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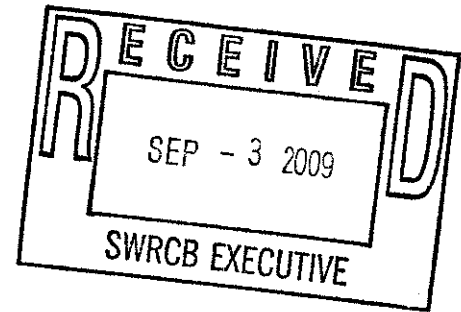
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REPLY TO  
 ROSEVILLE  
 MADERA

September 3, 2009

VIA EMAIL COMMENTLETTERS@WATERBOARDS.CA.GOV,  
FACSIMILE (916) 341-5980, AND U.S. MAIL

Jeanine Townsend  
Clerk of the Board  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814



Re: Upper Santa Clara River Chloride SSOs and TMDL Revision

Dear Members of the State Water Resources Control Board:

Cota Cole & Associates represents the Owners of Rancho Camulos, who own 1800 acres, of which 800 acres are irrigated, agricultural property in Ventura County, California. This property is prime farmland and is used to cultivate many crops, including strawberries and avocados. Rancho Camulos is located in Reach 4B of the Santa Clara River Watershed and has continued to be detrimentally affected by the ever-escalating chloride levels from the Santa Clara River, which substantially impair both the Rancho's surface water flows and its underlying groundwater.

For the reasons set forth below, we request that the State Water Resources Control Board ("SWRCB") reject the proposed amendments to the Los Angeles Regional Water Quality Control Board ("LARWQCB"), which are intended to establish Site Specific Objectives ("SSOs") for chloride and to revise the Total Maximum Daily Load ("TMDL") for the Santa Clara River. These amendments to the Basin Plan, set forth in Resolution No. R4-2008-012, would effect a taking without just compensation and violate the due process rights of the Rancho Camulos Owners, as the amendments contemplate the creation of a well field on Rancho Camulos without prior notice to, or the consent of, those Owners. Additionally, the guidelines for allowable concentrations of chloride in the Santa Clara River far exceed those necessary to protect the agricultural uses on the Rancho property.

For these reasons, as discussed more fully below, the SWRCB should, at a minimum, remand this matter to the LARWQCB for further consideration.

(DPC/00008860.)

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**Creation of a Well Field on the Property of the Rancho Camulos Owners Would Violate Those Owners' Due Process Rights and Constitute a Taking**

Based on a review of the proposed amendments, it appears that, in order to achieve the objectives of Resolution No. R4-2008-012, a well field will be required to be created on the Rancho Camulos property. Page 4 of the Resolution states, "The proposed implementation activities under AWRM, which will *increase chloride export from the East Piru groundwater basin underlying Reach 4B*, will offset any increases in chloride discharge." (Emphasis added.) The East Piru groundwater basin underlying Reach 4B referred to can only be read to mean the Rancho Camulos property.

Page 5 of the Resolution also makes reference to an example of "extraction wells and water supply conveyance pipelines." This term of "extraction wells" is undefined, but when read in conjunction with the previous passage, can only refer to the creation of a well field on the Rancho Camulos property. In addition, the SSOs for Santa Clara River surface waters are specifically dependent on chloride load removed by *extraction wells*. (See Attachment A, Resolution R4-2008-012, Table 3-8a., fn. 3i.)

Given Resolution No. R4-2008-012's apparent reliance on a well field being created on Rancho Camulos property, the Rancho Camulos Owners are adamantly opposed to the proposed amendments. The Rancho Camulos Owners have not consented to the pumping of their groundwater and have no intention of entering into any agreements for that purpose. Further, despite the LARWQCB's assertion that it is consulted with all affected stakeholders, the Rancho Camulos Owners have never been properly consulted regarding the proposed well field and have had no meaningful opportunity to comment on the proposed amendments.

To the extent LARWQCB intends to utilize a well field to address the escalating chloride concentrations in the Santa Clara River, such a proposal would violate the due process rights of the Rancho Camulos Owners, as they have never received sufficient notice of the proposed amendments or an opportunity to consent to them. Further, should LARWQCB attempt to utilize a well field on Rancho Camulos property, it would effectively be taking the Rancho Camulos property without just compensation in violation of the Fifth and Fourteenth Amendments of the United States Constitution.

Given these serious constitutional concerns, we strongly urge the SWRCB to reject the proposed amendments and remand the matter to LARWQCB for further consideration.

**The Conditional SSOs for Santa Clara River Surface Waters are Set Too High**

Table 3-8a. in Attachment A of the SSO for Santa Clara River surface waters sets a chloride level of 117/130 (mg/L) or less for the area surrounding Rancho Camulos. This level is woefully inadequate, and if permitted, would decimate the agricultural uses of the Rancho Camulos property. Rancho Camulos farms several crops, including strawberries and avocados, both of which are adversely affected by the rising chloride levels caused by the upstream

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treatment plants. ARWM studies have indicated that maximum safe chloride levels for avocados are between 100-117 mg/L. Therefore, starting the triggering level for mitigation of chloride pollution at the *top* of this range, 117 mg/L, as the SSOs provide, is unacceptable.

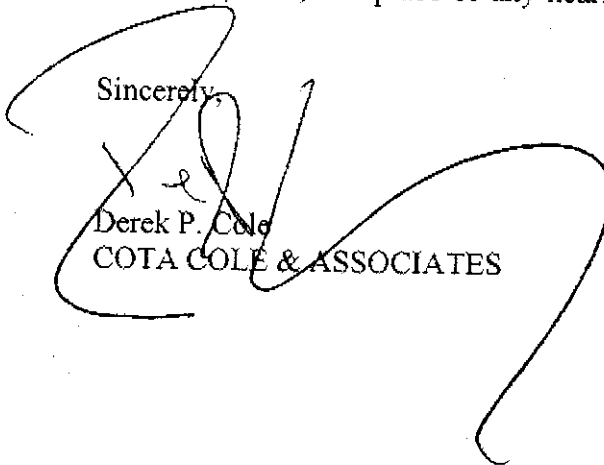
Simply put, the amendments do little to rectify the escalating chloride levels in the Santa Clara River, particularly as those levels continue to detrimentally affect agricultural uses. For this reason, in addition to those described above, the only appropriate action at this time is for the SWRCB to reject the amendments and remand the matter to LARWQCB for further consideration.

### Conclusion

For the reasons described above, we request that the SWRCB reject the proposed amendments to the Basin Plan and remand it to LARWQCB so it may address the Rancho Camulos Owners' serious concerns.

Please ensure my office is notified of the date, time, and place of any hearing SWRCB holds regarding this matter.

Sincerely,



Derek P. Cole  
COTA COLE & ASSOCIATES