March 17, 2011

Katherine Hart
Chair, Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

Re: Recommended Irrigated Lands Regulatory Framework: Groundwater

Dear Chairperson Hart and Board Members,

We are representatives of environmental and environmental justice communities located in the Central Valley and throughout California, writing to remind you of the urgent need to address widespread groundwater contamination attributable to irrigated agriculture, and your responsibility under the Porter-Cologne Act to do so. We appreciate the hard work that staff has put into preparing the Framework that you are being asked to approve as well as their efforts to keep us engaged and informed during the process of developing these recommendations.

We are deeply concerned that the Framework is being adopted as a resolution rather than a regulation; however, your support of measures contained in the framework and the inclusion of additional measures will provide strong guidance to staff as they develop implementing orders. To that end, we would like to offer specific suggestions to strengthen that guidance in order to effectively protect the Valley's groundwater resources.

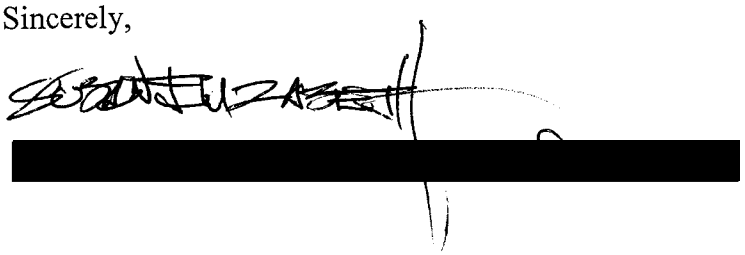
As previously stated in comments on the draft program, an effective regulatory program must contact the following elements: 1) effective on-farm programs that actually reduce polluted runoff; 2) basic data collection on farm practices and water quality in order to establish a baseline, evaluate management practices and measure progress towards water quality objectives; 3) clear standards for compliance to ensure that water quality goals and timelines are met; 4) strong enforcement powers to ensure compliance; and 5) provisions for cleanup and abatement of legacy agricultural contamination.

In order to fully protect and restore groundwater supplies, this program requires the following changes:

- ***A time schedule and measurements of compliance for groundwater that is protective of public health and water quality.*** The current groundwater compliance goal of "a demonstrated improvement in water quality or a reduction in discharge" is inappropriate because it does not require dischargers to meet specific water quality

objectives at any point in time or space. If there is no requirement to meet water quality objectives, they will not be met, and drinking water in the Central Valley will continue to deteriorate.

- ***Greater emphasis on enforcement.*** The framework does not address enforcement except to remove one tool, the prohibition of discharge, with the argument that use of this would reduce the Board's enforcement discretion and expend staff resources. We strongly disagree with this characterization. The proposed framework already limits staff's ability to aggressively enforce the program through its reliance on third party coalitions to implement most facets of the program. Removing the threat of a prohibition of discharges renders this program even more toothless.
- ***The establishment of a cleanup and abatement account for enforcement fines to fund mitigation of drinking water contamination.*** The suite of potential enforcement actions listed in the discussion of Key Element 5 does not include the exaction of fines to fund mitigation efforts. Improvement in drinking water quality will be slow; the Board should use this mechanism to help communities achieve safe drinking water.
- ***Data collection should include information on fertilizer application for all Tier 2 and Tier 3 dischargers.*** The most significant contaminant of groundwater is nitrate, which leaches through excess fertilization of irrigated fields. A very basic tool for identifying potential problem areas is a requirement that dischargers report their fertilizer application, and that that information be made publicly available. This can help the board prioritize operations for inspection, and also provide very basic information about the success of the program in reducing inputs to groundwater.

We have many other concerns, in particular the very limited protections for surface water in the framework, which is addressed in another letter. We urge the Board to incorporate our recommendations into the framework prior to adoption.

Sincerely,