



CALIFORNIA FARM BUREAU FEDERATION

NATURAL RESOURCES AND ENVIRONMENTAL DIVISION

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

Via Email Only

commentletters@waterboards.ca.gov

September 17, 2013



Ms. Jeanine Townsend
Clerk of the Board
State Water Resources Control Board
1001 I St., 24th Flr.
Sacramento, CA 95814

Re: Comments to SWRCB/OCC Files A-2209(a)-(e)—September 24, 2013, Board Meeting

Dear Ms. Townsend:

The California Farm Bureau Federation (“Farm Bureau”) is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home, and the rural community. Farm Bureau is California’s largest farm organization, comprised of 53 county Farm Bureaus currently representing more than 74,000 agricultural, associate, and collegiate members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California’s resources.

California Farm Bureau Federation, Monterey County Farm Bureau, San Benito County Farm Bureau, San Luis Obispo County Farm Bureau, San Mateo County Farm Bureau, Santa Barbara County Farm Bureau, Santa Clara County Farm Bureau, and Santa Cruz County Farm Bureau (collectively “Farm Bureau”) appreciate the opportunity to review the State Board’s September 9, 2013 Revisions to the Proposed Order (hereinafter “3rd Revised Proposed Order”) in response to the various petitions filed with respect to the Central Coast Water Board’s adoption of the 2012 Ag Order, and provide the following comments and concerns.

NANCY N. McDONOUGH, GENERAL COUNSEL

ASSOCIATE COUNSEL:

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

A. Water Quality Standards Compliance, Provisions 22-23; Effective Control of Pollutant Discharges, Provisions 82, 84-87

Farm Bureau appreciates the 3rd Revised Proposed Order's revisions to the discussion preceding provisions 22 and 87.5 to provide clarity that the Agricultural Order does not require immediate compliance with water quality standards but rather, the implementation of management practices in an iterative manner constitutes compliance. Nevertheless, Farm Bureau opines that specific revisions to the provisions themselves are needed to adequately incorporate the discussion's statements into the text of the Order. In order to accomplish this need, Farm Bureau supports the revisions provided by the Grower-Shipper Association in its written comments submitted on September 3, 2013 and its September 10, 2013 PowerPoint presentation.

B. Containment Structures, Provision 33

Notwithstanding the 3rd Revised Proposed Order's revisions to include commentary specifying why the use of the word "avoid" is appropriate, Farm Bureau supports the previous draft's revisions to Provision 33 requiring containment structures to "minimize percolation of waste to groundwater" rather than the Revised Proposed Order's change to "avoid the percolation of waste to groundwater." (See 3rd Revised Proposed Order, p. 26, contrasted with the first draft Proposed Order, p. 22.) As currently amended, Provision 33 negatively impacts the use of containment structures, thus preventing needed and beneficial groundwater recharge and reduced loadings to nearby waters of the state. In order to avoid the unintended consequences of preventing the use of containment structures or retention ponds to control, capture, retain, and reuse stormwater runoff and irrigation water, Farm Bureau suggests the use of the following language taken directly from the adopted Central Valley Regional Water Quality Control Board's Eastern San Joaquin River Watershed Waste Discharge Requirements (General Order R5-2012-0116):

Settling ponds, basins, and tailwater recovery systems shall be constructed, maintained, and operated to prevent groundwater degradation, erosion, slope failure; and minimize the discharge of sediment. The construction and operation must be consistent with the applicable Natural Resources Conservation Service (NRCS) conservation practice standard, an NRCS or University of California Cooperative Extension recommendation, or an equivalent alternative standard.

Such language addresses the 3rd Revised Proposed Order's concerns to prevent the degradation of groundwater while allowing the continued use of containment structures.

C. Groundwater Monitoring, Provision 51 and Part 2 of Tier 1-3 MRPs

1. Requirement for Cooperative Groundwater Monitoring to Monitor All Wells, Revision to Section A.6 of Part 2 of MRP Orders 1, 2, and 3

Farm Bureau appreciates and supports the 3rd Revised Proposed Order's revisions deleting the requirement to monitor "all domestic water wells to the same extent as wells monitored under the individual groundwater monitoring provisions." (3rd Revised Proposed Order, p. 31.) The 3rd Revised Proposed Order contains detailed requirements ensuring cooperative groundwater monitoring programs properly protect drinking water sources (including characterization of wells if there is a concern the well is approaching the nitrate MCL as well as follow up monitoring of individual wells in certain circumstances), making the need for monitoring all wells unnecessary, costly, and highly burdensome.

2. Notification Requirements, Addition of Section A.7 of Part 2 of MRP Orders 1, 2, and 3

Farm Bureau appreciates and supports the 3rd Revised Proposed Order's revisions deleting the requirement to provide notification for an exceedance of *any* primary or secondary MCL. Farm Bureau further supports the Order's focus on exceedances of the nitrate MCL rather than every constituent. Farm Bureau does question the feasibility of the notification requirement requiring "the discharger or third party...provide notice to the Regional Water Board and users within 24 hours of learning of the exceedance." (3rd Revised Proposed Order, p. 34.) The feasibility of notifying all users of that water within 24 hours is highly problematic given numerous hurdles including, but not limited to, the time of the season and potential restrictions in physically accessing users (due to lease agreements). Farm Bureau recommends changing the 24 hour requirement to a period of at least five (5) days.

D. Total Nitrogen Applied, Provision 70 and Part 2, Section C.5 of Tier 2 and Tier 3 MRPs

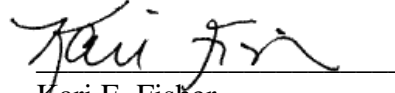
Farm Bureau appreciates the 3rd Revised Proposed Order's revisions creating two methods for reporting total nitrogen applied, allowing growers to choose between reporting at either the nitrate loading risk unit level or the management block/field level. Notwithstanding Farm Bureau's appreciation of the revisions amending the overly burdensome requirement to report at each field or management block, Farm Bureau remains concerned with the overall method of reporting total nitrogen in the Annual Compliance Form while the Expert Panel and the CDFA Task Force proceeds with its evaluations and recommendations. As previously stated orally and in written comments¹,

¹ For the sake of brevity, Farm Bureau incorporates by reference its previous arguments on nitrogen reporting rather than restating them here.

Farm Bureau recommends including total nitrogen applied in the Farm Plans rather than reporting the figures in the Annual Compliance Form during the interim.

Farm Bureau appreciates the State Board's consideration of these petitions as well as the opportunity to comment on the State Board's 3rd Revised Proposed Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Kari Fisher", written over a horizontal line.

Kari E. Fisher

Attorney for Petitioners

California Farm Bureau Federation

Monterey County Farm Bureau

San Benito County Farm Bureau

San Luis Obispo County Farm Bureau

San Mateo County Farm Bureau

Santa Barbara County Farm Bureau

Santa Clara County Farm Bureau

Santa Cruz County Farm Bureau

KEF/pkh

Cc: Attached Service List (electronically only)

SERVICE LIST
SWRCB/OCC Files A-2209(a)-(e)
 (sent via e-mail)

<p>William J. Thomas, Esq. Wendy Y. Wang, Esq. Best Best & Krieger LLP 500 Capitol Mall, Suite 1700 Sacramento, CA 95814 william.thomas@bbklaw.com wendy.wang@bbklaw.com</p>	<p>William Elliott 323 McCarthy Avenue Oceano, CA 93445 elliottsl@aol.com</p>
<p>Tess Dunham, Esq. Somach Simmons & Dunn 500 Capitol Mall Suite 1000 Sacramento, CA 95814 tdunham@somachlaw.com</p>	<p>Deborah A. Sivas, Esq. Leah Russin, Esq. Alicia Thesing, Esq. Brigid DeCoursey, Esq. Environmental Law Clinic 559 Nathan Abbott Way Stanford, CA 94305-8610 dsivas@stanford.edu</p>
<p>Nancy McDonough, Esq. Kari E. Fisher, Esq. Ms. Pamela Hotz California Farm Bureau Federation Legal Services Division 2300 River Plaza Drive Sacramento, CA 95833 kfisher@cfbf.com photz@cfbf.com</p>	<p>Mr. Michael Thomas Assistant Executive Officer Central Coast Regional Water Quality Control Board 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401 mthomas@waterboards.ca.gov</p>
<p>Ms. Angela Schroeter Senior Engineering Geologist Central Coast Regional Water Quality Control Board 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401 aschroeter@waterboards.ca.gov</p>	<p>Ms. Lisa McCann Environmental Program Manager I Central Coast Regional Water Quality Control Board 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401 lmccann@waterboards.ca.gov</p>
<p>Mr. Darrin Polhemus Deputy Director Division of Administrative Services 1001 I Street, 18th Floor [95814] P.O. Box 100 Sacramento, CA 95812-0100 dpolhemus@waterboards.ca.gov</p>	<p>Mr. Tom Howard Executive Director Executive Office State Water Resources Control Board 1001 I Street, 25th Floor [95814] P.O. Box 100 Sacramento, CA 95812-0100 thoward@waterboards.ca.gov</p>

<p>Mr. Jonathan Bishop Chief Deputy Director Executive Office State Water Resources Control Board 1001 I Street, 24th Floor [95814] P.O. Box 100 Sacramento, CA 95812-0100 jbishop@waterboards.ca.gov</p>	<p>Ms. Victoria Whitney Deputy Director Division of Water Quality State Water Resources Control Board 1001 I Street, 15th Floor [95814] P.O. Box 100 Sacramento, CA 95812-0100 vwhitney@waterboards.ca.gov</p>
<p>Mr. Johnny A. Gonzales Irrigated Lands Regulatory Program Coordinator Division of Water Quality State Water Resources Control Board 1001 I Street, 15th Floor [95814] P.O. Box 100 Sacramento, CA 95812-0100 jgonzales@waterboards.ca.gov</p>	<p>Lori T. Okun, Esq. Office of Chief Counsel State Water Resources Control Board 1001 I Street, 22nd Floor [95814] P.O. Box 100 Sacramento, CA 95812-0100 lokun@waterboards.ca.gov</p>
<p>Frances L. McChesney, Esq. Office of Chief Counsel State Water Resources Control Board 1001 I Street, 22nd Floor [95814] P.O. Box 100 Sacramento, CA 95812-0100 FMcChesney@waterboards.ca.gov</p>	<p>Jessica M. Jahr, Esq. Office of Chief Counsel State Water Resources Control Board 1001 I Street, 22nd Floor [95814] P.O. Box 100 Sacramento, CA 95812-0100 jjahr@waterboards.ca.gov</p>
<p>Emel G. Wadhvani, Esq. Office of Chief Counsel State Water Resources Control Board 1001 I Street, 22nd Floor [95814] P.O. Box 100 Sacramento, CA 95812-0100 ewadhvani@waterboards.ca.gov</p>	<p>Mr. Gordon R. Hensley San Luis Obispo Coastkeeper Environment in the Public Interest EPI-Center, 1013 Monterey Street, Suite 202 San Luis Obispo, CA 93401 coastkeeper@epicenteronline.org</p>
<p>Ms. Kira Redmond Mr. Ben Pitterle Santa Barbara Channelkeeper 714 Bond Avenue Santa Barbara, CA 93103 kira@sbck.org ben@sbck.org</p>	<p>Mr. Dale Huss Ocean Mist Farms 10855 Ocean Mist Parkway Castroville, CA 95012 daleh@oceanmist.com</p>
<p>Jensen Family Farms, Inc. 323 McCarthy Avenue Oceano, CA 93445 ElliottSLO@aol.com</p>	<p>Mr. William Elliott Jensen Family Farms, Inc. 323 McCarthy Avenue Oceano, CA 93445 ElliottSLO@aol.com</p>

<p>Mr. Steven Shimek Monterey Coastkeeper The Otter Project 475 Washington Street, Suite A Monterey, CA 93940 exec@otterproject.org</p>	<p>Mr. Dennis Sites RC Farms 25350 Paseo del Chaparral Salinas, CA 93908 dsitesagmt@aol.com</p>
<p>Ms. Abby Taylor-Silva, Vice President Policy and Communications Grower-Shipper Association of Central California 512 Pajaro Street Salinas, CA 93901 abby@growershipper.com</p>	<p>Ms. Claire Wineman, President Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties 245 Obispo Street P.O. Box 10 Guadalupe, CA 93434 claire.wineman@grower-shipper.com</p>
<p>Mr. Hank Giclas, Senior Vice President Strategic Planning, Science and Technology Western Growers P.O. Box 2130 Newport Beach, CA 92658 hgiclas@wga.com</p>	<p>Mr. Ken Harris Interim Executive Officer Central Coast Regional Water Quality Control Board 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401 kharris@waterboards.ca.gov</p>
<p>Philip G. Wyels, Esq. Office of Chief Counsel State Water Resources Control Board 1001 I Street, 22nd Floor [95814] P.O. Box 100 Sacramento, CA 95812-0100 pwyels@waterboards.ca.gov</p>	