

September 18, 2009

Mr. Adam Laputz  
Regional Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive  
Rancho Cordova, CA 95670

SUBJECT: 2<sup>nd</sup> Draft Proposal – Long Term Irrigated Lands Regulatory Program Alternatives

Dear Mr. Laputz:

The agricultural organizations, coalitions, and water districts identified below have reviewed the 2<sup>nd</sup> Draft Proposal of the *Long Term Irrigated Lands Regulatory Program Alternatives* (August 2009) (Draft Proposal). In response to the Draft Proposal, we have prepared the following extensive detailed comments and proposed revisions.

Like our comments dated June 5, 2009 on the *Initial Draft Proposals – Long-Term Irrigated Lands Regulatory Program Alternatives* (May 2009)(June Comments), our comments provided below are intended to provide input on the range of alternatives and their feasibility with respect to the environmental analysis to be conducted by the Central Valley Regional Water Quality Control Board (Regional Water Board). The comments provided should in no way be considered acceptance and/or support for the individual alternatives discussed by the parties identified below. Furthermore, the lack of comments on alternatives 4 and 5 should not be viewed or presumed to mean that we are in agreement with these alternatives. In the interest of time, we have focused our comments on the first three alternatives. Many of our comments on the first three alternatives, however, may also apply to alternatives 4 and 5. Our preferences among the alternatives will be provided when appropriate later in this process.

In general, the agricultural organizations listed below believe that the range of alternatives provided in the Draft Proposal is a fair representation of the various alternatives that the Regional Water Board should be evaluating pursuant to the California Environmental Quality Act (CEQA). Further, it is our understanding that the Long-Term Irrigated Lands Program (LTILP) resulting from the Draft Proposal and the subsequent CEQA analysis may in fact contain elements or portions of some or all of the alternatives proposed. To this end, we encourage the CEQA analysis to be set forth in a manner that will not preclude the Regional Water Board's use of different elements from the different alternatives in the final LTILP.

With respect to the goals and objectives of the program, we collectively support the revisions discussed and agreed to at the August 20, 2009 workshop as well as the additional revisions circulated by you via electronic mail in September.

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Overall, we encourage the Regional Water Board to carefully review the document to ensure that the terminology used throughout is reflective of the non-point source nature of discharges from irrigated lands. For example, in the introduction, the Draft Proposal indicates that the Regional Water Board may include “technology performance standards” as part of the LTILP. “Technology performance standards” is a term of art from the federal Clean Water Act (CWA), which typically means technology based performance standards that apply to point sources of pollution subject to section 402 of the CWA. Non-point source from agriculture is specifically excluded from the definition of point source, and exempted from the section 402 permit requirements under the CWA. (See CWA §§ 402(1)(1); see also 502(14).) Because discharges from agricultural land are not subject to such requirements, the Regional Water Board should remove the reference to “technology performance standards.”

### **Goals and Objectives**

At the August 20, 2009 stakeholder meeting, there was considerable discussion with respect to the goals and objectives expressed in the Draft Proposal. This discussion resulted in revision to some of the language currently proposed. In particular, it is our understanding that goal 4 regarding drinking water will be subject to further revision and discussion. (Draft Proposal at p. 2:10-12.) We also understand that the Regional Water Board agreed that the fourth bulleted objective regarding third-party groups would be deleted as it is not an appropriate objective of the program. (Id. at p. 2:23-29.) Also, we suggest that the second bulleted objective be revised slightly to state that an objective of the program is to encourage implementation of management practices – not just “implement management practices.”

### **Alternatives - General**

As discussed at the August 20, 2009 stakeholder meeting, we are concerned with the Regional Water Board’s intent to adopt a conditional prohibition into both Basin Plans in conjunction with each alternative. (See Draft Proposal at p. 6:17-22.) According to Regional Water Board staff, the intent is to provide the Regional Water Board with more direct enforcement authority over individuals that are not participating in the LTILP. While the agricultural organizations are supportive of Regional Water Board efforts to utilize its enforcement authority appropriately to ensure equal and fair application of the LTILP to all persons subject to its requirements, we are concerned with the use of a Basin Plan prohibition in this manner. The prohibition provisions in the Porter-Cologne Water Quality Control Act (Porter-Cologne) were included to authorize Regional Water Boards to determine that the discharge of certain types of waste or certain areas should be prohibited to protect water quality. (See Wat. Code § 13243.) It was not included to circumvent notification requirements for bringing enforcement actions against non-compliant individuals. Furthermore, all persons should be afforded appropriate due process rights, including notification regarding non-compliance before being subject to administrative civil penalties. As such, we are opposed to this

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provision. It is our understanding from the August 20, 2009 stakeholder meeting that the Regional Water Board staff has agreed to remove the language from the Draft Proposal.

Further, the introductory section leading into the identified alternatives must be revised to reflect the fact that prior to adoption of any agricultural water quality management program, the Regional Water Board must amend the Basin Plan to estimate the total cost and potential sources of funding for such a program. (See Wat. Code § 13141.) The Draft Proposal indicates that the Regional Water Board intends to use the CEQA document to adopt a LTILP regulatory program. However, the Draft Proposal does not indicate that the Regional Water Board intends to adopt a Basin Plan amendment that estimates the total cost and potential sources of funding for such a program. Failure to adopt a Basin Plan amendment with this information in advance of adopting a new agricultural water quality program would violate Porter-Cologne. (See Attachment 1, Memorandum to Roy C. Hampson, Executive Officer of the Lahontan Regional Water Quality Control Board from the Office of the Chief Counsel (Jan. 21, 1983 at p. 6.)

When water code section 13141 was amended to include requirements related to agricultural water quality control programs, it was clear that these requirements would be met before implementation of any such program, including the type and nature of programs identified in the Draft Proposal. More specifically, the State Water Resources Control Board (State Water Board) stated in its Enrolled Bill Report to the Governor's office that "[t]his bill will not prevent implementation and enforcement of agricultural water quality control programs. It will require, however, that the State and Regional Boards consider, and include in the basin plans, an economic study of an agricultural water quality control program in terms of total cost estimate and potential sources of financing *before* implementing such a program." (See Attachment 2, Enrolled Bill Report to SB 904 from State Water Resources Control Board at p. 1, emphasis added.) The purpose of this provision, and the State Water Board's reason for encouraging signature of the legislation, was further expressed as follows:

This bill is consistent with existing SWRCB policy regarding regulation of agricultural wastewater discharges.

Agriculture is presently the largest user of the State's freshwater resources. The Board recognizes that in many instances discharges of agricultural wastewaters create water quality problems. However, the Board also recognizes that there are inadequate institutional, financial, and technological means at this time for the development and management of a comprehensive and effective agricultural water quality control program. While, in specific instances, agricultural discharges can and should be dealt with under existing law, long-term water quality problems, such as nonpoint source control and salinity control programs, represent more difficult problems and the costs associated with implementation of these programs can be enormous. *Therefore, it is the Board' policy that any*

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*agricultural water quality control program must be carefully examined and formulated before it is implemented, and the costs and sources of financing would be a material consideration before any decision is made. (Id. at p. 2, emphasis added.)*

In light of the requirements expressed in Water code section 13141, and the clear intent with respect to application of these requirements, the Draft Proposal must be amended to reflect the Regional Water Board's obligation to pursue a Basin Plan amendment accordingly prior to adoption of any LTILP. Further, as indicated above, the Regional Water Board must materially consider the costs associated with all of the alternatives before selecting a preferred alternative. Thus, we encourage the Regional Water Board to immediately commence development of cost information associated with each alternative, and confer with interested stakeholders on this issue in advance of any release of a draft CEQA document for the LTILP.

#### **Alternative 1 – No Change Alternative**

In our previous comments, we suggested that Alternative 1 should be revised to reflect the reality that the current surface water program is set to expire in June of 2011 and absent Regional Water Board action, there will be no surface water program in place. (See June Comments.. The Draft Proposal fails to incorporate these suggestions. Instead, alternative 1 presumes Regional Water Board adoption of the existing surface water program. We continue to disagree with this approach and encourage Regional Water Board staff to re-evaluate their proposed baseline for the no change alternative.

However, should the Regional Water Board decide to continue forward as proposed, we encourage the Regional Water Board to include significant information in its CEQA analysis with respect to the success the current program has achieved. Since its adoption in 2003, the surface water program has provided the Regional Water Board and the agricultural community significant information with respect to the quality of water throughout the Central Valley and the potential impacts to such waterways by agriculture. Furthermore, the current program has resulted in significant awareness regarding water quality issues, the preparation of water quality management plans to address water quality issues of concern, and implementation of management practices to protect water quality. Without the current program in place, the impacts to the environment would be far greater.

Although not previously discussed, alternative 1 must further be revised to reflect that the current program also includes an alternative for individuals to apply for a waiver or waste discharge requirement (WDR) for their individual operation. Even though such options may not be utilized by many, they are still an essential part of the current program. When the current program was designed, it was always with the expectation that participation in a coalition or third-party group was voluntary. Individuals not wishing to participate in such an organization

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maintained the option of obtaining regulatory compliance on their own. The Draft Proposal alludes to this option but does not fully explain how the current program works. As written, it implies that the current program contains only the coalition group option. (See Draft Proposal at p. 10:8-10.) To accurately reflect the voluntary nature of participating in Coalition groups, alternative 1 must be revised.

### **Alternative 2 – Third-Party Lead Entity**

Similar to our comments expressed immediately above, alternative 2 must be substantially revised to reflect the fact that participation in a third-party group for regulatory compliance would be an option available to individual growers. As currently drafted, the Draft Proposal implies that the only option in alternative 2 would be for individual growers to achieve compliance by participating in a third-party group that is responsible for administration of the LTILP. As with the current program, participation in a third-party group should be optional and not mandated by the Regional Water Board.

Other necessary revisions to this alternative are as follows:

- Revise alternative to allow for the reduction of monitoring where watershed or area management plans are developed for all participants—not just under low threat circumstances. (Draft Proposal at p. 11: 3-6.)
- Groundwater quality management plans should be developed to prevent or minimize discharges of waste that degrade groundwater quality. Plans should not be developed to control irrigated agricultural lands where degradation of the groundwater is not an issue. (Draft Proposal at p. 11:6-8.)
- This alternative would require the development and implementation of surface water quality management plans when there are two or more exceedances of applicable water quality objectives in a three-year period. This requirement fails to take into account the purpose of the water quality objective at issue and the beneficial use that it is designed to protect. More specifically, the two or more exceedances in three-years is a standard derived from U.S. EPA's *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and their Uses* (1985 Guidelines). Thus, at most, this standard should be applied where there are two or more exceedances of water quality objectives designed to protect aquatic life beneficial uses. It is inappropriate to use this standard to trigger implementation of surface water quality management plans where there are exceedances of water quality objectives designed to protect non-aquatic life beneficial uses. For example, many water quality objectives are for the protection of human health over a long-term period of exposure. Thus, two exceedances in three years does not necessarily indicate that the beneficial use in

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question is being impaired. This arbitrary requirement results in the unnecessary expenditure of time and resources on constituents that are not of concern considering the purpose of the objective. The requirement of water quality management plans should be more specific to the actual water quality issues of concern for the waterbody in question. (Draft Proposal at p. 11:27-29.)

- Furthermore, it is inappropriate to apply water quality objectives designed to protect aquatic life beneficial uses when the water body in question is not actually designated for any such uses. Or, stated more broadly, it is inappropriate to apply water quality objectives derived for the protection of specified beneficial uses to waterbodies that do not support the beneficial use in question.
- Monitoring under this alternative for surface water should be focused on identified water quality problems, and greatly streamlined based on existing data and watershed conditions and land uses. To the extent practicable, it should be coordinated at a watershed scale to provide useful results. Please see the bullet point immediately above. (Draft Proposal at p. 11:26.)
- The option for watershed or area management plans should be allowed for surface waters as well as groundwaters, where groups or sub-sets of individuals choose to follow this path. Further, if it is the Regional Water Board's intent to encourage and incentivize the use of management practices in agriculture, the Regional Water Board needs to create a presumption of compliance associated with such implementation. Otherwise, growers are provided no protection from enforcement if water quality objectives continue to be exceeded. The development of this option on a broader scale is akin to implementation of management practices to control pollutants to the maximum extent practicable for municipal stormwater. (Draft Proposal at pp. 11-12.)
- The disallowance of this option based on water quality conditions (page 12, lines 6-13) makes this program more stringent than requirements for municipal stormwater discharges. The municipal stormwater program allows for the implementation of management practices to control the discharge of pollutants to the maximum extent practicable. (See CWA § 402(p)(3)(B)(iii).) Strict compliance with water quality standards is not required. In contrast, alternative 2 would prevent the use of management practices to control pollutants if available water quality data show continuing exceedances. (Draft Proposal at p. 12:9-11.) Requiring the implementation of management practices to result in compliance with water quality standards defeats the purpose of such a program. Like municipal stormwater, management practices in agriculture can be implemented to control pollutants to the maximum extent practicable. Further, we all anticipate that widespread implementation of such practices will improve water quality. We also anticipate that implementation will eventually result in compliance

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with water quality standards were agricultural non-point-source discharges are causing or contributing to exceedances of such standards. However, the relationship between practice implementation and the attainment of water quality standards is subject to other factors, like weather, other sources of pollutants, and selection of the standards themselves. By linking the two in the rigid manner proposed in the Draft Proposal, the Regional Water Board is setting the program up for failure. Further, it is not appropriate to limit the use of watershed or area management objective plans to areas where applicable water quality objectives are currently met. This approach subjects agriculture to more stringent requirements than municipal stormwater dischargers. Considering the character and nature of agriculture, we do not find this to be fair and equitable, nor necessary for a successful program.

- The regulatory requirement provisions would require growers to *prevent nuisance conditions and/or exceedance of water quality objectives in state waters associated with waste discharge from their irrigated agricultural lands*. This provision is problematic for several reasons. First, growers can work to minimize nuisance conditions and/or exceedances caused by their discharges, but cannot prevent such conditions, especially where such conditions already exist. Second, as worded, the requirement would apply to all waters of the state that are associated with irrigated agriculture. Just because a water of the state may be “associated” with irrigated agriculture does not mean that irrigated agriculture is the cause of nuisance or impairment to beneficial uses. Third, to meet this requirement, growers would need to first prove that they have “prevented” nuisance conditions or exceedances of water quality objectives. In other words, this alternative would only be available if there are no existing impairments in waters of the state. We do not believe that to be the Regional Water Board’s intent. Accordingly, we recommend that this provision be removed as it is inconsistent with the purposes of this alternative and the program in general. (See Draft Proposal at p. 13:36-37.)

### **Alternative 3 – Individual Farm Water Quality Management Plans**

Alternative 3, *Individual Farm Water Quality Management Plans*, must be substantially revised to be feasible and viable. First, the alternative needs to be revised to allow growers to develop farm water quality management plans independent of the Regional Water Board. As currently drafted, growers would be required to work directly with the Regional Water Board or another implementing entity to develop such plans. We do not agree that this is the appropriate process. The Regional Water Board’s role with respect to this alternative is to review individual farm water quality management plans submitted by growers.<sup>1</sup> How growers develop such plans should not be constrained by the Regional Water Board.. To this end, we do not believe it

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<sup>1</sup> In this context, we suggest that the “Regional Water Board’s” role is actually the role of Regional Water Board staff – not the full Regional Water Board. It is infeasible to expect “Regional Water Board” review of individual farm water quality management plans.

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appropriate or necessary for the Regional Water Board to negotiate or enter into a memorandum of understanding (MOU) with technical service providers that want to assist growers develop such plans. (See Draft Proposal at p. 15:24-27.) Instead, grower-based organizations (e.g. Farm Bureaus, commodity organizations, water quality coalitions, groundwater management entities, etc.) should be allowed, and encouraged, to assist in the development of farm water quality management plan templates, and in the development of individual plans. Thus, we recommend that alternative 3 be fully revised to allow growers the flexibility to develop individual plans as the grower determines is appropriate. (See, e.g., Draft Proposal at p. 14:34-36.) Further, we recommend that the MOU provision be deleted.

Second, the alternative needs to be revised to explicitly provide growers with a presumption of compliance once the individual farm water quality management plan is reviewed and deemed approved. Currently, the alternative claims to provide an incentive to growers because participation would be accompanied by “certification” from the Regional Water Board. However, the alternative does not explain the nature or significance of certification. If certification creates a presumption of compliance, then the alternative should so specify. Otherwise, certification would appear to have limited value. (Draft Proposal at pp. 14:2-4, 16:2-3.)

The alternative must also articulate the process and/or procedure for review and approval of farm water quality management plans. Without specificity on this issue in the Draft Proposal, the Regional Water Board will be unable to fully assess and consider the fiscal impacts associated with this alternative. With respect to the potential process and/or procedure for review and approval, we suggest that once a plan is submitted, the Regional Water Board staff have an express period of time to object in writing to the plan. If the Regional Water Board fails to object to the plan within a set period of time, then the plan should be deemed approved. (See Wat. Code § 13385(j)(1)(D)(i).) This type of a process will avoid the tremendous administrative burden otherwise associated with alternative 3.

Third, the alternative suggests that monitoring would not be required with farm-level water quality management plans. However, the alternative also indicates that monitoring would be negotiated on an individual farm level and that where applicable water quality objectives are exceeded, additional monitoring and implementation of management practices would be required. (See Draft Proposal pp. 15:39, 16:4-5, 16:26-37.) Collectively, these requirements suggest that this alternative provides no incentive with respect to the reduction of monitoring. Instead, monitoring remains an open-ended set of requirements that will be decided on an individual basis. This indicates that this alternative involves implementation of not only management practices, but also individual permits with end-of-field permit limits and monitoring at the farm level. To avoid this implication, alternative 3 must be amended to remove references to the determination of monitoring on an individual level and instead create a presumption of compliance as long as the individual plan is being implemented as deemed approved. Likewise,

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the reference to additional monitoring and/or management measures where water quality objectives are not being met must also be removed.

Additional comments on this alternative are as follows:

- Not only are monitoring programs described under this alternative problematic for the reasons just described, but the concept of 25,000 independent monitoring plans associated with each of the independently operated farms in the Central Valley, could not be technically supported by these farms, or by available expertise, laboratories, or Regional Water Board review staff.
- The requirement to individually apply for a conditional waiver or waste discharge requirements implies that individuals under this option would be required to submit a report of waste discharge pursuant to Water Code section 13260. When submitting a report of waste discharge application, applicants are required to indicate compliance with CEQA for the individual discharge. Individual growers are not public agencies subject to CEQA. As a result, the Regional Water Board will become the lead agency for CEQA purposes. CEQA compliance for growers may be costly if they are required to reimburse the Regional Water Board for preparation of CEQA documents associated with individual WDRs or individual waivers. If it is the Regional Water Board's intent to adopt a general waiver or general WDR that then requires growers to submit a notice of intent to comply, the alternative should be revised to so specify. (Draft Proposal at p. 14:36-38.)
- The alternative describes the "lead entity" as the grower. Such a description is false. Under this alternative, the Regional Water Board is the lead entity and the growers are permittees of the Regional Water Board. (Draft Proposal at p. 15:10-12.)
- Under this alternative, growers would be given two years from enrollment to develop and implement farm-level water quality management plans. Considering the large number of growers in the Central Valley, two years may not be adequate due to the lack of resources available to assist growers in the development of such plans, and likewise at the Regional Water Board to receive and review the plans. (Draft Proposal at p. 16:11-15.)
- Like alternative 2, this alternative would require growers to prevent nuisance conditions and/or exceedance of water quality objectives. For the same reasons explained under comments on alternative 2, this requirement is problematic. (Draft Proposal at p. 16:21-22.)
- Alternative 3 includes a regulatory requirement that would allow the Regional Water Board, or its representatives, to inspect farms. (See Draft Proposal at p. 16:23-24.) As stated, the provision implies that the Regional Water Board, or its representatives, could

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conduct an inspection without first obtaining consent and/or authorization. Any inspection of a farm should occur only with the consent and/or authorization of the grower. Obtaining consent and/or authorization first is consistent with Porter-Cologne. (See Wat. Code § 13267(c).) Participation in the program should not automatically void growers' rights from unwarranted government intrusion.

### **Attachments E and F to the Draft Proposal**

The irrigated lands regulatory program (ILRP) application requirements and the farm water quality management plan requirements (FWQMP) contained in attachments E and F of the Draft Proposal respectively must also be revised to make this and the other applicable alternatives feasible.

As a preliminary matter, we must express concern with the standard established for approval of the FWQMP. Attachment F states "at a minimum, plans would describe those practices needed or currently in use to achieve water quality protection." The language "to achieve water quality protection" implies that FWQMPs need to include practices that guarantee compliance with water quality objectives. As indicated previously, we do not believe this to be the appropriate standard. Instead, the goal and purpose of FWQMPs should be to control discharges of pollutants to the maximum extent practicable. This is consistent with requirements and standards imposed on municipal stormwater discharges.

Furthermore, Attachment F indicates that the Regional Water Board intends to develop a template FWQMP for guidance and consistency. As suggested above, we do not believe this to be an appropriate role for the Regional Water Board. Under this alternative, the Regional Water Board's role is to review FWQMPs – not develop FWQMP templates. FWQMPs are more appropriately prepared by organizations and/or individuals with an expertise in agriculture working with agricultural entities seeking to comply with program requirements. For example, the Louisiana Department of Agriculture, United States Department of Agriculture, Natural Resources Conservation Service and the Farm Bureau of Louisiana have collectively prepared a document for the rice industry in Louisiana. (See Attachment 1, *Rice Production Best Management Practices*.) It identifies a number of management practices that are applicable to rice production to better conserve soil and protect water resources. Although not a FWQMP template, the document provides detailed descriptions of different management practices that are appropriate for rice cultivation. Information of this type could readily be developed for all commodities for use and/or reference in crop specific FWQMP templates.

In light of these comments, we recommend that the following sentence be revised as follows: ~~For guidance and consistency, the Central Valley Water Board would develop a standard FWQMP template, but it is expected that, a~~At a minimum, plans would describe those

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practices needed or currently in use to achieve water quality protection control the discharge of pollutants to the maximum extent practicable.

The ILRP application and FWQMP would both require information regarding irrigation methods, acreages and crop types. First, requiring the same information as part of the ILRP application and the FWQMP is duplicative. Second, and more importantly, while such requirements appear to be reasonable, they fail to take into consideration the dynamic nature of farming. At best, growers can provide general information with respect to acreages farmed and the types of crops generally grown each year; however, it is not possible to account for all potential cropping patterns the grower may utilize over the next five years in an FWQMP. Further, it would not be practical or feasible to require growers to submit new FWQMPs or amendments to FWQMPs whenever farming operations change. Likewise, it would be unreasonable and out of keeping with LTILP program goals to constrain farmers in their ability to respond to changing market conditions by altering, for example, crop choices in response to commodity price outlook.

To account for the variability and uncertainty associated with farming operations, we recommend that attachments E and F be revised to require submittal of typical crop information for agricultural operations. For example, where attachment F would require “description of operations including number of irrigated acres, crop types, and chemical/fertilizer application rates and practices,” we recommend instead that it require similar information as follows: description of typical farming operations for the farming entity, including an estimate of irrigated acres, typical crop types, typical crop rotations and identification of typical chemicals and/or fertilizers used for the crops identified.

Both attachments also require the identification of potential conduits to groundwater. Again, the requirements are duplicative. Also, growers should only be required to identify potential conduits of which they are aware. Further, as currently proposed, the requirement is extremely broad. It suggests, for example, that growers can implement actions that will prevent any contamination from entering groundwater. While we agree that management practices should be implemented to control the discharge of pollutants to the maximum extent practicable, growers cannot provide absolute certainty that the implementation of certain practices will ensure that all potential conduits do not carry contamination to groundwater. Thus, the requirement in Attachment F should be revised to state as follows: ~~6) identification of any potential conduits to groundwater aquifers on the property known (e.g. active, inactive or abandoned wells, dry wells, recharge basins or ponds) and steps taken, or to be taken, to ensure all identified potential conduits do not carry contamination to~~ control the discharge of pollutants to groundwater to the maximum extent practicable. The requirement in Attachment E should be deleted altogether as it is duplicative.

Other concerns with respect to Attachment F are as follows:

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- Attachment F would require the FWQMP to include maps showing the location of irrigated production areas, discharge points and named water bodies. Similar to comments expressed previously on the informational requirements, growers can provide maps that depict typical operations. However, it is not possible to provide maps that are not subject to change due to normal operational considerations. Also, growers can identify known discharge locations, if any exist, but may not be able to depict all potential locations due to the diffuse nature of nonpoint source pollution. Like the informational requirements for crop types, this provision should be revised to only require maps that depict typical farming operations at the time the FWQMP is developed.
- Attachment F would also require FWQMPs to include “information on water quality management practices used to achieve general ranch/farm management objectives and reduce or eliminate discharge of waste to ground and surface waters.” To better clarify the use of management practices, we recommend that the sentence be revised as follows: “applicable information on water quality management practices used to help control the discharge of pollutants to the maximum extent practicable. ~~achieve general ranch/farm management objectives and reduce or eliminate discharge of waste to ground and surface waters.~~”
- As proposed, FWQMPs would also be required to include “measures instituted to comply with California Code of Regulations, Title 3, Section 6609 requirements for wellhead protection (from pesticide contamination) along with methods for wellhead protection from fertilizer use[.]” The wellhead protection requirements from pesticide contamination are adopted, authorized and administered by the California Department of Pesticide Regulation. The Regional Water Board has no authority to determine if growers are complying with these requirements. As such, it is inappropriate for the Regional Water Board to require this information as part of the FWQMP. With respect to wellhead protection from fertilizer use, there currently exists no regulatory program that requires measures for such activities. Further, it would appear that such practices and/or measures would be general farm management practices to control the discharge of pollutants to the maximum extent practicable. Thus, there is no need for the FWQMP to include specific requirements for wellhead protection.

### **Other General Comment**

As another general matter, we also encourage the Regional Water Board to revise all of the applicable alternatives to allow appropriate technical specialists to provide services to growers. In particular, Alternative 4 would require implementation of nutrient management plans when the tier 3 characterization results from fertilizer application rates. In that alternative, growers would be required to have nutrient management plans prepared by a “certified crop

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specialist.” Within the agricultural industry, the appropriate reference and term for such professionals is “certified crop advisor.” Further, we encourage the Regional Water Board to work with the industry to identify the appropriate professional classifications for providing technical assistance.

We appreciate your consideration of these comments and look forward to working with Regional Water Board staff as the CEQA document is further developed. In particular, we expect to meet with Regional Water Board staff in the near future to discuss the staff’s proposed approach to gathering and evaluating relative cost information for all three alternatives.

Sincerely,

East San Joaquin Water Quality Coalition  
Sacramento Valley Water Quality Coalition  
San Joaquin County-Delta Water Quality Coalition  
South San Joaquin Water Quality Coalition  
Westside San Joaquin River Watershed Coalition  
California Farm Bureau Federation  
California Rice Commission  
California Cotton Ginners and Growers Association  
California Citrus Mutual  
California Cattlemen’s Association  
Western Growers Association  
Western Plant Health Association  
Modesto Irrigation District  
Merced Irrigation District  
Oakdale Irrigation District  
South San Joaquin Irrigation District  
Turlock Irrigation District