

Mr. Adam Laputz,

Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. Monitoring downstream of agricultural areas reveals that virtually all sites exceed water quality standards and almost two thirds are toxic to aquatic life. Pollution is identified as one of the principle causes of the collapse of Central Valley fisheries. Agricultural pollution also threatens drinking water supplies and public health and is a major source of groundwater impairment. Inexplicably, irrigated agriculture remains exempt from routine requirements to protect water quality that have long been applicable to virtually every other segment of society.

The Regional Board needs to propose a Framework, which will be followed-up over the next year with specific orders. I urge you not to continue the same basic approach to regulating agriculture that has proved to be a dismal failure: i.e., ceding implementation of the program to industry advocacy groups. Under this scheme, the Board doesn't know who is discharging, what pollutants are being discharged, the localized impacts to receiving waters and whether dischargers are implementing measures to reduce or eliminate pollution or if those measures are working. Consequently, the Board cannot identify any improvement in water quality or any effort to stop pollution.

Sincerely,

Charles Adams

[REDACTED]

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From: Virginia Beth Afentoulis [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 4/4/2011 10:01 AM
Subject: Comments on the recommended ILRP Framework

Dear Adam Laputz,

I am a fisheries scientist living in Oakland and working in San Joaquin county who would like to add my comments to the Irrigated Lands Regulatory Program Framework that is up for review on April 6, 2011. I represent only myself and the greater community of people who believe in the tenets of the Clean Water Act. My comment is that I believe the regulatory framework being proposed falls short of the regulation necessary to improve surface and groundwater quality in the Central Valley of California. I think that businesses (including farms) should be held accountable for their chemical runoff. Other institutions (for example, Universities) that use chemicals or cause point pollution are held to a "cradle to grave" responsibility for those effluents and it does not sound like agribusinesses are held to this standard thereby placing the burden of responsibility on everyone else for their unregulated and un-policed "dirty" water releases. My request is for more regulation of these agricultural water effluents than is currently being proposed.

Thanks in advance for you time and consideration.

Regards,

Virginia Afentoulis



AMERICAN FRIENDS SERVICE COMMITTEE

PROYECTO CAMPESINO

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March 21, 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 contain 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,



Miguel Baez, Program Coordinator
AFSC-Proyecto Campesino

March 21, 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:

I am writing to ask the Regional Water Board to develop an Irrigated Lands Regulatory Program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

Today many thousands of people in the Central Valley cannot use the tap water in their homes for drinking or cooking due to nitrate contamination. In some areas in the valley, more than 20% of small public water systems are already unable to supply safe drinking water, including many of our valley's schools, which must use their shrinking educational budgets just to supply safe water to students and teachers. Many more communities are on the edge, forced to pay for expensive nitrate treatment or close wells, limiting local drinking water supplies and creating additional barriers to local economic development.

The good news is that nitrate contamination is a preventable problem that is primarily caused by runoff from chemical fertilizer and animal waste. Therefore, the Board has the power and responsibility to develop a program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

For these reasons, I am asking the Board to approve an effective regulatory program that includes:

- 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.

A strong and effective Irrigated Lands Regulatory Program can stop further contamination of our drinking water sources before more communities are burdened by the high cost of cleanup. It can also ensure that future generations are able to find safe drinking water sources. We urge the Board to incorporate our recommendations into the framework prior to adoption.

Sincerely, *Merle Bailey*

Signature *Merle Bailey*

Street Address



William J. Thomas, Jr.
William.Thomas@bbklaw.com

File#: 82231.00003

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March 21, 2011

VIA E-MAIL

Mr. Joe Karkoski
Mr. Adam Laputz
Irrigated Lands Conditional Waiver Program
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

Re: Irrigated Lands Framework

Dear Joe and Adam:

Notwithstanding the Regional Board's issuance of the five official CEQA alternatives for the Irrigated Lands Program (ILP) and that these alternatives were the subject of many meetings/discussions/submittals of comments, the staff subsequently advanced a staff preferred alternative (Alternative 6), which has still not been CEQA reviewed. This breach of administrative procedure and CEQA protocols was of significant distress to the regulated community. The staff next released a seventh entirely new proposal dealing with coalition qualifications for the ILP program. Now, subsequent to all of that, the Regional staff has just advanced (in early March) many further restrictions in yet another alternative (Alternative 8) calling for written comments to be filed by March 21st (15+ days), leading to a noticed hearing on April 7/8, 2011. Follows are a few comments as to the many new provisions of this new waiver document called a "Framework", which involves 35 pages of Executive Summary and 32 pages of actual waiver language in Appendix A.

1. The waiver now advances a new three tier regulatory structure: a) Tier 1, low threat; b) Tier 2, unknown threat; and c) Tier 3, high threat. High threat areas are those with any water quality exceedances. For groundwater, high threat areas are where aquifers are "vulnerable to pollution", or have nitrate problems in drinking wells. Tier 2 lands are those without "sufficient data". The Executive Officer can on her own reclassify any lands at least once every five years. (Sections 4.1-4.3, Pages A-4, 5)

There is uncertainty if a single exceedance would throw all that watershed draining to the monitoring location into Tier 3. (There is inconsistent language in the waiver.) Would a single toxicity (i.e., Flathead minnow or Ceriodaphnia dubia) trigger Tier 3 for anything other than that specific problem and would all other areas and operations retain Tier 1? (Page A1-7) It is also unclear if staff can classify most lands to be in Tier 2 merely by alleging there is "insufficient data". If coalitions have monitored consistent with their approved MRP and the Regional MRP, that should constitute "sufficient data".

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2. On Page 4, “How Tiers are applied”, the Framework states tier classification will be “evaluated separately for different parameters, in different areas,” yet on Page A-5 the Framework states in Section 4.3, “An area would not be designated as Tier 1, if Tier 2 of 3 constituents were in the area.” Also the footnote on Page A-7, “...an area could have Tier III requirements in surface water for chlorpyrifos, and Tier 1 requirements for all other constituents in surface and groundwater.” These statements are not consistent.

3. On Page A-7 there is a chart which references Tier III as having “pesticide in surface water, nutrient in groundwater.” These need to be amended so as to clarify that these data need to be at levels which exceed Basin Plan standards.

4. The new waiver draft also has a new section (Section 4.5, Pages 8, 9) on identifying water quality threats. Two such factors are “extent of irrigated ag operations” and “intensity of operations”. Both are problematic. This should not be able to be interpreted to be the “size of farm operations” as large farms generally have the capacity to implement even greater water quality management than small farms.

5. Other new terms are the “documented management practices” and “data on the efficacy of those practices.” If there are no exceedances, there need not be any documentation of management practices, and certainly the mere lack of such paperwork (i.e., “documented”) cannot be reason to raise an area to a higher tier. As discussed below, not all management practices will be known by the coalition so as to be able to document.

6. The meaning of the following language on Page A-8 is uncertain:

“...[T]he decision on the type of implementation mechanism will be based on whether the geographic area to which the Order applies contains any Tier 3 areas for surface water or groundwater.”

7. This new waiver document, again for the first time, advances a system of imposing a mix of 1) General Order WDRs, 2) waivers and 3) WDRs on different geographical areas and operations. (Pg. A-9).

It imposes a General WDR for most of our coalition with the exception of the Tulare Lake Bottom and some irrigated pasture and foothill land. The a) Tulare Lake Bottom, b) the foothills and c) irrigated pastures would have new waivers. Also, areas which can show that they will appropriately not generate a discharge of waste whatsoever will not be regulated.

We need to have certainty as to the geographic limits of the “Tulare Lake Bottom” in each of our subcoalition areas? We had sought General Order WDRs, but this version is not exactly what we had in mind in that it bifurcates our coalition. It is also uncertain how, if at all, we can substantiate that we do not have contributions to groundwater so as to take advantage of this “no regulatory program.” The Regional Board should bear the burden of identifying those within their regulatory jurisdiction, “potential to discharge”. We have asked many times over the last two years for the Regional Board to define where percolating irrigation water “discharges to waters of the state.” No clarification has issued.

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Page A-9 indicates that evidence has to be provided to the Board that an operation “will not generate a discharge.” This is somewhat backwards as the enforcing agency has the burden of demonstrating the agency’s target is in their jurisdiction and there is reasonable evidence supporting the “allegation”.

8. The provision for having separate waivers for irrigated pastures is limited by Footnote #10 which states it is conditioned by “minimizing runoff” and “keeping cattle from watercourses.” This may be an unreasonable and unnecessary limitation calling for hundreds of miles of watercourse fences especially where the larger risk of pathogens comes from irrigation return flow from pastures and not cattle watering in foothill/mountain creeks.

9. Section 5.1 of the Framework (Page A-10) is entirely new and raises some important questions which may give rise to additional problems.

Paragraph 4 requires coalitions to “track the effectiveness of the management practices.” Paragraph 6 requires the coalitions to “confirm that growers have acknowledged the requirements.” (Page A-11)

The Regional Board should recognize that a coalition cannot guarantee it will get 100% of all growers to a meeting or for those that do attend that they will sign an attendance document or a management document. Also, a coalition cannot guarantee a particular result from the required grower outreach efforts.

10. Paragraph 4 on Page A-13 also raises issues. It requires that the coalitions governance structure provides members with direct influence. What does this actually mean? What does it require?

11. Section 5.2 properly indicates that the 100% ILRP participation is a requirement of the Regional Board. (Paragraph 1, Page A-13)

12. Section 6, Paragraph 2 requires coalitions to “document participation in outreach events.” Coalitions can provide lists of participants as members, mailings to such members and meeting attendee lists, but grower outreach is a combination of direct and indirect delivery and the coalition will not itself be privy to all the participant lists or efforts at commodity meetings, crop advisor meetings, and Farm Bureau meetings, etc. (Page A-13)

13. Section 7. The Management Plan Section 7 raises many issues which are of concern.

Coalitions as to their Tier 1 and Tier 2 lands are required to prepare a management objectives plan for each surface and groundwater which shall include a summary which addresses the management practices being employed. Why will the discharger be required to submit data electronically directly to the Regional Board? (Page A-14, first paragraph Section 6)

14. All farms shall complete a farm-specific identification of their management practices. (Paragraph 3, Page A-16) First, these significant regulatory requirements should only impact those farms in areas with evidence of water quality problems. Second, a farm has hundreds of individual management

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practices. Some of those practices are irrelevant, some proprietary, and many of which will not be advanced by farmers if these documents may become public. Not only are management practices affecting water quality near endless and contain proprietary information the coalition should not have to store these thousands of documents (Paragraph 3, Page A-16).

15. Tier 3 lands in nitrate impact areas would be required to advance nutrient management plans certified by a “certified crop advisor.” This report will have to track nutrient inputs and outputs which is supposed to identify nitrates filtering below the crop root zone. The Executive Office will direct the actual filing of these requirements, but these will be required to be filed with the coalitions. (Paragraph 4, Page A-17, also Paragraph 10, Page A-16)

Farmers should not have to make their farm plans public or shared with other farm operations (i.e., coalitions). Moreover, the coalitions are in no position to second guess a farm fertilizer strategy put together by the farm’s crop advisor.

The Nutrient Management Plan language requires farmers to “track nutrient inputs and outputs. First, there are many nutrients other than nitrogen/nitrates, so this should be narrowed. Secondly, the “outputs” likely means the nitrogen in the crop harvested, but most nitrogen is in crop residue and tied up in the soil, which has considerable assimilative capacity. Consequently, not nearly all nitrates not taken away in harvest migrates to underlying aquifers. In respect to field corn, cotton, grapes or oranges very little of the nitrate is in the corn kernel, cotton fiber, the grape or the orange. Most of the nitrate is tied up in plant residue or the vine or tree.

16. There is also a new requirement which triggers coalitions to prepare a surface water quality management plan (SQMP). (Paragraph 5, Page A-17) The new trigger for such is “for any parameter for which there is degradation of high quality waters.” This is unclear both as to the parameter and the standard. Our irrigation water below our reservoirs or distributed out of our first lined conveyances is not “high quality water”. These SQ management plans are anticipated to require that the farmer shall implement management practices to achieve best practical treatment and controls (BPTC). This is a new regulatory standard to be imposed by the waiver. It also states that monitoring will be required to test the effectiveness of such management practices. It is unclear what would be required to be monitored beyond what is required by the MRP.

17. There is also the requirement for a new groundwater quality management plan (GQMP). (Paragraph 6, Page A-18) An important exception to such new GQMP is if there is a local ground water plan approved by the Regional Board. In areas of nitrate concerns the local (SB 1938 or IRMP) program would have to include as an element “nutrient budgeting”.

We are supportive of the recognition of such local groundwater programs and realize the importance of including nitrates, but the Regional Board should recognize that these plans are overseen by DWR and the amendment processes requires significant time and bringing many parties together. (Footnote 20, Page A-18) It should also be recognized that IRWMs are public creations and therefore should satisfactorily accommodate opportunity for any public input as to these plans. (See point 20, below.)

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The GQMP must require the coalition to identify those ag practices, which may be causing the problems and to identify those which may need to be amended. As explained below, this may not be so easy as to groundwater.

18. Page A-18, #6, the Framework states “Ground WQ Management Plan must be developed for any parameter, for which irrigated agriculture could be a source.” Does this mean all impairments including the lower threat constituents? How does this document intend to identify the source of these problems? It is also unclear if Surface and Groundwater Quality Management Plans (SQMP and GQMP) are only required in Tier 3 areas.

19. The waiver expressly provides that the Executive Officer has authority to demand amendments to SQMP and GQMP. In many places in this draft Framework it reserves for the Executive Officer too much independent authority. Some of this authority actually resides with the Board. This is generally true as to “additional” demands and is especially true in dealing with IRMPs which are principally governed by DWR.

20. Paragraph 8, Page A-19 is a critical new area which provides public input to both SQMP and GQMPs. The detail envisioned in these plans makes it quite inappropriate for public distribution much less opening these farm practice management plans to public participation. If these members of the public want to farm, they should buy some land and a mule. They should not try to farm vicariously by second guessing our farmers’ management.

The staff should explain when and how “Public Input on Water Quality Management Plans” by other interested stakeholders (Page A-19, Paragraph 8) would take place? What types of management plan decisions does the staff envision they and the public should be involved in?

21. As stated above, throughout the document the proposal tries to shift much authority to the Executive Officer which actually should be retained by the Board. Such examples also include imposing additional requirements such as best management practice field studies.

22. Paragraph 4 on Page A-22 references coordination with other programs, such as the Dairy Order. This sounds nice, but the dairy general order monitoring is targeted for limited constituents and is an offshoot of a point source program. Harmonization opportunities may therefore be limited. Replacing coalition monitoring requirements with surface ambient, SWAMP, DPR and GAMA may, however, offer some relief to coalitions.

23. Paragraph 5, Page A-22 calls for assessment and trend monitoring for groundwater. It must be realized that the groundwater is not farm specific. Further, the groundwater underlying a farm or underlying a monitoring point may be very old water sourced from many miles away. Consequently, trend monitoring is likely not to show any results for decades, if at all (also Paragraph 8, Page 31).

24. On Page A-23, Paragraph 6.b, Data Gaps, the Framework references “vulnerable groundwater aquifers” in Footnote 23 as “potentially vulnerable groundwater aquifer is one in which one or more domestic wells exist and data are not available...” How does the staff define somewhere as vulnerable if there is no data to support that assessment?

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25. Section 10, Page 24 deals with compliance time schedules. The 5-10 year compliance for groundwater may be totally unreasonable. We recognize it does indicate that compliance may be shown by mere improvement, modeling or nutrient budgeting. These factors, however, will have no bearing in places with a) very old water, b) natural impairment, or c) where impacts are sourced many miles away.

26. Section 13, Page A-27 outlines requirements for surface, groundwater and individual farm management plans. It requires the tracking of management practice implementation and monitoring to track effectiveness of management practices. (Paragraphs 7 and 8 of Page 28, and Paragraphs 4 and 5 of Page 30)

A coalition will have limited opportunity to know or report on the hundreds of management practices on each of the thousands of growers and hundreds of thousands of fields in the coalition area. Similarly, monitoring will reflect a collection of all the management practices in all the farms in the local watershed and not the result of any single management practice. Similarly, groundwater may take decades to show the results of management improvements. (Paragraph 9 of Page 29, Paragraph 8 of Page 31)

27. Even though we fully understand this Framework strives to have multiple strategies and multiple levels of responsibility (suggested by many of us), we should step back and consider if we have created an unmanageable mess in so doing.

Using our Southern San Joaquin Valley Water Quality Coalition as an example, this new document will be asking the coalition and subcoalitions to manage a complex and manifold system.

1. There will be a General Order having lands divided into three overlapping tiers for each surface and groundwater. (This would result in nine permeations.)

2. Some lands will not drain to surface water and some will not drain to groundwater, and some to neither. Therefore, there will be three permeations of "exempt from jurisdiction" lands. These lands would be covered by neither the General Order or waivers, but the coalition would have to "qualify them". (3 permeations)

3. Each of our four sub-watersheds drain to the Tulare Lake bottom and the lake bed portions of each coalition would be covered by separate new waivers (4 permeations).

4. Some foothill and irrigated pastures would each be covered by separate new waivers (2 permeations).

5. Some of the foothill and irrigated lands will not meet the footnote 10 requirement (fence creeks) so these lands will "re-enter" from the waiver to the General Order presumptively in a special Tier 1 category (1 permeation).

On balance, each of our four subcoalitions could and likely would have a total of 19 different programs which, across the entirety of the coalition, would total up to 76 possible combinations, all of which would have to be administered and have differing monitoring and reporting obligations.

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28. This nearly 70-page new Framework document contains fundamental new provisions never before mentioned or advanced in any of the seven preceding waiver documents or previously advanced over the last two years. We were provided only a few days prior to the comment deadline to assemble these comments, which should be regarded as preliminary and may be supplemented.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W. Thomas', with a long horizontal line extending to the right.

William J. Thomas
of BEST BEST & KRIEGER LLP

WJT:lmg

cc: Central Valley Regional Water Board Chair and Members
Southern San Joaquin Valley Water Quality Coalition

From: [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 4/5/2011 1:22 PM
Subject: Please approve the proposed farm water regulations

As a decades-long advocate for environmental protection, I am writing to urge the Central Valley Water Board to adopt the proposed new, stronger Regulatory Framework for irrigated agriculture that would require reporting of fertilizer use and protect groundwater quality. Neither the environment nor the small communities that support most of our agriculture can or should bear the cost of nitrate contamination of drinking water. Regulation that requires all farmers to protect water quality will level the playing field for those that are already doing the right thing. Thank you.

Nance F. Becker
Corte Madera, CA

From: Rob Benton [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 4/5/2011 4:10 PM
Subject: Approve regulations to stop farm pollution

Dear Chairperson Hart

I am writing to urge the Central Valley Water Board to adopt a strong Regulatory Framework for irrigated agriculture that reports and reduces fertilizer use and protects groundwater quality. Small communities should not bear the cost of nitrate contamination of their drinking water. Regulation that requires all farmers to protect water quality will level the playing field for those that are already doing the right thing. .

Also you may want to remember that many of these farmers are already receiving US gov't farm subsidies which I would like to see eliminated. Bad press resulting from uncontrolled release into our water when combined with wider understanding by the water drinking public of those subsidies could have a detrimental impact on the political and economic futures of those who look the other way while these polluters go unchecked.

Rob Benton
[REDACTED]

From: bud Hoekstra [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 3/30/2011 12:00 PM
Subject: comments on ILRP for April 7/8 agenda in lieu of testimony

Submission of Comment on April 7/8 agenda regarding ILRP:

The Clean Water Act contains a provision to reduce the paperwork burden of the ILRP on organic farmers who comply with NOP regulations.

101(a)7(f) "It is national policy to the maximum extent possible the procedures used for implementing the Act shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government."

All the paperwork required from NOI to application to join a coalition group is duplicate for organic farmers, the reason being that 7 CFR 205 already requires the same. Also, best use of available manpower is not achieved if a NOP inspector (certifier) and a CVRWQCb inspector and a CDFA inspector all inspect the same BMP's.

7 CFR 205.201 Organic Production and Handling System Plan

"A producer or handler ... must develop an organic production or handling system plan ... An Organic System Plan must meet the requirements set forth in this section for organic production or handling..."

(1) "A description of practices and procedures to be performed and maintained..."

(3) "A description of the monitoring practices to be performed and maintained..."

7 CFR 205.203 Soil Fertility and Crop Nutrient Management Practice Standard

(a) "The producer must ... minimize erosion.

(b) "The producer must manage crop nutrients and soil fertility through [BMP's.]

(c) "The producer must manage ... in a manner that does not contribute to contamination of ... WATER by plant nutrients, heavy metals or residues of prohibited substances."

7 CFR 205.205 Crop rotation Practice Standard

"The producer must ... (a) provide erosion control."

The OSP, organic system plan, is a Farm Water Quality Plan, de facto.

The NOI, Notice of Intent, Technical Report for the Individual Farm Waiver overlaps the OSP to a great extent, meaning duplication. Therefore, Region 5 CVRWQCB should recognize and accept an OSP in place of coalition membership or individual farm waiver.

Fundamentally the OSP carries out the intent of the Clean Water Act in regard to nonpoint pollution from agriculture, as the US EPA envisions in the regulatory book NATIONAL MANAGEMENT MEASURES FOR THE CONTROL OF NONPOINT POLLUTION FROM AGRICULTURE which guided the development of the ILRP.

The OSP can be tweaked to perform as a Farm Water Quality Plan to satisfy the requirements of the ILRP. Or can be added to the ILRP. Organic farms are inspected yearly to see that the terms of the OSP are being met.

This is the best use of available manpower and funds, as mandated by the Clean Water Act.

Tuesday March 29 The US EPA's Watershed Academy Webcast invoked a case history of nitrate exceedance in the Willamette Valley of Oregon. A dairy farm in transition to organic adjusted its nutrient management and the exceedance of nitrates is groundwater dropped below the federal standard. (for info: eldridge.audrey@deq.state.or.us)

John Reganold of Washington State University: organically managed soils are better for the environment, less erosion -

The NOP rules require:

- erosion control

- protection of water

- a mandatory suite of BMP's (e.g. cover crops)

- a no-use BMP for all synthetics and toxic natural substances

- provisional control of nutrients, pathogens, heavy metals and residues of prohibited substances

- regular inspections to validate performance

THE CVRWQCB should recognize this and not require, directly by waiver or indirectly by coalition, paperwork that duplicates the OSP. It's against the law for CVRWQCB to increase paperwork for organic farmers either by WDR's or by coalition or by individual waivers. To keep within the spirit of the Clean Water Act CVRWQCB must recognize the OSP as a de facto water quality management plan for the operation of an organic farm.

Comment of Bud Hoekstra, BerryBlest Organic Farm

From: [REDACTED]
To: <AWLaputz@waterboards.ca.gov>, <jkarkoski@waterboards.ca.gov>
Date: 3/22/2011 3:43 PM
Subject: Electronic Submittal of Individual Farm Information

I am a member of the Placer-Nevada-South Sutter-N. Sacramento Subwatershed Group (PNSSNS). I am concerned with the planned electronic submittals from individual dischargers to the Board.

Please do not require electronic submittal of individual farm information.

[REDACTED]

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From: Sharon Brown [REDACTED]
To: <awlaputz@waterboards.ca.gov>
Date: 3/24/2011 8:28 AM
Subject: water rights

Re: Adoption of ILRP Framework:
Submission of individual farm information to public-accessed databases

I am a Beef Producer and member of the Upper Feather River Watershed Group (UFRWG), a subwatershed under the Sacramento Valley Water Quality Coalition SVWQC. I am concerned with the "planned electronic submittals from individual dischargers to the Board" (pageA-14, #6 of the Framework document).

Public accessed electronic databases containing individual farm information and maps will subject our members to potential security issues and data abuse/misuse. There is no protection against other interested stakeholders forcing the Regional Board's hand to use this as a regulatory compliance tool. We acknowledge the RB need for some level of documentation of water quality practices and coalition submittals of summary information by waterway and/or commodity will provide adequate information in low-threat areas.

For 6 years, our 105 ranchers and farmers have spent nearly \$300,000 on agriculture water monitoring to comply with the current ILRP. For 6 years, our waters have tested clean, with exception of the occasional low-threat "unknown" parameters of DO, pH and E.coli back in 2006-2008. Working with our UC Cooperative Extension and UC Davis Researchers, UFRWG and its members have been engaged in identifying sources for these background parameters for the ILRP. As members of our active coalition, we undertook special studies on our private lands, attend (or host) annual ranch BMP tours, receive educational Newsletters, attend Ag Workshops, work with NRCS & other funders to implement BMPs (or fund myself at cost of \$_____), and attend membership meetings to follow the mandates of this engorged program. Management Plans under the current program are nearly complete. For 6 years we have proven that we are a low threat watershed.

Our reward for this effort? You now propose each individual farmer electronically submit their farm information directly to the Regional Board, bypassing the local coalitions which were originally formed to keep costs low and to allow farmers and ranchers some control of their regulatory destiny. Adopting this proposal within the Framework will undermine our years of effort to develop valuable partnerships through outreach and education among our members and local agencies. The short term and long term effect will be to alienate coalition leadership from our membership. This requirement will ratchet up regulatory creep on our low-threat complying members. In low threat areas like UFRWG, there is no justification for this level of increased regulatory action.

We, the active members of UFRWG, strongly urge the Water Board to allow Coalitions to continue to maintain and manage their own member data and to provide the Water Board with the information needed to assess and manage water quality.

Thank you,
Gary L. Brown

March 21, 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:

I am writing to ask the Regional Water Board to develop an Irrigated Lands Regulatory Program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

Today many thousands of people in the Central Valley cannot use the tap water in their homes for drinking or cooking due to nitrate contamination. In some areas in the valley, more than 20% of small public water systems are already unable to supply safe drinking water, including many of our valley's schools, which must use their shrinking educational budgets just to supply safe water to students and teachers. Many more communities are on the edge, forced to pay for expensive nitrate treatment or close wells, limiting local drinking water supplies and creating additional barriers to local economic development.

The good news is that nitrate contamination is a preventable problem that is primarily caused by runoff from chemical fertilizer and animal waste. Therefore, the Board has the power and responsibility to develop a program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

For these reasons, I am asking the Board to approve an effective regulatory program that includes: 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.

A strong and effective Irrigated Lands Regulatory Program can stop further contamination of our drinking water sources before more communities are burdened by the high cost of cleanup. It can also ensure that future generations are able to find safe drinking water sources. We urge the Board to incorporate our recommendations into the framework prior to adoption.

Sincerely,

Ericka Carmona

Signature

Ericka Carmona

Print Name

Street Address



CALIFORNIA FARM BUREAU FEDERATION

OFFICE OF THE GENERAL COUNSEL

2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 · PHONE (916) 561-5650 · FAX (916) 561-5691

Sent Via USPS & E-Mail
AWLaputz@waterboards.ca.gov

March 21, 2011

Adam Laputz
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Dr., #200
Rancho Cordova, CA 95670

Re: Comments on the Recommended Irrigated Lands Regulatory Program Framework

Dear Mr. Laputz:

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 76,500 agricultural and associate 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 provided by the Central Valley Regional Water Quality Control Board (“Regional Board”) to participate in the Stakeholder Advisory Workgroup process to develop alternatives and partake in discussions regarding the development of the Long Term Irrigated Lands Regulatory Program (“LT-ILRP”). Farm Bureau further appreciates the opportunity to submit comments on the Regional Board’s LT-ILRP Recommended Irrigated Lands Regulatory Program Framework (“Regulatory Framework”) released in early March 2011. Farm Bureau has numerous reservations and comments on the Regulatory Program Framework as currently drafted and offers the following specific comments contained herein. These comments are in addition to the comments contained in a joint agricultural coalition letter submitted during the week of March 21, 2011.¹

¹ Various agricultural organizations, including Farm Bureau, coalitions, and water districts will be submitting a joint agricultural coalition letter during the week of March 21, 2011 expressing significant comments and concerns on the Regulatory Program Framework.

A. Failure to Properly Analyze the Regulatory Program Framework Under CEQA

Similar to comments submitted on September 27, 2010, the new recommended project proposed for Board adoption, now in the form of a Regulatory Program Framework, was not properly analyzed under California Environmental Quality Act (“CEQA”) as the Framework was not a program alternative nor was in existence during *any* of the stages of environmental review.²

The Draft PEIR analyzed the alternatives *in existence at that time*. However, the Regulatory Program Framework was not in existence since it was not released for public review until March 2011. Rather than recirculating the EIR with a new section containing the environmental analysis of the Regulatory Program Framework, the Final PEIR states: “The programmatic nature of the Final PEIR allows the Board to combine elements of the six analyzed alternatives into a Recommended ILRP Framework (Recommended Framework) not directly analyzed in the Final PEIR.” (Final PEIR, p. 1-4.) Further, the Staff Report states: “As long as the adopted program falls within the range of alternatives analyzed and the appropriate findings have been disclosed, the Board may adopt a program that is a variation on the alternatives analyzed without the need to conduct additional CEQA analysis.” (Staff Report, p. 7.) Such statements are improper.

Although an EIR need not consider all potential alternatives to the project and instead need only to consider a reasonable range of alternatives, the alternative preferred and recommended by the agency must be considered and examined within the EIR. (See Cal. Code Regs., tit. 14, § 15226.6(a).) Further, the EIR must contain sufficient information about *each alternative* to permit an evaluation of the relative merits of the alternatives and the project. (*Ibid.*) Here, the Draft PEIR analyzed five program alternatives and a separate document, Appendix A, contained a section describing the Staff Recommended Program Alternative.³ In conjunction with the release of the Final PEIR, a staff report was released in March, 2011 containing the Regulatory Program Framework, an entirely new alternative. This framework contains wholly new regulatory concepts and requirements, as well as a conglomeration of some elements presented in the five alternatives that were analyzed in the Draft PEIR. These entirely new program elements and new combinations of existing elements were merged together to create the Regulatory Framework alternative; as a new alternative it must receive full CEQA review. Reliance on existing environmental review which was completed *prior to* the

² Farm Bureau maintains the arguments made in its September 27, 2010 comment letter regarding the improper CEQA analysis of the 2010 Recommended Program Alternative and incorporates all such arguments into this comment letter.

³ The Recommended Program Alternative, contained within Appendix A, was not one of the five alternatives analyzed within the Draft PEIR. The California Supreme Court has stated that essential elements of CEQA analyses cannot be buried within the appendices. (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412.) Not only should the Staff Recommended Program Alternative have been placed within the Draft PEIR, the Staff RPA should have also undergone full CEQA analysis as a sixth alternative and be fully compared to the five alternatives currently within the Draft PEIR.

development of the Framework directly contradicts existing case law.⁴ (Pub. Resources Code, §§ 21000, *et seq.*; Cal. Code Regs., tit. 14, § 15000, *et seq.*) Without proper evaluation of what would result when those elements are combined with each other, the Final PEIR is substantively and procedurally flawed and the fundamental goals of CEQA are not met.

The Regulatory Framework substantially differs from the Draft Recommended Program (referred to as “Alternative 6”), as well as the other five alternatives evaluated in the Draft PEIR and Final PEIR. Specifically, the Regulatory Framework imposes new burdens on irrigated agricultural operations throughout the Central Valley, which will have significant and cumulatively considerable impacts on the environment. Such impacts must be analyzed. (See Cal. Code Regs., tit. 14, § 15130.) Further, the Regulatory Framework introduces a new tiering structure and associated requirements, including the submittal of a farm-specific evaluation. (See Staff Report, Attachment, p. A-16.) These new requirements are not merely a “variation” on the alternatives in the Draft and Final PEIRs but rather include elements that were not thoroughly considered previously. Given the likely significant and identifiable environmental impacts that will occur if the Regulatory Framework is adopted, including, but not limited to, impacts on agricultural resources, potential conversion and loss of agricultural land, and increased economic costs, any reliance on previous environmental review and economic analysis is inappropriate. Additional environmental review must be conducted and recirculated. (Pub. Resources Code, § 21092.1; Cal. Code Regs., tit. 14, § 15088.5.)

Changes to the proposed LT-ILRP, in the form of additions, have deprived the public of meaningful opportunity to comment on the impacts and to suggest feasible alternatives. The Regulatory Framework must be subjected to the same “critical evaluation” that occurs in the draft environmental review stages. (*See Sutter Sensible Planning, Inc. v. Board of Supervisors* (1981) 122 Cal.App.3d 813, 822.) Further, by failing to prepare additional environmental review and recirculate the document, the public is denied an opportunity to “test, assess, and evaluate data and make an informed judgment as to the validity of the conclusions to be drawn therefrom.” (*Ibid.*) Thus, given the significant new information, and the significant changes and additions to overall program, timeline, compliance, tiers, and monitoring, the environmental impact report must be revised to include a full analysis of the Regulatory Framework, and a new notice of availability must be issued allowing the public an opportunity to provide meaningful review and comment. (See Cal. Code Regs., tit. 14, §§ 15087, 15088.5.)

⁴ CEQA’s statutory framework sets forth a series of analytical steps intended to promote the fundamental goals and purposes of environmental review—information, public participation, mitigation, and governmental agency accountability. (Cal. Code Regs., tit. 14, § 15002.) Specifically, the basic purposes of CEQA review include: informing governmental decision makers and the public about the potential significant environmental effects of proposed activities; identifying ways that environmental damage can be avoided or significantly reduced; requiring changes in projects through the use of alternatives or mitigation measures when feasible; and disclosing to the public the reasons why a project was approved if significant environmental effects are involved. (See Pub. Resources Code, §§ 21001, 21001.1, 21002, 21003, 21006, 21064.) Adopting a project without complying with the above requirements violates CEQA.

B. The Revised Tiering Structure Contains Arbitrary Designations and Was Not Properly Reviewed Within the Draft PEIR

The Regulatory Framework proposes a tiering structure which will be based upon review of various factors, including overall threat to water quality, as well as threat posed by each constituent.

The requirements that will apply to discharges from irrigated agriculture will be based on an assessment of the relative threat to water quality in a given area and data availability. For a given area, an assessment will be performed for each constituent that could be in the waste discharge from irrigated lands. The assessment will be performed for discharge pathways to both groundwater and surface water. (Staff Report, Attachment, p. A-4.)

The tiering structure includes the addition of a new tier, Tier 2, which was not included in the Draft PEIR or proposed alternatives. Tier 2 applies when it is “unknown” whether the discharge of the constituent from irrigated agriculture poses a low or high threat in a particular area. A grower will now be characterized as having a Tier 2 threat to water quality even if “there is a known water quality threat, but it is unknown as to whether irrigated agriculture is causing or contributing to that water quality problem.” (Staff Report, Attachment, p. A-4.) The inclusion of Tier 2, the effects of which have not been thoroughly analyzed in any environmental review, greatly expands the breadth and scope of the program. Given that numerous operations may now fall under Tier 2 requirements, and thus, must comply with additional reporting and monitoring requirements, this newly revised tiering structure must undergo CEQA review and proper economic analysis.

C. Failure to Adequately Analyze the Economic Impacts of the Regulatory Framework Under Porter-Cologne

The requirement to consider economics under Porter-Cologne is absolute. Water Code, section 13141 explicitly mandates:

State policy for water quality control adopted or revised in accordance with the provisions of this article, and regional water quality control plans approved or revised in accordance with Section 13245, shall become a part of the California Water Plan effective when such state policy for water quality control, and such regional water quality control plans have been reported to the Legislature at any session thereof.

However, prior to implementation of any agricultural water quality control program, an estimate of the total cost of such a program, together with an identification of potential sources of financing, shall be indicated in any regional water quality control plan.

(Wat. Code, § 13141.) Before a Regional Board can impose waste discharge requirements or conditioned water quality certification for discharges from irrigated lands, Porter-Cologne

requires that the Regional Board “shall take into consideration” the following factors: “the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241.” (Wat. Code, § 13263.) Section 13241 in turn lists six “factors to be considered,” including “economic considerations” and “water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.” (Wat. Code, § 13241.)

13241

While an economic analysis was conducted for the five alternatives contained within the Draft PEIR, no proper economic analysis has been conducted for the recently released Regulatory Framework. The brief reference estimating the total costs of the Framework within the Staff Report is insufficient and does not comply with Porter-Cologne. (Staff Report, pp. 10, 30-34.) Rather than a full analysis, these paragraphs within the Staff Report consist of conclusory statements which fail to properly acknowledge the total cost of an agricultural water quality control program and the potential sources of financing. Anticipated program implementation costs to the agricultural community include increases in potential fees, management practice implementation, monitoring costs, report preparation, and cost for education, as well as other costs. Given that the impacts of water quality regulations frequently take years to materialize, the Regional Board should analyze the economic costs and impacts within a dynamic structure taking into account the projected changes in the economic situation *over time*.

In addition to direct costs imposed on the agricultural community, the Regional Board should evaluate indirect costs, including the economic consequences that are transmitted via market interactions to other groups, such as consumers. Water quality regulation, such as Staff’s Regulatory Framework, increases the average cost of production and has a direct negative effect on producer and the consumer through the resulting increase in variable costs and the output price. The propagation of the impacts of a regulation, such as this, through the economy is well documented and can be quantified by economic analysis. Further, such analysis shall be conducted prior to adoption or implementation of any program. (Wat. Code, § 13141.) Thus, a proper economic analysis of the Regulatory Framework, which by its very purpose is the implementing framework for the LT-ILRP, must be conducted immediately.

D. Intellectual Property, Trade Secrets, and Proprietary Information Must Remain Confidential

The Regulatory Framework indicates that confidential and proprietary information may be required to be submitted to the Regional Board without appropriate protections. As stated in the Staff Report, individual growers will have to complete farm-specific evaluations and such operation specific information may become public upon submittal to the Regional Board.

Farm Evaluation – All irrigated agricultural operations (in Tier 1, Tier 2, or Tier 3 areas) must complete a farm-specific evaluation and identification of their management practices and have the evaluation available for Board inspection. Per

the Board-issued Order for their geographic area, the irrigated agricultural operation must submit the management practice information to its representative third party (or Board) to provide the necessary information for the management practices summary and assessment for the geographic area or commodity. (Framework, p. A-16.)

Further, the Regulatory Framework acknowledges that water quality and nutrient management plans may also be required to be submitted to the Regional Board, thus, making these documents available for public review. (See Staff Report, Attachment, Section 6, pp. A-14-16.) Information within farm-specific evaluations contains intellectual property, trade secrets, and proprietary information, much of which has no correlation or nexus to the Regional Board's authority to regulate water quality. Prior to any request for the submittal of the entire farm evaluation, the Regional Board should make a finding showing the necessity of the data and information required to be submitted and how such data is related to water quality. Such information must remain confidential. The Porter-Cologne Act explicitly provides protection to growers for intellectual property, trade secrets, and proprietary information that may be within a farm plan or report:

When requested by the person furnishing a report, **the portions of a report that might disclose trade secrets or secret processes may not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies.** However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report.

(Wat. Code, § 13267(b)(2).) Thus, the Regional Board must acknowledge that farm-specific information, including pesticide application, irrigation practices, crop rotations, nutrient management plans, best management practices, etc., are intellectual property, trade secrets, and proprietary information that must remain confidential.

E. The Significant Revisions to the Management Plan Review and Approval Process Are Objectionable

The Regulatory Framework proposes to allow substantial and unlimited public input on the development and review of water quality management plans:

Public input on water quality management plans – Interested stakeholders will be provided an opportunity to provide input on water quality management plans submitted to the Board's Executive Officer for approval; requests for changes in water quality management plans requiring Board or Executive Officer approval; and periodic reviews of water quality management plans conducted by the Board or Executive Officer. (Framework, p. A-19.)

Allowing unfettered public input and involvement is unnecessary and counterproductive. Further, such involvement harms individual farmers, as confidential and proprietary information

may now be available for public inspection. (See Section C above regarding the necessity for intellectual property, trade secrets, and proprietary information to remain confidential.)

F. Unintended Consequences of Multiple Regulatory Mechanisms

As proposed, the Regulatory Framework outlines numerous differing types of regulatory orders that will be issued in order to encompass all of the varying constituent, surface water, and groundwater specific tiering requirements. (See Staff Report, Attachment, pp. A-7, A-8, A-9; ["Tiering requirements are constituent and surface water/groundwater specific."].) The numerous differing types of orders will cause confusion, unnecessary expensive, excessive paperwork, burdensome administrative oversight, and delays. A proper analysis of the resulting impacts, including the creation of small geographic regions, increased monitoring and reporting costs for a small subset of growers, and unintended resulting consequences must be conducted.

CONCLUSION

Farm Bureau appreciates the opportunity to submit comments on the LT-ILRP Regulatory Program Framework. Farm Bureau remains concerned that the Regulatory Framework imposes a number of requirements that are burdensome, unnecessary, and unsupported under Porter-Cologne. Further, the Regulatory Framework contains a number of provisions that were not analyzed in the Draft PEIR and the resulting impacts of which has not been properly and fully considered under CEQA. Farm Bureau urges the Regional Board to resolve those issues raised herein. We look forward to further involvement and discussion with the Regional Board on the development of the Long Term Irrigated Lands Regulatory Program.

Sincerely,



KARI E. FISHER
Associate Counsel

KEF:pkh

Committee for a Better Seville
El comité para el Bienestar de Seville

March 21, 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:

I am writing to ask the Regional Water Board to develop an Irrigated Lands Regulatory Program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

Today many thousands of people in the Central Valley cannot use the tap water in their homes for drinking or cooking due to nitrate contamination. In some areas in the valley, more than 20% of small public water systems are already unable to supply safe drinking water, including many of our valley's schools, which must use their shrinking educational budgets just to supply safe water to students and teachers. Many more communities are on the edge, forced to pay for expensive nitrate treatment or close wells, limiting local drinking water supplies and creating additional barriers to local economic development.

The good news is that nitrate contamination is a preventable problem that is primarily caused by runoff from chemical fertilizer and animal waste. Therefore, the Board has the power and responsibility to develop a program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

For these reasons, I am asking the Board to approve an effective regulatory program that includes:

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.

A strong and effective Irrigated Lands Regulatory Program can stop further contamination of our drinking water sources before more communities are burdened by the high cost of cleanup. It can also ensure that future generations are able to find safe drinking water sources. We urge the Board to incorporate our recommendations into the framework prior to adoption.

Sincerely,



Becky Quintana, Spokesperson for the Committee, for a Better Seville
15524 Ave. 381
Seville, CA 93292



March 21, 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 contain 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,



Y. Armando Nieto
Executive Director

From: Colusa Glenn Subwatershed Program [REDACTED]
To: <awlaputz@waterboards.ca.gov>
CC: Susan Fregien - CVRWQCB <sfregien@waterboards.ca.gov>, Mark Cady <MCady@...>
Date: 03/31/11 3:49 PM
Subject: Long-Term ILRP Comment Letter
Attachments: CGSP_CommentLetter_ILRP_Framework_3-31-2011.pdf

Please find the Colusa Glenn Subwatershed Program's Comment Letter on the Irrigated Lands Regulatory Framework.

For further information or questions, please contact Larry Domenighini, President at (530) 570-2084 or larrydom@sbcglobal.net.

Thank you,

Kandi Manhart
Outreach & Education
Colusa Glenn Subwatershed Program
[REDACTED]

Colusa Glenn

Subwatershed Program

P.O. Box 1205, Willows, California 95988 - Phone (530) 934-8036 - Email cgsubwatershed@sbcglobal.net

March 31, 2011

Katherine Hart, Chair
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, California 95670-6114

RE: Comments on the Irrigated Lands Regulatory Program *Framework*

Dear Chair Hart:

Water Quality is important: we need clean water for the farms and homes of the over 1,740 members and their 286,000 acres of irrigated agriculture that comprises the Colusa Glenn Subwatershed Program (CGSP). The CGSP is enrolled in the Sacramento Valley Water Quality Coalition (Coalition) Conditional Waiver of Waste Discharge (Waiver). For seven (7) years now surface water quality monitoring has taken place at nine (9) sites. Nearly 3,000 samples have been analyzed for nutrients, pesticides, toxicity, legacy pesticides, and salinity. We have spent more than \$2,000,000 over this time to fund the monitoring data and reports required by the ILRP in addition to an average \$35,000 in state fees annually. This extensive monitoring shows one thing - surface water quality is very good in Colusa and Glenn Counties, in fact in the whole Sacramento Valley, with relatively few problems identified.

Where exceedances of water quality objectives have occurred triggering management plan requirements we have worked with the Coalition, our County Agricultural Commissioners (CAC), our Resource Conservation Districts (RCD), and other partners to conduct source evaluation and identification studies, documented our management practices for irrigation, pesticide application and handling, and nutrient management. As part of our governance structure set up by all of the Coalition subwatersheds, CGSP works closely with the CACs, RCDs, University of California Cooperative Extension Service, local Farm Bureaus, local media, and other partners to conduct both targeted and general outreach and education for our members and the general public. Through our partnership with the Colusa and Glenn Resource Conservation Districts, we have secured almost \$6,000,000 in USDA National Resource Conservation Service (NRCS) Agricultural Water Enhancement Program (AWEP) funding that we are targeting to increase the already high percentage of our growers who are implementing

water quality and conservation best management practices (BMPs). These BMPs are protective of surface and ground water quality. Through these and other partnerships we have built strong working relationships based on mutual trust, respect, and dedication to enhancing water quality. These partnerships have proven to be effective, efficient, and economical. In Colusa and Glenn Counties, indeed the whole Sacramento Valley, the ILRP is a success story to be proud of.

The proposed Framework will be counterproductive to improving water quality of the state in the Sacramento Valley. Why? Four areas of concern would be especially difficult:

1. Regional Board staff, which has been provided all the data and documentation, has expressed the belief that a "linkage" doesn't exist between the Coalition and the growers. Nothing could be further from the truth in the Sacramento Valley. The linkage is the Memorandum of Understanding your Board, the State Water Resources Control Board, and the Butte and Glenn County Agricultural Commissioners signed. The linkage is the RCDs who inform growers of water quality regulations and specific exceedances of water quality objectives. The linkage is our AWEF funding. The linkage is the Agricultural Commissioners who educate growers on appropriate spray practices when they renew their private applicator licenses and restricted materials permits. The linkage is the surveys we have our growers fill out about their management practices. The linkage is the documentation we provide to the Regional Board staff through the Coalition. The linkage is the relationship we have successfully developed between our growers and partners over these past seven years.
2. The Framework proposes growers complete Farm Evaluations when they have already filled out surveys. Our growers who pay to support the data and reports sent to the Regional Board will not understand why they have to duplicate their efforts. They will be suspicious of providing information directly to the Regional Board, fearing greater regulatory oversight, expecting regular visits from regulators, and exposing themselves to potential litigation from groups who are paying nothing to improve water quality. Having growers report directly to the Regional Board will be more costly to administer and for Regional Board to staff, and technically impossible for many growers given the communication infrastructure in rural areas. People who don't report do not have an incentive to comply with the ILRP, which is NOT good for water quality.
3. Under the Framework the information we have collected, analyzed and submitted to Regional Board staff will now be subject to comment by "other interested stakeholders". Stakeholders, who are not scientists, who have no obligation to balance out the needs of the agricultural economy and environment, and not held to the same technical veracity as the information submitted by the Coalition is held. The expansion of the process to include other stakeholders in developing water quality management plans will hinder the existing process making it more political rather than scientific. We have developed a good working relationship in addressing water quality issues. To modify this process is taking a step backwards, not forwards. Approval and implementation of programs and practices to improve water quality could be subject to delay. Delay does not improve

water quality. The Regional Board staff is qualified and trained to represent the public interest. They do an exemplary job in our opinion of fulfilling that mission.

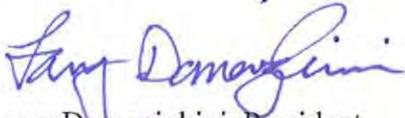
4. The introduction of separate multiple tiers for surface and groundwater along with the splitting off of irrigated pasture and organic production. These proposed changes will greatly expand the complexity of the program while concurrently degrading the efficacy of the program. The ILRP has a proven record of success and efficacy in dealing with surface water quality concerns

On page one of the Framework it states *"...staff recognizes there is no "perfect" regulatory framework that can anticipate all issues and challenges that will occur. Given lack of perfect foresight on the effects and effectiveness of any regulatory program it is difficult to strike the correct balance between enough regulation to ensure that water quality is protected and too much regulation that creates unnecessary cost to business and government."* We agree. The ILRP, while it may not be "perfect", is a program that comes close and does strike that "balance". The ILRP is a success story in Colusa and Glenn Counties. As you add the groundwater component and create the Long-Term Irrigated Lands Regulatory Program remember these components for success:

- The Memorandum of Understanding your Board, the State Water Resources Control Board, and the Butte and Glenn County CACs signed has been fundamental to our success and has built an exceptional working relationship between our members and the Agriculture Departments. The partnership has allowed us to address surface water quality issues in an effective, economical manner. The CACs provide a unique, technical component to assist us in addressing water quality issues. We urge the Regional Board to continue the Memorandum of Understanding in Butte and Glenn Counties, and expand it to other counties in the Sacramento Valley.
- To change the surface water quality component of the ILRP for the Sacramento Valley from its current status to that proposed under the Framework will change our current focus from implementing management plans to enhance water quality. The existing ILRP is just now reaching maturity. We are just expanding on a phase where we are increasing awareness of surface water quality issues and the development and implementation of solutions. Our greatest successes are just now in front us. The framework will stop that momentum, and shift our focus from achieving success to implementing a new process that is not needed in the surface water quality program. The Framework will not be as effective, efficient, or economical in enhancing surface water quality in the Sacramento Valley.
- While keeping the successful surface water quality portion of the ILRP the same, it is vital to include a groundwater component that is manageable and efficient. The Coalition and Regional Board staff needs to build upon the substantial groundwater quality data already in existence and develop and coordinate processes with other regulatory agencies already involved in the regulatory arena in the Sacramento Valley.

Water Quality is important to our irrigated landowners; we need clean water for agricultural production and domestic use. We have been good stewards of both surface and ground water in our area. Monitoring shows that, and we truly want to preserve and enhance the water quality in the Sacramento Valley. We have a successful program with a proven ability to do just that.

Sincerely,



Larry Domenighini, President
Colusa Glenn Subwatershed Program

Cc: Dr. Karl Longley, Regional Board Member
Dan Odenweller, Regional Board Member
Sandra Meraz, Regional Board Member
Lyle Hoag, Regional Board Member
Pamela Creedon, Regional Board Executive Officer
Joe Karkoski, Regional Board Staff
Adam Laputz, Regional Board Staff
Susan Freigen, Regional Board Staff
Mark Cady, Regional Board Staff
David Guy, Northern California Water Association
Bruce Houdesheldt, Sacramento Valley Water Quality Coalition
Joe Damiano, Colusa County Agricultural Commissioner
Jim Donnelly, Glenn County Agricultural Commissioner

From: Elissa Callman <ECallman@cityofsacramento.org>
To: "AWLaputz@waterboards.ca.gov" <AWLaputz@waterboards.ca.gov>
CC: Marty Hanneman <MHanneman@cityofsacramento.org>, Dave Brent <DBrent@city...>
Date: 03/31/11 1:05 PM
Subject: Comments on Recommended Framework for the IRLP
Attachments: Sacramento River Source WaterProtection Program Comments on Recommended IRLP Framework - March 2011.pdf

Dear Adam,

Please find attached comments from the Sacramento River Source Water Protection Program on the Recommended Framework for the Irrigated Lands Regulatory Program. We appreciate this opportunity for stakeholder input, and the efforts of Central Valley Water Board on this important program.

If you have any questions on the attached, please do not hesitate to contact me at 808-1424.

Sincerely,
Elissa Callman
Senior Engineer
City of Sacramento Dept of Utilities
Program Manager for Sacramento River Source Water Protection Program
916-808-1424
ecallman@cityofsacramento.org<mailto:ecallman@cityofsacramento.org>



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OF UTILITIES

ENGINEERING
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March 31, 2011
110119:EC

ILRP Framework
Mr. Adam Laputz
Central Valley Regional Water Quality Control Board
630 K Street, Suite 400
Sacramento, CA 95814

VIA EMAIL: AWLaputz@waterboards.ca.gov

Subject: Comments on Recommended Irrigated Lands Regulatory Program Framework

Dear Mr. Laputz:

The Sacramento River Source Water Protection Program appreciates the opportunity to provide comments on the Recommended Irrigated Lands Regulatory Program Framework (ILRP Framework). We appreciate the thoughtful responses to our comments on the Program EIR.

Overall, we continue to support the acknowledgment of the need to protect beneficial uses. Protection of public health and safety through protection of the quality of sources of drinking water should remain one of the State's highest priorities. We have a few comments at this time on the ILRP Framework to support the need for stakeholder involvement, source water protection verification, and flexibility in the long-term management of agricultural discharges.

We appreciate that the Regional Board has included much opportunity for public involvement in the Framework. We encourage the opportunity for stakeholder input whenever practical, and we intend to participate as a stakeholder in the development of specific Orders.

A crucial part of a management program is a monitoring component to verify that the practices are effective and determine if there are any new or varied conditions. In the general goals section of the Monitoring and Assessment Requirements, the Board commits to that concept for all three tier areas. The document states that the Board will periodically review available data to determine whether any adjustment to the tiers needs to be made. We recommend that the Board staff be provided the flexibility to require focused monitoring for specific Tier 1 areas, to support the Tier re-evaluation process and verify that the water quality threat remains low.



CITY OF SACRAMENTO
DEPARTMENT
OF UTILITIES

It is important that the tier designations include a sufficient data period to identify threats to water quality. Due to the California climate, hydrology, and yearly variability in watershed conditions, we believe it is important that the tier designations consider a sufficiently long horizon to capture wet and dry years. There can be changes in human activities, such as agricultural management practices and availability of pesticide products; a longer horizon of review may support the necessary water quality protection.

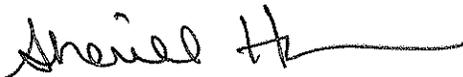
We believe that in order to provide sufficient long-term management, especially through the Waste Discharge Requirements program, there must be a clear mechanism to address new constituents of interest. We are pleased to see that the Tier designations can be revisited, if additional evidence of change in water quality threat is available. Examples include changes in agricultural types or practices within a designated area, monitoring data, new regulatory standards, and identification of new constituents of interest.

We understand that the Board intends to develop a system that will allow for electronic submittal of information, and that prior to the system being in place, the Board may allow dischargers to retain Farm-specific evaluations on-site and available for review. We request that this information be available in a timely manner if requested by other stakeholders.

We appreciate the concept of the Optional Certified Farm Water Quality Management Plan (FWQMP) to provide flexibility for individual farmers to address water quality. We recommend that the Framework be amended to specify that these plans will only be awarded to areas designated as Tier 1 threats.

Thank you for the opportunity to provide comments on the Recommended Framework. We appreciate Regional Board staff's efforts, and we sincerely believe that development of this long-term program will continue the improvements in water quality and protection of beneficial uses that have begun under the Conditional Waiver Program. Please call Elissa Callman at (916) 808-1424 if you have any questions on our comments or need additional information.

Sincerely,



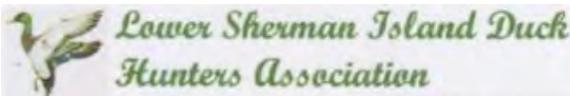
Sherill Huun
Supervising Engineer

cc: Marty Hanneman, City of Sacramento Dept of Utilities
Dave Brent, City of Sacramento Dept of Utilities
Bill Busath, City of Sacramento Dept of Utilities
Mike Yee, City of Sacramento Dept of Utilities
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Forrest Williams, Sacramento County DWR
Vicki Butler, Sacramento County DWR
Amy de la Salle, Sacramento County DWR
Myra Fields, Sacramento County DWR

**ENVIRONMENTAL, ENVIRONMENTAL JUSTICE, AND RECREATIONAL AND
COMMERCIAL FISHING COMMUNITY JOINT COMMENTS ON PROPOSED
IRRIGATED LANDS REGULATORY PROGRAM FRAMEWORK
CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD**

5 April 2011





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Sportsmen Yacht Club



Tuolumne River Trust



West Marine



5 April 2011

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

Re: Irrigated Lands Regulatory Program Framework

Dear Chairperson Hart and Board Members:

As representatives of environmental, recreational and commercial fishing and environmental justice communities in the Central Valley and throughout California, we write to encourage the Regional Board to embrace a regulatory framework that will meaningfully reduce the pollution caused by irrigated agriculture.

Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. This pollution is documented to be one of the principal causes of the collapse of Central Valley fisheries. Inexplicably, irrigated agriculture remains exempt from requirements to monitor discharges and identify measures implemented to reduce or eliminate pollution that have long been applicable to every other segment of society, from municipalities to industry to mom-&-pop businesses.

The present approach to regulating irrigated agriculture has grievously failed. After two iterations of the present regulatory scheme, the Regional Board doesn't know who is actually discharging, what pollutants are being discharged, the localized impacts to receiving waters and whether management measures (BMPs) have been implemented to reduce pollution or if implemented BMPs are effective. The Board simply cannot continue to cede its regulatory responsibilities to third-party industry advocacy groups if it hopes to succeed in reducing pollutant discharges from irrigated agriculture.

We urge the Regional Board to reject the Irrigated Lands Regulatory Program Framework proposed by staff and, instead, embrace an approach that has a reasonable chance of success. Continuing to avoid direct regulation of pollution dischargers cannot reduce the pollution of ambient waters.

Restoration of degraded waters and protection of water quality requires the following changes:

1. Eliminate third-party coalitions and require instead that individual dischargers submit reports to the Regional Board identifying the location and content of discharges to both surface water and groundwater. The Regional Board has the duty to implement Porter-Cologne and to assure that farm dischargers do not pollute the Central Valley's waters. Third-party coalitions add bureaucracy, obfuscate critical information the Regional Board needs to have, create permanent lobbies to weaken or undermine any true regulation of farm dischargers, and cannot be effectively enforced.

2. Monitor discharges to surface water and groundwater and the effectiveness of measures implemented to reduce pollution. The blunt fact is that water quality cannot be protected if you do not measure actual discharges to quantify pollution and evaluate the effectiveness of implemented management measures. If irrigated agriculture discharges pollution, they, like every other discharger in the state, should be required to measure what they are discharging and be able to show that their pollution is not harming any water of the State, whether the waters are flowing immediately adjacent to their fields or miles downstream.
3. Require all farm dischargers to prepare individual farm water quality management plans (FWQMPs) that identify measures implemented to reduce pollution. These plans must be made available to the Regional Board and the public. The proposed Framework fails to provide any scheme to track whether any management practices are being implemented or maintained, especially on a farm-specific basis. Nor does the Framework provide basic information about nutrients and pesticides being applied by specific farms for the Board to evaluate whether any installed measures are appropriate. The Regional Board must not warrant another decade of delay waiting for dischargers to save the Board from its own duty to act. The Board has to stop putting off this first step and require FWQMPs be prepared by every discharger within 6 months of the termination date of the current waiver.
4. Require compliance with water quality standards in the near-term, not some uncertain distant future. Staff proposes three years to allow third-party coalitions yet another opportunity to show that whatever they are doing is resulting in implementation of effective management practices and improved water quality. The framework allows three months for coalitions to tell their existing members of the new requirements, an entire year for existing members to reconfirm their membership, and two and a half years to attract a few new members. Staff then further proposes to delay compliance by each of the categories of dischargers by another five to ten years. Given twenty-plus years of no regulation followed by seven years of failed regulation, additional delays are unacceptable.
5. Demonstrate consistency with the state's non-point source and antidegradation policies. An irrigated lands program relying upon third-party coalition groups has no likelihood of ever achieving any water quality objectives. After seven years of oversight by the Regional Board, staff cannot point to a single farm that has implemented Best Practical Treatments or Controls. Staff cannot describe or quantify the management practices, if any, that have been implemented throughout the Central Valley. The data collected during the last seven-year period shows water quality continuing to be degraded throughout large areas of the Central Valley. Furthermore, we are unaware of any consequences to a farmer who did absolutely nothing for the last seven years as long as they could say they were enrolled in a coalition. As for the coalitions, the only consequences of their missing deadlines or not achieving any measurable water quality benefits is receiving additional extensions of time or weakening of requirements. They have utterly failed to facilitate implementation of controls as is required by the Non Point Source Policy.

The only way farm dischargers will recognize any consequences of not complying with conditions of an irrigated lands program is for the Regional Board to remove the coalitions from the equation and regulate the dischargers directly. The abject failure of the existing program and coalitions to regulate agricultural runoff, the largest source of water pollution in California, demonstrates that the Regional Board should move the irrigated lands program into a regulatory system similar to the industrial and construction storm water programs. We urge the Board not to abdicate its responsibility to protect the quality of water discharged from irrigated lands.

Sincerely,



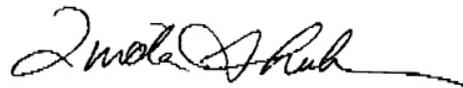
Bill Jennings
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Steve Evans
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Jim Metropulos
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Linda Sheehan
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California Coastkeeper Alliance



Jonas Minton
Senior Water Policy Advisor
Planning and Conservation League



Connor Everts
Southern California Watershed Alliance



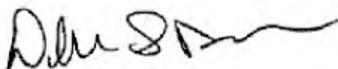
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West Marine

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Cindy Charles
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Golden West Women Flyfishers

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Sue Young
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Shasta Mayflies

s/m _____
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Wade Goetz
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Flycasters of San Jose

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Larry Collins
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Small Boat Commercial Salmon
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Mark Micoch
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Eric Wesselman
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Tuolumne River Trust

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Rosemary Moon Atkinson
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s/m _____
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My Outdoor Buddy

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Chris Acecelo
Chris' Fishing Charters
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Chris Duba
Silver Fox Charters
Monterey

s/m _____
David Ryan
Caroline Charters
Monterey

s/m _____
Dennis Baxter
New Captain Pete
Half Moon Bay

s/m _____
Dan Wong
Sea Gull Charters
Emeryville

s/m _____
Don Franklin
Soleman Sportfishing Charters
San Francisco

s/m _____
Ed Gillia
New Easy River Charters
Berkeley

s/m _____
Frank Rescino
Lovely Martha Charters
San Francisco

s/m _____
Galen Onizuka
Johnson Hicks Marine
Sausalito

s/m _____
George Catagnoia
Sandy Ann Charters
Bodega Bay

s/m _____
Harry Necees
Checkmate Charters
Monterey

s/m _____
Harry Garabedian
New Seeker Charters
Emeryville

s/m _____
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Lovely Linda Sportfishing
Fair Oaks

s/m _____
Jay Yokomozo
Huck Finn Charters
Emeryville

s/m _____
Jim Robertson
Outer Limit
Sausalito

s/m _____
Joe Gallia
El Dorado III Charters
Berkeley

s/m _____
John Atkinson
New Ray Ann Charters
Sausalito

s/m _____
John Kluzmier
Sir Randy Charters
Monterey

s/m _____
Ken Stagnaro
Stagnaro's Charters
Santa Cruz

s/m _____
Ken Ellie
Outdoor Pro Shop
Cotati

s/m _____
Nick Lemons
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Monterey

s/m _____
Nick Menigoz
Supper Fish Charters
Emeryville

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Phillip Bentivegna
Buchie B Charters
San Francisco

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Peggy Beckett
Huck Fin Sportfishing
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March 21, 2011

Via e-mail

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11020 Sun Center Drive, #200
Rancho Cordova, CA 95670
Attn: Adam Laputz
AWLaputz@waterboards.ca.gov

Re: California Sportfishing Protection Alliance Comments on the Recommended Irrigated Lands Regulatory Program Framework

On behalf of the California Sportfishing Protection Alliance and California Water Impact Network (collectively "CSPA"), thank you for this opportunity to comment on staff's "Recommended Irrigated Lands Regulatory Program Framework." The proposed ILRP Framework is a wholesale retreat from any meaningful changes to the existing failed irrigated lands program. In the Framework, staff proposes to authorize the continued degradation of Central Valley waters by the agricultural industry without any meaningful fear of Regional Board interference. Rather than acknowledge the obvious shortcomings of the existing irrigated lands program and propose changes to the program modeled on existing successful regulatory programs implemented in California, including the industrial and construction storm water program and others, staff has chosen to mirror the dischargers' concerns that it may cost time and money for them to reduce their gross discharges of pollutants. The Regional Board cannot solve the Central Valley's irrigated lands pollution problems by continuing to avoid regulating the dischargers responsible for the pollution. That avoidance approach has not worked for the last seven years since the current program was instituted. It certainly did not work for the twenty years prior to that when the Regional Board let the agricultural industry manage its water quality impacts itself and, as a result, caused the massive impairments that continue to be generated by agricultural discharges every year.

CSPA's previous comments on the initial staff report and draft PEIR outlined the minimum changes to the existing irrigated lands program that are necessary for the Regional Board to comply with the State's Antidegradation Policy (SWRCB Resolution No. 68-16), the State's Nonpoint Source Policy and the Regional Board's mandate to implement regulatory programs that comply with the applicable water quality objectives. None of CSPA's reasonable proposals are included in the vague Framework produced by staff. Staff's new Framework actually weakens staff's previous proposal and, if adopted, will only create a program that plainly violates each of the applicable

requirements and policies. The Regional Board should reject staff's recommended Framework and instead adopt a program that incorporates the following components.

1. Third Party Coalitions Must Be Eliminated.

Third party coalitions add bureaucracy, obfuscate information the Regional Board needs to collect and evaluate, create permanent lobbies to weaken or undermine any true regulation of farm dischargers (the proposed Framework being a case in point), and cannot be effectively enforced. The Regional Board has the duty to implement Porter-Cologne and to assure that farm dischargers do not unreasonably degrade and pollute the Central Valley's waters. See Water Code §§ 13146, 13247. The perpetuation of fictional coalition groups is a primary reason the Regional Board has failed to carry out its duties over the last seven years to protect water quality from irrigated agriculture waste discharges. Staff acknowledges that the existing coalitions have not succeeded in demonstrating any implementation of farm management practices designed to protect water quality and the regional data collected to date shows wide spread and prolonged violations of water quality objectives and no discernable progress in bringing the Central Valley waters into compliance. See Staff Report, p. 10 ("a number of factors that are not well known, including (1) the extent to which growers have already implemented management practices to protect water quality; [and] (2) whether the third-party framework will be successful or greater direct Board oversight will be required. . .").

Staff's Framework relies on a number of fallacies regarding the existing coalitions and entirely unrealistic premises about the Regional Board's ability to adjust to coalition shortcomings. For example, a typical head-in-the-sand proposal included in the Framework includes that "[a]ny requirements or conditions not fulfilled by the third party are the responsibility of the individual discharger participant to fulfill." Framework, p. A-10. This is almost meaningless in the context of a framework that does not require anything of individual dischargers, instead gearing its requirements and conditions to the coalitions. Even assuming some requirements apply to individual growers, staff cannot identify and has not exhibited any practicable ability to follow through on this notion and hold any individual grower accountable under a coalition-based program. The only actual response that staff could take is to eliminate a coalition when it fails and that is not a realistic outcome given that the entire program is proposed to continue to be based on abstract coalitions.

The absurdity of the Framework's reliance on coalitions is highlighted by staff's strained effort to make believe notices of violation passed on to some individual, unknown, coalition members by the coalition itself somehow stands in for a rational enforcement mechanism. *Id.*, p. A-10. This abdication of regulatory responsibility is not a reasonable or effective method to enforce the pervasive water quality violations already afflicting the Central Valley. Staff even envisions adding another layer of non-discharger entities to the mix, suggesting in the Framework to "[e]nsure that any activities conducted on behalf of the third party by a subsidiary group (e.g., subwatershed group) meet Board requirements" and that "[t]he third party must assume responsibility for any activities conducted on the third party's behalf." *Id.*, A-12. In other

words, another layer of unidentified, non-dischargers for the Board to peel away in order to address actual dischargers. One has to ask; can this scheme be any less enforceable?

2. **All Agricultural Dischargers Must Prepare an Individual Farm Water Quality Management Plan (FWQMPs) Available to the Regional Board and the Public.**

Instead of proposing a scheme that would eliminate the veil of secrecy erected by the Coalitions over what, if anything, their members have been up to over the last seven years, staff pays lip service to individual farm management plans, proposing that a watered down plan be prepared only if the discharger happens to be in a Tier 3 watershed and only "if the Central Valley Water Board determines that adequate progress in the implementation of the regional GQMP or SQMP has not been made." Framework, p. A-16. This is another way of saying there will be no farm specific management plans. The Executive Officer and Board already have this authority and it has never been used. The Regional Board already is lacking, even after seven years, any evidence that any progress has been made by any coalition group members to implement in any significant way any pollution control measures.

The Regional Board should cut to the chase and not warrant another decade of delay waiting (or more accurately wishing) the dischargers will save the Board from its own duty to act. There is no reason that the Regional Board should not require all farm dischargers to prepare a farm-specific FWQMP. Nor should the Regional Board allow a farm discharger to prepare a plan and then delay for five years before determining whether the plan should be changed or improved. See *Framework*, p. A-16. And, although CSPA initially agreed it may make sense to allow FWQMPs to remain on the farm, and available to the Regional Board and the public, upon request, CSPA now believes that a copy of all the FWQMPs should be submitted to the Regional Board electronically (e.g., through an online database system similar to SMART, which serves the industrial and construction stormwater regulatory program). Given staff's proposal, it is clear to CSPA that any expectation that the Regional Board itself might follow-up on ascertaining the contents of a significant number of FWQMPs is unlikely and only by making this essential information about what is actually happening in the field readily available to the public, especially researchers and advocacy groups, will assure that the dischargers prepare effective FWQMPs consistent with appropriate criteria.

The State Board's Policy For Implementation And Enforcement of The Nonpoint Source Pollution Control Program (May 20, 2004) ("NPS Policy") reliance on individual discharger's assessment of their pollution contribution is worth repeating: "[a] first step in the education process offered by these programs often consists of discharger assessment of their lands or operations to determine NPS problems, followed by development of a plan to correct those problems." NPS Policy, p. 11 (emphasis added). The Policy continues, emphasizing that "[management practices] must be tailored to a specific site and circumstances, and justification for the use of a particular category or type of MP must show that the MP has been successfully used in comparable

circumstances. If an MP has not previously been used, documentation to substantiate its efficacy must be provided by the discharger." NPS Policy, p. 12 (emphasis added). The Regional Board has to stop putting off this first step and require FWQMPs be prepared by every discharger within 6 months of the termination date of the current waiver.

Staff's proposed farm evaluations are not sufficient to identify the implementation of best practicable treatment or control (BPTC) or assure adequate protection of water quality. It would appear from the sparse description of the evaluations' proposed contents and the proposed use of templates that the evaluations will be cursory and not provide details about specific measures and the rationale, if any, behind them. Framework, p. A-16. The evaluations should be elevated to full FWQMPs with sufficient detail for Board staff or any third party reviewer to determine whether the described measures are adequate for the type and size of farm being addressed. Although further details should be provided, the outline of the FWQMP contents proposed by staff appear to be a good start and should be required of all dischargers without contingencies. See Framework, p. A-32.

3. The Three Tiers Should Be Identified Now.

CSPA does not have any objection to the Regional Board using a tiered system. We agree that the tiers are a rational mechanism to: adjust monitoring requirements; assist farm dischargers in determining the level of management measures necessary to protect water quality and, where waters are of high quality, meet BPRC; and assist the Regional Board in prioritizing inspections and enforcement actions. However, the information to specifically designate appropriate tiers is available now. Namely, any waterbody already subject to a Regional Water Quality Management Plan is already impaired and should be designated Tier 3. The Board also has sufficient information to specify the other two tiers of watersheds as well. See PEIR, pp. 3-17 – 3-18.

4. Non-Water Quality Monitoring.

Our review of the recommended Framework turns up no mention of any scheme to track in any detail whether any management practices are being implemented and maintained, especially on a farm-specific basis. Nor does the Framework provide basic information about nutrients and pesticides being applied by specific farms for the Board to evaluate whether any installed measures are appropriate. The Framework makes no improvement on the current program, which has left the Regional Board and the public entirely naïve about what, if any, measures have been implemented by irrigated agriculture throughout the Central Valley. The proposed Framework resorts to vagaries that make it impossible for anyone to comment intelligently on its merits. Rather than think through and propose specific requirements for tracking the implementation of management practices, staff throws up its hands and simply proposes to let the coalitions tell us in a few years time. Framework, p. A-28.

CSPA believes that the PEIR Alternative 4 gets this piece correct by calling for the tracking of nutrients, pesticides, and implemented management practices by each

farmer. Again, the NPS Policy underscores the need for each discharger to track implementation of his/her management practices, “[i]t is important to recognize that development of a plan is only the first step in developing an implementation program that addresses a discharger’s NPS pollution discharges. Implementation of the plan, including any necessary iterative steps to adjust and improve the plan and/or implementation must follow the planning stage.” NPS Policy, p. 11. Leaving it entirely to the coalitions to devise this piece of the Framework will assure that the Regional Board remains in the dark about what management practices have actually been implemented in the Central Valley.

5. **Regional Monitoring of Surface Water Quality, By Itself, Will Not Assure The Implementation of BPTC or Tell The Board or Public Whether Any Management Practice is Proving Effective.**

If irrigated agriculture discharges waste that affects or has the potential to affect the quality of waters of the state, they like every other discharger in the state, should be required to characterize and monitor what they are discharging and be able to show that their discharge is not creating or contributing to a condition of pollution and degrading beneficial uses, whether the waters are flowing immediately adjacent to their fields or miles downstream. Staff’s Framework proposes a license to pollute that, like the current program, does not mandate that any farmer reduce or eliminate a single molecule of pollution in their discharges. Instead, it resorts to wishful thinking and window dressing – producing very limited surface water quality monitoring collected by discharger representatives, miles away from the pollution sources and without a prayer of informing anyone about the merits or demerits of any management practices implemented by any specific dischargers upstream. This non-monitoring scheme is not designed to drastically curb the gross pollution that continues to impair the beneficial uses of Central Valley waters. It is designed to prolong the status quo as long as possible.

The Framework calls for a vague proposal that coalitions in their regional management plans describe the coalition’s “approach for determining the effectiveness of the management practices implemented...” Framework, p. A-28. Likewise, the Framework says coalitions will “[d]evelop and implement plans to track and evaluate the effectiveness of management practices and provide timely and complete submittal of any plans or reports required by the Board.” *Id.*, p. A-11. The Framework also hints at coalitions “conduct[ing] required water quality monitoring and assessments and reporting the results to the Board. *Id.* See also p. A-20. The lack of any detail makes these generic proposals impossible to evaluate.

The Framework mentions possible field studies of some representative sites or somehow linking implementation of practices to changes in water quality. *Id.* Although some studies to evaluate management practice effectiveness would be welcome by CSPA, such isolated studies do not serve as a reasonable stand-in for measuring what is actually being implemented and achieved in the field. Even if a well thought through pilot study showed a management practice could be effective, that study says nothing about whether that practice is being implemented and maintained in any given field. As

for attempting to determine the effectiveness of a management practice by monitoring downstream receiving waters, given the regional nature of the monitoring proposed by staff, CSPA does not see how anyone could ever draw such a connection to a specific management measure. Even in those rare instances under the proposed Framework where a FWQMP may be required, staff still doesn't require any monitoring by individual dischargers. Framework, p. A-32. The only way to truly evaluate the effectiveness of a particular management practice in the real world is to monitor discharges from a sufficient number of representative farms that have implemented the practice, including pre-implementation and post-implementation samples, along with appropriate monitoring of receiving waters upstream and downstream of the area of farm discharge.

As CSPA proposed in its previous comments, within areas where Coalitions are currently required to prepare and implement a management plan, all farms within that management area that are discharging any pollutant which triggered the management plan, must prepare and implement a discharge monitoring plan for the pollutants governed by the management plan as well as basic parameters that serve as indicators of pollution discharges. The basic parameters would include, for example, flow, toxicity, total nitrogen, nitrate, total ammonia, total phosphorous, soluble ortho-phosphate, temperature, turbidity, pH, electrical conductivity, fecal coliform (if livestock is present or the land receives applications of animal manure), and any applied pesticides and metals. If no toxicity is identified in the initial year, toxicity testing could be dropped for several years. The monitoring plan would include monitoring of end-of-farm discharges at a point downgradient from areas where best management practices (BMPs) are implemented. Where possible, monitoring of surface water run-on to areas where BMPs are implemented also must be included. CSPA agrees with the proposed number of samples per season outlined in the PEIR. PEIR, p. 3-24. However, like Tier 3, sampling by Tier 2 growers should be every year. Only by direct monitoring of site-specific BMPs can the Regional Board comply with the NPS Policy, where it states that "if the program relies upon dischargers' use of MPs, there should be a strong correlation between the specific MPs implemented and the relevant water quality requirements." NPS Policy, p. 11. Likewise, discharge data of BMP effectiveness within areas known already to be degraded is necessary to implement the State Antidegradation Policy, in particular its BPTC requirement as well as its nondegradation provision. The Framework does not come close to implementing these key requirements and policies.

Even the regional monitoring proposed in the Framework falls well short of achieving staff's stated goals. Monitoring only every three years will hardly be capable of discerning trends in any reasonable period of time. Given the shifts in agricultural production and pesticide use, such an infrequent monitoring interval will not provide adequate data to detect any trends and any resulting conclusions will always be subject to debate.

As CSPA recommended in its comments on the draft Framework, there is no good reason that the irrigated lands program should be responsible for regional monitoring. No other dischargers in the region are individually responsible for conducting regional monitoring. All of the Region's dischargers should be contributing a

portion of their permitting fees toward an objective and agency-controlled (not discharger-controlled) regional monitoring program, conducted by the Regional Board and its consultants. CSPA agrees that regional monitoring is important to determining the overall health of waterways in the Central Valley. However, its inclusion in permits for irrigated lands dischargers takes away resources that need to be focused on implementing BMPs and evaluating their effectiveness at the points of discharge. It also would be fairer that all entities that discharge pollutants to Central Valley waters contribute a proportionate share of the funds necessary to conduct regional monitoring. Lastly, by consolidating that program within the Regional Board and other non-discharger agencies – rather than under the current program with inexperienced coalitions made up of discharger representatives – the objectivity of the program will be maintained. Placing regional monitoring in another program outside of the ILRP will of course free up a vast quantity of time currently spent by staff attempting to track the coalitions' various regional monitoring efforts which have failed to demonstrate the implementation of a single BPTC-level of management practices on any farm and have not established any meaningful trend that the irrigated lands program is improving water quality anywhere in the Region.

6. Groundwater Monitoring.

Again, the Framework resorts to vague suggestions rather than any specific proposals that the public can reasonably comment upon. For example, the Framework states that “[m]onitoring and other collected information would be used to assess the effectiveness of management practices and whether the BPTC or best efforts standard has been achieved. Additional practices/monitoring may be necessary, in an iterative process, to address water quality concerns.” Framework, p. A-18. The Framework should specify that growers who qualify as Tier 2 or Tier 3 for groundwater pollution should be required to conduct individual monitoring annually as described for the Tier 3 groundwater growers in the PEIR. PEIR, p. 3-25. All growers should be required to sample all existing functional wells on their property and provide that information to the Regional Board within six months of Framework adoption to determine their tier level. The Regional Board should incorporate this data with information from the counties or Department of Public Health to identify tier areas. As for surface water monitoring, the Regional Board should take charge of regional groundwater trend monitoring, not the dischargers' coalitions.

7. Compliance Schedules Are Inappropriate.

Staff proposes another three years to allow third-party coalitions yet another opportunity to show that whatever they are doing is resulting in implementation of effective management practices and improved water quality. Framework, p. A-3. The dischargers already have had seven years to show whether this awkward third-party scheme would work. They have failed to demonstrate any meaningful progress. Prior to the current program, growers had at least 20 years where they claimed they were not degrading water quality. Of course, the data collected over the years proved the very opposite. Enough is enough. The Board should abandon the coalitions and establish

clear requirements for individual growers, including implementation of BPTC where appropriate to protect high-quality waters and BMPs elsewhere to protect water quality, as well as farm-specific monitoring now without any schedules of compliance. Either the coalitions have done what they said they were going to do seven years ago, and they can readily show that their members have all implemented BPTC or BMPs, or they failed, and no such measures have generally been implemented. The fact that staff is now proposing another three years is just another way of acknowledging the program has failed. Staff should hold the dischargers responsible and not give them yet another three years to begin even the basic improvements necessary to effectively address the impairment of Central Valley waters caused by irrigated agriculture.

Staff's leisurely pace for existing coalition members to indicate that they will remain enrolled under the new requirements underscores the inefficiency created by vague, third-party coalitions. Why should it take three months for coalitions to tell their existing members of the new requirements? And why would it possibly be necessary to wait an entire year for existing members to reconfirm their membership? Two and a half years to attract a few new members also is extremely long. Given the failure of the coalition approach, the Regional Board should eliminate legally fictitious middlemen and issue individual or general WDRs that require all irrigated lands dischargers to immediately implement best management practices that are protective of Central Valley waters.

On top of an unreasonable program level compliance delay, staff then further proposes to delay compliance by each of the discharger categories by another five to ten years. Framework, pp. A-24-25. Of course, staff's anticipation that every discharger will need up to another decade to comply with any reasonable requirements is another plain admission that the coalition-based program to date is an utter failure. The dischargers should be held to the guarantees made by their representatives seven years ago – that they would be effective at reducing the impacts to Central Valley waters from irrigated agriculture discharges. No additional schedule of compliance is necessary or warranted.

Staff also introduces yet another vague concept linking those very long compliance schedule recommendations to "primary focus" waters. *Id.* This appears to suggest that non-primary focus waters would be subject to even longer or open-ended compliance schedules. The program should apply to all Central Valley waters.

8. Staff's Proposed Framework Fails To Comply With The NPS Policy.

Like its earlier strawman proposal, staff's new proposed Framework still fails to comply with the NPS Policy. Most importantly, staff has not placed the Regional Board in a realistic position to make the most fundamental determination required by the NPS Policy: "Before approving or endorsing a specific NPS pollution control implementation program, a RWQCB must determine that there is a high likelihood the implementation program will attain the RWQCB's stated water quality objectives." NPS Policy, p. 10. There is absolutely no evidence that an irrigated lands program relying upon third party

coalition groups has any likelihood, never mind a **high** likelihood of ever achieving any water quality objectives. Staff proposes a few small tweaks to the existing program, many of which, including the monitoring proposals, weaken the existing waivers. The existing program, after seven years of oversight by the Regional Board, has failed miserably. The Board staff cannot point to a single farm that has implemented BPTC. Staff certainly cannot describe or quantify the farm management practices, if any, that have been implemented throughout the Central Valley. The data collected during that seven-year period shows water quality continuing to be degraded throughout large areas of the Central Valley. Further weakening an already ineffective program does not provide the Regional Board any basis to determine that there is a high likelihood staff's Framework will achieve the program's objectives, especially meeting water quality objectives.

As the NPS Policy states, "[f]or implementation programs developed by non-regulatory parties, factors such as availability of funding, **a demonstrated track record or commitment to NPS control implementation**, and a level of organization and group cohesion that **facilitates NPS control implementation** are among the critical factors that must be taken into account." NPS Policy, p. 11 (emphasis added). As for the Central Valley's coalitions, there simply is no track record of implementation of control measures. No evidence of any implementation has been provided by the coalitions or presented by staff. Similarly, although the coalitions have shown cohesion in slowing down implementation of the program and added some additional ambient monitoring to the mix, the coalitions have shown no organizational effort or cohesion **facilitating implementation of controls** as is required by the NPS Policy. These abject failures of the existing program and coalitions to achieve these **critical factors** demonstrate that the Regional Board should develop and implement the irrigated lands regulatory program into one much like the industrial and construction storm water programs.

Key Element 1.

Staff's Framework does not comply with Key Element 1 of the NPS Policy. In addition to meeting the goals of the program itself, the NPS Policy requires that the irrigated lands program's "implementation programs must, at a minimum, address NPS pollution in a manner that achieves and maintains water quality objectives and beneficial uses, including any applicable antidegradation requirements." NPS Policy, p. 12 (emphasis added). No such manner of addressing farm pollution is found in staff's Framework. It is clear that staff has no idea if the program will ever be effective in achieving water quality objectives and protecting beneficial uses. Indeed, they propose to extend compliance, albeit with what requirements is anyone's guess, out by another eight to 13 years. No reasonable person can project or assure compliance that far in the future. Indeed, the need to articulate such a lengthy compliance period is evidence that staff has no idea whether continuing the coalition model will ever work. Certainly, the Board cannot determine that staff's proposal for the Regional Board to continue the existing unsuccessful model for three years will assure the achievement and maintenance of water quality objectives. Seven years of failure proves otherwise.

Key Element 2.

Staff claims their proposed Framework complies with Key Element 2 of the NPS Policy. Staff claims that “[i]mplementation of the ILRP Framework requires identification of specific practices that will be used to address constituents of concern and requires tracking of management practice implementation. Proper implementation of practices will be tracked through required monitoring and evaluation.” Framework, p. 27. The problem with each of these examples is that any identification and evaluation is only shared between the discharger and their relevant coalition group. The only information about measures that the Framework requires to be submitted to the Board is a presumably area-wide discussion of management measures that may be generally appropriate and a summary of the evaluations. There is no clear requirement in the proposed Framework that would assure that the Regional Board will know where and what management measures exist, nevermind their effectiveness. As for monitoring of measures, there is none. The regional monitoring will not measure the presence or effectiveness of any specific discharger implemented management measures. Without farm-specific monitoring, staff cannot reasonably be claiming to track implementation and effectiveness of practices.

The NPS Policy provides that:

MPs [management practices] must be tailored to a **specific site and circumstances**, and justification for the use of a particular category or type of MP must show that the MP has been successfully used in comparable circumstances. If an MP has not previously been used, documentation to substantiate its efficacy must be provided by the discharger. A RWQCB must be convinced there is a high likelihood the MP will be successful. A schedule assuring MP implementation and assessment, as well as adaptive management provisions must be provided.”

NPS Policy, p. 12 (emphasis added). Nothing in the Framework tailors any management practices to specific sites or shows what, if any, management practices have been successfully used on farms in the Central Valley. To date, **no documentation** has been provided by any **discharger**. Given staff’s complete ignorance about what, if any, management practices have been implemented in the Central Valley, they are in no position to convince the Regional Board there is a high likelihood those unidentified practices will be successful.

Key Element 3.

Staff also is incorrect that extending compliance timelines out for another decade or more despite having already provided the coalitions seven years to demonstrate their ability to meet standards is consistent with the NPS Policy. “The time schedule may not be longer than that which is reasonably necessary to achieve an NPS implementation program’s water quality objectives.” NPS Policy, p. 14. The Regional Board cannot determine, based on any evidence, that additional time is reasonably necessary for

apparently recalcitrant dischargers who choose not to implement meaningful management practices to some day implement BPTC and meet the applicable water quality objectives.

Key Element 4.

Staff's description of Key Element 4 attempts to refocus this important Element on an overall program and deletes the NPS Policy's reference to specific management practices. Staff paraphrases Key Element 4 as requiring an NPS program to "include feedback mechanisms so that the Board, regulated operations, and the public can determine whether the program is effective." Framework, p. 27. The NPS Policy actually focuses much more on whether management practices are effective: "An NPS control implementation program shall include sufficient feedback mechanisms so that the RWQCB, dischargers, and the public can determine whether the program is **achieving its stated purpose(s)**, or whether **additional or different MPs or other actions are required.**" NPS Policy, p. 13 (emphasis added). Staff claims that management practices will be tracked and their effectiveness evaluated. Framework, p. 27. But almost all of the information, except for what small amount may be requested by the Executive Officer, will not be available to the public. Given the vagueness of staff's Framework, it is impossible to tell whether the referenced evaluations will provide any useful information (quantitative or otherwise). The only monitoring that will occur under the Framework is regional monitoring every three years. Framework, p. A-22. Downstream monitoring on such a long interval will not assure the effectiveness of any management measures. Had such ambient monitoring provided an effective feedback tool for the public and Regional Board to evaluate management measures, the public and the Board already would be able to know what measures were in place now and what if any reductions in pollutants they may have achieved. The Board and the public (and we would surmise the coalitions themselves) obviously do not know anything about the overall presence of management practices in the Central Valley never mind their effectiveness.

Key Element 5.

CSPA is unaware of any consequences that would possibly result to a farmer who did absolutely nothing for the last seven years as long as they could say they were enrolled in a coalition. As for the coalitions, the only consequences that have resulted from their missing deadlines or not achieving any measurable water quality benefits are receiving additional extensions of time or weakening of requirements. Staff's Framework continues this tradition. Staff's list of possible consequences bears no resemblance to the actual implementation to date of the irrigated lands program. Staff claims that "the individual irrigated land operations are responsible for compliance should the third party fail to fulfill its obligations." Framework, p. 28. This is what the Regional Board indicated in the previous waivers for the last seven years. The coalitions have not complied with the requirement to meet water quality objectives. Nevertheless, not one coalition member has been called to task by the Regional Board. Although it should be, this is not a realistic consequence of staff's Framework. Staff,

like in previous waivers, again states that “failure of regional planning efforts will result in the requirement to develop and implement individual farm plans.” *Id.* The coalition planning efforts already have failed and this consequence should have been triggered already. And, if the possible farm plans are parked on a shelf in the field, there will be no effective way of knowing again whether it was implemented or, if it was, whether it was adequate. Third, staff states that, “growers who do not comply under a third-party Order will be regulated individually.” If the seven-year dance with the coalitions and staff’s proposed Framework have made anything clear, it is that staff has no intention of regulating individual growers. In any event, this consequence also is not likely given that the Board will not have the information readily available to take action against coalition members. The only way farm dischargers will recognize any consequences of not complying with conditions of an irrigated lands program is for the Regional Board to remove the coalitions from the equation and regulate the dischargers directly.

9. The Proposed Framework Guarantees Degradation Will Continue To Occur As It Has For The Last Seven Years.

As CSPA emphasized in its original comments, it is not realistic for staff to assume that regional monitoring, by itself, will implement the high quality waters policy’s BPTC requirement or be able to address degradation in the hundreds of miles of waterways left unmonitored by such regional schemes. Staff sticks to its desire for regional monitoring based on its assertion that such monitoring will allow them and others to determine compliance with the BPTC requirement. Framework, p. 28. The simple fact is that the regional monitoring performed to date is incapable of accomplishing the results claimed by staff. Regional monitoring does not achieve BPTC. Indeed, contrary to staff’s claim, the monitoring to date has not identified one farm’s management practices and whether those practices amount to BPTC. See Framework, p. 28. Likewise, the simple farm evaluations proposed by staff and which will be largely unavailable to staff, as well as some unidentified monitoring of measures (presumably special studies referred to elsewhere in the Framework), are so vague that they will not provide any useful information about a particular farm’s effort to achieve BPTC.

Nor does staff’s reliance on regional monitoring take into account the ever-changing cropping patterns and chemical applications made by farmers based on market conditions and evolving technology. These changes in crops and chemical applications often lead to adverse impacts and increased water quality degradation. One clear example is grower’s observed switch to cheaper and more toxic pyrethroids, which bind to sediments. The coalition approach and regional monitoring lack mechanisms to identify and address these evolving problems. Staff’s focus on regional monitoring at three year intervals assumes that agriculture is static and that ambient water quality is always linked to improvements in BMPs when in fact it could be simply measuring pollutants that have been abandoned in favor of new, equally toxic, chemicals. Regional monitoring also focuses on certain commodities, waterways and watersheds and essentially ignores others. Additionally, agricultural pollutants are often discharged during episodic events as pulse flows. The low frequency of regional

monitoring frequently fails to capture these pulses of pollutants in ambient waters. The Board cannot address the Region's widespread degradation if staff does not know what is being applied and discharged by specific farms.

The program already is replete with ineffective regional management plans that fail to provide any information about BPTC. Staff should acknowledge that failure and jump to the next step they state is appropriate to respond to that failure – individual water quality management plans with farm specific monitoring. *Id.*, p. 29. Only then will staff be able to review a specific farm and determine whether BPTC is in place and whether its discharges are degrading adjacent waters.

10. The Board Has No Authority To "Extend" The Existing Irrigated Lands Waivers.

The Framework proposes that the Regional Board "extend the existing irrigated lands coalition group waiver until the new Orders are issued." Framework, p. A-3. However, by its terms and as a matter of law, the existing waiver terminates as of June 30, 2011. See Water Code § 13269(f) ("[p]rior to renewing any waiver . . . , the regional board shall review the terms of the waiver policy at a public hearing"); 13269(a)(2) ("A waiver may not exceed five years in duration, but may be renewed by the . . . regional board"); Coalition Waiver, p. 17 ("[t]his Order . . . expires on 30 June 2011 unless rescinded or renewed by the Central Valley Water Board"). The Regional Board can only renew the waiver if the waiver still meets the criteria set forth in Section 13269 and is consistent with the Basin Plan, including the NPS Policy and antidegradation provisions. See also Water Code §§ 13146, 13247. As discussed above and in CSPA's previous comments, the existing waiver falls far short of the waiver criteria, is allowing discharges that are violating applicable water quality objectives, is inconsistent with the NPS Policy, and cannot meet the High Quality Waters Policy's requirement to implement BPTC. For all of these reasons, renewing the existing waiver is not in the public interest. In addition, reliance by the existing waiver on third party groups not subject to the state and local public records laws and requiring the Regional Board to request information in order for the public to access information required by the waiver is contrary to the public's right to know about discharges of pollution to the state's waters and the implementation of the waiver.

Thank you again for this opportunity to comment on staff's proposed framework. CSPA urges the Regional Board to direct staff to implement an irrigated lands program

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Adam Laputz
March 21, 2011
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adhering to CSPA's recommendations and begin at last to directly address the largest source of pollutants and toxicity to the Central Valley's waters.

Sincerely,



Michael R. Lozeau
Lozeau Drury LLP
Attorneys for CSPA



Bill Jennings, Executive Director
CSPA



March 21, 2011

Via Electronic Mail

ILRP Framework Comments
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Chairperson Hart and Members of the Board:

These comments are submitted on behalf of California Rural Legal Assistance Foundation, Clean Water Action, and Community Water Center. We are a group of nonprofit organizations concerned about the impacts of groundwater contamination on Central Valley communities and the environment.

As you know, today many thousands of people in the Central Valley cannot use the tap water in their homes for drinking or cooking due to nitrate contamination. In some areas in the Valley, more than 20% of small public water systems are already unable to supply safe drinking water, including many of our Valley's schools, which must use their shrinking educational budgets just to supply safe water to students and teachers. Many more communities are on the edge, forced to pay for expensive nitrate treatment or close wells, limiting local drinking water supplies and creating additional barriers to local economic development.

Although we are deeply concerned that the Framework is being adopted as a resolution rather than a regulation, the Framework can still provide important guidance to Board staff members as they develop implementing orders, so long as the Board supports those measures currently contained in the proposed Framework and includes certain additional measures. To that end, we would like to offer specific suggestions to strengthen that guidance in order to protect the Valley's groundwater resources effectively.

As previously stated in comments on the draft program, an effective regulatory program must contain 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.

While the proposed Framework has incorporated changes that appear to include many of these elements, there are a number of important changes that are needed to protect and restore groundwater supplies fully, which are explained in detail below.

I. Compliance and Mitigation Mechanisms Must be Improved from the Current Proposed Framework

Our principle concern with the current staff-proposed Framework is its lack of an adequate compliance standard for groundwater, and relatedly, the lack of an easily-implemented mitigation mechanism that would enable polluters to contribute to treatment or the provision of sources of safe drinking water for impacted communities. We are aware that there are many diverse sources of community drinking water contaminants. Nevertheless, agriculture is the largest source of nitrate loading of groundwater, and nitrate contamination of a drinking water source is very expensive for local communities and domestic well owners to treat or mitigate. Unfortunately, under the proposed Framework, these costs will continue to fall entirely on impacted communities, most of which are some of the poorest in our State and least able to access safe water supplies.

Reliance on traditional pollution liability mechanisms is inadequate in this arena. Given that irrigated agriculture is a non-point source, it is almost impossible to track a molecule of nitrate from a drinking water well to its exact source. Furthermore, even where possible, pinpointing the exact source would at the very least require significant amounts of money and resources to investigate and successfully litigate. We agree that asking the Regional Board to conduct such an investigation in every domestic or public drinking water well would not be the best use of our State's limited resources.

Instead, we urge the Board to include clear compliance standards and easily-implemented mitigation mechanisms into this Framework. The Framework should clearly provide that any agricultural discharger that is causing or contributing to an exceedance of water quality objectives will be subject to enforcement actions. The Framework should also clearly provide that enforcement actions shall result in contributions to a mitigation fund that will help fund mitigation actions by impacted disadvantaged communities or low-income domestic well owners to secure a safe source of drinking water.

Inclusion of clear compliance standards and an associated mitigation program is a vital component of any regulatory program for irrigated agriculture in the Central Valley for the following reasons: (1) agriculture is a significant nitrate contributor and cannot exist in most of the Valley without discharging *some* nitrate to groundwater; (2) nitrate contamination in the Valley's groundwater severely impacts the health and economics of environmental justice communities; and (3) as discussed above, there are significant challenges to applying traditional pollution liability mechanisms to irrigated agriculture. While it is vital that the orders reduce and eliminate ongoing contamination, the Board's mandate is not just to protect but also to restore water quality. Furthermore, this is an issue of environmental justice, as low income communities

and communities of color are disproportionately impacted by nitrate contamination of drinking water. The Board's current waiver program has resulted in disproportionate impacts to environmental justice communities, and as such, the Board has an obligation to correct that discriminatory impact.

A compliance and mitigation program is not unprecedented; in fact, it is part of the Central Coast's proposed agricultural order, as referenced below. Once included in the Central Valley's program, we believe it can serve as a model and be incorporated into other point and non-point source regulatory programs, both within and outside of this region. Specific recommendations on the changes needed are outlined below:

Clear Compliance Standards:

In all orders issued under this program, there must be enforceable standards applied to all agricultural dischargers not to cause or contribute to exceedances of water quality objectives. This is legally required under Porter-Cologne, the Basin Plans, the Non-Point Source Policy, and the Anti-Degradation Policy. To be clear, this standard does NOT hold agriculture responsible for all groundwater in the Central Valley meeting water quality objectives, but rather, under this standard, an agricultural discharger cannot contribute to an exceedance of water quality objectives. In other words, pursuant to this compliance standard, an agricultural discharger that is contributing to an exceedance of a water quality objective would be out of compliance with the program and subject to an enforcement action.

Unfortunately, and contrary to the law, the proposed Framework only creates a groundwater compliance standard of “**a demonstrated improvement in water quality or a reduction in discharge.**” This vague and illegal standard is inappropriate, because it does not require dischargers to stop contributing to exceedances of specific water quality objectives at any point in time or space. If there is no requirement not to contribute to exceedances of water quality objectives, water quality objectives will never be met, and drinking water in the Central Valley will continue to deteriorate.

Furthermore, without such an enforceable compliance standard, it will be nearly impossible to implement any kind of mitigation program to require those dischargers that are causing or contributing to exceedances to pay for or contribute to mitigation programs that provide safe drinking water to impacted communities and domestic well owners.

Under the Basin Plans, water quality objectives are current standards for water quality, not general goals that may or may not be achieved at any time in the future. Instead of adopting a compliance period for groundwater that does not even include a time frame for implementation, much less a reasonable one, we suggest (1) that the Framework and subsequent orders measure discharger compliance by whether there is any cause or contribution to exceedances of water quality objectives, and (2) that enforcement actions directing dischargers to help with mitigation for impacted communities commence within a year of the adoption of the proposed orders. Again, this is appropriate because without such direction by the Regional Board, it is sanctioning continued pollution of local drinking water sources and allowing the costs to be borne entirely by those least able to avoid exposure and secure safe sources without assistance.

Create a Mitigation Funding Mechanism:

The proposed Framework creates no mechanism to facilitate implementation of a mitigation program. Specifically, the Board should direct staff to create a Supplemental Environmental Program (SEP) or create a separate enforcement account to direct fines or compliance order contributions to fund mitigation of the impacts of nitrate and other drinking water contaminants for impacted communities and domestic well owners.

Where a farm is contributing to exceedances of water quality objectives, an enforcement action should direct this discharger to fund mitigation and, at minimum, to ensure the discharger contributes to safe drinking water provision for private domestic well owners. It is important that mitigation includes low-income private well owners because private domestic wells tend to be shallower and more immediately impacted by management practices. Unfortunately, the discussion of the suite of potential enforcement actions in Key Element 5 omits exaction of fines to fund mitigation efforts (or direct provision of alternative water sources).

Staff should consider adopting the language from the Central Coast Order (Item 46):

“ ... in compliance with Water Code section 13304, the Central [Valley] Water Board may require Dischargers to provide alternative water supplies or replacement water service, including wellhead treatment, to affected public water suppliers or private domestic well owners.”

Greater Emphasis on Enforcement:

The proposed Framework does not address enforcement except to remove one tool, the prohibition of discharge, with the argument that use of this mechanism 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 enforce the program aggressively 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.

II. The Proposed Framework Should Include Reporting of Fertilizer Application

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 this information be made publicly available. This will help the Board prioritize operations for inspection and will also provide very basic information about the success of the program in reducing inputs to groundwater. Therefore, data collection should include information on fertilizer application for all dischargers that have been placed in Tier 2 or Tier 3 due to nitrate contamination of groundwater. This tool is not meant to replace needed best practices, monitoring, or implementation of nutrient management plans; it is simply a shorthand guide for the Board to understand where problems might be occurring in an aquifer and better understand trends and changes in threats to water quality.

III. Incentives for Good Actors

We strongly support measures in the Framework that reward dischargers that are certified organic farmers or that voluntarily adopt and implement a Farm Water Quality Management Plan. We do recommend that Farm Water Quality Management Plans for dischargers that would otherwise be classified as Tier 3 for nitrate contamination be required to include Nutrient Management Plans.

IV. Tier 2 Classification Must Be the Rare Exception:

Classification of lands into Tier 2 should be the rare exception. Otherwise, this tier could become the loophole swallowing the rule. As discussed above, determining the exact source of nitrate in a well or the relative contribution from different sources of contaminants such as nitrate is a scientific challenge that often takes significant time and resources, when it is successful at all. Under the proposed program, it appears that if an area is classified in Tier 2, it will take a minimum of eight years (three years of transition and then five years of study) to determine whether an area should be in Tier 1 or 3, and that is assuming that studies are able to make a clear determination. In the meantime, dischargers would not be required to make any improvements, create management plans, or conduct monitoring to determine best practices.

It is vital, therefore, that Tier 2 not be used as a means for dischargers to avoid instituting any changes or improvements while an issue is studied for years, but rather be reserved to only those lands where there is a genuine question as to whether agriculture is contributing to the problem at all. Specifically, any area that has water quality data showing elevated groundwater levels for nitrate or pesticides, or other constituents associated with agricultural discharge, must be classified as Tier 3 for that contaminant unless or until aquifer-specific studies can conclude that irrigated agriculture is not contributing at all to elevated concentrations. Although the proposed program seems consistent with such a tier determination, it is unclear how the tier determinations will actually be applied until we see the proposed orders. However, given that there will be limited time for stakeholder input in the development of the orders, it is important that the Board emphasize the need to minimize classification into Tier 2, particularly for vulnerable groundwater areas and areas with elevated levels of contaminants such as nitrate and pesticides that are clearly associated with agriculture to at least some degree.

Furthermore, if there is no groundwater quality or hydrological data for an area to determine threat levels, Tier 2 classification should be limited in time to a maximum of the three-year transition period to make an initial determination as to whether a high threat exists (*i.e.* it should be classified into Tier 3). Sampling can be conducted in one year from existing relatively shallow local domestic wells to determine whether there are elevated levels of constituents discharged by agriculture, and therefore the three-year transition period should be plenty of time to do an initial characterization as to whether it is a high threat area. Once the initial characterization of a high threat area is made (*i.e.*, elevated levels and/or vulnerable groundwater environment), additional studies would be conducted under Tier 3 to further refine understanding of agriculture's relative contribution and the performance of management practices to protect water quality.

Finally, there should be a clear mechanism in each order to allow for reclassification where new data or further analysis shows water quality problems that are caused or contributed to by irrigated agriculture.

V. Anti-Degradation Policy Will Need to Be Implemented In Each Order; Framework Analysis is Insufficient on Its Own.

The proposed program regulates agricultural discharges with the potential to degrade high quality waters. Therefore, the State Anti-Degradation Policy applies (as Board staff has acknowledged in its master responses to comments). The Anti-Degradation Policy imposes a procedural requirement on the Board to engage in a balancing analysis to determine whether and what amount of additional discharges causing further degradation of Central Valley waters will be in the maximum benefit to the people of the State. Further, the Anti-Degradation Policy obligates the Board to identify and require management practices that constitute “Best Practicable Treatment or Control” (BPTC), *i.e.*, management practices that will ensure that discharges will not violate water quality objectives and will maintain the highest water quality consistent with the maximum benefit to the people of the state.

The analysis that has taken place thus far at the programmatic level does not satisfy the requirements of the Anti-Degradation Policy. Specifically, contrary to the Board staff’s assertions in its individual responses to comments, the Board must identify the amount of degradation that will occur under the program (as currently proposed) and conduct a balancing analysis to determine whether that level of further degradation is in the best interests of Central Valley residents. This balancing analysis must assess not only the costs to the agricultural industry of enhanced regulatory controls limiting discharges but also the economic and social costs of *not* requiring more stringent discharge controls to Central Valley communities that are impacted by contamination of their drinking water supply from agricultural discharges. While Board staff has commissioned a report that amply explores costs to industry, this analysis has been almost entirely lopsided, as the full costs to communities on the other side of the equation have not been fully documented, considered, or properly weighed. This flawed analysis does not support a finding by the Board or Board staff that the level of degradation permitted by the proposed program is in the maximum benefit to the people of the state.

If the Board chooses to adopt the Framework as currently proposed, without conducting a further and more full anti-degradation analysis as described above, then the Board will need to conduct a full anti-degradation analysis prior to adopting each of the subsequent orders implementing the Framework in order to satisfy the State Anti-Degradation Policy. This will necessarily entail making a baseline determination; that is, identifying where there are high-quality waters within the geographic scope of each order and how much degradation will occur in those areas under the program. The Board will then need to assess the socioeconomic impacts of the proposed further degradation on impacted communities within the region and weigh those costs against economic costs to agriculture and make a balanced determination as to exactly how much further degradation is truly within the best interests of the people of the state. This is what the plain language of the State Anti-Degradation Policy requires.

Furthermore, Board staff has stressed in its responses to comments that the Anti-Degradation Policy only applies to those discharges that have the potential to degrade high quality waters and that the Anti-Degradation Policy does not apply to discharges to waters that are not high quality. We therefore feel obliged to remind the Board that “high quality waters” are waters that, as of 1968, did not exceed water quality objectives with respect to any given constituent (*e.g.*, nitrate). Even if the Board were to determine that certain waters do not constitute “high quality waters” with respect to a particular constituent, the Basin Plans themselves prohibit discharges to such polluted waters. Thus, Board staff’s suggestion that in these areas, the Board need only require management practices that reflect a so-called “best efforts’ approach” (as opposed to BPTC) is misplaced. Any further discharge containing elevated levels of that constituent to such waters would violate the Basin Plans.

VI. The Framework Must Ensure Public Information and Transparency

Drafting Individual Orders/Waivers:

The process for adopting this regulatory program differs considerably from that of other regions, which drafted and edited their orders in full public view with ample opportunity for public review and feedback. In this case, staff recommends adoption of this framework by the Board, after which they intend to develop the regional orders with no public input or review, until each order is published for Board adoption. This is wholly inadequate for several reasons.

First, the framework allows major exceptions to most of its conditions, so that the exact terms or even basic outline of each final order cannot be confidently predicted. While some flexibility may be appropriate given the extremely variable conditions of the orders, the fact remains that each order will require careful review. The small window of public scrutiny prior to the Board hearing should be replaced by an iterative process that allows suggestions to be incorporated and reviewed as the order is developed.

Second, the framework was developed and analyzed at the programmatic level. Regional orders will encounter unique issues. Local stakeholders (storm water agencies, small communities, water systems and watershed groups, among others) have a unique perspective and knowledge that must be tapped to ensure that the orders actually accomplish the goal of improving water quality - and to ensure that no project-level CEQA analysis is needed.

Finally, the assignment of Tiers requires public scrutiny, particularly decisions on the Tier 2 “unknown contributor” classification. Local entities may have additional information that can be used to ascertain the source of unknown contamination. The Monitoring and Reporting Plan that accompanies the order should be subject to similar ongoing public review.

We recommend an alternative process; that staff notify local stakeholders when development of an order begins, and invite comment on its content. Those stakeholders should then be copied on any drafts that are shared with third party coalitions.

Electronic Data Collection:

We appreciate the commitment to electronic data collection; however, within the Framework, that commitment comes with a caveat that information will not be collected from the coalitions until that mechanism is set up. This raises the very real possibility that a significant amount of information will not be made publicly available in a timely fashion, if at all. At minimum, we recommend the following:

1. Groundwater Monitoring information should be made public through integration into the publicly accessible GAMA Geotracker database. This database was developed to accept electronic data submission; there is no reason to delay the collection and submission of groundwater monitoring results.
2. An on-line summary form should be provided, perhaps using the Central Coast Water Board on-line form as a template, where Tier 2 and 3 growers will annually provide basic information about their operation, including best practices currently being implemented.
3. On-line fertilizer use reporting should be required in areas impacted by nitrates, with reporting modeled on the existing electronic Pesticide Use Reporting.

Finally, summary data on program implementation must identify by name and location all with the order. Third-party coalitions are meant to monitoring and reporting, not to provide cover for a few

recommendations into the framework prior to adoption.



Martha Guzman
Legislative Advocate
California Rural Legal Assistance Foundation



Laurel Firestone
Co-Executive Director and Attorney at Law
Community Water Center



Rose Francis
Attorney at Law
Community Water Center

From: Erin Lindsey <elindsey@youngwooldridge.com>
To: <awlaputz@waterboards.ca.gov>
CC: Ernest Conant <econant@youngwooldridge.com>
Date: 03/31/11 3:56 PM
Subject: Comments on Irrigated Lands Regulatory Program Framework Documents
Attachments: Letter to Mr. Adam Laputz.pdf

Dear Mr. Laputz:

Please see the attached letter re Comments on Irrigated Lands Regulatory Program Framework Documents.

Thank you,

Erin Lindsey, Legal Assistant
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<<mailto:elindsey@youngwooldridge.com>>

March 31, 2011

VIA EMAIL: awlaputz@waterboards.ca.gov

ATTN: Adam Laputz
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

Re: Comments on Irrigated Lands Regulatory Program Framework Documents

Dear Mr. Laputz:

This letter is submitted on behalf of Arvin-Edison WSD, Kern –Tulare WD, North Kern WSD, Semitropic WSD, Shafter-Wasco ID and Wheeler Ridge-Maricopa WSD (“Districts”), for which we serve as General Counsel, regarding the Recommended Long-Term Irrigated Lands Regulatory Program Framework (Framework) as released by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) in March of 2011, as well as the other associated materials including the Final Environmental Impact Report (Final EIR).

We join in and incorporate the comments of William J. Thomas submitted March 21, 2011, on behalf of the Southern San Joaquin Valley Water Quality Coalition, of which these Districts are a part. We have also review and concur with most of the recommendations in the letter of March 30, 2011 submitted by Somach, Simons & Dunn and various organizations.

In summary, we share the same concerns and object to your Board proceeding to approve the Framework, EIR and related documents because, among other things, the Framework was not analyzed pursuant to CEQA, no cost estimates of the program were provided as required by law, and the program would require all irrigated agricultural operations to conduct individual discharge monitoring, exceeding the Board authority under law.

We also make reference to David Orth’s letter of September 27, 2010, and technical information attached thereto, submitted on behalf of these Districts and others, and many of those comments are still applicable and have not been adequately addressed.

ATTN: Adam Laputz
Central Valley Regional Water Quality Control Board
March 31, 2011
Page 2

We ask that this letter and the reference material be made available to the Board and made part of the record the April 7/8, 2011 hearing.

Very truly yours,

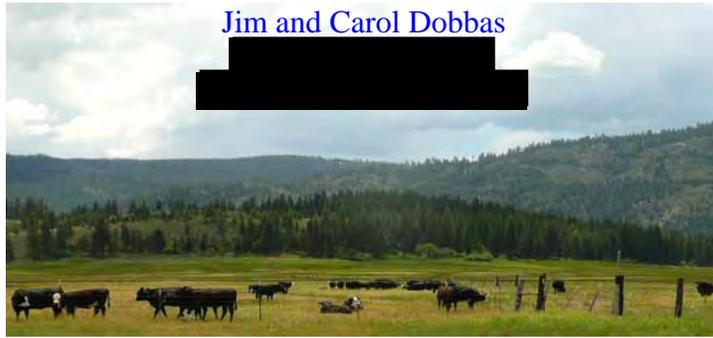


Ernest A. Conant

EAC:el

cc: Arvin-Edison WSD, Kern –Tulare WD, North Kern WSD, Semitropic WSD, Shafter-Wasco ID and Wheeler Ridge-Maricopa WSD, KCWA, Bill Thomas, Dave Orth

Jim and Carol Dobbas



March 30, 2011

To: Adam Laputz and CVRWQB

Re: Adoption of ILRP Framework:

Submission of individual farm information to public-accessed databases

Dear Governing Board of the Central Valley Water Quality Programs and Staff,

We are a small family ranch that raises beef and dryland grain hay at 5000 feet in Sierra Valley. I also serve as executive director of the Upper Feather River Watershed Group (UFRWG), a local subcoalition organized specifically to address this program. We are more than a little concerned with the "*planned electronic submittals from individual dischargers to the Board*" (pageA-14, #6 of the Framework document).

Public accessed electronic databases containing individual farm information and maps will subject our members to potential security issues and data misuse and abuse. There is no protection against litigious organizations that have a history of abuse of the easy access of reported information as a quick source for frivolous lawsuits against complying entities, even for simple paperwork errors. We acknowledge the Regional Board's need for some level of documentation of water quality practices. Coalition submittals of summary information by waterway and/or commodity will provide adequate information to meet this need, especially in low threat areas.

The members of our active coalition have undertaken special studies at the monitoring sites and even on their private lands (with the agreement that private land information remains with the landowner for his farm planning, as is done with NRCS contracts). Members voluntarily host and attend annual local ranch BMP tours, receive regular educational Newsletters, attend local Ag Workshops, work with NRCS & other funders, or fund themselves, the implementation of best management practices on pasture and forage operations which are the primary agricultural practices in our montaine watershed. Water quality topics and the Irrigated Lands Program are regularly discussed at our local Cattlemen's and Farm Bureau meetings. Our UCCE Farm Advisor is a well respected leader both locally and statewide for providing proactive programs for the local agriculture community. The UFRWG board and membership meets regularly to stay on top of this shifting and expanding program. Required Management Plans under the current ILRP are nearly complete. For these past years we have proven that we are a low threat watershed.

Our reward for this successful track record? ILRP staff now proposes each individual farmer electronically submit their farm information directly to the Regional Board, bypassing the local coalitions which were originally formed to provide farmers and ranchers some incentive in addressing this invasive regulatory program. Adopting this proposal within the Framework will

undermine our years of effort to develop valuable partnerships through outreach and education among our members and local agencies. The short term and long term effect will be to alienate coalition leadership from our membership. This requirement will ratchet up regulatory creep on our low threat complying members. In low threat areas like UFRWG, there is no justification for this level of increased regulatory action.

For six years, the 105 ranchers and farmers in our rural counties have spent nearly \$300,000 on agriculture water monitoring and reporting to comply with the current ILRP. Upper Feather River waterways have met water quality standards, with a few exceptions back in 2006 - 2008 for the low-threat "unknown" parameters of DO, pH and E.coli. Working with our UC Cooperative Extension and UC Davis researchers, who have partnered with us to meet the mandates of this program, UFRWG and its members have been engaged in identifying sources for these background parameters for the ILRP. A Special DO and pH Study identified natural elements as driving these parameters. A Management Plan is underway for the ever-present E.coli with numerous non-agriculture sources. These are costly endeavors to provide research to confirm non-agriculture drivers. The current coalition approach is resulting in on-the-ground efforts to meet water quality standards.

Another point of real concern in the Framework is the premature identification of a specific implementation practice as a mandate of a conditional waiver of WDRs for the yet to be drafted Orders. The example we reference is on page A-9 of the Framework Attachment for irrigated pasture. We are encouraged to see the recognition of low-threat commodities. But we caution that this level of implementation planning must take into account the specifics within each watershed region and its geography. These details will be addressed best as RB staff and third parties begin to work together to draft the Orders. To mandate a specific practice at the Framework stage will unnecessarily constrain local entities in region-specific planning. Additionally, it will again unnecessarily entice litigation from program critics who fund themselves through such frivolous activities.

As part of the UFRWG leadership, and as one of the many committed and active members of UFRWG, we strongly urge the Water Board to allow coalitions to continue to manage their own member data and to provide the Water Board with summary information as needed to meet ILRP goals in agriculture water quality.

Coalition compliance and reporting is working in our low-threat watershed!

Respectfully,

Jim & Carol Dobbas
Members of Upper Feather River Watershed Group
Agriculture Stakeholders Advancing Water Stewardship

Cc Katherine Hart, Chairperson
Pamela Creedon, Executive Officer
Joe Karkoski, ILRP Supervising WRCE
Susan Fregien, ILRP Senior ES
Mark Cady, ILRP ES



Upper Feather River Watershed Group

Agriculture Stakeholders Advancing Water Stewardship
PO Box 975 Loyalton, Ca 96118

March 27, 2011

To: Adam Laputz
ILRP Central Valley Regional Water Quality Control Board

RE: Comments on ILRP Framework

We thank you for incorporating low-threat Tier 1 and Tier 2 opportunities in the new ILRP Framework.

There are two important points we would like you and staff to review prior to the April 7th presentation to the CVRWQB meeting.

Point 1: Planned use of direct electronic submittal of individual farm information by growers -- Framework Attachment Pg A-3

Our concerns for this proposal have been transmitted by individual members of our group; and aligns with other coalition comments and concerns regarding the undermining of 5-6 years of groundwork by coalitions to develop local collaborative partnerships to advance water quality, as well as individual farm security issues and database misuse by program litigators.

Point 2: Identification of conditions and/or management measures for conditional waivers of future Orders in the Framework document

Example: Page A-9 #5. *Conditional waivers of WDRs for the following commodities: (1) irrigated pasture¹⁰; and (2) certified organic farmers¹¹*

¹⁰ *Conditions will include minimizing tailwater/stormwater runoff; keeping cattle from water courses with designated contact recreational or drinking water uses.*

Prematurely mandating (“conditions will include”) a condition for the waiver such as footnote 10 on page A-9, for a future Pasture Order for our area, will give ground to program litigators and will *unnecessarily constrain* (Framework pg 12) local UCCE Advisors, conservation agencies and other third parties in opportunities to develop practical water quality implementation practices specific to the unique geographic conditions of this extensive and complex watercourse system that flows through the Sierra Valley. This entire network of natural watercourses and constructed conveyance channels flows through privately held ranch lands.

We have provided links to maps of Sierra Valley showing the extensive channel system of the Middle Fork Feather River tributaries and conveyance watercourses upstream (southward) of the USGS point: [39°48'49"N 120°22'46"W](#) [39.81361°N 120.37944°W](#) identified as the starting point of the Middle Fork Feather River in wikipedia.org and more clearly shown in mapper.com and Google Earth satellite view.

A quick review of the maps will illuminate the complexity of the watercourses across the private lands of Sierra Valley. The simplistic identification by RB staff of an implementation practice, at the Framework stage of the new ILRP, would require taking literally thousands of



Upper Feather River Watershed Group

Agriculture Stakeholders Advancing Water Stewardship
PO Box 975 Loyalton, Ca 96118

acres of private meadows out of production; which in turn would collapse the economic viability of these family ranch operations which supply beef to both local and foreign markets. This in turn would further erode the economic viability of our disadvantaged rural communities of Plumas and Sierra Counties.

To identify a blanket condition in the Framework document for a conditional waiver of WDRs (i.e. *keeping cattle from watercourses*) fails to recognize the local collaboration and planning that will be needed to identify a best management practice and management plan to work within the unique characteristics of the waterways in this intermontaine valley. This step will need to be completed prior to identifying a set of best management practices for these circumstances. The adjoining landscape characteristics result in a complex ecosystem located on private pastures and private meadowlands which support not only grazing but important wildlife habitats as well.

Historic attempts at fencing these vast waterways, which experience annual snow and ice impacts as well as flooding and high flows from seasonal snow runoffs, has resulted in costly damage to “*hardware*” *management practices* structures. (Framework page 32) These damaged structures then cause further ecosystem degradation as man-made fences are annually damaged and scattered throughout the downstream watercourses and riparian areas.

We acknowledge that prescribed fencing can be a practical management tool for many circumstances; however, to identify, in the Framework, this single practice for all pasture conditional waivers will place an unattainable condition on any waiver for our low-threat watershed region of the Middle Fork Feather River.

We encourage you to reconsider identifying a specific management practice condition for a waiver in the Framework document. We encourage you to allow these types of details to be crafted between the Regional Board staff and local third party groups in the development of Orders, so that identification of the most practical best management practice within a region will not be excluded at the get-go; while an unattainable practice is identified, which may not be practical for all regions and which will ensure exclusion from Tier 1 goals for an otherwise low-threat geographic region. This could invite unwarranted program litigation by critics whose focus is on Framework language rather than specific Order language. Limit Framework language to objectives rather than specific practices that shall be in the Orders.

Thank you again for the tremendous work that has gone into development of this Framework. We had requested an option beyond “one size fits all” and this new ILRP plan appears to have numerous options. We trust this will provide good opportunities for all stakeholders as we strive for a practical cost-effective program for our low-threat region.

UFRWG Board of Directors

Upper Feather River Watershed Group
Agriculture Stakeholders Advancing Water Stewardship

Upper Feather River Watershed Group

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PO Box 975 Loyalton, Ca 96118

References:

http://en.wikipedia.org/wiki/Feather_River#Middle_Fork

Middle Fork

The [Middle Fork Feather River](#) begins at 39°48′49″N 120°22′46″W﻿ / ﻿39.81361°N 120.37944°W﻿ / 39.81361; -120.37944, in southeastern Plumas County about 0.5 miles (0.80 km) south of [Beckwourth](#), at the north end of the [Sierra Valley](#).^[21] It is formed by the joining of a number of tributaries that merge in an [inverted river delta](#) wetland with a complex network of irrigation ditches and drains called the Sierra Valley Channels.^[22] A number of creeks merge in the Sierra Valley, the longest of which is Little Last Chance Creek, which originates at 40°1′9″N 120°13′15″W﻿ / ﻿40.01917°N 120.22083°W﻿ / 40.01917; -120.22083 and flows south through Frenchman Lake and Last Chance Valley to the Sierra Valley, where it divides into two [tributary](#) channels.^[23] Other tributaries that join to form the Middle Fork in the Sierra Valley include Carman Creek, Fletcher Creek, Turner Creek, Berry Creek, Hamlin Creek, Sierraville Creek, and Smithneck Creek.^{[12][19]}

The **Middle Fork Feather River** is a major river in [Plumas](#) and [Butte](#) Counties in the [U.S. state](#) of [California](#).^[1] Nearly 100 miles (160 km) long, it drains about 1,062 square miles (2,750 km²)^[3] of the rugged northern [Sierra Nevada](#) range.^[5]

It rises near [Beckwourth](#),^[1] formed by the confluence of several streams in a large mountain-surrounded basin, the [Sierra Valley](#) called the Sierra Valley Channels.^[6] The largest is Little Last Chance Creek, which flows from the northeast side of the valley

Geography



This section is contradicted by the [Feather River](#) article, which claims the **Sierra Valley** is "about 470 square miles", while this article states (without citation) a much smaller area of "120,000 acres" ([187.5 square miles](#)).*(September 2010)*

An intermontaine valley at approximately 4,850 feet (1,480 m) elevation, Sierra Valley is surrounded by mountains ranging in elevation from 6 to 8,000 feet (2,400 m). The huge valley, 120,000 acres (490 km²),^[citation needed] is a down-faulted basin, formerly a lake bed of similar geologic origin to [Lake Tahoe](#) to the south, now filled with sediment up to two thousand feet thick. Average annual rainfall is less than twenty inches, most falling as snow. The valley floor has a grassland and sagebrush ecosystem and is the site of extensive freshwater marshes filled with [cattails](#), [bulrush](#)^[disambiguation needed] and [alkaline flats](#) that drain into the middle fork of the [Feather River](#). Many species of wildlife make their permanent home in the valley, and a great number of migratory bird species stop over in the fall and nest in Sierra Valley in the spring. The Valley also has thermal activity. Marble Hot Springs is located in the north central valley floor. <http://mapper.acme.com/?ll=39.79644,-120.36372&z=15&t=M&marker0=39.80267%2C-120.37795%2C7.8%20km%20E%20of%20Portola%20CA>

(q) [Waters of the United States](#). Surface watercourses and water bodies as defined at 40 CFR § 122.2, as it may be amended from time to time, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.



**El Dorado County Agricultural Water
Quality Management Corporation**

A member of the Sacramento Valley Water Quality Coalition

P. O. Box 286
Placerville, CA 95667
(530) 622-7710
Fax (530) 622-7839

March 21, 2011

Sent via email: AWLaputz@waterboards.ca.gov

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

Attention: Adam W. Laputz

Re: Comments on the Irrigated Lands Regulatory Program (ILRP) Framework

Dear Mr. Laputz,

We appreciate this opportunity to comment on the reference document which will be applicable to our members of the El Dorado County Subwatershed Coalition. Our organization is a member of the Sacramento Valley Water Quality Coalition who also represents our interests.

The El Dorado County Agricultural Water Quality Management Corporation represents 323 individual growers who manage the small farms and ranches that comprise our irrigated agricultural operations. We are located on portions of two Sacramento River sub-watersheds, the American and Cosumnes Rivers, with all irrigated agricultural operations at elevations of 1,000 – 3,500 feet above sea level. The total area of the portions of the two sub-watersheds that we represent is approximately 1.1 million acres. Irrigated agricultural operations represent roughly 3,330 acres or 0.3% of this area.

While our operations are generally concentrated in seven distinct geographic agricultural districts, there are no areas where agriculture is truly the predominant land use. According to the subject PEIR documentation, there are no identified DWR Bulletin 118 ground water basins or sub-basins and there are no SWB Hydrogeologically Vulnerable areas or DPR Groundwater Protection Areas within our county.

Following are our general comments on the proposed ILRP Framework. The detailed comments and recommendations are included as an attachment and are incorporated herein by reference.

1. We appreciate the staff considering our comments about developing a third tier that recognizes a management practices-based approach as an effective program for geographic areas such as ours that pose no threat of leaching to ground water.

Officers: Carolyn Mansfield, President; John Zentner, Vice President; Maryann Argyres, Secretary; Dedrian Kobervig, Treasurer

Directors: Tom Heflin, Norman Krizl, Linnea Marengo, Kirk Taylor, Jim Zeek

Administration: El Dorado County Farm Bureau

2. The El Dorado Subwatershed Coalition meets the criteria established for non-profit, third party entities. Transparency and accountability exist with our members who actively participate in a management practices-based Pilot Program. Reviewing our management practices to identify practices that benefit ground water quality should assure continuation of this program under a Tier 1 tailored approach.
3. Electronic Data Submittals to the Regional Board direct from our members is problematic. Many of the members in this rural county do not have or utilize the internet. Furthermore, our coalition has worked quite well in collecting data from our members, quantifying the data at a summary level, and meeting the requirements of the regulation on a coalition-wide basis. As a Subwatershed Coalition, we have provided this information to the Sacramento Valley Water Quality Coalition by electronic means for incorporation into required management and monitoring reports. This method also protects the private information of our members while providing necessary water quality data that is typical of a non-point source program. We are opposed to requiring electronic submittals by our members.
4. While we support the concept of tailored approaches recommended in the Framework, we know that development of the geographic, organic, or commodity specific Orders will require close cooperation by all parties. A clear pathway between the various tiers and definition of required data to fill the "gaps" will be required.

While the Framework provides flexibility, the first time around will be a challenge to accomplish within the timeframes specified. We recommend that the current Coalition Order be extended to allow sufficient time for each coalition to work with Regional Board staff to draft the long term Order under which we will meet the regulatory objectives.

We appreciate the efforts of staff in considering our previous comments and recommendations and generating a Framework that offers the opportunity for compliance while still maintaining the economic viability of our members. We would welcome the opportunity to work with the Regional Board to develop a tiered approach that continues a management practices-based approach to preserving our excellent surface water quality while providing ground water quality protections.

Sincerely,



Carolyn Mansfield, President

Attachment: As stated

cc: Bruce Houdesheldt, Sacramento Valley Regional Water Quality Coalition
Pamela Creedon, Central Valley Regional Water Quality Control Board

Attachment

**El Dorado County Agricultural Water Quality Management Corporation's
Comments on the Central Valley Regional Water Quality Control Board
Long Term Irrigated Lands Regulatory Program (ILRP) Framework**

The El Dorado County Agricultural Water Quality Management Corporation represents 323 individual growers who operate 3,330 acres of irrigated agricultural operations. We are located on portions of two Sacramento River sub-watersheds, the American and Cosumnes Rivers with all irrigated agricultural operations at elevations of 1,000 – 3,500 feet above sea level. The total area of the portions of the two sub-watersheds that we represent is approximately 1.1 million acres. While our operations are generally concentrated in seven distinct geographic districts, there are no areas where agriculture is truly the predominant land use. We share the land with undeveloped open spaces and rural subdivisions of 5-10 acre parcels. According to the subject PEIR documentation, there are no identified DWR Bulletin 118 ground water basins or sub-basins and there are no SWB Hydrogeologically Vulnerable areas or DPR Groundwater Protection Areas within our county.

1. We would like to thank the Regional Board Staff for considering all of our comments on the PEIR and for incorporating some of our recommendations. We are especially relieved to see the Tier 1/no monitoring category. We believe the El Dorado Subwatershed as a geographical area with an existing legally recognized, non-profit third party entity in place readily qualifies for Tier 1 consideration for the following reasons:

- A. 7 years of surface water monitoring data reflecting no impact to surface water as a result of irrigated agricultural operations;
- B. Successful implementation of the Pilot Management Practices Program with owners of over 95% of our irrigated acres having responded to our Management Practices Survey in less than the first year;
- C. No identified groundwater basins or sub-basins or mapped unconfined aquifers resulting in our domestic and municipal wells being located in fractured rock, confined aquifers;
- D. Existing GAMA well test data with no detected pesticides and limited nitrate detections that cannot be attributed to irrigated agricultural operations: and
- E. While our irrigated agricultural operations are generally located within seven identified agriculture districts, they represent less than 0.4% of the total area of the Subwatershed and nowhere could be considered concentrated.

2. Page 14, Nutrient Management – The statement: “The only potential impact associated with nutrient management is additional planning and management costs...” is inaccurate since a key element of Nutrient Management in vineyards is the costly laboratory analysis of plant tissue to determine plant nutrient needs. This additional cost should be addressed.

3. Electronic Data Submissions from growers directly to the Regional Board, pages A-3 and A-14. There are two issues with this requirement:

- A. This as a new requirement, not addressed in the PEIR. A large number of growers do not have ready access to the internet and this could be a financial hardship in order to comply.
 - B. Many growers consider the management practices they use to be proprietary business practices and would not want those practices to be made a part of the public record. Having the third party collect and summarize the data for reporting to the Board should be adequate while providing the grower with the desired confidentiality.
4. Page A-4, Section 4.1 **Threat to Water Quality**, last paragraph, discussion regarding groundwater: There is no consideration for differentiating the approaches of evaluating the potential impact of irrigated agricultural operations on confined versus unconfined aquifers especially since the sources of confined aquifer groundwater cannot easily be determined. See these two terms defined by the USGS at the Water Sciences Glossary of Terms web site: <http://ga.water.usgs.gov/edu/dictionary.html#main>, and discussed at the USGS Water Science for Schools web site: <http://ga.water.usgs.gov/edu/earthgwaquifer.html>.
5. Page A-5, **Tiering of Areas** and page A-8, **Water Quality Threat Factors**. In the El Dorado Subwatershed we have traditional crop growers, irrigated pasture and certified organic operations. The administrative costs of maintaining multiple waivers would be excessive and financially burdensome, especially to small groups with small acreages. We recommend the Regional Board adopt one order that has one conditional waiver of WDRs that encompasses all three of these categories.
6. Page A-16, **MANAGEMENT PLAN AND PRACTICES REQUIREMENTS**, paragraphs, 3, 3.a, and 3.b. Again there is discussion regarding requiring individual growers to provide management practice data directly to the Regional Board. We take exception to this requirement for the reasons stated in our comment 3.B above.
7. Page A-24, **OPTIONAL CERTIFIED FARM WATER QUALITY MANAGEMENT PLAN**. What will be the qualification requirements for certification entities?



2460 Headington Road
Placerville, CA 95667-5216
Phone: 530.622.7773
Fax: 530.622.7839
Email: info@edcfb.com

March 21, 2011

Sent via email: AWLaputz@waterboards.ca.gov

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

Attention: Adam W. Laputz

Re: Comments on the Irrigated Lands Regulatory Program (ILRP) Framework

Dear Mr. Laputz,

We appreciate this opportunity to comment on the reference document, The El Dorado County Farm Bureau represents over 1300 member families, many of whom will be affected by the proposed regulation of irrigated agricultural lands.

1. The Sierra Foothills Setting. In El Dorado County, the majority of our irrigated agricultural operations are contained within the 1,000 to 3,500 foot elevation range on the western slope, yet there are no areas where agriculture is truly the dominant land use. The average size of operation is approximately 10 acres and our farms and ranches are nestled in among recreational uses, undeveloped open space, rural subdivisions, and public roads.

Comment: The Framework includes the flexibility of establishing a geographic order that will allow us to address our excellent water quality and the minimal impact that our agriculture has on the waters of the state. We support this new approach that provides the opportunity for the El Dorado Subwatershed to meet criteria to be included in Tier 1, recognizing the low threat to surface and ground water quality.

2. No Ground Water Basins identified. The topography and hydrology of the western slope require that deep wells be drilled through fractured rock to water interstices whose water origins are unknown. Within this region of the county, which is included in the proposed regulation, there are no ground water basins or sub-basins identified by DWR Bulletin 118 and there are no Hydrogeologically Vulnerable areas or DPR Groundwater Protection Areas within the county. Since there is no vulnerability for leaching identified in this region, El Dorado County is rendered a low priority area or, stated another way, it presents no threat to ground water quality from agricultural sources.

*Protect, promote, and enhance the economic opportunities and long-term viability
for El Dorado County farmers, ranchers, and foresters.*

Comment: The proposed Framework allows flexibility to minimize regulatory processes in geographic areas with no defined water basins and no vulnerability for ground water leaching. We support such a mechanism as it recognizes that ground water monitoring and sampling should occur in those areas where the possibility of ground water impacts exist and provides a mechanism for a region, such as El Dorado, to be included in Tier 1 with appropriately reduced monitoring requirements.

3. Economic Impacts Minimized. The economic analysis for the previous alternatives understated the financial impact that ground water sampling would have on our local agriculturists. The effects to our local agriculture would have been onerous and disproportionate to the size and income levels of our farmers and ranchers.

Comment: The Framework allows for costly monitoring to shift away from geographic areas that do not require such monitoring. That flexibility will allow the El Dorado Subwatershed to provide data necessary to participate in a Tier 1, practices-based program.

4. Electronic Program Implementation. The overall Watershed Coalition Group approach, which includes the Subwatershed Coalitions, provides assistance to the Regional Board in implementing the ILRP and generally works well. The individual member growers know the local coalition leadership and participate in on-going education. They cooperate in providing information when requested to support the management objectives of the program. Subwatershed Coalition transparency and accountability to the members already exists. All management practices, monitoring and quality reporting is done at a summary level which provides the Regional Board necessary data while protecting the individual farm records of coalition members.

Comment: Requiring coalition members to file Farm Self-Evaluations electronically with the Regional Board will undermine the role of the coalitions with their members. Not all of the members in the rural areas own and utilize the electronic means necessary to comply with such a requirement.

Further, requiring such a submission would be a “quasi” individual farm water quality approach that becomes a “point source” program that is inconsistent with the ILRP. Individual farm information would be publically available instead of reported at a coalition level. Finally, this methodology was not identified in previous alternatives and it has not been studied in accordance with CEQA. For these reasons, we do not support this approach.

5. Program Objectives. We appreciate the program objectives for the proposed Framework. We agree with the objective to coordinate efforts with other government programs for groundwater protections. By relying on other program data it should be apparent that El Dorado irrigated agriculture has no demonstrated negative impact to ground water basins or sub-basins within the state because none are identified. We agree that implementation of management practices can be utilized to maintain water quality for both surface and ground water.

Comment: For the Sierra foothill regions like El Dorado incorporating the flexibility of drafting geographic specific orders will help us meet the objectives without the onerous consequences of a “one size fits all” regulation. Expanding the Pilot Program to identify practices that benefit ground water quality will allow the Subwatershed Coalition to apply appropriate measures in a least regulated tier to preserve our excellent water quality and provide ground water protections.

In general, we support the methodology outlined in the ILRP framework which allows flexibility within geographic regions to find regulatory solutions that work while upholding the objectives of the program. They say that “the devil is in the details” and we recognize that, in order for the flexible approach to be successful, all parties will need to work cooperatively and in good faith to develop specific orders that are achievable without sacrificing the economic viability of the coalition members or the program objectives.

The previously recommended regulatory approaches would have resulted in a disproportionate economic impact to the small family farms and ranches that populate El Dorado County. We appreciate the efforts of staff to provide an additional regulatory tier to address that not all areas within the boundaries of this Region are the same.

We welcome the opportunity to work with the Regional Board and the El Dorado Subwatershed to develop a specific Order that allows a least regulated, tiered approach that would provide ground water protections without sacrificing the economic viability of El Dorado County’s small farms and ranches.

Sincerely,

A handwritten signature in black ink, reading "Merv de Haas", is centered on a light green rectangular background.

Merv de Haas, President

cc: Bruce Houdesheldt, Sacramento Valley Regional Water Quality Coalition
Pamela Creedon, Central Valley Regional Water Quality Control Board
Carolyn Mansfield, El Dorado County Agricultural Water Quality Management Corporation
Kari Fisher, California Farm Bureau Federation

- * American Rivers * CALIFORNIA PRISON MORATORIUM PROJECT *
- * CALIFORNIA WATER IMPACT NETWORK *
- * CENTER ON RACE, POVERTY AND THE ENVIRONMENT *
- *CENTRAL COAST ALLIANCE UNITED FOR A SUSTAINABLE ECONOMY (CAUSE)*
- * FISH SNIFFER MAGAZINE * FRESNO BRANCH,
- WOMEN'S INTERNATIONAL LEAGUE FOR PEACE & FREEDOM*
- * FRIENDS OF TRINITY RIVER *
- * NORTHERN CALIFORNIA COUNCIL, FEDERATION OF FLY FISHERS *
- *SAN JERARDO COOPERATIVE, INC



March 21, 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

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CENTRAL COAST ALLIANCE UNITED FOR A SUSTAINABLE ECONOMY (CAUSE)
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WOMEN'S INTERNATIONAL LEAGUE FOR PEACE & FREEDOM*
* FRIENDS OF TRINITY RIVER *
* NORTHERN CALIFORNIA COUNCIL, FEDERATION OF FLY FISHERS *
*SAN JERARDO COOPERATIVE, INC

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 contain 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 quantitative measurements of compliance for groundwater that are 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. If there is no requirement to meet specific water quality objectives by a specific time, 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 significantly limits staff's ability to 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 should include the exaction of fines to fund

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 * NORTHERN CALIFORNIA COUNCIL, FEDERATION OF FLY FISHERS *
 *SAN JERARDO COOPERATIVE, INC

mitigation efforts. Since improvements 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 the quantity and frequency of 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,

s/m _____
 Steve Rothert
 California Regional Director
 American Rivers

Steve Shimek
 Monterey Coastkeeper

Tracey Brieger
 Co-Director
 Californians for Pesticide Reform

Elanor Starmer
 Western Region Director
 Food & Water Watch

Linda Sheehan
 Executive Director
 California Coastkeeper Alliance

Jim Metropulos
 Senior Policy Advocate
 Sierra Club California

s/m _____
 Tom Frantz
 Association of Irrigated Residents

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* NORTHERN CALIFORNIA COUNCIL, FEDERATION OF FLY FISHERS *
* SAN JERARDO COOPERATIVE, INC



Deb Self
Baykeeper and Executive Director
San Francisco Baykeeper

s/m _____
Carolee Krieger
California Water Impact Network

s/m _____
Caroline Farrell
Center on Race, Poverty and the
Environment



Caryn Mandelbaum
Freshwater Program Director
Environment Now



Dipti Bhatnagar
Northern California Program Director
Environmental Justice Coalition for Water

s/m _____
Jean Hays
Steering Committee
Fresno Branch, Women's International
League for Peace & Freedom

s/m _____
Debbie Reyes
Central Valley Coordinator
CA Prison Moratorium Project

s/m _____
Byron Leydecker
Chair, Friends of Trinity River

s/m _____
Maricela P. Morales MA
Deputy Executive Director
Central Coast Alliance United for a
Sustainable Economy (CAUSE)

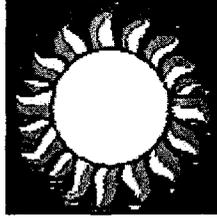
s/m _____
Dr. C. Mark Rockwell
Conservation, Northern Calif. Council
Federation of Fly Fishers

s/m _____
Dan Bacher
Editor, Fish Sniffer Magazine



Evon Parvaneh Chambers
Water Policy & Planning Analyst
Planning and Conservation League

s/m _____
Horacio Amezcuita
San Jerardo Cooperative, Inc



El Quinto Sol de America

March 21, 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:

I am writing to ask the Regional Water Board to develop an Irrigated Lands Regulatory Program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

Today many thousands of people in the Central Valley cannot use the tap water in their homes for drinking or cooking due to nitrate contamination. In some areas in the valley, more than 20% of small public water systems are already unable to supply safe drinking water, including many of our valley's schools, which must use their shrinking educational budgets just to supply safe water to students and teachers. Many more communities are on the edge, forced to pay for expensive nitrate treatment or close wells, limiting local drinking water supplies and creating additional barriers to local economic development.

The good news is that nitrate contamination is a preventable problem that is primarily caused by runoff from chemical fertilizer and animal waste. Therefore, the Board has the power and responsibility to develop a program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

For these reasons, I am asking the Board to approve an effective regulatory program that includes:

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.

A strong and effective Irrigated Lands Regulatory Program can stop further contamination of our drinking water sources before more communities are burdened by the high cost of cleanup. It can also ensure that future generations are able to find safe drinking water sources. We urge the Board to incorporate our recommendations into the framework prior to adoption.

Sincerely,

A handwritten signature in black ink that reads "Irma Medellin".

Irma Medellin, Co-Executive Director

March 21, 2011

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

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Sincerely,

Signature



Print Name

Leonard R. Encinas

Street Address

From: Laurel Firestone <laurel.firestone@communitywatercenter.org>
To: Adam Laputz <AWLaputz@waterboards.ca.gov>, Joe Karkoski <jkarkoski@water...>
CC: Jennifer Clary <jclary@cleanwater.org>, Martha Guzman Aceves <mguzmanace...>
Date: 4/1/2011 3:35 PM
Subject: Q re ILRP framework

Adam and Joe,

We were told by a reporter that talked with the coalitions (and said she confirmed this with Mr. Landau) that the framework that is proposed would require each farm to conduct a farm evaluation and plan (that is not turned into the coalitions or the Board) but would be required of all farms regardless of the Tier.

Can you confirm if this is the case and if so, where those requirements are outlined in the proposed framework. Also, where does it say what those would be required to contain?

I can't find it anywhere, but at this point there are so many different docs to keep track of I thought maybe I was missing it.

Thanks for your help!

Laurel

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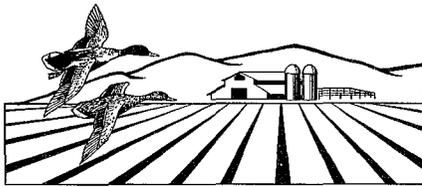
Laurel Firestone
Co-Director & Attorney at Law
Community Water Center
311 W. Murray Ave.
Visalia, CA 93291
Tel: 559-733-0219 Fax: 559-733-8219
Cell: 559-789-7245
www.communitywatercenter.org

From: ronald flores [REDACTED]
To: <awlaputz@waterboards.ca.gov>
Date: 3/21/2011 8:50 AM
Subject: Reject the Proposed Irrigated Lands Regulatory Program Framework.

Dear Mr. Laputz, I am writing this letter to urge you to reject the Proposed Irrigated Lands Regulatory Program. The toxic pollution that growers put into our streams, rivers, and underground aquifers affect our ability and right to clean water. We must monitor where the pollution is coming from and work to enforce our clean water laws. We must clean up the source of pollution.

I strongly feel that those that pollute our waterways must be held accountable. Giving any business a free ride to pollute is simply wrong. I believe we should all have access to clean water. Thank you for taking my input into consideration.
Sincerely,
Ron Flores

[REDACTED]



FWA
Family Water Alliance

(530) 438-2026
Fax: (530) 438-2940
E-mail: fwa@frontiernet.net

"Every Day is Earth Day on the Farm"

P. O. Box 365, Maxwell, California 95955

April 4, 2011

Katherine Hart, Chair
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, California 95670-6114

RE: Comments on Irrigated Lands Regulatory Program Framework

Dear Chair Hart:

Family Water Alliance is a non-profit grassroots voice dedicated to educating the public about issues that impact rural communities. Rural communities in the Central Valley of California are made up of farmers, ranchers and allied industries that grow the food that feeds our nation. Most importantly farmers need clean water and land to continue their dedication to providing safe, affordable food for families across the nation. The Irrigated Lands Regulatory Program Framework will only prove to be counterproductive to improving water quality in the Valley.

First and foremost the existing program is working in the Sacramento Valley. Very few exceedances have been reported and when there have been water quality issues local stakeholders' works together to assure the issue is addressed. Local stakeholders including the growers, local Coalitions, Agricultural Commissioners, RCD's and other groups, such as Family Water Alliance, band together to assure that the agricultural community is informed about water quality in the region.

The most important thing to remember is that farmers need land and clean water to grow crops, so they have a vested interesting is assuring the natural resources are protected and done so in a way that provides for a balance between man and nature. The new framework exerts new regulations that will only prove to make the process more political than scientific. Bringing in other "interested stakeholders" who do not truly understand on the farm water quality practices will only force the current cost effective program to increase rates on growers for political reasons not based on the data found over the past few years.

In conclusion, I would ask all board members and staff to take a step back and talk to the farmers and ranchers that will be impacted by the changes. Most will say "if it's not broke don't fix it". While other interests would like to portray agriculture as a huge polluter the data shows otherwise. Family Water Alliance hopes that you address the costs, farm evaluations and multiple tiers issues in the Framework.

Sincerely,

A handwritten signature in black ink that reads "Ashley Indrieri". The signature is written in a cursive, flowing style.

Ashley Indrieri
Chief Operations Officer

Cc:

FWA Board

Dr. Karl Longley, Regional Board Member

Dan Odenweller, Regional Board Member

Sandra Meraz, Regional Board Member

Lyle Hoag, Regional Board Member

Pamela Creedon, Regional Board Executive Officer

Joe Karkoski, Regional Board Staff

Adam Laputz, Regional Board Staff

Susan Freigen, Regional Board Staff

Mark Cady, Regional Board Staff

NCWA

From: Mary Jane Galbiso [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 4/6/2011 9:48 AM
Subject: Approve regulations to stop farm pollution

Dear Chairperson Hart

I am writing to urge the Central Valley Water Board to adopt a strong Regulatory Framework for irrigated agriculture that reports and reduces fertilizer use and protects groundwater quality. Small communities should not bear the cost of nitrate contamination of their drinking water. Regulation that requires all farmers to protect water quality will level the playing field for those that are already doing the right thing.

My family and I live in northern Tulare County in the rural community of Orosi ... an area where big Ag rules. Our town and surrounding towns, including East Orosi, are already faced with many of our town's water wells being sealed closed because of contamination. It is a great injustice for rural residents to have their drinking water - one of their most important and precious resources - by corporate farms who are not being held accountable for the devastation they wrought.

It is time to protect rural residents - it's people, not profits - that matter here. Approve regulations to stop farm pollution now!

Mary Jane Galviso

Mary Jane Galbiso
[REDACTED]



GLENN COUNTY FARM BUREAU

831 5th Street • Orland, CA 95963 • (530) 865-9636 • Fax (530) 865-7182
E-mail: glenncfb@sunset.net

April 1, 2011

Katherine Hart, Chair
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, California 95670-6114

RECEIVED
SACRAMENTO
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11 APR -5 AM 8:48

RE: Comments on the Irrigated Lands Regulatory Program *Framework*

Dear Chair Hart:

The Glenn County Farm Bureau (GCFB) Board of Directors representing over 800 farm and ranch families in cooperation with the Colusa Glenn Subwatershed Program have compiled the following comments and suggestions in regards to the *Irrigated Lands Regulatory Program Framework*.

GCFB Directors would like to start by thanking you for providing us with your framework in advance; this is an opportunity we greatly appreciate. The GCFB Board of Directors supports the comments and recommendations submitted by the Colusa Glenn Subwatershed Program. Here are a few points that also concern GCFB.

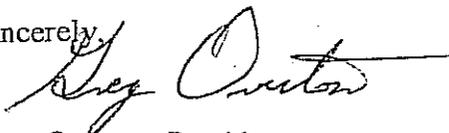
- Regional Board staff, which has been provided all the data and documentation, has expressed the belief that a “linkage” doesn’t exist between the Coalition and the growers. Nothing could be further from the truth in the Sacramento Valley. The linkage is the Memorandum of Understanding your Board, the State Water Resources Control Board, and the Butte and Glenn County Agricultural Commissioners signed. The linkage is the Resource Conservation Districts (RCD) who informs growers of water quality regulations and specific standards of water quality objectives. The linkage is the Agricultural Commissioners who educate growers on appropriate spray practices when they renew their private applicator licenses and restricted materials permits. The linkage is the surveys we have our growers fill out about their management practices. The linkage is the documentation we provide to the Regional Board staff through the Coalition. The linkage is the relationship we have successfully developed between our growers and partners over these past seven years.
- The Framework proposes growers complete Farm Evaluations, when they have already filled out surveys. Our growers will not understand the duplication of these efforts. They will be suspicious of providing information directly to the Regional Board, fearing greater regulatory oversight, expecting regular visits from regulators, and exposing them to potential litigation.

- Under the Framework the information we have collected, analyzed and submitted to Regional Board staff will now be subject to comment by "other interested stakeholders". Stakeholders who have no obligation to balance out the needs of the agricultural economy and environment it must work with. The expansion of the process to include other stakeholders in developing water quality management plans will hinder the existing process making it more political rather than scientific. GCFB members have developed a good working relationship in addressing water quality issues.
- Our membership supports separate multiple tiers for surface and groundwater along with the splitting off of irrigated pasture and organic production. These proposed changes will greatly expand the complexity of the program while concurrently degrading the efficacy of the program. The ILRP has a proven record of success and efficacy in dealing with surface water quality concerns. GCFB recognizes ILRP as a success story in Colusa and Glenn Counties, in helping growers comply with water regulations while improving water quality.

The GCFB would like to encourage the Regional Board to consider the size of the Central Valley region and take into consideration the current groundwater data prior to adopting new regulations. This way necessary action and further monitoring can take place where needed and as needed.

Again, we thank you for providing us with this opportunity. The GCFB strongly encourages you to take these comments, and suggestions into consideration. Agriculture is a major factor in California's economy, in our nation's security, the economic lifeblood of many communities in the Central Valley, as well as many other important facets of our communities. Please contact the GCFB office for further questions (530) 865-9636.

Sincerely,



Greg Overton, President
Glenn County Farm Bureau

Cc: Dr. Karl Longley, Regional Board Member
Dan Odenweller, Regional Board Member
Sandra Meraz, Regional Board Member
Lyle Hoag, Regional Board Member
Pamela Creedon, Regional Board Executive Officer
Joe Karkoski, Regional Board Staff
Adam Laputz, Regional Board Staff
Susan Freigen, Regional Board Staff
Mark Cady, Regional Board Staff
David Guy, Northern California Water Association
Bruce Houdesheldt, Sacramento Valley Water Quality Coalition
Joe Damiano, Colusa County Agricultural Commissioner

Jim Donnelly, Glenn County Agricultural Commissioner
Larry Domenighini, Colusa Glenn Subwatershed Program



GLENN COUNTY FARM BUREAU

831 5th Street • Orland, CA 95963

SACRAMENTO CA 958

02 APR 2011 PM 5:17



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SACRAMENTO
CYR W QCB

APR -4 AM 11:53

Dan Odenweller
Central Valley Regional
Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, California 95670-6114

95670-6114





UNIVERSITY OF CALIFORNIA COOPERATIVE EXTENSION

PLUMAS-SIERRA COUNTIES
208 FAIRGROUNDS ROAD
QUINCY, CA 95971

PHONE (530) 283-6262
EMAIL hageorge@ucdavis.edu
FAX (530) 283-4210
TDD (800) 698-4544

1 April 2011

To: Adam Laputz, Joe Karkoski and
Central Valley Regional Water Quality Control Board

From: 
Holly George,
County Director and Livestock/Natural Resources Advisor

RE: Recommended Irrigated Lands Regulatory Program Framework, Staff Report, March 2011

I am most familiar with this program in the Upper Feather River Watershed where I where I have worked for the University and with the agricultural community since 1987. In collaboration with Dr. Ken Tate and others from UC Davis I was PI for a Prop 50 funded project that monitored ambient water quality above and below major irrigated valleys across the watershed as well as some on-ranch monitoring from 2005-2008 in addition to conducting a number of special studies and significant outreach to producers in conjunction with the Upper Feather River Watershed Group. Our data and that collected by the local watershed group subsequently shows that the type of irrigated agriculture locally is a 'low threat'.

I think it is great that the Regional Board has incorporated a Tiered approach within the ILRP to deal with different levels of 'threat' to water quality from the array of agricultural operations across the region.

On page 12, you state that you've made changes to improve the draft *by reducing expectations and requirements for areas with no known water quality issues. Regulatory coverage is still needed, but we want to minimize resources dedicated to areas where water quality issues are unlikely...* I believe data collected since this program started supports that the Upper Feather River Watershed meets this category. The goals and objectives identified on page A-2 talk about *maintaining the economic viability of agriculture in the Central Valley and encouraging implementation of management practices that improve water quality without jeopardizing the economic viability for all sizes of irrigated agricultural operations or placing an undue burden on rural communities to provide safe drinking water* sound fine.

Yet there appear to be some inconsistencies when on pg 5 under Farm plans, it says *the Board staff believes that a reasonable and minimal step for a grower to take is to conduct a farm evaluation, which can be accomplished in a cost-effective manner and retained onsite...Staff do not believe that the benefits of preparing comprehensive certified farm management plans, other than for nutrients in Tier 3 groundwater areas, are justified by the costs---unless regional plans have not been adequately implemented* (not exactly sure what the last part of this statement means...and to what level??) But then on page A-14 you state *...the Board intends to maximize the use of electronic data submittals from individual dischargers to the Board...I do not think this is necessary nor in keeping with the goals, objectives and previous acknowledgements about maintaining viability and minimizing resources dedicated to areas where water quality issues are unlikely.* I would strongly urge you to remove this requirement especially in areas that meet Tier 1-2 requirements. Let sub-watersheds summarize the data.

I question the appropriateness of including specific practices for conditional waivers in the Framework ,



UNIVERSITY OF CALIFORNIA COOPERATIVE EXTENSION

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FAX (530) 283-4210
TDD (800) 698-4544

liked irrigated pasture and certified organic farmers (page A-9)...specifics should be drafted in the sub-regional plans and orders developed in conjunction with RB staff, third parties. Thank you again for incorporating the Tiered program. **Please maintain flexibility, common sense and economic reality.**

From: Rob Globus [REDACTED]
To: <jkarkoski@waterboards.ca.gov>, <AWLaputz@waterboards.ca.gov>
CC: 'PNSSNS Subwatershed Group' <cleanwaters@netscape.com>
Date: 3/23/2011 7:08 AM
Subject: Submission of individual farm information to public-accessed databases

Dear Mr. Laputz and Mr. Karkoski

The PNSSNS Subwatershed Group has brought to my attention the proposed regulation which will require all farmers/ranchers to electronically submit their farm information directly to the Reg. Wtr. Bd.

My name is Rob Globus and I am a pear farmer and member of the Placer-Nevada-South Sutter- North Sacramento Subwatershed Group (PNSSNS, one of ten subwatersheds under the Sacramento Valley Water Quality Coalition SVWQC). I am concerned with the "planned electronic submittals from individual dischargers to the Board" (pageA-14, #6 of the Framework document).

For 7 years, our 600 ranchers and farmers have spent \$300,000 on agriculture water monitoring to comply with the current ILRP. For 7 years, our waters have tested clean. For 7 years, we have proven that we are a low threat watershed.

Now you are asking each individual farmer to electronically submit our farm information directly to you, bypassing PNSSNS which was originally formed to keep costs low and to allow farmers and ranchers some control of our regulatory destiny. This absurd proposal will undermine our years of effort to comply with the ILRP via the local coalition and its outreach and education to our members and local agencies. Your proposal will alienate the PNSSNS coalition leadership from our membership. Certainly, this requirement will ratchet up regulatory creep on our low-threat complying members. In low-threat areas like PNSSNS, there is no justification for this level of increased regulatory action.

Public accessed electronic databases containing individual farm information and maps will subject us to potential security issues and data abuse/misuse. There is no protection against other interested stakeholders forcing the Regional Board's hand to use this as a regulatory compliance tool. Without a doubt, the Regional Board will spend far more on an electronic data gathering system than it is worth.

Complying with this requirement is an impossibility for roughly half our members. 30% of our members do not have internet access and don't own a computer. Another 20% are using dial-up or some other inconvenient means to access the internet such as driving their laptop to town to a "free wi-fi" establishment. I am fortunate; I have computer skills as I worked off the farm for many years. I can tell you that most of my neighbors who are a bit older than myself can't operate computers and will never learn.

Finally; please consider the implications of adding one more requirement and chore for people do. Does anyone in government ever consider how much time it takes for people to comply with all the forms and filings that a farmer has to fill out or hire someone to fill out? I bet you both have staff and secretaries who do the majority of your paperwork. Try slogging thru the field all day before you come in to do the paperwork your job requires. It might change your perspective a bit. Why do you think we have a coalition to do this.

Please do not require electronic submittal of individual farm information.

Thank you.

Rob Globus

TO ADAM LAPUTZ, BOARD MEMBER
CENT. VALLEY REG. WATER QUALITY CONTROL BOARD
11020 SUN CENTER DR. #200 BOARD RM.
RANCHO CORDOVA, CA. 95670

Re: Submission of *Individual* farm information to public-accessed databases

I am a SMALL farmer and member of the Placer-Nevada-South Sutter- North Sacramento Subwatershed Group (PNSSNS, one of ten subwatersheds under the Sacramento Valley Water Quality Coalition SVWQC). I am concerned with the "planned electronic submittals from individual dischargers to the Board" (pageA-14, #6 of the Framework document).

For 7 years, our 600 ranchers and farmers have spent \$300,000 on agriculture water monitoring to comply with the current ILRP. For 7 years, our waters have tested clean. For 7 years, we have proven that we are a low threat watershed.

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SVWQC
4/11/11 4:38

Public accessed electronic databases containing individual farm information and maps will subject us to potential security issues and data abuse/misuse. There is no protection against other interested stakeholders forcing the Regional Board's hand to use this as a regulatory compliance tool. Without a doubt, the Regional Board will spend far more on an electronic data gathering system than it is worth.

Finally, complying with this requirement is an impossibility for roughly half our members. 30% of our members do not have internet access and don't own a computer. Another 20% are using dial-up or some other inconvenient means to access the internet such as driving their laptop to town to a "free wi-fi" establishment.

Please do not require electronic submittal of Individual farm information.

Thank you.

I COME FROM A FARM FAMILY DATING BACK TO THE 1850'S
WE ARE BEING INUNDATED WITH MORE GOVERNMENT PAPER-
WORK THAN WE CAN HANDLE NOW. PUTTING THIS PROPOSAL
INTO EFFECT WILL DRIVE ONE MORE NAIL INTO THE
COFFIN OF SMALL FAMILY FARMING. I HIGHLY ENCOURAGE
YOU TO LEAVE THE SUBWATERSHED GROUP AND EXISTING
REPORTING AS IT IS.

Administrative Record
Page 3994

RESPECTFULLY,
Ralph Roberts

USA FIRST-CLASS PERVER



SACRAMENTO CA 95811

ON APR 20 11 PM 3 T

HONORABLE ADAM KAPUTZ, BO. MEMBER
CENTRAL VALLEY REG. WATER QUALITY CONTROL
11020 SUN CENTER DR. #200 BIRD RMA.
RANCHO CORDOVA, CA. 95670

95670+62257



From: [REDACTED]
To: <AWlaputz@waterboards.ca.gov>, <jkarkoski@waterboards.ca.gov>, Hotmail <...>
Date: 3/22/2011 3:58 PM
Subject: Emailing: Huck template
Attachments: Huck template.doc

Mr. Laputz and Mr. Karkoski

In the attached letter I have set forth my strong opposition to the "planned electronic submittals from individual dischargers to the Board" It is absolutely ludicrous that the Board is attempting to put one more layer of bureaucracy and one more layer of expense on a community (PNSSNS) that has proven itself for 7 years. This State has made a concerted effort to drive business out of state; requirements such as you contemplate will drive out farming and agriculture as well. I'm all for clean water (7years) but I'm not for more "Big Brother" Come on! By the way, it has taken me more than an hour to get this message out: rural broadband such as it is.

The message is ready to be sent with the following file or link attachments:
Huck template

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.



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 contain 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:

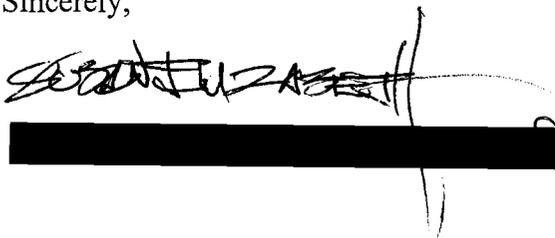
- ***A time schedule and measurements of compliance for groundwater that is protective of public health and water quality.*** The current groundwater compliance goal of "a demonstrated improvement in water quality or a reduction in discharge" is inappropriate because it does not require dischargers to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



Scott Elzasser



5 April 2011

11 APR -4 AM 11:58

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

Re: Irrigated Lands Regulatory Program Framework

Dear Chairperson Hart and Board Members:

As representatives of commercial and sport fishing communities in the Central Valley and throughout California, we write to encourage the Regional Board to embrace a regulatory framework that will meaningfully reduce the pollution caused by irrigated agriculture.

Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. This pollution is documented to be one of the principal causes of the collapse of Central Valley fisheries. Inexplicably, irrigated agriculture remains exempt from requirements to monitor discharges and identify measures implemented to reduce or eliminate pollution that have long been applicable to every other segment of society, from municipalities to industry to mom-&-pop businesses.

The present approach to regulating irrigated agriculture has grievously failed. After two iterations of the present regulatory scheme, the Regional Board doesn't know who is actually discharging, what pollutants are being discharged, the localized impacts to receiving waters and whether management measures (BMPs) have been implemented to reduce pollution or if implemented BMPs are effective. The Board simply cannot continue to cede its regulatory responsibilities to third-party industry advocacy groups if it hopes to succeed in reducing pollutant discharges from irrigated agriculture.

We urge the Regional Board to reject the Irrigated Lands Regulatory Program Framework proposed by staff and, instead, embrace an approach that has a reasonable chance of success. Continuing to avoid direct regulation of pollution dischargers cannot reduce the pollution of ambient waters.

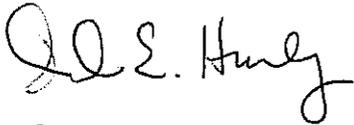
Restoration of degraded waters and protection of water quality requires the following changes:

1. Eliminate third party coalitions and require instead that individual dischargers submit reports to the Regional Board identifying the location and content of discharges to both surface water and groundwater. The Regional Board has the duty to implement Porter-Cologne and to assure that farm dischargers do not pollute the Central Valley's waters. Third party coalitions add bureaucracy, obfuscate critical information the Regional Board needs to have, create permanent lobbies to weaken or undermine any true regulation of farm dischargers, and cannot be effectively enforced.

2. Monitor discharges to surface water and groundwater and the effectiveness of measures implemented to reduce pollution. The blunt fact is that water quality cannot be protected if you don't measure actual discharges to quantify pollution and evaluate the effectiveness of implemented management measures. If irrigated agriculture discharges pollution, they, like every other discharger in the state, should be required to measure what they are discharging and be able to show that their pollution is not harming any water of the State, whether the waters are flowing immediately adjacent to their fields or miles downstream.
3. Require all farm dischargers to prepare individual farm water quality management plans (FWQMPs) that identify measures implemented to reduce pollution. These plans must be made available to the Regional Board and the public. The proposed Framework fails to provide any scheme to track whether any management practices are being implemented or maintained, especially on a farm-specific basis. Nor does the Framework provide basic information about nutrients and pesticides being applied by specific farms for the Board to evaluate whether any installed measures are appropriate. The Regional Board must not tolerate another decade of delay waiting for dischargers to save the Board from its own failure to act. The Board has to stop putting off this first step and require FWQMPs be prepared by every discharger within 6 months of the termination date of the current waiver.
4. Require compliance with water quality standards in the near-term, not some uncertain distant future. Staff proposes three years to allow third-party coalitions yet another opportunity to show that whatever they are doing is resulting in implementation of effective management practices and improved water quality. The framework allows three months for coalitions to tell their existing members of the new requirements, an entire year for existing members to reconfirm their membership, and two and a half years to attract a few new members. Staff then further proposes to delay compliance by each of the categories of dischargers by another five to ten years. Given twenty-plus years of no regulation followed by seven years of failed regulation, additional delays are unacceptable.
5. Demonstrate consistency with the state's non-point source and antidegradation policies. An irrigated lands program relying upon third party coalition groups has no likelihood of ever achieving any water quality objectives. After seven years of oversight by the Regional Board, staff cannot point to a single farm that has implemented Best Practical Treatments or Controls. Staff cannot describe or quantify the management practices, if any, that have been implemented throughout the Central Valley. The data collected during the last seven-year period shows water quality continuing to be degraded throughout large areas of the Central Valley. Furthermore, we are unaware of any consequences to a farmer who did absolutely nothing for the last seven years as long as they could say they were enrolled in a coalition. As for the coalitions, the only consequences of their missing deadlines or not achieving any measurable water quality benefits is receiving additional extensions of time or weakening of requirements. They have utterly failed to facilitate implementation of controls as is required by the Non Point Source Policy.

The only way farm dischargers will recognize any consequences of not complying with conditions of an irrigated lands program is for the Regional Board to remove the coalitions from the equation and regulate the dischargers directly. The abject failure of the existing program and coalitions to regulate agricultural runoff, the largest source of water pollution in California, demonstrates that the Regional Board should move the irrigated lands program into a regulatory system similar to the industrial and construction storm water programs. We urge the Board not to abdicate its responsibility to protect the quality of water discharged from irrigated lands.

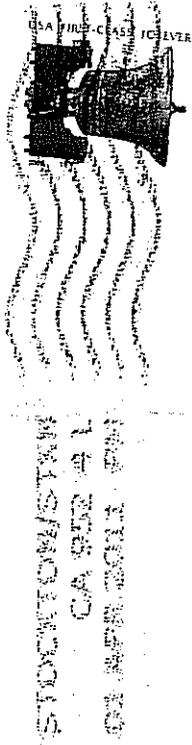
Sincerely,



David E. Hurley



David Hurley
6119 Oak Lane
Stockton CA 95212



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

~~95670~~ Ms. Kelly

From: [REDACTED]
To: <awlaputz@waterboards.ca.gov>
Date: 3/21/2011 11:07 AM
Subject: Farm waste...no more special deals!!!!

Please for the sake of everybody young and old stop the destruction of water with farm chemicals .the morality of the law applies to all.I don't dump my waste on your farm so don't dump yours in our creeks,streams,and oceans.!!

From: Thomas Key [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 3/22/2011 7:21 PM
Subject: Clean Farms – Clean Water Campaign

Mr Adam Laputz,

Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. Monitoring downstream of agricultural areas reveals that virtually all sites exceed water quality standards and almost two thirds are toxic to aquatic life. Pollution is identified as one of the principle causes of the collapse of Central Valley fisheries. Agricultural pollution also threatens drinking water supplies and public health and is a major source of groundwater impairment. Inexplicably, irrigated agriculture remains exempt from routine requirements to protect water quality that have long been applicable to virtually every other segment of society.

The Regional Board needs to propose a Framework, which will be followed-up over the next year with specific orders. I urge you *not* to continue the same basic approach to regulating agriculture that has proved to be a dismal failure: i.e., ceding implementation of the program to industry advocacy groups. Under this scheme, the Board doesn't know who is discharging, what pollutants are being discharged, the localized impacts to receiving waters and whether dischargers are implementing measures to reduce or eliminate pollution or if those measures are working. Consequently, the Board cannot identify any improvement in water quality or any effort to stop pollution.

Sincerely,

Thomas Key

[REDACTED]

[REDACTED]

[REDACTED]

From: Heather Kingdon [REDACTED]
To: <AWLaputz@waterboards.ca.gov>, <jkarkoski@waterboards.ca.gov>
Date: 3/23/2011 5:58 PM
Subject: ILRP framework

Re: Adoption of ILRP Framework:
Submission of individual farm information to public-accessed
databases

I am a beef producer , hay grower and member of the Upper Feather River Watershed Group (UFRWG), a subwatershed under the Sacramento Valley Water Quality Coalition SVWQC. I am concerned with the "planned electronic submittals from individual dischargers to the Board" (pageA-14, #6 of the Framework document).

Public accessed electronic databases containing individual farm information and maps will subject our members to potential security issues and data abuse/misuse. There is no protection against other interested stakeholders forcing the Regional Board's hand to use this as a regulatory compliance tool. We acknowledge the RB need for some level of documentation of water quality practices and coalition submittals of summary information by waterway and/or commodity will provide adequate information in low-threat areas.

For 6 years, our 105 ranchers and farmers have spent nearly \$300,000 on agriculture water monitoring to comply with the current ILRP. For 6 years, our waters have tested clean, with exception of the occasional low-threat "unknown" parameters of DO, pH and E.coli back in 2006-2008. Working with our UC Cooperative Extension and UC Davis Researchers, UFRWG and its members have been engaged in identifying sources for these background parameters for the ILRP. As members of our active coalition, we undertook special studies on our private lands, attend and host annual ranch BMP tours, receive educational Newsletters, attend Ag Workshops, implemented water saving and BMP's funded by myself and attended membership meetings to follow the mandates of this engorged program. Management Plans under the current program are nearly complete. For 6 years we have proven that we are a low threat watershed.

Our reward for this effort? You now propose each individual farmer electronically submit their farm information directly to the Regional Board, bypassing the local coalitions which were originally formed to keep costs low and to allow farmers and ranchers some control of their regulatory destiny. Adopting this proposal within the Framework will undermine our years of effort to develop valuable partnerships through outreach and education among our members and local agencies. The short term and long term effect will be to alienate coalition leadership from our membership. This requirement will ratchet up regulatory creep on our low-threat complying members. In low threat areas like UFRWG, there is no justification for this level of increased regulatory action. On my ranches this will not happen.

We, the active members of UFRWG, strongly urge the Water Board to allow Coalitions to continue to maintain and manage their own member data and to provide the Water Board with the information needed to assess and manage water quality.

Thank you,
Brian Kingdon
UFRWG director

Hello-

As small rancher and member of the Placer-Nevada-South Sutter- North Sacramento Subwatershed Group (PNSSNS, one of ten subwatersheds under the Sacramento Valley Water Quality Coalition SVWQC), I am concerned with the *"planned electronic submittals from individual dischargers to the Board"* (pageA-14, #6 of the Framework document).

Our subwatershed has spent \$300,000 on agriculture water monitoring over the last seven years in compliance with the current ILRP. During this period, our waters have continually tested clean. For 7 years, this subwatershed has proven that we are a low threat watershed.

By asking each individual farmer to electronically submit farm information to you directly, we would be bypassing PNSSNS which was originally formed to keep costs low and to allow farmers and ranchers some control of our regulatory destiny. This proposal will undermine years of effort by this subwatershed to comply with the ILRP via the local coalition and its outreach and education to our members and local agencies. This subwatershed has done an excellent job of connecting with members and obtaining compliance. Why ratchet up regulatory creep on our low-threat complying members? In low-threat areas like PNSSNS, there is no justification for this level of increased regulatory action.

I am also concerned about electronic databases containing individual farm information and maps becoming accessible to the general public. It could open our members to potential security issues and data abuse/misuse. There is no protection against other interested stakeholders forcing the Regional Board's hand to use this as a regulatory compliance tool. And at a time when we are all concerned with the increased cost of government, this electronic data gathering system and the personal to support it would seem a costly waste and another level of beauracracy.

Finally, complying with this requirement is a huge imposition for roughly half our members. Thirty percent of our members do not have internet access and don't own a computer. Another twenty percent have inefficient internet connection or have to drive to town to a "free wi-fi" establishment.

Please, do not require electronic submittal of individual farm information.

Thank you.

Carol Kramer

From: Kent Vander Linden [REDACTED]
To: <jkarkoski@waterboards.ca.gov>
CC: Suzan Vander Linden [REDACTED]
Date: 3/28/2011 4:02 PM
Subject: Submission of individual farm information to public-accessed databases

Re: Submission of individual farm information to public-accessed databases

I am a rancher and member of the Placer-Nevada-South Sutter- North Sacramento Subwatershed Group (PNSSNS, one of ten subwatersheds under the Sacramento Valley Water Quality Coalition SVWQC). I am concerned with the "planned electronic submittals from individual dischargers to the Board" (pageA-14, #6 of the Framework document).

I am a member of PNSSNS because they say it is against the law if I don't pay them and join. I run 10 to 12 steers a year on my 13 acres as lawnmowers. I also have a few mandarins that get a little nitrogen each year. I irrigate with ditch water. This whole idea of testing in my situation seems like so much BS to me and just another way for government to get in my pocket. Seems like money would be better spent controlling the guy behind me that filled in the creek channel and keeps and works on heavy equipment next to what was supposed to be protected Salmon habitat.

For 7 years, our 600 ranchers and farmers have spent \$300,000 on agriculture water monitoring to comply with the current ILRP. For 7 years, our waters have tested clean. For 7 years, we have proven that we are a low threat watershed.

Now you are asking each individual farmer to electronically submit our farm information directly to you, bypassing PNSSNS which was originally formed to keep costs low and to allow farmers and ranchers some control of our regulatory destiny. This proposal will undermine PNSSNS effort to comply with the ILRP via the local coalition and its outreach and education to our members and local agencies. Your proposal will alienate the PNSSNS coalition leadership from our membership. Certainly, this requirement will ratchet up regulatory creep on our low-threat complying members. In low-threat areas like PNSSNS, there is no justification for this level of increased regulatory action.

Public accessed electronic databases containing individual farm information and maps will subject us to potential security issues and data abuse/misuse. There is no protection against other interested stakeholders forcing the Regional Board's hand to use this as a regulatory compliance tool. Without a doubt, the Regional Board will spend far more on an electronic data gathering system than it is worth.

Please do not require electronic submittal of individual farm information or better yet - modify the program to monitor someplace where there is a problem and save some taxpayer money.

Thank you.

Kent Vander Linden

[REDACTED]

[REDACTED]

[REDACTED]

March 21, 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:

I am writing to ask the Regional Water Board to develop an Irrigated Lands Regulatory Program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

Today many thousands of people in the Central Valley cannot use the tap water in their homes for drinking or cooking due to nitrate contamination. In some areas in the valley, more than 20% of small public water systems are already unable to supply safe drinking water, including many of our valley's schools, which must use their shrinking educational budgets just to supply safe water to students and teachers. Many more communities are on the edge, forced to pay for expensive nitrate treatment or close wells, limiting local drinking water supplies and creating additional barriers to local economic development.

The good news is that nitrate contamination is a preventable problem that is primarily caused by runoff from chemical fertilizer and animal waste. Therefore, the Board has the power and responsibility to develop a program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

For these reasons, I am asking the Board to approve an effective regulatory program that includes:
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.

A strong and effective Irrigated Lands Regulatory Program can stop further contamination of our drinking water sources before more communities are burdened by the high cost of cleanup. It can also ensure that future generations are able to find safe drinking water sources. We urge the Board to incorporate our recommendations into the framework prior to adoption.

Sincerely,

Camelia López

Signature

Camelia Lopez

Print Name

Street Address

From: Marcia Lovelace [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 4/5/2011 12:55 PM
Subject: Approve regulations to stop farm pollution

Dear Chairperson Hart

I am writing to urge the Central Valley Water Board to adopt a strong Regulatory Framework for irrigated agriculture that reports and reduces fertilizer use and protects groundwater quality. Small communities should not bear the cost of nitrate contamination of their drinking water. Regulation that requires all farmers to protect water quality will level the playing field for those that are already doing the right thing. .

Marcia Lovelace
[REDACTED]

From: John Mach [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 4/5/2011 9:57 AM
Subject: ILRP Framework

Dear Mr. Laputz:

I am strongly against the ILRP Framework, and urge you to reject it.

I come from a farming family, and understand agricultural interests but I also realize that runoff from irrigated agriculture is a tremendous source of pollution in the Delta and throughout the Central Valley. Water quality issues cannot be shunted aside. It's past time to measure discharges and to enforce water quality standards.

Sincerely,

John Mach

[REDACTED]

Adam Laputz - testing

From: Vivian Martin [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: Sun, Mar 27, 2011 12:45 PM
Subject: testing

Dear Mr. Laputz,

We are small commercial ranchers north of Lincoln and a member of the Placer-Nevada-South Sutter-North Sacramento Subwatershed Group (PNSSAS, one of ten subwatersheds under the Sacramento Valley Water Quality Coalition SVWQC). For 7 years, our 600 ranchers and farmers have spent \$300,000 on agriculture water monitoring to comply with the current ILRP. For 7 years our waters have tested clean. For 7 years, we have proven that we are a low threat watershed. Now you are asking each individual farmer to electronically submit our farm information directly to you, bypassing PNSSNS, which was originally formed to keep costs low and to allow farmers and ranchers some control of our regulatory destiny. This absurd proposal will undermine our years of effort to comply with the ILRP via the local coalition and its outreach and education to our members and local agencies. Your proposal will alienate the PNSSNS coalition leadership from our membership. Certainly, this requirement will ratchet up regulatory creep on our low-threat complying members. In low-threat areas like PNSSNS, there is no justification for this level of increased regulatory action.

Public accessed electronic databases containing individual farm and ranch information and maps will subject us to potential security issues and data abuse/misuse. Without a doubt, the Regional Board will spend far more on an electronic data gathering system than it is worth. **PLEASE DO NOT REQUIRE ELECTRONIC SUBMITTAL OF INDIVIDUAL FARM OR RANCH INFORMATION.** We joined the group because we didn't know how to comply by ourselves.

Thank you,

Dwight & Vivian Martin

Graciela Martinez



March 21, 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 contain 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,



Graciela Martinez
Community Advocate

From: Michael Kossow [REDACTED]
To: <awlaputz@waterboards.ca.gov>
CC: Mark Rockwell [REDACTED]
Date: 3/21/2011 2:55 PM
Subject: Proposed Irrigated Lands Regulatory Program Framework

Adam Laputz,

As a former board member of the Feather River Resource Conservation District (FRRCD) I urge you to reject the proposed Irrigated Lands Regulatory Program Framework, why should agriculture be any different from other industries? While serving on the FRRCD board a fellow board member once told me "if you produce food and fiber for the people of the United States and you activity impacts water quality, so be it" you should be allowed to ignore the Clean Water Act, I stated that attitude sounded very selfish, in other words as long as agriculture get's their way, the heck with downstream water users, at that point he asked me outside to fight! - The FRRCD voted in favor of supporting the "ag waiver", I voted against it. It is time for agriculture to step up to the plate and address the water quality problems caused agricultural practices. Do not leave this issue for coming generations to deal with, the time is now and I do realize how big the battle will be!

What do you need from me?

Thanks,

Michael C. Kossow
Meadowbrook Conservation Services

[REDACTED]

From: Member Member [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 4/5/2011 12:07 PM
Subject: Approve regulations to protect drinking water

Dear Chairperson Hart

I am writing to urge the Central Valley Water Board to adopt a strong Regulatory Framework for irrigated agriculture that reports and reduces fertilizer use and protects groundwater quality.

I grew up in Fresno and remember how much better our water tasted than LA's water. Now Fresno's water tastes worse than LA's. Small communities (CHILDREN) should not bear the cost (AGRIBUSINESS GREED) of nitrate contamination of their drinking water. Regulation that requires all farmers to protect water quality will level the playing field for those that are already doing the right thing, and protect the valley's citizens and the future of agribusiness there.

Member Member
[REDACTED]

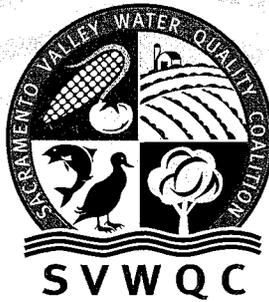
From: Gabrielle Merritt [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 4/5/2011 3:44 PM
Subject: Approve regulations to stop farm pollution

Dear Chairperson Hart

I am writing to urge the Central Valley Water Board to adopt a strong Regulatory Framework for irrigated agriculture that reports and reduces fertilizer use and protects groundwater quality. Small communities should not bear the cost of nitrate contamination of their drinking water. Regulation that requires all farmers to protect water quality will level the playing field for those that are already doing the right thing.

Find ways to subsidize organic farming practices and this problem will go away.
Gabrielle

Gabrielle Merritt
[REDACTED]



March 21, 2011

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

RE: Comments on Irrigated Lands Regulatory Program Framework

Dear Chair Hart:

The Sacramento Valley Water Quality Coalition (SVWQC) has thoroughly reviewed the Irrigated Lands Regulatory Program (ILRP) Framework and recognizes the efforts made by Regional Board staff to create an economically viable program that protects water quality while responding to comments submitted on the Staff Recommended Alternative released last July. In attempting to find a balance between these two important goals unfortunately a Framework has been developed that is convoluted, contradictory, and costly. In several instances the Framework ratchets up regulation where no reason exists for ramped up requirements. This at a time when Congress, the California legislature, and Governor Jerry Brown have undertaken efforts to reduced regulatory burdens to bring California out of the protracted economic downturn.

Three elements of the Framework exemplify the confusing, costly and counterproductive nature of the document, they are; 1) Farm Water Evaluations; 2) Electronic Data Submittal; and 3) Other interested stakeholders' involvement in developing management plans. The egregious nature of these three elements outweighs any intended flexibility and cost savings staff tried to include in the Framework.

As detailed below Farm Water Evaluations are duplicative of information all ready gathered and submitted to the Regional Board. Submittal of electronic data presupposes every agricultural operation has the technological capability to achieve this and fails to calculate the cost of compliance and the Regional Board cost to collect this information from 50,000 growers. Furthermore, there is no protection against other interested stakeholders forcing the Regional Board's hand to use this as a regulatory compliance tool, dictating what management practices should be used. It is likely that Regional Board will spend far more on an electronic data gathering system than it is worth. The quality of the data will not be substantially higher than is currently provided by the Coalitions.

Other interested stakeholders simply do not have standing in the permitting process. The potential for protracted deliberations on management plans is very real and will be counterproductive to improving water quality.

CONVOLUTED

The addition of another tier in the Framework is positive. (Page A- 5, Section 4.2) The application of the tiers and beneficial uses however raises several questions that need clarification.

- Would the existing **SVWQC Management Plan structure** (prioritization of constituents of concern from toxicity to DO and pH) be permitted under the Framework?
- **Are Surface and Ground Water Quality Management Plans (SQMP and GQMP) only required in Tier 3 areas?** Are they used to define the Tier 1, 2 and 3 areas? Will the monitoring data be the determining factor in evaluating what tier an “area” falls under?
- Footnote 6 on Page A-4 appears to use the **303(d) Impaired Waterbodies list to determine “threat to water quality”**. Will a 303(d) listed waterbody for an unknown source prevent a waterbody from being listed Tier 1? The 2010 303(d) list has Arcade Creek running through the City of Sacramento listed as impaired for diaznon from agriculture. No agriculture is in the area and the potential of spray drift is remote. Coalition monitoring data is more current and accurate than the Lines of Evidence in the 303 (d) list.
- **Are existing surface water quality management plans automatically designated Tier 3?** The SVWQC Management Plan has 64 lower priority (Dissolved Oxygen, pH, E. coli) constituents of concern for which source evaluation is currently underway. In the Foothills and upper watersheds these are the only exceedances of water quality objectives. For these constituents of concern a Tier 1 or Tier 2 designation is the appropriate classification.
- Are **Conditional Waivers of Waste Discharge** automatically considered Tier 1?
- Are those waterbodies which **SVWQC Management Plan obligations have been deemed complete by the Executive Officer** now Tier 1 for surface water if no other exceedances have occurred?

CONTRADICTORY

- **The document uses the term “area”, “management area” (Page A-7), and “geographic area”, can you explain the differences between those terms?** It is unclear which “area” the Regional Board would base its evaluation of management objectives plans, and surface water and ground water quality management plans on to determine “relative” and “potential” threat in a “given area and data availability”.

- **“How Tiers are applied”**, on Page 4, the Framework states tier classification will be “evaluated separately for different parameters, in different areas” yet on Page A-5 the Framework states in 4.3 “An area would not be designated as Tier 1, if Tier 2 or 3 constituents were in the area,” Also the footnote on Page A-7, “. . .an area could have Tier III requirements in surface water for chlorpyrifos, and Tier 1 requirements for all other constituents in surface and groundwater.” How are these statements consistent?, and on Page A-25, Section 10.1 there is no tiering of beneficial uses as in the Straw Proposal.
- Why do **Management Objectives Plans** have to be prepared in Low threat (Tier 1) areas? (Page A -16, Section 7, number 1)? Doesn't the water quality monitoring results or the absence of hydrogeologically vulnerable ground water areas substantiate the effectiveness of management practices? Section 7.5 (Surface Water Quality Management Plan) on Page A-17 states, “Monitoring and other collected information will be used to assess the effectiveness of management practices and whether the BPTC or best efforts standard has been achieved.”

COSTLY

- **Unintended Costs of Multiple Regulatory Mechanisms** - The carving out of 3 separate Conditional Waivers of Waste Discharge for the foothills, irrigated pasture and certified organic farmers and a General Waste Discharge Requirement (WDR) for the Sacramento Valley creates unintended costs for growers . First it will create small pockets within geographic regions that must either pay their own monitoring and management plan costs under a separate order or require the geographic order to establish separate rates to cover the costs. Increasing the cost on low value crop acreage is not the intent of the Framework but will be the outcome. (Page A-9, Section 4.5) Rather than have separate silos of Waivers and WDRs a grower should have choice to belong to one, to avoid having to pay for coverage in more than one program.
- **Farm Evaluations Costly Duplication** - The goal of balancing cost and achieving water quality objectives by avoiding duplication of requirements already covered by existing agencies (Department of Pesticide Regulation) and programs (GAMA) is positive. (Page A- 21-22, Section 8.4) The failure to apply that same principle in compiling management practices by requiring every agricultural operation to complete a Farm Evaluation is duplicative and costly. (Page A-16, Section 7.3) For instance, a strict reading of the Framework would mean that El Dorado and Napa growers would have to do a Farm Evaluation even though that work was done as part of their Pilot Management Practices programs. Is this a correct interpretation of the Framework?
- **Electronic Data Submittal Costly, Confusing and Counterproductive** - The Framework states the “Board intends to maximize the use of electronic data submittals from individual dischargers, “and growers will be allowed to enroll directly with the Regional Board. Not only is this precursor for direct regulation by the Regional Board, it does not eliminate the costs. Participant lists are necessary to invoice participants for monitoring and management plan costs. Where is the cost savings? (Page A -14, Paragraph 1)

- **Public Input on Water Quality Management Plans Delays Action to Improve Water Quality** (Page A-19, number 8) – This is a significant revision to the current management plan review and approval process. Previously, the SVWQC Management Plan was approved after a thorough review by the Executive Officer and Regional Board staff. Requests for changes are thoroughly reviewed by staff before the Executive Officer approves a change. In a recent instance, Regional Board staff undertook a 7 month review of monitoring data and source evaluation information the SVWQC had prepared over a two year period, before recommending to the Executive Officer that the Management Plan was complete. The potential exists for political science to dilute sound science delaying approvals by the Regional Board and Executive Officer on actions. This is not beneficial to improving water quality.

Explain when and how “Public Input on Water Quality Management Plans” by other interested stakeholders would take place? What types of management plan decisions would they be involved in?

- **Baseline Summary and Management Objectives Plan Not ALWAYS Cost Effective** - The preparation by 3rd party groups of a baseline summary and assessment of management practices every 5 years in Tier 1 and Tier 2 is potentially a cost saving measure over the current program depending on what is required . In the Foothills, Coast Range, and upper watersheds where monitoring is limited by seasonal influences, and the use of pesticide is limited monitoring requirements and costs are less and savings might be minimal. Eliminating surface water quality monitoring costs does not mean costs are eliminated. There is the cost to prepare management objectives plans. The larger the area and the more diverse the size of farm operations the more time consuming and costly the process is. (Page A-16, Section 7.2)
- **Farm Evaluations Not Warranted** The requirement of “all irrigated agricultural operations (in Tier 1, Tier 2, or Tier 3) must complete a farm-specific evaluation and identification of their management practices and have the evaluation available for Board inspection.”, eliminates the cost savings potential in Tier 1 and Tier 2. (Page A-16, Section 7.3) Again monitoring results, the ratio of irrigated acres to the total watershed and pesticide use in a watershed are empirical proof of water quality not completing paperwork. (Footnote 8 on Page A8; "...relative amount of irrigated agricultural use compared to other land uses in the geographic area, and pesticide use.")

REGULATION WITHOUT REASON

- **Other Interested Stakeholders – Water Quality Management Plans** -Section 7.8 on Page A-19, provides other interested stakeholders regulatory authority without specifically defining the parameters or matters they can provide input on. Other interested parties (MRPP) should not be permitted to comment on **requests for changes in water quality management plans requiring Board or Executive Officer approval**. These are decisions the senior environmental scientists and Executive Director are trained and qualified to be making in the public interest.

- **Issuance of 13267 Orders** – At the end of the Section 7.7 on Page A-19 is language that is not consistent with the spirit of the existing program. The sentence reads, “Failure by a third party to submit a SQMP or GQMP that *receives Executive Officer approval* (emphasis added) will result in the issuance of 13267 Orders requiring the irrigated agricultural operations in the affected areas to submit the required reports and information.” There may be any number of reasons that an Executive Officer doesn’t approve the SQMP or GQMP, but individually regulating farm operations shouldn’t be used as leverage in finalizing these documents, sound science, water quality and economic considerations should be. If all the requirements of SQMP and GQMP are met sufficient information will have been submitted and 13267 Orders will be unnecessary.
- **Farm Evaluation is Duplicative of information that already exists.** - Why, after the SVWQC has documented management practices in Source Evaluation Reports for pesticide and toxicity management plans, submitted the results of management practice surveys, after the Butte and Glenn County Agricultural Commissioners have provided further documentation of management practices not for just irrigated agricultural operations but ALL agricultural operations in several watersheds, and the University of California Cooperative Extension has documented management practices where there are no water quality issues, the Framework requires a Farm Evaluation for all agricultural operations is confusing to us, especially in Tier 1 areas. It either masks the Regional Board’s real intent to require Individual Farm Water Quality Management Plans, or simply reverses the intent to create flexibility in future Orders and returns to the “one size fits all” approach.

RECOMMENDATIONS

Farm Evaluations One of the most sensitive issues for growers and landowners is the control and privacy of any individual grower's information related to the administering of the ILRP. Because of this, the proposal to have participating members submit individual farm evaluations and other information directly to the Water Board is of great concern to our members. We understand that there are circumstances that may require the Water Board to verify information in these evaluations, and would make the information available for review by the Water Board as needed on a case specific basis. However, the information contained in individual farm evaluations should be managed by the Coalitions, and not by the Water Board as is implied in Section 6 of the Recommended Framework (page A-14). There are several reasons for this:

- The Coalition is required to provide the evaluation information to the Water Board in aggregate for assessment of specific geographic regions or commodities (page A-16, Section 7.3), so there is already a requirement for the Coalition to manage the information.

- Direct submittal of the information and management by the Water Board would undermine the ability of the Coalitions to serve their members, as well as undermining the little trust that exists between growers and the Regional Board, as a result of continually changing requirements in the ILRP, that have little basis in monitoring results.
- It would also require the Coalitions to request the data from the Water Board or to duplicate their efforts to manage the data.
- There is simply no regulatory value in making all of this member data freely available to the general public (as would be the case if it was managed by the Water Board).

We strongly urge the Water Board to allow Coalitions to continue to maintain and manage their own member data and to provide the Water Board with the information needed to assess and manage water quality.

Furthermore, It is our recommendation that the Framework on Page A-16, Section 7 *Management Plan and Practices Requirements*, number 3, Farm Evaluation, included the following language,

“If the management practices for the irrigated agricultural operations are not already documented then third parties would be required to compile and submit information on management practices in aggregate.”

The typical SVWQC grower’s perspective is the SVWQC water quality results show few and limited exceedances, which we are addressing in Management Plans, yet the program continues to change. Why?

The SVWQC has demonstrated a commitment to improving water quality. The SVWQC is beginning its 8th year of monitoring. During that time we have collected, analyzed and submitted to the Central Valley Regional Water Quality Control Board data on approximately 10,000 water quality samples. In the last two years **over 98% of our pesticide samples are below detection.** We have only had **one nitrate exceedance out of 826 nutrient analyses.** Toxicity is extremely rare in SVWQC waters, with **only one out of 75 sediment samples** testing high enough to trigger a pyrethroid analyses.

The SVWQC partnerships with County Agricultural Commissioners ensure effective enforcement when pesticide exceedances occur. The same close partnership with each of our subwatershed partners be they the local subwatershed group of growers, the local Farm Bureau, the Resource Conservation District, or the University of California Cooperative Extension ensures the effective management and financial resources to benefit water quality are available

SVWQC Comments on Framework

March 21, 2011

Page 7

The SVWQC's program is achieving water quality goals in an economically and environmentally sustainable way. . It does not require the drastic change outlined in the Framework.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Guy". The signature is fluid and cursive, with a large loop at the top and a long tail that loops back under the name.

David J. Guy
President

Cc: Vice-Chairman Dr. Karl E. Longley
Boardmember Dan Odenweller
Boardmember Sandra Meraz
Boardmember Lyle Hoag

Executive Officer Pamela Creedon
Joe Karkoski
Adam Laputz
Susan Freigen
Mark Cady
Bruce Houdesheldt

North Eastern California Water Association

P.O. Box 367, McArthur, CA 96056

NECWA's Mission is to protect and enhance water rights, water quality and riparian areas to the benefit of agriculture, the environment, recreation, and wildlife in the Northeastern California region.

March 19, 2011

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

Attention: Adam Laputz

Dear Chair Hart and Board Members:

Please accept these comments on behalf of the Northeastern California Water Association (NECWA). We are a voluntary membership organization of over 170 members and a geographic region that covers 75,000 irrigated acres for the Irrigated Lands Regulatory Program (ILRP) in the northeastern corner of the state. NECWA was formed prior to the implementation of the ILRP for the purpose of protecting our member's interests in water rights and quality. Our members were proactive prior to the implementation of the ILRP and we still feel that the ILRP program is unnecessary, burdensome and costly to our members and to the state.

That said, we are saddled with this regulatory program and understand that we must continue to work within the framework, therefore we have fully read the Staff Report which contains the staff recommendations to the upcoming changes to the Irrigated Lands Regulatory Program. There are a few items we would like to bring to your attention as you look to continuing and making changes to the current program.

Placing the appropriate perspective.

Our region consists of roughly 2,752,300 acres, which includes the Upper Pit River Watershed, the Fall River Watershed, the Burney Creek Watershed and the Hat Creek Watershed. We used reports published on each of these watersheds¹ to compile the following numbers that are important for you to consider, especially in the light of footnote 8 on Page A8 of the report; "...relative amount of irrigated agricultural use compared to other land uses in the geographic area, and pesticide use." Of the 2.7 million acres in our coverage area, only roughly 8% is in irrigated or partially irrigated agricultural uses. Compare that to the 60% ownership by the Federal and State governments, and roughly 15% by private forest landowners. Obviously irrigated agriculture is a very small component and is also very light touch, since we are in a high elevation setting with a limited growing season and crop availability.

¹ Hat Creek Watershed Assessment and Watershed Management Plan, VESTRA Resources, March 2010; Burney Creek Watershed Assessment and Watershed Management Plan, VESTRA Resources, April 2010; Fall River Watershed Assessment and Watershed Management Plan, VESTRA Resources, April 2010; Pit River Alliance Webpage: www.pitriveralliance.org, March 2011.

It is important to understand that NECWA is a proactive, volunteer, membership organization. We recently contracted with University of California Cooperative Extension Agricultural Advisors to perform a replicable, professional study of our membership to learn about their management practices. We did this to understand the types of practices our members are using in order to determine what continuing education we can provide in the future². The study had a 76% return rate. It showed that over 90% of our membership have made or are making management changes to enhance and protect water quality on their operations. That shows real success from our member's participation in a voluntary membership organization that happens to be a sub watershed coalition group complying with the ILRP.

In addition to the great response on management improvements, the data on pesticide occurrences were negative, no traces of any pesticide tested for were found. (Even though this year we are, yet again, forced to pay for complete and thorough pesticide testing under the requirements of the ILRP).

NECWA members should fall into Tier 1.

The study referred to above also compiled all of the monitoring data that we have painstakingly collected over the past six years. The only exceedances that occurred were in DO, Ph and Ecoli. NONE of the exceedances were tied to agriculture uses. So, when staff wants to place us into Tier 2 simply because they believe we are guilty until we prove ourselves innocent, costing both our members and the state greatly, that is ABSOLUTELY the wrong approach! Also, please recognize that the DO standard is higher because the Upper Pit River was wrongly classified as a cold water fishery! The DO exceedances would not have occurred if the Pit was properly classified as a warm water fishery, which it is in the upper reaches³ prior to the confluence with the Fall River, where it does become a cold water fishery. Several of the upper tributaries to the Upper Pit River also are cold water fisheries.

Do Not Use 303d listings to Automatically place areas into Tier 2 or Tier 3.

Our NECWA membership has recently contracted with an environmental consulting firm to look at the data that has been used to place water bodies, namely the Pit River and several of its tributaries, onto the 303d list. This firm has found the data to be highly lacking in QAQC (a standard that supposedly is required in order for data to be used to list a water body). The consulting firm has had numerous discussions and communication with staff at the Regional Board. It has been highly difficult and sometimes impossible to get copies of the field notes or protocols used in collecting the data used in making the determinations. The data our members have been paying to collect over this past six years is far more accurate than data used to place these water bodies on the 303d list and classify their beneficial uses as they are.

² Northeastern California Water Association Management Survey Summary, March, 2011: Larry Forero, UCCE, Dan Marcum, UCCE, Lynn Huntsinger, University of California, Berkeley, Helen Albaugh, NECWA

³ Pit River Watershed Alliance Water Quality Monitoring Program, 2003-2005, Prepared by: Todd Sloat Biological Consulting, Inc and the Regional Water Quality Control Board Redding Office, March 2007.

No Farm Evaluations or Farm Water Quality Management Plans for Tier 1 or Tier 2.

The cost these would place on our members would be horrific. Staff seems to refer to a simple checklist or two other options. As you consider how much paperwork you are looking at in evaluating this new and updated Long Term ILRP we ask you to consider how easy it appears to be for the state to expect more and more documentation and reporting. To what end? That makes no improvement on the ground and it comes at a high cost to both regulated agriculture and the state itself.

Management Plans to be submitted every five (5) years for Tier 1 and Tier 2.

The staff report is confusing whereby at some points it is clear that they are recommending that reports shall be submitted every five years. But then you find in Section 7 and Section 9, where discussion of every three years, or even yearly occur. It is unclear what the staff recommendation is.

Avoid placing landowners under multiple orders.

As the process has been explained, the Board will undertake a series of orders to implement the "new" program. Our concern is that you could place multiple burdens and differing requirements onto landowners that have several types of crops on their property. For example, a landowner can easily have hay, irrigated pasture, livestock and wild rice. Would they be subject to the terms of four separate orders? They should not be. You should craft something that allows for landowners to comply with one order, if they fall under more than one.

Lastly, maintain the integrity of the coalition structure.

As mentioned above, even though we are a sub watershed coalition under a larger coalition, our members know they need to be aware of their practices and to ensure that water quality is not degraded from their actions. Ninety percent (90%) of our members have made or are making changes in their operations to ensure that water quality is maintained or enhanced. These are real people, who have real concern about the environment they work in and the resources they steward through their agricultural operations. In many cases, these landowners have stewarded and cared for their lands and water for generations, long before this ILRP came into being.

Thank you for your consideration.

Sincerely,



Roderick McArthur, President
North Eastern California Water Association
P.O. Box 367
McArthur, CA 96056

Cc: Pamela Creedon, Executive Officer

From: [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
CC: <jkarkoski@waterboard.ca.gov>
Date: 3/23/2011 9:08 PM
Subject: Electronic submission of farm data

Dear Mr. LaPutz and Mr. Karkoski,

I am a dues paying member of the PNSSNS subwatershed group. Those dues are coming from a very modest retirement income - I believe that I currently fall somewhere between "low " and "very low" income. Although I still have nine sheep on my 3 acres, I am no longer engaged in any farming activity that generates income. I never made a profit on my sheep ranching.

I originally joined the subwatershed group because the information I received made it appear the State would be coming after me for non compliance if I didn't. I have since learned that I am "probably" exempt. I say probably because the regulations are about as clear as the Sacramento River to someone who doesn't work in your field. I still belong "just in case" and because I do believe we should have a clean environment and I would like to stay informed about best practices to help achieve that goal.

Do you really think that electronic reports from one little old lady on three irrigated acres that drain (in the winter only) into the waters of the state are worth your time to collect and analyze?

Sincerely,
Susan Nielsen

[REDACTED]

[REDACTED]

EarthLink Revolves Around You.

March 21, 2011

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

RE: Comments on Irrigated Lands Regulatory Program Framework

NO deal on individual farm evaluations!

Dear Chairperson Hart,

I live in the Grass Valley area and have been involved with this regulatory program since 2003 and have rarely seen much in the program that even was appropriate for foothill locations and irrigated pastures. After working with the Regional Board ILRP staff for the past few years, this new long term program seems to address these "low threat" areas where water quality is good and agricultural practices do not seem to affect water quality. I have always preferred.

I have great issue under this new proposed program that **requires individual farm evaluations** in the different tiers. Tier 1 should allow irrigated pastures and pretty much all of the foothill agricultural practices to continue their good work and not ask them to do more, especially when it is not warranted. We have prided ourselves in high quality educational programs to our growers and ranchers through the Farm Bureau and Placer/Nevada/South Sutter/ North Sacramento sub-watershed coalition under Sacramento Valley. We strongly believe that this proactive approach achieves much greater results of landowners implementing Best Management Practices and comes from a trusted source with these private landowners. Asking private landowners to report directly to the Regional Board is ludicrous in time, effort and certainly will not achieve any better results that we currently have. In fact, I would estimate that landowners will finally "throw in the towel" trying to understand this program and why they are even in it. Also, how in the world would you even staff the regional Board staff to accommodate landowners reporting directly to you. That is going to increase the cost to an even more ridiculous amount of money being spent on this program.

New coalitions will form as a result of the Tier 1 Low Threat and the Regional Board staff and ILRP should let these groups continue to communicate and work with their fellow growers and ranchers in a productive way that continues to result in clean water! By requiring individual farm reporting, you will destroy the current small, local coalitions that lead the growers and work effectively with them. In addition, landowners do not want to deal with a regulatory body such as the Regional Water Quality Control Board nor report private information to you. I believe this might result in landowners stopping good practices because they continue to be punished for doing good land stewardship.

Finally, this is a great hardship for our rural landowners who don't even have internet service. Over 50% of our members do NOT have any access to submit data electronic data. Is the State of California going to provide a new service to all these rural landowners so they can abide by this new proposa. Please do not require this.l

Please eliminate the individual farm reporting because it won't work, it won't achieve any better results, will most likely have a negative effect on participants/ program and will be VERY COSTLY.

We have been doing great things and achieving great results, stop further regulations that don't make sense. If you have any questions, I can be reached at [REDACTED]

Lesa Osterholm

[REDACTED]

cc. Joe Karkowski

Adam Laputz

Susan Friegan

PNSSNS

From: Shelley O [REDACTED]
To: <awlaputz@waterboards.ca.gov>
Date: 3/26/2011 12:11 AM
Subject: I Support CSPA

Please add me to the people who want to see nature thriving.

I urge you to reject the proposed Irrigated Lands Regulatory Program Framework.

In order to fully protect and restore degraded surface and ground water, the Regional Board should make the following changes to the proposed program.

Eliminate third party coalitions and require instead that individual dischargers submit reports to the Regional Board identifying the location and content of discharges to both surface water and groundwater.

Monitor discharges to surface water and groundwater and the effectiveness of measures implemented to reduce pollution. The blunt fact is that water quality cannot be protected if you don't measure actual discharges to quantify pollution and evaluate the effectiveness of implemented management measures.

Require all farm dischargers to prepare individual farm water quality management plans that identify measures implemented to reduce pollution. These plans must be made available to the Regional Board and the public.

Require compliance with water quality standards in the near-term, not some uncertain distant future. After decades of no regulation and seven years of voluntary compliance, its time for an effective program.

Demonstrate consistency with the state's non-point source and antidegradation policies.

Thank you for your consideration.

Shelley Ottenbrite
[REDACTED]

03-17-11

Honorable
Mesa Regional del Valle Central
Señor envío esta carta referente
al Programa Regulatorio de Fieles
de Riego.

La razón de esta carta por darles
saber de algo que ustedes ya saben
que por causa de falta de mantenimiento
de los Fieles de Riego constante pesticidas
que se aplican sin ningún control
efectivo y también las Fertilizantes
son la causa que muchas Familias nos
encontramos enfermas, aparte de
pagar unas Tarifas muy altas del
servicio del agua, comprar agua
embotada y muchas no les alcanza
para eso así que tienen que tomar
esa agua tan peligrosa para la
salud.

Recomendación a esa Honorable mesa
que son Responsables, deben que tomar
decisiones y a la vez obligar a los
que continúan que tienen que limpiar esa
agua que se va a las profundidades
contaminando el agua subterránea

espero que consideren esta Recomendacion
yo soy un padre de muchos que son
perdido Familiares a causa de la
contaminacion

atentamente
S. S.
Jesus Quevedo
17610 Rail Road Dr
Cutler, CA. 93615

03-17-11

To the Honorable Central Valley Water Board:

I am sending this letter regarding the Irrigated Lands Regulative Program.

The purpose of this letter is to let you know about something you already know, that is : due to so much contamination on the irrigated fields, so many pesticides being applied without any effective control and, also, the application of fertilizers, are causing that many of our families are sick, besides the fees we pay for water services, and purchasing bottled water. Many of these families cannot afford it and are forced to drink that water which is so dangerous to the human health.

My recommendation to the honorable board, the responsible entity, is for you to make decisions and at the same time mandate to those contaminating the fields to clean that water because it goes to depths thus contaminating the underground water.

I hope you consider this recommendation.

I am a father of many who have lost family members because of the contamination.

Sincerely

Jesus Quevedo
12610 Railroad Dr.
Cutler, CA 93615

From: Robert Ransdell [REDACTED]
To: <awlaputz@waterboards.ca.gov>
Date: 3/21/2011 6:56 PM
Subject: Regulating farm pollution

Regional Water Board,

The California Delta, the biggest estuary on the West Coast of North America, is a priceless public and ecological resource but the years of over pumping and lax enforcement of pollution laws as pertains to farms, have taken it's toll. Already populations of a number or species that inhabit the delta or use it as a vital migratory route are seriously imperiled. The deterioration of this resource has also had negative effects on the many california citizens who live along it's shores and downstream in the SF bay.

I am writing to ask you to start imposing and enforcing pollution laws concerning farm run-off. Pesticides, fertilizers and animal waste all make their way to the Delta and SF bay from farms by way of the many waterways that flow into the California Delta and the rivers that feed it.

Pollution laws are already in force for most businesses in the state whether small Mom & Pop or huge corporations so it is only fair that farms (many of which are a part of large Ag corporations) should also have common sense but serious restraints put on their out put of polluting chemicals, etc.

Thanks for your time,

Robert Ransdell
[REDACTED]

From: Russell Reid [REDACTED]
To: "AWLaputz@waterboards.ca.gov" <AWLaputz@waterboards.ca.gov>, "AWLaputz@w...
CC: [REDACTED]
Date: 3/24/2011 3:47 PM
Subject: ILRP changes

I am the Chairman of the Upper Feather River Watershed Group (UFRWG), a subwatershed under the Sacramento Valley Water Quality Coalition SVWQC I am also a beef producer and hay grower in Quincy. Our Board of Directors and members are very concerned with several of the staff recommendations for the new ILRP.

The recommendation for public accessed electronic databases containing individual farm information and maps will subject our members to potential security issues and data abuse/misuse. There is no protection against other interested stakeholders forcing the Regional Board's hand to use this as a regulatory compliance tool. We acknowledge the RB need for some level of documentation of water quality practices and coalition submittals of summary information by waterway and/or commodity will provide adequate information in low-threat areas.

For 6 years, our 105 ranchers and farmers have spent nearly \$300,000 on agriculture water monitoring to comply with the current ILRP. For 6 years, our waters have tested clean, with exception of the occasional low-threat "unknown" parameters of DO, pH and E.coli back in 2006-2008. Working with our UC Cooperative Extension and UC Davis Researchers, UFRWG and its members have been engaged in identifying sources for these background parameters for the ILRP. As members of our active coalition, we undertook special studies on our private lands attend and hosted annual ranch BMP tours, receive educational Newsletters, attend Ag Workshops, work with NRCS & other funders to implement BMP and attended membership meetings to follow the mandates of this engorged program. Management Plans under the current program are nearly complete. For 6 years we have proven that we are a low threat watershed.

It seems now propose each individual farmer electronically submit their farm information directly to the Regional Board, bypassing the local coalitions which were originally formed to keep costs low and to allow farmers and ranchers some control of their regulatory destiny. Adopting this proposal within the Framework will undermine our years of effort to develop valuable partnerships through outreach and education among our members and local agencies. The short term and long term effect will be to alienate coalition leadership from our membership. This requirement will ratchet up regulatory creep on our low-threat complying members. In low threat areas like UFRWG, there is no justification for this level of increased regulatory action.

"We, the active members of UFRWG, strongly urge the Water Board to allow Coalitions to continue to maintain and manage their own member data and to provide the Water Board with the information needed to assess and manage water quality".

Thank you,

Russell Reid

Chairman, Upper Feather River Watershed Group

Agriculture Stakeholders Advancing Water Stewardship

From: Reneé Rivera [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 4/4/2011 12:23 AM
Subject: Reject the proposed Irrigated Lands Regulatory Program Framework

Attention Adam...

I am a concerned mother and resident of San Joaquin Valley. I do not understand why I have to argue and rally in order to have safe drinking water and water to swim and fish from. It is common sense to improve our water ways in the Delta; we need this improvement from our farmlands, local government, and all through our communities! The Delta is part of my home for the past 34 years and is now home to my 7mth old son...I hope to share with him all the wonders the Delta has to offer from the wetlands to the creatures, but I am concerned he will discover erosion and pollution due to runoff from irrigated agriculture. I urge you to establish an effective program that will ensure that pollutant discharges from irrigated agriculture be reduced and minimized. I refuse to leave my son a polluted and contaminated environment let alone his community because irresponsible government will not improve the runoffs. Please see that we need a new improvement now for the future!!

Sincerely,
Reneé Rivera

From: Matt Rode [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 3/21/2011 10:37 PM
Subject: Clean Farms – Clean Water Campaign

Clean Farms – Clean Water Campaign
Mr Adam Laputz, Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. Monitoring downstream of agricultural areas reveals that virtually all sites exceed water quality standards and almost two thirds are toxic to aquatic life. Pollution is identified as one of the principle causes of the collapse of Central Valley fisheries. Agricultural pollution also threatens drinking water supplies and public health and is a major source of groundwater impairment. Inexplicably, irrigated agriculture remains exempt from routine requirements to protect water quality that have long been applicable to virtually every other segment of society. The Regional Board needs to propose a Framework, which will be followed-up over the next year with specific orders. I urge you not to continue the same basic approach to regulating agriculture that has proved to be a dismal failure: i.e., ceding implementation of the program to industry advocacy groups. Under this scheme, the Board doesn't know who is discharging, what pollutants are being discharged, the localized impacts to receiving waters and whether dischargers are implementing measures to reduce or eliminate pollution or if those measures are working. Consequently, the Board cannot identify any improvement in water quality or any effort to stop pollution. I feel that it is vitally important that the interests of all Californians be properly represented. For too long, corporate agribusiness interest have been allowed free rein, resulting in harm to the environment and endangering the health of all Californians. It is way past time for us to take the proper corrective actions. Sincerely, Matthew Rode [REDACTED]
[REDACTED]

From: "Steve Rosenblum" [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 3/23/2011 4:47 AM
Subject: Upcoming hearings on the Delta

Dear Mr. Laputz:

Restoration of the Central Valley's degraded fisheries depends upon better flows, habitat, and water quality. Water quality won't improve until we control the largest source of pollution to Valley waterways: discharges from irrigated agriculture.

I urge the Regional Water Quality Control Board to end its exemption of farm runoff from reasonable pollution control requirements routinely demanded from everyone else including municipalities, industry, as well as mom-and-pop businesses. Until this exemption ends, fish will continue to live and reproduce in a toxic soup.

I therefore strongly request that you reject the proposed Irrigated Lands Regulatory Program Framework.

Sincerely,

Dr. Stephen Rosenblum

[REDACTED]

From: "Rowe. Greg" [REDACTED]
To: <AWLaputz@waterboards.ca.gov>, <jkarkoski@waterboards.ca.gov>
CC: "Rowe. Greg" [REDACTED]
Date: 3/25/2011 3:40 PM
Subject: Submission of individual property data to public-accessed databases

Dear Mr. LaPutz and Mr. Karkoski: The following comments are respectfully submitted on behalf of the Sacramento County Airport System (County Airport System). The County of Sacramento owns approximately 6,000 acres comprising Sacramento International Airport (Airport), including a number of parcels in Sutter County. The Airport acreage is almost equally divided between the Airport itself, and surrounding operational compatibility "buffer" property. The "buffer" property is shown on the FAA-approved Airport Layout Plan (ALP) as "Airport Management Area," meaning it was acquired and is maintained exclusively for the protection of aircraft approach, departure and circling airspace.

All of the Airport land is within the jurisdiction of the Placer-Nevada-South Sutter- North Sacramento Subwatershed Group (PNSSNS), one of ten subwatersheds under the Sacramento Valley Water Quality Coalition (SVWQC). Because agriculture is one of the primary attractants for wildlife hazardous to aircraft operations, crop cultivation does not occur on Airport buffer land. However, in compliance with regulatory requirements invoked a number of years ago by the United States Fish and Wildlife Service, the Airport established two aquatic habitat mitigation preserves for the giant garter snake (GGS). These two preserves are located about 1-1/2 miles and almost 5 miles, respectively, from the Airport itself. The 43-acre preserve is irrigated by well water, however, so we only pay a fee to the PNSSNS for the 217-acre preserve in Sutter County.

The County Airport System has been a member of the PNSSNS since 2006. (At that time the Airport did in fact lease some of the buffer property to tenant farmers, so the fee payments to the PNSSNS were higher.) Through our membership, we have contributed to the funds spent in monitoring water quality to comply with the current ILRP. During our membership tenure, the waters have tested clean, indicative of a low threat watershed. We have found since 2006 that our compliance efforts have been greatly facilitated by submitting reports to locally organized and administered group such as the PNSSNS. We are therefore concerned about the proposed requirement for electronic submittals by individual dischargers to the Board (pageA-14, #6 of the Framework document).

We believe that requiring submittal of annual records directly to the Regional Board would be contradictory to the effectiveness and efficiency that has been the hallmark of subregional watershed groups such as the PNSSNS. The proposal to bypass our membership group and submit electronic data directly to the Regional Board, bypassing the PNSSNS, could make landowners less comfortable with disclosing information about their operations. It could actually reverse the excellent track record of compliance with the ILRP via the local coalition and its outreach and education to members and local agencies. Although the County Airport System has been unable to be as active in the PNSSNS as we might have wished, it would seem that the proposed electronic submittal of data could have the effect of making some coalition members less interested in and committed to the ILRP program. It would appear that in low-threat areas like PNSSNS, there is little justification for this level of increased regulatory action.

Public accessed electronic databases containing individual landowner information and maps could subject landowners to potential security issues and data abuse/misuse. There is no protection against other interested stakeholders forcing the Regional Board's hand to use this as a regulatory compliance tool. From our perspective, we would prefer that there not be widespread public knowledge about our professionally managed habitat preserves, because past experience has shown that such isolated preserves are sometimes subject to vandalism and other disturbance. The easier it is for someone to obtain information about such preserves, the easier it could be for those with bad intent to

engage in disruptive behavior. (It is for this reason that the Natomas Basin Conservancy some years ago discontinued publishing its annual Swainson's hawk nesting tree census on its website. Poachers reportedly downloaded the report and used it to locate and shot hawks.)

Finally, while the County Airport System of course has a great deal of "high tech" capability, the slim operating margins and geographic isolation of many farmers could make it difficult to comply with an electronic reporting requirement.

Thank you for your kind consideration in this matter.

Greg Rowe
Senior Environmental Analyst
Planning and Environment
Sacramento County Airport System (SCAS)



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From: Steve Schramm [REDACTED]
To: <awlaputz@waterboards.ca.gov>
Date: 03/31/11 4:05 PM
Subject: I urge you to reject the proposed Irrigated Lands Regulatory Program Framework!!

I urge you to reject the proposed Irrigated Lands Regulatory Program Framework!!
Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. Monitoring downstream of agricultural areas reveals that virtually all sites exceed water quality standards and almost two thirds are toxic to aquatic life. Pollution is identified as one of the principle causes of the collapse of Central Valley fisheries. Agricultural pollution also threatens drinking water supplies and public health and is a major source of groundwater impairment. Inexplicably, irrigated agriculture remains exempt from routine requirements to protect water quality that have long been applicable to virtually every other segment of society.
Stop bending to corporate Ag industry industry and stop the pollution of water resources.

Sincerely,
Steve Schramm
[REDACTED]

From: [REDACTED]
To: <awlaputz@waterboards.ca.gov>
Date: 3/21/2011 7:22 AM
Subject: Fw: it is time to uphold the law.

Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. Monitoring downstream of agricultural areas reveals that virtually all sites exceed water quality standards and almost two thirds are toxic to aquatic life. Pollution is identified as one of the principle causes of the collapse of Central Valley fisheries. Agricultural pollution also threatens drinking water supplies and public health and is a major source of groundwater impairment. Inexplicably, irrigated agriculture remains exempt from routine requirements to protect water quality that have long been applicable to virtually every other segment of society.

Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. Monitoring downstream of agricultural areas reveals that virtually all sites exceed water quality standards and almost two thirds are toxic to aquatic life. Pollution is identified as one of the principle causes of the collapse of Central Valley fisheries. Agricultural pollution also threatens drinking water supplies and public health and is a major source of groundwater impairment. Inexplicably, irrigated agriculture remains exempt from routine requirements to protect water quality that have long been applicable to virtually every other segment of society.

David & D. Ann Schurr [REDACTED] Live simply, Love generously, Care deeply, Speak kindly.....

--- On Mon, 3/21/11, [REDACTED] wrote:

From: [REDACTED]
Subject: it is time to uphold the law. Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. Monitoring downstream of agricultural areas reveals that virtually all sites exceed water quality standards and almost two thirds are toxic to aquatic life. Pollution is identified as one of the principle causes of the collapse of Central Valley fisheries. Agricultural pollution also threatens drinking water supplies and public health and is a major source of groundwater impairment. Inexplicably, irrigated agriculture remains exempt from routine requirements to protect water quality that have long been applicable to virtually every other segment of society.
To: awlaputz@waterboards.ca.gov
Date: Monday, March 21, 2011, 7:20 AM

Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. Monitoring downstream of agricultural areas reveals that virtually all sites exceed water quality standards and almost two thirds are toxic to aquatic life. Pollution is identified as one of the principle causes of the collapse of Central Valley fisheries. Agricultural pollution also threatens drinking water supplies and public health and is a major source of groundwater impairment. Inexplicably, irrigated agriculture remains exempt from routine requirements to protect water quality that have long been applicable to virtually every other segment of society.

Please act responsibly to protect this natural treasure.

David & D. Ann Schurr [REDACTED] Live simply, Love generously, Care deeply, Speak kindly.....

From: Keith Shein [REDACTED]
To: <awlaputz@waterboards.ca.gov>
Date: 3/22/2011 2:09 PM
Subject: Reject the Irrigated Lands Regulatory Program Framework

Dear Water Board,

Every segment of the community that affects water quality and the ecology of the Delta has to take full responsibility for its health. This includes agricultural interests, even though they have the most financial clout to negotiate an evasion of responsibility. Allowing uncontrolled run-off into the Delta is an obvious and lethal recipe for the water and for all the animal-life and businesses that depend on a healthy Delta system. Don't let this happen. Instead, insist on accountability. Agricultural run-off must be limited, monitored and controlled.

Sincerely,

Keith Shein

[REDACTED]
[REDACTED]
[REDACTED]

From: Richard Shelby [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 3/25/2011 7:52 PM
Subject: ELECTRONIC SUBMITTAL OF SOLO FARM INFORMATION

What follows is a form letter of complaint. However I would like to add to it. This whole idea of making everyone conform to the practice of electronic submission of required information had to have come from somebody near the top of the employment food chain. On paper it all sounds picture perfect and no doubt gives a cost reduction. However it should be reviewed by someone with real hands on experience.

Re: Submission of individual farm information to public-accessed databases

I am a farmer and member of the Placer-Nevada-South Sutter- North Sacramento Subwatershed Group (PNSSNS, one of ten subwatersheds under the Sacramento Valley Water Quality Coalition SVWQC). I am concerned with the "planned electronic submittals from individual dischargers to the Board" (pageA-14, #6 of the Framework document).

For 7 years, our 600 ranchers and farmers have spent close to \$500,000 on agriculture water monitoring to comply with the current ILRP. For 7 years, our waters have tested clean. For 7 years, we have proven that we are a low threat watershed.

Now you are asking each individual farmer to electronically submit our farm information directly to you, bypassing PNSSNS which was originally formed to keep costs low and to allow farmers and ranchers some control of our regulatory destiny. This absurd proposal will undermine our years of effort to comply with the ILRP via the local coalition and its outreach and education to our members and local agencies. Your proposal will alienate the PNSSNS coalition leadership from our membership. Certainly, this requirement will ratchet up regulatory creep on our low-threat complying members. In low-threat areas like PNSSNS, there is no justification for this level of increased regulatory action.

Public accessed electronic databases containing individual farm information and maps will subject us to potential security issues and data abuse/misuse. There is no protection against other interested stakeholders forcing the Regional Board's hand to use this as a regulatory compliance tool. Without a doubt, the Regional Board will spend far more on an electronic data gathering system than it is worth.

Finally, complying with this requirement is an impossibility for roughly half our members. 30% of our members do not have internet access and don't own a computer. Another 20% are using dial-up or some other inconvenient means to access the internet such as driving their laptop to town to a "free wi-fi" establishment.

Please do not require electronic submittal of individual farm information.

Thank you.

Richard Shelby

From: [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 3/21/2011 10:41 PM
Subject: Clean Farms – Clean Water Campaign

Mr Adam Laputz,
Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. Monitoring downstream of agricultural areas reveals that virtually all sites exceed water quality standards and almost two thirds are toxic to aquatic life. Pollution is identified as one of the principle causes of the collapse of Central Valley fisheries. Agricultural pollution also threatens drinking water supplies and public health and is a major source of groundwater impairment. Inexplicably, irrigated agriculture remains exempt from routine requirements to protect water quality that have long been applicable to virtually every other segment of society.

The Regional Board needs to propose a Framework, which will be followed-up over the next year with specific orders. I urge you not to continue the same basic approach to regulating agriculture that has proved to be a dismal failure: i.e., ceding implementation of the program to industry advocacy groups. Under this scheme, the Board doesn't know who is discharging, what pollutants are being discharged, the localized impacts to receiving waters and whether dischargers are implementing measures to reduce or eliminate pollution or if those measures are working. Consequently, the Board cannot identify any improvement in water quality or any effort to stop pollution.

Sincerely,

Bob Shoberg

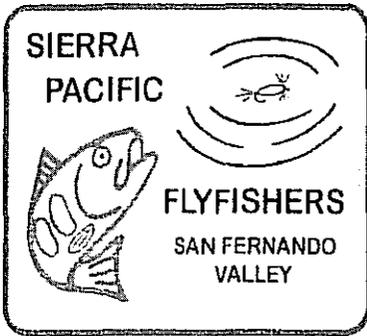
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A.L.

RECEIVED
SACRAMENTO
CYR WOCB

11 MAR 28 PM 12:47



Sierra Pacific Flyfishers
 P.O. Box 8403
 Van Nuys, CA 91409
 21 March 2011

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

Re: Irrigated Lands Regulatory Program Framework

Dear Chairperson Hart and Board Members:

As representatives of commercial and sport fishing communities in the Central Valley and throughout California, we write to encourage the Regional Board to embrace a regulatory framework that will meaningfully reduce the pollution caused by irrigated agriculture.

Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley waterways and the Delta. This pollution is documented to be one of the principle causes of the collapse of Central Valley fisheries. Inexplicably, irrigated agriculture remains exempt from requirements to monitor discharges and identify measures implemented to reduce or eliminate pollution that have long been applicable to every other segment of society, from municipalities to industry to mom-&-pop businesses.

The present approach to regulating irrigated agriculture has grievously failed. After two iterations of the present regulatory scheme, the Regional Board doesn't know who is actually discharging, what pollutants are being discharged, the localized impacts to receiving waters and whether management measures (BMPs) have been implemented to reduce pollution or if implemented BMPs are effective. The Board simply cannot continue to cede its regulatory responsibilities to third-party industry advocacy groups if it hopes to succeed in reducing pollutant discharges from irrigated agriculture.

We urge the Regional Board to reject the Irrigated Lands Regulatory Program Framework proposed by staff and, instead, embrace an approach that has a reasonable chance of success.

Continuing to avoid direct regulation of pollution dischargers cannot reduce the pollution of ambient waters.

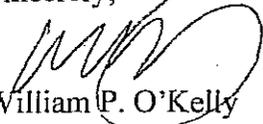
Restoration of degraded waters and protection of water quality requires the following changes:

1. Eliminate third party coalitions and require instead that individual dischargers submit reports to the Regional Board identifying the location and content of discharges to both surface water and groundwater. The Regional Board has the duty to implement Porter-Cologne and to assure that farm dischargers do not pollute the Central Valley's waters. Third party coalitions add bureaucracy, obfuscate critical information the Regional Board needs to have, create permanent lobbies to weaken or undermine any true regulation of farm dischargers, and cannot be effectively enforced.
2. Monitor discharges to surface water and groundwater and the effectiveness of measures implemented to reduce pollution. The blunt fact is that water quality cannot be protected if you don't measure actual discharges to quantify pollution and evaluate the effectiveness of implemented management measures. If irrigated agriculture discharges pollution, they, like every other discharger in the state, should be required to measure what they are discharging and be able to show that their pollution is not harming any water of the State, whether the waters are flowing immediately adjacent to their fields or miles downstream.
3. Require all farm dischargers to prepare individual farm water quality management plans (FWQMPs) that identify measures implemented to reduce pollution. These plans must be made available to the Regional Board and the public. The proposed Framework fails to provide any scheme to track whether any management practices are being implemented or maintained, especially on a farm-specific basis. Nor does the Framework provide basic information about nutrients and pesticides being applied by specific farms for the Board to evaluate whether any installed measures are appropriate. The Regional Board must not warrant another decade of delay waiting for dischargers to save the Board from its own duty to act. The Board has to stop putting off this first step and require FWQMPs be prepared by every discharger within 6 months of the termination date of the current waiver.
4. Require compliance with water quality standards in the near-term, not some uncertain distant future. Staff proposes three years to allow third-party coalitions yet another opportunity to show that whatever they are doing is resulting in implementation of effective management practices and improved water quality. The framework allows three months for coalitions to tell their existing members of the new requirements, an entire year for existing members to reconfirm their membership, and two and a half years to attract a few new members. Staff then further proposes to delay compliance by each of the categories of dischargers by another five to ten years. Given twenty-plus years of no regulation followed by seven years of failed regulation, additional delays are unacceptable.

5. Demonstrate consistency with the state's non-point source and antidegradation policies. An irrigated lands program relying upon third party coalition groups has no likelihood of ever achieving any water quality objectives. After seven years of oversight by the Regional Board, staff cannot point to a single farm that has implemented Best Practical Treatments or Controls. Staff cannot describe or quantify the management practices, if any, that have been implemented throughout the Central Valley. The data collected during the last seven-year period shows water quality continuing to be degraded throughout large areas of the Central Valley. Furthermore, we are unaware of any consequences to a farmer who did absolutely nothing for the last seven years as long as they could say they were enrolled in a coalition. As for the coalitions, the only consequences of their missing deadlines or not achieving any measurable water quality benefits is receiving additional extensions of time or weakening of requirements. They have utterly failed to facilitate implementation of controls as is required by the Non Point Source Policy.

The only way farm dischargers will recognize any consequences of not complying with conditions of an irrigated lands program is for the Regional Board to remove the coalitions from the equation and regulate the dischargers directly. The abject failure of the existing program and coalitions to regulate agricultural runoff, the largest source of water pollution in California, demonstrates that the Regional Board should move the irrigated lands program into a regulatory system similar to the industrial and construction storm water programs. We urge the Board not to abdicate its responsibility to protect the quality of water discharged from irrigated lands.

Sincerely,



William P. O'Kelly
President, Sierra Pacific Fly Fishers

From: Michael Wackman [REDACTED]
To: Adam Laputz <AWLaputz@waterboards.ca.gov>, Joe Karkoski <jkarkoski@water...>
Date: 03/23/11 9:39 AM
Subject: San Joaquin County & Delta Water Quality Coalition Comments on ILRP Framework
Attachments: March 21 2011 framework comments.pdf

Mike Wackman

San Joaquin County and Delta Water Quality Coalition

[REDACTED]
[REDACTED]
[REDACTED]

San Joaquin County and Delta Water Quality Coalition

3422 W. Hammer Lane, Suite A
Stockton, California 95219
209-472-7127 ext 125

March 21, 2011

Katherine Hart, Chair
Central Valley Water Resources Control Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

RE: Comment on Recommended Long-Term Irrigated Lands Regulatory Program Framework

The San Joaquin County and Delta Water Quality Coalition represents farmers and ranchers within San Joaquin County, Calaveras and Contra Costa County. As a water quality coalition that has been implementing the current Irrigated Lands Regulatory Program (ILRP), we have been able to experience first hand how the ILRP works and what needs to be improved. With this knowledge, we strongly urge the Regional Board to consider adopting Alternative 2 of the Long Term Irrigated Lands Draft Program Environmental Impact Report. This alternative is a workable solution to address water quality issues both in surface water and ground water. The Coalition has concerns about the current Long-Term Irrigated Land Regulatory Program Framework being proposed before the Regional Board on March 24, 2011.

The first area of concern is the requirement for irrigated agriculture to develop, maintain and possibly submit to the Regional Board farm evaluation plans with specific management practice, nutrient plans and other farm operation information. This requirement raises many concerns and questions. What is the purpose of having a farm evaluation? Does the Regional Board have the expertise in farming to determine if those practices are sufficient to address water quality issues? How can the Regional Board determine if the practices are sufficient? Even though the law prevents the Regional Board from specifying which practices should be implemented, does not the denial of management plans indirectly have the Regional Board telling agriculture how to manage their farms?

Current outreach and education by Coalitions within the agriculture community has been effective in having farmers change practices and implement management practices that improve water quality. This outreach and education is done by other farmers, UC Extension personnel and agriculture commissioners. In doing the outreach with people who understand agriculture, coalitions are able to show farmers how to improve water quality on the farm. Filling out farm evaluation plans for the Regional Board is an exercise in paperwork that does not give farmers solutions to issues they may be facing.

There are also privacy and confidentiality concerns with the submission of farm evaluations and nutrient plans. With the submittal of individual farm evaluations or nutrient plans to the Regional Board, the information then becomes public and thus the potential for individuals to be open to legal actions by persons or entities other than the Regional Board. This could cause significant harm to individuals within the agriculture community. As we have seen in the past, organizations and individuals have threatened and have filed suit against dairy farmers concerning water quality under the provisions of the Clean Water Act. There is the potential, even though we do not believe it is legal under Porter-Cologne, for organizations or individuals to take the information submitted to the Regional Board and use it to file lawsuits against individual growers. Such actions could cost the agriculture community millions of dollars and potentially be a disincentive for farmers to develop comprehensive plans for their farms.

Nutrient management plans sound easy and simple; however, they are a complex and can be extremely costly if they need to be developed to follow guidelines developed by the Regional Board. In the dairy program we have seen plans cost up to \$50,000. Requiring the plans to be developed and certified by a certified crop advisor is an expensive and unnecessary process that yields little, if any, water quality improvement. Most farmers have the expertise and knowledge of their operation to manage their nutrient applications and do not require outside persons or entities, that may have little knowledge about their operation, to inform them of the most efficient way to grow their crops. This provisions needs to be removed from the framework.

Allowing "interested stakeholders" to review, provide input and request changes to water quality management plans will cause delays in implementation of plans, increased cost for agriculture, and the potential to become an open ended process. This is further complicated by the proposal within the framework to allow "interested stakeholder" input on any changes in the plans or review of the plans. This type of process during the in depth development of a management plan that states specific management practices to be implemented on the farm could become very cumbersome, expensive, ineffective and time consuming for all parties involved.

"Interested stakeholder" will have the opportunity during the development of the individual WDR or Waivers to have public input. During the adoption of the WDR or Waiver interested stakeholders can comment on and make recommendations to changes in the program and the requirements for management plans. The Regional Board is the entity that is tasked by law to represent the public interest during the development of the management plans. The Regional Board has the authority with the interest of the public to request and require modifications to management plans that would be developed to address water quality issues.

The Coalition is also extremely concerned about the development and implementation of groundwater quality management plans. Tracking and determining the cause and source of groundwater contamination is not a simple or inexpensive process. It is also not a simple and inexpensive process for all of agriculture to implement groundwater quality

management plans because they “may potentially” impact waters of the state. Groundwater monitoring and evaluation is a complicated process that requires years of data to determine the actual cause of any problem that may exist and the necessary practices that can be implemented to improve water quality. In many areas, the groundwater quality issues become extremely complicated by soil types, movement of water, actual movement of constituents through the soil profile and movement of the underground aquifer and the influence of naturally occurring contaminants in an aquifer.

Locally developed groundwater management plans are the most effective way to manage groundwater quality in the local water basins. The framework allows for the use of local groundwater management plans to meet the Regional Board requirements. This provision of the framework however also requires all of irrigated agriculture in an affected basin to implement management practices. Requiring all of irrigated agriculture within a groundwater management plan to implement management practices to address water quality defeats the purpose of having local groundwater management plans instead of Regional Board approved groundwater quality management plans. Using local groundwater management plans allows those who understand the groundwater to develop strategies to address any issues with water quality. Those strategies may not include having all farm operations implementing and tracking farm practices yet the current framework requires all farms to implement nutrient plans and develop irrigation efficiencies that would be acceptable to the Regional Board regardless if they have an effect on groundwater quality.

Although there are many positive ideas within the framework being proposed, the Coalition would strongly recommend that any groundwater quality implementation plan remain at the local level, that information on management practices remain with the farm or coalition and that the process be efficient. Again, we encourage the Regional Board to adopt Alternative 2 of the Long Term Irrigated Lands Draft Program Environmental Impact Report which meets all the requirements and goals of the Regional Board.

Sincerely



Mike Wackman
San Joaquin County and Delta Water Quality Coalition

March 22, 2011

Regional Water Quality Control Board,
Central Valley Region
ATT: Adam Laputz.
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

E-mail <AWLaputz@waterboards.ca.gov>

Dear Mr. Laputz:

Subject: Irrigated Lands Regulatory Program Framework hearings

The existing regulatory waiver covering discharges from irrigated lands expires in June 2011. At that time the Central Valley Regional Water Quality Control Board will consider a new long-term program at a hearings commencing on April 7. An effective program will ensure that pollutant discharges from irrigated agriculture are reduced and minimized equal to that required of industrial and urban dischargers and that the receiving waters will support beneficial uses, viable renewable fish and wildlife resources and environmental values.

Runoff from irrigated agriculture is identified as the largest source of pollution to Central Valley and Delta waterways. Monitoring downstream of agricultural areas reveals that virtually all sites exceed water quality standards and almost two thirds are toxic to aquatic life. Pollution is identified as one of the principle causes of the collapse of Central Valley fisheries. Agricultural pollution also threatens drinking water supplies, public health and is a major source of groundwater impairment. Yet, irrigated agriculture remains exempt from routine requirements to protect water quality that have long been applicable to virtually every other segment of today's society.

A water quality problem exists when there is failure to provide water of sufficient quality or quantity to protect or enhance an ecosystem, its resources, beneficial uses and ecological values. There is ample evidence in reports, some conducted under State Board and Regional Water Quality control Board contracts, that the goals of the Clean Water Act are not being met because fish and wildlife as well as their habitats, public use, and the swimable and fishable waters are impacted by poor water quality. Aquatic ecosystems are being degraded resulting in reduced or failed reproduction of selected fish and wildlife species. That death and deformities to fish and wildlife continues and ecosystem diversity is being reduced. Public health advisories have been issued warning people about eating fish or waterfowl that may contain high levels of selenium and other public trust interests and beneficial uses are and have been degraded or destroyed. Today the San Joaquin River and aquatic life are contaminated with selenium. This contamination extends from the Mendota pool, down the San Joaquin River to the Delta and Suisun Marsh and Bay. There are several varieties pesticides, plus selenium, boron and other trace elements and a variety of salts resulting in something called "unknown toxicity" in this reach of the San Joaquin River

and tributary waters. One only has to look at selected State Board reports to verify such information. See 2000 California 305 (b) Report on Water Quality – State Board –2000.

Selenium is a bad actor. A selenium concentration of 5 to 30 ppb could see a 500 to 800 times the waterborne concentration in plankton; in sediment 200 to 400 times; in benthic invertebrates 800 to 2000 time and in fish tissue (depending species) 1000 to 35,000 time the water borne concentration. Because of its many forms, selenium is able to bond with many substances, in water, sediment and biota. Selenium is being magnified in animal tissues as it goes up the food chain. The high selenium concentration in fish is a result of selenium accumulation via dietary intake. Therefore fish eating other fish and invertebrates, and the birds and mammals that feed on such animals can receive toxic quantities of selenium through their diet even though the selenium concentration in water is low (Lemly -1985 and 1993). In one study selenomethionine at water borne concentration of less than 1 ppb has been shown to be bioconcentrated by a factor of 50,000 in algae and 350,000 in daphnids (Presser – 1994). Fish and wildlife literature indicated that a range of 2-3 ug/l of water borne selenium to be fully protective of fish and wildlife resources (Skuropa –1993, Ohlendorf –1993, DOI -1998). Selected Water Board reports and other references verify this information. See Presser and Luoma –2006. In Dubrovsky, et al –1998, 49 pesticides were detected with several exceeding criteria (acutely toxic levels) for the protection of aquatic life including native fishes. The nitrate load in the San Joaquin River can be attributed to subsurface drainage discharge to Mud and Salt sloughs.

Another concern is the water quality of the Colusa Drain. Water quality is impacted by sediment and a broad array of agricultural chemicals such as Furadan, Malathion, Methyl Parathion and others are designed to kill organisms. The Colusa Drain has some “unknown toxicity” and impacts about 70 miles of water before it is discharged to the Sacramento River near the town of Knights Landing.

Setting water quality standards via Total Maximum Daily Loading (TMDL) has been the Regional Board’s method of identifying and controlling pollutants, i.e. one substance at a time. The various synergistic effects of the “one chemical impacts” are hard to analyze except in a laboratory setting. So are the accumulative impacts of those chemicals, trace elements that accumulate via the food chain. Selenium, because of its characteristics, toxicity, persistence in the environment, bioaccumulation and mobility, a little bit of it goes a long way. Therefore a TMDL for selenium is not a good indicator of water quality because organisms bioaccumulate selenium to many times the concentration level in the surrounding water. A slight increase of selenium in the surrounding environment can cause a disproportional increase of selenium in organisms, rapidly crossing the safe threshold from benign nutrient to a deadly toxin.

Studies have revealed that the organochlorine, synthetic organic pesticides and volatile organic compounds can be harmful to the endocrine (hormone) and immune systems of fish, wildlife and humans at much lower concentrations than was previously thought. Man-made chemicals (pesticides and other chemicals) plus some metals (mercury and selenium) that are persistent and that bioaccumulate are of particular

concern. Pesticides and trace elements already affect many wildlife populations. Impacts include thyroid dysfunction in birds, and fish, decreased fertility in birds, fish, shellfish and mammals; decreased hatching success in birds, fish and turtles: gross birth deformities in birds, fish and turtles; metabolic abnormalities in birds, fish and mammals: behavioral abnormalities in birds; demasculinization and feminization of male fish, birds, and mammals; and compromised immune systems in fish, birds and mammals (Colborn and Clement –1992). Fish and wildlife populations exposed to such chemicals compounds that disrupt development of the reproductive, immune, nervous and endocrine systems can lead to population instability. The pollutants of greatest concerns are those that regulate developmental, endocrine and immunological functions. Contamination of fish and wildlife has reached levels in some areas to issue health advisory and there are known sub-lethal effects sufficient to impair populations (Colborn 1993).

One of the duties of the State Board and Regional Boards is to protect the sustainability of aquatic ecosystems so people can continue to benefit from associated resources, uses and ecological values. This is an obligation supported by case law. Protecting aquatic ecosystems is a principle of the Public Trust Doctrine discussed in *Audubon (National Audubon Society v. Department of Water and Power, City of Los Angeles*, - 33 Cal 3d419, 658 P 2d 709, 189 Cal. Rpt. 346, cert. Denied 464 U.S. 977 – 1983, also called Mono Lake). This is also an obligation of all levels of government including local water and drainage districts. The State Board’s regulatory powers along with the common law of nuisance can be used to cease the activity, alter the activity so it can be brought up to acceptable water quality standards.

The “continuing supervisory control” of *Audubon* requires a monitoring program by trustee agencies. Real time monitoring / information is critical for protecting public trust resources, beneficial uses and ecological values. The Racanelli decision in *US v State Water Resources Control Board*, (227 Cal Rpt 161 – 1986) clarified the need to know what uses of water and discharges were occurring in the Central Valley watershed. Judge Racanelli understood that to preserve and protect water quality stretches the water supply and protects beneficial uses. The term “beneficial uses” means beneficial to the appropriator and water contractor and not harmful to public trust resources, beneficial uses, and values (Johnson –1989). For example from Racanelli the people learned that:

No one has a vested right to use water in a manner harmful to the State’s water, associated resources, beneficial use and values (pg. 171).

The State Board should implement the necessary water quality standards against all factors that affect water quality i.e. against all other diverters, users and dischargers of water (pgs. 179 -180).

The State Board can impose water quality standards to protect all beneficial uses on all upstream projects under its reserved jurisdiction (pg. 195).

The State Board has a mandate under California's Porter - Cologne Act and the Federal Water Pollution Control Acts to set standards to protect fish, shellfish, and wildlife and recreational uses of those waters (pg. 200).

Therefore it is in the public interest to restore degraded surface and ground water to an acceptable and sustainable beneficial use standard. In order to fully protect the public trust and all beneficial uses of water, the Regional Board should exercise its public trust duties and responsibilities and make changes to existing program. Some suggested changes are:

- Individual dischargers should be required to submit their reports to the Regional Board identifying the location, time of discharge (periodic or continuous), volume and the concentrations of various constituents proposed for or being discharged to surface water and ground water bodies.
- The facts are that water quality cannot be protected if you don't measure actual discharges to quantify pollution and evaluate the effectiveness of implemented management / and conservation measures. Monitor discharges to surface water and groundwater and the effectiveness of measures implemented to reduce pollution. Monitoring of ecosystem components including the food chain is necessary to the top feeder / predator.
- Just like urban and industrial dischargers, all farm dischargers should be required to prepare individual on farm water quality management plans identifying measures being implemented to reduce drainage and runoff pollution. These plans must be made available to the Regional Board and the public.
- After years and in some places decades of no, little regulation or voluntary compliance, its time for an effective program. Require compliance with water quality standards in the near-term, not some uncertain distant future. Require reporting progress every 2 years with a full compliance in 6 years.
- Each discharger must demonstrate consistency with the state's non-point source and anti-degradation policies. Failure to do so or a 6th year full compliance point could result in a finding of waste and unreasonable use of water.

Please include these comments in to the hearing record of the Irrigated Lands Regulatory Program Framework hearing.

Sincerely,

Felix E. Smith



Cc: interested parties

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College of Law.

U.S. v. State Water Resources Control Board. 227 Cal. Rpt. at 161 –1986 (called Racanelli)

IrrLdsDisFramwork.

From: Dan Spangler [REDACTED]
To: <AWLaputz@waterboards.ca.gov>, <jkarkoski@waterboards.ca.gov>
CC: <cleanwaters@netscape.com>
Date: 3/22/2011 11:44 PM
Subject: Electronic Submittals from Individual Dischargers

Gentlemen:

I am a diversified farmer growing rice, hay, grain, and other crops and a member of the Placer-Nevada-South Sutter- North Sacramento Subwatershed Group (PNSSNS, one of ten subwatersheds under the Sacramento Valley Water Quality Coalition SVWQC).

I am adamantly opposed to the "planned electronic submittals from individual dischargers to the Board" (pageA-14, #6 of the Framework document). Being a small diversified farmer has become increasingly difficult with regulatory burdens exploding over these last few years where reporting requirements are more costly and time consuming than actual compliance!

For 7 years, our 600 ranchers and farmers have spent \$300,000 on agriculture water monitoring to comply with the current ILRP. For 7 years, our waters have tested clean. For 7 years, we have proven that we are a low threat watershed. We have a proven program that has saved and will save California taxpayers and coalition members thousands of dollars of unnecessary regulatory expenses.

Requiring each individual farmer to electronically submit our farm information directly to you bypasses PNSSNS which was originally formed to keep costs low and to allow farmers and ranchers some control of our regulatory destiny. This absurd proposal will undermine our years of effort to comply with the ILRP via the local coalition and its outreach and education to our members and local agencies. Your proposal will alienate the PNSSNS coalition leadership from our membership. Certainly, this requirement will ratchet up regulatory costs on our low-threat complying members. In low-threat areas like PNSSNS, there is no justification for this level of increased regulatory action.

Public accessed electronic databases containing individual farm information and maps will subject us to potential security issues and data abuse/misuse. There is no protection against other interested stakeholders forcing the Regional Board's hand to use this as a regulatory compliance tool. Without a doubt, the Regional Board will spend far more on an electronic data gathering system than it is worth.

Finally, complying with this requirement is an impossibility for roughly half our members. 30% of our members do not have internet access and don't own a computer. Another 20% are using dial-up or some other inconvenient means to access the internet such as driving their laptop to town to a "free wi-fi" establishment. Simply put, compliance levels will likely decline, regulatory and enforcement costs will increase, and the effectiveness of the program will decline. This is NOT in any of our best interests.

Please do not require electronic submittal of individual farm information.

Thank you.

Dan Spangler, PNSSNS Member

From: Brian Stompe [REDACTED]
To: <awlaputz@waterboards.ca.gov>
Date: 3/21/2011 9:56 PM
Subject: Irrigated Lands Regulatory Program Framework

Brian K. & Susan
S. Stompe
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3/21/11

Regional Water Quality Control Board, Central Valley Region

11020 Sun Center Drive, #200

Rancho Cordova, CA 95670

Attn. Mr. Adam Laputz

Dear Mr. Laputz and Regional Water Quality Control Board:

As sport fishermen and environmentalists that want to see health of streams and rivers maintained, and runs of salmon and other migratory fish sustained, we ask you to approve the California Sport Fishing Protection Alliance changes to the proposed program:

Eliminate third party coalitions and require instead that individual dischargers submit reports to the Regional Board identifying the location and content of discharges to both surface water and groundwater.

* Monitor discharges to surface water and groundwater and the effectiveness of measures implemented to reduce pollution. The blunt fact is that water quality cannot be protected if you don't measure actual discharges to quantify pollution and evaluate the effectiveness of implemented management measures.

* Require all farm dischargers to prepare individual farm water quality management plans that identify measures implemented to reduce pollution. These plans must be made available to the Regional Board and the public.

* Require compliance with water quality standards in the near-term, not some uncertain distant future. After decades of no regulation and seven years of voluntary compliance, its time for an effective program.

* Demonstrate consistency with the state's non-point source and anti-degradation policies.

Thank you.

Yours truly,

Brian & Susan Stompe



March 21, 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 a foundation that supports environmental leadership and research in California and the US and support environmental justice communities located in the Central Valley and throughout California. We are 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 local organizations engaged and informed during the process of developing these recommendations.

We echo concerns 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 contain 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:

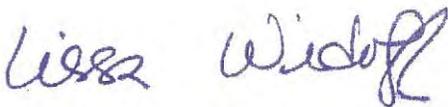
- **A time schedule and measurements of compliance for groundwater that is protective of public health and water quality.** The current groundwater compliance goal of "a demonstrated improvement in water quality or a

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.

While we also have other concerns, in particular the very limited protections for surface water in the framework, we urge the Board to incorporate our recommendations into the framework prior to adoption.

Sincerely,



Lissa Widoff
Executive Director

Tulare County Hispanic Roundtable, Inc.

March 18, 2011

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

Dear Chairperson Hart and Board Members:

The Tulare County Hispanic Roundtable's membership is comprised of business owners, educators, concerned citizen activist and organizations that support our mission. We strongly support regulations that will result in a healthier environment for our communities.

Although none of our current membership is actively employed as field workers, nor reside in our rural improvised communities; many of us did work in the fields in our youth, side by side with our parents or we are the children or grand children of field workers.

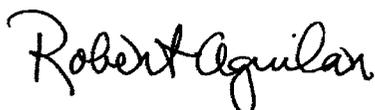
We know firsthand the health impact of the ill responsible use of pesticides and fertilizers. Thanks to the work of previous generations the most egregious acts of environmental contamination and worker safety have been stopped. However the residue of past acts and current practices still impact our lives and current regulations do not go far enough to mitigate either.

We ask that the Regional Water Board develop an Irrigated Lands Regulatory Program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

We desire, support, and will advocate for an effective regulatory program that includes:

- 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; and
- 4) Strong enforcement powers to ensure compliance; and 5) provisions for cleanup and abatement of legacy agricultural contamination.

We urge the Board to incorporate our recommendations into the framework prior to adoption.



Robert Aguilar, Ed.D., Chairman
Tulare County Hispanic Roundtable



Michael Cortes, President
Tulare County Hispanic Roundtable

March 21, 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:

I am writing to ask the Regional Water Board to develop an Irrigated Lands Regulatory Program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

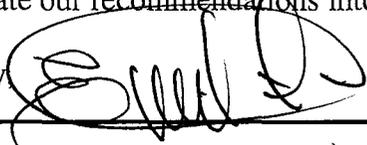
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The good news is that nitrate contamination is a preventable problem that is primarily caused by runoff from chemical fertilizer and animal waste. Therefore, the Board has the power and responsibility to develop a program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

For these reasons, I am asking the Board to approve an effective regulatory program that includes: 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.

A strong and effective Irrigated Lands Regulatory Program can stop further contamination of our drinking water sources before more communities are burdened by the high cost of cleanup. It can also ensure that future generations are able to find safe drinking water sources. We urge the Board to incorporate our recommendations into the framework prior to adoption.

Sincerely,



Signature

EZZATO TERAN

Print Name

Street Address

From: Jim Tolonen [REDACTED]
To: <awlaputz@waterboards.ca.gov>
Date: 3/22/2011 12:45 AM
Subject: ILRP Framework

Adam,

The waiver has gone on far too long. Our central coast waters have become dangerously polluted from fertilizer and pesticide runoff. Please take the following actions.

Water quality cannot be protected if you don't measure actual discharges to quantify pollution and evaluate the effectiveness of implemented management measures.

Require all farm dischargers to prepare individual farm water quality management plans that identify measures implemented to reduce pollution. These plans must be made available to the Regional Board and the public.

Require compliance with water quality standards in the near-term, not some uncertain distant future. After decades of no regulation and seven years of voluntary compliance, its time for an effective program.

The law actually authorizes and requires you to do this.

Jim Tolonen
Conservation Committee Chairman
Santa Cruz Fly Fishermen

United for Change in Tooleville

March 21, 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:

I am writing to ask the Regional Water Board to develop an Irrigated Lands Regulatory Program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

Today many thousands of people in the Central Valley cannot use the tap water in their homes for drinking or cooking due to nitrate contamination. In some areas in the valley, more than 20% of small public water systems are already unable to supply safe drinking water, including many of our valley's schools, which must use their shrinking educational budgets just to supply safe water to students and teachers. Many more communities are on the edge, forced to pay for expensive nitrate treatment or close wells, limiting local drinking water supplies and creating additional barriers to local economic development.

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Sincerely,



Eunice Martinez, Spokesperson for the Committee, United for Change in Tooleville



March 21, 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 write to encourage the Central Valley Regional Water Quality Control Board to fully utilize its regulatory authority to protect ground water in the Central Valley from contamination by irrigated agriculture.

In a time of climate change, when we will all have to rely even more heavily on ground water resources, it is hard to overstate the urgency of stopping continued pollution of our shared water resources.

An unconscionable number of Central Valley households, many of whose families have lived in their homes for generations, can no longer drink the water from their private wells or small community water systems due to pollution caused, in large measure, by irrigated agriculture. These families and communities are not responsible for contaminating their water supply; however, they are paying the cost with their health, the devaluation of their homes and the expense of paying for water twice.

Farming is a valuable part of California's economy, history and heritage. However, when the waste products of one industry hurt the health and finances of innocent bystanders, cripple investment in their communities and harm the environmental resources upon which we, and our grandchildren's children, depend, we not only degrade our water resources, we degrade the fabric of trust and mutual respect in our region. Externalized pollution pits one economic sector against another; it pits the older generations against

those yet to be born. To allow such pollution to continue is to commit both an environmental and an intergenerational injustice.

The UU Legislative Ministry engages Unitarian Universalists in California in collaborative justice ministries on behalf of our values of justice, equity, compassion and respect for the interdependent web of existence. Our membership of 5500 includes both those from our congregations in the Central Valley and those from across California who consume the produce grown in this region. Our national partner, the Unitarian Universalist Service Committee, is membership human rights and social justice organization of 37,000 members that support water justice at the local, state, national and international level.

While no one is excited to pay more for groceries, as consumers we realize that we must bear the cost of what it actually takes to grow our food in a manner that respects the health of our water ways, our communities and those who labor in the fields. Those of us who seek to live an ethical life are better served when the price signals of the market communicate the actual cost of what we are buying and when there is more transparency as to the actual practices being utilized by growers to produce our food.

We support transparency that allows consumers to better support agricultural practices in keeping with their values and health priorities, and believe that the suggestion by environmental groups that growers publically report their fertilizer application is a good one. Not only will this help the board prioritize which farms to inspect, and provide important data to guide our efforts to reduce nitrate pollution in all soil types, such transparency could help consumers to support the move to more environmentally sustainable agricultural practices.

Cooperative efforts among growers to support mutual education and better management practices are to be commended; however, regulation, with measurable outcomes, timelines and enforcement are necessary to provide the structure and clarity that an industry needs to make the necessary investments to move to the next level of safety and accountability.

Implementing strong agricultural regulations will help to assure that responsible growers will not be at a competitive disadvantage with those who take less care to avoid polluting our water.

The healing of wounds in the fabric of community is promoted when those who are responsible do their part to care for those who have been harmed. We do feel it is appropriate to include the establishment of a cleanup and abatement fund to help those communities who need clean drinking water.

Unitarian Universalists are active in efforts to realize the human right to water. In early March we were privileged to accompany the United Nations Independent Expert on the

human right to water and sanitation during her mission to the United States. Her visit included time in the Central Valley. At the end of her mission on March 4th, she gave an initial report to the U.S. Department of State and the public:

“The U.S. has made important strides in eliminating many forms of discrimination. It must, however, do more to ensure that not only de jure but also de facto discrimination is eliminated regarding access to water and sanitation.... Problems of discrimination in U.S. water and sanitation services may intensify in the coming years with climate change and competing demands for ever scarce water resources. Ensuring the right to water and sanitation for all requires a paradigm shift – new designs and approaches that promote human rights, that are affordable and that create more value in terms of public health improvements, community development, and global ecosystem protection. A holistic, systems approach is required, whereby the water sector is not viewed in isolation from the agricultural, chemical, industrial and energy sectors. Accordingly, a stronger regulatory system should be put in place to prevent pollution of surface water and groundwater, and to ensure affordability.”

Protecting drinking water from agricultural run-off is part of realizing the human right to water. Your decisions with regard to the regulation of irrigated agriculture will be felt throughout California and beyond. We thank the staff for their hard work and ask that the board support timely implementation of enforceable regulations. Everyone has the right to affordable access to safe water; let’s help to make that right a reality for people in the Central Valley.

Sincerely,

Rev. Lindi Ramsden
Senior Minister & Executive Director
Unitarian Universalist Legislative Ministry, CA
717 K St. #514
Sacramento, CA 95814
lramsdn@uulmca.org

Dr. Patricia Jones
Program Manager for Environmental Justice
Unitarian Universalist Service Committee
689 Massachusetts Avenue
Cambridge, MA 02139
pjones@uusc.org

From: Maria [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 03/30/11 8:09 PM
Subject: Re: Adoption of ILRP Framework: Submission of individual farm information to public-accessed databases

I am an organic beef producer, hay grower and member of the Upper Feather River Watershed Group (UFRWG), a subwatershed under the Sacramento Valley Water Quality Coalition SVWQC. I am concerned with the "planned electronic submittals from individual dischargers to the Board" (pageA-14, #6 of the Framework document).

Public accessed electronic databases containing individual farm information and maps will subject our members to potential security issues and data abuse/misuse. There is no protection against other interested stakeholders forcing the Regional Board's hand to use this as a regulatory compliance tool. We acknowledge the RB need for some level of documentation of water quality practices and coalition submittals of summary information by waterway and/or commodity will provide adequate information in low-threat areas.

For 6 years, our 105 ranchers and farmers have spent nearly \$300,000 on agriculture water monitoring to comply with the current ILRP. For 6 years, our waters have tested clean, with exception of the occasional low-threat "unknown" parameters of DO, pH and E.coli back in 2006-2008. Working with our UC Cooperative Extension and UC Davis Researchers, UFRWG and its members have been engaged in identifying sources for these background parameters for the ILRP. As members of our active coalition, we undertook special studies on our private lands, attend annual ranch BMP tours, receive educational Newsletters, attend Ag Workshops, work with NRCS & other funders to implement BMPs or fund ourselves at a cost of approximately \$5,000.00 and attend membership meetings to follow the mandates of this engorged program. Management Plans under the current program are nearly complete. For 6 years we have proven that we are a low threat watershed.

Our reward for this effort? You now propose each individual farmer electronically submit their farm information directly to the Regional Board, bypassing the local coalitions which were originally formed to keep costs low and to allow farmers and ranchers some control of their regulatory destiny. Adopting this proposal within the Framework will undermine our years of effort to develop valuable partnerships through outreach and education among our members and local agencies. The short term and long term effect will be to alienate coalition leadership from our membership. This requirement will ratchet up regulatory creep on our low-threat complying members. In low threat areas like UFRWG, there is no justification for this level of increased regulatory action.

We, the active members of UFRWG, strongly urge the Water Board to allow Coalitions to continue to maintain and manage their own member data and to provide the Water Board with the information needed to assess and manage water quality.

Thank you,
David and Mia Van Fleet

[REDACTED]

Vecinos Unidos

Working to improve community services in the community of Cutler, Oroshi and East-Oroshi.

March 21, 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:

I am writing to ask the Regional Water Board to develop an Irrigated Lands Regulatory Program that is strong enough to reduce fertilizer and pesticide pollution of our valley's water resources before any more communities lose their source of safe drinking water.

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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.

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Sincerely,

Signature

Jesus Queda
JESUS QUEVEDA

Street Address



From: George Wight [REDACTED]
To: <awlaputz@waterboards.ca.gov>
Date: 3/22/2011 10:11 AM
Subject: ILRP FRAMEWORK

please REJECT the proposed irrigated lands regulatory program framework. another nail in the coffin for our delta that is dieing.
thank you. George Wight

March 30, 2011

VIA EMAIL awlaputz@waterboards.ca.gov

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

Attn: Adam Laputz

Re: Comments on Irrigated Lands Regulatory Program Framework Documents

Dear Mr. Laputz:

The organizations identified below have reviewed the Recommended Long-Term Irrigated Lands Regulatory Program Framework (Framework) as released by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) in March of 2011, as well as the other associated materials including the Final Environmental Impact Report (Final EIR). Overall, the below named organizations appreciate the Framework's attempt to maintain third-party groups (i.e., coalitions) and their role in administering the Central Valley's Irrigated Lands Program. As has been shown over the last seven years, the coalitions and commodity organization administering this program provide a valuable service and connect with the many growers in the Central Valley in a manner that the Central Valley Water Board is unable to accomplish. Thus, maintaining the coalition structure and function is vital to the continued success of this program.

However, based on our review of the Staff Report, the Framework, our previous review of the Draft Program Environmental Impact Report (DPEIR), and the Final EIR, we must express concerns with a number of the provisions within the Framework, as well as the Central Valley Water Board's compliance with the California Environmental Quality Act (CEQA). In general, we have several concerns with the Framework and its proposed requirements, which include the fact that the Framework (both the original version in the DPEIR and the March 2011 version) was not a specified alternative analyzed pursuant to CEQA. Further, as currently proposed, the Central Valley Water Board will consider adoption of the Framework without accurate cost estimates for this program. Our specific comments on these and other issues are provided below.

As a preliminary matter, many of our comments submitted on September 27, 2010, are still applicable and have not been addressed. Thus, our previous comments are incorporated by reference herein. In an effort to avoid duplication, we have not repeated our previous comments; rather, the comments in this letter focus on changes to the Framework not addressed previously and re-emphasize our issues of primary concern.

I. Framework Proposes Significant New Requirements for Farm-Specific Evaluation

As proposed in March, the Framework includes a significant new requirement for all irrigated agricultural operations. Specifically, the Framework would require all operations to complete a farm-specific evaluation that includes identification of management practices. The Framework suggests that the farm-specific evaluations would need to be available for Central Valley Water Board inspection. However, the Framework also suggests that the farm-specific evaluations may need to be submitted to the Central Valley Water Board. (See, e.g., Framework at p. A-14 [“prior to the availability of the required information technology infrastructure to achieve this goal, the Board may allow the individual discharger to retain documents on-site”].) By leaving open the issue of whether submittal of farm-specific evaluations to the Central Valley Water Board will be required (and, consequently, whether the evaluations will be public documents potentially subject to disclosure under the Public Records Act), the Framework causes great concern for several reasons.

First, farm-specific information is personal, proprietary/trade information that should not be subject to public disclosure. The Central Valley Water Board needs to remember that many farmers/growers live on the farms where they grow crops, and the submittal of farm-specific information is business information as well as personal information.

Second, although the Porter-Cologne Water Quality Control Act (Porter-Cologne) does not contain a citizen suit provision, the regulated community is currently seeing a proliferation of lawsuits filed directly against individuals and/or agencies claiming violations of Porter-Cologne under various theories. It is anticipated that their ultimate goal, as it is with many of the Clean Water Act lawsuits, is to settle the claim and obtain significant attorney’s fees for their time and effort. The submittal of farm-specific evaluations that is subject to disclosure upon request under the Public Records Act creates tremendous concern of potential liability for Central Valley growers in this respect.

Third, we fail to see how the submittal of farm-specific evaluations advances the Central Valley Water Board’s goal of improving water quality. At most, the submittal of such information for over 25,000 growers will simply create reams of electronic data files with little ability for staff to review the information in any significant manner.

Further, even if the Central Valley Water Board determines that such a requirement is advantageous, the Central Valley Water Board is prevented from adopting this requirement into the Framework because it was not evaluated in the DPEIR and because there is no cost

estimate developed for this requirement. Thus, until a proper environmental and cost analysis is prepared for such a requirement, the Central Valley Water Board cannot include it in the Framework.

To the extent that the Central Valley Water Board determines farm-specific evaluations should be developed, all such information should be retained on the individual farm, or at most, its completion should be verified by the applicable coalition. In both cases, the Central Valley Water Board could have access to the evaluations on the farm or at the coalition offices, without potentially invoking the state's Public Records Act requirements.

II. Framework Continues to Require Stakeholder Input for Water Quality Management Plan Approval

Although significant concerns were raised in previous comments, the proposed Framework maintains the provision for Central Valley Water Board staff to meet with third party groups, as well as other interested parties, to evaluate the sufficiency of Surface Water Quality Management Plans (SQMPs) and Groundwater Quality Management Plans (GQMPs). (See Framework at pp. A-18 - A-19.) As we indicated previously, such a requirement is unprecedented and has no legal basis. Specifically, the Central Valley Water Board represents the public interest and, therefore, it is unnecessary for other stakeholders to participate in reviews at this level. SQMPs/GQMPs are designed to identify management practices that would be appropriate and applicable for the constituent of concern and the watershed in question. Thus, Central Valley Water Board review on the sufficiency of SQMPs/GQMPs is appropriate. While the SQMPs/GQMPs are public documents once submitted to the Central Valley Water Board, they are not the type of documents that require Central Valley Water Board approval and, therefore, they are not subject to formal public review and comment.

Although not specified in the Framework, we anticipate the development of SQMPs/GQMPs would be required pursuant to the Central Valley Water Board's authority under Water Code section 13267. Section 13267 allows the Central Valley Water Board to require the submittal of technical and monitoring reports as long as the burden of preparing the report bears a reasonable relationship to the need for the report and the benefits to be obtained. Nothing in section 13267 requires that such reports be subject to public review or comment or be open for discussion with other interested parties.

In all of the Central Valley Water Board's other programs, individual dischargers are not required to have management plans reviewed periodically by other interested parties. Typically, when dischargers are required to submit special studies or management plans, the plan is submitted to the Central Valley Water Board staff for review and comment, revised based on Central Valley Water Board staff comments, and then implemented. At most, the municipal stormwater program requires that stormwater management plans be subject to public review, comment, and adoption by the Central Valley Water Board. However, this requirement for municipal stormwater management plans stems from federal NPDES permit

requirements and is not applicable here. (See *Environmental Defense Center v. EPA* (9th Cir. 2003) 344 F.3d 832, 856.)

Further, by allowing other interested parties to evaluate the sufficiency of SQMPs/GQMPs, the process may be stalled with protracted negotiations between all of the parties in the event there is disagreement about what is “sufficient.” There is no need to adopt a process that has the potential to result in such stalemates. Under the existing process, if interested parties have concerns with the sufficiency of SQMPs/GQMPs, they may express their concerns to the Central Valley Water Board at any time.

Thus, to avoid unnecessary delays and to avoid creating a new precedent, we encourage the Central Valley Water Board to remove this requirement from the Framework. At most, the Central Valley Water Board should specify in the Framework that the SQMPs and GQMPs are public documents available on request, but remove all references that would suggest Central Valley Water Board staff will actively pursue meetings with “other interested parties” to discuss the sufficiency of such documents prior to Executive Officer approval.

III. The Framework Contains New Requirements That May Have Significant Environmental Impacts Not Analyzed in the DPEIR

The Framework is likely to result in the imposition of new burdens on irrigated agricultural operations that would have a significant and cumulatively considerable impact on the environment. In attempting to justify the fact that no environmental review was performed for several elements contained in the Framework, the Staff Report states that “[a]s long as the adopted program falls within the range of alternatives analyzed and the appropriate findings have been disclosed, the Board may adopt a program that is a variation on the alternatives analyzed without the need to conduct additional CEQA analysis.” (Staff Report at p. 7.) However, the Framework does not represent merely a “variation” on the alternatives in the DPEIR and Final EIR, but rather includes several new elements, the impacts of which have not been analyzed at all. For example, the Framework requirement that all irrigated agricultural operations in all tiered areas must complete a farm-specific evaluation and identification of management practices for Central Valley Water Board inspection is a significant new development.

A lead agency is required to re-circulate an EIR “when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification.” (Cal. Code Regs., tit. 14, § 15088.5(a).) Significant new information requiring re-circulation includes, but is not limited to, any new significant environmental impact that would result from the project and/or any new mitigation measure proposed to be implemented. (*Id.*, § 15088.5(a)(1).) The Framework contains significant new requirements, including the farm-specific evaluation, a new tiering structure, and a nutrient management plan requirement for specified operations. Each of these changes could have significant and identifiable environmental impacts, including but not limited to, direct, indirect, and cumulative impacts on agricultural resources in the form of increased

costs and greater potential for loss of agricultural land, and decreased irrigation return flows or availability of irrigation water for groundwater recharge. These additional requirements in the Framework were not included in the DPEIR or Final EIR, and therefore the public was not provided with a meaningful opportunity to comment on the potentially substantial adverse environmental effects of the proposed project. In this way, the project description itself is unstable and represents a moving target for the public and irrigated agricultural operations. Under the CEQA Guidelines, the Central Valley Water Board is required to analyze the potential impacts of the proposed project and to re-circulate the EIR for public review and comment.

Moreover, as noted in previous comments, the DPEIR and Final EIR did not analyze the environmental impacts of the actual project. In evaluating the significance of the environmental effect of a project, the lead agency must consider direct physical changes in the environment and reasonably foreseeable indirect physical changes in the environment, which may be caused by the project. (Cal. Code Regs., tit. 14, § 15064(d).) The Framework that is now being proposed as the project was derived, in part, from components of the alternatives that were analyzed. However, neither the DPEIR nor the Final EIR actually analyze the project that is now proposed, the Framework. While the DPEIR did analyze the environmental impacts associated with some of the proposed project's components, no CEQA document has ever analyzed the environmental effects of these elements combined with each other, as is now proposed under the Framework.¹

Now, the Staff Report and Framework are proposing the addition of previously unanalyzed requirements that will add *new* significant environmental impacts to a program that was never analyzed properly in the first place. Specifically, the Framework includes the new requirements identified above that have the potential to significantly increase costs for irrigated agricultural operations and result in foreseeable impacts to agricultural resources and other indirect effects stemming from such changes in land use. Yet there is no consideration of the actual impact of those changes in the Framework, Staff Report, DPEIR, or Final EIR. For example, the Staff Report states that “staff believe that a requirement for farm-specific certified nutrient management plans in Tier 3 groundwater areas is reasonable and will catalyze reductions in nitrate inputs from irrigated agriculture.” (Staff Report at p. 5.) Similarly, the Staff Report asserts that “[t]he only potential impact associated with nutrient management is additional planning and management costs, which may be largely offset by savings to fertilizer material and operations.” (*Id.* at p. 14.) There is no support cited for either of these statements, nor any support for the assessment that the costs of complying with this new requirement can be offset by purported savings. In short, the record lacks any substantial evidence to support these conclusions. The staff “analysis” is nothing more than a conclusory assertion, which is insufficient to satisfy the requirements of CEQA. The PEIR is required to look at the whole of the project-related effects—direct, indirect, and cumulative—

¹ The same argument also applies to the proposed regulatory program that was included in an appendix to the DPEIR.

in order to give the public and decision makers an accurate picture of the true impacts of the proposed project. The Central Valley Water Board cannot satisfy this requirement by failing to analyze the actual project in the DPEIR and subsequently adding new elements into the Framework arguably creating a completely new project that will result in significant environmental impacts and failing to analyze them altogether.

IV. The Framework Constitutes an Underground Regulation in Violation of the California Administrative Procedure Act (APA)

Regulations adopted by state agencies must be adopted consistent with the procedural requirements of the APA (Gov. Code, § 11340 et seq.), unless they qualify as one of the specifically enumerated exemptions. The definition of a regulation includes “every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.” (*Id.*, § 11342.600.) A regulation that is adopted inconsistent with the procedural requirements of the APA is an “underground regulation” which may be invalidated for failure to comply with the strictures of the APA. Policies, plans, and guidelines adopted by the state and regional water boards are subject to specific provisions of the APA (*id.*, § 11353), and if regional board adopted plans and/or policies fail to comply with such provisions, they too are underground regulations.

This Framework is a policy, plan, or guideline that will be the basis for future actions, and it is admittedly a policy of general application in that it governs and guides the Central Valley Water Board’s adoption of subsequent orders. However, it appears that the Board is unlikely to meet the requirements for adopting the policy pursuant to the Government Code. (Gov. Code, § 11353.) Most notably, the Central Valley Water Board indicates no intent to submit the Framework to the Office of Administrative Law (OAL) prior to it becoming effective. As part of this submission, the Central Valley Water Board would need to provide the OAL with a clear and concise summary of any regulatory provisions approved as part of the Framework for publication in the California Code of Regulations, the administrative record for the proceeding, and a summary of the necessity for the regulatory provision. (*Id.*, § 11353(b).) The Framework, as a policy, plan, or guideline, does not become effective unless and until the Central Valley Water Board submits such information and the regulatory provisions are approved by the OAL in accordance with other provisions of the APA. (*Id.*, § 11353(b)(5).) This Framework contains significant new regulatory requirements that will be binding on irrigated agricultural operations, including the farm-specific evaluations, a new tiering structure, and a nutrient management plan requirement for specified operations. The Central Valley Water Board’s intended decision to adopt the Framework without complying with these provisions of the APA would be inappropriate.

Moreover, the Staff Report denies that this Framework constitutes a regulation, and hence provides the public and regulated community with no meaningful opportunity to comment on and treat it as such. Specifically, the Staff Report contends that the Central Valley Water Board's resolution adopting the Framework "will not adopt the Framework as a rule or regulation; therefore, it will not be binding on subsequent Board actions on irrigated lands." (Staff Report at pp. 12-13.) However, this belies the true impact of the Framework and its role in the ongoing ILRP process. For example, the Staff Report indicates that, to the extent that the Central Valley Water Board adheres to the Framework in its subsequent orders, additional environmental analysis under CEQA will not be necessary. (*Id.* at p. 13.) In addition, the Staff Report describes the Framework as a general structure for the Central Valley Water Board to consider as the implementing orders are developed. Orders are to be adopted that are consistent with the Framework and, therefore, the Framework has the effect of regulation by de facto requiring compliance with its terms. This is clearly an important and influential document with tangible requirements that will have real regulatory consequences, yet it is unlikely to go through the appropriate procedures required under the APA. Thus, the Framework is an underground regulation, and its adoption without such review would violate the APA.

V. The Framework Fails to Adequately Analyze the Economic Impacts of the Program and Does Not Comply With Water Code Section 13141

The Staff Report acknowledges that Porter-Cologne, and specifically Water Code section 13141, requires the Central Valley Water Board to estimate the total cost of an agricultural water quality control program and the potential sources of financing. (Staff Report at p. 10.) Unfortunately, the brief analysis within the Framework and scattered references to the economic analysis contained in the DPEIR are insufficient to meet this statutory requirement.

First, the sequence of adopting this Framework and subsequently committing to identifying the costs of such program into the relevant basin plan at some point in the future is unsupported under Porter-Cologne. Specifically, Water Code section 13141 requires that "*prior to* implementation of any agricultural water quality control program, an estimate of the total cost of such a program, together with an identification of potential sources of financing, shall be indicated in any regional water quality control plan." (Wat. Code, § 13141, emphasis added.) The adoption of the Framework represents the beginning of implementation of an agricultural water quality control program, and the Central Valley Water Board has not yet provided (in the relevant regional water quality control plans) an estimate of the total cost of the program, or identified potential sources of funding for the program. The Staff Report indicates that "[t]he estimated total cost and potential sources of financing will be incorporated into the Basin Plans *after* approval of the ILRP Framework." (Staff Report at p. 26, emphasis added.) The Central Valley Water Board's adoption of this Framework represents the initial stage of implementation of an agricultural water quality control program. Although the program will be subject to further development as the specific requirements are

imposed in future orders, the adoption of the Framework will initiate implementation of the ILRP, and it will serve as the basis for future action and a foundational element of the overall ILRP. The Staff Report itself seems to acknowledge this, indicating that “if the Board adheres to the Framework in its subsequent Orders” additional environmental analysis would not be necessary. It is inconsistent for staff to take the position that, on the one hand, the Framework serves as a tool to avoid future analysis of environmental impacts, but, on the other hand, the Framework is not part of the implementation of the overall agricultural water quality control program: if the Framework constitutes the “program” for purposes of CEQA review, it also constitutes the program for purposes of the Porter-Cologne requirements.

The Staff Report includes only a cursory examination of the costs of the program and potential sources of financing. (Staff Report at pp. 30-34.) This analysis is not sufficiently detailed to give the affected community a real sense of the costs of the program, nor has it been “indicated in any regional water quality control plan” as required under the Water Code. Moreover, this cost examination is admittedly based on different assumptions than those analyzed in the economic analysis contained in the DPEIR. According to the Staff Report, “[a]n estimated total cost of the recommended ILRP Framework also has been developed and differs from the estimation approach used for the six alternatives. . . .” (*Id.* at p. 30.) The Framework contains potentially costly and time-consuming additional requirements, such as the requirement that all irrigated agricultural operations in all tiered areas complete a farm-specific evaluation and identification of management practices for Central Valley Water Board inspection. The costs of such requirements were not analyzed in the DPEIR and accompanying economic analysis, and are not described in sufficient detail in the Staff Report or the Framework to give irrigated agricultural operations a true sense of the costs of the program.

Finally, the economic impacts analysis contained within the DPEIR and referred to in the Framework is flawed and does not form a sufficient basis for estimating the true costs of this program. Specifically, as noted in a number of the previous comments to the DPEIR, that economic analysis fails to address a number of the costs that will be incurred as a result of implementation of the ILRP and the proposed alternative. These costs include, but are not necessarily limited to, nutrient management, irrigation practices, and the installation and operation of monitoring wells. The cost of compliance could be in the range of hundreds of millions of dollars, yet these costs are not substantially addressed by the economic analysis. Furthermore, the economic analysis contains numerous generalities and understated assumptions that prevent the reader from attaining a genuine picture of the actual costs and economic impacts of the various alternatives. In sum, the economic analysis purportedly supporting the Framework, including the brief cost estimates contained in the Staff Report and the flawed economic analysis contained in the DPEIR, are insufficient to meet the statutory requirements of Water Code section 13141 and fail to convey the true costs of the program.

VI. The Proposed Implementation Timeframe Remains Far Too Aggressive

We remain concerned that the timeframe for implementation identified in the Framework is far too aggressive and affected irrigated agricultural operations may be unable to meet the recommended deadlines. An anticipated full implementation deadline of three years as identified in the Framework is far too aggressive. It has taken nearly three years of stakeholder input and comments simply to get the ILRP to this point, and to expect that the new program will be fully in effect in that same timeframe is unrealistic. It is overly optimistic to expect that the coalitions and the Central Valley Water Board can fully implement a new long-term program that includes a variety of significant changes from the previous system in a brief three-year time period.

Moreover, the time schedules for compliance are arbitrary and not related to a determination of being able to meet the proposed schedules. Both the surface water quality and the groundwater quality schedules state that compliance schedules may be staggered between five and ten years, but cannot exceed ten years. (Framework at p. A-25.) Until there is a specific analysis for individual pollutants, it is premature to state that compliance schedules cannot exceed ten years. There is nothing in Porter-Cologne or state regulations that limits compliance schedules to ten years for non-point source discharges. Further, for many constituents, ten years is not practical. For example, for legacy pollutants, such as DDT and mercury, it may well take more than ten years for certain surface waters to comply with adopted water quality standards. However, if the current draft of the Framework were adopted, such schedules of compliance could not exceed ten years. To avoid such arbitrary results, we recommend that the Framework suggest that compliance schedules generally should not exceed ten years, but that the Central Valley Water Board has the discretion to set appropriate compliance schedules based on the information presented by the coalition groups and the commodity group at the time of establishing individual orders. We also recommend that any compliance schedules be used as general guidelines for ensuring water quality improvements, but with the understanding that, for non-point source discharges, hard and fast compliance with such schedules is difficult and not completely within the control of irrigated agriculture as these waterbodies are subject to inputs from many other sources.

VII. The Framework Creates a New Tiering Structure Not Analyzed in the DPEIR

Framework sections 4.2 and 4.3 indicate that a tier designation will be assigned to each constituent in a given area and that the areas themselves will be assigned a particular tier. As part of these provisions, the Framework includes the addition of a new and different tier, which was not included in the DPEIR or proposed alternative and the effects of which have not been thoroughly analyzed. Specifically, the Framework has altered the tiering system described in the DPEIR and Final EIR to add an additional tier that applies when it is “unknown” whether the discharge of the constituent from irrigated agriculture poses a low or high threat in a particular area. Depending on the application of this new requirement, this

represents a potential expansion of the scope of operations that would fall under this tier and potential increased obligations on the part of operations that fall into this category. In addition, as noted above in section III, this represents a significant new development added into the Framework that was not analyzed fully in the DPEIR or Final EIR which could have significant impacts on agricultural resources. The tiering system serves as a foundational element of the program that will ultimately determine the obligations and costs placed on each individual irrigated agricultural operation covered under the ILRP. To fundamentally alter that structure at this point in the process, particularly without appropriate analysis of environmental impacts of this change and re-circulation of the CEQA analysis, is inappropriate.

IX. Potential Site-Specific Monitoring for All Irrigated Agricultural Operations as Contemplated Under the Framework Is Inappropriate

Framework section 6(8) states that irrigated agricultural operations will be required to “[c]onduct any site-specific monitoring required by the Central Valley Water Board in conformance with any quality assurance/quality control requirements.” (Framework at p. A-15.) This provision could be read to require all irrigated agricultural operations to conduct individual discharge monitoring, an unnecessary requirement that exceeds the Central Valley Water Board’s authority under Water Code section 13267. Water Code section 13267 requires that the Central Valley Water Board’s request for technical information must be reasonable compared to the burden of compiling the information, including the cost. Specifically, this provision states that “[t]he burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with 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.” (Wat. Code, § 13267(b)(1).) In many cases, the burden of preparing these reports associated with site-specific monitoring and conducting the individual site-specific monitoring will not bear a reasonable relationship between the Central Valley Water Board’s need for information as compared to the benefits to be obtained, as required under Porter-Cologne. Further, the request for such information must be supported by evidence as to why the information is necessary. The Framework does not acknowledge these restrictions nor does it identify why such information may be necessary from dischargers. Under this provision, the proposed site-specific monitoring is not necessarily related to an individual operation’s actual threat to water quality. Thus, the Framework assumes that all dischargers that fall within the scope of the program could be required to conduct any site-specific monitoring required by the Central Valley Water Board, apparently without limitation or consideration of the reasonableness of the monitoring required. Such a broad and unsupported requirement is inappropriate.

X. The Framework Contains a New Tier 3 Nutrient Management Plan Requirement That Could Jeopardize Proprietary Information and Which May Be Unnecessarily Burdensome

Framework section 6(10) states that irrigated agricultural operations in a Tier 3 groundwater basin for which nitrate is the identified constituent of concern will be required to “prepare a farm-specific nutrient management plan certified by a certified crop advisor and provide any required nutrient information for submittal to the third party or Central Valley Water Board.” (Framework at p. A-16.) This is a new requirement added as part of the Framework and was not analyzed or considered in any meaningful way in previous iterations. Furthermore, based on the confidentiality concerns cited above, it would be problematic for growers to submit a nutrient management plan to the Central Valley Water Board as contemplated under the Framework. Much of the information that would be required under these nutrient management plans is proprietary (in the nature of trade secrets) and not appropriate for release in the public domain, and it would be more appropriate to allow irrigated agricultural operations to continue to retain documents on-site and make those documents available for Central Valley Water Board inspection.

Finally, the requirement that a nutrient management plan under this provision must be “certified by a certified crop advisor” is impractical and constitutes an unnecessary expense. Many growers do consult and work with such professionals, but it is not necessary for these plans to be certified in order to be an effective management tool. Many growers have in-depth practical experience as well as formalized training in irrigation and nutrient management techniques and are able to develop effective plans without professional assistance. This certification requirement creates a new costly burden that many growers may not be able to afford. The Staff Report erroneously asserts that “[t]he only potential impact associated with nutrient management is additional planning and management costs, which may be largely offset by savings to fertilizer material and operations.” (Staff Report at p. 14.) There is no support cited for this assessment that the costs of this new requirement are minimal, nor that those costs can be offset by purported savings. Further, the certified crop advisor program is not established to fulfill a regulatory requirement as anticipated here. The certification program is a voluntary program and was not established to meet regulatory mandates set forth by regional water boards.

XI. The Framework Contains an Individual Farm Water Quality Management Plan Requirement That Raises Similar Concerns

Framework section 6(11) states that irrigated agricultural operations in a Tier 3 groundwater basin or watershed will be required to “prepare an individual farm water quality management plan certified by a certified crop advisor” if the Central Valley Water Board determines that adequate progress in the implementation of the regional GQMP or SQMP has not been made. (Framework at p. A-16.) This requirement raises a number of the same concerns as the nutrient management plan requirement, including the submission of

potentially proprietary and confidential information and the unnecessary and costly certification by a certified crop advisor.

XII. The Framework Requires Farm-Specific Evaluations For All Irrigated Agricultural Operations, Exceeding the Central Valley Water Board's Authority Under Water Code Section 13267

Framework section 7(3) indicates that all irrigated agricultural operations in all tiered areas must complete a farm-specific evaluation and identification of management practices for Central Valley Water Board inspection. (Framework at p. A-16.) These evaluations essentially require irrigated agricultural operations operating under the Framework to prepare and submit technical reports without any additional showing from the Central Valley Water Board. This is entirely inappropriate for a variety of reasons. The Central Valley Water Board does not have the authority to circumvent legally required findings in individual cases by requiring that all operations must submit these evaluations. A generic requirement that applies to all operations does not satisfy the individualized requirements of the statute given that there must be some justification for these evaluation requests. Water Code section 13267 authorizes the Central Valley Water Board to require reports from those who discharge waste, but that section also requires that the Board "provide the person with a written explanation with regard to the need for the reports" and "identify the evidence that supports requiring that person to provide the reports." (Wat. Code, § 13267.) Unless the Central Valley Water Board undertakes these activities in individual instances, it has not satisfied its burden, and cannot request that all operations submit farm-specific evaluations outlining their management practices. The Framework as currently written requires all operations to perform these farm-specific evaluations, without providing a written explanation or supporting evidence. This is inappropriate and unsupportable under Porter-Cologne.

XIII. The Framework Threatens Individual Operations With Water Code Section 13267 Orders For Failure of Third-Parties to Submit SQMPs or GQMPs

Framework section 7(7) states that "[f]ailure by a third party to submit a SQMP or GQMP that receives Executive Officer approval will result in the issuance of 13267 Orders requiring the irrigated agricultural operators in the affected areas to submit the required reports and information." (Framework at p. A-19.) This amounts to a highly coercive and inappropriate provision that threatens irrigated agricultural operations with "punishment" for circumstances that can be out of their control. As noted above, Water Code section 13267 requires that the Central Valley Water Board's request for technical information be reasonable as compared to the burden of compiling the information, including the cost, and the request for such information must be supported by an *individualized* determination and supporting evidence as to why the information is necessary. A third-party's failure to submit a SQMP or GQMP, or the failure of the Executive Officer to approve a submitted plan, would not be a sufficient basis for using a 13267 Order requiring individual irrigated agricultural operators to

submit such information. Failure of a report submitted by a grower to receive Executive Officer approval is not a satisfactory ground for issuing a Water Code section 13267 Order, and this provision amounts to a highly inappropriate threat against growers.

XIV. The Framework Potentially Gives Too Much Discretion to the Executive Officer in Requiring Revisions or Modifications to SQMPs and GQMPs

Framework section 7(9) states that “the Board or Executive Officer will determine whether and how the SQMP or GQMP should be updated based on new information and progress in achieving compliance with water quality objectives.” (Framework at p. A-19.) This provision implies that the Executive Officer has the authority to mandate an update or modification of SQMPs and GQMPs without restriction or consideration of specified factors, and suggests that the Executive Officer can require revision of those documents without any indication of what criteria must be considered or the need to justify the request. This is inappropriate and can lead to arbitrary results for third parties and the individual irrigated agricultural operations. For example, an Executive Officer, at his or her apparently unfettered discretion, could determine that “inadequate progress” is being made and, as a proposed solution under the Framework, could require individual irrigated agricultural operations to “develop and implement a FWQMP certified by a certified crop advisor.” (*Id.* at p. A-20.) The Framework does describe progress conditions in vague terms at page A-19 and A-20, but this is not a sufficiently specific barometer by which to make such a significant decision. Essentially this opens up all irrigated agricultural operations to the possibility of developing an individual Farm Water Quality Management Plan (FWQMP) if the Executive Officer determines that operation is making inadequate progress in plan implementation.

XV. Under the Framework, Compliance With Time Schedules Will Be Improperly Determined Using First Encountered Groundwater

Framework sections 10.1 and 10.2 indicate that the compliance schedules may be staggered between five and ten years, and compliance is considered to be demonstrated improvement in water quality or reduction in discharge based on evaluation of available data of *first encountered groundwater*. (Framework at pp. A-26 - A-27.) We are concerned that the Central Valley Water Board’s assessment and definition of groundwater for purposes of determining compliance is the first encountered groundwater. Most beneficial uses of groundwater do not actually occur in the first encountered groundwater, yet, under the Framework, compliance will be determined based on the quality of water in the first encountered zone. The Framework makes an improper assumption that measuring discharge from irrigated lands covered by the ILRP at the shallow first encountered groundwater level will provide an accurate picture of compliance and progress being made towards improvement in water quality. We do not believe this determination to be appropriate or supportable under Porter-Cologne. In addition, the proposed measurement of groundwater in the first encountered zone fails to take into account the assimilative capacity of soil in irrigated lands governed by the ILRP. There is considerable treatment that occurs as water

makes its way through the soil profile, and in many areas it can be reasonably expected that there will be significant dilution and attenuation of constituents prior to reaching any groundwater extraction point. Furthermore, because the lands covered by the LTILRP are so varied in soil composition, the assimilative capacities of those lands also vary, and indiscriminately using first encountered zone measurements may produce inconsistent and inaccurate results in measuring compliance. Because there is a substantial likelihood that groundwater data collected at the first encountered zone will bear little relationship to the actual impact on beneficial uses in that area, determining compliance with water quality objectives in the first encountered zone is inappropriate.

XVI. Concerns Regarding Individual FWQMP Requirements

Framework section 13.3 describes the information to be included in the individual FWQMPs and also states that, in addition to the minimum elements identified, “the Executive Officer may require groundwater or surface water quality monitoring to evaluate the effectiveness of the practices implemented by the grower.” (Framework at p. A-32.) As noted above, in order to require an individual agricultural operation to conduct such monitoring and submit this information to the Central Valley Water Board, the Board must ensure that the burden of requesting these reports bears a reasonable relationship to the need for the report, and the Board must provide the operation with a written explanation with regard to the need for the reports along with evidence that supports requiring that operation to provide the reports. The monitoring requirements, while not fully defined and articulated in the Framework, could be insufficient to support requests pursuant to Water Code section 13267, and, as such, may fail to meet the Central Valley Water Board’s statutory burden. The Framework does not appear to limit these requests in this manner and would therefore, in some circumstances, be unsupported under Porter-Cologne. In addition, this provision could provide the Executive Officer with far too much discretion, as there are no criteria or specified considerations governing when the Executive Officer can require monitoring to evaluate effectiveness of the practices implemented by the grower.

XVII. Conclusion

In conclusion, we appreciate the opportunity to comment on the Staff Report and ILRP Framework. However, we remain very concerned that the Framework imposes a number of regulatory requirements that are overly burdensome, unnecessary, and unsupported under the relevant Water Code provisions, and that this proposed regulation is not being properly adopted in compliance with legal standards. Moreover, the Framework contains a number of provisions that were not analyzed in the DPEIR and the impact of which has not been fully considered. Finally, the economic analysis supporting the Framework is inadequate and the timeframe for implementation remains far too aggressive. Thus, based on these concerns, we encourage the Central Valley Water Board to consider the comments provided above and modify the Framework in conformity with our suggestions.

Central Valley Regional Water Quality Control Board
Re: Comments on Irrigated Lands Regulatory Program Framework Documents
March 30, 2011
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If you have any specific questions with respect to these comments, please contact Theresa "Tess" A. Dunham at (916) 446-7979. Thank you.

Sincerely,

California Cotton Ginners and Growers Association
California Farm Bureau Federation
California Rice Commission
East San Joaquin Water Quality Coalition
Sacramento Valley Water Quality Coalition
San Joaquin County-Delta Water Quality Coalition
South San Joaquin Irrigation District
South San Joaquin Water Quality Coalition
Western Growers Association
Western Plant Health Association
Westside San Joaquin River Watershed Coalition

TAD:cr

From: Pat Ziobro & Ray Warthen [REDACTED]
To: <AWLaputz@waterboards.ca.gov>
Date: 3/21/2011 2:01 PM
Subject: Opposition to proposal

As a California taxpayer, resident of the California Delta, sportswoman and concerned citizen, I am urging that you reject the proposed Irrigated Lands Regulatory Framework. We must monitor who is discharging pollutants and reduce and eliminate those pollutants to save our valuable water resource for our current citizens and for the future children of this state. The proposed framework makes no sense. Please take a stand to oppose it. Thank you. Patricia Ziobro, [REDACTED].