



July 12, 2013

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100

VIA Email to: commentletters@waterboards.ca.gov

RE: Comments to A-2209 (a)-(e) – July 23 Board Workshop

Dear Ms. Townsend:

Monterey County Farm Bureau represents family farmers and ranchers in the interest of protecting and promoting agriculture throughout our County. We strive to improve the ability of those engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of our local resources.

Throughout the process of the Central Coast Irrigated Lands Discharge Order, Monterey County Farm Bureau has advocated for a regulatory program that supports the Agricultural community while achieving objectives set by State clean water standards. This process has become contentious due to a lack of collaboration on the part of all stakeholders involved, and continues a process where deep divisions between ideologies for water quality solutions hinder forward progress. We remain steadfast in our commitment to clean drinking sources for all consumers, as well as improvements in surface water discharges and groundwater influences that bring us closer to achieving clean water standards.

The process that has brought us to this point, where formal petitions for Appeal of the Irrigated Lands Discharge Order ('Ag Waiver') passed by the Central Coast Regional Water Quality Control Board ('CCRWCB') in March 2012 are before the State Water Resources Control Board ('SWRCB') in various forms, are a small indication of the amount of discord that has taken place during the entire multi-year process. While the continued divisive opinions of what should be done to improve water quality may continue amongst the stakeholders, Monterey County Farm Bureau believes that the SWRCB has an opportunity to correct many of the defects in the Ag Waiver and manner in which it was approved. We understand that the intent of the SWRCB decision is to clarify some of the confusing and contradictory elements of the Ag Waiver, as well as resolve some of the more contentious points that the Agricultural community feels are barriers to supporting full producer buy-in to solutions for water quality improvements.

Addressing positive individual points within the proposed settlement of petitions:

- We support the modifications made to the option of Third Party Groups managing portions of the Ag Waiver compliance process for Ag producers. Revised requirements relating to the success of any individual project that include a range of water quality improvement projects expand the scope of possibilities for the Ag community. We particularly like that water quality improvement projects must *demonstrate a reasonable chance of success*, rather than the harsher language of the Ag Waiver where elimination of toxicity was a threshold that would be essentially unachievable for these projects.
- Revisions to the Farm Plan Practice Effectiveness Evaluation now include standard farming practices, visual inspections, and individual record keeping within the Farm Plan, an important distinction from the heavy burden of verifying practice effectiveness for compliance. The expansion of this evaluation language allows producers to utilize numerous farm practices and newly developed techniques to achieve water quality improvements over the term of the Ag Waiver.
- Modifications to the language relating to the management of containment structures better supports on-farm practices to control and capture surface water discharges. The change of wording from ‘avoid’ percolation to ‘minimize’ allows producers to utilize these structures without the costly efforts of retrofitting basins with an impermeable liner. This change will allow producers to manage their surface water flows to their best advantage through on-farm practices that will potentially remove the majority of nitrates and other impurities from the leaching process without discouraging the use of these containment structures. We support this small change in language that makes a huge improvement for on-farm practices. Additionally, we support the deletion of the requirement to monitor surface water containment structures.
- Changes to the photo monitoring requirements of riparian vegetation allow additional options for producers when documenting their lands adjacent to impaired water bodies of the State. Although we still have concerns that this process is overly complicated and possibly expensive to producers, we support additional data capture methods included in the settlement language.
- Irrigation and Nutrient Management Plan changes focus efforts more on *evaluation of on-farm practices* rather than strictly monitoring or measuring progress. Removing the requirement to report elements of the Irrigation and Nutrient Management Plans in the Annual Compliance statement removes a significant burden from producers, as well as the requirement for certification of these plans by a licensed professional such as a Certified Crop Advisor. This will allow time, effort and capital to be spent on actual on-farm improvements, rather than monitoring, reporting, and certification of these efforts.

Addressing concerns we have with specific provisions of the proposed settlement of petitions:

- Revisions to the definition of *Outfall*, as found in Section H of the draft document, state: “Outfalls are locations where irrigation water and stormwater exit a farm/ranch and enter a natural water body such as a stream, creek, river, wetland, ditches, swales, tile drains, or other discrete structures or features that transport the water.” We interpret this statement as a water quality regulatory provision that is point-source based, which irrigated lands expressly do not fall

into within existing water regulations. This sets up the Agricultural community for further imposition of requirements when the next Ag Waiver is negotiated and will lead to further discord within the stakeholder groups. SWRCB should be careful in its characterization of how Ag surface water discharges are defined relative to current laws that expressly state these agricultural discharges are from non-point sources.

- The nitrate loading risk calculation is overly complex and will lead to much confusion within the Ag community. Additionally, the time frame set forth at October 2013 does not allow sufficient time for producers to gather data and make the necessary calculations to determine their loading risk. This requirement should be extended into future years of the Ag Waiver to allow for education of producers on how to manage calculations and compliance of this requirement. We find this will only set producers up for non-compliance if this is rushed into practice in less than three months time.
- There will be more confusion over language inserted for total nitrogen applied reporting. Requiring “typical magnitude and frequency of discharge” does not clarify if a producer is to use an average or maximum concentration for reporting. We suggest that this point be moved into consideration by the Expert Panel as we find the language arbitrary and not supported in existing science. As there is little research evidence to support that current irrigation practices and nitrogen applications are further contributing to groundwater impairments, the Expert Panel should be tasked to fully review current irrigation methods, patterns, and nutrition delivery systems to determine exactly how much influence nitrogen applications are currently having on groundwater. Clearly, the problem manifested itself many decades ago and current practices are vastly different now.
- Individual surface water monitoring for Tier 3 discharges appears to focus on irrigation and stormwater discharges from the above noted “outfall” definition that comes very close to point-source monitoring of irrigated lands. Particularly during storm events, this type of monitoring is burdensome to producers who may not have the resources or ability to conduct such monitoring. We suggest that this type of monitoring will do nothing to improve water quality and resources used for this requirement could better be spent on actual practices that improve or minimize surface water discharges that are above standard.

In addition to the points listed above, we express concern with the continued worry that non-compliance levels will increase due to lack of education, overly complex calculations methods, lack of science supporting reporting requirements, and aggressive date implementations for compliance. Cumulative effects of non-compliance could lead to serious complications for both producers and CCRWQCB as it attempts to manage compliance within the large Ag community within the region. Already we have been informed that CCRWQCB staff is inadequate to manage this program robustly, or as envisioned when adopted, and aggressive compliance requirements will lead to additional workloads for producers who operate on thin margins currently. We fear that choices will be made that will not be in the best interest of compliance by both producers and CCRWCQB staff when managing this program in the coming years.



We are disappointed that the SWRCB did not find that language inserted at the last possible moment by a CCRWQCB Board member was in violation of due process and ex-parte provisions of law as they existed at the time. We feel strongly that this language was provided to CCRWQCB staff to circumvent the ability of producers, as well as the trade associations representing them, to provide input, make comment, or even object to the character of the language. While we agree that Board members are allowed to propose additional inserts to the Ag Waiver language, the extensive language read into the record by the Board Member involved was more than just an editorial change or clarification of point. To the Ag community, this was a violation of our trust that the process was adhered to by all parties involved including CCRWQCB staff and Board members, as set forth in law and meeting etiquette. We strongly object to the finding in the draft decision that no harm was done to the Ag community by the insertion of this language at the last minute.

The draft decision on the petitions does not address the numerous points raised in the Petition of Appeal by California Farm Bureau Federation, on behalf of the seven County Farm Bureaus, concerning the CEQA issues that were mishandled by the CCRWQCB staff during the Ag Waiver process. We would appreciate your review of these issues before the final decision is issued by SWRCB.

We appreciate your consideration of the positive points and areas of concern that we express in our comments here, and thank you for the opportunity to make these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Norman C. Groot', written over a horizontal line.

Norman C. Groot
Executive Director