



CALIFORNIA FARM BUREAU FEDERATION

NATURAL RESOURCES AND ENVIRONMENTAL DIVISION

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Via First-Class Mail & Email
byee@waterboards.ca.gov

Ms. Betty Yee
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite # 200
Sacramento, CA 95670

Re: Comments on the 2009 Triennial Review of the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins

Dear Ms. Yee:

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 approximately 85,000 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.

Farm Bureau appreciates the opportunity to comment on the upcoming Central Valley Regional Water Quality Control Board Triennial Review of the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins. Farm Bureau believes critical issues for the Regional Board to address in the next Basin Plan review include development of sound policy for Beneficial Use Dedications, development of strategies and policies for Agricultural Dominated Water Bodies, especially a sound policy to address the application of the Tributary Rule to Agricultural Dominated Water Bodies and Agricultural Conveyance Facilities, an integrated multi-agency policy to address Salt Management, in addition to others.¹

Specifically, Farm Bureau offers the following comments on issues which should receive high priority:

¹ Farm Bureau is not prepared at this time to offer any specific recommendations on the Board’s Triennial Review, in terms of proposed revisions, specific objectives, or waterbodies, etc., and rather we reserve any more detailed comments for subsequent stages in the periodic review process

Beneficial Use Dedications

Beneficial Use Dedications should continue to occur, especially in water ways that are inappropriately designated as MUN. Proper application of appropriate beneficial use dedications to water bodies, which may result in numerous dedications, must occur.

The Regional Board should look to its past policy documents and publications to initiate dialog with stakeholders and other agencies with the goal of developing a planning process to appropriately apply *proper* beneficial uses to all water bodies. Farm Bureau appreciates the magnitude of this endeavor; however, we believe a well-prioritized process that is enlightened by public input is superior to ad-hoc adjustments driven by State Board order or judicial mandate.

Agricultural Dominated Water Bodies

Farm Bureau believes it is essential for the Regional Board to develop a sound policy for effluent dominated water bodies that includes, but is not limited to, agricultural dominated water bodies and agricultural conveyance facilities. The importance of this issue cannot be overstated as, nearly thirty years after first acknowledging that the “the Basin Plan’s beneficial use dedications remain uncompleted,”² there is still no plan or priority process to address this fundamental requirement. The importance and need for an effluent dominated water bodies policy requires development of as a self-standing, near-term activity and not as a subset of a potential future irrigated lands program.

The ‘tributary rule’ that currently extends designated beneficial uses in one water body to any water bodies tributary to that water body that lack their own formally designated beneficial uses is overly coarse and unworkable, as a practical matter, simply because it would tend to make upstream dischargers in agricultural dominated water bodies, for example, theoretically liable for one or more unachievable standards that do not, in fact, reflect any actual use that is locally supported by said agricultural dominated water way. Also, because of the practical and logistical difficulty of enforcing or applying the tributary rule to each individual water body, the tributary rule does *not* in fact accomplish its alleged regulatory purpose of protecting or improving water quality, but *does* unreasonably and unpredictably expose individual dischargers to undue risks of potential enforcement and excessive compliance costs and even prosecution.

As an alternative to the tributary rule, the Board can follow established processes to formally designate beneficial uses in an upstream water body or, subtractively, ‘dedesignate’ specific beneficial uses that would otherwise extend to that water body by virtue of the tributary. Such processes, however, have likewise shown themselves to be extremely cumbersome and are, consequently, very nearly as unworkable as the tributary rule itself.

² Central Valley Regional Water Quality Control Board Hearing Transcript (July 10, 2003) at pg. 21.

Central Valley Regional Water Quality Control Board
Triennial Review Comments-Sacramento River and San Joaquin River Basins

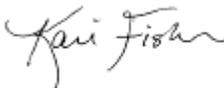
As opposed to rote application of the tributary rule, therefore, or a case-by-case, location-specific designation, dedesignation, or enforcement, a more workable potential approach for the Regional Board's consideration in this Triennial Review might involve a new policy that seeks to reasonably protect broad downstream beneficial uses without impairing more narrowly defined uses above, by more holistically and realistically approaching water quality on a broad watershed basis.

Salt Management Policy

A policy to address and manage salt in the Sacramento River and San Joaquin River Basins is needed. As the Regional Board observes, certain regulatory tools or controls on salinity lie within the Board's jurisdiction, while other aspects which might be required for such a comprehensive management approach, lie outside of the Board's jurisdictional reach. Without a doubt, however, excessive accumulation of salts in Central Valley soils and waters is a serious problem and a long-term, regional threat to the viability of agricultural activities in certain areas of the Central Valley. Accordingly, a concerted long-term effort to address this problem is, in our view, not only desirable, but absolutely necessary. While Farm Bureau readily acknowledges as much, however, we would also draw the Board's attention to its own observation that regulatory Basin Plan elements of comprehensive salinity management plan could potentially "result in more restrictive discharge limits, requirements to conduct costly studies, implementation of treatment measures or projects to manage salt, and potentially prohibition of certain discharges." To integrate parallel efforts and minimize such detrimental impacts of a purely regulatory approach on existing economic uses, therefore, it will be critically important to include proper coordination and integration with all interested and applicable entities and stakeholders, and also to coordinate closely with on-going efforts occurring independently of the Board's jurisdiction, including both salinity management efforts and the potential of new infrastructure to more fundamentally address root causes of the current salt imbalance, particularly on the westside San Joaquin Valley.

Thank you for the opportunity to provide our comments. We look forward to further involvement and discussion with the Regional Board on the development of Triennial Review.

Sincerely,



Kari E. Fisher
Associate Counsel



Justin E. Fredrickson
Environmental Policy Analyst

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