



July 16, 2013

VIA ELECTRONIC MAIL ONLY

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
commentletters@waterboards.ca.gov

SUBJECT: Comments to A-2209(a)-(e) – July 23 Board Workshop and
July 23 Board Item [Own Motion Order]

Dear Ms. Townsend:

Somach Simmons & Dunn represents Petitioners Grower-Shipper Association of Central California, Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties, and Western Growers (collectively hereafter, Grower-Shipper). We have received the State Water Resources Control Board's (State Water Board) proposed order in response to the various petitions filed with respect to the Central Coast Regional Water Quality Control Board's (Central Coast Water Board) adoption of *Conditional Waiver of Waste Discharge Requirements Order No. R3-2012-0011 for Discharges from Irrigated Lands* (Conditional Waiver), and *Monitoring and Reporting Program Order Nos. R3-2012-0011-01, R3-2012-0011-02 and R3-2012-0011-03*.¹ We have also received the State Water Board's proposed Own Motion Review order for the Conditional Waiver. On behalf of Grower-Shipper, we provide comments on the proposed Own Motion Review and the proposed order herein.

Own Motion Review

Grower-Shipper understands the State Water Board's practical reasons for considering adoption of an Own Motion Review. While Grower-Shipper does not directly oppose adoption of such an order, we must express our continued concern with the length of time associated with resolution of the issues raised in the petitions. Each delay comes at a cost

¹ To provide consistency with the terms as referenced in the proposed order, we will refer to the Monitoring and Reporting Program Orders individually as "Tier 1 MRP," "Tier 2 MRP," and "Tier 3 MRP."

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because growers are still required to comply with the Conditional Waiver provisions, except for those subject to Order WQ 2012-0012 (Stay Order).

Further, in its Stay Order, the State Water Board declined to stay certain provisions claiming that it would have the underlying issues resolved prior to the due date. Specifically, the Stay Order declined to stay the requirement to initiate individual surface water discharge monitoring because it “expects that it will resolve the petitions on the merits prior to October 1, 2013.” (Stay Order, p. 23.) Although we fully support the State Water Board’s intentions to have these matters resolved by that date, we are concerned that with the Own Motion Review order, meeting this date is no longer an absolute requirement. To avoid unintended consequences associated with adoption of an Own Motion Review order, we request that the Own Motion Review order include additional provisions to stay the October 1, 2013 deadline in the event that the matters are not resolved in a timely manner prior to this date.² Staying, or at least extending, these near term deadlines would help to provide some assurance to Grower-Shipper members that they will not incur unnecessary costs while the State Water Board continues its review of challenged provisions.

Proposed Order

I. Composition and Scope of Expert Panel

The proposed order discusses and references the State Water Board’s commitment to convene “a panel of experts to assess existing agricultural nitrate control practices and propose new practices to protect groundwater as appropriate (Expert Panel).” (Proposed Order, p. 4.) It is our understanding that the Expert Panel referenced here is in fact the Expert Panel referenced in Recommendation 14 of the State Water Board’s Report to the Legislature, *Recommendations Addressing Nitrate in Groundwater* (Feb. 20, 2013) (hereafter, Report to Legislature). According to Recommendation 14, the Expert Panel will assess existing agricultural nitrate control programs and develop recommendations as needed to ensure that ongoing efforts are protective of groundwater quality. (Report to Legislature, p. 42.) Further, the Expert Panel will need to consider methods used in other parts of the world as well as groundwater monitoring, mandatory adoption of best management practices, tracking and reporting of nitrogen fertilizer application, estimates of nitrogen use efficiency, and farm-specific nutrient management plans. (*Ibid.*)

Considering the important role that this Expert Panel will play under Recommendation 14 and as referenced in the proposed order, the composition of the Expert Panel, as well as the scope of issues it will address, are critical and must be well articulated. At this time, and based on the information contained in the proposed order, composition of the Expert Panel and its scope appear to still be in the formative stage. Due to the lack of

² Grower-Shipper also recommends that other near term deadlines associated with provisions under review be stayed by the Own Motion Review order until such time as the State Water Board acts on the underlying petitions.

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specificity in the proposed order with respect to the Expert Panel, it is difficult for Grower-Shipper to provide comments on these issues. However, based on the information provided in the proposed order and Recommendation 14, Grower-Shipper has specific recommendations with respect to the Expert Panel and its composition.

Grower-Shipper believes that for the Expert Panel to be truly effective, it must include the following disciplines: Agronomy—at least three experts with specific expertise in row crops (e.g., vegetables, strawberries), vine/tree crops, and confined animal agriculture; Irrigation Management—at least two experts with expertise in irrigation management, and such experts should provide geographic diversity (e.g., one with expertise in the Central Coast, one with expertise in the Central Valley); Groundwater Hydrology—at least two experts representing geographic diversity (i.e., one with Central Coast experience, one with Central Valley experience); Production Agriculture—someone with direct experience with agricultural production systems who is able to convey actual on-farm realities; Agricultural Economist—someone with direct knowledge and experience in determining the feasibility of practices based on the agricultural economic system; Public Health—someone with expertise regarding the risk to public health from nitrate groundwater contamination; Agricultural Policy/Legal—someone with knowledge and experience dealing with agricultural regulatory programs; a Representative from the California Department of Food and Agriculture; and a State Water Board Member. Grower-Shipper believes that experts from the above-described disciplines are vital to any panel making recommendations regarding agricultural production and water quality improvement. The recommendations of a panel lacking such expertise will be seriously flawed.

With respect to the scope of issues before the Expert Panel, Grower-Shipper believes it is essential that the Expert Panel's charge include the development of findings and recommendations that are technically and economically feasible, and that maintain California's agricultural economy. Such a charge is consistent with the intent and purpose of the Porter-Cologne Water Quality Control Act (Porter-Cologne) and the State Water Board's authority. Specifically, Porter-Cologne requires that the State Water Board and the nine regional water boards regulate activities "to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible." (Wat. Code, §§ 13000, 13001.) Accordingly, any charge to the Expert Panel must be consistent with the State Water Board's authority and the legislative intent of Porter-Cologne. Grower-Shipper also respectfully requests that the State Water Board hold an appropriate number of workshops, both before and after the Expert Panel prepares its recommendations, to allow for public input and comment on the development of such recommendations. Workshops should be located in the Central Coast, the Central Valley, and other areas with considerable production acreage enrolled in regulatory programs.

II. Impact of Expert Panel Recommendations

The proposed order characterizes the decisions contained therein as “interim” determinations pending the Expert Panel’s more thorough examination of the underlying issues. While Grower-Shipper appreciates that the proposed order is attempting to provide appropriate caveats, we are concerned that by maintaining the provisions in question while the Expert Panel convenes, deliberates, and develops recommendations, that growers will be required to spend time and monetary resources complying with the “interim” provisions.

Rather than requiring growers to implement such provisions on an interim basis, Grower-Shipper recommends that the State Water Board remove certain provisions at this time and provide a reopener provision to amend the Conditional Waiver after the Expert Panel has completed its process and the State Water Board has determined which of the Expert Panel’s recommendations are appropriate for adoption into the Conditional Waiver or similar subsequent order. Although Central Coast Water Board staff has stated that farmers are successfully implementing the Conditional Waiver’s requirements, farmers have expended tremendous resources to comply with the regulations without commensurate improvements to water quality. This practice is not sustainable. Grower-Shipper’s specific comments on the various provisions in question are provided further below.

III. Third Party Compliance Option, Provision 11

Grower-Shipper agrees with the proposed order’s support for third party approaches. As stated in the proposed order, third parties can play a vital role in assisting regional water boards with their implementation of water quality regulatory programs for agriculture. As recognized in the proposed order, third parties have the expertise to provide technical assistance and training to growers “at a scale that cannot be matched by regional water board staff resources, and, in many cases, third parties already have relationships in place with the dischargers.” (Proposed Order, p. 12.)

Grower-Shipper also appreciates the proposed order’s references and discussion with respect to the third party surface receiving water approach approved by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) for growers in the Eastern San Joaquin Watershed. (Proposed Order, p. 29.) Grower-Shipper sees the Eastern San Joaquin Watershed approach, and its other third party provisions, as a potential model for a third party alternative for Central Coast growers. A third party group can confirm the veracity and effectiveness of growers’ efforts thereby alleviating concerns that the “good faith efforts” standard is too vague to assess compliance and implementation. To ensure that an “Eastern San Joaquin” type of third party approach along with other options remain viable alternatives for complying with the Conditional Waiver, Grower-Shipper believes that the language provisions provided in the proposed order need to be further expanded and revised. In addition to the changes included in the proposed order, Grower-Shipper recommends that Provision 11 be further amended as follows:

- First, there is an inconsistency with respect to terms in Provision 11. In the first instance, it references “alternative water quality management practices,” and then references “water quality improvement projects.” Use of the two different terms is confusing and does not provide for sufficient flexibility to allow for third party *programs* such as those put forward as part of the agricultural alternative or as set forth for the Eastern San Joaquin Watershed. The terms used in the Conditional Waiver, along with the option for cooperative monitoring and reporting programs, would appear to limit third party programs to those that either offer alternative management practices or projects, or alternative monitoring and reporting programs. As worded, it would not allow for an alternative third party water quality program that provides for a different approach from that contained in the Conditional Waiver. To address this issue, we recommend that all references to “alternative water quality practices” and “alternative water quality improvement projects” be revised to refer to “water quality management programs.” The broader term allows for improvement projects while maintaining flexibility for a more comprehensive alternative program.
- Second, with respect to the criteria for evaluating third party water quality improvement projects, it appears that most of the criteria are also appropriate for evaluating a water quality management program versus just improvement projects. However, we recommend several additional modifications. With respect to the “Chance of Success” criteria, we recommend that it be amended to include “pollutant source load reduction estimates” as one of the demonstrable options for indicating success. Thus, the Chance of Success criteria should read, “Projects must demonstrate a reasonable chance of improving water quality and/or pollutant source load reduction estimates.” For “Project monitoring and reporting,” it suggests that edge-of-farm monitoring is actually the preferred method. To ensure that there is no mistaken preference given to edge-of-farm monitoring, we recommend that the reference to edge-of-farm language be stricken as follows: “Monitoring points must be representative ~~but may not always be at the edge of farm so long as~~ and monitoring results should provide indicators of water quality improvement and the efficacy of a project or program.” The revisions suggested here do not eliminate edge-of-farm monitoring if it is determined to be the most appropriate for the project or program in question; however, it eliminates the suggested bias towards such monitoring.
- Next, the proposed order provides for suggested criteria that are specific to third party monitoring and reporting programs. In this newly suggested language, it indicates that aggregate monitoring and reporting must be on a scale sufficient to track progress in “small sub-basins.” The proposed order provides no definition or explanation as to what constitutes “small sub-basins.” Without knowing the proposed order’s intent with respect to this term, Grower-Shipper is unable to comment on the validity of this suggested revision.

- Finally, Grower-Shipper recommends that the Technical Advisory Committee provision be deleted. A Technical Advisory Committee here creates an additional bureaucratic step in the process that is not necessary. Moreover, with the additional language provided in the proposed order that allows for interested parties to seek review of Executive Officer approvals and denials, all parties are provided with a fair opportunity to seek review of an Executive Officer determination with respect to a third party alternative. Also, should the Central Coast Water Board be unable to establish and maintain a Technical Advisory Committee with the specified representatives, third party proposals will be ineligible for Executive Officer consideration, making Provision 11 null and void.

IV. Containment Structures, Provision 33

Grower-Shipper supports the proposed order's revisions to Provision 33.

V. Farm Plan/Practice Effectiveness and Compliance, Provision 44

The proposed order would revise Provision 44.d by striking the reference to typical volume of discharges and replacing it with the term "typical magnitude." Grower-Shipper appreciates the effort to provide clarification with respect to this issue but believes that it needs further explanation. The use of the term magnitude implies that as part of the Farm Plan, growers would need to describe generally, in narrative terms, the amount of discharge typical for that farm or ranch and that "typical magnitude" would not require the grower to calculate volume based on measured flow and cross-sections. Accordingly, Grower-Shipper recommends that Provision 44.d be revised to include the word "Narrative" prior to "Description."

VI. Groundwater Monitoring, Provision 51 and Part 2 of Tier 1-3 MRPs

As indicated previously, Grower-Shipper does not support the proposed order's approach of maintaining certain requirements in the interim while the Expert Panel is tasked with developing recommendations as to what are appropriate and scientifically sound approaches. In the case of groundwater monitoring, Grower-Shipper does not support maintaining individual groundwater monitoring for purposes of compliance determinations and trend monitoring for the very reasons articulated in the proposed order. However, to the extent that individual groundwater monitoring is being retained solely to protect public health, Grower-Shipper believes its use for such limited purposes is appropriate. To that end, Grower-Shipper believes that it is imperative that the proposed order provide for additional revisions to the Conditional Waiver that clearly specify the intended purpose of individual groundwater monitoring, which is limited to ensuring that domestic on-farm wells, actually being used for drinking water, meet drinking water standards for nitrate. Accordingly, Grower-Shipper recommends that Provision 51 of the Conditional Waiver be revised as follows:

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Tier 1, Tier 2, and Tier 3 Dischargers must conduct groundwater monitoring and reporting in compliance with MRP Order No. R3-2012-0011-01, MRP Order No. R3-2012-0011-02, and MRP Order No. R3-2012-0011-03, or alternative monitoring and reporting programs approved by Executive Officer as set forth in Finding 11 and Condition 11, so that the Central Coast Water Board can evaluate groundwater used for drinking water conditions in agricultural areas, and identify domestic wells that are being used as a drinking water source that areas at greatest risk for waste discharge and nitrogen loading and exceedance of drinking water standards to prioritize areas for the protection of public health and identify priority areas for nutrient management.

The proposed order concedes that the groundwater monitoring being required in the Conditional Waiver is not appropriate as compliance or trend monitoring. (Proposed Order, p. 25.) Further, the proposed order states that the Expert Panel will be tasked with considering appropriate structures and methodologies for monitoring that may support long-term nitrate control efforts. (*Ibid.*) In light of the proposed order's findings, we believe it is appropriate to clarify the justified purpose with respect to the individual groundwater monitoring requirements until such time as the Expert Panel completes its process and makes its recommendations to the State Water Board. Otherwise, growers run the risk of the data being used for purposes for which it is not appropriate.

In addition, Grower-Shipper recommends that any wells that do not supply domestic water, whose water quality data were uploaded to GAMA (due to individual groundwater sampling deadlines in fall 2012 and spring 2013) be redacted.

VII. Photo Monitoring, Provision 69 and Part 4 of Tier 2 and Tier 3 MRPs

Grower-Shipper appreciates the proposed order's efforts to provide further clarification with respect to alternative protocols for meeting the photo monitoring requirements. Unfortunately, for many growers, the clarification with respect to alternatives comes too late as the photo monitoring requirement has already been met by using the protocol established by the Central Coast Water Board's Executive Officer. Considering the resources already expended complying with this provision, it is unlikely that growers would repeat the process using a different protocol. However, to the extent growers must conduct photo monitoring in the future, Grower-Shipper supports the suggested revisions contained in the proposed order.

VIII. Individual Surface Water Discharge Monitoring, Provisions 72-73 and Part 5 of Tier 3 MRP

The proposed order appears to accurately capture some of the concerns and pitfalls associated with individual surface water monitoring requirements for Tier 3 dischargers. Because of these concerns, the proposed order intends to have the Expert Panel consider appropriate monitoring approaches for identifying problematic discharges. Yet, rather than

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removing the individual surface water monitoring requirements, the proposed order retains the requirement as it applies to Tier 3 dischargers, with some proposed changes. Grower-Shipper disagrees with the approach contained in the proposed order. In light of the deficiencies associated with individual surface water monitoring, such requirements need to be removed at this time.

The proposed order argues that maintaining the individual surface water monitoring is necessary in the interim so that the Conditional Waiver retains some methodology for addressing high-risk discharges and some accountability for high-risk dischargers. (Proposed Order, p. 29.) Considering the many other reporting requirements imposed on Tier 3 dischargers, we find this argument unconvincing. Specifically, Tier 3 dischargers are required to document and report management practice implementation at a fairly detailed level. (See Annual Compliance Form, the Irrigation and Nutrient Management Plan Effectiveness Report, and Water Quality Buffer Plan.) The management practice reporting provides for a high level of accountability and negates the need for and reasonableness of maintaining the individual surface water monitoring requirements.

Moreover, the proposed order finds that the costs of maintaining the individual surface water monitoring are reasonable. To make this finding, the proposed order discounts costs put forward by the Agricultural Petitioners, claiming that they were inflated. (Proposed Order, p. 30.) In comparison, the proposed order appears to side with the costs provided by Central Coast Water Board staff. On this point, Grower-Shipper finds the proposed order's conclusions to be incorrect and unsupported by the evidence in the record.

The costs put forward by Grower-Shipper in their request for stay and as part of the stay proceedings were provided in declarations prepared by experts with extensive experience in preparing quality assurance project plans and sampling and analysis plans for regional water board approval. The declarations were prepared separately and with no collaboration between the two experts. (See Declaration of Claus Suverkropp and Declaration of Michael L. Johnson in Support of Grower-Shipper's Request for Stay, April 12, 2012.) Although prepared independently, the experts estimated that costs for preparing a quality assurance project plan ranged from \$17,000 to \$28,800. (Suverkropp Decl., ¶ 7; Johnson Decl., ¶ 6.) Central Coast Water Board staff on the other hand, who are not expert consultants in preparing such documents, estimated the costs to be between \$750 and \$3,000. Staff's estimates were based on their experience in "designing and implementing monitoring programs" and their assertion that a ready-to-use template would be made available prior to the compliance date. (Submission by Central Coast Water Board in Response to Revised Notice of Public Hearing on Stay Request (Aug. 27, 2012), p. 33.) Staff claimed it would take a "qualified professional" 5-20 hours to complete the template at a cost of \$150/hour. *Ibid.*

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Unlike the cost estimates provided in the declarations from Grower-Shipper's experts, which rely on the experts' actual experience preparing such reports, Central Coast Water Board staff gave their "best guess" at the time and money required to fill out a template form. Without further evidentiary support, the costs associated with the individual surface water monitoring are not reasonably related to the proposed order's alleged benefit with respect to identifying high-risk discharges.

IX. Provisions Addressing Nitrogen Application

The proposed order intends to maintain a number of requirements in the Conditional Waiver associated with nitrogen application due to stated public health concerns. Grower-Shipper appreciates the public health concerns and understands why scientifically representative monitoring of domestic wells is important.

However, Grower-Shipper is concerned that a sufficient analysis and baseline of drinking water quality in the region has yet to be established. This is evidenced by the Central Coast Water Board's limited data regarding domestic drinking water aquifers. Grower-Shipper's representatives in Monterey, San Benito, Santa Cruz, and Santa Clara Counties will be addressing this deficiency directly with a Cooperative Groundwater Monitoring Program (approved by the Central Coast Water Board on July 11, 2013). As the Grower-Shipper Association of Central California noted in its May 23, 2012 letter to the State Water Board, it remains concerned that the Salinas Valley and Tulare Lake Basins were not well differentiated in the SBX2 1 report from U.C. Davis. These basins were addressed as though they are interchangeable, despite substantial industry-wide investments since 1990 by Monterey County Water Resources Agency, private firms, and farms to address nitrogen efficiency methods and tools in the Salinas Valley.

Additionally, the Conditional Waiver includes a number of additional requirements associated with nitrogen application that extend well beyond the individual groundwater monitoring well requirements. As indicated in the proposed order, one of the primary purposes of the Expert Panel is for qualified experts to collectively make recommendations on how to best address agricultural management of nitrogen use to protect groundwater. Considering that the State Water Board intends to have the Expert Panel make such recommendations, and "propose a comprehensive, consistent approach that will inform agricultural regulatory programs statewide," maintaining the various nitrogen application and reporting requirements in the Conditional Waiver in the interim is inappropriate. Grower-Shipper's comments on the specific requirements as they are addressed in the proposed order are provided below.

1. Determination of Nitrate Loading Risk Level, Provision 68 and Part 2, Section C.1-4 of Tier 2 and Tier 3 MRPs

As indicated, Grower-Shipper contends that the nitrate loading risk determinations should be eliminated or suspended until such time as the Expert Panel provides its recommendations, and the State Water Board determines its response to the recommendations. The proposed order's reliance on two admittedly inadequate methodologies cannot serve as the basis for dischargers' risk determination and additional reporting requirements. As Grower-Shipper has previously explained, the Central Coast Water Board's methodology is woefully inadequate because it does not contain any criteria related to soil type. "Just like the heart and the lungs are vital organs to the body, the soil is a critical factor in nitrate loading." (Letey Testimony, March 17, 2012, pp. 168:25-169:3.) To make up for this deficiency, the proposed order seeks to rely on the Groundwater Pollution Nitrate Hazard Index (Hazard Index) developed by the University of California Agricultural and Natural Resources group as a backstop. Yet, the Hazard Index was never intended to be used for this purpose. It was developed as a guide to provide information. (Grower-Shipper Petition p. 46.) It was not developed or intended for use as a regulatory tool as outlined in the proposed order.

To the extent that the State Water Board determines it is appropriate to maintain the determination of loading risk level, the revisions contained in the proposed order need to be further revised. Most importantly, considering a mid-August (or potentially later) adoption date, the October 1, 2013, deadline is not sufficient for growers to determine nitrate loading risk factors for each farm/ranch or nitrate loading risk unit. Accordingly, we request that at the very least, the compliance date be extended to December 31, 2013.

2. Total Nitrogen Applied, Provision 70 and Part 2, Section C.5 of Tier 2 and Tier 3 MRPs

The requirement that Tier 2 and Tier 3 dischargers report total nitrogen applied is based on the dischargers' determination that they have a high nitrate loading risk. Dischargers are to determine their nitrate loading risk using two admittedly flawed methodologies that will be subject to Expert Panel review and discussion. The total nitrogen applied reporting requirement is problematic because it stems from an inappropriate and/or inaccurate risk determination as discussed above. The proposed order's attempt to clarify this reporting requirement does not address or correct this fatal error. Dischargers must use methodologies that do not "provide a precise measurement of risk of nitrate loading" to determine whether or not they have to report. (Proposed Order, p. 34.) This is nonsensical. Accordingly, this reporting requirement should be eliminated until the Expert Panel endorses an appropriate methodology for determining nitrate loading risks.

3. Irrigation and Nutrient Management Plan, Provisions 74-77 and 79 and Part 6 of Tier 3 MRP

The changes made in the proposed order do not go far enough to adequately address Grower-Shipper's concerns with the elements of the Irrigation and Nutrient Management Plan (INMP), and do not appear to be consistent with the proposed order's findings. Even though the proposed order admits that the information to be reported is speculative and unreliable, it continues to require dischargers to "engage in this exercise for self-evaluation purposes." As Grower-Shipper previously explained, they do not oppose the need for dischargers to have and implement INMPs that are kept on the farm. However, such a requirement should be implemented after the Expert Panel completes its recommendations. Further, Grower-Shipper continues to believe that the requirement for certification of the INMP is unnecessary. If dischargers are qualified to evaluate and report on the effectiveness of the INMP, they should be qualified to develop their INMPs without "professional assistance."

Grower-Shipper also recommends that Provision 74 be deleted to ensure consistency with the proposed order's findings. Provision 74 states that the INMP must determine typical crop nitrogen uptake for each crop type and report the basis for the determination. The proposed order correctly notes that crop nitrogen uptake values are not widely available and will require crop substitution. Considering the limited availability of such information, we recommend that Provision 74 be deleted in its entirety.

4. Nitrogen Balance Ratios, Provision 78

Grower-Shipper supports the removal of the Nitrogen Balance Ratios provision from the Conditional Waiver. (See Grower-Shipper Petition, pp. 49-50.)

IX. Effective Control of Pollutant Discharges, Provisions 82 and 84-87

Grower-Shipper supports the proposed order's revisions to clarify that good faith efforts constitute compliance with Provisions 84 through 87 of the Conditional Waiver. However, the proposed order suggests that the iterative approach includes implementing "more stringent practices." The term stringent is likely not the appropriate term when referring to management practices. Rather than suggesting that practices are "more stringent," we recommend that the revision refer to implementation of more "effective" practices. Focusing on the effectiveness of practices will do much more to protect and improve water quality in the short and long term.

X. Annual Compliance Form, Provision 67 and Part 3 of Tier 2 and Tier 3 MRPs

Based on our comments above, we further request that conforming changes be made to the Annual Compliance Form. The next Annual Compliance Form will be due on October 1, 2013. Considering that the proposed order will not be heard for adoption prior to

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August, and considering that the Own Motion Review could extend State Water Board consideration well past August, we recommend that the Own Motion Review extend the Annual Compliance Form due date. Or, if the State Water Board does consider adoption in August, we recommend that the Annual Compliance Form due date be extended beyond October 1, 2013, to allow Central Coast Water Board staff time to make revisions, and to allow growers sufficient time to complete the form with suggested revisions. The date should be consistent with the nitrate loading risk factor calculation date of December 31, 2013.

Grower-Shipper appreciates the State Water Board's time and attention to these petitions.

Sincerely,

A handwritten signature in black ink, reading "Theresa A. Dunham". The signature is written in a cursive style with a large, looping initial "T".

Theresa A. Dunham

cc (*electronically only*): Attached Service List

TAD:cr

SERVICE LIST
SWRCB/OCC File Nos. A-2209(a)-(e)

Mr. Ken Harris
Interim Acting Executive Officer
Central Coast Regional Water Quality
Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
kharris@waterboards.ca.gov

Frances McChesney, Esq.
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
fmcchesney@waterboards.ca.gov

Mr. Michael Thomas
Assistant Executive Officer
Central Coast Regional Water Quality
Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
mthomas@waterboards.ca.gov

Jessica M. Jahr, Esq.
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
jjahr@waterboards.ca.gov

Ms. Angela Schroeter
Senior Engineering Geologist
Central Coast Regional Water Quality
Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
aschroeter@waterboards.ca.gov

Lori T. Okun, Esq.
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
lokun@waterboards.ca.gov

Ms. Lisa McCann
Environmental Program Manager I
Central Coast Regional Water Quality
Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
lmccann@waterboards.ca.gov

Philip Wyels, Esq.
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
pwyels@waterboards.ca.gov

Mr. Darrin Polhemus
Deputy Director
Division of Administrative Services
P.O. Box 100
Sacramento, CA 95812-0100
dpolhemus@waterboards.ca.gov

Michael Lauffer, Esq.
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
mlauffer@waterboards.ca.gov

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Ms. Abby Taylor-Silva
Vice President
Policy and Communications
Grower Shipper Association of
Central California
512 Pajaro Street
Salinas, CA 93901
abby@growershipper.com
Petitioner [File No. A-2209(d)]

Mr. Hank Giclas
Senior Vice President
Strategic Planning, Science & Technology
Western Growers
P.O. Box 2130
Newport Beach, CA 92658
hgiclas@wga.com
Petitioner [File No. A-2209(d)]

Deborah A. Sivas, Esq.
Leah Russin, Esq.
Alicia Thesing, Esq.
Brigid DeCoursey, Esq.
Environmental Law Clinic
559 Nathan Abbott Way
Stanford, CA 94305-8610
dsivas@stanford.edu
*Attorneys for Petitioners Monterey Coastkeeper,
Santa Barbara Channelkeeper, San Luis
Obispo Coastkeeper [File No. A-2209(a)]*

Mr. Steven Shimek
Monterey Coastkeeper
The Otter Project
475 Washington Street, Suite A
Monterey, CA 93940
exec@otterproject.org
Petitioner [File No. A-2209(a)]

Mr. Richard S. Quandt
President
Grower-Shipper Association of Santa
Barbara and San Luis Obispo Counties
P.O. Box 10
Guadalupe, CA 93434
richard@grower-shipper.com
Petitioner [File No. A-2209(d)]

William Thomas, Esq.
Wendy Y. Wang, Esq.
Best Best & Krieger
500 Capitol Mall, Suite 1700
Sacramento, CA 95814
William.thomas@bbklaw.com;
wendy.wang@bbklaw.com
*Attorneys for Petitioners Ocean Mist Farms
and RC Farms [File No. A-2209(c)]*

Mr. Dale Huss
Ocean Mist Farms
10855 Ocean Mist Parkway
Castroville, CA 95012
daleh@oceanmist.com
Petitioner [File No. A-2209(c)]

Mr. Dennis Sites
RC Farms
25350 Paseo del Chaparral
Salinas, CA 93908
dsitesagmgt@aol.com
Petitioner [File No. A-2209(c)]

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Mr. Gordon R. Hensley
San Luis Obispo Coastkeeper
Environment in the Public Interest
EPI-Center, 1013 Monterey Street, Suite A
San Luis Obispo, CA 93401
coastkeeper@epicenteronline.org
Petitioner [File No. A-2209(a)]

Ms. Kira Redmond
Mr. Ben Petterle
Santa Barbara Channelkeeper
714 Bond Avenue
Santa Barbara, CA 93103
kira@sbck.org; ben@sbck.org
Petitioner [File No. A-2209(a)]

Nancy McDonough, Esq.
Kari E. Fisher, Esq.
Ms. Pamela Hotz
California Farm Bureau Federation
2300 River Plaza Drive
Sacramento, CA 95833
Phone: (916) 561-5665
Fax: (916) 561-5691
kfisher@cfbf.com; photz@cfbf.com
*Attorneys for Petitioners California Farm
Bureau Federation, Monterey County Farm
Bureau, San Benito County Farm Bureau,
San Luis Obispo County Farm Bureau, San
Mateo County Farm Bureau, Santa Barbara
County Farm Bureau, Santa Clara County
Farm Bureau, Santa Cruz County Farm
Bureau [File No. A-2209(b)]*

Matthew S. Hale, Esq.
Hale & Associates
1900 Johnson Road
Elizabeth City, NC 27909
matt@haleesq.com
*Attorney for Petitioners Jensen Family
Farms, Inc. and William Elliott [File
No. A-2209(e)]*

Jensen Family Farms, Inc.
c/o Matthew S. Hale, Esq.
1900 Johnson Road
Elizabeth City, NC 27909
matt@haleesq.com; ElliottSLO@aol.com
Petitioner [File No. A-2209(e)]

Mr. William Elliott
Jensen Family Farms, Inc.
c/o Matthew S. Hale, Esq.
1900 Johnson Road
Elizabeth City, NC 27909
matt@haleesq.com; ElliottSLO@aol.com
Petitioner [File No. A-2209(e)]