California Regional Water Quality Control Board
Central Coast Region

895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
(805) 549-3147 • Fax (805) 543-0397
http://www.waterboards.ca.gov/centralcoast

Linda S. Adams.
Secretary for Environmental Protection

Arnold Schwarzenegger
Governor

March 22, 2007

The Honorable Dean Florez
California State Senate
State Capitol, Room 5061
Sacramento, CA 95814

The Honorable Abel Maldonado
Chair, Agriculture Committee
California State Senate
State Capitol, Room 4082
Sacramento, CA 95814

The Honorable Nicole Parra
Chair, Committee on Agriculture
California State Assembly
State Capitol
PO Box 942849
Sacramento, CA 94249-0089

Clarification of Comments Made at the February 28, 2007 Select Senate Committee Hearing and Concerns for Food Safety Guidelines

During discussion of peer review at the select senate committee hearing on food-borne illness held February 28, a statement was made that various environmental and regulatory agencies reviewed the metrics for the lettuce and leafy green industry. We are writing committee members to clarify that although we commented on the *Commodity Specific Food Safety Guidelines for the Production and Harvest of Lettuce and Leafy Greens* (metrics), we still have serious concerns about the metrics and associated documents. We recognize the importance of protecting public health and preserving the viability of agricultural production within the state, but food safety practices should not come at the expense of water quality, habitat or air quality protection. Millions of federal and state tax-payer dollars have been invested in researching, promoting and implementing on-farm conservation practices such as riparian buffers, vegetated ditches, grassed roadways and other uses of vegetation to reduce erosion and filter pollutants such as nutrients, pesticides, sediment, and pathogens. As currently written, the metrics and associated documents conflict with these effective conservation practices. Below is a summary of our concerns:

- Buffers between cropland and specific land uses should <u>not</u> be bare ground. Studies indicate that vegetated buffers help to reduce E. Coli levels and transport, improve air quality and water quality. We strongly encourage a

statement to support vegetated buffers, especially where there is the potential for surface runoff.

- We request that the guidelines include a strong statement of support for conservation practices, water quality, habitat protection and natural flood flow dynamics up front in the document.
- The guidelines should focus consistently on animals of significant risk (animals documented to have a high risk for E. Coli 0157:H7) rather than wildlife in general.
    - Literature reviews show that deer should be removed from the list of high-risk animals.
    - The sanitary survey still focuses on wildlife and rodents, rather than high-risk animals. This is inconsistent with the current guidelines, and may be based on outdated drafts.
- The recommendation for vegetation removal must be deleted from the sanitary survey. The removal of trees and bushes from the banks of surface waters and replacement with easily maintained vegetation is unacceptable; it is detrimental to water quality and beneficial uses.
- In order to avoid losing marketable produce from flooding, farmers may try to contain floodwater by creating or adding to berms adjacent to surface water channels. Confined flood flows increase erosion and potential flood effects to downstream neighbors. We would like to see language incorporated into the metrics that supports the maintenance of natural flood flow regimes. Flood flow alteration should be pursued only in consultation with the proper agencies and only if no other actions will address the food safety issues of concern.

In addition we have the following general concerns and suggestions:

- Buyers (salad processors, larger retailers) are adopting their own standards and third-party audits independent of scientific research or peer review.
    - Growers are currently fencing many miles of the Salinas River corridor and implementing 500 to 800 foot bare-dirt buffers in order to meet the demand of buyers and their third-party auditors.
    - These standards are in direct conflict with taxpayer supported on-farm improvements.
    - This market driven practice puts growers in the frustrating position of deciding between conservation friendly practices, potential regulatory fines, or being able to sell their produce and make a living.
- Salad processors, large retailers and third party auditors must be subject to the same standards that have received environmental, food safety and water quality review.
- Consultation with environmental regulators should be mandatory for all inspectors, including third party auditors and buyer representatives.

- Any inspector training program must include training in water quality and wildlife habitat protection requirements and the food safety concerns associated with management of these natural resources.
- Marketing agreements may constitute a rulemaking authority. Quasi-legislative acts such as zoning ordinances and regulations are projects subject to CEQA. The enforcement of regulations developed under the Marketing Agreement has not been reviewed under CEQA.
- The metrics received peer review from food safety experts, but must also include peer review by cross-disciplinary experts in fields such as wildlife, water quality, and environmental conservation.
- We urge the Leafy Green Handlers Technical Committee (or any technical committee formed as a result of legislation) to include representatives familiar with conservation practices, water quality, wildlife and habitat issues.

We and the natural resource protection agencies, regulatory agencies, environmental organizations and sustainable agriculture groups listed below thank you for your work toward resolving the potential contradictions between food safety guidelines and existing natural resource protection regulations so that farmers are not forced to choose between these vital issues. If you have questions, please contact Jill Wilson, environmental scientist, at 805-542-4762 or by email at jwilson@waterboards.ca.gov.

Sincerely,

Michael Thomas,
Assistant Executive Officer

Bridget Dobrowski, Monterey Bay National Marine Sanctuary
William Stevens, National Marine Fisheries
Sam Earnshaw, California Alliance with Family Farmers
Jo Ann Baumgartner, Wild Farm Alliance
Vance Russell, Audubon California

cc:
The Honorable Anna Caballero
California State Assembly
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0028