



6342 BYSTRUM RD. • P. O. BOX 488 • CERES, CA 95307  
PH. 209.538.3131



June 26, 2014

Felicia Marcus, Chair  
State Water Resources Control Board  
c/o Clerk of the Board  
Via Electronic Mail: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

**Re: 7/1-2/14 Board Meeting Item 5 – Consideration of a proposed Resolution regarding drought related emergency regulations for curtailment of diversion to protect senior water rights**

Dear Chair Marcus:

The following comments are respectfully submitted by John Franzia. West Coast Grape Farms owns and farms over 40,000 acres of wine grapes throughout California. Our company exercises water conservation as a matter of policy. While we appreciate the efforts of the State Board during drought to protect supplies for senior water rights and the environment, the proposed regulations go too far. It is one thing to require conservation and reasonable use – it is quite another to allow your staff to order curtailment of private property rights without due process of law.

The proposed regulation would delegate all of the Board's authority to issue curtailment orders to staff and allow these orders to be issued prior to any evidentiary hearing or opportunity to be heard by the effected water right holder. Such a rule deprives water right holders of due process and establishes a risky precedent. An effected water right holder would be required to exhaust administrative remedies with the board (a 90 day process) before challenging any such order in Court. For growers, this is too late. Either crops will be dead due to lack of water, or monetary penalties for violation of the order will have already accrued.

While drought conditions are severe, water users, including our company, have stepped up and worked together to find solutions. Senior water right holders are not complaining to you or asking you to curtail additional diversions. Absent these complaints or evidence of imminent environmental damage, the board should not be considering further curtailment.

Further, if you grant the requested authority to your staff, they could issue curtailment orders, under the guise of protecting prior rights, to provide more water for the environment. This would effectuate an unconstitutional taking of private property without due process or just compensation. This can be easily avoided by allowing the current cease and desist order process, which provides for notice and opportunity to be heard, to work.

We respectfully request that you not adopt the proposed regulations. If additional curtailments are warranted, your staff should schedule an evidentiary hearing, after due notice to effected parties, and your board –as the proper adjudicatory body – should issue the necessary orders.

Sincerely,

John Franzia  
Co-President