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**RECEIVED**

SEP 9 2013

RWQCB-CVR  
FRESNO, CALIF.

September 8, 2013

Allan Cregan  
Central Valley Regional Water Quality Control Board  
1685 "E" Street  
Fresno, CA 93706

Re: Tentative General Waste Discharge Requirements for Existing Dairies  
R5-2007-0035R

Dear Mr. Cregan:

We are James and Amelia Sweeney, and we carry on a small dairy operation at 30712 Road 170, Visalia, Tulare County, California. Please treat this letter as our public comment to your Tentative General Waste Discharge Requirements for Existing Dairies (2013 Order). Please make it and all of our attached Exhibits a part of the administrative record for the 2013 Order.

**We Are Being Denied Due Process.**

We attach a copy of your Notice about this Tentative 2013 Order.<sup>1</sup> It was first posted on your website on or after August 9, 2013. It was posted at an obscure, difficult-to-find location. One would have to navigate through all of the following menu choices to stumble across the Notice and the Tentative 2013 Order (and its Attachments):

Public Notices

Decisions Pending

Tentative Orders

All Other Orders for Future Board Meetings

Reissuance of General Waste Discharge Requirements  
for Dairies

Indeed, we would have had no idea that the Third Appellate District Court had declared in November, 2012 that your prior General Waste Discharge Requirements for Dairies, No. R5-2007-0035 (2007 Order), was illegal, or that on April 16, 2013 the Superior Court for Sacramento County had ordered the Central Valley Regional Water Quality Control Board (Regional Board) to set aside the 2007 Order.

No written notice regarding your proposed 2013 Order has been mailed to us. The only reason we became aware of these court decisions and of your Tentative 2013 Order and its 30-day comment period ending September 9, 2013 was because one of your staff members happened to call them to our attention on August 12, 2013.

<sup>1</sup> Exhibit A

We recently asked a few dairymen who are friends of ours, and discovered that none of them had received written notice of the Tentative 2013 Order or of the comment period. They, too, were unaware of the 2013 Order and unaware of the Courts' decisions with respect to the 2007 Order.

The landmark U. S. Supreme Court case of *Mullane v. Central Hanover Bank & Trust Company*, 339 U.S. 306 (1950), held that, under the protections afforded by the 14<sup>th</sup> Amendment of the United States Constitution, all persons are entitled to receive notice that is "reasonably calculated" to inform them of proceedings that will affect them. The Regional Board has a list of mailing addresses for each dairy owner subject to their jurisdiction and purview, including us, who they know will or could be affected by the adoption of this proposed 2013 Order. As a result, under the doctrine of the *Mullane* case, the Regional Board has denied us of due process, as well as all other dairymen and known dairy organizations to whom they failed to give actual notice.

Moreover, your proposed 2013 Order is long and complex. We need far more than 30 days to adequately read, study and digest its contents and, where necessary, to engage expert consultants to assist us in the process and perhaps prepare expert testimony and relevant evidence for submission. We hereby request that the Regional Board grant an extension of the comment period for at least 60 additional days. The Board's refusal or the granting of a lesser extension would be unreasonable and a further denial of due process, not only to us but to all dairymen affected by the adoption of this proposed 2013 Order.

In the meantime we will do the best we can given this inadequate comment period, and we present the following comments and evidence regarding your 2013 Order:

**The Water Code Requires the Adoption and Implementation of Water Quality Objectives and the Adoption of Waste Discharge Requirements That Take Into Consideration Economic Conditions. Your Basin Plans and Your Proposed 2013 Order Do Not Do So.**

According to a recent report by the California Milk Advisory Board, the California dairy industry is responsible for 443,574 jobs, \$63 billion in economic activity, and provides one fifth of the nation's milk supply.<sup>2</sup>

When the 2007 Order took effect, it governed over 1600 dairies. As of July, 2012, however, according to data provided to me by the Regional Board, there were 1221 dairies in the Regional Board's Region. Many dairies have sold out since then. Therefore, more than twenty five percent of the total dairies in the Central Valley Region have closed during the past four years.

Earlier, we had requested data from the Regional Board staff that would reveal the report filing rate of dairies, broken down by herd size. In response to our request, Jorge Baca, from the Regional Board, provided us with data concerning the dairies dealt with by its Fresno office. This data shows the following with respect to the dairies that provided reports to the Fresno office in 2007 as compared to 2010:

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<sup>2</sup> Exhibit B

<b>Herd Size</b>	<b>2007</b>	<b>2010</b>	<b>Attrition</b>
Less than 400 cows	56	30	-26 = 46% attrition
400 to 700 cows	92	62	-30 = 32% attrition
Over 700 cows	485	455	-30 = .6% attrition
Total	633	547	-86 = 13% overall attrition

This data reveals that only about half the number of smaller dairies filed reports in 2010 as compared to the number of smaller dairies that filed reports in 2007. What was most meaningful in this data was the much higher rate of disappearance in the number of small dairies since the adoption of the 2007 Order.

But the above phenomenon is not surprising at all. The administrative record (AR) of your earlier 2007 Order consists of 34,000 pages of documents and testimony. We have read all of these pages and found that a great deal of testimony was presented concerning how expensive the reporting requirements set forth in the 2007 Order would be, and how especially unbearable it would be for smaller dairies:

- (1) Ms. Asgill, an agricultural economist, testified that because of the proposed 2007 general waste discharge requirements for dairies, “we are probably looking at the smaller dairies going under. Probably those dairies that we [are] usually fond of protecting – dairies under 500 milking cows - will be going out.” (Administrative Record (AR) 000444)
- (2) A letter from the State Department of Food and Agriculture Board mentioned that Governor Schwarzenegger “made a commitment to reject new regulations that unfairly impact small business. ... It is expected that new and existing regulations will be reviewed for economic impact to small business. ... we encourage the RWQCB to review your proposal ... propose alternatives that are less burdensome.” (AR 007297)
- (3) The Federal government presented input: The EPA’s Small Business Advocacy Panel submitted its recommendation to streamline the reporting requirements and that operations under 1000 animal units should be exempted from certain requirements. (AR 02397)
- (4) The State Water Resources Control Board expressed concern in its submission during the hearings that the proposed requirements “may have significant adverse economic impact on small business.” The State Board went on to recommend “different compliance or reporting requirements ... which would take into account the resources available to small business ... [and] exemption or partial exemption from regulatory requirements for small business.” (AR 019632)
- (5) Even Regional Board member Dr. Longley expressed concern: “Whereas larger dairies, a 10,000 cow dairy, would be able to absorb the costs, a 100 cow dairy is going to be faced with possible disaster.” (AR 002163)

(6) In response to a written question submitted by Baywatch, Sierra Club, California Sportfishing Protection Alliance and Waterkeeper Alliance, the Regional Board staff assured them that “the Board has the option of limiting the application of this order based on the *size of herd*,” and that “waste discharge requirements or a *waiver* of waste discharge requirements would be adopted for facilities that are not covered by the order.” (AR 000583)

However, the Board ended up granting no waivers of any kind in the 2007 Order based on herd size, despite the fact that no evidence was presented into the 2007 administrative record showing that smaller dairies were as capable as larger dairies in dealing with the additional economic burdens of complying with the reporting and other requirements contained in the 2007 Order. And no evidence was presented that disputed the abundant testimony that the proposed 2007 Order would be harmful, even fatal, to smaller dairies.

We own and operate a small dairy, milking about 290 cows. Small dairies, such as ours, are under greater economic stress than larger, more efficient dairies and, therefore, we are less able to handle the high costs involved in complying with the various waste discharge and reporting requirements described in your proposed 2013 Order. We attach a copy of a letter from our lender that confirms that our dairy facility and the dairy facilities of our size have become worthless – namely, they are worth nothing.<sup>3</sup>

Your proposed 2013 Order will eventually require all dairies to line wastewater lagoons and to install individual groundwater monitoring well systems. It looks like complying with the requirement of lining wastewater lagoons will cost the average 300 cow dairy over \$200,000.00. In our case, this would cost more than the net worth of our entire dairy facility. Many of the larger dairy operations, however, are relatively new and were required to install monitoring wells and line their ponds during construction so they will be relatively unaffected by many of these new requirements.

Complying with the requirement of each dairy installing its own network of groundwater monitoring wells on its dairy site will also be tremendously expensive. DAIRY CARES of Sacramento recently estimated that the average cost of installing an individual groundwater monitoring well system on a dairy would be \$42,000.00, and thousands of dollars each year thereafter for ongoing sampling, testing and reporting. The cost of groundwater monitoring well programs, both the installation and the periodic reporting costs, would, for the most part, be the same for small dairies as they would be for large dairies. This means that the cost per cow will be much greater for smaller dairies than for larger ones.

California Water Code Section 13240 states that “Each regional board shall formulate and adopt water quality control plans for all areas within the region. ... Such plans *shall be periodically reviewed* and may be revised.” (Emphasis ours) These plans must include its water quality objectives. Water Code Section 13241 declares that “such water quality objectives shall take into account “economic considerations.” Paragraph 14, on page 3, of your proposed 2013 Order recites that it implements its various basin water quality control plans, which include the water quality objectives set forth therein. Your proposed Order also recites that it constitutes general waste water discharge requirements for dairies in its region. Water Code Section 13263 (a) also

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<sup>3</sup> Exhibit C

states that waste discharge requirements shall not only implement adopted water quality control plans, but they shall also “take into consideration ...the provisions of Section 13241 [which includes “economic considerations”].”

In order to show that your proposed 2013 Order complies with the above code sections, you must show that you have recently reviewed your basin water quality plans and ensured that they take into account recent economic considerations. We also believe your proposed 2013 Order, as general waste discharge requirements, and as an implementation of your basin water quality plans, must also take into account current “economic considerations.” But your proposed 2013 Order does not reflect any of this. It specifically fails to implement water quality objectives and impose general waste discharge requirements that will be within the economic means of smaller dairies – operations that have to deal with disproportionately higher per cow monitoring and reporting costs. Indeed, the proposed Order fails to address the special economic circumstances of smaller dairies in any way whatsoever.

Not only is it generally accepted that small dairies are less able to deal with the high regulatory costs, but on the basis of cow numbers, we can also show that small dairies pose a dramatically smaller threat to the groundwater. The Regional Board recently prepared a report entitled 2011 Compliance by Dairy Size Annual Report, which lists each dairy within the region.<sup>4</sup> In 2011, 1,596,230 dairy cows populated the Central Valley Region. The 155 smallest dairies had 31,357 cows. The three largest dairies had 31,676 cows. The 38 largest dairies had 228,435 cows while the 430 smallest dairies had 228,211 cows. Hence, dairies with 301 to 700 cows represent 12.6% of the cows in the Central Valley Region, while dairies with 300 cows or less represent only 1.69% of the cows in the Region.

Half of the cows in our herd are Jerseys. We attach an article entitled “Study Pinpoints Sustainability of Jersey Milk Product.”<sup>5</sup> It deals with recent studies about how Jerseys have a lesser impact on the environment than Holsteins do; they produce less waste and use less water per the same amount of milk product. Your proposed 2013 Order fails to take this into account.

Water Code subsection 13269 (a) (3) gives the regional boards the authority to *waive* monitoring requirements where it determines that certain discharges “do not pose a significant threat to water quality.” Other Regional Boards have been sensitive to the issues of the lower impact of smaller dairies and to economic considerations. Both the North Coast Regional Water Quality Control Board and the San Francisco Bay Regional Water Quality Control Board have recognized how smaller dairies have a much smaller impact on groundwater, and how they are less able to bear the same regulatory expenses and burdens that larger dairies can. Both Regional Boards saw fit to adopt special performance and reporting relief for dairies under 700 cows (See Orders R1-2012-003 and R2-2003-0094, respectively)<sup>10</sup>.

In the case of the North Coast Region’s Order R1-2012-0003, it declares that “this Order applies to dairies that pose a low or insignificant risk to surface water or groundwater.” The Order goes

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<sup>4</sup> Exhibit D

<sup>5</sup> Exhibit E

<sup>10</sup>Exhibit EE

objectives,” and “that a waiver of WDRs [waste discharge requirements] for a specific type of discharge is in the public best interest.” (Emphasis mine)

In the case of the San Francisco Bay Region, it requires smaller dairies to complete and file a two-page “Reporting Form” which does not require the involvement of expensive engineers.

It should also be noted that the San Joaquin Valley Air Pollution Control District exempts smaller dairies from many of its requirements.

If the Regional Board fails to adopt either exemptions, waivers or other special relief for dairies under some reasonable herd size from most or all of the 2013 Order’s requirements, then its failure to do so will violate sections 13241 and 13263 (a) of the Water Code. It will put smaller dairies in the Central Valley region at a greater competitive disadvantage with larger dairies in the Central Valley, and at a competitive disadvantage with small dairies in the North Coast and San Francisco Bay regions. Actually, the new costs that will be imposed by the 2013 Order will be beyond the financial means of us and many other smaller dairies.

Your Tentative 2013 Order is the result of a successful lawsuit filed by the Asociacion de Gente Unida Por de Agua, et al, which sought the imposition of much stricter wastewater requirements for dairies. An advocate of such stricter requirements would likely argue that the purpose and benefit of this proposed Order is to ensure better quality drinking water, especially for those living in rural areas who depend on domestic well tap water. But did they consider how all that will matter to the many dairy workers who may lose their jobs as a result of these more costly requirements? We talk about the American dream, where immigrants were able to come to this country and start new businesses. But the cost of excessive governmental regulation is contributing to the extinction of this dream. What are the chances today of a Hispanic immigrant having any chance of starting a small dairy and succeeding? Instead of creating an environment where small, sustainable dairies can succeed, we are creating one that is toxic to the small family dairy, and that promotes their replacement by larger and larger mega dairies.

**As a Set of General Waste Discharge Requirements, Your Proposed 2013 Order, As It is Currently Written, Should Not Apply to All Dairies.**

Your proposed 2013 Order states on page 2 that it “serves as general waste discharge requirements for discharges of waste from existing milk cow dairies of *all* sizes.” (Emphasis ours)

Water Code subsection 13263 (i) provides in part:

“The state board or a regional board may prescribe general waste discharge requirements for a category of discharges if the state board or that regional board finds or determines that *all* of the following criteria apply to the discharges in that category:

- (1) The discharges are produced by the same or similar operations.

...

(2) The discharges require the same or similar treatment standards.

...”

As presently written, the proposed 2013 is a set of general waste discharge requirements that apply to *all* dairies in the Central Valley Region, regardless of size. But subsection 13263 (i) requires the Board to determine whether there are reasonably distinguishable differences such that dairies should be divided into different categories for which different general waste discharge requirements should apply.

As demonstrated, (1) smaller dairies produce significantly less dairy waste than larger dairies, and (2) smaller dairies are also significantly less able to bear the costs imposed by the general waste discharge requirements imposed under your proposed 2013 Order. The Regional Board simply cannot find or determine that smaller dairies are the same as or are similar operations to larger dairies. They are not similar in terms of the magnitude of their potential impact to groundwater or in their ability to bear the regulatory costs imposed upon them. We believe that 13263 (i) imposes upon the Regional Board the duty to divide dairies into two or more categories and impose different general waste discharges on each category. Also, as conditions differ from dairy to dairy, the most appropriate type of treatment standards may be different as well. Yet, your 2013 Order does not address or take into account any of these differences.

**The Revised Order Is Not Based On and Fails To Implement the Most Modern and Meaningful Scientific Findings and Technologies.**

Subsection 13263 (e) of the Water Code provides in part that “All [waste discharge] requirements shall be reviewed periodically.” If new and more cost effective ways can accomplish the same purpose, we contend that the above section imposes on the Regional Board a legal duty to review such issues and revise its requirements accordingly.

We attach to this letter the following documents and ask that they be made part of the administrative record:

1. “Saturated Zone Denitrification: Potential for Natural Attenuation of Nitrate Contamination in Shallow Groundwater Under Dairy Operations,” a paper resulting from a research project conducted in 2004-2005 at a Merced County dairy and at a Kings County dairy, and involving a network of 21 groundwater monitoring wells. The study was conducted by the Lawrence Livermore National Laboratory and the University of California, Davis and was funded by a grant from the State Water Resources Control Board. The paper was published in *Environmental Science and Technology*, 41:759-765 (2007).<sup>6</sup>
2. “Impact of Dairy Operation on Groundwater Quality,” a report dated August 8, 2006. It was a research project conducted in 2003-2005 by the Lawrence Livermore National

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<sup>6</sup> Exhibit F

Laboratory and the University of California, Davis and was funded by the State Water Resources Control Board. The study was conducted by using an extensive network of groundwater monitoring wells installed at three dairies in Kings County, one dairy in Merced County and on a dairy in Stanislaus County.<sup>7</sup>

3. "Manure Waste Ponding and Field Application Rates," dated March, 1973. It was a study conducted by the University of California Agricultural Extension Service, the University of California, Davis and the State Water Resources Control Board. The study involved 25 dairy manure holding ponds located in Stanislaus, San Joaquin and San Bernardino counties.<sup>8</sup>
4. "When Does Nitrate Become a Risk for Humans?" This 2008 paper was co-authored by a team of eight scientists from universities in the United States, the U.K., Netherlands and France, and the paper was published in the *Journal of Environmental Quality*, 37:291-295 (2008).<sup>9</sup>

These attached documents represent scientific research papers and reports that should be considered by the Regional Board before adopting its final 2013 Order. These documents show that competent research has demonstrated that the amount of lagoon seepage or leakage is minor because of the sealing properties of manure, and particularly when considered in the context of the small amount of surface area that lagoons represent in comparison to the entire surface area of a dairy site and its associated cropland. This sealing and minor seepage has been determined to occur regardless of whether the lagoons were constructed in heavy clay or very sandy soils. Moreover, research shows that there are bacteria below ground surface that denitrify nitrates in lagoon seepage water, such that there is a significant conversion of the nitrates (NO<sub>3</sub>) in the lagoon seepage water into inert, non-toxic nitrogen gas (N<sub>2</sub>). Indeed, it has been found that complete denitrification has occurred at approximately 40 feet below ground surface, and that this occurs regardless of the soil types involved.

Modern research has also ascertained that there are certain compounds and gasses in manure water that can be used to determine whether it is water from dairy lagoons or from waste applied in irrigation water that may have infiltrated into first encountered groundwater. Tests exist that detect the presence or absence of tritium and that measure 4He. These tests can determine the age of the groundwater. In other words, testing methods exist that can show whether a dairy's operations have actually impacted the tested groundwater, or whether the nitrates encountered came from sources other than the dairy operation. I am aware of a situation where a dairyman built a new facility ten years ago in Madera County. He was required by the County to test the water for nitrates from his newly drilled domestic and irrigation well. The tests revealed high nitrates, even though no animals had yet been brought to the new facility and even though there were no dairy facilities within ten miles of his new dairy site. This shows how simple testing for the presence of nitrates is inadequate to prove their source.

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<sup>7</sup> Exhibit G

<sup>8</sup> Exhibit H

<sup>9</sup> Exhibit I

Modern research has also established that ammonium and other undesirable constituents found in lagoon seepage water adhere to the soil particles immediately beneath the lagoon and do not migrate into lower groundwater tables. Even salt has been found to seep out of the bottoms of lagoons in very small amounts.

We also see from one of the papers that the very underpinnings of the need to regulate nitrates is being challenged; that perhaps the health threats of nitrates are misplaced or overstated at the levels commonly found in our Valley groundwater. In any event, the paper insists that more research needs to be done to see whether the current allowable limits for nitrates should be significantly relaxed, and whether there is a more cost effective way to address whatever health risks are ultimately found to *actually* exist.

We noticed that your 2013 Order makes periodic references to the Brown, Vance Report. This report, entitled, "Review of Animal Waste Management Regulations: Evaluation of Alternative Confined Animal Facilities Criteria to Protect Groundwater Quality from Releases.", is a report released in November, 2004 by Brown, Vance & Associates, an engineering firm engaged by the San Jose State University Foundation, and which was funded by a grant from the State Water Resources Control Board. The report, with its Appendices, is very long - about 120 pages - so we will not attach a copy herewith, but the Regional Board and its staff have been in possession of it since its release in 2004. It needs to be pointed out that the report was produced before the more recent research papers (Exhibits E, F, and H) were published. Indeed, most of Brown's observations and recommendations have been subsequently undermined, put into question and/or otherwise debunked by these studies and reports. In addition, the Brown report's assessment of the average costs of its recommended measures, having been arrived at in 2002, are now wildly obsolete and therefore inapplicable in light of the dramatically changed revenue and cost conditions that currently exist in the dairy industry. The Brown, Vance report should be disregarded as supporting the contents of much of the 2013 Order.

In short, old and new research and advanced technologies that presently exist show that there are more accurate and less expensive means for evaluating groundwater contamination risk, of determining non-contamination of groundwater, and of using less expensive practices that can prevent such contamination. Most of your 2013 Order's reporting requirements are primitive, antiquated, obsolete, and provide nothing of real value, except for lining the pockets of engineers, consultants and laboratories. It is evident that your Regional Board and its staff has not sufficiently examined and considered the most recent research and the most advanced testing technologies. At least, we see no evidence of it in your proposed 2013 Order. Rather, your Order reflects an abject absence of the most modern knowledge available, similar to the stubborn adherence to Flat-Earth beliefs during the Renaissance.

**We Need to See the Raw Data Collected by the Regional Board From All Tulare Lake Basin Dairy Site Groundwater Monitoring Wells Over the Last Ten Years.**

We have seen letters sent in 2003 by the Regional Board staff to a particular Tulare County dairyman. The first letter required the dairyman to submit test results from his deep irrigation wells. When one of the wells showed a nitrate-nitrogen level of 22 mg/L, the Regional Board required the dairyman to install a network of groundwater monitoring wells and to begin sending

quarterly test results to the Board thereafter. We understand that a large number of dairymen were required to install monitoring wells at about the same time. We assume that the Regional Board has been continuously receiving test data from these wells over the last ten years. Provocatively, your proposed 2013 Order states on page 5:

“23. Groundwater monitoring shows that many dairies in the Region have impacted groundwater quality. ... Prior to the issuance of the 2007 General Order, the Central Valley Water Board requested monitoring at 80 dairies with poor waste management practices in the Tulare Lake Basin. This monitoring has also shown groundwater impacts under many of these dairies, including where groundwater is as deep as 120 feet and in areas underlain by fine-grained sediments.”

Our ability to adequately comment on your 2013 Order depends on us being able to see and evaluate *all* of the actual test results, reports and other data submitted to the Regional Board from all of the monitoring wells at all of these “80 dairies” in the Tulare Lake Basin, and from any other dairy in the Tulare Lake Basin that installed monitoring wells, during and after 2003. Therefore, we hereby make a request in this letter, under the Public Records Act, for copies of all of said test results, reports and data. We understand that these dairies need to retain their privacy, so we have no objection to you redacting from each document the name and address of each dairy. But we need to be able to identify each dairy so that we can connect all the test results, reports and other data from each monitoring well located at each dairy. One suggestion would be for you to assign a separate number to each dairy and identify each dairy’s monitoring well by a letter. For example, if the number “23” is assigned to a dairy and the letter “B” identifies a specific monitoring well on that dairy, then that monitoring well would be identified as “23-B.” Each test report would also bear the “23-B” label. Also, as to each monitoring well, you need to inform us as to its location on the dairy site, such as “upgradient from lagoons,” or “near lagoons,” or “downgradient from lagoons,” the depth of the well, the location of the screening, and everything else that is needed to establish the meaningfulness of the data. Please promptly advise us when the copies are available and the cost of same.

We do not expect to receive the copies requested above by the comment period deadline. But since our evaluation of this data is important to our ability to meaningfully complete our comments, it is another compelling reason why the comment period needs to be extended.

### **Burden of Proof.**

Water Code subsection 13267 (b) states that, while you have the authority to require dairymen to provide technical or monitoring program reports, you must provide “a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”

The Porter-Cologne Act, enacted in 1969, created the regional water quality control boards. Thus, your agency has been in the business of protecting the quality of our groundwater for the last 43 years. You and your staff have been collecting and studying data for over four decades. You have promulgated rules and regulations and imposed them and your management practices and waste discharge requirements on dairymen during this time. After all these decades of

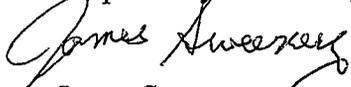
assuring people that these practices and measures were sufficient in protecting groundwater, a lawsuit has now led you into saying that you have been wrong; that dairies supervised and regulated by you for the last 43 years do indeed continue to pollute groundwater. Indeed, on page 9 of your proposed Order, paragraph 34 admits that after 43 years of collecting data and information from dairies, you do not know if the management practices you have imposed upon dairies are effective. Your 2013 Order seeks even more extensive data and reports. After 43 years, you should have collected more than enough data and studied all available research on the topic. Such shameful admissions are a disgraceful indictment of your agency's performance over a very long time. Moreover, we see no evidence in your Order that you are acknowledging or implementing the most recent research or technologies. And what about your credibility? If you admit to being so wrong before, how can one feel comfortable with any assurances you give us now?

Your staff are full-time employees who are deemed to be "professional" water quality experts. The burden must be on you/them to show us - the people who will be affected by your Order - precisely and accurately why each and every one of the management practices and reporting requirements set forth in your Order are necessary and that they reflect the best and most cost effective means based on the most recent research and technologies. In contrast, we dairymen do not possess the data you have collected, and we do not have the time or resources to become experts. We expect you to lay everything out in detail - plainly and fairly connect the dots. Anything less, will be treated as a denial of due process, a failure to support your Order with substantial evidence, and a violation of the applicable provisions of the Water Code.

### **Conclusion.**

The Regional Board characterizes dairymen as villains who do not care about the environment. Nothing could be further from the truth. We drink the water. Farmers appreciate the resources that they have been blessed with and are committed to pass these precious resources to their children. My wife, Amelia, and I started our small dairy from scratch 24 years ago. Our dairy has provided an excellent environment for our children to grow up. Our daughter Lena just started medical school at UCSF. Our son Matthew is a senior at UCLA and another daughter Theresa is a sophomore at Cornell University. Our children have learned that success takes hard work and dedication. Sweeney Dairy has won multiple awards for production as well as being the highest quality (lowest somatic cell count) milk producer in Tulare County for 19 of the past 20 years. We have earned the respect of our peers. We host visitors from throughout the world as well as classes from Stanford for the past two years. I think that each Stanford student who has visited our farm has appreciated the opportunity to see firsthand how their food is produced. One student commented "that Lena is lucky to have grown up in a postcard".

Respectfully submitted,

  
James Sweeney

  
Amelia Sweeney