California Regional Water Quality Control Board
Central Coast Region

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Linda S. Adams.
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

Agricultural Order Renewal
Public Comments and Alternatives to
02/01/2010 Preliminary Draft Staff Recommendations

Group 8: Comment Letters

Comment ID	Individual Submitting	Affiliation	Date Received
M1	Nancy Isakson	Salinas Valley Water Coalition	3/30/2010
M2	Chris Dellith	US Fish and Wildlife Service	4/1/2010
M3	Steven A. Edmondson	National Marine Fisheries Service	4/1/2010
M4	Charles M. Andrews	Department of Pesticide Regulation	4/1/2010
M5	Paul Michel	Monterey Bay National Marine Sanctuary	4/1/2010
M6	Rolf Frankenback	California Department of Food and Agriculture	4/1/2010
M7	Daniel Mountjoy	National Resouces Conservation Service	4/1/2010
M8	Jim Manassero	Monterey County Agricultural Commissioner	4/1/2010
M9	John A. Ricker	Santa Cruz County Water Resources Program	4/1/2010
M10	Tom Carvey	Salinas Valley Chamber of Commerce	3/31/2010
P1	John E. Douglas	Private Individual	3/31/2010
P2	Vince Narez	Private Individual	3/31/2010
P3	Tom Burt	Private Individual	3/31/2010
P4	Daniel Waldman	Private Individual	3/31/2010
P5	Margie Kay	Private Individual	4/1/2010
P6	Horacio Amezquita	San Jerardo Cooperative, Inc.	3/31/2010
P8	Jim Talbott	Private Individual	3/29/2010
P10	Ben Middleton	Private Individual	3/18/2010
P11	Maximiliano Cuevas	Clinica del Salud de Valle de Salinas	3/31/2010

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TRANSMITTED VIA FACSIMILE AND EMAIL

Central Coast Regional Water Quality Control Board
Chairman Jeffrey Young and Board Members
895 Aerovista Place, Suite 101
San Luis Obispo, Ca 93401-7906 30 March, 2010

Re: Preliminary Staff Recommendations for An Agricultural Order to Control Discharges from Irrigated Lands

Dear Chair Young and Board Members;

The Salinas Valley Water Coalition (SVWC) is a not-for-profit organization comprised of agricultural landowners, farmers and businesses within the Salinas Valley. The SVWC's primary purpose is to participate in the various governmental processes in an effort to preserve the water rights of its members, to protect their water resources and to effect water policy decisions in a manner that provides this protection while sustaining agricultural production and the quality of life within the Salinas Valley.

The Salinas Valley Water Coalition (SVWC) appreciates the opportunity to provide comments on the 'Preliminary Staff Recommendations' released February1, 2010. Your staff's preliminary recommendations are comprised of lengthy and detailed attachments. We have reviewed these recommendations thoroughly and we have divided our comments accordingly.

Historical Background:

The SVWC worked with, and supported, your Board and its efforts in developing and implementing the Agricultural Waiver Program in 2005. The development of the first Ag Waiver as adopted by the Region 3 Board and supported by the agricultural community was said to be a model for the State. Many were watching to see if it would work or if we would fall on our face. It has worked.

The agricultural community is to be commended for its willingness to establish a non-profit governing board (CCWQP) to oversee the management and funding of the Ag Waiver program – and to fund the program. There are almost 400,000 irrigated acres and almost 1,800 farm companies or individuals, enrolled in the Ag Waiver program with CCWQP.

While the program may not be perfect, it is working and we are learning how to improve it as we move forward. Community participation is an essential element in any project, and critical to obtaining support for that project.

We believe we can achieve greater success by continuing the current Ag Waiver monitoring program and establishing more of an outreach program. 1) Grower research to mitigate problems, 2) watershed trials and 3) cooperation with agencies that have research and education responsibilities are facilitating the long-term goals of the Waiver(s). The Agricultural Community operators want to be shown ways they can incorporate better practices to maintain the goals of the Ag Waiver program. If the Regional Water Quality Control Board starts requiring individual on-farm sampling for all, or the majority of, growers/operators, we believe you will lose the support of growers/operators. The remaining action will be one of enforcement which is costly to everyone and often does not achieve the desired result and potentially ends in a failed program.

We would like to see the Ag Waiver continue in the manner it is currently implemented with additional educational outreach. Perhaps one segment of the outreach program could target those growers who have reported tail-water. We could assist and encourage them to incorporate better practices. This could be done through CCWQP on a voluntary and confidential basis. CCWQP could maintain a record and develop an annual report to show the improvements made. Many growers may want to incorporate better practices but may not have the ability or finances to do so.

We can spend less, learn more and educate the entire region—even beyond our borders—if we use science and scientific resources creatively and educate operators to be better. If at the end of adequate time (improvements from each five-year waiver will be limited by how much good science we can develop and extend through outreach and, we are dealing with long-term conditions)…if, then, operators are not adopting and incorporating better practices, then, consider initiating individual testing and regulatory processes. It probably will be more expensive and slower (and we believe much less successful) than working with a voluntary process in the Ag community.

Attachment 1, Preliminary Draft Report Staff Recommendations for Agricultural Order:

Section 1, Surface water quality:

1. Nitrate Pollution: the staff report cites two areas of great concern, the lower Salinas and Santa Maria watersheds. They cite the Reclamation Ditch as one of the worst water quality sites.

   In section 1.8, staff concludes that many areas that showed serious contamination from ag pollutants five years ago are still seriously contaminated – but they go on to state that they have ***"seen evidence of improving trends in some parameters in some areas." [emphasis added]***

   Further, staff goes on to state that they are not seeing '***widespread improvements***' in nitrate concentrations in areas that are most heavily impacted.

Comment: We are not a one size fits all region. Staff has admitted there have been improvements. Monterey County Water Resource Agency is doing a lot to address the water quality issues within their jurisdiction, including those associated with the Reclamation Ditch. They have completed a watershed study and have prepared a management action plan along with management strategies. The RWQCB is a participant in this process/action plan,.

Other areas within Region 3, may have programs similar to those of MCWRA, in that Monterey County has worked very hard to identify critical issues, develop and implement plans and projects to address and mitigate water quality issues. Monterey County has been addressing its water quality issues for decades – and there has been significant improvement. In addition, the construction and soon-to-be operational Salinas Valley Water Project, will address many of the Salinas Valley water quality issues.

There is no reason to duplicate the work being done. It should be co-ordinated with the MCWRA and other local Agencies, and, in the case of Monterey County, with MCWRA as the lead agency.

Section II – Groundwater Quality:

1. Staff makes the following statement: " On a regional basis, agricultural crop production provides the major source of nitrate waste to water resources, including groundwater. '' A study of the Salinas Basin suggests that agricultural crop production is also the leading source of salt loading to that basin.' If left unmitigated, salts and nitrates accumulate in the basin and threaten the beneficial uses of groundwater. As presented below, beneficial uses of groundwater are already impaired by salts and nitrates in many areas of our groundwater basins."

   They cite a November 1990 Monterey County Flood Control and Water Conservation District report as their basis. We believe this report is out-dated and that there are other up-dated reports that could be used and provide a different understanding and hence basis, for the nitrate issue within Monterey County—one that shows the progress being made and programs implemented.

2. Groundwater overdraft and saltwater intrusion:

   According to the staff report, "The Gilroy-Hollister, Salinas, and Santa Maria groundwater basins are actively managed to enhance groundwater recharge from streams in order to meet pumping demand but excessive pumping (primarily related to agriculture) continues to cause saltwater intrusion into the Salinas and Pajaro groundwater basins, with increasing portions of the basins unusable for agriculture and municipal supply as a result. Therefore, maximizing irrigation efficiency is essential to minimize saltwater intrusion and other problems associated with overdraft."

   Again, we are not a one-size-fits-all region. Monterey County is very different from the other areas within Region 3, in that Monterey County has worked very hard to identify critical issues, develop and implement plans and projects to address and mitigate the issues. Monterey County has been addressing its

seawater intrusion issues for decades – and there has been significant improvement. The ag and urban community has worked with the Agency on these issues and have been successful in obtaining an 85% voter approval to fund and implement the Salinas Valley Water Project. This project is expected to substantially reduce and, possibly, eliminate seawater intrusion from the Salinas valley.

We strongly believe that more effort should be done to avoid duplication of efforts, programs, and certainly the expenditure of monies among the various agencies with some level of jurisdictional authority over water quality issues. We need greater coordination.

3. Nitrate Impacts: the staff report states that the " Data from public supply wells in the Central Coast Region suggest that the municipal beneficial use of groundwater is impaired or threatened by nitrates in several areas of Central Coast region basins."

While these concerns exist, as stated above, much is being done by local agencies such as MCWRA to address the impacts from nitrates, particularly with regards to their impact to municipal uses. Their efforts need to be coordinated – not duplicated.

Section III - AQUATIC HABITAT

1. ***3.1 Wetland Definition:*** the staff report states, "In 2008, the State Water Resources Control Board (SWRCB) passed Resolution 2008- 0026 for "development of a policy to protect wetlands and riparian areas in order to restore and maintain the water quality and beneficial uses of the waters of the State." The resolution was needed to foster greater efficiency, effectiveness, and consistency among SWRCB programs, to reverse the trend in wetland loss revealed by recent scientific studies, and to counter a series of U.S. Supreme Court decisions that have destabilized federal wetland jurisdiction, resulting in less protection for California wetlands.

   Staff in working on developing the policy ***has produced a wetland definition***. The definition is as follows and is recommended for use in this Order: An area is wetland if, under normal circumstances, it (1) is saturated by groundwater or inundated by shallow surface water for a duration sufficient to cause anaerobic conditions within the upper substrate; (2) exhibits hydric substrate conditions indicative of such hydrology; and (3) either lacks vegetation or the vegetation is dominated by hydrophytes. (TAT 2009)"

Staff should ***not*** be 'developing' a definition, but rather, they should be utilizing the definition of 'wetlands' as provided under law, in particular, the Clean Water Act as below.

For regulatory purposes under the Clean Water Act, the term wetlands means "those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in

saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas." [taken from the EPA Regulations listed at 40 CFR 230.3(t)]

2. **Section *3.2 Current conditions*** states: "In addition to the historical clearing of riparian and wetland habitat to allow for cultivation and staging areas at field perimeters, some growers have scraped 30-foot wide borders to create bare soil around field edges, have cleared trees, plants and brush from creeks and ditches, and have applied poison into and along surface waters to kill wildlife, all in an effort to keep wildlife from coming near their agricultural fields (Estabrook, 2008; Slater, 2009). Staff expects that growers will continue to alter riparian and wetland areas due to food safety pressures, unless regulatory agencies successfully apply sufficient pressure in the opposite direction."

   They go on to state: "According to a spring 2007 survey by the Resource Conservation District of Monterey County, 19 percent of 181 respondents said that their buyers or auditors had suggested they remove non-crop vegetation from their ranches……(and) As a result farmers are removing wetland and riparian plants in order to be able to sell their food."

   This is simply not true. Farmers have been required by food-safety law, to remove a certain amount of non-crop vegetation. It is inappropriate for staff to make the assumptions they have within this report and does not serve the community well. Rather, this may be one more area, where there is a conflict in existing and proposed laws, and one more instance where there needs to coordination among and between agencies.

3. **Section *3.3 Functions of wetlands and riparian areas***, states that "Removal of vegetative canopy along surface waters has a negative impact toward achieving temperature water quality objectives, which in turn negatively affects dissolved oxygen related water quality objectives." Staff states that "Agricultural activities and other land uses should be conducted to avoid or minimize impacts to wetland and riparian areas."

   There are existing laws in place to protect identified wetlands and certain riparian areas – new laws do not need to be implemented. Rather, if there are issues that need to be addressed, the appropriate agency can address it through existing laws.

Buffers and Riparian Function Protection Restoration Plan:

Requiring buffers, stream setbacks and potential re-vegetation of certain areas, are land use regulations and not within the purview of the Regional Water Quality Control Board. Such requirements are beyond the scope of the jurisdiction of the CCRQCB. The California Water Code provides no authority to regulate the usage of land beyond consideration of implementation of practices at the election of the discharger that maintain water quality within established parameters. Restricting the use of land because of riparian vegetation without any evidence of a relationship to water quality, is a regulatory taking.

Existing legal land uses, such as farming, cannot be terminated through a regulatory change without compensation of the permanent loss of the use. County governments through their zoning authority, look at regulating existing land uses, including farming. They have the authority to regulate such uses within the scope of their zoning authority granted by the Government Code. However, the CCRWQCB has to such authority granted to it by any law whatsoever.

Requiring buffers, riparian function protection restoration plan(s) and restricting the landowners ability to utilize a portion of their land, is clearly a taking of property and is inequitable and discriminatory in its potential enforcement.

Attachment 5, Preliminary Draft Initial Study and Environmental Checklist:

CEQA requires the decision-makers and the public to be fully informed as to all of the potential significant environmental effects of the project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. It is not clear from your Attachment 5, but it appears that it your intention to move forward with the adoption of a Conditional Waiver for Discharges from Irrigated Lands by the adoption of an Negative Declaration – on the basis the "Draft Irrigated Ag Order will not have a significant negative impact on the environment." This is simply not supported by the evidence or your own Initial Study.

Your environmental checklist and evaluation discussion acknowledge the potential of management practices to affect land used for producing crops. However, you then state that these are "unlikely to lead to a conversion of prime agricultural farmland to other uses…..[and that] this impact is considered less than significant. **This is not supported by law or the evidence.**

The conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use constitutes a significant impact. ***The loss of any important farmland constitutes a significant impact.*** The term "important farmland" includes all of the categories of farmland established by the California Department of Conservation plus farmland of local importance.

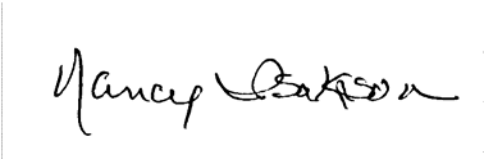
You have not taken into consideration the potential loss of farmland because of the riparian vegetation limitations as well as the unrealistic and unreasonable monitoring requirements that will cause many landowners/farmers to go out of business and/or be forced to leave their land fallow because of their inability to meet the requirements. Because of this potential, and others, you must prepare an Environmental Impact Report that will fully inform you, the decision-makers, and the public of all potential significant impacts. Your failure to do so will be a disservice to the public and against the law.

Conclusion:

You must not go forward with the draft as proposed by your staff. We believe it is important that your Board maintain the support of the agricultural community throughout this process in order to obtain a program that will not only meet your requirements, but that will also benefit the entire community. We would like to work with you and others within the ag community and the Ag Committee and technical experts that have been utilized by you to implement the current Ag Waiver – to review and modify as appropriate the current Ag Waiver in order to meet the requirements of the law. Anything less will not be supported by us and we believe you will be forced to proceed with enforcement at a tremendous cost to you – forcing you to utilize funds not available – and forcing the ag community to seek other remedies. None of us want this. Let's work together toward building and implementing a program that will continue to protect our water quality along with our agricultural industry.

We thank you for your consideration of our comments and concerns. We look forward to continuing to work with you to achieve greater water quality for our region.

Sincerely,



Nancy Isakson
President, SVWC

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

INREPLY REFER TO:
81440-2010-EC-0010

March 31, 2010

Angela Schroeter, Agricultural Regulatory Program Manager
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Subject: Comments Regarding the Preliminary Staff Recommendations for an Agricultural Order to Control Discharges from Irrigated Lands, Central Coast Region, California

Dear Ms. Schroeter:

We are responding to the California Regional Water Quality Control Board, Central Coast Region's (Central Coast Water Board) request for comments on your preliminary draft staff recommendations for an agricultural order conditionally waiving individual waste discharge requirements for discharges from irrigated lands (agricultural waiver). The current agricultural waiver expires in July 2010, and the Central Coast Water Board must immediately determine how best to regulate agricultural discharges on the central coast to directly address the major water quality issues of toxicity, nitrates, pesticides and sediment in agricultural runoff and/or leaching to groundwater so that desired water quality outcomes that support beneficial uses can be achieved. We are providing our comments based our concerns for listed species within our jurisdiction related to our mandates under the Endangered Species Act of 1973, as amended (Act).

The U.S. Fish and Wildlife Service's (Service) responsibilities include administering the Act, including sections 7, 9, and 10. Section 9 of the Act and its implementing regulations prohibits the taking of any federally listed endangered or threatened species. Section 3(18) of the Act defines take to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Service regulations (50 CFR 17.3) define harm to include significant habitat modification or degradation which actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Harassment is defined by the Service as an intentional or negligent action that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. The Act provides for civil and criminal penalties for the unlawful taking of listed species. Exemptions to the prohibitions against take may be obtained through coordination with the Service in two ways. If a project is to be funded, authorized, or carried out by a Federal agency and may affect a listed species, the Federal agency must consult with the Service, pursuant to section 7(a)(2) of the Act. If a proposed project does not involve a Federal agency but may

result in the take of a listed animal species, the project proponent should apply to the Service for an incidental take permit, pursuant to section 10(a)(1)(B) of the Act.

Numerous federally listed species reside in areas under the Central Coast Water Board's jurisdiction and may benefit from decreases in toxicity, nutrients, pesticides, and sediment in the waters that are crucial to their habitats. Species that would directly benefit from the water quality improvements that the agricultural waiver strives to achieve include the federally endangered least Bell's vireo (*Vireo bellii pusillus*), arroyo toad (*Anaxyrus* [*Bufo*] *californicus*), California tiger salamander[1] (*Ambystoma californiense*), Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*), tidewater goby (*Eucyclogobius newberryi*), California least tern (*Sterna antillarum browni*), southwestern willow flycatcher (*Empidonax traillii extimus*), unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*), La Graciosa thistle (*Cirsium loncholepis*), Gambel's watercress (*Nasturtium* [*Rorippa*] *gambellii),* and marsh sandwort (*Arenaria paludicola*); the federally threatened California red-legged frog (*Rana aurora draytonii*) and southern sea otter (*Enhydra lutris nereis*); and listed vernal pool branchiopod species (e.g., the threatened vernal pool fairy shrimp (*Branchinecta lynchi*)). Specific examples of how water quality improvements may benefit federally listed plant, amphibian, and fish species are presented below.

Arenaria paludicola and Nasturtium gambelii

Oso Flaco Lake supports the last remaining known wild population of marsh sandwort and possibly one of the last two remaining known populations of Gambel's watercress. Records from the California Department of Fish and Game's Natural Diversity Database for *Arenaria paludicola* and *Nasaturtium gambelii* indicate that habitat in Oso Flaco Lake and Little Oso Flaco Lake has been declining in quality and quantity. Specifically, biostimulation, plant overgrowth, eutrophication, non-native plants, trash dumping, and dredging have been cited as threats to these species in the Oso Flaco watershed (CNDDB 2009). Biostimulation in Oso Flaco Lake has caused the rapid growth of common wetland species such as *Sparganium* (bur-reed), *Typha* (cattail), and *Scirpus* (bulrush), species which are much greater in size and abundance when compared to reference populations on the Guadalupe Dunes National Wildlife Refuge (Mark Elvin, Service, pers. obs. 2005). The accelerated growth of these common species appears to have reduced the amount of suitable habitat for *Arenaria paludicola* and *Nasaturtium gambelii*. Short term management measures, such as vegetation thinning in Oso Flaco Lake, may benefit these species but would require continual maintenance in an area where safe access is limited. We believe that a reduction in biostimulatory substances entering Oso Flaco Lake is necessary to reduce the strain on these species and ensure their long-term survival.

California tiger salamander

Like most amphibians, California tiger salamanders inhabit both aquatic and terrestrial habitats at different stages in their life cycle, and are likely exposed to a variety of pesticides and other

[1] The Santa Barbara distinct population segment is federally listed as endangered, the Central Valley population is federally listed as threatened.

chemicals throughout their range. California tiger salamanders are extremely sensitive to these pollutants due to their highly permeable skin, which can rapidly absorb pollutant substances (Blaustein and Wake 1990). Toxins at lower than lethal levels may still have adverse effects, such as causing abnormalities in larvae and behavioral anomalies in adults, both of which could eventually lead to lethal effects (Hall and Henry 1992, Blaustein and Johnson 2003). Some commonly used pesticides, such as chlorpyrifos and malathion, are cholinesterase inhibitors. Reduced cholinesterase activity has been linked to uncoordinated swimming, increased vulnerability to predation, depressed growth rates, and increased mortality in tadpoles (de Llamas et al. 1985, Rosenbaum et al.1988, Berrill et al. 1998, Sparling et al. 2001). California tiger salamanders also could die from starvation due to the reduction or loss of their prey base from the use of pesticides. Reduced exposure to pesticides would benefit this species.

Tidewater goby

Tidewater gobies occur in numerous major stream drainages throughout the central coast. This species' habitat is characterized by brackish shallow lagoons and lower stream reaches where the water is fairly still but not stagnant. Tidewater gobies dig breeding burrows in unconsolidated, clean, coarse sand, which can be smothered by large inputs of fine sediment. The recovery plan for the tidewater goby identifies agricultural discharges, and sedimentation as threats to this species (Service 2005). A list of waterbodies that are threatened by agricultural discharges and sedimentation is provided in Appendix E of the recovery plan. Recovery action 1.2.5 calls for the development and implementation of strategies for managing water quality by preventing further degradation from agricultural runoff and other sources. Recovery action 1.2.7 calls for the development and implementation of strategies for managing excessive sedimentation in tidewater goby habitat by preventing further sedimentation of habitat by agricultural practices and other land uses. These recovery actions align well with the intent of the agricultural waiver, and we look forward to working with the Central Coast Water Board and with growers to achieve water quality improvements that will benefit this species.

We believe that many federally listed species within the central coast region would benefit from the water quality improvements that the proposed agricultural order strives to achieve. We also recognize that growers are stressed by numerous existing and emerging pressures that are often conflicting and costly. We encourage the Central Coast Water Board to continue to work with growers to establish an agricultural waiver that demonstrates water quality improvements in a timeframe that is realistic and achievable. We are committed to working with the Central Coast Water Board and landowners to find technical, regulatory, and monetary solutions that will achieve the concomitant goals of species conservation and water quality improvement while preserving the agricultural value of the land. If you have any questions about this letter, please contact Jenny Marek or Mark Elvin at (805) 644-1766 extension 325 and 258 respectively.

Sincerely,

/s/: Chris Dellith

Chris Dellith
Senior Biologist

REFERENCES

Berrill, M.,D. Coulson, L. McGillivray, and B. Pauli. 1998. Toxicity of endosulfan to aquatic stages of anuran amphibians. Environmental Toxicology and Chemistry 17:1738-1744.

Blaustein, A.R., and D.B. Wake. 1990. Declining amphibian populations: a global phenomenon. Trends in Ecology and Evolution 5:203-204.

Blaustein, A.R., and P.T. Johnson. 2003. The complexity of deformed amphibians. Frontiers in Ecology and the Environment 1(2):87-94.

[CNDDB] California Natural Diversity Database. 2009. Element occurrence reports for *Nasturtium gambelii*. (Cumulative data, current to May 02, 2009). Rarefind: A database application for the California Dept. of Fish and Game, Natural Heritage Division data, California Natural Diversity Data Base, Sacramento. Electronic Version 3.1.0. Accessed March 29, 2010.

de Llamas, M.C., A.C. De Castro, and A. M. Pechen de d'Angelo. 1985. Cholinesterase activities in developing amphibian embryos following exposure to the insecticides dieldrin and malathion. Archives of Environmental Contamination and Toxicology 14: 161–166.

Elvin, M.A. 2005. Personal Observation. Comparative Photos – Differences in vegetation between Oso Flaco Lake and nearby Reference Sites. U.S. Fish and Wildlife Service, Ventura Field Office, Ventura, California.

Hall, R.J. and P.F. Henry. 1992. Assessing effects of pesticides on amphibians and reptiles: status and needs. Herpetological Journal 2:65-71.

Prince, L.M. 2008a. Genetic fingerprinting of *Nasturtium gambellii* on Vandenberg Air Force Base, Santa Barbara County, California. Rancho Santa Ana Botanic Garden, Claremont, California.

Prince, L.M. 2008b. Draft Genetic fingerprinting of *Nasturtium gambellii* on Vandenberg Air Force Base Supplement, Santa Barbara County, California. Rancho Santa Ana Botanic Garden, Claremont, California.

Rosenbaum, E.A., A. Caballero de Castro, L. Gauna, and A.M. Pechen de d'Angelo. 1988. Early biochemical changes produced by malathion on toad embryos. Archives of Environmental Contamination and Toxicology 17:831– 835.

Sparling, D.W., G.M. Fellers, and L.L. McConnell. 2001. Pesticides and amphibian population declines in California, USA. Environmental Toxicology and Chemistry 20(7):1591-1595.

U.S. Fish and Wildlife Service. 2005. Recovery plan for the tidewater goby (*Eucyclogobius newberryi*).

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
777 Sonoma Ave., Room 325
Santa Rosa, CA 95404-4731

April 1, 2010

In response, refer to:
SWR/F/SWR3:JD

Angela Schroeter
Agricultural Regulatory Program Manager
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Dear Ms. Schroeter:

Thank you for the opportunity to provide early, informal comments on the preliminary staff recommendations for an agricultural order to control discharges from irrigated lands. These preliminary recommendations were released by the Central Coast Regional Water Quality Control Board (Water Board) staff on February 1, 2010. The Southwest Region of NOAA's National Marine Fisheries Service (NMFS) is charged with managing Endangered Species Act (ESA) listed coho salmon and steelhead trout found in your agency's territory. We also manage Essential Fish Habitat (EFH) as designated by the Magnuson-Stevens Fishery Conservation and Management Act which includes areas occupied by coho salmon and numerous marine species that utilize the estuaries, embayments, and other nearshore areas found in your agency's territory. Our areas of responsibility are comparable to your beneficial use designations for COLD, MIGR, RARE, SPWN, EST, FRESH, MAR and BIOL.

NMFS is very impressed and supportive of the Water Board's preliminary recommendations and willingness to tackle these chronic water quality problems in the Central Coast area. The problems of pesticide and nutrient contamination and their sources are widely documented in the area and they have been impacting ESA listed salmonids, EFH, and designated beneficial uses for many years. The 2004 Conditional Agricultural Waiver program was focused on enrollment, education, outreach, development of farm plans to address impacts and monitoring of water quality at the watershed scale. The program was successful in documenting the problems and making sure that all growers are aware of the problems. It is shocking to see the widespread contamination of Central Coast waterways by pesticides and nutrients, including probable impacts to near-shore, coastal habitats, when the information is laid out so clearly. We agree with the Water Board's assessment that it is time to implement actions to solve the problems and protect water quality for all beneficial uses.

In particular, NMFS wants to support on the record the following components of the preliminary agricultural order to control discharges:

- the requirement for individual discharge monitoring and reporting to identify specific discharges of pollutants and contribution to impacts in addition to continued watershed monitoring;
- the addition of compliance schedules for pollutant and impact reductions and verification of compliance at both the farm and the watershed scale;
- the development of farm plans that identify management measures and include schedules for their implementation and verification;
- the requirement for farm operations to support a functional riparian system and its associated beneficial uses;
- the requirement to improve irrigation management, sediment and erosion control to improve aquatic conditions including nutrient levels in groundwater;
- the requirements for container nurseries to prevent contamination of local waterways by preventing exposure of rainfall runoff to their products;
- the requirement to prepare nutrient management plans to protect both groundwater and surface water quality; and
- addressing the perceived conflict between environmental stewardship, best management practices that reduce water quality impacts and the causes of food safety concerns.

Regarding functional riparian systems and buffer sizes, NMFS conducted a literature review in 2009 that focused on this issue for a project in the Russian River watershed in Sonoma and Mendocino counties. Like the proposed agricultural order, a range of buffer sizes was supported to produce benefits such as stream bank stability, temperature regulation (shade), pollutant filtration (sediments and pesticides), large woody debris recruitment, detritus inputs, and invertebrate diversity and maintenance of the water table, hyporheic flow, and flood mitigation. We found that buffer size effectiveness is variable based upon the benefit the buffer is being asked to produce as well as the environmental variables within its watershed or specific site (*e.g.*, size, slope, etc.). For example, streambank stability may be achieved by a forested buffer between 33 and 125 feet, largely depending upon watershed size and the slope of the specific site. In contrast, a 98-feet wide riparian zone is needed to consistently and effectively decrease nutrient concentrations entering an adjacent watercourse. Connectivity to the floodplain is required to recharge shallow aquifers that provide cool, summer base flows to adjacent streams that support the COLD beneficial use.

In general, we recommended that a width of at least one tree site potential be reserved for the immediate riparian zone to maximize the mix of riparian area benefits to a waterbody. This recommendation is meant for all waterbodies that support salmonids, and it is accepted that less space is generally needed for ephemeral streams or seasonal streams that did not support fish populations. We also recommend connectivity to the floodplain to provide the aquifer recharge benefits mentioned above as well as providing for low velocity refugia for fish during flood flows in the main channel. If the Water Board is interested in receiving a copy of this draft report for the development of the agricultural order, please contact the NMFS staff member identified at the end of this letter.

Regarding the perceived conflict between food safety, natural features that have significant benefits to water quality (*e.g.*, riparian areas, vegetated swales) and installed water quality control systems (*e.g.*, infiltration ponds, vegetated treatment systems within drainage ditches), we agree with the Water Board that the practice of removing non-crop vegetation needs to be stopped and the losses reversed. We suggest that the Water Board continue mandatory education requirements for growers (rather than only encouraging continuing education) and explore a means of requiring purchasing company buyers/auditors to receive this education as well. We suggest that the Water Board make it clear to the purchasing companies that their "recommendations" may cause violations of State and/or Federal laws and determine if there is a means to require the reporting of such recommendations to the Water Board. Inappropriate recommendations should be followed-up with an appropriate enforcement action.

In addition to the items above, NMFS has several other suggestions to improve the developing agricultural order or concerns with provisions of the preliminary recommendations. In particular, the buffer sizes for pesticide applications are not likely sufficient to prevent water body contamination by drift, particularly the ground application buffer of only 50 feet. Two of the primary pesticides identified as problematic in the preliminary agricultural order, diazinon and chlorpyrifos, have undergone ESA consultation between NMFS and the EPA. Malathion was also covered by this biological opinion which determined that the registration of these organophosphate insecticides jeopardized the continued existence of numerous ESA listed salmonid species, including those found in the Water Board's territory. As part of the Reasonable and Prudent Alternative to avoid jeopardy, NMFS prescribed that ground applications of these pesticides should not occur within 500 feet of salmonid habitats, and that aerial applications should not occur within 1,000 feet of them (NMFS 2008). A more detailed presentation of the terms and conditions of this biological opinion was presented to the Water Board as part of our February 4, 2009, letter submitted during scoping for the development of the Total Maximum Daily Load (TMDL) plan for Pesticides/Priority Organics in the Lower Salinas Valley and Elkhorn Slough. We have included this document as an enclosure to this letter.

In September 2009, EPA responded (EPA 2009) that they would implement the 2008 biological opinion but intended to alter the spray drift buffer size to better account for application rate, spray droplet size, and water body size. Although EPA has yet to release final buffer sizes, their letter (EPA 2009) states that the no-spray buffer will not be less than 100 feet in any case. The final buffer sizes from EPA, when issued, will likely require additional review and perhaps additional ESA consultation.

There are also buffer sizes mandated by the U.S. District Court for the Western District of Washington from the case of Washington Toxics Coalition (WTC) v. EPA. The court established buffer zones around certain water bodies in California, Oregon, and Washington for numerous pesticides in addition to those already mentioned (see the EPA web page at http://www.epa.gov/espp/litstatus/wtc/ for the complete list). The court mandated buffers are 20 yards for ground applications, and 100 yards for aerial applications. The buffers are in effect until EPA completes it consultation obligations. NMFS Southwest Region can assist the Water Board in determining the status of these national level consultations if necessary.

While the buffer size issue is obviously unsettled at the moment, NMFS recommends that its recommendation of 500 feet for ground applications, and 1,000 feet for aerial applications be followed. All proposed or mandated buffer widths (60 feet mandated by the court, 100 feet proposed by EPA, 500 feet prescribed by NMFS to EPA) for ground applications are greater than that proposed by the Water Board. Furthermore, NMFS recommends that the structure of the agricultural order be designed to automatically defer to newer, more stringent requirements as they are put in place by appropriate agencies or through litigation. The Water Board could develop a specialized webpage as part of this process and refer regulated individuals to source for the latest requirements.

NMFS also has concerns regarding the assertion that 21°C is considered the upper end of a desirable range to support steelhead trout. One 34-year old citation (Moyle, 1976) is given for this assertion. If this was ever considered acceptable in the field, please be aware that is no longer the case. As the science of fishery management has advanced, the acceptable temperature ranges for salmonids have been revised. In 2003, EPA Region X finished developing a temperature guidance meant to be consistent with both the Clean Water Act and the ESA (EPA 2003). NMFS endorsed this guidance later in 2003. This guidance recommends a summer maximum temperature (based on a 7-day average of the daily maximum values) of 16°C for salmon and trout "core" juvenile rearing areas and 18°C for salmon and trout migration and "non-core" juvenile rearing areas. Coho salmon rearing should not exceed 16°C to be protective of a fully attained COLD and RARE beneficial use.

Here in the Southwest Region of NMFS, EPA Region IX has not conducted a similar exercise, but the temperature guidance from EPA Region X is considered valid. The different environment conditions (ideal temperatures at fewer locations for shorter periods of time) in Central Coastal California are reflected biologically by the fact that there are fewer salmonid species present and that they do not utilize all portions of the Central Coast watersheds all year long.

NMFS also has some concerns with the designation of "low risk" discharges in the preliminary agricultural order. In particular, we are concerned by the blanket designation of the Central Coast Vineyard Team (CCVT) Sustainability in Practice program as low risk.

Although traditional tailwater discharges are expected to be exceedingly rare for a vineyard, stormwater discharges containing pesticide residues (particularly the legacy organochlorine pesticides that are still frequently detected in Central Coast waterbodies) may be present. Individual testing of soil and sediments in a vineyard drainage system for pesticide residues should be required to make sure that any discharges from these properties do not contain problematic pesticide residues. Vineyard systems in the Central Coast are also noted in the preliminary order document as being major applicators of chlorpyrifos. Therefore, in addition to erosion control practices to keep these residues on the property, vineyards with surface water bodies on or bordering their properties need to ensure that they have a proper functioning riparian area that will serve to filter out sediments and drift from their operations. The CCVT standards only call for a 25-foot vegetated perimeter buffer which is half the minimum requirement of the preliminary agricultural order and will not provide for other essential riparian area benefits needed to achieve an unimpaired COLD beneficial use.

NMFS recommends that the CCVT analyze its membership properties and submit the subset that meets the functional riparian system criteria and which conduct soil testing to ensure that they are not discharging pesticides designated by the Water Board in the enclosure for initial inclusion in the "low risk" discharge category. As more of their member properties conduct this testing and expand their riparian systems to meet the agricultural order's criteria, they can also be recognized as low risk properties.

Regarding the list of five practices that farming operations other than CCVT properties must undertake to be recognized as "low risk", it would be beneficial to clarify the definition of "impaired surface waterbody" in this section. As the section is written now, it could be interpreted to only include the named waterbodies and not tributaries to those waterbodies. We believe it is the Water Boards intent to designate only those properties that are not within 1,000 feet of a tributary waterbody as automatically being "low risk".

Finally, enclosure three of the preliminary order refers to a minimum filter strip width of 30 feet for construction activities. This section should be updated as appropriate to reflect the functioning riparian system sizes that are being proposed in this order.

In closing, we want to reiterate our support for the proposed agricultural order to control discharges from irrigated lands. This preliminary staff report and associated documentation very clearly lays out the water quality problems facing the Central Coast area due to agriculture and presents an ambitious, but necessary, plan for solving these long-standing issues. NMFS looks forward to working with the Water Board this summer as the program advances. Please contact Joe Dillon, NMFS Southwest Region Water Quality Coordinator, at (707) 575-6093 or Joseph.J.Dillon@noaa.gov with any questions or comments regarding this letter or with further requests regarding this matter.

Sincerely,

Steven A. Edmondson
Northern California Habitat Supervisor
Habitat Conservation Division

Enclosure: February 4, 2009 letter to Larry Harlan, CCRWQCB

cc: Bob Hoffman, NMFS, Long Beach, California
Chris Yates, NMFS, Long Beach, California
Dick Butler, NMFS, Santa Rosa, California
Joyce Ambrosius, NMFS, Santa Rosa, California
Karen Grimmer, Monterey Bay NMS, Monterey, California
Bridget Hoover, Monterey Bay NMS, Monterey, California
Lisa Lurie, Monterey Bay NMS, Monterey, California
Janet Parrish, U.S. EPA Region IX, San Francisco, California
Scott Hecht, NMFS, Lacey, Washington
Tony Hawkes, NMFS, Lacey, Washington

References

EPA 2009. Letter to Jim Lecky, Director, Office of Protected Resources, National Marine Fisheries Service, Silver Spring, MD. September 10, 2009. 21 pages. Available at: http://www.epa.gov/espp/litstatus/wtc/nmfs-signedresponse.pdf

EPA 2003. EPA Region 10 Guidance for Pacific Northwest State and Tribal Temperature Water Quality Standards, United States Environmental Protection Agency, Region 10 Office of Water. EPA 910-B-03-002, April 2003. 57 pages. Available at: http://yosemite.epa.gov/r10/water.nsf/6cb1a1df2c49e4968825688200712cb7/b3f932e58e2f3b9488256d16007d3bca!OpenDocument

NMFS 2008. Final Biological Opinion under the Endangered Species Act, Issued for Chlorpyrifos, Diazinon and Malathion. November 18, 2008. 484 pages Available at: http://www.epa.gov/espp/litstatus/wtc/

ENCLOSURE

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
777 Sonoma Ave., Room 325
Santa Rosa, CA 95404-4731

February 4, 2009

In response refer to:
SWR/2009/00282

Larry Harlan
Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Dear Mr. Harlan:

NOAA's National Marine Fisheries Service (NMFS) thanks the Central Coast Regional Water Quality Control Board for the opportunity to provide comments during the scoping period for the development of Total Maximum Daily Loads (TMDLs) for Pesticides/Priority Organics in the Lower Salinas Valley and Elkhorn Slough watershed waters as listed in the December 5, 2008, request for comments. The Proposed TMDLs are for organophosphate (OP) pesticides (chlorpyrifos and diazinon), legacy pesticides (DDT, DDE, DDD, dieldrin, and toxaphene), and polychlorinated biphenyls. We have reviewed the scoping package and offer the following comments to aid the Regional Board in its mission to restore unimpaired beneficial uses to these watersheds as well as to advance our mission to protect and restore the nation's living marine resources. Several of the waterbodies listed in the scoping notice contain steelhead trout which are listed as threatened under the federal Endangered Species Act (ESA) and may be essential fish habitat (EFH) for commercially managed species.

The main comment we would like to make is that the developing TMDLs should be designed to examine all potential forms of pesticide and priority organic pollutant toxicity in the systems listed and should not just focus on the limited subset currently proposed. In particular, the TMDL plan should be set up to require water column and sediment toxicity testing followed by a requirement for a toxicity identification evaluation (TIE) procedure when a sample is found to cause toxicity. We think this is important because the TMDL scoping document currently does not account for potential toxicity by two classes of insecticides that are utilized in the watersheds, pyrethroids, and carbamates.

Pyrethroids (and pyrethrins which are closely related insecticides derived from natural sources) have gained a strong foothold in both agricultural and urban uses. They are replacing applications of OP pesticides in many settings, particularly in urban uses where chlorpyrifos and diazinon have been removed from the public market. Like several of the legacy pesticides

targeted in your proposal, many pyrethroids bind more strongly to soils than the OP insecticides they are replacing. However, they may still enter waterways through agricultural drainage systems or field preparation practices that result in the discharge of sediment to the waterways. Carbamates are also utilized in both agricultural and urban settings and have a toxic mode of action very similar to OPs. This could make their detection difficult if more refined monitoring tests are not required. Recent sampling conducted as a requirement of the Regional Board's agricultural waiver of waste discharge requirements program (CCWQPI 2008) seems to illustrate this concern. There are several instances where the report notes that a subset of samples showed significantly lowered survival rates of test organisms despite levels of OP insecticides not expected to cause toxicity. This suggests possible additional sources of toxicity in the water column samples (which could come from the legacy compounds listed above but is more likely to be from a recently applied pesticide or discharged chemical in the water sample) but the source remains unknown because this program did not require a TIE to determine the class of chemical causing the toxicity.

Ultimately, prevention of offsite toxicity caused by most of the pesticide classes will be accomplished through a suite of mechanisms and controls that should address both hydrophilic and hydrophobic substances. Several of these nonstructural and structural controls are presented in your scoping document. We believe that controls meant to address the legacy pesticides and OPs listed above will also be effective for pyrethroids and carbamates in these watersheds and other watersheds with similar land uses in the Central Coast Regional Board's area of jurisdiction (*e.g.*, the Pajaro River).

We would also like to take this opportunity to inform the Regional Board of a recent NMFS' biological opinion on the registration actions of three OP insecticides (diazinon, chlorpyrifos, and malathion) issued by our Protected Resources Division office in Silver Spring, Maryland, to the U.S. Environmental Protection Agency (EPA) on November 18, 2008 (NMFS 2008). This biological opinion found that the registration, resultant current use patterns and insufficient restrictions on application of these three OPs is likely to jeopardize the continued existence of listed salmonids and is likely to destroy or adversely modify their critical habitat. This determination includes the South-Central California Coast steelhead trout Distinct Population Segment found in the targeted TMDL scoping area. The biological opinion can be downloaded at: http://www.nmfs.noaa.gov/pr/pdfs/pesticide_biop.pdf.

Pesticides containing chlorpyrifos, diazinon, and malathion act as neurotoxicants to salmonids, causing sub-lethal and lethal effects. If these pesticides must be used, precautions should be taken to avoid exposure to salmonid habitats. The following application guidelines are specified in NMFS 2008 as reasonable and prudent alternatives to reduce impacts to acceptable levels until these pesticide registrations are adjusted by EPA:

1) Buffers - If pesticides containing chlorpyrifos, diazinon, or malathion are used in ground applications, do not apply within 500 feet of a salmonid habitat. Where aerial applications are permitted, do not apply pesticide products within 1,000 feet of salmonid habitats.

2) Only apply these pesticides when winds are below 10 miles per hour measured by an anemometer. Applications should begin closest to the aquatic habitat and move away from it.

3) For agricultural uses, provide a 20 feet minimum strip of non-crop vegetation (on which no pesticides will be applied) on the downhill side of the application site immediately adjacent to any surface waters that have a connection to salmonid-bearing waters. This includes drainage systems that have salmonid exclusion devices, but drain to salmonid-bearing waters.

4) Do not apply these pesticides when soil moisture is at field capacity, or when a storm event likely to produce runoff from the treated area is forecasted by NOAA/National Weather Service to occur within 48 hours following application.

5) Report all incidents of fish mortality observed within 4 days of application and within the vicinity of the treatment area to the EPA Office of Pesticide Programs (703/305-7695).

The biological opinion gave EPA one year to implement the reasonable and prudent alternatives or generate alternatives that are equally protective and acceptable to NMFS. We recommend that the Regional Board keep track of developments related to this biological opinion as the implementation plans for the TMDLs are developed to ensure that the implementation plans incorporate current regulations related to chlorpyrifos and diazinon.

In closing, we would like to thank the Regional Board for its efforts in protecting water quality and the species and habitats it supports. Please note that these scoping comments are only meant to provide technical assistance to the Regional Board and do not alleviate the Regional Board or the EPA from any obligation to consult on future proposed water quality standards or actions that may come out of the development of these TMDLs. If you have any questions regarding these comments, please contact Joe Dillon in our Santa Rosa office at (707) 575-6093.

Sincerely,

Dick Butler
Santa Rosa Area Office Supervisor
Protected Resources Division

cc: Russ Strach, NMFS, Sacramento, CA
Bob Hoffman, NMFS, Long Beach, CA
Angela Somma, NMFS, Silver Spring, MD
Steve Edmondson, NMFS, Santa Rosa, CA
Korie Schaeffer, NMFS, Santa Rosa, CA
Arlene Pangelinan, NMFS, Silver Spring, MD
Deirdre Hall, MBNMS, Monterey, CA
Bridget Hoover, MBNMS, Monterey, CA
Scott Hecht, NMFS, Lacey, WA
Tony Hawkes, NMFS, Lacey, WA

References

CCWQPI (Central Coast Water Quality Preservation, Inc.) 2008. Phase I Follow-up Water Quality Monitoring: Organophosphate Pesticide Sampling Final Data Report, Central Coast Region Conditional Waiver Cooperative Monitoring Program. May 19, 2008.

NMFS 2008. Biological Opinion for U.S. Environmental Protection Agency Registration of Pesticides Containing Chlorpyrifos, Diazinon, and Malathion.

Department of Pesticide Regulation

Mary-Ann Warmerdam
Director

Arnold Schwarzenegger
Governor

TO: Angela Schroeter, Agricultural Regulatory Program Manager
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA. 93401-7906

FROM: Charles M. Andrews *Original Signed By*
Associate Director
Pesticide Programs Division
916-445-3984

DATE: March 30, 2010

SUBJECT: COMMENTS ON PRELIMINARY STAFF RECOMMENDATIONS FOR AN AGRICULTURAL ORDER TO CONTROL DISCHARGES FROM IRRIGATED LANDS

Thank you for the opportunity to comment on this preliminary staff report and the associated draft agricultural order (Order). The Department of Pesticide Regulation (DPR) understands that our comments may not be recorded and responded to by Regional Board staff during this informal comment period. However, we feel that it would be beneficial to provide Regional Board staff with some early feedback on the draft Order to help facilitate the development of subsequent versions.

Interagency coordination on potential pesticide-related water quality regulations is particularly important at this time considering DPR is currently in the process of refining our draft concepts for regulations to prevent pesticide contamination of surface water. We are pleased to see that the Regional Board has attempted to harmonize many of the pesticide-related elements within the draft Order to our evolving draft surface water regulatory concepts. In the spirit of collaboration, we would like to highlight certain areas of the draft Order that should be addressed and possibly revised. And although we offer a number of comments for your considerations, we would like to draw particular attention to the last comment (#10), which could be the most significant of them all.

1. **Page 11, Impacts to Surface Water, Item #53.** The term "toxicity" should not be synonymously linked with the term "pesticides". There are repeated linkages of these two terms through out the document (e.g., page 13 and 14, item #64–69). Although pesticides have often been identified as the most likely cause of toxicity in some water or sediment samples collected from agricultural areas of the Central Coast Region, they are not necessarily always responsible for all of the toxicity observed. The association of toxicity and pesticide should only be made when analytical and toxicity identification evaluation supports such a cause and effect. Moreover, the presumed association of pesticide and toxicity could serve to condition future interpretation of observed toxicity to be pesticide-related, which may not be the case.

2. **Page 14, Impacts to Surface Water – Toxicity, Item #69.** Please specify the research that is being referenced here for clarity.

3. **Page 30, Other Relevant Plans, Policies, and Regulations.** Should the items listed under this section also include the plans, policies, and regulations of DPR? Or is the convention for this listing limited to items that are associated with the U.S. Environmental Protection Agency (U.S. EPA) and Water Boards?

4. **Page 32, Definitions, item #12.** The last sentence should be corrected to read: For toxicity tests, an exceedance is a result that is statistically higher than the control sample test result. The current text states "lower" rather than "higher".

5. **Page 33, Definitions, item #16.** This definition of Integrated Pest Management (IPM) Program is functional, however, the Regional Board should consider using the University of California (UC) IPM Program's definition, which is similar but more complete. This would also be consistent with language on page 64, item #54, which stipulates that growers use UC IPM pest management guidelines.

   The UC IPM definition is "Integrated pest management (IPM) is an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Pesticides are used only after monitoring indicates they are needed according to established guidelines, and treatments are made with the goal of removing only the target organism. Pest control materials are selected and applied in a manner that minimizes risks to human health, beneficial and nontarget organisms, and the environment."

6. **Page 35–37, Definitions, item #34.** This item describes a list of currently-registered pesticides that the Regional Board considers to have an increased or high potential to degrade/pollute surface water. The reference provided for this identification is the UC Agriculture and Natural Resources publication #8161. The pesticides identified in the publication #8161 do not all have an increased potential to degrade or pollute surface water. Instead, they are ranked according to a relative runoff risk evaluation that is based on their potential to move off-site and their aquatic toxicity. Many of the pesticides that are identified in item #34 are actually considered to have low to moderate runoff potential. Thus, the labeling of these 128 pesticides as having "high potential to degrade or pollute surface water" should be reevaluated.

   Note that DPR has a preliminary list of approximately 70 pesticide active ingredients that it has developed as part of its draft surface water regulatory concepts. Of course, this list is

uniquely different in that pesticide detections were use as the starting point. Many of the pesticides listed in item #34 have yet to be detected in the Central Coast Region.

7. **Page 56, Discharge Prohibitions, item #30.** DPR is pleased to see that the draft Order acknowledges the existence and possible use of pesticide-degrading enzymes and chemicals as mitigation tools. We understand the need for the Regional Board to approve of these materials before use.

8. **Page 60, Farm Water Quality Management Plan (Farm Plan), item #60.** Dischargers are expected to have samples analyzed in accordance with U.S. EPA test procedures. Note that many of the pesticides listed on page 35–37 of the draft Order, do not have established U.S. EPA analytical methods, at least for environmentally-relevant concentrations. Therefore, many of the analytical methods may have to be authorized by the Executive Officer or explicitly authorized in the final Order.

9. **Page 63, Pesticide Runoff/Toxicity Elimination, item #54.** The first sentence of this item should be amended to read "The purpose… is to eliminate toxicity associated with pesticides in discharge and surface water… to assure compliance with this Order."

10. **Page 64, Pesticide Runoff/Toxicity Elimination, item #55.** This section of the draft Order states that dischargers and persons performing pest control must comply with three specific pesticide application requirements. These requirements or conditions relate to buffer areas for ground, airblast, and aerial applications. Such pesticide use requirements (and pesticide regulations in general) fall under the purview of DPR's authority in accordance with the California Food and Agricultural Codes, Division 6. The Regional Board needs to consult more fully with its legal counsel to verify if such regulatory requirements on pesticide users are legally appropriate under the California Water Codes.

    As previously mentioned, DPR is currently refining its draft surface water regulatory concepts. If the Regional Board feels that these particular pesticide use requirements still need to be addressed in some way, then it should continue to work with DPR to address them through our regulatory efforts. Such an approach would also be consistent with the understanding established between DPR and the Water Boards under the Management Agency Agreement and the California Pesticide Management Plan for Water Quality.

Thank you for considering these comments. If you have any questions, please contact John Sanders, of my staff, at 916-324-4155. We also encourage you to engage with our staff on these and related issues as part of the Water Boards' Irrigated Land Regulatory Program Roundtable, in which our staff is involved in.

cc: John S. Sanders, Branch Chief, DPR Environmental Monitoring Branch
David Duncan, Branch Chief, DPR Pest Management and Licensing Branch
Kean S. Goh, Environmental Program Manager I, DPR Surface Water Protection Program
Marshall Lee, Environmental Program Manager I, DPR Pest Management and Planning Program

Nan Singhasemanon, Staff Environmental Scientist, DPR MAA Coordinator
Pat Matteson, Staff Environmental Scientist, DPR Pest Management and Planning Program
Robert Lilley, County Agricultural Commissioner, San Luis Obispo County
James Shattuck, DPR Agricultural Commissioners Liaison
Syed Ali, State Water Resources Control Board MAA Coordinator
Johnny Gonzales, State Water Resources Control Board, Irrigated Lands Regulatory Program

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, California 93940

April 1, 2010

Mr. Jeffrey Young
Chair
Central Coast Regional Water Quality Control Board
895 Aerovista Pl., Suite 101
San Luis Obispo, CA 93401

Re.: Comments on the "Preliminary Draft Staff Recommendations for an Agricultural Order"

Dear Chairman Young:

Thank you for the opportunity to comment on the "Preliminary Draft Staff Recommendations for an Agricultural Order." The Monterey Bay National Marine Sanctuary (MBNMS) recommends the Central Coast Regional Water Quality Control Board ("Regional Board"):

- conduct further technical review with local experts on the technical feasibility and consistency of the draft proposal,
- focus on strategic priorities, and
- consider the diversity within the agricultural industry and need for flexibility.

The MBNMS is a federally protected marine area offshore of California's central coast. Stretching from Marin to Cambria, the MBNMS supports one of the world's most diverse marine ecosystems, encompassing a shoreline length of 276 miles, and 6,094 square miles of ocean. Our recently completed Condition Report highlights that water quality remains a significant concern in the marine environment.

Recognizing that water quality is essential to protecting marine resources, the MBNMS has developed collaborative partnerships and voluntary approaches to protecting water quality in the watersheds that flow into the MBNMS. One such partnership, the Agriculture Water Quality Alliance (AWQA), has brought together growers, technical service providers, researchers, and resource conservation agencies to address agricultural water quality issues. For over a decade, AWQA has sought to build trust between agriculture and resource conservation agencies, has improved collaboration and efficiency between agencies, and has provided a constructive forum for regional problem solving. For example, the Farm Water Quality Planning Short Course developed by AWQA partners trained 2000 central coast growers (representing 350,000 acres of irrigated agriculture) in water quality protection management practices and farm planning. AWQA partners provide voluntary technical and cost-share assistance to growers for implementing water quality conservation practices. For example, over the last 10 years the NRCS estimates that their agency has assisted growers with best

management practices through $18M in Farm Bill cost-share dollars, matched by $15M of farmer investment across the MBNMS watershed counties. Key to the AWQA approach is building upon existing efforts and promoting a stewardship approach to water quality protection.

The Regional Board has been a valuable partner in this effort through development of a complimentary regulatory program under the 2004 Ag Waiver that acknowledged growers already participating in the voluntary, proactive programs promoted by AWQA and its partners. Since adoption of the Conditional Waiver in 2004, AWQA partners have worked to assist growers in meeting the regulatory requirements, and in maintaining a collective interest in solving the region's most pressing water quality issues. This has made the Central Coast a model region for collaborative water quality protection.

Please consider the following comments and recommendations on behalf of the MBNMS:

1. *Need for further technical review*
   We recommend that the Regional Board continue to seek specific feedback on the technical feasibility and consistency of the proposed draft waiver from scientific experts at UC, CSU, and technical assistance agencies such as the NRCS and Resource Conservation Districts. Regional Board staff has accessed a wealth of research in developing this preliminary draft and supplementary documentation. Local scientific experts should be consulted to ensure that those findings and assumptions are sound. For example, technical partners have identified several examples of conflicting demands within the draft, where the actions growers would have to take to meet one set of requirements could in turn put them out of compliance with another set of requirements.

2. *Strategic Prioritization*
   The MBNMS supports the Regional Board's concept of a coordinated watershed approach to implementing the Agricultural Regulatory Program – focusing energies on priority water quality issues in highly impacted waterways. We would like to see the concept of strategic prioritization better reflected throughout the Waiver and its requirements. For example, Regional Board staff has made a first pass at defining "Low Risk Dischargers" to recognize that those who pose a lower risk should have a lower regulatory burden. To strengthen this aspect of the program, we recommend working with technical experts to better define broad lower risk categories into which growers could more feasibly and efficiently demonstrate achievement.

3. *Farm Plan*
   The Farm Water Quality Management Plan template, developed by AWQA partners, was developed and adopted to meet specific educational objectives: to encourage growers to assess water quality issues and to develop an adaptive decision-making tool. It was not initially developed or promoted to growers as a tool to demonstrate regulatory compliance. Therefore, converting the Farm Plan into a regulatory

compliance document (as proposed in the draft) would be problematic and potentially negate the benefits of this self-evaluation tool. We support the requirement for growers to demonstrate that they are addressing water quality issues associated with their operation. We suggest that demonstration of this compliance may be better met through different documentation such as a modified Management Practice Checklist.

4. *Monitoring*
The MBNMS recognizes that regional, synthesized, water quality monitoring and data collection are essential to promoting greater understanding of water quality issues. Data quantity, however, does not always amount to better information or understanding. We recommend that the Regional Board be strategic in its quest to acquire data. The Cooperative Monitoring Program, established under the original Waiver, was a successful effort spearheaded by agricultural industry to assess ambient water quality conditions in priority reaches. Central Coast Water Quality Preservation, Inc has only recently been able to begin analyzing trends on this dataset. These analyses should continue to be supported to better understand trends and changes over time. We recommend that the Regional Board continue the ambient water quality monitoring program initiated by Preservation Inc. and work with stakeholders and a technical panel to strengthen the follow-up monitoring program to more effectively assess water quality impairments and document improvements in priority watersheds of concern. We encourage the Regional Board to work with stakeholders and water quality data analysts to devise a meaningful, feasible, Monitoring and Reporting Program (MRP) that again focuses on strategic prioritization of data collection and analysis.

5. *Aquatic Habitat*
The MBNMS recognizes that the Regional Board has the regulatory authority and responsibility to protect the quality of waters of the state from degradation. This means protecting all designated beneficial uses, including aquatic habitat. Growers should be allowed flexibility, however, in how they achieve protection of relevant aquatic habitat, rather than requiring mandatory vegetated buffer widths. The concept of the "Riparian Function and Restoration Plan" is one that would warrant further discussion. Also, the MBNMS advises the Regional Board to seek to reconcile, and not exacerbate, conflicts between food safety and environmental requirements that growers are facing. Certain prescriptive language in this draft (such as "No clearing of beneficial vegetation for food safety reasons. No creating of bare dirt areas") could limit growers ability to find creative co-management solutions in many cases.

6. *Groundwater*
Regarding groundwater planning and monitoring, we recommend the Regional Board consider a sub-regional scale, rather than the individual farm scale. Specifically, we encourage the Regional Board to work with stakeholders and groundwater experts in evaluating and considering the proposed Ag Alternative to groundwater management planning.

We commend the staff of the Regional Board for what has clearly been an immense effort to research, analyze, articulate, and address regional water quality issues stemming from irrigated agricultural land use, as reflected in the Proposed Draft Order and supporting documentation. The Proposed Draft Order lays out a comprehensive and ambitious compilation of actions to minimize water quality impacts, however, it is important to consider the diversity within the industry and need for flexibility while also focusing on priorities.

Finally, the final Irrigated Lands Agricultural Order should be flexible enough for growers to implement practices to improve water quality that make sense on their property. The Order should be enforceable by Regional Board staff to ensure that regulated entities are rewarded for superior efforts to improve water quality conditions and to ensure transparent enforcement actions when necessary for compliance. The MBNMS looks forward to the opportunity to engage with the Regional Board and interested stakeholders as this process moves forward, in a collaborative effort to achieve a mutual goal of protecting and improving water quality. Should you have any questions or seek further information, please contact Lisa Lurie, Agricultural Water Quality Coordinator, at 831-420-3662 or lisa.lurie@noaa.gov.

Sincerely,

Paul Michel
Sanctuary Superintendent

CC: John H. Hayashi, Board Member
David T. Hodgin, Board Member
Dr. Monica S. Hunter, Board Member
Russell M. Jeffries, Vice Chairman of the Board
Gary C. Shallcross, Board Member
Tom. P. O'Malley, Board Member
Angela Schroeter, Agricultural Regulatory Program Manager
Howard Kolb, Agricultural Order Project Lead Staff

From: Rolf Frankenbach <RFrankenbach@cdfa.ca.gov>
To: "Angela Schroeter" <ASchroeter@waterboards.ca.gov>
CC: "John Hewitt" <JHewitt@cdfa.ca.gov>, "Johnny Gonzales" <jgonzales@waterb...
Date: 4/1/2010 5:41 PM
Subject: Comments on proposed Ag waiver

Dear Angela:

Thank you for allowing me the opportunity to comment on the draft agricultural discharge waiver, which is under reconsideration by the Central Coast Regional Board for adoption this coming July. The Central Coast area is highly diverse both environmentally and agriculturally, supporting a great diversity of crop types, micro climates, soil types, and topography. Thus, there is a need to preserve adequate flexibility in compliance with water quality regulations that takes into account this diversity and avoids a one-size-fits-all approach for compliance.

I have reviewed the draft staff report and would like to provide some comments that fall under two broad issue categories related to (1) process used and (2) regulatory jurisdiction.

1. Process:

* It appears that the water quality data that Regional Board staff describes in the report were not adequately disclosed by staff to Ag stakeholders during the development of the staff report. It is necessary when considering the implementation of a new waiver program for stakeholders to contribute to the development of consensus on data interpretation that will undergird any recommendation for new practices, reporting, and monitoring requirements. Agricultural stakeholders should have been more thoroughly engaged in reaching consensus with Board staff on data significance, interpretation, the degree to which agricultural operation were responsible for observed water quality excursions, as well as contributing to the evaluation of any measured benefits to water quality resulting from the implementation of voluntary management practices by growers under the current waiver.

* It appears that adequate time for which to involve stakeholders and develop and consider a variety of waiver program alternatives was insufficient.

* In general, options for compliance alternatives are sparse in the recommended waiver. Overall, the proposed waiver conditions are very prescriptive, and do not allow adequate flexibility for growers to improve water quality in consideration of the variety of farming operations. This is in contrast to the RB5 waiver program currently in development, in which five compliance programs are under consideration for adoption with continued stakeholder input. The flexibility is necessary so that differences in soil, microclimate, crop types, topography, and irrigations systems can be taken into accounts by growers.

* The new waiver seems to be an about face from the process used under the current waiver, which emphasized voluntary implementation of BMPs together with coalition-led water quality monitoring. Consideration of areas in which this past program was successful in improving water quality should have been more explicitly considered in development of the new waiver requirements.

2. Jurisdiction:

* Pesticide applications: The Regional Board seems to have over-stepped its purview in requiring pesticide applications setbacks from water courses. This seems more appropriately an area of jurisdiction for the Department of Pesticide Regulation.

* Timing of fertilizer applications: The prohibition of fertilizer applications within 72-hour before and after a rainfall event seems to be overly prescriptive and does not take into account differences in potential runoff from various soils and crop types.

* Aquatic habitat protection and riparian buffer widths: this seems to be beyond the purview of the Regional Board to require habitat protection in riparian buffer zones, which seems more appropriately to be the responsibility of the Dept. of Fish and Game. Growers should not be subject to conflicting or overlapping regulations of different State agencies.

With regard to the use of best management practices for which studies have been conducted on their benefits, costs, and feasibility under

specific conditions, I would like to remind you of the resources available from the California Department of Food and Agriculture, through its Fertilizer Research and Education Program (FREP). FREP has been funding research and education projects on the appropriate use of fertilizers for the past 18 years. These projects report on the development of management practices that further the efficient use of fertilizers while addressing environmental concerns. To date, there are over 100 completed research projects, the final reports of which are on the FREP website. We encourage Regional Board staff to use the information in its consideration of appropriate management practices that support achievement of water quality standards. The information can be found on the FREP website at:
http://www.cdfa.ca.gov/is/fflders/frep.html

Again, thank you for considering these comments.

Rolf Frankenbach

Staff Environmental Scientist

Fertilizer Research and Education Program

California Department of Food and Agriculture

1220 N Street

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United States Department of Agriculture

NRCS

Natural Resources Conservation Service
Salinas Area Office
318 Cayuga Street, Suite 206
Salinas, CA 93907

Telephone: (831) 754-1595
Fax: (831) 753-0508

April 1, 2010

Mr. Jeffrey Young
Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

To the Board and Agricultural Program Staff of Region 3,

I am writing to provide comments on the Preliminary Draft Report Staff Recommendations for Agricultural Order R3-2010-00XX. The Natural Resources Conservation Service (NRCS) has a long history of providing technical and cost-share assistance to farmers on the Central Coast to assist them in voluntarily conserving and protecting natural resources including water quality. Over the past 10 years in Region 3, NRCS has awarded 387 contracts worth a total of $18 million to agricultural producers to implement conservation practices on their farms and ranches. These same producers have matched this federal investment with $15 million of their own resources.

Our success in building trust with farmers and ranchers to discuss their natural resource problems and find environmentally and economically acceptable solutions is based on our ability to provide science-based technical assistance in a confidential manner. We have concern about several aspects of the Preliminary Draft Agricultural Order that may compromise our ability to work with farmers to support water quality protection.

Farm Water Quality Management Plans (Farm Plans)
The NRCS worked with the University of California Cooperative Extension to develop a Farm Water Quality Management Planning Program including a template Farm Plan assessment tool and educational curricula prior to the 2004 Agricultural Order. Initially farmers voluntarily participated in short courses to complete their farm plans and many requested follow up with NRCS, Resource Conservation District, and other technical service providers. The quality of these plans benefited from the open discussions that we could have with farmers about their potential contributions to water quality impairment and the alternative management practices they could plan to implement. If these planning activities become subject to formal submittal as a requirement of the Agricultural Order we are concerned that farmers will be less likely to consult with technical service providers out of concern that we will point out problems they did not know they had. We encourage the Board to distinguish between the information that is needed for Agricultural Order reporting compliance and the confidential assessment and management practice evaluation that farmers can do with technical service providers as part of water quality planning.

Technical Capacity to Implement the Agricultural Order
The NRCS, RCDs, and local UC Cooperative Extension researchers are currently working to develop technical guidance for farmers on the efficient use of fertilizers and irrigation water in order to reduce offsite transport of nutrients. Localized research by UCCE has been completed on only some of the more than 200 crops grown in Region 3. We don't currently have the information on water and nutrient demand for many crops that farmers will need to provide to satisfy the proposed Farm Plan management reporting requirements. Some of the assessment techniques for the fate of nutrients, pesticides, and salts into groundwater are still being debated or developed by the technical community, and consensus on the

United States Department of Agriculture

NRCS

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application of some of the methods has not been reached. We are concerned that if farmers are required to meet these management and reporting requirements according to the proposed timelines, the demand for these extra services may exceed the capacity of technical agencies and organizations given reduced budgets for governmental and non-profit agricultural organizations. While the private sector (Certified Crop Advisors) has expressed interest in meeting this need, supplemental training about the environmental fate and mitigation of fertilizers, pesticides, salts, and sediment will be needed.

NRCS technical and financial assistance to farmers is typically prioritized based on environmental benefit to be achieved through use of Federal resources. The draft Agricultural Order does not currently prioritize the relative water quality risk of the diverse farm operations and farm location within Central Coast watersheds. Methods to assess relative risk to water quality would help focus the limited availability of technical assistance to farmers. We are concerned that the proposed requirement for all irrigated crop land farmers to evaluate, manage, and report on their management practices may exceed our capacity to provide science-based assistance.

Aquatic Habitat Protection Requirements
NRCS suggests that the staff review additional technical resources in order to determine how to best use riparian buffers to protect aquatic habitat and water quality. A uniform buffer width does not guarantee water quality protection. Topography, hydrology of upland flow, composition of vegetation, and management are all critical factors in the effectiveness of riparian buffers to address specific objectives. See for example:
http://efotg.nrcs.usda.gov/references/public/CA/391std-8-06.pdf

NRCS will continue our mission to offer assistance to farmers to address water quality protection concerns on their lands and we also are available to Regional Board staff to offer technical review of proposed policy. We encourage the staff to engage other technical specialists from UC Cooperative Extension, RCDs, and other academic institutions to serve in a technical advisory capacity as the Agricultural Order is developed.

Sincerely,

Daniel C. Mountjoy

DANIEL C. MOUNTJOY, Ph.D.
Assistant State Conservationist for Field Operations

cc: Mr. John Hiyashi
Mr. Russell Jeffries
Ms. Monica Hunter
Mr. Tom O'Malley
Mr. Gary Shallcross
Mr. David Hodgin
Mr. Roger Briggs

MONTEREY COUNTY

AGRICULTURAL COMMISSIONER
SEALER OF WEIGHTS & MEASURES
ERIC LAURITZEN, AGRICULTURAL COMMISSIONER/SEALER
1428 ABBOTT STREET - SALINAS, CALIFORNIA 93901
PHONE: (831) 759-7325 FAX: (831) 422-5003
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March 31, 2010

Chairman Jeffrey Young
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Ste 101
San Luis Obispo, CA 93401-7906

RE: Central Coast Regional Water Quality Control Board's Preliminary Draft Agricultural Order to Control Discharges from Irrigated Lands

Dear Chairman Young:

The Monterey County Agricultural Advisory Committee is appointed by the County Board of Supervisors to provide recommendations to the Board of Supervisors on matters affecting agriculture and land use matters in Monterey County. The Committee has reviewed the Central Coast Regional Water Quality Control Board's (RWQCB's) Draft Agricultural Order.

On March 25, 2010, the Agricultural Advisory Committee voted unanimously to submit the attached draft letter to the Board of Supervisors for approval and submittal to the RWQCB on or before your public workshop scheduled for May 12, 2010.

We understand that public comments on the Draft Agricultural Order are due by April 1; accordingly, we are providing your staff with a copy of the draft letter and the accompanying staff report that will be considered by the Monterey County Board of Supervisors on April 6, 2010.

Sincerely,

Jim Manassero

Jim Manassero, Chair

c: Simón Salinas, Chair, Monterey County Board of Supervisors
Eric Lauritzen, Agricultural Commissioner
Monterey County Agricultural Advisory Committee
Roger Briggs, Executive Officer, Central Coast RWQCB
Russell Jeffries, Vice Chairman, Central Coast RWQCB
John Hayashi, Board Member, Central Coast RWQCB
David Hodgin, Board Member, Central Coast RWQCB
Monica Hunter, Board Member, Central Coast RWQCB
Tom O'Malley, Board Member, Central Coast RWQCB
Lisa McCann, Watershed Protection Section Manager, Central Coast RWQCB
Angela Schroeter, Agricultural Regulatory Program Manager, Central Coast RWQCB
Gary Shallcross, Board Member, Central Coast RWQCB

Group 8 - M8
May 12, 2010 Workshop
Preliminary Draft Agricultural Order

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PAJARO OFFICE
417-A SALINAS ROAD - WATSONVILLE, CA 95076
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MONTEREY COUNTY BOARD OF SUPERVISORS

MEETING: April 06, 2010	Consent	**AGENDA NO:**
SUBJECT: Authorize the Chair to sign a letter to the Central Coast Regional Water Quality Control Board (RWQCB) regarding the preliminary draft Agricultural Order to Control Discharges from Irrigated Lands.		
DEPARTMENT: Agricultural Commissioner		

RECOMMENDATION:

It is recommended that the Board of Supervisors authorize the Chair to sign a letter (Exhibit A) to the Central Coast Regional Water Quality Control Board (RWQCB) regarding the preliminary draft Agricultural Order to Control Discharges from Irrigated Lands.

SUMMARY:

The RWQCB released a preliminary draft staff report and Agricultural Order for public review and comment. The Board of Supervisors has received copies of numerous letters submitted by industry to the RWQCB; several Board Members contacted the Agricultural Commissioner requesting direction. The matter was brought to the Agricultural Advisory Committee on March 25, 2010. The Agricultural Advisory Committee recommends that the Board of Supervisors approve the attached draft comment letter for submittal to the RWQCB on or before the May 12, 2010 workshop.

DISCUSSION:

The State Water Resources Control Board and nine RWQCBs are the principal state agencies with the responsibility of the protection of water quality in waters in the State. On July 9, 2004, the Central Coast RWQCB adopted a *Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands* (2004 Conditional Ag Waiver). The 2004 Conditional Ag Waiver expired on July 9, 2009 and the Central Coast RWQCB renewed it for a term of one year until July 10, 2010. On February 1, 2010, the Central Coast RWQCB released a proposed new regulatory approach, including a preliminary Draft Agricultural Order for public review and comment. The RWQCB has scheduled a public workshop on May 12, 2010 to hear input to RWQCB proposed regulatory approach. The Agricultural Advisory Committee recommends that the attached draft comment letter should be formally submitted to the RWQCB and presented to the RWQCB during that workshop.

Each of the nine RWQCBs throughout the State has the authority and flexibility to develop Agricultural Waivers that are unique to their regions. However, the Central Coast RWQCB's proposed regulatory approach appears to be far more costly and burdensome to agricultural producers than the Agricultural Waivers which have been developed and/or proposed for other regions. The Agricultural Advisory Committee is concerned that:

1. Such a discrepancy could put agricultural producers on the Central Coast at an unfair competitive disadvantage; and
2. Requirements of the proposed Agricultural Order could have significant economic implications for the County of Monterey

County Staff analyzed the economic implications of one aspect of the proposed Agricultural Order, the riparian and aquatic habitat buffer requirements. Other agronomic and technical components of the proposed Agricultural Order include water quality discharge standards,

reporting requirements, and monitoring. Agronomic and technical components are better suited for feasibility and cost analysis by agricultural resource specialists and agronomists.

Economic analysis indicates that the proposed Agricultural Order could significantly impact the County of Monterey, including:

1. Significant loss of farmland, including prime farmland. In the three watersheds analyzed, 14,343.36 acres would likely be out of production;
2. Impacts to the local economy, including loss of gross crop production value of over $237 million and loss of property tax revenue due to changes in land use;
3. Potential increase in demand for social services due to loss of jobs and personal income;
4. Costs and unanticipated impacts associated with invasive species and management of buffers;
5. Jurisdictional overlap with local government and other regulatory agencies, particularly related to land use, planning, and zoning, which is governed locally by numerous public agencies and boards.

These potentially significant impacts have not been considered by the Central Coast RWQCB. The purpose of the letter is to ask the Central Coast RWQCB to consider the potential impacts of the proposed Agricultural Order on agricultural producers, as well as the local economy, local government and other regulatory agencies.

OTHER AGENCY INVOLVEMENT:

The following agencies concur with this recommendation:

- ✓ Monterey County Agricultural Advisory Committee
- ✓ Office of the County Counsel

FINANCING:

No fiscal impact.

Prepared by:

Dawn Mathes
Agricultural Program Manager
759-7384; mathesdw@co.monterey.ca.us

Prepared and Approved by:

Eric Lauritzen
Agricultural Commissioner
759-7302; lauritzene@co.monterey.ca.us

cc: Central Coast Regional Water Quality Control Board

Attachments: Exhibit A Draft Letter to the Central Coast Regional Water Quality Control Board
Exhibit B Board Order

April 6, 2010

Chairman Jeffrey Young
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Ste 101
San Luis Obispo, CA 93401-7906

RE: Central Coast Regional Water Quality Control Board's Preliminary Draft Agricultural Order to Control Discharges from Irrigated Lands

Dear Chairman Young:

Thank you for the opportunity to review and provide comment on the Preliminary Draft Agricultural Order. Our Monterey County Agricultural Advisory Committee reviewed the proposed Agricultural Order in detail. While we recognize the importance of water quality protection and fully support efforts to protect water quality, our preliminary economic analysis, provided in detail below, indicates that the proposed Agricultural Order's regulatory framework may result in substantial economic impacts to Monterey County. The regulatory parameters may likely put tremendous economic pressure on the agricultural industry, public agencies, and the local economy. We ask the Central Coast Regional Water Quality Control Board (RWQCB) to consider our comments carefully, and in doing so, develop a regulatory approach that meets water quality protection goals and is economically feasible.

Each of the nine RWQCBs in California has the discretion to create a regulatory framework appropriate for their unique region of the State. However, the Central Coast RWQCB's proposed regulatory approach appears to be far more costly and burdensome to agricultural producers within the Central Coast RWQCB area than the Agricultural Waivers which have been developed and/or proposed for other regions. This discrepancy of regulatory standards and requirements may put the agricultural industry in Monterey County at a significant competitive disadvantage to other regions of the State.

There are issues of both technical and economic feasibility with the proposed Agricultural Order. It is the understanding of County Staff that the technical and agronomic considerations are being addressed by other organizations, associations, and industry. We hope that your Board will take technical and agronomic feasibilities into consideration. Our letter is focused specifically on some of the economic implications associated with the Agricultural Order that may directly impact the economy of Monterey County.

Our analysis indicates that the proposed Agricultural Order could significantly impact the County of Monterey, including:

1. Significant loss of farmland, including prime farmland and farmland of statewide importance: in the three watersheds analyzed, 14,343.36 acres would be taken out of agricultural production;

2. Impacts to the local economy, including loss of gross crop production value of over $237 million and loss of property tax revenue due to changes in land use;
3. Potential increase in demand for social services due to loss of jobs and personal income;
4. Costs and unanticipated impacts associated with invasive species and management of buffers;
5. Jurisdictional overlap with local government and other regulatory agencies, particularly related to land use, planning, and zoning, which is governed locally by numerous public agencies and boards.

To our knowledge, these potentially significant impacts have not yet been analyzed or considered in detail by the Central Coast RWQCB.

1. Loss of Farmland: The proposed regulation would result in the loss of farmland, including prime farmland and farmland of statewide importance. Specifically, the proposed Agricultural Order requires up to a 100 feet of riparian buffer to be actively installed and maintained along rivers and streams. The installation of new riparian habitat would result in significant loss of agricultural land in Monterey County. In addition to the required riparian buffer itself, common farming practices ensure that crops have a 50 foot buffer from adjacent riparian habitat (Ag Advisory Committee, 03/25/2010). To minimize wildlife intrusion and food safety risks, bare ground buffers, roads, and/or filter strips are installed between the crops and the riparian habitat (Central Coast RWQCB Preliminary Draft Report, 02/01/2010).

   County of Monterey Staff conducted a Geographic Information Systems (GIS) analysis to determine an estimate of the number of acres that would be taken out of agricultural production as a result of the proposed buffer requirements. Due to the magnitude of the project and time constraints, our analysis was limited to three watersheds: Pajaro River Watershed (within Monterey County only), Alisal and Elkhorn Sloughs, and the Salinas River Watershed. Areas along the rivers and creeks were overlaid with the Monterey County Agricultural Commissioner's 2008 Ranch Map to determine agricultural acreage impacted by the required riparian habitat buffer. The proposed Draft Agricultural Order includes "tiers" of riparian buffer widths, based on daily natural flows. The Salinas and Pajaro Rivers are in Tier 3 (100 foot buffer); buffer widths for Alisal and Elkhorn Slough watersheds are not specified; accordingly we assumed the 100 foot buffer would also apply in these watersheds. For the purposes of this analysis, a 150 total buffer was analyzed to capture both the Central Coast RWQCB's proposed riparian habitat/buffer as well as a crop production/food safety buffer that the proposed Agricultural Order would necessitate (Agricultural Advisory Committee, 03/25/10).

   The GIS analysis indicates that in these three Monterey County watersheds, which comprise the majority of irrigated agricultural land in the County, 14,343.36 acres would be taken out of production. Please refer to the Table 1 below. It should be

noted that our analysis is for only three watersheds and is not inclusive of the full loss of crop acreage in Monterey County, or the Central Coast region.

Table 1: Total acreage of 150' buffer per watersheds intersecting with selected ranches

Watershed	Stream Buffer Acreage in Selected Ranches
Pajaro	417.31
Alisal-Elkhorn Sloughs	5002.77
Salinas	8923.28
Total Acres	14,343.36

2. Economic implications to local and regional economies: According to the Monterey County 2008 Crop Report, the gross production value of crops in Monterey County is over $3.8 billion; for the purposes of the economic analysis, Staff subtracted livestock, poultry, and apiary categories, bringing the gross production value to just over $3.7 billion ($3,786,517,400). Economic analysis indicates the proposed Agricultural Order could result in a significant impact on the economy of Monterey County, as follows:
    a. Loss of Gross Crop Production Value (over $237 million): Gross production value in Monterey County is $16,585 per acre (228,315 irrigated acres (California Department of Water Resources) divided by the gross production value of $3,786,517,400 (2008 Monterey County Crop Report)). Loss of gross production value totals $237,879,168.
    b. Loss in Rental Income from change of land use (over $20 million): Land values and corresponding rent values would decline to reflect the changes in land use from agricultural to wildlife/riparian/conservation uses. Applying the average rent value of $1,400/acre (County of Monterey Assessor's Office, Pers. Comm. 3/30/10), the proposed buffer would result in a direct economic impact totaling $20,080,704.
    c. Loss of Property Tax Revenue Due to Changes in Land Use: We anticipate that the changes in land uses required by the proposed Agricultural Order could have an impact on property values and could result in the loss of property tax revenue for local governments. The County of Monterey is currently facing over a $30 million budget deficit; additional decrease in tax revenue could have implications on the local budget.
    d. Agriculture is the top economic driver in Monterey County. A recent study for the County of Monterey (conducted by Applied Development Economics) showed that a $2.9 billion crop production sales value expands to about $5.2 billion in direct, indirect and induced economic

activity. We ask the Central Coast RWQCB to consider not only the direct economic implications, but also the economic multiplier affect of the proposed Agricultural Order.

e. The cost of plant materials, design, labor and irrigation for the installation of new riparian habitat would also be costly and should be analyzed by the Central Coast RWQCB.

3. Our local communities rely on the agricultural economy. It is reasonable and prudent to anticipate that the financial impact on local residents (loss of jobs, loss of health insurance, reduced work hours, etc.) may result in an increased demand for County social services, further straining local budgets and jurisdictions. We ask the Central Coast RWQCB to analyze and consider such impacts.

4. Costs and impacts associated with the management of riparian buffers and habitat, including the management of invasive species should be analyzed and considered. Riparian habitat restoration would first require the management and eradication of invasive species; doing so is critical for successful native re-vegetation and would be a significant cost. For example, *Arundo donax* is one invasive plant prevalent along the Salinas River that chokes out native riparian species. It is estimated to cost over $3 million to treat Arundo along the Salinas River (Monterey County Weed Management Area, 2009).

5. Overlap with local land use and regulatory agencies. It appears as though the proposed Agricultural Order may go beyond the jurisdiction and common practice of the Central Coast RWQCB by attempting to indirectly regulate *land use*. Land use is regulated by a myriad of local agencies and governing boards including but not limited to: the Board of Supervisors, Planning Commission, LAFCO, County of Monterey and other local agencies. We ask the Central Coast RWQCB to address how the proposed Agricultural Order's effects on riparian buffers and the loss of farmland will overlap with the jurisdiction of local land use and regulatory agencies and affect local land use policies.

A healthy vital agricultural sector is critical to the economy of Monterey County. Our economic analysis was preliminary and only accounts for one component of the proposed Agricultural Order. Our analysis clearly indicates that the proposed regulatory parameters could have a significant impact on our local economy. We hope that the Central Coast RWQCB will take such potentially significant impacts into consideration and further examine the costs, benefits, and economic implications of the proposed Agricultural Order in its entirety. To do so, it is vital that the Central Coast RWQCB engage and work with the regulated community to develop a regulatory framework that meets water quality protection goals and is both economically and technically feasible.

Sincerely,

(to be signed by the Chair of the Monterey County Board of Supervisors)

CC:
Roger Briggs, Executive Officer, Central Coast RWQCB
Russell Jeffries, Vice Chairman, Central Coast RWQCB
John Hayashi, Board Member, Central Coast RWQCB
David Hodgin, Board Member, Central Coast RWQCB
Charles Hoppin, Chairman, State Water Resources Control Board
Monica Hunter, Board Member, Central Coast RWQCB
Eric Lauritzen, Agricultural Commissioner, Monterey County
Tom O'Malley, Board Member, Central Coast RWQCB
Lisa McCann, Watershed Protection Section Manager, Central Coast RWQCB
Monterey County Agricultural Advisory Committee
Angela Schroeter, Agricultural Regulatory Program Manager, Central Coast RWQCB
Gary Shallcross, Board Member, Central Coast RWQCB

County of Santa Cruz

HEALTH SERVICES AGENCY

701 OCEAN STREET, ROOM 312, SANTA CRUZ, CA 95060-4073
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ENVIRONMENTAL HEALTH SERVICES

www.co.santa-cruz.ca.us/eh/ehhome.htm

April 1, 2010

Mr. Jeffrey Young
Chair, Central Coast Regional Water Quality Control Board
895 Aerovista Pl, Suite #101
San Luis Obispo, CA 93401-7906

RE: PRELIMINARY DRAFT REPORT STAFF RECOMMENDATION FOR AGRICULTURAL ORDER FEBRUARY 1, 2010

Dear Mr. Young:

Thank you for the opportunity to comment on the Preliminary Draft Staff Recommendations for an Agricultural Order dated February 1, 2010 and associated attachments. The following comments are on behalf of the Santa Cruz County Water Resources Program, which shares in the Central Coast Regional Water Quality Control Board's (Board) commitment to maintaining and improving water quality. While we share this commitment, we have significant concerns with the approach the Board is taking on this issue. We feel that the proposed Order will not lead to water quality improvements, but will instead result in polarized stakeholders, fewer management measures implemented, and little improvement in resources or water quality conditions. Rather than a point by point breakdown of concerns, we provide the following general comments and recommendations for improvement.

- **Return to the stakeholder process.** For over a decade, the central coast has been a model for collaboration in addressing environmental problems. This approach is evident in the Monterey Bay National Marine Sanctuary's Agricultural and Rural Lands Plan, of which the Board was a key partner. The existing agricultural waiver is in part based on elements in that plan and the existing waiver's implementation has resulted in many successes despite ongoing challenges. This could not have happened without the active participation of the regulated community. We are of the firm belief that continuing involvement of the regulated community and other interested parties is essential and the most effective path forward. Active stakeholder involvement in the development of the waiver will result in a much more effective regulatory tool. Alternatively, we feel that the proposed Order will likely result in protracted litigation and will not support our shared commitment to improving water quality. Effects of the proposed order are not limited to the regulatory program, and we are already seeing the agricultural industry pull back from other non-regulatory efforts where their involvement is critical, such as Integrated Regional Water Management planning and irrigation efficiency efforts.

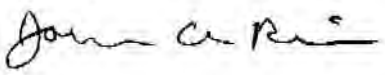
- **Absence of water quality trends does not necessarily indicate that the existing waiver is not working.** There is sufficient support for the conclusion that many central coast waterbodies continue to suffer impairment that is at least in part the result of

agricultural runoff. However, the conditions that have led to impaired water quality have occurred over decades; therefore it is unreasonable to expect that these conditions would be reversed in only five years. Further, we do not feel that the absence of water quality trends indicating improvement necessarily means that the existing Ag Waiver is not succeeding. Much has been accomplished under the existing waiver over the last five years. The Board should focus on improving that process so that we can begin to see environmental improvements rather than a wholesale shift in regulatory policy.

- **Establish outcomes, not process.** The proposed order relies heavily on specific actions and timelines to achieve compliance. We feel that any order should focus on the desired outcomes, and leave the process to achieve those outcomes up to the regulated community.

We appreciate the opportunity to provide these comments on this very important issue. We share the Board's objective of improving water quality, and strongly support a continuation of a collaborative approach to engage the stakeholders to work together towards that objective, rather than against it through litigation. We look forward to your Boards consideration of the Order considering how critical this issue to our region. Please contact me if you have any questions regarding our comments.

Sincerely,



John A. Ricker
Water Resources Division Director
Santa Cruz County

cc: Mr. Roger Briggs

Salinas Valley
CHAMBER OF COMMERCE

We are committed to. . .
Creating a strong local economy
Promoting the community
Providing networking opportunities
Representing the interests of business with government
Political action

March 30, 2010

Angela Schroeter
CCRWQCB
895 Aerovista Pl. Suite 101
San Luis Obispo, CA 93401

Dear Ms. Schroeter,

The Salinas Valley Chamber of Commerce is dedicated to creating and promoting a strong local economy, representing the interests of business with government, and political action. I am writing concerning Draft Order (R3-2010-00XX). As you are no doubt aware, in the Salinas Valley agriculture is king. Our local economy depends on agriculture for a large portion of our yearly income, and the lion's share of our jobs.

We are blessed to have a "cutting edge," world-class agricultural industry in our valley, one that has responded to changing times and markets with remarkable agility. Due to this ability to move with the times, our ag land has remained in production, to the delight of all of our residents.

We are concerned with the economic implications of Draft Order (R3-2010-00XX). As you know, this Draft Order from the CCRWQCB is 77 pages long, contains 141 general findings, has 56 definition tables and standards, and outlines 85 terms and conditions which must be complied with to obtain coverage under the Waiver. All of the above act as impediments to the ability of agriculture to quickly respond to changing market conditions and our ability to compete in an ever-increasingly competitive world market.

While we recognize that a reasonable level of regulation is necessary, we urge you to consider the input from agriculturists themselves—those that work the land and provide jobs for our County. The unemployment rate in Monterey County is currently 24%. We can't afford to lose another job. The very quality of life of our residents is at stake.

Please consider our comments and reduce the level of regulation to a level that farmers and growers agree is reasonable and attainable.

Sincerely,

Tom Carvey

Tom Carvey, President/CEO

119 E. Alisal Street • P.O. Box 1170 • Salinas, CA 93902
(831) 424-7611 • FAX (831) 424-8639 • E-mail: salinas@salinaschamber.com • Website: www.salinaschamber.com

20 YEARS
ACCREDITED
CHAMBER OF COMMERCE
CHAMBER OF COMMERCE OF THE UNITED STATES

Group 8 - M10
May 12, 2010 Workshop
Preliminary Draft Agricultural Order

From: John Douglas <johndog@cox.net>
To: <aschroeter@waterboards.ca.gov>
CC: Santa Barbara Channelkeeper <info@sbck.org>
Date: 3/31/2010 5:01 PM
Subject: please strengthen water purity measures

RWQCB:

Please enact more stringent regulations to prohibit agricultural pollution of our water supply. Thanks.

John E. Douglas
PO Box 8552
Goleta, CA 93118-8552

☮John Enrico Douglas☮
johndog@cox.net
(805) 284-2082
http://www.johnenricodouglas.com
http://www.facebook.com/john.e.douglas

From: <vnarez@cox.net>
To: <aschroeter@waterboards.ca.gov>
Date: 3/31/2010 7:01 PM
Subject: stronger protections

I support stronger protections of our surface and groundwater resources from agricultural pollution.

Vince Narez

From: SunPacific <sunpacificsolar@cox.net>
To: <aschroeter@waterboards.ca.gov>
Date: 3/31/2010 10:01 PM
Subject: Clean Water

Hello,
Please help keep our water supplies and water ways clean.
Thank you,
Tom Burt

Now is the time to go solar!

sunpacificsolar@cox.net
www.sunpacificsolar.net

805-689-1479
805-563-4349 fax

March 31, 2010

Angela Schroeter/ Howard Kolb

Central Coast Regional Water Quality Control Board

<aschroeter@waterboards.ca.gov> <hkolb@waterboards.ca.gov>

Dear Central Coast Regional Water Quality Control Board Members and Staff:

I support staff's strong recommendation to protect our water quality and protect our groundwater, rivers and ocean from polluted runoff.

As the publisher of Stormwater magazine, I am very familiar with the issues and science involved here.

None of us are allowed to throw our waste out onto the street, into a stream or into the nearest ditch.

The citizens of the Central Coast deserve clean water. Agriculture should not be treated any different from industry or private citizens. Chemical pesticides and fertilizers must not be allowed to pollute surface or groundwater.

Every grower should be required to monitor and know what is in the runoff leaving their farm. Growers should not be allowed to discharge water off their property or into the groundwater that is toxic to aquatic life. Farmers should use only the amount of fertilizer needed to grow their crop; excess fertilizer cannot be allowed to pollute our groundwater or rivers where treatment costs are unjustly passed on to municipal drinking water users. Streamside
vegetation is wildlife habitat and actually helps improve water quality; farmers should be required to protect riparian vegetation and should maintain a vegetated buffer between their crops and any waterways.

The Board has the legal responsibility to protect the integrity of our water and rivers.

Please protect water quality for all of us.

Sincerely,

Daniel Waldman

PO Box 3424

Santa Barbara, CA 93130

Thank you for taking action.

April 1, 2010
Angela Schroeter/ Howard Kolb
Central Coast Regional Water Quality Control Board
E-mail: _aschroeter@waterboards.ca.gov_ (mailto:aschroeter@waterboards.ca.gov) , _hkolb@waterboards.ca.gov_ (mailto:hkolb@waterboards.ca.gov)
Subject: SUPPORT for the Central Coast Regional Board's Preliminary Draft Recommendations for an Updated Agricultural Order
Dear Regional Water Quality Control Board Members:

I live in the North Monterey County area of Central Coast California and understand the water contamination issues of this area. Together with residents of San Jerardo and East Salinas, we have met with two County Supervisors and Assemblywoman Caballero to understand what they do or do not know about the contamination issues of our potable water. It was shocking to learn what they do not know. Supervisor Simon Salinas suggested the Regional Water Quality Control Board is who we need to meet with to make sure our potable water is as clean as can be. But timing is everything and we as regular working people struggle everyday to work with our local health departments and decision makers. We need your state level authority to make the difference to make sure residents of the Central Coast region have the safest water possible.

I personally know people who have been having to buy bottled water for years because of the nitrate and other contamination issues associated with agricultural practices, so thank you for the opportunity to provide public comments on the Central Coast's Preliminary Draft Recommendations for an Updated Agricultural Order. Your prioritization of this critical program is important to protect and restore the quality of the Central Coast region's water. According to the Draft Report, "agricultural discharges (primarily due to contaminated irrigation runoff and percolation to groundwater) are a major cause of water quality impairment" in the region (pg 4). In Monterey County, 25 percent of 352 wells sampled (88 wells) had concentrations above the nitrate drinking water standard in the northern Salinas Valley. In portions of the Salinas Valley, up to approximately 50 percent of surveyed wells had concentrations above the nitrate drinking water standard, with average concentrations nearly double the drinking water standard and the highest concentration of nitrate approximately nine times the drinking water standard. Nitrate exceedences in the Gilroy-Hollister and Pajaro groundwater basins are similar, as reported by local agencies/districts for those basins.

Unless there are efforts made to clean-up the nitrates in the shallower aquifers it is likely that the nitrates will force deeper well drilling over time.

I know you are aware of the situation of the contamination issues of the farmworker housing enclave known San Jerardo near Salinas and the years of suffering of those residents from agricultural contamination. We cannot allow what we know to continue to affect the source of water of residents of Central Coast California when there are alternatives as what the draft report suggests. I strongly support the Board's initiative to create an Updated

Agricultural Order, and urge that the Board take timely action to prevent further degradation of the Region's water and to restore the water from the pollution that has already occurred.

Specifically, I strongly support the Water Board's intent to directly address the discharges of waste from irrigated lands, including providing compliance schedules to reduce nutrient discharges to surface waters and groundwater, reducing toxic discharges of agricultural pesticides to surface waters and groundwater; reducing sediment discharges from agricultural lands and protecting aquatic habitat. I live by the Elkhorn Slough near Moss Landing and know that monitoring is conducted continuously because of the proximity to the National Marine Sanctuary and with the fishing industry or what remains of it. We must do better to protect our groundwater and surface water! Continued funding in a time of economic deficit is difficult. We must make those who contaminate ultimately responsible.

I strongly support the Staff's recommendation to include mandatory Best Management Practices (BMPs) in irrigation management, pesticide runoff, toxicity elimination, and nutrient and salt management.
I strongly support the Staff's recommendation to put in place stringent monitoring and reporting systems for individual discharges, and specific monitoring systems to evaluate groundwater quality and protection in agricultural areas. Without being able to locate nutrient loading, it is not possible to effectively reduce contamination. Localized monitoring is essential.
I also strongly encourage the Water Board to put in place non-compliance fines in cases when agricultural dischargers violate these conditions. As we have seen in the past Conditional Waiver, voluntary mechanisms to control agricultural discharges are not sufficient. The Water Board must use its' regulatory authority to regulate discharge, and this includes application of non-compliance fees.
Lack of surface and groundwater protections have gone on too long at the expense of community and watershed health. Hence, I applaud your initial efforts and strongly urge you to take timely action to put in place stringent requirements for irrigated agriculture discharges so that California's water is truly protected and restored.

With Incredibly Sincere Thanks,
Margie Kay, Monterey County resident
5319 Starr Way

SAN JERARDO COOPERATIVE, INC.

24500 Calle El Rosario – Salinas CA 93908 ~ Te.: (831)424-1947 – Fax: (831) 424-1948

Evelía Alcalá
President

Estela Pérez
Secretary

March 31, 2010

Angela Schroeter/ Howard Kolb
Central Coast Regional Water Quality Control Board
E-mail: aschroeter@waterboards.ca.gov, hkolb@waterboards.ca.gov

Subject: **SUPPORT** for the Central Coast Regional Board's Preliminary Draft Recommendations for an Updated Agricultural Order

Dear Regional Water Quality Control Board Members:

Thank you for the opportunity to provide public comments on the Central Coast's Preliminary Draft Recommendations for an Updated Agricultural Order. Oh behalf of the San Jerardo Cooperative, Inc. we applaud your prioritization of this critical program that can protect and restore the quality of the Central Coast region's water. According to the Draft Report, "agricultural discharges (primarily due to contaminated irrigation runoff and percolation to groundwater) are a major cause of water quality impairment" in the region (pg 4).

Groundwater contamination from nitrates severely impacts domestic drinking water supplies in the Central Coast Region. Domestic wells (wells supplying one to a few households) are typically shallower than public supply wells. Based on the limited data available, the number of domestic wells that exceed the nitrate drinking water standard is likely in the range of hundreds to thousands in the Central Coast Region.

In Monterey County, 25 percent of 352 wells sampled (88 wells) had concentrations above the nitrate drinking water standard in the northern Salinas Valley. In portions of the Salinas Valley, up to approximately 50 percent of surveyed wells had concentrations above the nitrate drinking water standard, with average concentrations nearly double the drinking water standard and the highest concentration of nitrate approximately nine times the drinking water standard. Nitrate exceeds in the Gilroy-Hollister and Pajaro groundwater basins are similar, as reported by local agencies/districts for those basins.

Unless there are efforts made to clean-up the nitrates in the shallower aquifers it is likely that the nitrates will force deeper well drilling over time. The community of Morro Bay is a case in point. They have detected nitrates in their wells and have been in discussions with local irrigators to try to prevent further contamination of their community well.

We agree with the Draft Report's analysis that the "current Conditional Waiver lacks clarity and focus on water quality requirements and does not include adequate compliance and verification monitoring… at a minimum, agricultural discharges continue to severely impact water quality in most receiving waters" (pg 19). We strongly support the Board's initiative to create an Updated

Agricultural Order, and urge that the Board take **timely action** to prevent further degradation of the Region's water and to restore the water from the pollution that has already occurred. **Specifically,** we strongly support the Water Board's intent to directly address the discharges of waste from irrigated lands, **including providing compliance schedules to reduce nutrient discharges to *surface waters and groundwater*,** reducing toxic discharges of agricultural pesticides to surface waters and groundwater; reducing sediment discharges from agricultural lands and protecting aquatic habitat.

The Draft Report states that the Board *may require* Dischargers to conduct sampling of private domestic wells in or near agricultural areas with high nitrates in groundwater submit technical reports and also *may require* Dischargers to provide alternative water supplies or replacement water service to affected public water suppliers or private well owners. **We strongly support the Staff's recommendation in this regard and, in fact, urge you to require this and mandate it in your final report**, so that we may begin to provide disadvantaged communities currently without safe drinking water access to this basic resource.

We strongly support the Staff's recommendation to include mandatory Best Management Practices (BMPs) in irrigation management, pesticide runoff, toxicity elimination, and nutrient and salt management.

We strongly support the Staff's recommendation to put in place stringent monitoring and reporting systems for individual discharges, and specific monitoring systems to evaluate groundwater quality and protection in agricultural areas. Without being able to locate nutrient loading, it is not possible to effectively reduce contamination. Localized monitoring is essential.

We also strongly encourage the Water Board to put in place non-compliance fines in cases when agricultural dischargers violate these conditions. As we have seen in the past Conditional Waiver, voluntary mechanisms to control agricultural discharges are not sufficient. The Water Board must use its' regulatory authority to regulate discharge, and this includes application of non-compliance fees.

Lack of surface and groundwater protections have gone on too long at the expense of community and watershed health. Hence, we applaud your initial efforts strongly urge you to take timely action to put in place stringent requirements for irrigated agriculture discharges so that California's water is truly protected and restored.

Our Community is one of the many communities in California and other parts of the United States that have been affected by nitrate and other chemicals contamination. It is necessary to implement new policies on regards to water contamination for the benefit of all humans and nature.

With Sincere Thanks,

Horacio Amezquita
General Manager
San Jerardo Cooperative, Inc.

>>> Kendra Gonzales <earthworks_works@yahoo.com> 4/7/2010 9:52 PM >>>

* On the Central Coast, thousands of people are drinking water contaminated with unsafe levels of nitrate or are drinking replacement water to avoid consuming contaminated water. The cost to society for treating polluted drinking water is estimated to be in the hundreds of millions of dollars.

* Aquatic organisms in large stretches of the region's rivers have been severely impaired or completely destroyed by severe toxicity from pesticides.
Please do the right thing and strongly regulate agriculture run-off. Set standards that support good human, animal, and environmental health. Do not let the agricultural industry call the shots. We all deserve better, and it simply makes more economic sense to set the bar high now, then all have to pay for it later. The agricultural industry argues they will be put out of business by over-regulation. This is always the argument but not the reality. The reality is that we cannot afford the health care costs, biodiversity losses, and pollution clean-up caused by poisoned run-off. Our children, our grandchildren, and theirs.....yours, do not deserve to be poisoned.

Thank you,

Kendra Gonzales
Camarillo

March 26, 2010

Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
Attention: Chairman Jeffery S. Young

Mr. Young,

I am a resident of Santa Maria and while I am not a member of the agricultural industry, I am writing this letter to express my strong ***opposition*** to the RWQCB's preliminary recommendations for the Conditional Waiver of Discharges from Irrigated Agricultural Lands.

I could go into detail about the specific parts of this action to which I take opposition, but frankly there are far too many points of contention to realistically list in this letter. I will simply state that, at a base level I opposed this action because…

1) This mandate adds an unrealistic layer of environmental restriction and bureaucracy to what is *already* over-imposed on the agricultural industry.
2) We are already witnessing the failure of a number of farms as well as farmers leaving the state because of similar regulations. The result is already becoming evident. We end up consuming products from other countries where they have little if any regard for the environment or health concerns.
3) Any additional cost of administering and adhering to these mandates be passed on to the end consumers who are already struggling to keep pace with the economic crisis in the state and nation.
4) State and local governments are already facing insolvency due in large part to the degree of expensive bureaucracy and environmental oversight.

Thank you for taking the time to read this letter of opposition. Please know that I am a strong supporter of a clean environment. This action though, is unrealistic and unreasonable and will be detrimental to our agricultural industry and our fragile economy. PLEASE, DO NOT impose this mandate.

Sincerely,

Jim Talbott
Santa Maria, CA

From: Shelly Cobb <cobb.shelly@gmail.com>
To: <aschroeter@waterboards.ca.gov>
Date: 4/2/2010 9:56 AM
Subject: I support stronger protections for our surface/groundwater

I appreciate and applaud your efforts to educate farmers about the toxicity of the ag runoff and how to prevent it. The toxicity of nitrates in our Salinas and Santa Maria watersheds greatly concerns me greatly.

On the other hand, we need to eat and I want to support our small local farmers so they can be profitable and stay in the business. How can farmers use alternatives to toxic nitrates?

Please continue your hard work to achieve both goals.

It would be most helpful if you could also inform the public about which food/farm providers are "doing the right thing" with respect to water management and minimization of nitrates. We can support them with our $$ if you simply provide a list of these farms/farmers.

Thank you,
Shelly

.....
Shelly Cobb
Edible Santa Barbara
Office Phone (805) 617-0359
Office Fax (208) 445-6242
Cell (805) 452-1440
shelly@ediblesantabarbara.com
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shelly@ediblesanluisobispo.com
www.ediblesanluisobispo.com

From: "Ben Middleton" <b.middle@verizon.net>
To: <hkolb@waterboards.ca.gov>
Date: 3/18/2010 1:54 PM
Subject: WCQB New Rules

The Water Boards want new buildings to be built in such a way so that in effect, no rain water leaves the site in a rain storm. This goal, albeit extremely expensive, is in some cases achievable compared to what this same regulatory agency is asking of farmers.

The Board is out of there mind. Where is the fair trade. The cost of a project this size would be to expensive.

I'll bet who ever made these rules never owned any farm land. I think the WQCB is trying to put the little farmer out of businesses so large companies can take over.

Farmers are being asked to not only control the water quality flowing off of their farms from irrigation and rainstorms, they are also being asked to control the temperature of the water and the amount of dirt in the water. The regulators are in essence demanding that this wastewater be cleansed to drinking water standards and be beneficial to wildlife (the same wildlife that poses a food safety threat to the crops)

I had allot of respect for the WQCB but somebody in that office is smoking something that is making them crazy with power. They do not respect the business man.

These rules are so ridicules. These rules put WQCB in the same category with the Fish and Game to much power.

CSVS Clinica de Salud del Valle de Salinas

Administration
440 Airport Blvd.
Salinas, CA 93905
Phone: (831) 757-8689

Outreach
440 Airport Blvd.
Salinas, CA 93905
Phone: (888) 296-2787
Phone: (831) 757-2406
Fax: (831) 770-0705

CSVS Mobile Clinic
440 Airport Blvd.
Salinas, CA 93905
Phone: (800) 372-7993
Phone: (831) 757-2406
Fax: (831) 770-0705

CSVS Circle
950 Circle Drive
Salinas, CA 93905
Phone: (831) 757-6237
Fax: (831) 757-8458

CSVS Alvin Dental
620 E. Alvin Drive,
Suite G
Salinas, CA 93906
Phone: (831) 444-9722
Fax: (831) 444-9723

CSVS King City
223 Bassett Street
King City, CA 93930
Phone: (831) 385-5944
Fax: (831) 385-8618

CSVS Soledad
799 Front Street
Soledad, CA 93960
Phone: (831) 678-0881
Fax: (831) 678-2803

CSVS Greenfield
808 Oak Street
Greenfield, CA 93927
Phone: (831) 674-5344
Fax: (831) 674-5214

CSVS Sanborn
219 N. Sanborn Road
Salinas, CA 93905
Phone: (831) 757-1365
Fax: (831) 757-2824

CSVS Optometry Clinic
950 Circle Drive
Salinas, CA 93905
Phone: (831) 757-1264
Fax: (831) 757-4812

CSVS Castroville
10561 Merritt Street
Castroville, CA 95012
Phone: (831) 633-1514
Fax: (831) 633-0311

Chualar School
Based Clinic
24285 Lincoln Avenue
Chualar, CA 93925
Phone: (831) 679-0138
Fax: (831) 679-0346

Clinica de Salud has earned the Joint Commission's Gold Seal of Approval

March 30, 2010

Angela Schroeter/ Howard Kolb
Central Coast Regional Water Quality Control Board
E-mail: aschroeter@waterboards.ca.gov, hkolb@waterboards.ca.gov

Subject: SUPPORT for the Central Coast Regional Board's Preliminary Draft Recommendations for an Updated Agricultural Order

Dear Regional Water Board Members,

On behalf of Clinica de Salud del Valle de Salinas, we applaud the Regional Water Board's efforts to regulate contaminated agricultural discharges and help protect and restore the quality of the Central Coast region's water.

In the Central Coast region, groundwater is the major source of drinking water, but virtually all the groundwater here is contaminated. One of the largest sources of contamination is from agricultural run-off, which contains high rates of fertilizers, which leach into aquifers. This results in nitrates in the water, which can cause severe health impacts, including "blue baby syndrome." As a result, small communities and cities are either forced to drink toxic water, or bear the expensive costs of nitrate treatment.

Hence, we strongly support the Board's initiative to create an Updated Agricultural Order, to monitor and address contamination from agricultural run-off. Specifically,

- We strongly support the Water Board's intent to directly address the discharges of waste from irrigated lands, including providing compliance schedules to reduce nutrient discharges, toxins and sediments from agriculture to surface waters and groundwater.
- We strongly urge the Board to require Dischargers to sample private domestic wells in or near agricultural areas with high nitrates in groundwater, and then to provide alternative water supplies or replacement water service to affected public water suppliers or private well owners, so that we may begin to provide safe drinking water to disadvantaged communities who currently do not have access to this basic resource.
- We strongly support Staff's recommendation to include mandatory Best Management Practices (BMPs) in irrigation management, pesticide runoff, toxicity elimination, and nutrient and salt management.
- We strongly support Staff's recommendation to put in place stringent monitoring and reporting systems for individual discharges, and specific monitoring systems to evaluate groundwater quality and protection in agricultural areas. Localized monitoring is essential.

- We also strongly encourage the Water Board to put in place non-compliance fines in cases when agricultural dischargers violate these conditions. Voluntary mechanisms to control agricultural discharges are not sufficient. The Water Board must use its' regulatory authority to regulate discharge, and this includes application of non-compliance fees.

Lack of surface and groundwater protections have gone on too long at the expense of community and watershed health. Hence, we applaud your initial efforts strongly urge you to take timely action to put in place stringent requirements for irrigated agriculture discharges so that California's water is truly protected and restored.

Sincerely,

Maximiliano Cuevas, MD, FACOG
Chief Executive Officer