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GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

August 6, 2014



Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Comments on the Agricultural Expert Panel Draft Report

Dear Ms. Townsend,

This letter provides the San Francisco Bay Regional Water Quality Control Board's comments on the Agricultural Expert Panel Draft Report that was released for public comment on July 7, 2014.

1. We would like to voice our support for the comments being submitted on this draft report from the Central Coast Regional Water Quality Control Board and the Central Valley Regional Water Quality Control Board, given their involvement with the existing regulatory permits addressing adverse impacts of agricultural fertilizers (nitrogen in particular) on groundwater and surface water in their regions and their intimate knowledge of the issues discussed in this draft report.
2. The draft report contains several broad statements regarding data collection methods and data interpretation that, without additional explanation, may lead to misinterpretation by the public. For example, the first item under the "General Understanding by the Panel" section on page ii states that "Just collecting data does not necessarily improve or help clarify a situation." However, without data collection it would be difficult to ascertain any trends in the conditions of receiving waters as well as assess if a water quality issue exists. We feel that statements like these should include more detail to avoid any misinterpretation.
3. We have concern over the panel's assertion that "nitrogen balances are very difficult to construct" and so is an unrealistic compliance expectation for farmers, as stated in item 7 on page 14. Although this panel was not specifically tasked to evaluate nutrient issues in livestock operations, we feel this assertion is relevant to the permits we are developing for Confined Animal Facilities (CAFs) in our Region.

Nutrient management plans typically prepared by technical assistance groups such as the Natural Resources Conservation Service for animal feeding operations frequently require nutrient balance calculations in order to determine the manure and process water application rates. Although the panel's recommendations for developing nutrient management plans as part of a new paradigm fall in line with our outlook for regulating CAFs, we have concerns that statements made in this draft report regarding the difficulty

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and inaccuracy of nutrient balances may lead the regulated community to interpret the requirement to develop a nutrient balance as unnecessary and overly burdensome. These calculations are vital to understanding and ensuring proper application and use of manure or other fertilizers on agricultural lands.

4. The last sentence of item 13 on page 16 notes that new emphasis should be put on "training/education, irrigation and nitrogen management plans, and on concise reporting". However, the panel also recommends (on the bottom of page 36) that "data collected be used for education and later development of management plans, not for enforcement." We are supportive of the approach to educate and train the dischargers, but we are also required to ensure that the nutrient management plans developed control the sources, which requires monitoring, reporting, and in some cases enforcement actions. The State Water Board Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program states that the Regional Water Board cannot defer indefinitely taking actions that are necessary to address nonpoint source issues nor can they indefinitely defer enforcement actions. We feel that the panel oversteps its mandate by making this statement.
5. The drinking water wells discussion on page 20 states that "sampling and reporting of nitrate concentrations (among many other constituents) in drinking water wells is the responsibility of the operator of the regulated drinking water system." However, this same section later states that "this [i.e., drinking water well sampling] should not be an effort required of the regulated community (i.e., the operators of water systems or the farming community)." These statements appear contradictory and should be clarified.

We appreciate this opportunity to comment on the Agricultural Expert Panel's Draft Report.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bruce Wolfe', with a stylized flourish at the end.

Bruce Wolfe
Executive Officer