California Highway Patrol; Caltrans, District 5; CA Department of Public Health; Department of Toxic Substances Control; Native American Heritage Commission; State Lands Commission; Department of Food and Agriculture; Department of Pesticide Regulation. During the public review period, which was November 23, 2010 - January 6, 2011, staff did not receive any comments from these agencies. Staff did receive comments from Caltrans, California State Lands Commission and the Native American Heritage Commission based on the notice of preparation. Additionally, the 2011 Draft Order and the SEIR have been posted on the Central Coast Water Board's website since November 19, 2010. The Water Board has held several public meetings and workshops and Staff has also held many public meetings and provided notice to public agencies and encouraged their attendance. Additionally, staff has had numerous phone calls and email correspondence with many of the above listed agencies. See the table of public meetings in Section 4 of the Staff Report. Representatives of the Department of Fish and Game and the Department of Pesticide Regulation, along with several other agency representatives, attended an Interagency meeting convened by Water Board staff on April 28, 2010 to provide input on the Draft Ag Order. Additionally, representatives from these two agencies attended the Water Board Public Meeting on September 2, 2010 and provided general descriptions of their authorities relative to the Water Board's authorities, and answered questions from Board members regarding the conditions in the Draft Ag Order. See transcript of the Board meeting discussion in Appendix D of the Staff Report.</p>
<p>Comment No. 582 from Jensen Family Farms, Inc. Letter No. 109, p.10.</p>	<p>The result of Staff's failure to consult other agencies charged with various aspects of pollution control is obvious: it causes an exclusive focus only on matters relating only to water quality and ignores, in their entirety, significant impacts created by the proposal on the air, view, and economic matters (Gust to name three). In that way, the Staff could, quite frankly, write a CEQA analysis recommending only a negative declaration be prepared and which excludes any and all consideration of realistic, foreseeable impacts on the</p>	<p>The Water Board adopted a Negative Declaration when it adopted the 2004 Ag Order. In renewing the 2004 Ag Order, the CEQA Guidelines prohibit the Water Board from preparing a SEIR except in certain circumstances. The SEIR complies with the CEQA Guidelines. See also response to Letter 79 (Comment No. 496). Consistent with the CEQA Guidelines, staff solicited comments from public agencies and based on those comments prepared an SEIR for specific areas where new potentially significant environmental effects were identified.</p>

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	environment as a whole occasioned by the implementation of the Proposal and the compliance therewith by the farming and viticulture industries.	
Comment No. 583 from Jensen Family Farms, Inc. Letter No. 109, p.12.	[The CEQA analysis] focuses entirely on only the purported "direct" impact of the proposal itself without factoring in the Proposal's implementation by the agricultural community in order to comply with the guidelines set by the Board relative to purification of irrigation water running off the land to drinking water purity. It thus creates its own little world where the water is purer but, in the cause of such purity, the remainder of the environment is left to go to hell.	The Water Code requires persons who discharge waste to waters of the state to control the discharges to protect waters of the state for their beneficial uses. The Water Board is required to implement the Water Code and to require compliance with State and Regional Board plans and policies. See Cal. Wat. Code §§13000, 13269. The Water Board is not allowed to authorize waste discharge as beneficial use of waters of the state. The Water Board expects dischargers to make reasonable efforts to comply with the Water Code by participating in the ag waiver program. Dischargers may seek individual discharge requirements in groups or as individuals to have a more site-specific program.
Comment No. 584 from Jensen Family Farms, Inc. Letter No. 109, p.13.	The methodology chosen by the Staff is simply stated by it: "The Water Board staff has not received any specific evidence by commenters and has little evidence in the record to demonstrate conclusively that the proposed draft 2011 Agricultural Order will result in significant adverse environmental effects on agricultural or biological resources. The Water Board staff expects that compliance with the proposed draft 2011 Agricultural Order will result in significant beneficial impacts on the environment. The Water Board must require compliance with water quality standards and consistency with its water quality control plan (Basin Plan). The existing 2004 Agricultural Order and the proposed draft 2100 [sic] Agricultural Order set forth conditions to achieve compliance with the water quality standards and the Basin Plan. Compliance with the conditions will result in environmental benefits. As set forth in Water Code section 13360, the Water Board may not specify the manner of compliance with orders of the Board; the discharger may comply with the order in any lawful manner. As a result, the Water Board can only speculate with respect to the extent there could be adverse environmental effects because it not known with specificity what actions discharger may take to comply. There is not sufficient information to determine the scope of any changes in environmental effects and any potential impacts are very speculative." Draft	The CEQA Guidelines state that economic or social effects of a project shall not be treated as significant effects on the environment. See Cal. Code Regs. tit., 14, §15131, subd. a). If economic or social changes result in physical changes to the environment, those impacts might be considered in certain cases. Conversion of agricultural resources due to economic pressure is not, therefore, considered a significant environmental impact. There is no significant evidence in the record to support a conclusion that economic or social effects will result in significant adverse physical changes in the environment. Commenters have suggested that may be the case, but have only speculated that growers might go out of business or reduce their business. The 2004 Ag Order and the 2011 Draft Order require dischargers to implement management practices to control discharges of waste to waters of the state. Dischargers are required by law to control such discharges; the 2011 Draft Ag Order does not require new or different management practices than were used to comply with the 2004 Ag Order. Staff has clarified the Draft SEIR.

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	Order at p. 8. (emphasis supplied). That is sophistic and erroneous.	
Comment No. 585 from Jensen Family Farms, Inc. Letter No. 109, p.13.	This is illustrated by the following example which presents a close analogy to the position taken by Staff: an applicant wants to build a large tallow/fertilizer/pesticide plant powered by an in-house nuclear reactor on the banks of the Salinas River. Under the Staff's analytical framework, as far as this Board is concerned only a negative declaration would be required since the construction of the plant would be beneficial to the environment since acres of farmland would be covered in concrete (and thus not leach nitrates or anything else into the soil and waters of the River), and it would be "speculative" to assume that the plant would be built and/or that it would, after being built, ever operate. Can it reasonably be said that the Regional Board would approve such a project without a full EIR? If not (and the only reasonable answer is that it would not) then no reason exists why what is "good for the goose is not good for the gander" as well. The Board's status as a governmental agency does not place it in a different position than a private-sector entity when it comes to the responsibility and necessity of performing a full and accurate environmental analysis.	The 2004 Ag Order and the 2011 Draft Ag Order require dischargers to develop and implement management practices to control discharges of waste to waters of the state that impact the beneficial uses. The Water Board adopted a Negative Declaration for the 2004 Ag Order. Consistent with the CEQA Guidelines, the Water Board may only consider new significant environmental impacts of changes between the 2004 Ag Order and the proposed renewal of that Order. The SEIR complies with CEQA Guidelines. See also response to Letter 79 (Comment No. 496). The SEIR and the Staff Report and appendices identify reasonably foreseeable means of compliance and the impacts associated with them. It is extremely unlikely that a person would attempt to comply with the Water Code by building a nuclear reactor and if so, the Water Board would not be the lead agency to approve such a project.
Comment No. 586 from Jensen Family Farms, Inc. Letter No. 109, p.13.	As discussed below, Staff's insistence that only concrete effects may be considered is without support in the law for the very simple reason that CEQA looks to the existence of "potential" effects and very much relies on foreseeability of effects rather than their concrete present existence. Further, the position taken by Staff essentially creates a Catch-22 in terms of determining whether the Proposal is arbitrary, unreasonable, and capricious which obtains to the detriment of the Proposal. The promulgation of a pollution regulatory regime requiring compliance (as the Proposal here does) must rest on the concept of "technological feasibility." That is, technology must exist or will exist in the timeframe set for compliance to begin by which compliance with the regulation's guidelines can be accomplished. See... [citations]. If it does not then the regime is arbitrary, unreasonable, and capricious. Since Staff obviously would not want that to happen here, it is safe to say that the Staff is familiar with the 3 primary technological means by which compliance might	The SEIR evaluates the new potentially significant environmental effects of changes proposed in renewing the 2004 Ag Order. Neither the 2004 Ag Order, nor the 2011 Draft Ag Order suggests that a discharger is required to implement reverse osmosis or reverse ion exchange to deal with waste discharges.

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	<p>be achieved (and this is particularly so since they were set out at length in our March 31, 2010 letter to the Board regarding its prior Proposal). Those 3 technologies are: (1) reverse osmosis, (2) reverse ion exchange, and (3) catchment basins located on each farm into which all water drains and from which no water is released that will flow into rivers and other bodies of water of concern to the Board.</p>	
<p>Comment No. 587 from Jensen Family Farms, Inc. Letter No. 109, p.14.</p>	<p>It must be and is reasonably foreseeable or anticipated by the Board that the owners or operators of agricultural lands will use one or more of the just-delineated three technologies in order to comply with the Proposal guidelines for purifying water. That is all that is required for them to be included in the analysis of significant environmental impacts. It is obvious that the Staff chose to not consider them due to the realization of the immensely significant negative impacts on the environment that the use of one or more of these technologies create. That is not what CEQA permits or allows to be done... Thus, the failure to analyze the foreseeable impacts of the three technologies dooms Staffs analysis and requires that it be rejected out of hand.</p>	<p>See response to Letter 79 (Comment No. 496) and Letter 109 (Comment No. 586). The commenter mischaracterizes the requirements of the 2011 Draft Order.</p>
<p>Comment No. 588 from Jensen Family Farms, Inc. Letter No. 109, p.14.</p>	<p>The conclusion of the Staff's initial Study and Environmental Checklist - if adopted - is inconsistent with and violates CEQA. That conclusion, of course, is that the Proposal is good for the environment and, in "fact" is so "good" that it will not have any negative impact. Ignoring the use of the only technologies by which compliance with the Board's guidelines can be conceivably met, Staff's conclusion is based on a determination, made with regard to the 79 (excluding subparts) sections appearing on the CEQA Environmental Checklist (which is composed of 17 separate categories), that the impact runs the gamut from "no impact" on 75 of them and "less than significant impact" on the remaining 4. Those four deal with the conversion of farmland to non-agricultural use and the effect on the riparian habitat or wetlands. As a result of that conclusion, no Environmental Impact Report ("EIR") on the proposal as it would be adopted, including actions necessary to comply with its terms, would be required in the opinion of the Board. Such a conclusion is both factually and legally incorrect.</p>	<p>See response to Letter 79 (Comment No. 496).</p>

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<p>Comment No. 589 from Jensen Family Farms, Inc. Letter No. 109, p.14.</p>	<p>Indeed, it either fails to recognize or take into account the actual or potential significant environmental impacts on 11 of the 17 categories listed in the CEQA checklist including, notably the following numbered items:</p> <p>(1) Aesthetics (impacts on scenic vistas and resources through, among other things, the construction of numerous and sizeable water treatment facilities (such as large reverse osmosis equipment) on lands abutting or otherwise adjacent to major scenic thoroughfares such as Highway 101, Highway 1 (Pacific Coast Highway), Highway 46 (in San Luis Obispo County), River Road (in Monterey County), Halcyon Road (in San Luis Obispo County), Vineyard Drive (in San Luis Obispo County), and Highways 154 and 246 (in Santa Barbara County);</p> <p>(2) Agricultural resources (the imposition of a 30 foot buffer zone replacing agricultural lands abutting such things as the Salinas River and all streams and sloughs discharging water into the river or Monterey Bay translates directly into the loss of literally thousands of acres of now-fertile and producing agricultural lands);</p> <p>(3) Air quality (additional air pollution arising from the introduction of literally thousands of agricultural land-sited diesel-fueled water treatment facilities, as well as from additional vehicle traffic arising from the need to service such facilities (including the removal of the water purification chemical byproducts as well as the purified water [the latter being available for bottling and commercial sale as drinking water], pollution caused by the construction and working of local facilities to treat the chemical byproducts and to-be-bottled water);</p> <p>(4) Biological resources (the potential loss of discharged water draining into the rivers and bodies of water in the Coastal Region due to the sale, by the farmers either independently or cooperatively, of the drinking-water pure water produced on their lands would directly impact the amounts of water in which protected or "of concern" species live);</p> <p>(7) Hazards and Hazardous Materials (arising from the transport, use or disposal of chemicals</p>	<p>See response to Letter 79 (Comment No. 496). The Water Board is not required to redo the 2004 Negative Declaration, but is only allowed to consider new potentially significant environmental effects not previously evaluated.</p>

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	<p>and other by-products of the water purification process by farmers either independently or cooperatively);</p> <p>(8) Hydrology and Water Quality (including those items discussed with regard to biological resources ante, depletion of ground water resources or interference with ground water discharge, alteration of the existing drainage patterns);</p> <p>(11) Noise (the addition of noise from the operation of the treatment facilities, traffic related- to the maintenance and care of those facilities as well as transportation of by-products);</p> <p>(12) Population and Housing (including the loss of population that would result from the loss of land presently used for agricultural purposes from imposition of the various buffers and setbacks which would thus displace substantial numbers of people, necessitating the construction of replacement housing elsewhere);</p> <p>(15) Transportation/Traffic (increase in the number and frequency of vehicle usage of the highways and roads due to the need for servicing of the treatment facilities, construction of those facilities, the removal of by-products, and other related matters);</p> <p>(16) Utilities and Service Systems (construction of numerous new water treatment facilities on each farm or tract of land within the Region that presently "discharges" water that will produce the significant environmental effects discussed herein); and;</p> <p>(17) Mandatory findings of significance (cumulative considerable impacts on the environment which will cause substantial adverse effects in terms of income and other matters relating to the human environment).</p>	
<p>Comment No. 590 from Jensen Family Farms, Inc. Letter No. 109, p.16.</p>	<p>Quite simply, the information upon which the proposed negative impact finding is based is woefully incomplete as to the scope of matters considered, and woefully in error regarding the matters it has interpreted and applied as have just been listed and which will be further discussed below. That insufficiency and</p>	<p>Please see response to Letter 109 (Comment No. 581) where staff identified reviewing agencies.</p>

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	<p>incorrectness may, among other factors, be due to the apparent lack of coordination and consultation with other governmental agencies, including those involved in pollution-control matters, as to the actual or likely negative significant affects on the environment posed by the Proposal. As mentioned above, these agencies include the California Coastal Commission (which is charged with responsibility for matters occurring in the coastal zone, an area that is includes within its parameters much of the agricultural lands covered by the Proposal which are located on Monterey County's North Coast, San Luis Obispo County's South Coast), and Santa Barbara County's North Coast), the California Air Resources Board (that has issued regulations dealing with air pollution produced by diesel engines used in agricultural operations), the Monterey Bay Unified Air Pollution Control District (which has also issued Rules dealing with air pollution caused by diesel engines used in agricultural operations), CalTrans, California's Department of Pesticide Regulation, and the federal Environmental Protection Agency (due to the significant amounts of land owned by the federal government and its agencies, including the Department of Agriculture's Old Stage Road operation and Hartnell College's East Campus in Salinas, are of which are located in the Region and directly impacted by the Proposal.)</p>	
<p>Comment No. 591 from Jensen Family Farms, Inc. Letter No. 109, p.16.</p>	<p>At the end of the day, it all comes down to this: consideration of the actual water purification equipment and infrastructure that the Proposal requires farmers to build and install on their lands (with all of the related activities arising from the operation and maintenance of that equipment combined with the need to make up, wherever possible, the significant loss in income occasioned by having to retire a hefty portion of their land due to the 30-foot setoff requirement) combined with just plain common sense clearly shows that the Proposal's impact on the environment would be, at a minimum, potentially significant (with or without any mitigation).</p>	<p>The 2004 Ag Order and the 2011 Draft Ag Order require dischargers to implement management practices to control discharges to protect beneficial uses of waters of the state. The methods of compliance have not changed since the 2004 Ag Order was adopted, so the Water Board is not required to reconsider the 2004 Negative Declaration except as required by the CEQA Guidelines. See response to Letter 79 (Comment No. 496).</p>
<p>Comment No. 592 from Jensen Family</p>	<p>There is, of course, more. All information leads to the conclusion that if this Proposal is adopted as proposed, the Board will violate CEQA by issuing what amounts to nothing more than a</p>	<p>See response to Letter 79 (Comment No. 496). The "fair argument" standard does not apply to the decision to prepare a subsequent EIR. See, e.g., <i>Bowman v. City of Petaluma</i> (1st Dist. 1986)</p>

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Farms, Inc. Letter No. 109, p.16.	negative declaration (or, at the most, the "functional equivalent" of one) when a "full EIR" is required because "substantial evidence of a fair argument" exists that the Proposal and its implementation may result in "significant environmental impacts."	185 Cal. App. 3d 1065, 1073-1074).
Comment No. 593 from Jensen Family Farms, Inc. Letter No. 109, p.17.	In order to make clear the requirements that are not being met by the Proposal's consideration of environmental impacts, Jensen's understanding of the requirements of CEQA should first be iterated. As the California Supreme Court noted in <i>Sierra Club v. State Bd. Of Forestry</i> , 7 Cal.4th 1215, 1233 (1994), "CEQA compels government first to identify the environmental effects of projects, and then to mitigate those adverse effects through the imposition of feasible mitigation measures or through the selection of feasible alternatives." If a project - such as the Proposal and its implementation - does not have feasible alternatives or mitigation measures that can substantially lessen or avoid those effect, the project should not be approved. See <i>Mountain Lion Foundation v. Fish & Game Com.</i> , 16 Cal4th 105, 134 (1997). CEQA is implemented through initial studies, negative declarations and EIR's. It requires a governmental agency - such as the Board in its capacity as Lead Agency on his particular "project" -- to prepare an EIR whenever it considers approval of a proposed project that "may have a significant effect on the environment." <i>Quail Botanical Gardens Foundation, Inc. v. City of Encinatas</i> , 29 Cal.App.4th 1597, 1601 (1994); Cal. Pub.Res. Code § 21100. Thus, if there is no substantial evidence a project "may have a significant effect on the environment" or the initial study identifies potential significant effects, but provides for mitigation revisions which make such effects insignificant, a public agency must adopt a negative declaration to such effect and, as a result, no EIR is required. Cal.Pub.Res. Code §§ 21980(d), 21064. However, the Supreme Court has repeatedly recognized that an EIR must be prepared and a negative declaration cannot be certified whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact. <i>No Oil Co. v. City of Los Angeles</i> , 13 Ca1.3d 68, 75 (1974).	Comment noted. See also response to Letter 79 (Comment No. 496).
Comment	The Board must include a completed	The State Water Board regulations cited do not

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<p>No. 595 from Jensen Family Farms, Inc. Letter No. 109, p.18.</p>	<p>environmental checklist prescribed by the State, and a written report addressing reasonable alternatives to the proposed activity and mitigation measures to minimize any significant adverse environmental impacts. 23 C.C.R. § 3777(a). The governing regulations further provide that the "board shall consult with other public agencies having jurisdiction by law with respect to the proposed activity and should consult with persons having special expertise with regard to the environmental effects involved in the proposed activity." 23 C.C.R. § 3778. The Board must also "prepare written responses to the comments containing significant environmental points raised during the evaluation process." lib at § 3779.</p>	<p>apply to the adoption of a waiver of waste discharge requirements. Those regulations apply to certified regulatory programs, such as adoption of water quality control plans and policies. The Water Board is not required to prepare an environmental checklist to support a decision to prepare a subsequent EIR. See, e.g., <i>Friends of Davis v. City of Davis</i> (3d Dist. 2000) 83 Cal. App. 4th 1004, 1018. In this case, the Water Board staff, while not required to, evaluated the checklist for the 2004 Negative Declaration and included a revised portion of that checklist in the SEIR where the information in the record supported the need for considering potentially new significant impacts.</p>
<p>Comment No. 596 from Jensen Family Farms, Inc. Letter No. 109, p.18.</p>	<p>Assuming that the Proposal is certified as CEQA exempt, the preparation and approval process for basin plans is the "functional equivalent" of the preparation of an EIR contemplated by CEQA. It is as true in that instance, as it is where a noncertified program is involved, that in those instances where it is determined that a "negative declaration" is approved that such may not be based on a "bare bones" approach in a checklist. See <i>Snarled Traffic Obstructs Progress v. City and County of San Francisco</i>, 74 Cal.App4th 793, 797 n. 4 (1998). In those instances, judicial review of the certified and noncertified project EIR or negative declaration mirror each other. See <i>County of Santa Cruz v. State Bd. Of Forestry</i>, 64 Cal.App4th 826, 8309 (1998). As was noted in State Water Resources Control Bd. Cases, 136 Cal.App4th 674, 723 (2006):</p> <p>"In a mandate proceeding to review an agency's decision for compliance with CEQA, we review the administrative record to determine whether the agency abused its discretion. 'Abuse of discretion is shown if (1) the agency has not proceeded in a manner required by law, or (2) the determination is not supported by substantial evidence.' 'When the informational requirements of CEQA are not complied with, an agency has failed to proceed in "a manner required by law" and has therefore abused its discretion.' Furthermore, 'when an agency fails to proceed as required by harmless error analysis is inapplicable. The failure to comply with the law subverts the purposes of CEQA if it omits material necessary to informed</p>	<p>The adoption of a waiver of waste discharge requirements is not a certified regulatory program.</p>

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	decision making and informed public participation. Case law is clear that, in such cases, the error is prejudicial.' (Internal citations omitted, emphasis supplied). See also <i>County of Amador v. El Dorado County Water Agency</i> , 76 Cal.App4th 931, 945-946 (1999).	
Comment No. 597 from Jensen Family Farms, Inc. Letter No. 109, p.18.	A review of the environmental impact report presented to the Board reveals that it does not comply with the mandatory provisions for completion of an environmental checklist and report that describes the proposed activity, addresses reasonable alternatives, and sets forth mitigation measures to minimize any significant adverse environmental impacts. What exists is a situation where, if approved in its present form, the Board will merely offer a checklist that denied the project would have any environmental impact and obviously intended its documentation to be the functional equivalent of a negative declaration. Quite frankly, the Board has not considered all significant implications on the environment. Moreover, it is obvious that the proffered checklist that specifies no significant effect on the environment is either the product of insufficient inquiry or is designed to mislead the public in its considerations.	See response to Letter 109 (Comment No. 595).
Comment No. 598 from Jensen Family Farms, Inc. Letter No. 109, p.19.	The incepting point in discussing the significant impact on the environment that the Proposal will have upon its implementation is to describe the type of equipment or machinery that the Proposal requires the owners and operators of agricultural land to install on their land and operate in order to comply with the no-discharge requirements imposed by the Proposal. At no point was this done in the Proposal or related documents, indicating that the size, energy source, and other matters relating to those machines (including removal of the extracted chemicals and residues) was not factored into the environmental impact analysis. That, without more, is a fatal flaw. Current technology in these regards appears to present two different types of equipment: a reverse osmosis unit or a reverse ion exchange unit. Siemans Water Technology Corp. ("Siemans") is one of the prominent manufacturers and distributors of that type of equipment. A review of the various reverse osmosis equipment sold by it - all of which can be located at its official Internet website at www.Siemans.com/water - reveals that the units necessary to do that which	The 2004 Ag Order and the 2011 Draft Order require dischargers to implement management practices to protect the beneficial uses of waters of the state and comply with water quality standards. The methods of compliance have not changed since adoption of the 2004 Ag Order. The Water Board is not required to reconsider the 2004 Negative Declaration except in compliance with CEQA Guidelines section 15162, subd. (a). There is nothing in the 2004 Ag Order or 2011 Draft Order suggesting that dischargers must or are likely to implement this technology to comply with the Ag Order.

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	<p>the Proposal requires to be done (and, particularly in view of the need under the Proposal for the farmer to err on the side of having equipment that has too large a volume than that which has a smaller volume in terms of the amount of water purified per minute) are diesel-fuel powered and quite sizeable.</p>	
<p>Comment No. 599 from Jensen Family Farms, Inc. Letter No. 109, p.19.</p>	<p>One of the Siemens unit models that appear to be a prime candidate for agricultural use (since it has a flow rate of 25 to 150 gallons per hour, respectively) is described as having the overall dimensions (width x depth x height in inches) as follows: 168 x 40 x 78 201 x 41 x 78 196 x 56 x 90 277 x 56 x 91 277 x 58 x 91</p> <p>In other words, these units generally are at least 14 (and as large as 23) feet wide, 3.5 feet to 5.75 feet deep and 6.33 (to 7.6) feet high. That is "one big honking machine." Since such a unit would be needed at each discharge point (and since there are multiple discharge points per field), it can be easily comprehended (but certainly was not by the Proposal) that literally tens of thousands of these units would be placed on farm land in the Region. In each instance, operation of the equipment would produce by-products consisting of chemicals, salts, minerals, and other substances extracted from the water (which would likely have to be stored at least temporarily on site either in large metal storage containers or in lined open air pits in order to avoid leeching into the soil). Of course, the number of units might be marginally reduced by the construction of infrastructure on each farm (such as above-ground pipes) that would more centralize the discharge points. The purified water produced in the process could also be allowed to run off the land or could be retained and stored for sale as bottled water. (A review of bottled water sold in stores and markets in California reveals that a large amount of it, according to the mandated label notation, is the product of reverse osmosis. A trip to Costco and inspection of the Kirkland brand bottled water reveals this to be so.) Since each is a relatively sophisticated piece of equipment, each would require on-site maintenance (on both a routine and special-</p>	<p>The 2004 Ag Order and the 2011 Draft Order require dischargers to implement management practices to protect the beneficial uses of waters of the state and comply with water quality standards. The methods of compliance have not changed since adoption of the 2004 Ag Order. The Water Board is not required to reconsider the 2004 Negative Declaration except in compliance with CEQA Guidelines section 15162, subd. (a). There is nothing in the 2004 Ag Order or 2011 Draft Order suggesting that dischargers must or are likely to implement this technology.</p>

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	<p>needs basis) which would increase vehicle traffic. That increase in traffic would, of course, be made manifold by the increase in traffic occasioned by vehicles removing all of the by-products and sludge produced in the purification process (a particular need in order to avoid any untoward leakage back into the soil or discharge water). The cascading significant environmental impact caused by each unit - and, of course, the cumulative thousands of such units spread all over the 400,000 acres presently in production (although such acreage will be markedly reduced by the 30 foot set off) - was simply overlooked by the Board in its environmental analysis.</p>	
<p>Comment No. 600 from Jensen Family Farms, Inc. Letter No. 109, p.20.</p>	<p>So too was it overlooked that the Board is not the only body charged with being an environmental watchdog in the Coastal Counties. Surprisingly overlooked and apparently (if the Staff Report is to be believed) not included was the California Coastal Commission which is charged with implementation and enforcement of the California Coastal Act of 1976. Cal.Pub.Res. Code § 30000 et seq.. Pursuant to that Act, and specifically Pub.Res.Code § 30214, the Commission is charged with the following matter which most assuredly is impacted by the Proposal:</p> <p>"The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy."</p> <p>The Commission's jurisdiction includes the Coastal Zone. As defined in Cal. Pub.Res. Code § 30103(a), the coastal zone consists "that land ... of the State of California from the Oregon border to the border of the Republic of Mexico ... Extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas [such as Monterey County, San Luis Obispo County, and Santa Barbara County] it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less ..."</p> <p>Thus, areas of the Monterey County North Coast -e.g. from Marina to and past Castroville (that represents more than 80 percent of the</p>	<p>The Water Board appreciates your comment with respect to the Coastal Commission. The State Clearinghouse did not include the Coastal Commission when it circulated the Draft SEIR. Following receipt of your comment, staff provided the Coastal Commission with the appropriate documents for their review and comment and have added a contact to the interested persons list for ag regulation. There is nothing in the 2004 Ag Order or 2011 Draft Order suggesting that dischargers must or are likely to implement reverse osmosis technology to comply with the Ag Order.</p>

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	<p>artichokes grown in the world), including the areas around Elkhorn Slough and northward -- subject to the Proposal are all located in the Coastal Zone and thus are also subject to Coastal Commission determinations, particularly regarding the scenic viewshed.</p> <p>The Commission is, in fact, infamous for the zealotry with which it protects scenic views and viewshed of the California coast falling within its jurisdiction. It is difficult to believe that the Commission would not consider the placement of hundreds (and likely thousands) of large Siemens reverse osmosis units on farmland abutting the Pacific Coast Highway to not have a significant impact on that viewshed. Indeed, a coastal development permit is likely required for a farmer to even build such a facility on his land at all. See Cal.Pub.Res. Code § 30106, which defines a "development" subject to that permit to include "on land" the placement or erection of any solid material or structure; discharge or disposal of any ... gaseous, liquid, solid ... waste; ... change in the intensity of use of water or of access thereto; construction, reconstruction ... of ... any structure, including any facility of any private, public, or municipal utility"</p>	
<p>Comment No. 601 from Jensen Family Farms, Inc. Letter No. 109, p.21.</p>	<p>The Commission, which is also well known for rejecting projects because the EIR's or negative declarations submitted to it were deemed insufficient (although in comparison to the one done by the Board here such would be considered to the product of placing all considerations under a microscope and producing a tome on environmental impacts), would take great exception to a finding of "no impact" in terms of the traffic and vehicle air pollution that would accompany the installation, maintenance, and off-site removal of byproducts.</p>	<p>See responses Letter 109, (Comment No. 598 and Comment No. 599).</p>
<p>Comment No. 602 from Jensen Family Farms, Inc. Letter No. 109, p.21.</p>	<p>Concern with the scenic views along, for instance, the Highway 101 corridor from Buellton to Prunedale that would be significantly impacted by the placement of purification units all over the highway-adjacent fields was also overlooked by the Board. That such a scenic view exists is undeniable: it strikes something akin to awe to look on either side of Highway One at the long rows of green crops, the grape vineyards, the careful placement of walnut</p>	<p>See responses Letter 109, (Comment No. 598 and Comment No. 599).</p>

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	trees. The same is true when driving along Highway 46 surrounded on both sides by what seems to be miles of vineyards, or while driving to the top of Halcyon Road in Arroyo Grande (where it meets the Nipomo Mesa) and looking out at farm land stretching from the ocean to the bluffs and Highway 101.	
<p>Comment No. 603 from Jensen Family Farms, Inc. Letter No. 109, p.21.</p>	<p>Even more troubling than the failure to consult with the Coastal Commission is the failure to consult with or obtain air pollution information from the California Air Resources Board ("CARB") or the Monterey Bay Unified Air Pollution Control District. Concerned with the amount of emissions being released into the atmosphere by diesel-fueled engines used in agricultural operations throughout California (including the Salinas Valley), CARB issued regulations limiting such emissions. As set forth in CARB Resolution 3-30 (February 26, 2004, CARB had studied the effect of such emission and found:</p> <p>"Excessive diesel exhaust particulate matter emissions for stationary compression-ignition engines, most of which are diesel-fueled, are a significant source of toxic air contaminants which contribute significantly to serious air pollution in communities and across the State."</p> <p>This and other documents providing studies and the views of CARB concerning pollution caused by diesel-fueled engines used in agricultural operations may be found at the CARB's official Internet website at www.arb.ca.gov. Issued pursuant to Cal. Health & Safety Codes § 39666, 17 C.C.R. § 93115 sets fuel and emissions standards for and applies to "any person who owns or operates" "stationary CI engine in California with a rated brake horsepower greater than 50 (>50-bhp)." Section 93115 .2(b). The Monterey Bay Unified Air Pollution Control District, acting pursuant this authority, adopted and issued Rule 1010 which is entitled "Air Toxic Control Measure for Stationary Compression Engines," has as its stated purpose:</p> <p>"to reduce diesel particulate matter (PM) from stationary diesel-fueled compression ignition (CI) engines and consistent with California Health and Safety Code Section 39666(d) is a replacement rule for 17 California Code of</p>	<p>The 2011 Draft Order is a renewal of the existing 2004 Ag Order that was subject to the 2004 Negative Declaration. The CEQA Guidelines set forth the circumstances for preparation of an SEIR. The SEIR evaluates only those potentially significant environmental effects due to changes from the 2004 Ag Order. Both the 2004 Ag Order and the 2011 Draft Ag Order require implementation of management practices to protect the beneficial uses of waters of the state and comply with water quality standards. There is nothing to suggest that dischargers will be required to use the technology you suggest in significant numbers. The Draft SEIR complies with the CEQA Guidelines. Staff does not anticipate that there will be more emissions as a result of implementation of the Draft Ag Order since the Draft Ag Order like the 2004 Ag Order does not specify the manner of compliance and staff does not expect dischargers to use different methods of compliance than those currently used. Please see section 5 - Discussion of Climate Change in the SEIR for more information.</p>

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	<p>Regulations Section 93116 [sic], Airborne Toxic Control Measure for Stationary Compression Ignition Engines."</p>	
<p>Comment No. 604 from Jensen Family Farms, Inc. Letter No. 109, p.22.</p>	<p>Rule 1010.1.1. It applies to, among others, "any person who owns or operates a stationary CI engine in the District with a rated brake horsepower greater than 50 (> 50 bhp)." While Rule 1010, subpart 1.3, specifically exempts agricultural CI engines from the operation of certain emission and fuel requirements and standards (including those for emergency standby diesel fueled CI engines (> 50 bhp), [subpart 3.2], stationary prime diesel-fueled CI engines (>50 bhp), [subpart 3.3], and certain record-keeping, reporting and monitoring requirements, [Subpart 4.1.1 D, it specifically imposes fuel and emission standards on diesel engines used in agricultural operations. I.e.:</p> <p>"No person shall sell, purchase, or lease for use in the District any new stationary diesel-fueled engine to be used in agricultural operations that has a rated brake horsepower greater than 50, or operate any new stationary diesel-fueled engine to be used in agricultural operations that has a rated brake horsepower greater than 50, unless the engine meets all of the following emission performance standards ... "</p> <p>Rule 1010.3.4.1. Serious penalties attach for the failure to register such engines and to otherwise comply with the emission standard. In other words, CARB and the Monterey Bay Unified Air Quality etc. Board have found and taken action pertaining to diesel-fueled engines used in agricultural operations throughout all, or most, of this Region.</p> <p>These regulations and rules were issued due to documented concerns with the air pollution particularly caused by diesel-fueled engines used in agricultural operations (which will now, if the Proposal is adopted, include water purification technologies). While those engines were traditionally used solely for purposes of pumping irrigation water (and were generally limited to a centralized engine per farm), the water purification reverse osmosis engines which each farmer must now install in multiple numbers on his farmland (and which are, in fact of greater horsepower than generally exists with regard to pump engines) exacerbates the air</p>	<p>See responses Letter 109, (Comment No. 598 and Comment No. 599).</p>

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	<p>pollution problem the CARB and Monterey Bay Unified etc. Board believed it necessary to limit by means of their respective regulations and rules. In light of this already patent concern by the California agencies charged with controlling air pollution and the significant impacts thereon of diesel-fueled engines used in agricultural operations, it defies both common sense and belief that the Proposal found no significant impact. That simply is unsupported and unsupportable. It, however, was ignored by the Staff in making its cavalier and unsupported statement, quoted above, that</p> <p>"The Water Board staff has not received any specific evidence by commenters and has little evidence in the record to demonstrate conclusively that the proposed draft 2011 Agricultural Order will result in significant adverse environmental effects on agricultural or biological resources." Draft Order at p. 8.</p>	
<p>Comment No. 605 from Jensen Family Farms, Inc. Letter No. 109, p.23.</p>	<p>This same point needs to be appreciated in terms of the failure to consult with the federal Environmental Protection Agency ("EPA"). In this instance, however, the failure is even more profound. Like CARB, the EPA has done numerous studies on the environmental impact of diesel-engine emissions used in stationary positions (in which presumably the purification units could be included). See, -, 40 C.F.R. Part 68 (listing stationary non-vehicular engines with emissions standards and referencing supporting environmental studies). Further, since vehicular traffic will no doubt increase in the Coast Counties due to the need for the construction and maintenance of the purification units (including the removal of the chemical, mineral, and other by-products, including purified water suitable for drinking), the EPA should have been consulted as well as to the significant environmental impacts such would have on the air and other areas of pollution concern (including water and the human environment). Indeed, CEQA even contemplates that joint CEQA and NEPA (National Environmental Protection Act) EIR/EIS will be done when appropriate. See 42 U.S.C. § 4321 et seq.; 14 C.C.R. §§ 15170, 15222, 15226 (requiring or encouraging preparation of joint CEQA/NEPA documents). The propriety and need to do so is borne out by reference to significant agricultural activities in, for instance, the Salinas Valley</p>	<p>See responses Letter 109, (Comment No. 598 and Comment No. 599).</p>

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	undertaken by the Department of Agriculture: not only does it have an agricultural facility at Hartnell College's East Campus in Salinas but it also has a significant row-crop operation (which includes a pesticide permit) at its facility on Spence Road/Old Stage Road to the south of Salinas.	
Comment No. 606 from Jensen Family Farms, Inc. Letter No. 109, p.23.	The loss of agricultural land occasioned by implementation of the Proposal is patent and will have a significant environmental impact not only to agricultural resources (as set forth on the CEQA checklist) but on the human environment (in terms of lost agriculture jobs and the attendant affects such will have on the movement of large numbers of persons out of the Salinas Valley). At least in significant part (excluding, of course, the loss in land available to crop growth due to the installation of the water purification units and accompanying infrastructure), the various buffers and setbacks (including primarily the 30-foot set-off due to the presence of impaired surface water body in which no agricultural pursuit may occur) is the source of such impact. It is beyond belief that the impact of that set-off could be treated as negligible when the areas affected by it in, for instance, the Salinas Valley alone is considered.	The SEIR evaluates impacts to agricultural resources. See responses Letter 109, (Comment No. 598 and Comment No. 599) and also response to Letter 79 (Comment No. 496).
Comment No. 607 from Jensen Family Farms, Inc. Letter No. 109, p.23.	The Salinas River is approximately 85 miles long. It has a number of tributaries including [names 16 tributaries]. There are, in addition, literally hundreds of small drainages which, when combined, accounts for thousands of additional miles of water-adjacent land. Esperanza Creek (which is really nothing more than a drainage ditch) in fact runs through Jensen's Esperanza Road ranch and abuts approximately 0.75 miles of land on both sides of the Creek upon which organic asparagus is grown, and is on the list of impaired waters. It is not difficult to imagine the impact of that being done: Literally tens of thousands of acres of now-producing farm land would no longer exist for that purpose. The workers who earn their livings from tending that land would be accordingly terminated. Those workers, particularly in the present economic climate, would have no other employment available to them in the agriculture-centered Salinas Valley. In addition to defaulting on home loans or just walking away from those houses, these	It is unclear from the comment how the organic asparagus farms would be impacted by the 2011 Draft Ag Order. Both the 2004 Ag Order and the 2011 Draft Ag Order require dischargers to implement management practices to protect the beneficial uses of waters of the state and comply with water quality standards. The 2011 Draft Ag Order does not specify the manner of compliance; growers may comply in any lawful manner. There is no requirement to install reverse osmosis units. Appendix F to the Staff Report appropriately addresses costs of the Draft Agricultural Order consistent with Regional Board obligations under the Water Code and CEQA.

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	<p>displaced workers would be forced to move to other regions of the California (or, for that matter, elsewhere in the United States) and find not only new jobs but new homes (thereby requiring expansion of housing and infrastructure in those areas). The cascading affects of such a situation can hardly be overstated but were, incomprehensively, overlooked and completely discounted by the Board in its environmental analysis.</p>	
<p>Comment No. 608 from Jensen Family Farms, Inc. Letter No. 109, p.24.</p>	<p>A partial answer to the enormous economic impact that would occur from adoption and implementation of the Proposal, however, itself poses significant impact on the water resources of the Coast Counties. The goal of the Proposal is to assure that all discharge water would be purified to the purity level of drinking water (including the removal of all sediments). That, of course, assumes that the purified water would be discharged from the agricultural land into, among other places, the Salinas River. There really is no sound basis underlying that assumption. Americans, to our national shame, are addicted to bottled water (the bottles being a great source of pollution to the oceans and rivers as well as the side-of-the-road). As the New York Times reported on March 19, 2008 in an article entitled "Rising sale of bottled water triggers strong reaction from US conservationists," bottled water sales in the United States in 2007 were 8.82 billion gallons (having a value of \$11,700,000,000). See www.NYTimes.com. So then why would the farmers of the Central Coast counties - who would have spent large amounts of money on the water purification units and otherwise suffered egregious reductions in their profitability due to the loss of land they could actually farm - not, either individually or on a cooperative basis, seek to store and sell (for human consumption) the water they have purified? That would quite obviously reduce the amounts of water going in to, for instance, the Salinas River. That would lower the water levels and just generally have deleterious effects that make the Proposal's concerns with pollution by discharge water pale in comparison. But that too was ignored or overlooked by the Board.</p>	<p>In issuing a waiver of waste discharge requirements, the Regional Board is required to require compliance with the Basin Plan, which includes protection of designated beneficial uses and compliance with water quality standards. The regulation of bottled water is outside the purview of the Regional Board.</p> <p>See response to Letter No. 109, Comment 599.</p>
<p>Comment No. 609 from Jensen</p>	<p>In spite of attempts to portray Alternative 1 - simply extending the present waiver program - as the "no project alternative," the Staffs efforts</p>	<p>The SEIR includes a discussion of the "no project alternative." See SEIR at pg. 26, section 8.1. Under the CEQA Guidelines, when the project is</p>

Comment ID	CEQA Comment	Response
Family Farms, Inc. Letter No. 109, p.25.	<p>are inaccurate and misleading. In actuality, Alternative 1 is not the "no additional regulation alternative." A "No Project" alternative is intended to reflect what would happen absent any Regional Board action. In this case, no action results in no waiver program whatsoever since the 2004 waiver will lapse on its own terms in March 2011. "The no project analysis shall discuss the existing conditions at the time the notice of preparation is published, ... as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services." State CEQA Guidelines, § 15126(e)(2). When the existing conditions include implementation of a program or rule that will expire unless some affirmative action is taken, the "No Project" scenario must consider the expiration of that program or rule and its associated ramifications. See <i>Sherwin-Williams Co. v. S. Coast Air Quality Management Dist.</i>, 86 Cal.App.4th 1258, 1280 (2001)(defendant had properly "defined the "No Project" scenario as "not adopting the proposed amendments to Rule 1113, but instead allowing the expiration of the current product variances for some of the coating categories and maintaining the current version of Rule 1113 as amended by a 1990 court order"). In contrast, when a agency must act affirmatively to extend an existing program or rule, that itself is a project that must be analyzed under CEQA. See <i>Sunset Sky Ranch Pilots Assn. v. County of Sacramento</i>, 47 Ca1.4th 902, 909 (2009)(county's decision to not renew a conditional use permit that was expiring is not a project under CEQ A, but the renewal of the permit would be).</p> <p>The lack of an accurate "No Project" alternative constitutes a fatal flaw. That alternative is a mandatory component of an EIR. The purpose of this requirement is "to allow decisionmakers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project." State CEQA Guidelines, §15126.6(e)(1). In this case, no such comparison is possible because the "No Project" alternative is fundamentally inaccurate.</p>	<p>the revision of an existing regulatory plan or policy, the "no project" alternative is the continuation of the existing plan or policy. See Cal. Code Regs. § 15126:6, subd. (c)(3)(A). In this case, the "no project" alternative would be the continuation of the 2004 Ag Order. As that Order was already the subject of a Negative Declaration, the Water Board is not required to conduct a new CEQA analysis of that alternative. See Cal. Code Regs. § 15162, subd. (a). The Water Board could consider the "no-project" alternative to be not to renew the 2004 Ag Order at all. However, the Water Board is not required to conduct a detailed analysis of alternatives that do not meet the project objectives. A "no order" alternative does not meet the project objectives to provide a waiver of waste discharge requirements as a mechanism for agricultural dischargers to comply with the Water Code. See Cal. Code Regs. § 15126.6, subd. (f). See also response to Letter 79 (Comment No. 496).</p>
Comment No. 611 from Jensen	The Proposal, if adopted and implemented, will result in the regulatory takings of, among other things, the agricultural land contained in the 30-	See response to Letter 79 (Comment No. 497).

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<p>Family Farms, Inc. Letter No. 109, p.26.</p>	<p>foot buffer zones.</p> <p>The Fifth Amendment of the United States Constitution, made applicable to the States (and its political subdivisions such as the Board by the Fourteenth Amendment) specifically protects private property from governmental incursions by preventing "private property [from] be[ing] taken for public use without just compensation." U.S. Constitution, Amend. V. The "Fifth Amendment's guarantee that private property shall not be taken for a public use without just compensation 'was designed to bar government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.'" Armstrong v. United States, 364 U.S. 40, 49 (1960). Indeed, James Madison, often described as "the Father of the Constitution," explained that such protection is government's chief responsibility, because, in the words of Arthur Lee, a Founding Father from Virginia, property is the "guardian of all rights." Over the years, the law has distinguished three broad categories of takings: those defined by the governments' powers of eminent domain, those resulting from a "physical invasion" by the government without bringing an eminent domain proceeding, 16 and those resulting from the impact of regulation. The first two, having an older lineage, could be referred to as "traditional takings," and the latter two require a landowner to file an "inverse condemnation" suit seeking just compensation. "While the typical taking occurs when the government acts to condemn property in the exercise of its power of eminent domain, the entire doctrine of inverse condemnation is predicated on the proposition that a taking may occur without such formal proceedings." First English Evangelical Lutheran Church v. County of Los Angeles, 482 U.S. 304, 316 (1987) .. Traditionally, all three categories covered interference with private property "to an extent that, as between private parties, a servitude is taken." United States v. Dickson, 331 U.S. 745, 748 (1947).</p> <p>Of application here, of course, is regulatory takings. Although subject to a long period of evolutionary growth which may prove important in litigation (rather than here), such takings does apply to Jensen. It is settled now that</p>	

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	<p>Government regulation goes "too far," and effects a total or "categorical" taking, when it deprives a landowner of all economically viable use of his "parcel as a whole." See <i>Palm Beach Isles Assocs. v. United States</i>, 231 F.3d 1354, 1259-1360 (Fed.Cir. 2000) (differentiating categorical takings from partial ones). If the taking is not of the entire parcel as a whole, either temporally or by its metes and bounds, government regulation can still effect a partial taking pursuant to the fact-intensive Penn Central balancing test: i.e., "a court determines when regulation goes "too far" and effects a taking by balancing: (1) the "economic impact of the regulation on the claimant"; (2) "the extent to which the regulation has interfered with distinct investment backed expectations"; and (3) "the character of the governmental action."</p> <p>Applying these factors, Jensen possesses the requisite property interest protected by the Fifth Amendment: a fee simple in agricultural lands subject to the Proposal. So the inquiry then moves on to whether the Board's action constituted a taking" of that interest. The so-called "categorical test" - which applies only in those instances where government action has eliminated "all value" from the land does not apply here since some vestigial value remains (as, for instance, very large parking lots in the middle of the Salinas Valley). The Board's action does, however, deprive the Jensen's of the "highest and best use" of all the property (highly producing agricultural farm land). The takings still occurs and the only affected thing is the amount of compensation that needs to be paid. The regulatory character of the Board's action - based as it allegedly is a myopically narrow concern only with water pollution (even though, as noted, more significant negative impacts arise from the implementation of the Proposal than are affected by the Proposal) - does serve as an adequate excuse or preventative measure that overcomes the partial takings that is affected by the Proposal. See, e.g. <i>Tahoe-Sierra Pres Council v. Tahoe Reg'l Planning Agency</i>, 535 U.S. 301 (2002).</p> <p>The takings here extends to the width and breadth of the Coast Counties and implicates some of the most valuable farmland in the United States, having values from</p>	

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	<p>approximately \$20,000 an acre to \$50,000 per acre (even in these times of depressed real estate prices). With the legal sufficiency of the Proposal being as tenuous as it is due to the un- and non-considered significant environmental impacts that may be affected by the Proposal, the additional risk that a takings - even if temporary and lasting only one growing season - will occur should cause the Board to reject the Proposal and seek to find other ways to fulfill its statutory mandate.</p>	
<p>Comment No. 613 from Jensen Family Farms, Inc. Letter No. 109, p.29.</p>	<p>In the final analysis, the Proposal is a monument to overreaching by those charged with protecting the water resources of the Central Coast counties. In its attempt to comply with a mandate to control water pollution in the Central Coast, the Board has ignored common sense and, in order to protect the water from pollution, has myopically overlooked or ignored the significant impacts on the environment relative to other areas of concern such as air pollution and the human environment that attend having farmers install water purification units and infrastructure on the land they are left with after losing any ability to effectively or, for that matter, actually farm within buffer and set back areas of, for example, the Salinas River or its tributaries. A regulatory taking of land having sufficient value to bankrupt the most solvent of States will result from the adoption and implementation of the Proposal.</p> <p>The bureaucratic zeal which informed the formulation of the Proposal must be tempered by the requirements of the law, by knowledge of how agriculture works and the geology in this Region, and by common sense. Indeed, the Proposal results only in the conclusion that Staff was activated more by bureaucratic zeal than by recommending actions which would affect protection of the environment as a whole and the continued success of literally the only part of California's economy that has not been totally destroyed by current economic conditions. The Proposal should be rejected and placed on the dust heap of badly thought-out concepts. While protection of California's waters is and remains a laudable goal, that protection can be afforded by other and more soundly thought out means.</p>	<p>Comments noted. Please see responses to Letter 109 (Comment No. 577 to Comment No. 612), which address the commenter's conclusion paragraphs.</p>
<p>Comment No. 516 from</p>	<p>Agricultural representatives submitted an Agricultural Alternative Conditional Waiver</p>	<p>The Agricultural Alternative Conditional Waiver (Ag Proposal) proposes that dischargers continue,</p>

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<p>California Farm Bureau Federation. Letter No. 79, p.21.</p>	<p>Proposal in response to staff's November 19, 2010 release of the 2011 Draft Order. This alternative represents a fair, reasonable, and legally sound approach to improving water quality while maintaining agricultural viability throughout the Region.</p> <p>The Agricultural Alternative Conditional Waiver submitted by agriculture must be properly analyzed under CEQA as a possible alternative. Therefore, additional environmental review must be completed prior to any Regional Board action on the 2011 Draft Order.</p>	<p>as with the 2004 Ag Order and the 2011 Draft Order, to implement management practices and technologies to control discharges of waste to waters of the state. The Ag Proposal is similar in scope to the 2004 Ag Order. As explained in the SEIR, the Regional Board already evaluated the 2004 Ag Order under CEQA and adopted a Negative Declaration. The CEQA Guidelines specify the circumstances under which an agency must prepare a subsequent or supplemental CEQA document. In this case, the Regional Board staff reviewed the record for this matter and a reasonable range of alternatives and found that it was appropriate to prepare an SEIR to address certain potentially significant environmental effects.</p> <p>The Regional Board is not required to reopen the first CEQA document and reevaluate all the impacts, only those that could be more significant than previously evaluated. In determining what alternatives to evaluate, CEQA requires an EIR to "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.... An EIR is not required to consider alternatives which are infeasible." (Guidelines, § 15126.6, subd. (a).) In addition, the adequacy of alternatives is evaluated in light of the nature of the project. (<i>City of Rancho Palos Verdes v. City Council</i> (1976) 59 Cal.App.3d 869, 892, 129 Cal.Rptr. 173.) "CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its facts...." (<i>Citizens of Goleta Valley v. Board of Supervisors</i> (1990) 52 Cal.3d 553, 566, 276 Cal.Rptr. 410, 801 P.2d 1161.)</p> <p>To the extent Ag Proposal requires compliance with the Water Code, the same types of management practices are proposed with the same type of potential environmental effects that were evaluated in the Negative Declaration and SEIR. The SEIR evaluated the potentially significant effects of the methods of compliance and economic impacts, to the extent required, that could be more significant than the 2004 Ag Order. The commenter has provided no evidence that the potential impacts of the Ag Proposal would not</p>

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		<p>be any different than the 2004 Ag Order or the 2011 Draft Order.</p> <p>The purpose of CEQA is to provide information sufficient to allow the decision maker to make an informed decision. SEIR provides that information. In addition, staff has thoroughly evaluated the Ag Proposal and provided that information to the Regional Board. There are a large number of potential alternatives that could be considered. CEQA requires only that a reasonable range be considered, not that every alternative be considered. See, e.g., <u>Village Laguna of Laguna Beach, Inc. v. Board of Supervisors</u>, supra, 134 Cal.App.3d 1022, 1029. (The City considered a range of alternatives that included within that range, alternatives proposed by interested groups. The court concluded: "Therefore, it must be assumed that decision-makers and the public could make an informed comparison of the environmental effects of those various plans. It is not then unreasonable to conclude that an alternative not discussed in the EIR could be intelligently considered by studying the adequate descriptions of the plans that are discussed. This EIR should not become vulnerable because it fails to consider in detail each and every conceivable variation of the alternatives stated." (<u>Brooks v. Coleman</u> (9th Cir. 1975) 518 F.2d 17, 19.))</p>
<p>Comment No. 612 from Jensen Family Farms, Inc. Letter No. 109, p.28.</p>	<p>In reviewing and rejecting alternative proposals to the one recommended by the Staff, a constant basis for rejecting other proposals was that too much paperwork and too much work for the Staff would result: e.g., in rejecting Option 10 of the "Options Considered" Appendix D at p. 13, it is stated that individual farm reporting "would likely create a significant work load for Water Board staff ..." No offense, that is what the Staff was created for and that is for what they are paid. It is well-settled administrative convenience of this type is an inadequate State interest to warrant being used to reject or formulate proposals such as this. See, e.g., <u>Natural Resources Defense Council v. EPA</u>, 526 F.3d 591 (9th Cir. 2008).</p>	<p>Staff evaluated alternatives and options based on several criteria, including, but not only, impact on staff resources. Staff also considered focus on severity and magnitude of water quality conditions, efficiency and transparency of water quality improvement, public accessibility of data and information, reasonableness and cost to growers, etc.</p>
<p>Comment No. 502 from California Farm Bureau Federation.</p>	<p>The SEIR may conflict with CEQA functional equivalency of the State's Pesticide Regulatory Program. DPR regulatory scheme ensures continuous evaluation of the environmental impacts of registered pesticide products. DPR</p>	<p>The Regional Water Board is a public agency that must comply with CEQA prior to taking a discretionary action that could have a significant impact on the environment. The authority to adopt the 2011 Draft Ag Order or other order</p>

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Letter No. 79, p.13.	is required by CEQA to consider the full and reasonably foreseeable environmental context of its actions. Farmers and ranchers must comply with DPR requirements. Farmers should not be held liable under the 2011 Draft Order if those pesticides are detected in groundwater.	<p>regulating discharges from agricultural lands is independent of DPR's authority to regulate pesticide use and its own requirement to comply with CEQA. The 2011 Draft Order does not duplicate or usurp DPR's authority to regulate pesticides.</p> <p>The Water Board has the statutory authority under the Porter-Cologne Water Quality Control Act to regulate the discharges of waste to ground and surface waters. Cal. Wat. Code §§ 13000, et seq. Specifically with regard to pesticides, the term "waste" has been held to include pesticides used for the control of insects, rodents and diseases on farms. (43 Cal. Ops. Atty. Gen. 302, 304 (1964), 48 Cal. Ops. Atty. Gen. 30, 34 (1966)). See also, Water Quality Order No. 2004-008-DWQ, Statewide General National Pollutant Discharge Elimination System Permit for Discharges of Aquatic Pesticides to Surface Waters of the United States for Vector Control, General Permit No. CAG990004. (This permit regulates NPDES discharges, not nonpoint source discharges, but in it the Water Board regulates the discharges of pesticides that leave the treatment area, demonstrating the Water Boards' authority to regulate discharges of pesticides: "This General Permit addresses the application of pesticides to Treatment Areas for the control of vectors. Aquatic pesticides that are applied to waters of the United States in accordance with FIFRA label requirements are not considered pollutants. However, pesticides or by-products that persist in or leave the Treatment Area after a specified treatment period are considered pollutants and require coverage under this General Permit." Fact Sheet at p. 8)</p>
Comment No. 524 from Santa Clara County Farm Bureau. Letter No. 34, p.2.	Another area where the Draft Ag Order oversteps the Regional Board's authority is the vegetated buffer requirements, which we do not believe the Regional Board has the authority to require. Not only are the buffer requirements for Tier 3 growers outside the Board's authority, they would remove significant amounts of land from production without appropriate CEQA consideration, would decrease the supply of fresh, safe, local produce, and could potentially pose a food safety threat.	<p>Water Code section 13269 requires that any waiver of waste discharge requirements be consistent with the Basin Plan. The Basin Plan (page V-13, #4) requires that dischargers maintain "a filter strip of appropriate width, and consisting of soil and riparian vegetation or its equivalent...between significant land disturbance areas and watercourses, lakes, bays, estuaries, marshes, and other water bodies." Therefore, the Regional Board has the authority to require buffer strips.</p> <p>The 2011 Draft Order proposes that certain dischargers implement the use of buffer strips or some other method of control sufficient to prevent</p>

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		<p>discharges that cause the receiving water to exceed water quality standards. Staff evaluated the potentially significant impacts associated with removing agricultural lands from production as required pursuant to CEQA. Please see pgs. 8-14 of the SEIR.</p> <p>Also see response to Letter 79 (Comment No. 512)</p>

AppendixH1-SEIR-031711-final-3-02-11.DOC

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

RESOLUTION NO. R3-2004-0118
APPROVING AN INITIAL STUDY
AND
ADOPTING A NEGATIVE DECLARATION
FOR
CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES FROM IRRIGATED LANDS

WHEREAS, the California Regional Water Quality Control Board, Central Coast Region (Regional Board), proposes to adopt Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands; and

WHEREAS, the Regional Board is the lead agency for this project under the California Environmental Quality Act and has conducted an Initial Study in accordance with title 14, California Code of Regulations, Section 15063, entitled *Guidelines for the Implementation of the California Environmental Quality Act*; and

WHEREAS, copies of the Initial Study and proposed Negative Declaration were submitted to the State Clearinghouse on March 23, 2004, and to the Clerks of Monterey, San Benito, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, and Ventura counties, and transmitted to or made available to all agencies and persons known to be interested in these matters and the public notice provided exceeded the legal requirements for such notice; and

WHEREAS, the Regional Board accepted comments for 60 days and has considered all comments; and

WHEREAS, the Regional Board considered all testimony and evidence at a public hearing held on July 8, 2004, in San Luis Obispo, California, and good cause was found to approve the Initial Study and adopt a Negative Declaration; and

WHEREAS, based on the Initial Study, Negative Declaration, and the entire administrative record, the Regional Board finds that adoption of the proposed Waiver has no potential to adversely impact the environment; and

WHEREAS, the Regional Board finds, based on the draft Negative Declaration, including the Initial Study and hearing record, that adoption of the proposed Waiver will not individually or cumulatively have an adverse effect on wildlife, as defined in Fish and Game Code §711.2, or the habitat on which wildlife resources depend;

THEREFORE BE IT RESOLVED, that:

1. The Initial Study is approved and the Negative Declaration for the *Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands* is adopted.

2. The record before the Regional Board contains no substantial evidence that a fair argument has been made that the project may have a significant effect on the environment.
3. The Executive Officer, or designee, is authorized to sign and submit a Certificate of Fee Exemption pursuant to California Code of Regulations, Title 14, Section 753.5(c).

I, ROGER W. BRIGGS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Cost Region, on July 9, 2004.


FW ROGER W. BRIGGS, Executive Officer

INITIAL STUDY and
Negative Declaration
For
Conditional Waiver of
Waste Discharge Requirements for
Discharges from Irrigated Lands

Central Coast Regional Water Quality Control Board

Prepared by:

Central Coast Regional Water Quality Control Board
895 Aerovista Place

San Luis Obispo, CA 93401

Contact: Alison Jones, Environmental Scientist, (805) 542-4646

July 2004

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Attachments

1. Draft Order titled "Conditional Waivers of Waste Discharge Requirements for Discharges from Irrigated Lands"
2. Draft Monitoring and Reporting Program titled "Monitoring and Reporting Program No. R3-2004-XXXX for Dischargers Enrolled under Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands"

Project Information Form

Central Coast Regional Water Quality Control Board

Draft Negative Declaration

1. **Project title:** Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands
2. **Lead agency name and address:** Central Coast Regional Water Quality Control Board
895 Aerovista Place
San Luis Obispo, CA 93401
3. **Contact person and phone number:** Alison Jones, Environmental Scientist
(805) 542-4646
4. **Project location:** Central Coast Region
5. **Project sponsor's name and address:** Not applicable
6. **General plan designation:** Not applicable
7. **Zoning:** Not applicable

8. Description of project: Section 13269 of the California Water Code (CWC) authorizes the Central Coast Regional Water Quality Control Board (Regional Board) to waive waste discharge requirements (WDRs) for a specific discharge or specific type of discharge if the waiver is in the public interest. The waiver must be conditional and may be terminated at any time. The Regional Board may also waive the requirement to submit a report of waste discharge. In 1999, Senate Bill 390 amended CWC Section 13269. CWC Section 13269 specifies that waivers in effect on January 1, 2000, terminate on January 1, 2003, but may be renewed following a hearing. Waivers may only be adopted for a maximum of five years.

The Regional Board proposes to adopt a conditional waiver of WDRs for discharges from irrigated lands, including tailwater, subsurface drainage, and stormwater runoff, and to waive the requirement to submit reports of waste discharge. Irrigated lands include nurseries and soil-floored greenhouses as well as lands planted to row crops, vineyards, tree crops, and field crops. This waiver would be in effect for five years beginning July 8, 2004.

The conditions of the proposed waiver would require all owners and operators of irrigated lands in the Central Coast Region to: 1) enroll with the Regional Board by submitting a Notice of Intent, 2) complete fifteen hours of water quality education, 3) develop a farm water quality management plan that addresses, at a minimum, erosion control, irrigation management, nutrient management and pesticide management, 4) implement management practices in accordance with the farm plan, and 5) conduct individual monitoring or participate in a cooperative monitoring program.

This waiver would set forth two categories of waivers of Waste Discharge Requirements. One category (Tier 1) applies to dischargers who have already completed the education and farm plan development requirements and have begun to implement management practices for their operations. The other category (Tier 2) applies to dischargers who have not yet completed all the requirements for a Tier 1 waiver. Tier 2 waivers would be renewable annually for up to three years.

The conditions of the waiver include timely completion of education and plan development requirements, implementation and reporting of management practices designed to protect water quality, and compliance with all requirements of applicable water quality control plans.

The goal of the waiver program is to manage discharges from irrigated lands to ensure that such discharges do not cause or contribute to conditions of pollution or nuisance as defined in Section 13050 of the California Water Code and do not cause or contribute to exceedances of any Regional, State, or Federal numeric or narrative water quality standard.

Details of the proposed waiver conditions are contained in the attached draft order (*Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands*).

9. Surrounding land uses and settings: The project encompasses approximately 600,000 acres of irrigated agricultural lands in the Central Coast Region, and includes the irrigated lands in the Pajaro, Salinas, Santa Maria, and Santa Ynez River watersheds as well as several smaller coastal streams. Although agriculture (irrigated lands and rangeland) is the dominant land use throughout the Central Coast Region, many watersheds have mixed uses, where agricultural lands are interspersed with rural residential, suburban and urban areas. Salinas, the Region's largest city, has a population of more than 100,000, and lies surrounded by agricultural lands at the base of the watershed of the Salinas River, which drains to Monterey Bay National Marine Sanctuary. The Central Coast Regional Water Quality Control Board has jurisdiction over all of the watersheds listed above, which all drain to the Pacific Ocean. The region includes all or part of the following counties: San Mateo, Santa Cruz, Santa Clara, San Benito, Monterey, San Luis Obispo, Santa Barbara and Venture.

10. Other public agencies whose approval is required: None

Environmental Factors List

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental resource categories identified below are analyzed herein to determine whether the Proposed Project would result in adverse impacts to any of these resources. None of the categories below are checked because the Proposed Project is not expected to result in "significant or potentially significant impacts" to any of these resources.

Aesthetics	Biological Resources
Hazards & Hazardous Materials	Mineral Resources
Public Services	Utilities/Service Systems
Agriculture Resources	Cultural Resources
Hydrology/Water Quality	Noise
Recreation	Mandatory Findings of Significance
Air Quality	Geology/Soils
Land Use Planning	Transportation/Traffic

Determination

The Central Coast Regional Water Quality Control Board has reviewed the proposed project and has determined that the project, based on the Initial Study attached hereto, will not have a significant effect on the environment. An environmental impact report is not required pursuant to the California Environmental Quality Act of 1970 (CEQA). This environmental review process and negative declaration is done in accordance with CEQA (PRC 21000 et seq.) and the CEQA Guidelines (14 CCR 15000 et. Seq.)

Based on the findings of the Initial Study, the project would not:

- Degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of California history or prehistory.
- Achieve short-term, to the disadvantage of long-term, environmental goals.
- Have impacts that are individually limited, but cumulatively considerable.
- Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

On the basis of this initial evaluation:

- I find that the Proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the Proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the Project have been made by or agreed to by the Project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

- I find that the Proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the Proposed Project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect: 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the Proposed Project could have a significant effect on the environment because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the Proposed Project, nothing further is required.

No potentially significant impacts were identified.

Signature

Date

Printed Name

Organization

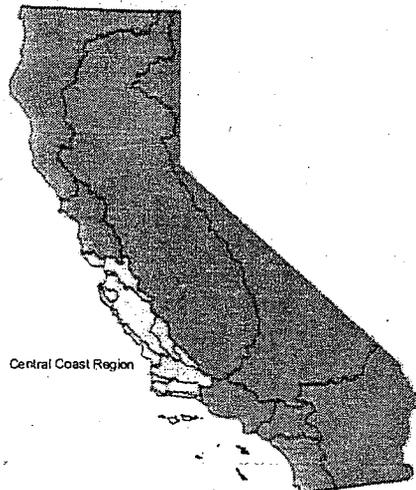
1 Initial Study

1.1 Project Purpose

The purpose of the project is to adopt an Order approving a "Conditional Waiver of Waste Discharge Requirement for Discharges from Irrigated Lands" (Waiver). (See attached Order and Waiver) that would regulate the discharge of waste from irrigated lands, including commercial nurseries and soil-floored greenhouses, consistent with the California Water Code and other goals, policies and objectives of the State of California.

1.2 Location

The Waiver applies to all of the irrigated land within the jurisdiction of the Central Coast Regional Water Quality Control Board.



1.3 Background

Regulatory Requirements

Although discharges that constitute "agricultural return flows" are exempt from regulation through the National Pollutant Discharge Elimination System (NPDES) permit program of the federal Clean Water Act, they are not exempt from the California Water Code. Any discharge from irrigated agricultural activities to surface water or to land, that impacts or threatens to impact water quality, is subject to regulation under Porter-Cologne Water Quality Control Act.

CWC Section 13260 requires persons who are discharging or who propose to discharge waste where it could impact the quality of waters of the State to submit a Report of Waste Discharge. The Regional Board uses the Report of Waste Discharge in preparing Waste Discharge Requirements that regulate the discharges of waste in compliance with the CWC and other applicable laws and regulations. The purpose of this regulatory program is to protect the beneficial uses of the waters of the State.

CWC Section 13269 authorizes the Regional Board to waive Waste Discharge Requirements for a specific discharge or specific type of discharge if the waiver is in the public interest. The waiver must be conditional and may be terminated at any time. The Regional Board may also waive the requirement to submit a Report of Waste Discharge. In 1999, Senate Bill 390 amended CWC Section 13269. CWC Section 13269 now specifies that all waivers in effect on January 1, 2000, were terminated on January 1, 2003, unless renewed following a hearing. All waivers must be reviewed and renewed or revised at least every five years.

In 1983, the Regional Board approved a list of categories of discharge for which waste discharge requirements could be waived, including discharge of irrigation return flows (tailwater) and non-NPDES stormwater runoff. When waivers for discharges from irrigated agriculture were adopted in 1983, little was known about the potential impacts of irrigation tail water and other runoff or the magnitude of groundwater impacts from the use of inorganic fertilizers. Regional Board regulatory effort at that time was largely focused on addressing point source discharges such as wastewater treatment plants and industrial dischargers, and cleanups from spills and leaks. Even though the waiver policy included agricultural tail water as appropriate for waivers, the Regional Board did not issue individual formal waivers for these discharges. The 1983 waivers pertaining to irrigated agriculture were not renewed before January 1, 2003, and have now terminated.

In 1987, Section 319 was added to the Clean Water Act to address nonpoint source pollution, and subsequently the State of California adopted its Nonpoint Source Program in 1988. Although staff resources were extremely limited, the Regional Board began to work with agriculture through the Nonpoint Source (NPS) Program and later the State's Watershed Management Initiative. Since the inception of the NPS program, the Regional Board's emphasis in working with agriculture has been on encouraging proactive efforts to address water quality concerns, and supporting such cooperative partnerships as Monterey Bay National Marine Sanctuary's Plan for Agriculture. The Regional Board has directed grant funding toward increasing educational outreach, and has encouraged efforts toward self-determined compliance with water quality regulations through promotion of ranch and farm water quality management planning short courses throughout the region.

The State's NPS Plan identifies waivers (Tier 2, "Regulatory Encouragement") as an appropriate regulatory tool available to protect water quality from NPS pollution, recognizing the challenges involved in regulating a large number of individual dischargers.

Agriculture in the Central Coast Region

Irrigated agriculture in the Central Coast Region comprises approximately 600,000 acres and more than 100 different crops. There are about 2500 agricultural operations in the region that would be enrolled under this program. Operations range in size from less than ten acres to more than 2000; however, approximately two-thirds of all operations are less than fifty acres. About one-third are less than ten acres. Fewer than 200 operations (less than 8%) exceed 2000 acres. Major crops include vegetable crops (such as lettuce, broccoli, cauliflower, celery, cabbage and spinach), fruits (such as strawberries and wine grapes), cut flowers, and potted plants. Other crops include mushrooms, artichokes, raspberries, asparagus, carrots, onions, snap peas, and many more.

Agriculture is concentrated in several major drainages, including the Salinas Valley and the upper Salinas watershed, the Pajaro Valley, the lower Santa Maria River, the Santa Ynez

Valley and the Santa Barbara coastal area, as well as in numerous small drainages throughout the region.

A number of factors make agriculture in the Central Coast region unique. In general, farming is on a smaller scale than in the Central or Imperial Valleys. The Central Coast climate is unique in California and comprises a "niche" in the agricultural industry that distinguishes Central Coast farm products from other areas. The majority of operations are less than 50 acres. There are no large irrigation districts since most operations use groundwater as their water source. Many properties have been held in families for generations and are leased out rather than sold. The area is considered highly desirable, and growth pressures drive up the price of agricultural rents. There is a mixture of owned and leased lands and many operators own some ranches and lease others. Leases can be either short or long term (one year or more than five years), resulting in varying incentive by lease-holders to implement water quality protection.

Crop prices are primarily controlled by the existing market structure. Consolidation in the food industry has resulted in a smaller group of buyers, giving corporate retailers more bargaining power. In addition, local farmers often compete with products from other countries, where the costs of production may be substantially less. The result is that growers often have little control over the price they are paid even though the costs of producing and delivering products continues to rise. Additionally, issues of food safety are increasingly dictating practices growers must use in order to sell crops, and some recommended food safety practices may run counter to water quality protection practices. Because of these and other factors, the agricultural industry is extremely sensitive to cost increases and management practice requirements.

Existing Water Quality in Agricultural Areas

Information available to the Regional Board, including information used in identifying impaired water bodies within the Region in accordance with Clean Water Act section 303(d), indicates that irrigation return water and storm water runoff from irrigated lands contains waste that has impacted water quality in the waters of the State within the Region.

Over the past five years, the Regional Board's Central Coast Ambient Monitoring Program (CCAMP) has provided information to characterize water quality, support waterbody beneficial use determinations, support waterbody listings for impairment, and to evaluate regional priorities. Under CCAMP, the Region has been divided into five rotational monitoring areas, based on hydrologic units such as the Pajaro River, Salinas River and Santa Maria River. Each rotational area is monitored once every five years. CCAMP performs tributary-based, in-stream monitoring at fixed sites throughout the rotational area on a monthly basis. The same sites are monitored again during the next rotational cycle.

CCAMP data, as well as other data sources, have shown that waterbodies in areas of intensive agriculture often have high levels of nutrients. For example, nitrate in some surface waters is present at levels far in excess of the drinking water standard of 10 mg/L as N (nitrogen). Persistent toxicity has also been documented in some areas of intensive agricultural operations, with its cause being traced to currently applied pesticides. Many surface waterbodies are on the Clean Water Act Section 303(d) list of impaired waters for pollutants associated with agricultural activities, and are scheduled for development of Total Maximum Daily Loads. Of the region's 178 currently listed waterbodies, about 75 designate agriculture as a potential source. In addition, many groundwater basins underlying agricultural areas in

the Central Coast Region show elevated nitrate concentrations, in some cases well over the drinking water standard.

Existing Efforts by the Agricultural Industry to Address Water Quality Issues

The Central Coast Region has benefited from the proactive approach taken by several segments of the agricultural industry. Notable examples include the Agricultural Water Quality Program of the Coalition of Central Coast County Farm Bureaus (Farm Bureau Coalition) and efforts to promote sustainable wine growing practices by the Central Coast Vineyard Team and the Central Coast Winegrowers Association. Efforts are also underway to promote sustainable practices by Spanish-speaking farmers through the Rural Development Center and the Agricultural Land-Based Training Association (ALBA) in Monterey County.

The Farm Bureau Coalition has been working to address agricultural water quality impacts in areas that drain to the Monterey Bay National Marine Sanctuary, which represents approximately two-thirds of the region. This is a broadly supported cooperative effort that is implementing the Sanctuary's Plan for Agriculture and Rural Lands. The Sanctuary Plan was developed in cooperation with the California State Farm Bureau Federation and the Coalition of Central Coast County Farm Bureaus, the Regional Board and numerous other partners, including University of California Cooperative Extension, the Natural Resource Conservation Service and local Resource Conservation Districts.

Key components of the Sanctuary Plan implementation strategy include formation of grower working groups, and development and implementation of farm water quality management plans. Technical assistance is provided by Farm Bureau watershed coordinators active in each county, as well as all of the other partners listed above. Farm Bureau watershed coordinators provide the Regional Board with annual reports summarizing practice implementation and self-monitoring results by grower watershed working groups.

A small but significant (and increasing) percentage of growers on the Central Coast are participating in the Farm Bureau Coalition's program. As of March 2004, there were 17 active grower watershed working groups and another 17 in the process of organizing. The Regional Board estimates that active participants represent approximately 10% of operations in the region. Participants are often industry leaders who have chosen to be proactive in addressing water quality concerns.

In 1999, the University of California Cooperative Education and the Natural Resources Conservation Service developed and piloted a Farm Water Quality Planning short course in the Central Coast, to provide farmers with the information and resources needed to address water quality issues on their farms. The course provides farmers with information on water quality management practices for irrigation, pesticides, nutrients, and erosion control. Course participants are able to complete a farm water quality management plan by the end of the 15-hour course. In 2001, UC Cooperative Extension and the Farm Bureau Coalition teamed up to offer the short course to members of grower working groups that are implementing the Sanctuary Plan for Agriculture. As of May 2004, more than 500 Central Coast farmers will have completed the course. Funding to support farm water quality planning has come from a variety of sources, including a current Clean Water Act Section 319(h) grant from the Regional Board. The Regional Board has been closely involved in the development of the short course. Regional Board staff, along with UC Cooperative Extension, NRCS, local Resource Conservation Districts, California Department of Fish and Game and others, participate in teaching the classes.

Another industry-led effort has been underway for several years to promote sustainable practices by wine grape growers. There are approximately 100,000 acres of grapes in the Central Coast, representing about 16% of the irrigated croplands in the region. Many of the growers have undertaken an evaluation process to assess irrigation, nutrient management, pest management, and erosion control practices through the Positive Point System developed by the Central Coast Vineyard Team (CCVT). CCVT estimates that approximately 75-100 operations have completed the Positive Point System evaluations and are using them to evaluate management practices and identify opportunities for improvement.

Agricultural Advisory Panel Recommendations

In beginning to develop a replacement for the old waivers, Regional Board staff held a number of informal discussions with several agricultural and environmental groups throughout the Region. After hearing comments during several such meetings, staff concluded that the interests of all concerned would be best served by face-to-face meetings among all parties. The Central Coast Region is relatively small, at least compared to the Central Valley Region, California's other major agricultural Region. This feature made it feasible to convene an advisory group of agricultural and environmental representatives from across the Region. Participants included the Ocean Conservancy, the Central Coast Coalition of County Farm Bureaus, Monterey County Farm Bureau, Jefferson Farms, Santa Cruz County Farm Bureau, San Benito County Farm Bureau, the Environmental Center of San Luis Obispo (ECOSLO), the Environmental Defense Center, Monterey Bay National Marine Sanctuary, the Agricultural Land-Based Training Association (ALBA), the Central Coast Winegrowers Association, San Luis Obispo County Farm Bureau and Cattlemen's Association, Santa Barbara County Farm Bureau, Grower Shipper Vegetable Association of Santa Barbara, and Santa Barbara Channel Keeper. Several other organizations that were contacted felt that their interests were adequately represented but expressed a desire to be kept informed.

Panel meetings were conducted as facilitated discussion sessions. The group adopted ground rules and spent time hearing about the interests and concerns of each of the participants. In this way, a foundation of understanding was built that allowed the participants to discuss ideas and propose solutions in a respectful environment. At the second meeting, the panel agreed on a mission statement, which reads, "The goal of the panel is to assist staff in developing recommendations to the Regional Board for a replacement to the expired waivers that will be protective of water quality, the viability of Central Coast agriculture, and comply with state law."

All panel recommendations were developed by consensus. Although the panel did not have consensus on all aspects of the proposed program, considerable progress was made during the year of panel meetings. The input provided by the panel has been very valuable in helping staff develop the proposed Waiver program. Perhaps even more importantly, a foundation has been laid for future communication between the agricultural and environmental communities across the Central Coast Region, as well as with the Regional Board.

Among the recommendations of the panel are the education and farm water quality plan development requirements, management practice implementation and reporting through a checklist format, and the tiered structure of the waivers, which offer reduced reporting requirements for those meeting all the requirements by the enrollment deadline. The panel also recommends that monitoring focus on currently applied agricultural constituents, make use of existing monitoring resources wherever possible, and be structured on a regionwide, cooperative basis rather than on individual discharge monitoring.

Program Implementation Costs

The Regional Board has attempted to consider costs to both the Regional Board and the regulated community in developing the conditional waivers. Anticipated program implementation costs to the agricultural community include potential fees, management practice implementation, monitoring costs and costs for education. Costs to the Regional Board include staff time for program development, outreach to the regulated community, submittal review, program oversight and enforcement.

The Regional Board has endeavored to develop a cost-effective approach to water quality protection, by focusing on management practice implementation and by developing a regionalized monitoring option that will focus monitoring resources on currently applied agricultural constituents and concentrate monitoring in areas where data already indicates problems associated with agricultural activities. Primary focus during the first waiver cycle will be on performance requirements and use of water quality information to adjust practice implementation. To reduce administrative costs, staff is exploring such data management options as direct monitoring data submittals, web-based enrollment and practice reporting, and coordination with pesticide use reporting.

1.4 Project Description

The Regional Board proposes to adopt a conditional waiver of waste discharge requirements and a waiver of the requirement to submit a report of waste discharge for discharges of waste from irrigated lands. Irrigated lands are lands where water is applied for producing crops and, for the purpose of this program, include, but are not limited to, land planted to row, vineyard, field and tree crops as well as commercial nurseries, nursery stock production and greenhouse operations with soil floors that are not currently operating under Waste Discharge Requirements (WDRs). Fully contained greenhouse operations (those that have no groundwater discharge due to impervious floors) are not covered under this Conditional Waiver and must either eliminate all surface water discharges or apply for Waste Discharge Requirements.

Discharges include surface discharges (also known as irrigation return flows or tailwater), subsurface drainage generated by installing drainage systems to lower the water table below irrigated lands (also known as tile drains), discharges to groundwater, and storm water runoff flowing from irrigated lands. These discharges can contain wastes that could affect the quality of waters of the state.

Discharger means the owner and/or operator of irrigated cropland on or from which there are discharges of waste that could affect the quality of any surface water or groundwater.

Tiered Waiver Structure

Two categories of conditional waivers are proposed, in acknowledgement that a significant number of farmers in the Central Coast Region have already begun to actively address water quality protection by obtaining water quality education, developing farm plans or completing practice assessment tools, and changing their practices to protect and improve water quality.

Tier 1 (five-year) waivers are intended for those dischargers that have already completed a minimum of fifteen hours of farm water quality training, have completed farm water quality plans, and have begun the process of implementing management practices to protect water

quality. Tier 1 waivers are valid for five years or the length of time remaining in the five-year waiver cycle.

Tier 2 (one-year) waivers are intended for those dischargers that cannot meet all requirements of Tier 1 by the enrollment deadline of December 1, 2004. Tier 2 waivers are renewable annually for a maximum of three years. A discharger may move from Tier 2 to Tier 1 at any time during the three year period. Tier 2 dischargers that have not met all requirements for a Tier 1 waiver by the end of three years may be required to apply for waste discharge requirements unless they can demonstrate progress toward meeting Tier 1 requirements as well as extenuating circumstances, such as lack of available training classes, that prevented them from meeting all requirements within the allotted time period.

Tiered conditional waivers will provide increased regulatory oversight and focus attention on those dischargers that have not begun to address water quality issues, while allowing those dischargers that are already working toward full compliance with water quality objectives to devote their time and resources to implementing management practices. The time schedule will allow a limited amount of time to meet requirements for education and planning, and allow time for implementation and adjustment of management practices. Dischargers will report current and planned management practice implementation upon enrollment and during the five-year waiver cycle through annual or biennial reports. Waste discharge requirements and enforcement will be reserved for non-compliant dischargers, or if water quality does not improve.

Enrollment

All applicants will be required to submit the following information as part of their Notice of Intent (NOI) to enroll:

- Completed application form
- Copy of map of operation (map should be the same as the one submitted to the County Agricultural Commissioner for Pesticide Use Reporting, or equivalent)
- Completed management practice checklist/self assessment form
- Certificates of attendance at Regional Board-approved farm water quality education courses, if applicable
- Statement of farm water quality plan completion, if applicable
- Election for cooperative or individual monitoring

Waiver Conditions

All waiver holders will be required to meet the following conditions:

1. The Discharger shall not cause or contribute to conditions of pollution or nuisance as defined in CWC Section 13050.
2. The Discharger must comply with all requirements of applicable water quality control plans.
3. The Discharger shall not cause or contribute to exceedances of any Regional, State, or Federal numeric or narrative water quality standard.
4. Wastewaters percolated into groundwater shall be of such quality at the point where they enter the ground so as to assure the protection of all actual or designated beneficial uses of all groundwaters of the basin.

5. Wastes discharged to groundwater shall be free of toxic substances in excess of maximum contaminant levels (MCLs) for primary and secondary drinking water standards established by the United States Environmental Protection Agency or California Department of Health Services, whichever is more stringent; taste, odor, or color producing substances; and nitrogenous compounds in quantities which could result in a groundwater nitrate concentration (as NO₃) above 45 mg/l.
6. The Discharger shall comply with each applicable Total Maximum Daily Load (TMDL), including any plan of implementation for the TMDL, commencing with the effective date or other date for compliance stated in the TMDL. If an applicable TMDL does not contain an effective date or compliance date, the Discharger shall commence compliance with the TMDL's implementation plan no later than twelve months after USEPA approves the TMDL.
7. The Discharger shall allow Regional Board staff reasonable access onto the subject property (the source of runoff and percolating water) whenever requested by Regional Board staff for the purpose of performing inspections and conducting monitoring, including sample collection, measuring, and photographing to determine compliance with conditions of the waiver.
8. The Discharger shall comply with applicable time schedules.
9. This Conditional Waiver does not authorize the discharge of any waste not specifically regulated under this Order. Waste specifically regulated under this Order includes: earthen materials, including soil, silt, sand, clay, rock; inorganic materials including metals, salts, boron, selenium, potassium, nitrogen, phosphorus, etc.; and organic materials such as pesticides that enter or threaten to enter into waters of the state. Examples of waste not specifically regulated under this Order include hazardous materials, and human wastes.
10. Objectionable odors due to the storage of wastewater and/or stormwater shall not be perceivable beyond the limits of the property owned or operated by the Discharger.

Water Quality Monitoring

Water quality monitoring is a requirement of the waiver program. Dischargers will be required to elect a monitoring option during enrollment. They may choose individual monitoring or join a cooperative agricultural water quality monitoring program. The cooperative monitoring program will focus on currently applied agricultural constituents and is designed to provide information on in-stream water quality and detect trends over time. The cooperative monitoring option is proposed as an efficient way to determine the effectiveness of the waiver program at a reasonable cost, as well as to manage large amounts of monitoring data and ensure data quality.

Cooperative monitoring represents a watershed-based approach to meeting monitoring requirements. Fifty sites will be selected throughout the agricultural areas of the region, on main stems of rivers and on tributaries entering the rivers. These sites will be monitored on a regular basis, to see whether implementation of management practices as the result of adoption of the waiver is improving water quality. Sites will be selected in areas where the Regional Board's Central Coast Ambient Monitoring Program and other data have identified water quality problems from nutrients and other constituents that are likely attributable to irrigated agriculture. The cooperative monitoring program allows dischargers to pool resources in order to accomplish required monitoring at a lower cost than individual monitoring. Costs will be distributed based on a number of factors, including type and quantity of discharge, which will be determined by an Agricultural Monitoring Committee, working with the Regional Board. The cooperative monitoring approach will also allow for additional resources, such as grant funds, to be utilized to reduce costs to dischargers.

Broad objectives of the cooperative monitoring program are to:

Short Term Objectives

- Assess status of water quality and associated beneficial uses in agricultural areas
- Identify problem areas associated with agricultural activities, where Basin Plan objectives are not met or where beneficial uses are impaired
- Conduct focused monitoring to further characterize problem areas and to better understand sources of impairment.
- Provide feedback to growers in problem areas; require additional monitoring and reporting as necessary to address problems

Long Term Objective

- Track changes in water quality and beneficial use support over time.

The focus of the cooperative monitoring program is on beneficial use protection and waterbody health as opposed to individual discharge (effluent) monitoring. Most of the major creeks and rivers of the Central Coast have designated beneficial uses that include cold and warm water fish habitat, agriculture, wildlife habitat, commercial and recreational fishing, and municipal and domestic supply. Other beneficial uses may also apply. Waterbodies which are not specifically identified in the Basin Plan also have designated beneficial uses, including municipal and domestic supply, recreation, and aquatic life (either for cold or warm water, whichever is applicable).

Impairment to beneficial uses in surface waters may result from conditions including nitrate concentrations which exceed the drinking water standard, toxic chemicals which exceed levels which are safe for human consumption or which cause toxicity or alterations in aquatic community structure, excessive buildup of salts to levels which create problems for irrigation and other uses, low dissolved oxygen levels which are harmful to aquatic life, and algal growth which may cause nuisance or otherwise impair beneficial uses. Some of these impairments are readily assessed through exceedance of numeric criteria. Others are assessed through narrative criteria (e.g. causing nuisance); in these cases a "weight of evidence" approach is desirable, where multiple measures of impairment are employed to determine if narrative objectives are met.

Assessing Program Effectiveness

The Regional Board will use a variety of tools to evaluate the overall effectiveness of the waiver program. Tasks and milestones will include enrollment levels in the two tiers, levels of farm water quality plan completion, levels and types of management practice implementation, and submittals of required reports according to the time schedule established in the waiver order. It is expected that most dischargers will have completed farm water quality plans and be implementing management practices by the end of the first waiver cycle (five years).

Water quality monitoring will be used in conjunction with management practice implementation to determine progress toward meeting waiver conditions. The cooperative monitoring program is designed to detect trends and allow the Regional Board to determine whether water quality is improving. Monitoring program milestones include establishment of a cooperative monitoring entity, development of a Quality Assurance Project Plan,

monitoring program enrollment levels and establishing adequate funding, and submittal of monitoring reports according to the time schedule established in the waiver order.

Staff will review progress on an on-going basis. At the end of the first waiver cycle, the program will be evaluated and revised as necessary as part of the waiver review process.

1.5 Environmental Setting

The project encompasses all of the irrigated land in the Central Coast Region, including the Salinas River, Pajaro River, Santa Maria River, and Santa Ynez River Basins, and smaller coastal streams. Agricultural production is a major land use in the Central Coast Region, with more the 600,000 acres of irrigated agriculture and more than 100 different crops produced.

The Central Coast Regional Water Quality Control Board has jurisdiction over a 300-mile long by 40-mile wide section of the State's central coast. Its geographic area encompasses all of Santa Cruz, San Benito, Monterey, San Luis Obispo, and Santa Barbara Counties as well as the southern one-third of Santa Clara County, and small portions of San Mateo, Kern, and Ventura Counties. Included in the region are urban areas such as the Monterey Peninsula and the Santa Barbara coastal plain, prime agricultural lands in the Pajaro, Salinas, and Santa Maria, Valleys, National Forest lands, extremely wet areas like the Santa Cruz mountains, and arid areas like the Carrizo Plain. Some physical characteristics of the Region are listed below:

CENTRAL COAST REGION¹¹

<u>CHARACTERISTICS</u>	<u>NUMBER</u>	<u>MEASURE</u>
Area of Region	11,274 square miles	
Streams	Unknown	2,360 miles
Lakes	99	25,040 acres
Ground Water Basins	53	3,559 square miles
Mainland Coast-	378 miles	
Wetlands and Estuaries	59	8,387 acres
Areas of Special Biological Significance	9	235,825 acres

Topographic features are dominated by a rugged seacoast and three parallel ranges of the Southern Coast Mountains. Ridges and peaks of these mountains, the Diablo, Gabilan, and Santa Lucia Ranges, reach to 5,800 feet. Between these ranges are the broad valleys of the San Benito and Salinas Rivers. These Southern Coast Ranges abut the west to east trending

¹¹Water Quality Assessment for Water Years 1986 and 1987, Water Quality Monitoring Report No. 88-1, Water Quality, Division of Water Quality, State Water Resources Control Board, July, 1988.

Santa Ynez Mountains of the Transverse Ranges that parallel the southern exposed terraces of the Santa Barbara Coast.

The trend of the mountain ranges, relative to onshore air mass movement, imparts a marked climatic contrast between seacoast, exposed summits, and interior basins. Variations in terrain, climate, and vegetation account for a multitude of different landscapes. Seacliffs, sea stacks, white beaches, cypress groves, and redwood forests along the coastal strand contrast with the dry interior landscape of small sagebrush, short grass, and low chaparral.

2 Environmental Significance Checklist

This Environmental Checklist has been prepared in compliance with the requirements of CEQA relating to certified regulatory programs.

IMPACT	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
2.1 Aesthetics				
Would the Project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2.2 Agriculture Resources				
In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the Project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

IMPACT	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
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2.3 Air Quality

Where available, the significance criteria established by the applicable air quality management or air pollution control the District may be relied upon to make the following determinations. Would the Project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Expose sensitive receptors to substantial pollutant concentrations? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Create objectionable odors affecting a substantial number of people? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

2.4 Biological Resources

Would the Project:

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Have a substantial adverse effect, either directly, or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulators, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

IMPACT	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2.5 Cultural Resources

Would the Project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource of site or unique geological feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2.6 Geology and Soils

Would the Project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IMPACT	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
iii) Seismic-related ground failure,, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2.7 Hazards and Hazardous Materials

Would the Project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the Project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IMPACT	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
f) For a Project within the vicinity of a private airstrip, would the Project result in a safety hazard for people residing or working in the Project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2.8 Hydrology and Water Quality

Would the Project:

a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of preexisting nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which results in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IMPACT	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2.9 Land Use and Planning

Would the Project:

a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2.10 Mineral Resources

Would the Project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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IMPACT	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2.11 Noise

Would the Project result in:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) A substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) A substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the Project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) For a Project within the vicinity of a private airstrip, would the Project expose people residing or working in the Project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

2.12 Population and Housing

Would the Project?

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

IMPACT	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2.13 Public Services

a) Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2.14 Recreation

a) Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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2.15 Transportation/Traffic

Would the Project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio to roads, or congestion at intersections?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Exceed, either individually or cumulatively, a level of service standard established by the

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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IMPACT	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
county congestion/management agency for designated roads or highways?				
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2.16 Utilities and Service Systems

Would the Project?

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the Project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IMPACT	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
f) Be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2.17 Mandatory Findings of Significance

a) Does the Project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number of restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

b) Does the Project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probably future projects)?

c) Does the Project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

3 Thresholds of Significance

For the purposes of making impact determinations, potential impacts were determined to be significant if the Proposed Project would result in changes in environmental condition that would, either directly or indirectly, cause a substantial loss of habitat, substantial conversion of prime agricultural lands, or substantial degradation of water quality or other resources.

Discussion of Environmental Impacts

The analysis of potential environmental impacts is based on possible changes in irrigation management methods and other approaches to controlling agricultural discharges taken in response to the proposed Conditional Waiver of Waste Discharge Requirements for irrigated agriculture. The proposed project will result in more widespread implementation of management practices for irrigation management, erosion control, pesticide management and nutrient management. Potential impacts to biological, agricultural and water resources are discussed below, but are generally found to be of no significance.

2.1 Aesthetics

None of the potential practices described above would alter any scenic vistas, damage scenic resources, degrade the visual character of any site, or adversely affect day or nighttime views.

2.2 Agricultural Resources

The purpose of the Conditional Waiver is to increase the use of management practices that will protect water quality. In some cases, the water quality benefits of a practice are well documented, but in other cases, the effectiveness of a given practice, especially in coastal California crops, is not known. Regional Board has in the past, and will continue, to support research into the effectiveness of various practices. However, there are currently many practices available to growers which will have a beneficial impact on water quality by reducing erosion, improving irrigation efficiency to reduce the amount of water entering state waters from agricultural lands, and reducing the total amount of fertilizer and pesticides applied to crops. The following is a list of typical practices often recommended by University of California Cooperative Extension, Resource Conservation Districts and USDA's Natural Resources Conservation Service to protect water quality by reducing erosion, reducing the amount of fertilizer or pesticides applied, or preventing such constituents from entering waterways or groundwater. Many of these practices may actually improve agricultural resources by reducing the loss of topsoil or improving soil quality, and are likely to be implemented on a more widespread basis than currently, as a result of implementation of the Conditional Waiver:

- Vegetating roads to reduce erosion (cost-benefit analysis available from UCCE; net benefit in representative case due to reduced maintenance costs)
- Planning row arrangements to reduce runoff and erosion (cost-benefit analysis available from UCCE; net benefit in representative case)
- Underground outlet to transport water to bottom of steep slope and reduce erosion (cost-benefit analysis available from UCCE; initial outlay offset by increased yield within about 3 years)
- Tailwater recovery to eliminate surface water discharges of tailwater
- Vegetating waterways (ditches, drainage swales) (cost-benefit analysis available from UCCE; net cost in first year, little cost thereafter)
- Water and sediment control basins (cost-benefit analysis available from UCCE; net cost due to installation cost plus loss of acreage)
- Cover crops to reduce erosion during the rainy season and improve soil quality
- Filter strips (vegetation planted between crops and waterways to remove sediment and other pollutants)
- Hedgerow (a "living fence" of trees and shrubs planted around a field to attract beneficial insects, reduce erosion, stabilize banks and provide wildlife with food and cover)
- Irrigation water management to control the volume, frequency, and application rate of irrigation water in order to optimize the use of water, reduce erosion and decrease pollution of surface and groundwater
- Nutrient management to supply plant nutrients in the right amounts and at the right times to optimize crop yields and minimize loss of nutrients to surface and groundwater by developing a crop nitrogen budget
- Pest management practices to reduce pesticide applications by monitoring pest populations, promoting beneficial insects and other Integrated Pest Management techniques

Conservation practices that could affect the amount of land used for producing crops include vegetating farm roads, installing vegetated filter strips along creeks and at the ends of field rows, planting cover crops, and installing sediment detention basins. The Regional Board has reviewed the potential cost of some commonly used practices that might be employed by growers. Practices vary widely in both their initial installation costs and in long-term costs associated with maintenance and reduced cropping area. In some cases practices can result in improved productivity that will offset costs associated with taking some land out of production for conservation practices. Some practices, such as improved irrigation efficiency and nutrient management, can result in cost savings over time.

The practices described above, or other potential strategies that could be pursued by growers, are unlikely to lead to a conversion of prime agricultural farmland to other uses. Although some land may be vegetated for erosion control rather than planted to crops, the overall land use is still agricultural.

Growers have a wide range of options available to minimize or eliminate water quality impacts. Based on the range of options available, growers should be able to choose an

approach appropriate to their crops and fields that will minimize cost and allow them to continue farming. The availability of federal and state government funds for environmental conservation, as well as settlement funds (e.g. USDA's Environmental Quality Incentives Program, Proposition 40 and 50 funds, and PG&E and Guadalupe settlement funds) should allow growers to offset some of their costs, if they choose an approach that requires a greater capital investment.

2.3 Air Quality

Implementation of some alternative pest management strategies could lead to a reduction in aerial drift, and therefore an improvement in air quality.

2.4 Biological Resources

The proposed Conditional Waiver is designed to improve water quality through the widespread implementation of on-farm management practices that will reduce the amount of sediment, pesticides and nutrients entering the region's waterbodies. Growers must identify practices to address sediment, nutrients, pesticides, and irrigation efficiency in their farm water quality management plans. The goal of the associated monitoring program is to assess beneficial use protection in the agricultural areas of the region. Increased regulation of agriculture through the Conditional Waiver program will reduce impacts to biological resources by reducing exposure to agricultural pollutants.

It is possible that greatly improved irrigation efficiency in some areas will result in reduced flows during the summer. However, many Central Coast streams and rivers would not flow during the summer under natural conditions, and reductions in summer flows will not affect migration and spawning of fish, which are adapted to such hydrologic regimes. Reduced withdrawals of water for irrigation uses in some locations will allow surface and groundwater flows to return to, or more closely approximate, natural flows and will either cause no impact or improve habitat by allowing it to return to a natural state. Improved irrigation efficiency will generally improve habitat conditions for migration and spawning of fish, because of the low overall water quality of irrigation return flow. It is not expected that the Conditional Waiver will result in significant loss of habitat for threatened or endangered species. Practices such as vegetated waterways, hedgerows, and riparian restoration will likely result in increased habitat for many species.

2.5 Cultural Resources

Implementation of the proposed Conditional Waiver is not likely to affect cultural resources. None of the potential practices that growers might implement are likely to change the significance of any historical or archaeological resource, destroy a unique paleontological resource or geologic feature, or disturb any human remains.

2.6 Geology and Soils

Implementation of the proposed Conditional Waiver will not affect the geology of the region and will not expose people to additional geologic hazards. Growers may plant cover crops or buffer strips to increase soil infiltration and reduce runoff, which will likely reduce soil erosion.

2.7 Hazards and Hazardous Materials

The Department of Pesticide Regulation examines hazards posed by pesticides to workers and the public during its regulatory process. Each product is evaluated for potential hazards and any conditions necessary for the safe use of the material are required on the label or in specific regulations. Some of these requirements include use of protective clothing and respirators, use of a closed system for mixing and loading, or special training requirements for workers applying the pesticide. Implementation of the Conditional Waiver should not result in any increased exposure to hazards or hazardous material and may reduce exposure as growers implement pest management techniques that reduce applications in order to minimize potential runoff.

2.8 Hydrology and Water Quality

None of the management practices implemented to reduce discharges of agricultural constituents are likely to result in changes in drainage patterns that would increase erosion or siltation, increase the rate or amount of surface runoff, increase the risk of flooding, contribute to increases in stormwater runoff that would exceed the capacity of stormwater drainage systems, or increase the chance of inundation by seiche, tsunami, or mudflow. Management practices will be implemented with the aim of improving water quality by reducing the amount of nutrients and pesticides applied to and/or discharging from agricultural lands. The requirement for all agricultural operations to have a farm plan is intended to ensure that operations are aware of the potential impacts of various practices and to ensure that reducing surface water discharges does not result in increasing groundwater discharges. Growers are required to have nutrient management plans to address both surface and groundwater impacts.

If dischargers elect to implement practices such as sediment detention basins, which could potentially fail and cause downstream problems, the management practices must meet local design standards. Practices designed to slow stormwater runoff and increase filtration by maintaining vegetation may increase recharge and increase stream flow in some areas. Improved irrigation efficiency will also reduce pumping and may reduce overdraft and seawater intrusion in some areas.

2.9 Land Use and Planning

Implementation of the proposed Conditional Waiver should not result in any changes in land use or planning. See discussion of Agricultural Resources, Section 9.4.2, above.

2.10 Mineral Resources

The effect of the proposed Conditional Waiver should be limited to land currently under agricultural production, and there should be no impact to mineral resources.

2.11 Noise

The proposed Conditional Waiver should have no impact on noise in the project area.

2.12 Population and Housing

The proposed Conditional Waiver will likely result in changes in on-farm management practices. Those changes in practices would not directly or indirectly induce population growth in the area, displace existing housing, or displace people. The proposed Conditional Waiver should not have an impact on population and housing.

2.13 Public Services

The proposed Conditional Waiver will not have an impact on public services.

2.14 Recreation

There should be no increase in use of parks or recreational facilities or the need for new or expanded recreational facilities as a result of this proposed Conditional Waiver.

2.15 Transportation/Traffic

The proposed Conditional Waiver will not have an impact on transportation/traffic.

2.16 Utilities and Service Systems

The proposed Conditional Waiver will likely result in changes in on-farm management practices. No wastewater treatment requirements for runoff from agricultural lands have been established by the Regional Water Quality Control Boards. The proposed Conditional Waiver should not result in changes in wastewater treatment requirements.

The proposed Conditional Waiver does not require and should not result in the construction or expansion of new storm water drainage facilities. The most feasible practices for the control of discharges from farms are on-field practices. It is unlikely that alterations in storm drainage facilities would be an effective means of reducing runoff from agricultural areas.

The proposed Conditional Waiver should not result in significant changes in water supply. One of the potential alternative practices that could be used by growers would be the use of cover crops to increase infiltration and reduce surface runoff of water, which may contain contaminants. The use of cover crops may require additional irrigation water, but may also result in reduced evaporation from soil surfaces, resulting in no or

little net change in irrigation water needs. Improved irrigation efficiency, one of the principle means of reducing agricultural discharges, will likely result in water savings.

The proposed Conditional Waiver should not require any changes in wastewater treatment services. The potential practices that could be applied by growers should not result in any changes in the generation of solid waste and therefore should not impact landfill capacity. The potential practices that could be applied by growers should not result in any changes in the generation of solid waste and therefore should not affect compliance with federal, state, or local statutes and regulations related to solid waste.

2.17 Mandatory Findings of Significance

The Conditional Waiver is designed to reduce discharges of agricultural pollutants and improve water quality. The Conditional Waiver does not require or allow any changes in practices that could degrade the quality of the environment or have environmental effects that could cause substantial indirect or direct adverse effects on human beings.

The proposed Conditional Waiver represents the establishment of a comprehensive program to address the impacts of agricultural discharges throughout the Central Coast Region. There are no probable future changes in Regional Board programs that would lead to cumulatively significant impacts when combined with likely impacts from the proposed Conditional Waiver.

Public Participation and Agency Consultation

Interested parties, agencies and the public have been consulted throughout the development of the proposed Conditional Waiver. Regional Board staff met with, or contacted by phone or email, agricultural industry representatives, environmental groups and local entities such as county Resource Conservation Districts and Agricultural Commissioners. The Agricultural Advisory Committee, made up of agricultural and environmental representatives, met for a year to assist staff in developing the program. Staff has consulted with the Department of Pesticide Regulation, University of California Cooperative Extension, and USDA Natural Resources Conservation Service. In addition, the Board held three public workshops at locations throughout the region to hear public testimony prior to completing the draft proposed Conditional Waiver and Initial Study.

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**REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
RESOLUTION NO. R3-2012-0012**

**Certification, Pursuant to the California Environmental Quality Act, of the Final
Subsequent Environmental Impact Report and CEQA, Findings, and Statement of
Overriding Considerations for the Adoption of a Renewal of a Waiver of Waste
Discharge Requirements for Discharges of Waste from Irrigated Lands in the
Central Coast Region (Order No. R3-2012-0011)**

1. The Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) is the lead agency under the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 et seq.) in connection with its adoption of a waiver of waste discharge requirements for discharges of waste from irrigated lands (Order No. R3-2012-0011) (2012 Agricultural Order).
2. On July 9, 2004, the Central Coast Water Board adopted Order No. R3-2004-0117, Conditional Waiver of Waste Discharger Requirements for Discharges from Irrigated Lands, waiving waste discharge requirements for discharges of waste from irrigated lands in the Central Coast Region (2004 Agricultural Order) and adopted a Negative Declaration under CEQA (2004 Negative Declaration). No person filed any legal challenge to the 2004 Agricultural Order or the 2004 Negative Declaration.
3. The Central Coast Water Board has engaged in a lengthy public process to consider renewal of the 2004 Agricultural Order. During most of 2009, the Water Board convened an Agricultural Advisory Group consisting of grower and environmental group representatives to work on updating the Order. On February 1, 2010, the Central Coast Water Board released for public review a Preliminary Staff Draft Conditional Waiver of Waste Discharge Requirements for Discharges of Waste from Irrigated Lands (February Preliminary Staff Draft Order) and received comments and alternative proposals to the Preliminary Staff Draft Order. On May 12, 2010 and July 8, 2010, the Central Coast Water Board held public workshops to provide an opportunity for public comments and recommendations on the renewal of the 2004 Ag Order. Between February 1, 2010 and February 18, 2010, Central Coast Water Board staff held meetings with persons interested in the renewal of the 2004 Agricultural Order, including individuals and representatives of farming groups, environmental groups, and public health groups. On August 16, 2010, the Central Coast Water Board staff held a scoping meeting pursuant to CEQA to receive information about the scope of the proposal and potential environmental effects of a renewal of the 2004 Ag Order. The Central Coast Water Board also received written comments with respect to scoping and other aspects of the renewal of the 2004 Ag Order.
4. On October 14, 2010, the Central Coast Water Board sent to the Office of Planning and Research and each responsible and trustee agency a notice of preparation in compliance with CEQA Guidelines section 15082 (Cal. Code Regs., tit. 14, § 15082) stating that the Board intended to prepare a subsequent environmental impact report (SEIR) and provided those agencies with 30 days to provide comments prior to the release of the SEIR. The Central Coast Water Board received comments from California State Lands Commission (CSLC), the Native American Heritage Commission (NAHC), and the California Department of Transportation (Caltrans).
5. On October 25, 2010, the Central Coast Water Board provided public notice of the availability of a Draft SEIR and a notice of completion of the Draft SEIR to the Office of Planning and Research in compliance with CEQA Guidelines section 15087 (Cal. Code Regs., tit. 14, § 15087). The public notice was provided by noticing on the Board's website, by electronic mail to known interested persons and agencies, and by publication in a newspaper of general circulation. The State Clearinghouse also

distributed the Draft SEIR to state agencies for review. The Draft SEIR and associated documents, including the Staff Report and appendices and proposed Order No. R3-2012-0011, were made available at the time of notice of the availability of the Draft SEIR.

6. Agencies and interested persons were provided a minimum of 45 days for the submittal of comments on the Draft SEIR. The Central Coast Water Board received no comments from public agencies on the Draft SEIR. The Central Coast Water Board received 12 comment letters from interested persons commenting on the Draft SEIR and 116 comment letters from interested persons commenting on draft Order No. R3-2012-0011 and associated documents. These comments are available for public review on the Central Coast Water Board's website http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/ag_order.shtml.
7. On March 1, 2010, the Central Coast Water Board issued a Final SEIR for Order No. R3-2012-0011. The Final SEIR clarifies several issues, including clarification of mitigation measures, and makes minor clarifying edits in response to comments. On August 10, 2011, the Central Coast Water Board staff issued an Addendum to the SEIR to reflect revisions to the Draft Agricultural Order. A new SEIR was not required because the revisions to the Draft Agricultural Order have either already been evaluated in the Final SEIR or the 2004 Negative Declaration, or the revisions do not constitute substantial changes that involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects (Cal. Code Regs. tit. 14, §§ 15164, 15162).
8. The Final SEIR consists of the Draft SEIR as revised, the Responses to Comments to the Draft SEIR, and documents referenced and incorporated into the Final SEIR.
9. The Final SEIR identifies no new significant impacts as compared to the Draft SEIR.
10. The Final SEIR identifies the potential significant environmental impacts of the project and, where appropriate, identifies feasible mitigation measures to reduce impacts to a less than a significant level.
11. The Final SEIR has been completed in compliance with CEQA.
12. The Final SEIR has been presented to the Central Coast Water Board and the Central Coast Water Board has reviewed and considered the information contained in the Final SEIR prior to adopting the 2012 Agricultural Order.
13. The Central Coast Water Board has reviewed and considered the information contained in the Final SEIR, and hereby adopts and certifies the Final SEIR.
14. The CEQA Guidelines specify that the lead agency shall not prepare a subsequent environmental impact report unless it determines on the basis of substantial evidence in the light of the whole record that there would be a substantial increase in the severity of previously identified significant effects. (Cal. Code Regs. tit. 14 §15162(a)(1).) Members of the public and public agencies had suggested that there could be an increase in the severity of previously identified significant effects compared to the 2004 Agricultural Order, so the Central Coast Water Board staff prepared the Draft SEIR to evaluate the potential effects. After review of all the evidence and comments, the Final SEIR concludes that with respect to impacts on Agricultural Resources the adoption of the 2012 Agricultural Order will not result in significant environmental effects and with respect to Biological Resources concludes that reduction in surface water flows as the result of compliance with the 2012 Agricultural Order could result in potentially significant impacts on aquatic life, but that to the extent there is an impact it would likely be short term.
15. With respect to Agricultural Resources, the Final SEIR concludes that adoption of the proposed alternative could result in some economic or social changes but that there was insufficient evidence to conclude that the economic changes would result in significant adverse physical changes to the environment. Commenters speculated that the economic impacts would be so large as to result in large

scale termination of agriculture and that land would be sold for other uses that would result in impacts on the environment. No significant information was provided to justify that concern. As described in the Section 2.4 of the Final SEIR, the proposed 2012 Agricultural Order would impose additional conditions on approximately 100 to 300 of the approximately 3000 owners or operators currently enrolled in the 2004 Agricultural Order. CEQA states that economic or social effects of a project shall not be treated as significant effects on the environment. (Pub. Res. Code § 21083.) The Final SEIR concludes that due to some new conditions, particularly the requirement that some dischargers may implement vegetated buffer strips, could result in loss of land for agricultural production since the buffer strips would generally not produce crops and some land could be converted to other uses. This impact was found to be less than significant and that mitigation could reduce impacts further. The Central Coast Water Board may not generally specify the manner of compliance and therefore, dischargers may choose among many ways to comply with the requirement to control discharges of waste to waters of the state. Even if all dischargers who could be subject to the condition to use vegetated buffers or some other method to control discharges in the proposed 2012 Agricultural Order (Tier 3 dischargers) chose to use vegetated buffers or converted to other uses, the total acreage is quite small compared to the total amount of acreage used for farming and was, therefore, found to be less than significant. In addition, since the land would be used as a vegetated buffer to comply with the Order, this would result in beneficial impacts on the environment, not adverse impacts. Even if the effects could be more severe, they can be mitigated due to actions by dischargers.

16. With respect to Biological Resources, the Final SEIR concludes that wide scale water conservation to comply with the 2012 Agricultural Order could result in lower flows into surface water resulting in impacts on aquatic life. Because the Central Coast Water Board may not specify the manner of compliance and the Order would not direct persons to reduce flows, the Board has insufficient information, after reviewing the entire record, including information provided by resource agencies, to determine the extent to which dischargers would choose to use water conservation to comply and to evaluate potential physical changes to the environment that could result. Wildlife agencies suggested that reduction in toxic runoff would offset impacts due to reduced flows that could occur. In addition, reduction in water use could result in increased groundwater levels that would also result in more clean water recharging surface water. The potential exists for improved base flow conditions in the event that tailwater is allowed to percolate to groundwater, rather than being discharged to surface waterbodies where it is quickly transported downstream. The potential for improved base flow conditions also exists in the event that growers reduce groundwater pumping in an effort to reduce tailwater discharge to surface waterbodies. Consequently, reduced or elimination of tailwater does not necessarily equate to elimination of flow. Furthermore, what flow would be available will be of higher quality, and therefore have a higher potential of supporting desirable habitat, particularly native species.
17. Based on this information, the Final SEIR concludes that the environmental effects on Biological Resources associated with the 2012 Agricultural Order may actually not be significant but that due to the uncertainty associated with evaluating the available information, the Central Coast Water Board is making these written findings.
18. With respect to Biological Resources, there are mitigation measures available to reduce potentially significant environmental impacts to less than significant levels. Potential mitigation measures to prevent reduced flows or to reduce the impact of reduced flows include phasing in management practices that could result in reduced flows; reducing or eliminating conditions in the proposed 2012 Agricultural Order with respect to tile drain discharges; and use of riparian buffers that will effectively treat the water to remove pollutants, but not necessarily reduce flows. In some cases, other agencies have the ability to require or implement these mitigation measures and are required under CEQA to consider whether to implement the mitigation measures when they undertake their own evaluation of impacts associated with compliance with the 2012 Agricultural Order, including the Department of Fish and Game, which regulates impacts on endangered species, and the United States Corps of Engineers, that regulates dredge and fill activities. This finding is made pursuant to Title 14, California Code of Regulations, section 15091(a)(2). There are legal considerations that may make infeasible some of the

mitigation measures that could be implemented. The Central Coast Water Board may not specify the manner of compliance with its orders and as a result implementation of potential mitigation measures are not under the control or discretion of the Central Coast Water Board. This finding is made pursuant to Title 14, California Code of Regulations, section 15091(a)(3).

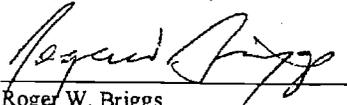
19. CEQA requires a public agency that makes findings required under section 15091(a) to require mitigation monitoring or reporting. The 2012 Agricultural Order requires reports to evaluate the effectiveness of management practices, including monitoring groundwater and surface water.
20. Pursuant to CEQA Guidelines section 15093 (Cal. Code Regs., tit. 14., § 15093), the Central Coast Water Board hereby finds that the project's benefits override and outweigh its potential unavoidable significant adverse impacts, for the reasons more fully set forth in the Staff Report and appendices thereto. Specific economic, social, and environmental benefits justify the adoption of this project despite the project's potential significant adverse environmental impacts. The Central Coast Water Board has the authority and responsibility to regulate discharges of waste associated with irrigated agriculture. Many of those discharges have caused significant widespread degradation and/or pollution of waters of the state as described in the 2012 Agricultural Order and Staff Report and associated reference materials. The 2012 Agricultural Order would result in actions to restore the quality of the waters of the state and protect the beneficial uses, including aquatic habitat. While some impacts could occur due to reduced flows from implementing actions to comply with the Order, the benefits, which include contributing to the present and future restoration of beneficial water uses, and reducing or eliminating pollution, nuisance and contamination, warrant approval of the project, despite each and every unavoidable impact. Upon review of the environmental information generated for the 2012 Agricultural Order and in view of the entire record supporting the need for the 2012 Agricultural Order, the Central Coast Water Board determines that specific economic, legal, social, technological, environmental, and other benefits of this proposed order outweigh the unavoidable adverse environmental effects, and that such adverse environmental effects are acceptable under the circumstances.
21. The Final SEIR reflects the Central Coast Water Board's independent judgment and analysis.

THEREFORE IT IS RESOLVED THAT:

The Central Coast Water Board certifies that the Final SEIR for the adoption of Order No. R3-2012-0011, the Conditional Waiver of Waste Discharge Requirements for Irrigated Agricultural Waste Discharges, complies with the requirements of CEQA (Pub. Resources Code § 21000 et seq.).

CERTIFICATION

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of the resolution adopted by the California Regional Water Quality Control Board, Central Coast Region, on March 15, 2012.


Roger W. Briggs
Executive Officer

Fisher Kari

From: lyris@swrcb18.waterboards.ca.gov
Sent: Tuesday, March 27, 2012 9:34 AM
To: Fisher Kari
Subject: Central Coast Water Board - 2012 Agricultural Order

Dear Interested Parties -

On March 15, 2012, the Central Coast Water Board voted unanimously to adopt an updated Agricultural Order (Order No. RB3-2012-0011). The updated Order and Monitoring and Reporting Program, including changes made at the March 15, 2012 Board Meeting are available on the Water Board's website at the link below.

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/ag_order.shtml

The updated Order places farms in one of three tiers, based on risk to water quality. For many farms (Tier 1 and Tier 2), the new requirements are similar or less stringent than the previous Order. Farms in Tier 3 have more stringent requirements. In the near future, Water Board staff will contact owners and operators to confirm the appropriate tier for their farm(s).

Each grower enrolled in the Order will receive a packet of information (including a copy of the Order, a list of requirements for each tier, a 5-year compliance calendar, a list of Water Board contacts, and a list of resources and assistance available to growers). In addition, Water Board staff will also announce dates for upcoming workshops to inform growers of the new requirements.

Thank you

You are currently subscribed to reg3_agri_discharges_list as: kfisher@cbbf.com.

To unsubscribe click here:

http://swrcb18.waterboards.ca.gov/u?id=249532.f8bdbea1cb8738068af3f2f513de69da&n=T&l=reg3_agri_discharges_list&o=322535

(It may be necessary to cut and paste the above URL if the line is broken)

or send a blank email to leave-322535-249532.f8bdbea1cb8738068af3f2f513de69da@swrcb18.waterboards.ca.gov

Fisher Kari

From: lyris@swrcb18.waterboards.ca.gov
Sent: Friday, April 06, 2012 2:42 PM
To: Fisher Kari
Subject: Water Board Fact Sheet - 2012 Agricultural Order
Attachments: 2012AgOrder_FAQ.pdf

Interested Parties -

A Fact Sheet summarizing the 2012 Agricultural Order is attached and now available on the Water Board's website at the link below:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/index.shtml

In addition, enrolled growers can also view their farm tier by accessing their electronic-Notice of Intent (eNOI) with their username and password at the link below:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/noi_submittal.shtml

Thank you

You are currently subscribed to reg3_agri_discharges_list as: kfisher@cxbf.com.

To unsubscribe click here:

http://swrcb18.waterboards.ca.gov/u?id=249532.f8bdbea1cb8738068af3f2f513de69da&n=T&l=reg3_agri_discharges_list&o=326977

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or send a blank email to leave-326977-249532.f8bdbea1cb8738068af3f2f513de69da@swrcb18.waterboards.ca.gov



Frequently Asked Questions:

What is the Agricultural Order?

- The Agricultural Order (Order) is a Conditional Waiver of Waste Discharge Requirements for discharges from irrigated lands in the Central Coast Region. The Order number is R3-2012-0011.
- The Order is authorized by the California Porter-Cologne Water Quality Control Act and was adopted by the Central Coast Water Board on March 15, 2012. The Order is in effect for five-years unless modified by the Central Coast Water Board before it expires on March 15, 2017.
- The Order replaces a previous order which had been in effect since 2004.

Who is regulated by the Order?

- Similar to the previous order, the Order regulates both landowners and operators of irrigated lands where water is applied for producing commercial crops, from which runoff could affect water quality. Examples are land planted to row, vineyard, field and tree crops, commercial nurseries, nursery stock production, and some greenhouse operations.

How are growers regulated by the Order?

- Growers must enroll in the Order and pay fees. The fees are based on acres of irrigated agriculture.
- The Order is effective immediately but some conditions have completion or reporting dates months or years into the future.
- Growers are categorized in tiers, based on the risk their farm poses to ground and surface water. They must implement the conditions in the Order, according to the tier that applies to their farm. The conditions in the Order are listed after the words, "It is hereby ordered that:" on page 13 of the Order.
- Growers must implement the monitoring and reporting requirements in the Monitoring and Reporting Program, according to the tier that applies to their farm.
- Growers may indicate that their information is proprietary so the Water Board does not release that information to the public. The Water Code and other laws protect trade secrets from public disclosure.
- The Order scales the requirements based on threat to water quality, placing farms in one of three tiers. Farms that are lower threat are in either Tier 1 or Tier 2 (approximately 97% of all farms in the region) and have fewer requirements.

- Farms that are the highest risk to water quality and drinking water sources are in Tier 3, (approximately 3% of all farms) and have more requirements.
- The Order gives growers flexibility in choosing how to comply, and provides many alternatives to meet requirements. It encourages and provides incentives for cooperative water quality improvement efforts to reduce costs and maximize effectiveness.
- Growers who do not comply with the requirements of the Order may be subject to enforcement, consistent with the State's Enforcement Policy. The Water Board will use progressive enforcement, ranging from notices of violations or requests for information to financial penalties, as appropriate. Growers who meet reporting deadlines and implement management practices that reduce pollution loading will generally be in compliance.
- Summaries of requirements for each tier are included at the end of this Fact Sheet: Tier 1 (p.3), Tier 2 (p.4-5), and Tier 3 (p.6-8).

How does a grower enroll in the Order?

- Growers must enroll in the Order by submitting an electronic-Notice of Intent (eNOI), unless they have already done so. The eNOI and instructions are available on the Water Board's website at:
http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/noi_submittal.shtml

How does a grower know what tier their farm is in?

- Water Board staff have updated the eNOI so enrolled growers can see which tier their farms/ranches are in when they access their eNOI information on the Water Board's GeoTracker website using their username and password.
- **By May 15, 2012**, Water Board staff will notify enrolled growers of their tier by mail.

How can a grower and other stakeholders learn about the Order?

- **By May 15, 2012**, Water Board staff will distribute written information to growers, including a copy of the Order, a list of requirements for each tier, a five-year compliance calendar, a list of Water Board contacts, and a list of resources available to growers.
- **In May – July 2012**, Water Board staff will conduct workshops to inform growers of the new requirements.
- More detailed information about the requirements is available at:
http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/index.shtml
- For questions or to reach Water Board staff directly, individuals can contact the Water Board office at (805) 549-3147.



What do Tier 1 growers have to do to comply with the Order?

- **By May 15, 2012**, all Tier 1 growers that irrigate land to produce commercial crops must enroll in the Order by submitting an eNOI.
- **By October 1, 2012**, all Tier 1 growers that apply fertilizers, pesticides, fumigants or other chemicals through an irrigation system must have back flow prevention devices.
- **By October 1, 2012**, all Tier 1 growers must develop, implement and keep up to date a Farm Water Quality Management Plan (Farm Plan) that includes management practices, treatment or control measures related to irrigation efficiency, pesticide management, salinity management, nutrient management, sediment and erosion control and aquatic habitat protection.
- All Tier 1 growers must implement management practices to treat or control discharges and protect water quality.
- All Tier 1 growers must minimize bare dirt and prevent erosion.
- All Tier 1 growers must protect existing aquatic habitat next to their farms.
- Monitoring and Reporting-
 - **By September 15, 2012**, all Tier 1 growers must monitor the creeks and estuaries that may receive farm runoff. Growers can choose to participate in the existing Cooperative Monitoring Program (CMP) implemented by Central Coast Water Quality Preservation, Inc., or they can choose to monitor individually. Samples must be collected and analyzed for sediment and nutrients monthly, and pesticides, toxicity and metals quarterly. Results must be reported by January 1, 2013.
 - **By March 15, 2013**, all Tier 1 growers must sample the groundwater from the primary irrigation well and any drinking water well on their farm twice (in Sept/Oct 2012 and March 2013). Groundwater samples must be analyzed for nitrate and general minerals. Growers can also comply by submitting existing groundwater data and can also work with neighboring growers on cooperative groundwater monitoring. Results must be reported by October 1, 2013.
- Tier 1 Growers must comply with the above and all other Tier 1 conditions in the Order (pages 13-27) and the Tier 1 Monitoring and Reporting Program R3-2012-0011-01.
 - The Order is available on the Water Board's website at http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/final_agorder_atta_032612.pdf
 - The Tier 1 Monitoring and Reporting Program R3-2012-0011-01 is available on the Water Board's website at http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/final_mrp_tier1_032612.pdf



What do Tier 2 growers have to do to comply with the Order?

- **By May 15, 2012**, all Tier 2 growers that irrigate land to produce commercial crops must enroll in the Order by submitting an eNOI.
- **By October 1, 2012**, all Tier 2 growers that apply fertilizers, pesticides, fumigants or other chemicals through an irrigation system must have back flow prevention devices.
- **By October 1, 2012**, all Tier 2 growers must develop, implement and keep up to date a Farm Water Quality Management Plan (Farm Plan) that includes management practices, treatment or control measures related to irrigation efficiency, pesticide management, salinity management, nutrient management, sediment and erosion control and aquatic habitat protection.
- All Tier 2 growers must implement management practices to treat or control discharges and protect water quality.
- All Tier 2 growers must minimize bare dirt and prevent erosion.
- All Tier 2 growers must protect existing aquatic habitat next to their farms.
- **By October 1, 2012**, all Tier 2 growers must calculate their risk of loading nitrate to groundwater from their farm (using specified methodology).
- **By October 1, 2012**, Tier 2 growers must take photos to document the existing condition of adjacent streams or wetlands, if those waters are impaired by sediment, turbidity or temperature (a list is in the Order on page 33).
- **By October 1, 2014**, Tier 2 growers must record and report total nitrogen applied, if the farm/ranch has a high nitrate loading risk.
- **Monitoring and Reporting-**
 - **By September 15, 2012**, all Tier 2 growers must monitor the creeks and estuaries that may receive farm runoff. Growers can choose to participate in the existing Cooperative Monitoring Program (CMP) implemented by Central Coast Water Quality Preservation, Inc., or they can choose to monitor individually. Samples must be collected and analyzed for sediment and nutrients monthly, and pesticides, toxicity and metals quarterly. Results must be reported by January 1, 2013.
 - **By October 1, 2012**, and annually thereafter, all Tier 2 growers must submit annual compliance information, such as verification of Farm Plan, information about discharge, identification of completed farm water quality management practices and nitrate loading risk. All information must be submitted electronically through an on-line annual compliance form, similar to the eNOI.
 - **By March 15, 2013**, all Tier 2 growers must sample the groundwater from the primary irrigation well and any drinking water well on their farm twice (in Sept/Oct 2012 and March 2013). Groundwater samples must be analyzed for nitrate and



general minerals. Growers can also comply by submitting existing groundwater data and can also work with neighboring growers on cooperative groundwater monitoring. Results must be reported by October 1, 2013.

- Tier 2 Growers must comply with the above and all other Tier 2 conditions in the Order (pages 13-28) and the Tier 2 Monitoring and Reporting Program R3-2012-0011-02.
 - The Order is available on the Water Board's website at http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/final_agorder_atta_032612.pdf
 - The Tier 2 Monitoring and Reporting Program R3-2012-0011-02 is available on the Water Board's website at http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/final_mrp_tier2_032912.pdf

What do Tier 3 growers have to do to comply with the Order?

- **By May 15, 2012**, all Tier 3 growers that irrigate land to produce commercial crops must enroll in the Order by submitting an eNOI.
- **By October 1, 2012**, all Tier 3 growers that apply fertilizers, pesticides, fumigants or other chemicals through an irrigation system must have back flow prevention devices.
- **By October 1, 2012**, all Tier 3 growers must develop, implement and keep up to date a Farm Water Quality Management Plan (Farm Plan) that includes management practices, treatment or control measures related to irrigation efficiency, pesticide management, salinity management, nutrient management, sediment and erosion control and aquatic habitat protection.
- All Tier 3 growers must implement management practices to treat or control discharges and protect water quality.
- All Tier 3 growers must minimize bare dirt and prevent erosion.
- All Tier 3 growers must protect existing aquatic habitat next to their farms.
- **By October 1, 2012**, all Tier 3 growers must calculate their risk of loading nitrate to groundwater from their farm (using specified methodology).
- **By October 1, 2012**, Tier 3 growers must take photos to document the existing condition of adjacent streams or wetlands, if those waters are impaired by sediment, turbidity or temperature (a list is in the Order on page 33).
- **By October 1, 2014**, Tier 3 growers must record and report total nitrogen applied, if the farm/ranch has a high nitrate loading risk.
- Irrigation and Nutrient Management
 - Tier 3 farms must prepare an Irrigation and Nutrient Management Plan if the farm/ranch has a high nitrate loading risk.
 - The purpose of the Irrigation and Nutrient Management Plan is to protect groundwater and surface water, especially drinking water sources, from nitrate contamination, by preventing the excessive application of water and nutrients.
 - The Irrigation and Nutrient Management Plan includes nutrient budgeting information such as crop nitrogen uptake values, amount of nitrogen applied, nutrient balance ratio, and an estimate of nitrate loading to groundwater and reductions achieved.
 - The Order includes nutrient balance ratio milestones as indicators of pollution reduction. The ratio compares the amount of nitrogen applied to the amount of nitrogen needed to produce a crop. The Order does not require 100 percent crop efficiency. Existing data demonstrate that, in many cases, growers are already achieving the milestones.

- Water Quality Buffer Plan
 - Tier 3 growers must prepare a Water Quality Buffer Plan if the farm/ranch is adjacent to a creek or wetland impaired by sediment, turbidity or temperature (a list is in the Order on page 33).
 - The purpose of the Water Quality Buffer Plan is to protect adjacent streams from erosion and sediment loading or other waste discharges. Growers can prepare an alternative plan if it is similarly protective.
- Monitoring and Reporting-
 - **By September 15, 2012**, all Tier 3 growers must monitor the creeks and estuaries that may receive farm runoff. Growers can choose to participate in the existing Cooperative Monitoring Program (CMP) implemented by Central Coast Water Quality Preservation, Inc., or they can choose to monitor individually. Samples must be collected and analyzed for sediment and nutrients monthly, and pesticides, toxicity and metals quarterly. Results must be reported by January 1, 2013.
 - **By October 1, 2012**, and annually thereafter, all Tier 3 growers must submit annual compliance information, such as verification of Farm Plan, information about discharge, identification of completed farm water quality management practices and nitrate loading risk. All information must be submitted electronically through an on-line annual compliance form, similar to the eNOI.
 - **By March 15, 2013**, all Tier 3 growers must sample the groundwater from the primary irrigation well and any drinking water well on their farm twice in the first year of the Order (in Sept/Oct 2012 and March 2013), and once annually thereafter. Groundwater samples must be analyzed for nitrate and general minerals. Growers can also comply by submitting existing groundwater data and can also work with neighboring growers on cooperative groundwater monitoring. First year results must be reported by October 1, 2013.
 - **By October 1, 2013**, all Tier 3 growers must start individual surface water discharge monitoring. Results must be reported by March 15, 2014, October 1, 2014, and annually thereafter.
 - **By October 1, 2015**, Tier 3 growers whose farm/ranch has a high nitrate loading risk must submit elements of their Irrigation and Nutrient Management Plan and report on progress towards meeting specified nutrient balance ratio targets.
 - **By October 1, 2016**, these same high nitrate risk Tier 3 growers must submit their Irrigation and Nutrient Management Plan Effectiveness Report.



Fact Sheet

- By October 1, 2016, Tier 3 growers whose farm/ranch is adjacent to a creek or wetland impaired by sediment, turbidity or temperature (a list is in the Order on page 33) must submit their Water Quality Buffer Plan.
- Tier 3 growers must comply with the above and all other Tier 3 conditions in the Order (pages 13-32) and the Tier 3 Monitoring and Reporting Program R3-2012-0011-03.
 - The Order is available on the Water Board's website at http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/final_agorder_atta_032612.pdf
 - The Tier 3 Monitoring and Reporting Program R3-2012-0011-03 is available on the Water Board's website at http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order/final_mrp_tier3_032912.pdf

Notice of Determination

Appendix D

To: Office of Planning and Research

U.S. Mail:

P.O. Box 3044

Sacramento, CA 95812-3044

Street Address:

1400 Tenth St., Rm 113

Sacramento, CA 95814

From:

Public Agency: Central Coast Water Board

Address: 895 Aerovista Place, Suite 101

San Luis Obispo, CA 93401

Contact: Angela Schroeter

Phone: 805-542-4644

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number: 2010101073

Project Title: Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands, Order

Project Applicant: Central Coast Water Board (Regional Water Quality Control Board, San Luis Obispo)

Project Location: The Central Coast Water Board's boundary which includes all of Santa Cruz, San Benito, Monterey, Santa Barbara, and San Luis Obispo counties, as well as the southern one-third of Santa Clara, and small portions of San Mateo, Kern and Ventura counties.

Project Description: The purpose of this project is to renew the 2004 Agricultural Order with revised conditions. The 2012 Agricultural Order (Order No. R3-2012-0011) renews a conditional waiver of waste discharges of waste from irrigated agricultural lands in a manner protective of water quality and consistent with the Porter-Cologne Water Quality Control Act (Wat. Code Div. 7) and associated plans and policies. The Agency determined that it is unlikely that this project will have a significant effect on the environment.

This is to advise that the Central Coast Water Board (Lead Agency) has approved the above described project on March 15, 2012 and has made the following determinations regarding the above described project:

1. The project will not have a significant effect on the environment.
2. A Subsequent Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures were not made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan was not adopted for this project.
5. A statement of Overriding Considerations was adopted for this project.
6. Findings were made pursuant to the provisions of CEQA.

This is to certify that the final subsequent EIR with comments and responses and record of project approval is available to the General Public at:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/ag_order.shtml

Signature (Public Agency):

Michael Thomas

Title:

Assistant Executive Officer

Date: 4/3/2012

Date Received for filing at OPR: _____

Authority cited: Sections 21083, Public Resources Code.

Reference Section 21000-21174, Public Resources Code. Revised 2011

ATTACHMENT 7

Fisher Kari

From: Jessica Newman [JMNewman@waterboards.ca.gov]
Sent: Tuesday, April 10, 2012 12:32 PM
To: Fisher Kari
Subject: RE: Region 3 Ag Order SEIR Certification
Attachments: FINAL_CEQA_Res_032612.pdf

Ms. Fisher,

Please find attached the Final Resolution certifying the SEIR for the agriculture waiver. Please let me know if you have any other questions.

Jessica M. Newman, Staff Counsel
Office of the Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814-2828
Phone: (916)341-5168
Facsimile: (916)341-5199
Email Address: jmnewman@waterboards.ca.gov

This communication is privileged and confidential, and is intended only for the individual or entity named above. If you are not the intended recipient, please do not read, copy, use, or disclose this communication to others; also, please notify the sender by replying to this e-mail and then delete the email and any copies of it.

Fisher Kari

From: Hotz Pam
Sent: Tuesday, April 03, 2012 8:37 AM
To: Fisher Kari
Subject: FW: Waiver of Waste Discharge Requirements - Our File No.: A6028BE
Attachments: Hearing March 15, 2012.pdf; Hearing March 15, 2012 - Cond.pdf; Hearing March 15, 2012.ptx; Hearing March 15, 2012.txt

-----Original Message-----

From: Atkinson-Baker Transcripts [<mailto:transcripts@depo.com>]
Sent: Monday, April 02, 2012 5:10 PM
To: stacy.denney@waterboards.ca.gov; Hotz Pam
Subject: Waiver of Waste Discharge Requirements - Our File No.: A6028BE

Attached to this email are a full-size and condensed PDF version of the transcript, an E-Transcript file (.ptx extension), and an ASCII file (.txt file extension).

The ASCII file should open without a problem with any word processing software.

If this is the first time you have received an E-Transcript file (.ptx file extension), you will need to browse to <http://www.reallegal.com/software.asp> and download the free E-Transcript Viewer.

Hard copy to follow.

ATKINSON-BAKER, INC.
COURT REPORTERS
(800) 288-3376
www.depo.com

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CALIFORNIA FARM BUREAU FEDERATION

OFFICE OF THE GENERAL COUNSEL

2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 • PHONE (916) 561-5665 • FAX (916) 561-5691

Sent Via First-Class Mail & Email

rbriggs@waterboards.ca.gov
aschroeter@waterboards.ca.gov
lmccann@waterboards.ca.gov
fmcchesney@waterboards.ca.gov
mthomas@waterboards.ca.gov

March 19, 2012

Roger Briggs, Executive Director
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

Re: *Public Records Act Request, Cal. Gov. Code §§ 6250, et seq., Regarding the Agricultural Order, Monitoring and Reporting Program, and Subsequent Environmental Impact Report for the Regulation of Waste Discharges from Irrigated Lands (Agricultural Order No. R3-2012-0011, MRP Order No. R3-2012-0011-01, MRP Order No. R3-2012-0011-02, MRP Order No. R3-2012-0011-03, and all associated attachments)*

Dear Mr. Briggs:

This will serve as a formal request pursuant to the California Public Records Act ("PRA") to inspect the following records:

1. All communications¹ in the past 20 days between any of the following persons, their associates, or representatives, including Steve Shimeck, Nathan Alley, Ben Pitterle,

¹ As used herein, the term "communications" encompasses the terms correspondence, "writings," emails, notes, facsimiles, telephone documentations and notes, in-person documentations and notes, calendar or appointment book references, and other such records, including "public records." As defined by the Government Code, "public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." (Gov. Code, § 6252(e).) The term "writing" includes "any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored." (Gov. Code, 6252(g).) Such records include "electronic records." (Gov. Code, §§ 6253.9(a), (g), 6254.9(a), (d).) This Public Records Act request refers to all such communications described above.

NANCY N. McDONOUGH, GENERAL COUNSEL
ASSOCIATE COUNSEL

CARL G. BORDEN • KAREN NORENE MILLS • CHRISTIAN C. SCHEURING • KARL E. FISHER • JACK L. RICE

ATTACHMENT 10

Roger Briggs, Michael Thomas, Lisa McCann, Angela Schroeter, and/or Frances McChesney.

2. All communications in the past 20 days between Roger Briggs and Mike Johnston.
3. All documents, correspondence, communications, writings, notes, and other records relating to the following language:

Inserted between Staff Proposal Condition 10 and 11.

Groups may form around watersheds or other commonalities to propose creative water quality projects and solutions, and to clarify group efforts which could lead to compliance with this order (i.e. commodity based certification programs such as SIP). At the discretion of the executive officer, groups may be granted down-classifications (i.e. Tier 3 to Tier 2) and project-specific timelines, benchmarks, and monitoring requirements. The purpose of this provision is to encourage innovation, site-specific solutions, and to remove barriers to long-term investments (i.e. engineered wetlands).

Projects will be evaluated for, among other things:

- Scale. Solutions must be scaled to address impairment
- Chance of success. Projects must demonstrate a reasonable chance of eliminating toxicity within the permit term (5 years) and reducing discharge of nutrients to surface and groundwaters.
- Commitment to solving the problem. Proposals must address what new actions will be taken if the project does not meet goals and how the project will be sustained through time.
- Benchmarks and accountability. Proposals must set benchmarks and describe monitoring and measuring methods. Monitoring points must be at the point of discharge but may not always be at the edge-of-field, so long as monitoring results demonstrate water quality improvement and the efficacy of a project.

Project proposals will be evaluated by a committee comprised of: [Two?] Three researchers or academics skilled in agricultural practices and/or water quality, one farm advisor (NRCS or RCD), one grower representative, one environmental representative, one environmental justice or environmental health representative, and one RWQCB staff member. The RWQCB Executive Officer has sole discretion in giving final approval of any project after receiving project evaluation results and recommendations from the committee.

Given that "public records are open to inspection at all times during the office hours of the . . . agency and every person has a right to inspect any public record, except as . . . provided, [and to receive] an exact copy" of an identifiable record unless impracticable, (Gov. Code, § 6253), we request immediate access to all documents and communications requested herein.²

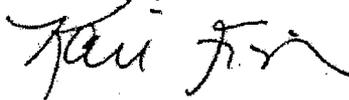
With regard to any documents that may be withheld by the Central Coast Regional Water Quality Control Board ("Regional Board"), we request a written reply no later than 10 days from the date of this PRA request (Gov. Code, § 6253) that (1) identifies the type or nature of the record, or portion thereof, being withheld, and (2) demonstrates that the record in question is exempt under the express provisions of the PRA, or that, on the facts of the particular case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

Before taking any action that might result in charges for reimbursement (*i.e.*, fees established by statute or the "direct cost" of copying of documents or electronic formatted data), we request that you provide an estimate of the costs involved via email correspondence or telephone.

Also, we request that you notify us of the existence of any and all records fitting this request that may be available in electronic format, and if feasible, provide such records electronically.

If you have any questions about this request, please feel free to contact me at kfisher@cxbf.com or (916) 561-5666. We look forward to working with you in this matter.

Sincerely,

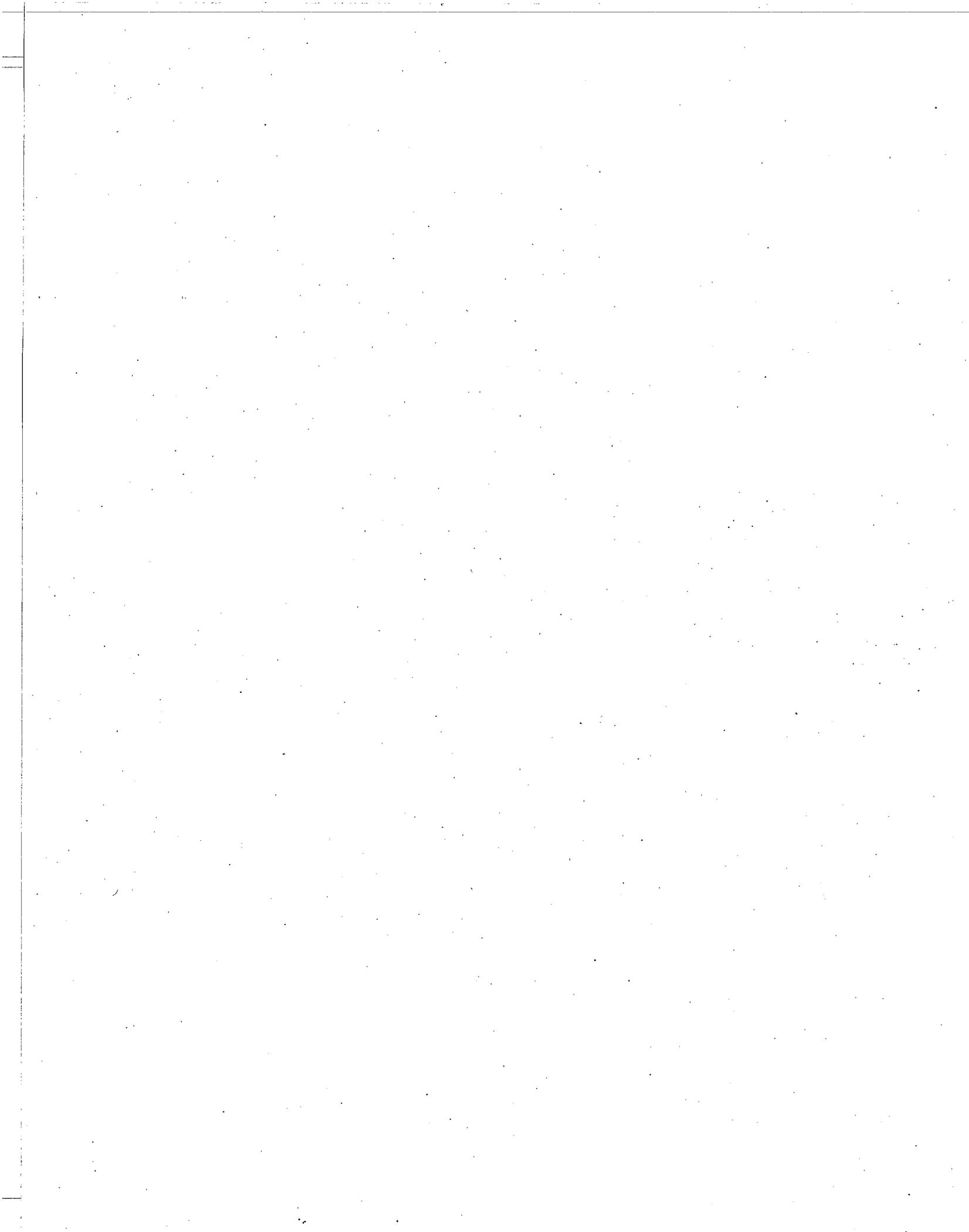


Kari E. Fisher
Associate Counsel

KEF/pkh

cc: Angela Schroeter, Agricultural Regulatory Program Manager (via E-mail only)
Lisa McCann, Watershed Protection Section Manager (via E-mail only)
Frances McChesney, Staff Counsel (via E-mail only)
Michael Thomas, Assistant Executive Director (via E-mail only)
San Luis Obispo County Farm Bureau (via E-mail)

² See Gov. Code, § 6253 regarding time for public inspection.



Lisa McCann Phone Notes

[REDACTED]

3/8/12

Shumich re: conversation
w/ Dick Tomlinson + Gordon Bruce

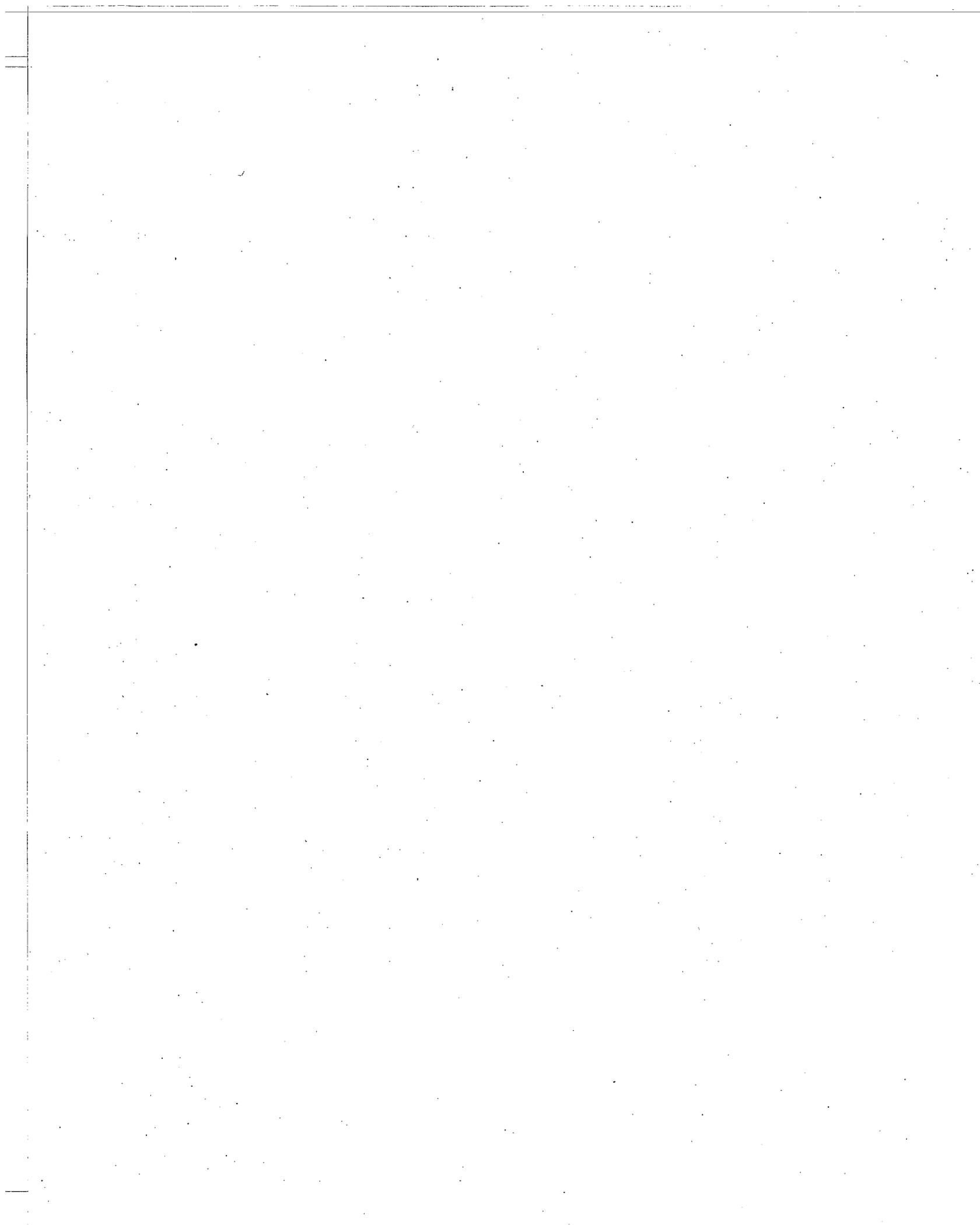
Strawberry Linnish, CALERT

Calwestland's word not good
re: specificity good then not good

re: general as possible accepting
any 3rd party good idea

re: must be monitorable

[REDACTED]



From: Michael Thomas
To: Michael Thomas
Date: 3/22/2012 5:26 PM
Subject: Fwd: Re: Request for Additional Time

Is your private well water safe to drink? Click here for information:
http://www.waterboards.ca.gov/water_issues/programs/gama/wq_privatewells.shtml
>>> Marc Los Huertos <mloshuertos@csumb.edu> 3/9/2012 11:31 AM >>>
Dear Roger,

Thank you for the note. I appreciate the limitations of the day and the number of speakers you expect to fit in before the Board can actually discuss the various issues associated with the waiver. Based on last February's experience, I might be standing up there much longer. I felt bad that I was unable to communicate in an efficient way last time and the Board was there late into the evening. I hope you can build in some contingencies if I am stuck up there for more than my allotted time.

I know this might sound silly, but I have been trying to find "space" for the Staff Recommendations to adopted. I have been in contact with Gordon Burns over the last few weeks at CalEPA who gave me some specific suggestions to that end. I am not comfortable proposing these without your staff looking them over. But I don't know what the proper "legal" procedure is. Perhaps, making this request violates some procedural process. If the "space" is worth considering, it might allow each (some?) of the stakeholders to feel like they got most of what they needed. If this isn't appropriate, that is fine. I tried to suggest some changes in my last meeting but it seemed like the staff were not open to that. Again, I know there are many other issues that are taking precedence, and I only offer this if you think it would be useful.

Cheers, marc

On Fri, Mar 9, 2012 at 9:34 AM, Roger Briggs <Rbriggs@waterboards.ca.gov> wrote:

Dr. Los Huertos,

This note provides the Chair's decision on allotted time for the Ag Order hearing on Wednesday, March 14, 2012. We received several requests for additional time and the Chair has reduced all the requested times to some degree to provide an opportunity for all to speak, including those requesting just three minutes. Considering the extended period of time the Board allowed you at the workshop, and that you are now no longer representing an organized group, you are allotted a total of 10 minutes.

Our staff will be providing for the Board, a handout which contains a hard copy of the presentation outline and a multi-slide per page presentation printout (with enough room for notes next to slides). We think this will help the Board members in understanding the presentation and make it easier for them to jot down questions next to the appropriate slides. Please bring these two items (if you have slides) for the Board for you presentation (10 copies please)

Thanks,
Roger Briggs

Roger W. Briggs PE
Executive Officer
Central Coast Regional Water Quality Control Board

805-549-3140 (tel:805-549-3140)
fax 805-788-3511 (tel:805-788-3511)
rbriggs@waterboards.ca.gov
<http://www.waterboards.ca.gov/centralcoast/>
>>> Marc Los Huertos <mloshuertos@csumb.edu> 3/5/2012 12:01 PM >>>

Re: Extra Time for March 14th Hearing

Dear Roger Briggs,

I am requesting 30 minutes to provide a presentation regarding the upcoming March 14, 2012 hearing for the Agriculture Order. As highlighted by Chairman Young's letter, my proposal may not fit within the Farmer's for Water Quality proposal, thus am seeking my own time slot. I appreciated his comments. Especially since, I have been working with several environmental organizations to refine my proposal in a way to develop a range of endorsements. In particular, I have been working hard to develop a robust strategy to protect ground water. In part, I am responding to specific questions from Dr. Monica Hunter, Bruce Delgado, and Michael Johnston.

Over the last few weeks, I have spent significant time reflecting on how to approach the nonpoint source pollution problems associated with agriculture. I think I have created some space to address this vexing pollution issue without dismantling the Board's Staff recommendations.

I am certain that you and your staff feel I have misunderstood your approach and the overall goals. It is true I do not have a detailed understanding of the state's Water Code. What I do have is an understanding about how pollutants might leave a farm. I also have 15 years of experience working directly with growers on their farm fields to re-mediate pollution problems. Based on these two areas of knowledge, I think I have a reasonable way to address water quality issues in the long term.

Given the gravity of the pollution, and the importance of crafting effective regulation to address it, I would greatly appreciate 30 minutes of presentation time. I would also like to compliment on your tenure as Executive Officer of the Board. I have the greatest respect for your leadership skills and hope that your successor will maintain the high standards and integrity that has been associated with the Central Coast Regional Board.

Very Sincerely,

Marc Los Huertos

Dr. Marc Los Huertos
Associate Professor
Science and Environmental Policy,
Chapman Science Center
100 Campus Drive
Seaside CA, 93955

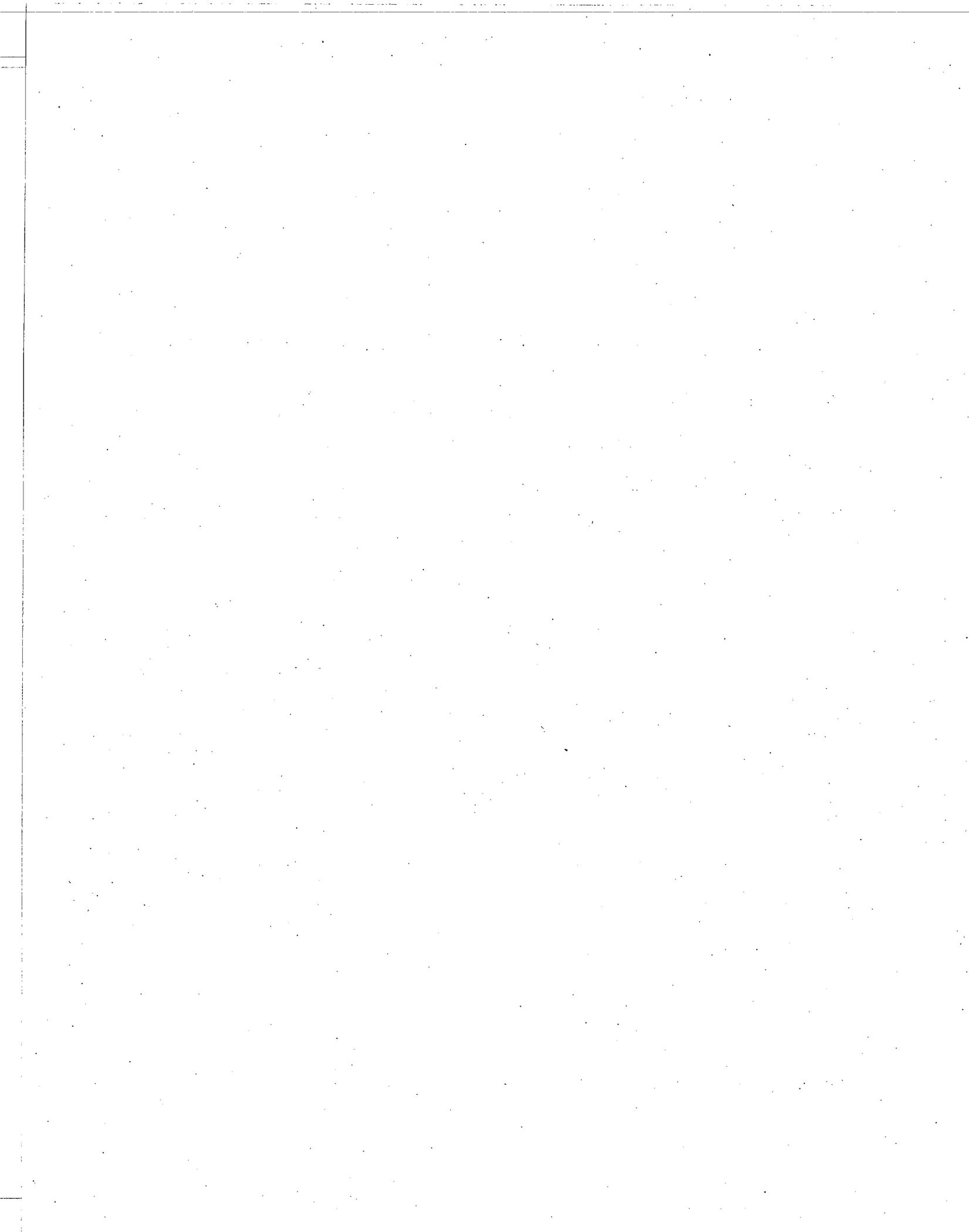
831-582-3209 (tel:831-582-3209)

<http://csumb.edu/site/x12183.xml>

Dr. Marc Los Huertos
Associate Professor
Science and Environmental Policy,
Chapman Science Center
100 Campus Drive
Seaside CA, 93955

831-582-3209 (tel:831-582-3209)

<http://csumb.edu/site/x12183.xml>



[REDACTED]

[REDACTED]

From: Mike Johnston [REDACTED]
Sent: Tuesday, March 06, 2012 9:14 PM
To: Roger Briggs
Subject: Re: Questions

Sure. 11?

Mike Johnston
[REDACTED]

On Mar 6, 2012, at 6:01 PM, Roger Briggs <Rbriggs@waterboards.ca.gov> wrote:

Hi Mike,

I've been going over your questions, and have some feedback - with more tomorrow.

Will you be available maybe late morning to talk?

thanks,

Roger

Roger W. Briggs PE
Executive Officer
Central Coast Regional Water Quality Control Board
805-549-3140
fax 805-788-3511
rbriggs@waterboards.ca.gov
<<http://www.waterboards.ca.gov/centralcoast/>> <http://www.waterboards.ca.gov/centralcoast/>

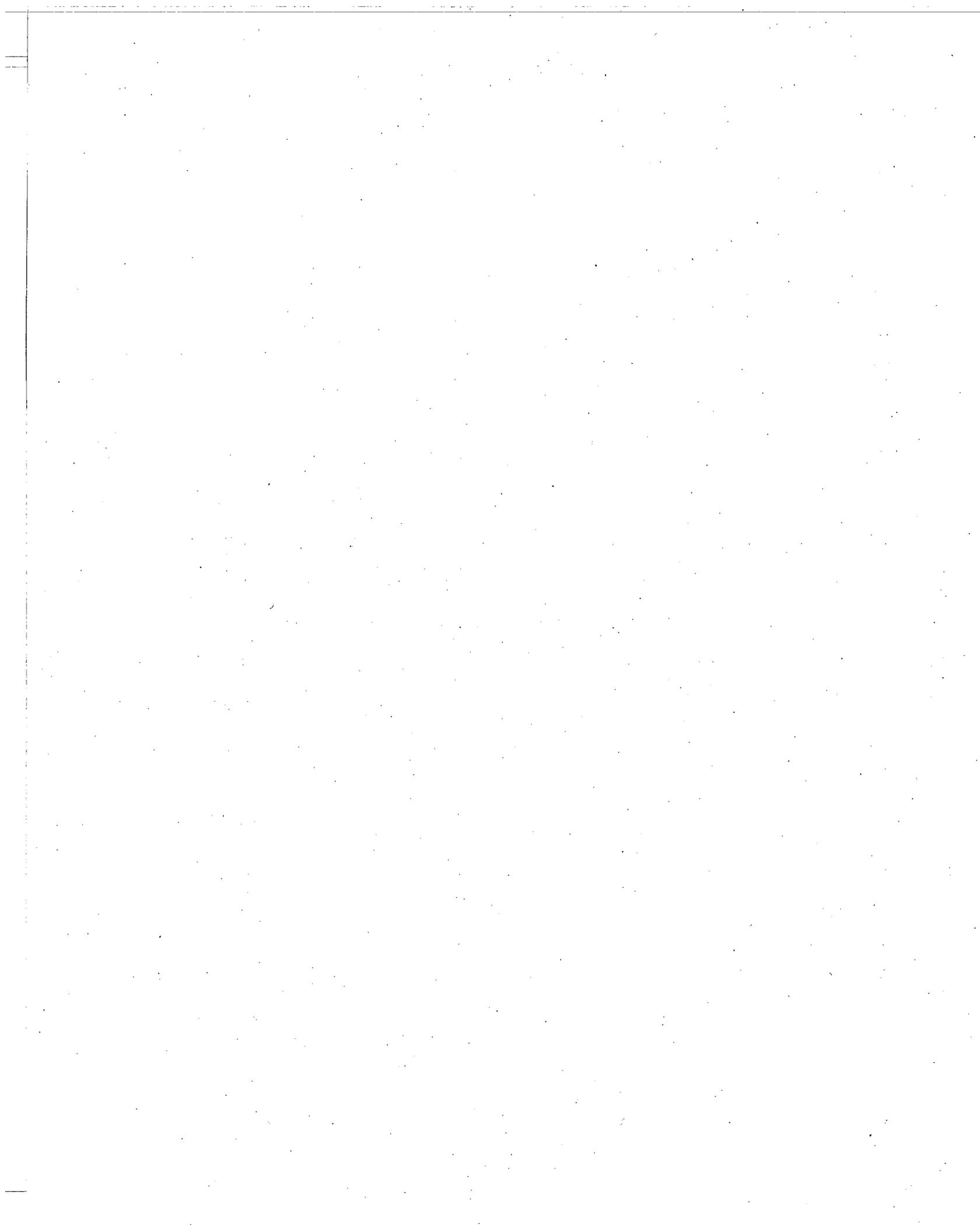
>>> Mike Johnston [REDACTED] 3/6/2012 2:37 PM >>>

Roger,

This is a work in progress, I hope to finish it tomorrow. Any comments are appreciated.

Mike

<Briggs, Roger.vcf>



From: Mike Johnston [REDACTED]
To: Roger Briggs <Rbriggs@waterboards.ca.gov>
CC: Frances McChesney <FMcChesney@waterboards.ca.gov>
Date: 3/14/2012 7:44 AM
Subject: Re: language

Roger

[REDACTED]

Mike

Mike Johnston
[REDACTED]

On Mar 13, 2012, at 12:02 PM, Roger Briggs <Rbriggs@waterboards.ca.gov> wrote:

> Mike, here it is. Changes and new language in red. There's one bullet that has yellow highlight on it. I couldn't get rid of it. It doesn't mean anything - we'll fix it later after the meeting when this is part of the Order. We'll put a copy in your folder, which Frances will take to the hotel.

> I'll send to Jeff too and put a copy in his folder.

> Thanks again,

> Roger

>

>

> Roger W. Briggs PE

> Executive Officer

> Central Coast Regional Water Quality Control Board

> 805-549-3140

> fax 805-788-3511

> rbriggs@waterboards.ca.gov

> <http://www.waterboards.ca.gov/centralcoast/>

>

> >>> Mike Johnston [REDACTED] 3/12/2012 9:42 PM >>>

> Roger,

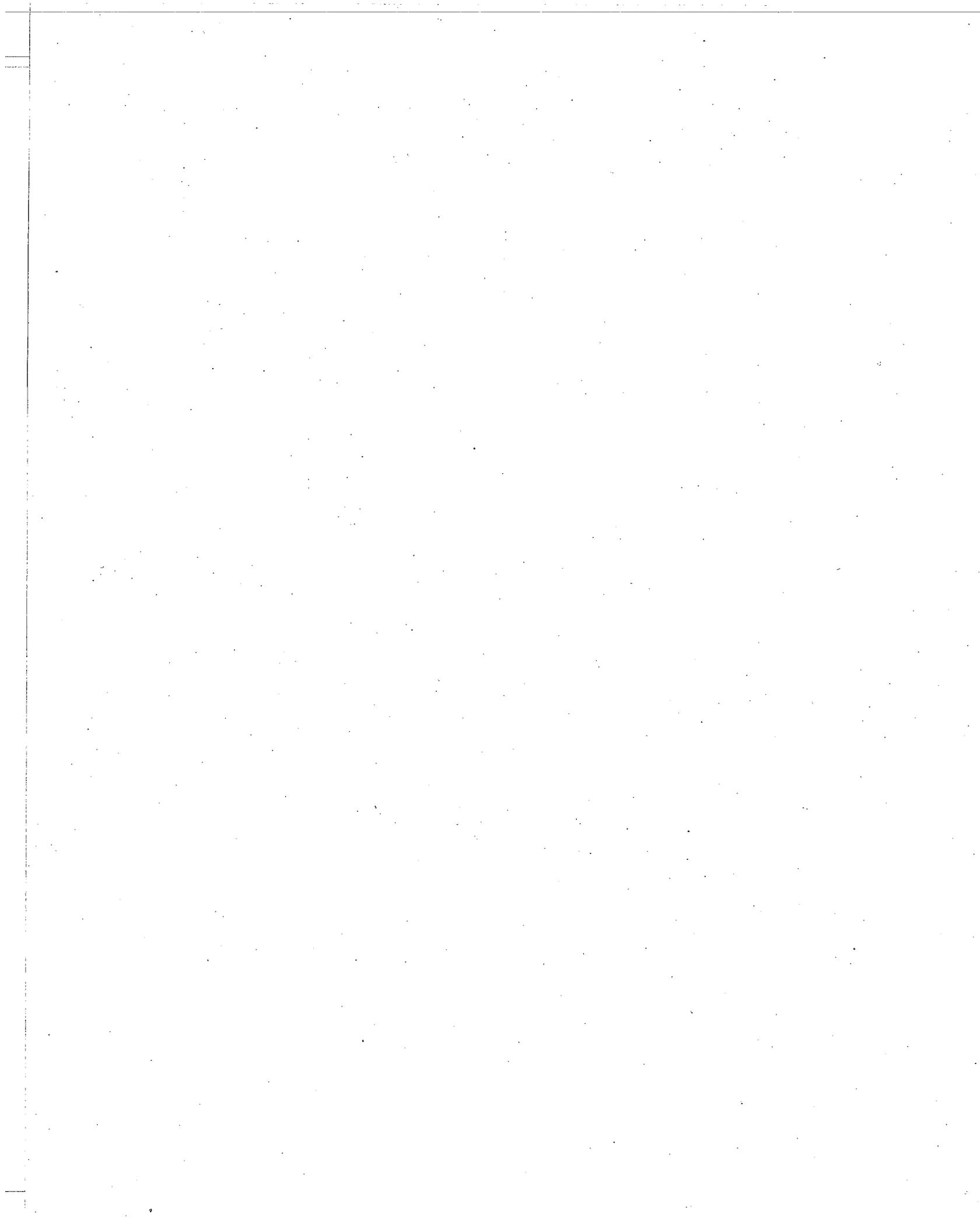
> Can you please have Frances leave me copies of the language that we worked on at the desk at the hotel tomorrow night? Also, please e-mail me the final versions. That way I am sure that we are on the same page.

> Thanks,

> Mike

> <AddlDraftEdits_030812_1_1FLM v3 rb - clean 3-13-12.docx>

> <Briggs, Roger.vcf>



[REDACTED]

Mike Johnston

[REDACTED]

From: Roger Briggs [mailto:Rbriggs@waterboards.ca.gov]
Sent: Tuesday, March 06, 2012 6:02 PM
To: Mike Johnston
Subject: Re: Questions

Hi Mike,

I've been going over your questions, and have some feedback - with more tomorrow.

Will you be available maybe late morning to talk?

thanks,

Roger

Roger W. Briggs PE
Executive Officer
Central Coast Regional Water Quality Control Board
805-549-3140
fax 805-788-3511
rbriggs@waterboards.ca.gov
<<http://www.waterboards.ca.gov/centralcoast/>>
<http://www.waterboards.ca.gov/centralcoast/>

>>> Mike Johnston [REDACTED] 3/6/2012 2:37 PM >>>

Roger,

This is a work in progress, I hope to finish it tomorrow. Any comments are appreciated.

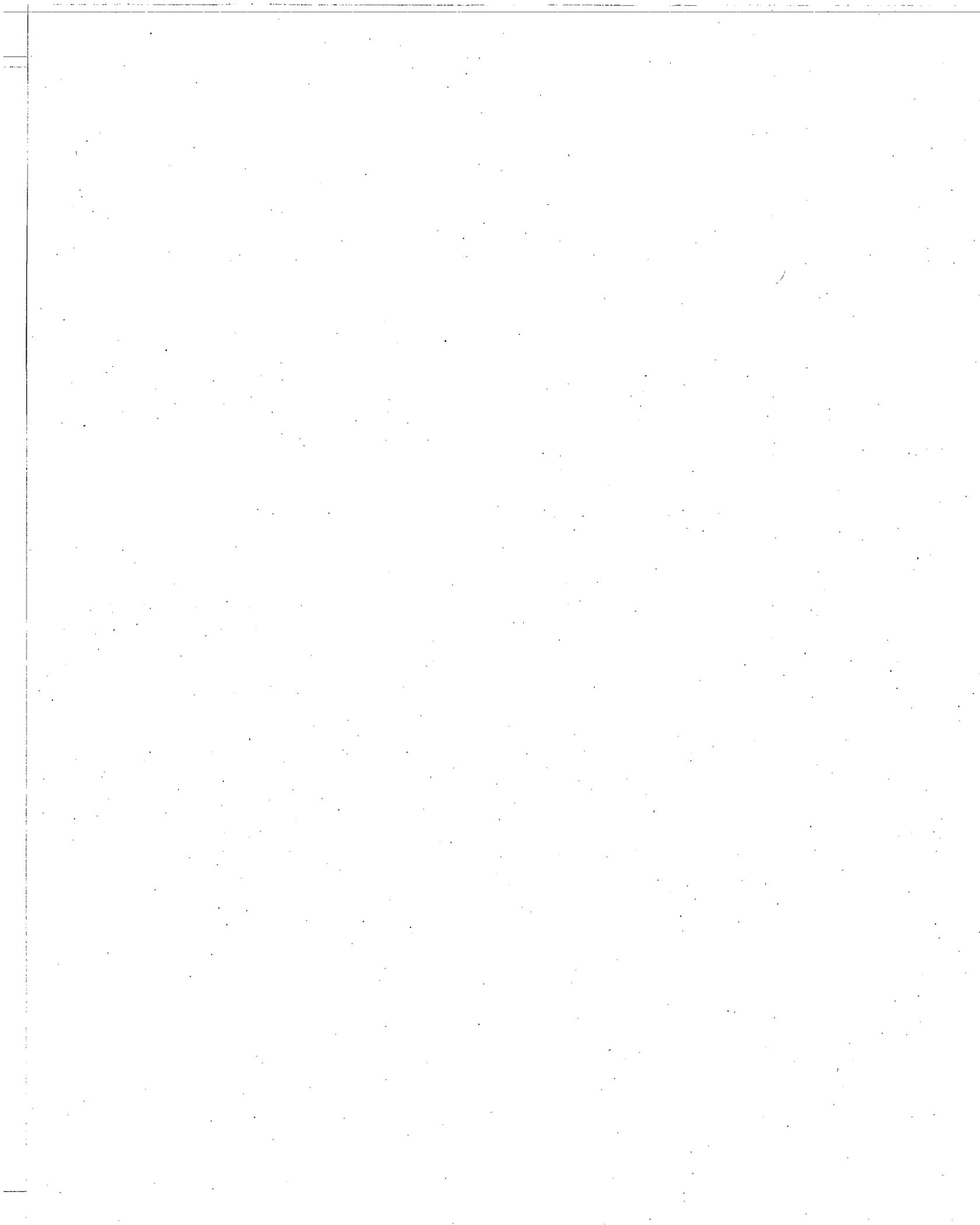
Mike

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

-----Original Message-----

From: Roger Briggs [mailto:rbriggs@waterboards.ca.gov]
Sent: Sunday, March 11, 2012 5:46 AM
To: [REDACTED] Frances McChesney
Subject: Re: Possible edits for the order, Q&A Doc

Frances and Mike,
I may not be able to. If not, you two should talk and I'll catch up with Frances later.

Roger
Roger W. Briggs, PE
Executive Officer
Central Coast Regional Board
805-549-3140
fax 805-788-3511
rbriggs@waterboards.ca.gov
<http://www.waterboards.ca.gov/centralcoast/>
>>> Frances McChesney 03/10/12 5:46 PM >>>
I can meet then for 1/2 hour-ish.

Frances

>>> Mike Johnston 3/10/2012 5:26 PM >>>
Roger
I just got this.
Tonight is tough. Can we do 11 or 12 tomorrow?
Mike

[REDACTED]

On Mar 10, 2012, at 3:00 PM, Roger Briggs wrote:

> Mike,
> Here are possible edits for the order (two docs here), and the draft Q&A Doc which we need to discuss before finaling,

[REDACTED]

>
>
> Let us know if you can talk at a specific time, perhaps this afternoon. But would be best if you read thru these first before we talk.

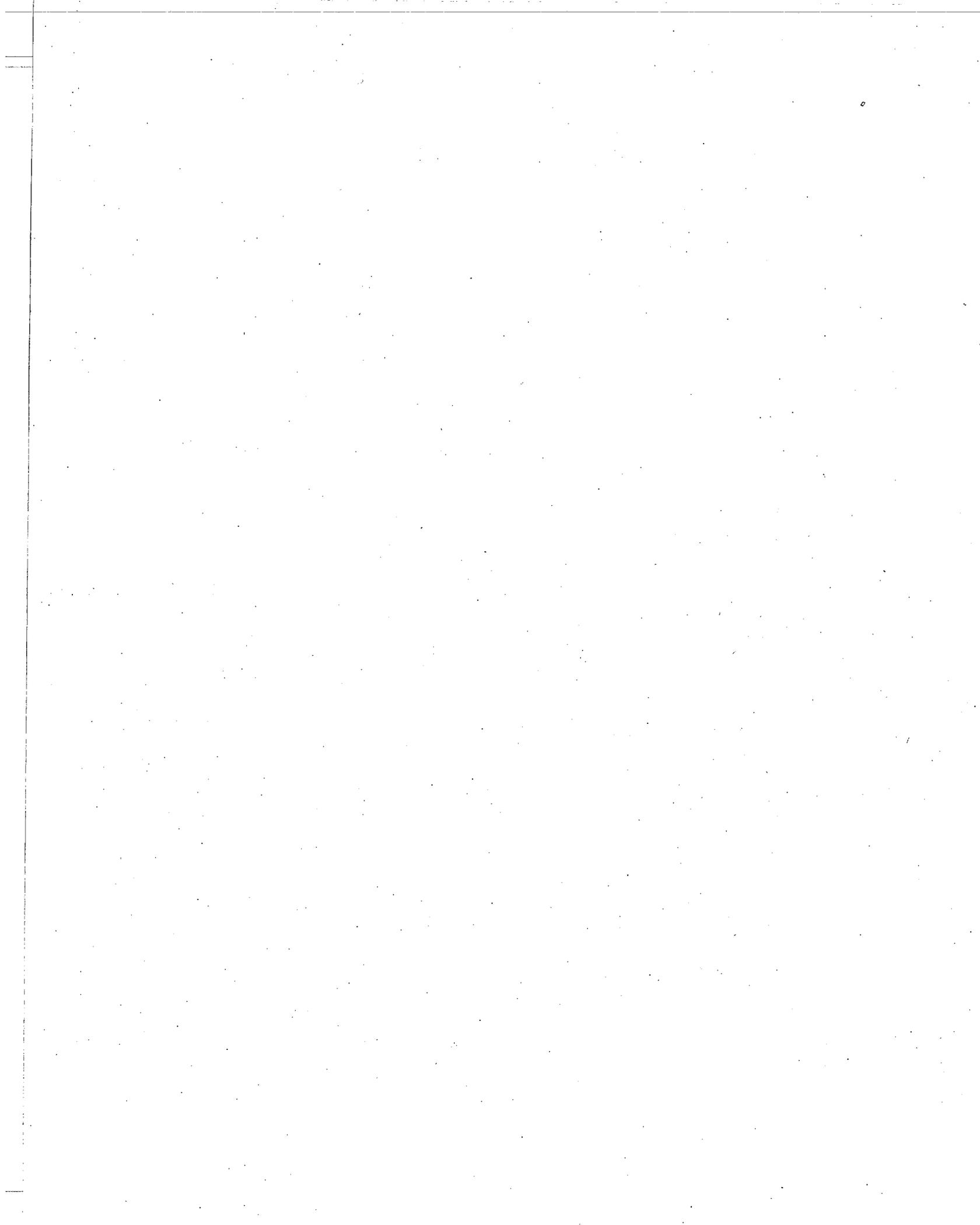
>
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> thanks,
> Roger

>
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>
>
>

> Roger W. Briggs PE
> Executive Officer
> Central Coast Regional Board
> 805-549-3140
> fax 805-788-3511
> rbriggs@waterboards.ca.gov
> <http://www.waterboards.ca.gov/centralcoast/>

>
>
>



Roger Briggs Phone Notes

M. Bejator - more collaborative, less prescriptive.

[REDACTED]

Steve Shink - met w/ ed. 503d, then 6 Area

Here @ Wed. would like to meet w/ our eyes
people in: significant

[REDACTED]

[REDACTED]

Shink - cell today 7:00-7:15 7:15-7:30

[REDACTED]

J.C. Shink - Request from Gordon B...

the talked to Marc Ross. Steve took draft to Sacto, fully
embraced. doesn't do anything new, just TAC.

9-11-75

[REDACTED]

J.C. Shink - 10 Wed

* M.S. - Was strange data random typical sample (over)

* TAC & Aggregate Monitoring

RS - condition review OK?

Answer
7/15

75
3-17-72

50

2/65

Steve Smith - getting calls, wanted to be sure I'm ok

[REDACTED]

3-2-72 - J.C. Sentinel

3.28

3/19/74 - sent in write of Q's.

R5 - allows coalition meeting.

- He clipped out language for us that is clear.

SIP - looks impressive.

Put out Q's. Bob would like around

6

Fraser

I'll work on other ~~of~~ - Katinola / ^{add} GSW

2-7-12 cell

w/ Fraser

Fisher Kari

From: Frances McChesney [FMcChesney@waterboards.ca.gov]
Sent: Friday, March 30, 2012 11:07 AM
To: Fisher Kari
Cc: Hotz Pam
Subject: Re: Region 3 Ag Order NOD

Hi Kari, The Regional Board has not filed the NOD yet because they have to get funds to pay the Department of Fish and Game. In case you are concerned about the statute of limitations, see Water Code section 13330(c).

Frances

Frances L. McChesney
Staff Counsel IV
Office of the Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814-2828
Phone: (916)341-5174
Facsimile: (916)341-5199
Email Address: fmcchesney@waterboards.ca.gov

>>> Fisher Kari <kfisher@CFBF.com> 3/30/2012 9:09 AM >>>
Frances,

Can you please send me a copy of the Notice of Determination for the certification of the SEIR? I am unable to find a copy on the Regional Board's website or within the State Clearinghouse's database.

Thanks,

Kari

Kari E. Fisher

Associate Counsel

Natural Resources and Environmental Department

California Farm Bureau Federation

2300 River Plaza Drive

Sacramento, CA 95833

916-561-5666 phone

916-561-5691 fax

kfisher@cfbf.com <<mailto:kfisher@cfbf.com>>

www.cfbf.com <<http://www.cfbf.com>>

Fisher Kari

From: Wendy Wang [Wendy.Wang@bbklaw.com]
Sent: Tuesday, April 10, 2012 2:53 PM
To: Fisher Kari; William Thomas
Subject: FW: Central Coast Ag Waiver

-----Original Message-----

From: Jessica Newman [mailto:JMNewman@waterboards.ca.gov]
Sent: Tuesday, April 10, 2012 2:51 PM
To: Wendy Wang
Subject: Re: FW: Central Coast Ag Waiver

Ms. Wang,

I earlier sent you an response regarding your email requesting documents relating to the Ag Waiver. I stated in my email that the Regional Board did not submit the NOD to OPR, however, I've been told by Regional Board staff that it was submitted on April 3, 2012, but that staff has not yet received a receipt from OPR. I apologize for my error, and please contact me if you have any questions.

Jessica M. Newman, Staff Counsel
Office of the Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814-2828
Phone: (916)341-5168
Facsimile: (916)341-5199
Email Address: jmnewman@waterboards.ca.gov

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Fisher Kari

From: Jessica Newman [JMNewman@waterboards.ca.gov]
Sent: Tuesday, April 10, 2012 1:49 PM
To: Wendy Wang
Subject: Re: FW: Central Coast Ag Waiver
Attachments: FINAL_CEQA_Res_032612.pdf

Ms. Wang,

Please find attached the Final Resolution certifying the SEIR for the Ag Waiver. The Regional Board has not sent the Notice of Determination to OPR, therefore there is no receipt from OPR. Please let me know if you have any questions or need any other documents.

Jessica M. Newman, Staff Counsel
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State Water Resources Control Board
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David Costa
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January 3, 2011

Roger Briggs, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

Dear Roger Briggs:

I am writing to you today to comment on the Preliminary Staff Recommendations of the Central Coast Regional Water Quality Control Board for the Conditional Waiver of Discharges from Irrigated Agricultural Lands. I am a member of a farming family in the Salinas Valley; our farm supports the families of the five owners and over 500 employees.

I have had the opportunity to speak before the Regional Board and also to submit written comments this past year. It appears to me, with regards to staff at least, that the points I tried to make fell on deaf ears. In particular, the complexity of Central Coast agriculture is still not understood with regards to typical ranch sizes, block sizes within the ranch, and the number of individual plantings that go on in a year's time. When I look at the reporting requirements for my operation, especially as it pertains to nutrient applications, I see almost 1400 individual plantings that will have 3 to 4 nutrient applications to be reported in addition to chemical use. I have not seen any answers or proposals from staff with regards to whom, and how, this is going to be managed once this information is received from a grower like myself, and there are 3,000 growers in Region 3.

As I start to look through this most recent draft, the first thing that jumps out is the assignment of Tiers. Only basic questions are asked in this process: "Do you apply chlorpyrifos or diazinon, is your operation located within 1000 feet of an impaired surface water body, do you grow crops with a high potential to discharge nitrogen, and is your operation more or less than 1000 acres?" Nowhere do I see the question, "Do you have irrigation runoff that leaves your ranch?" Staff continues to define runoff as water that leaves your field rather than water that leaves your ranch. Both in written comments this past spring and public comment on May 12th I shared with you details of a \$200,000 project on one of our ranches. This project is dependent on taking water from each of the individual fields on the ranch and moving it through an underground pipeline to a consolidation point at the lower end of the ranch. However, although no irrigation water

_____, I am still lumped into Tier III because my operation is greater than 1000 acres and I apply chlorpyrifos and diazinon. Isn't the main question whether you have irrigation runoff or not? Where is the logic when two growers with similar chemical use and irrigation practices are placed into two different tiers merely because one is larger than the other, even if he has no irrigation runoff? Generally speaking, I believe the size of our operation gives us resources to accomplish things that small growers may not be able to accomplish. Instead, this draft penalizes us for that. Not to mention the fact that there are substantial differences in monitoring and reporting requirements between Tier II and III. It shouldn't take a request to the Executive Officer to approve transfer to a lower Tier for something that appears so basic. In addition, there is no mention of a deadline for response from the Executive Officer to that request.

In addition, with regards to our location within 1000 feet of an impaired surface water body, there still are no detailed questions asked. How come nobody asks whether you drain any irrigation runoff, or storm water runoff for that matter, into that impaired surface water body, or does your ground even slope towards that surface water body? To me, these are the important questions.

Anybody who thinks this plan is going to be accomplished for a cost of a few dollars per acre is sadly mistaken. Enrollment fees; a Farm Water Management Plan (Farm Plan) which must be updated annually and include Irrigation Management, Pesticide Management, Nutrient Management, Sediment and Erosion Control (to include storm water), and Aquatic Habitat Protection; sampling requirements; certified laboratory requirements; Annual Compliance Documents; Irrigation and Nutrient Management Plans; progress reports; third-party evaluations of the effectiveness of management practices implemented; Quality Assurance Protection Plans; Water Quality Buffer Plans; photo monitoring; Nitrogen Application Reporting; Individual Discharge Reporting; Groundwater Well Sampling (both irrigation and domestic); a Sampling and Analysis Plan; Irrigation and Nutrient Management Plan Effectiveness Reports; the requirements of "demonstrations that discharge is not causing or contributing to exceedances of water quality standards in waters of the State or United States"..... I'm sure I could find more if I kept looking. What about the requirement that "groundwater samples must be collected by a state registered professional engineer, professional geologist, or third-party approved by the Executive Officer using proper sampling methods, chain of custody, and quality assurance/quality control protocols?" I shudder at the thought of the costs involved for compliance; yet, we haven't even begun to talk about management plan implementation costs!

I'd like to take a moment and talk about Appendix F, the draft technical memorandum. In their memorandum I find it interesting that our \$200,000 project mentioned above was used as an example in the cost considerations. My only mention of this project came in the written and public comments which I mentioned earlier, so I believe that was about all that staff knew about our project, especially since the only staff member who I believe saw our project firsthand had been reassigned to another department some time ago. There has been no verification of the costs involved, no questions asked regarding any engineering involved, no questions asked regarding any liner or seal of the pond, nor any questions asked regarding the adequacy of the size of the structure which was built. I believe its inclusion in this draft document was wrong, especially considering the lack of confirmations mentioned above. In addition, the comment that "consumers share the costs of production by paying higher prices and that the effect on total revenue of increased costs of production is substantially attenuated" tells me that somebody has no clue at all about the realities of the marketplace.

I believe the goals of the draft proposal, the timelines regarding the elimination of irrigation runoff, the meeting of water quality toxicity standards, sediment and turbidity standards, and nutrient and salt water quality standards are in many cases physically impossible. I firmly believe that, and I believe that there has to be a middle ground which shows satisfactory progress towards achieving water quality goals with more reasonable timelines. I just don't see how we can get to where staff thinks we should be on the timeline they are giving us to get there. If the board passes a plan which is not achievable, they will have only set us up for failure while not solving the water quality problem.

Sincerely,

David Costa

David Costa
Costa Family Farms
