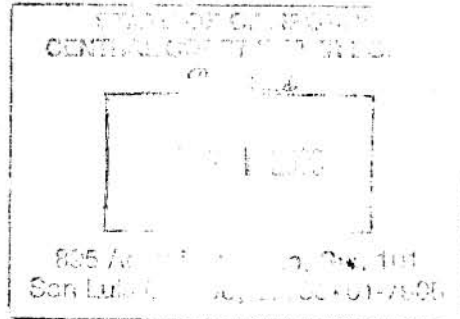




750 Shannon Hill Dr
Paso Robles, CA 93445
805-208-8039

October 13, 2009

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



Dear Mr. Young:

This letter is intended to provide comments to you and Regional Board members regarding the Conditional Ag Waiver Renewal Panel process; consequences of Regional Board staff's actions and to provide suggestions on solutions. I wish I were able to make personal testimony before the Board; but, unfortunately, have an unavoidable scheduling conflict.

The Coalition's mission is to represent the agricultural community [all growers and ranchers] in the development and implementation of voluntary, cost-effective, producer-directed programs to protect water quality on the California Central Coast". We do this through education, outreach, coordination, facilitation and innovation. *In short, our focus is cooperative problem solving.*

We have a positive history of collaborating on water quality improvement projects. The Coalition has been an impetus of water quality improvements throughout Region 3 for more than ten years. We are a member of the Ag Water Quality Alliance in the Monterey Bay watershed which is composed of NRCS, Resource Conservation Districts, Monterey Bay National Marine Sanctuary and UCCE. We were an integral part of the adoption and successful implementation of the 2004 Conditional Ag Waiver. We interface with hundreds of growers and ranchers every year through technical seminars, newsletters, and field demonstrations. In spite of the current negative climate created by the 2009 Conditional Ag Waiver discussions and 2008/09 budgetary challenges, The Coalition has continued to concentrate and encourage growers to work on water quality improvements. The Coalition is passionate about water quality and we "walk the talk" as evidenced in the two attachments: the 2009 Summer Newsletter and a Coalition 2009 September update.

The Coalition is extremely disappointed in the failure of the Conditional Ag Waiver Panel process. The Executive Officer's Report for the October 23, 2009 hearing attributes the failure of the Conditional Ag Waiver Panel to: 1) the perception that Staff had a predetermined Waiver Order and 2) members of the panel were not in agreement. The Coalition agrees that staff's treatment of the Waiver as predetermined outcome was partially responsible for the failure of this panel. The Coalition does not agree with the second statement. Quite frankly, the Panel never had enough substantive discussion on which the Panel members could disagree.

On two previous occasions, February, 2009 and July, 2009, The Coalition voiced concerns to the Regional Board that RWQCB staff management had abandoned the collaborative process. We discussed our perceptions that staff was hostile to Ag, was not listening to the stakeholders sitting on the Panel and was not conducting itself in a transparent manner. These factors eventually led to the failure of all collaborative efforts with staff. *In summary, the perception created by staff's*

Supplemental Sheet-Item No. 21
October 23, 2009 Meeting
Public Comments – Ag Regulatory
Program
Attachment 1

upper management is that they are more interested in proving they can regulate agriculture than in improving water quality.

The arrogant approach of this staff is tantamount to a violation of public trust. The results are the forfeiture of years of work by hundreds of people to create collaborative solutions to water quality impairments. Millions of dollars in public and private investment are being callously discarded.

And the question is "why"? Central Coast Agriculture was not a recalcitrant regulated community. They invested hundreds of staff and volunteer hours and thousands of dollars to ensure the success of the 2004 Conditional Waiver. In 2008, growers came eagerly to the table to discuss revisions to a Waiver. Growers and their staff were shocked when Regional Board management dismissed the 2004 Waiver as less than successful. Prior to convening the Conditional Ag Waiver Renewal Panel, Ag had been repeatedly told that that the Waiver was a model throughout the nation. Perhaps, improvements were not as immediate or as dramatic as the Regional Board staff had hoped; but, how quickly they forgot their own words. In the 2004 Conditional Ag Waiver Order, they stated "it is not expected that Dischargers will achieve full compliance with all of the conditions immediately." This staff has moved from constant *positive* change to *negative and onerous* demands overnight.

Staff's actions have polarized communities on the Central Coast and impacts are no longer theoretical and somewhere in the future. The impacts are currently being felt by The Coalition. At this juncture, we are questioning whether The Coalition will be able to continue to execute its mission of cooperative problem solving. We are currently doing great work, but, this is based on grants written a couple of years ago. Today's growers have grown wary of water quality initiatives. At present, we are having difficulty finding growers to work with us on projects. Growers are, for all intents and purposes, on regulatory overload.

The Coalition may be forced to shut its doors. This is not an ultimatum, but, is simply a statement of the consequences of staff's actions. Perhaps, this will not be perceived as a great loss by some parties since it has always been difficult to measure the effectiveness of the Coalition's coordination efforts. Nevertheless, the likelihood is that the Coalition's intrinsic value will be missed if/when it is gone. All parties: agriculture, regulator, technical service providers, and the public, will feel the loss of this institution in much the way a person misses their health once they are sick. It is taken for granted until it is absent.

What can be done to salvage this situation? It is incumbent on the Regional Board to restore some semblance of public trust. Immediate and swift efforts need to be made to:

- 1) Make tangible acknowledgment of the past accomplishments of Central Coast agriculture in water quality improvements;
- 2) Strongly emphasize transparency in all aspects of decision making and public process. Public interactions should be more than a box that is checked to meet CEQA requirements.
- 3) Enforce a real effort on the part of staff to communicate (i.e. listen-to-understand and empathize) with the regulated community;
- 4) Create a reality check on staff's expectations. Efforts should concentrate on simple and effective solutions rather than grandiose, impractical schemes;
- 5) Ensure responsible use of public funds for their intended use. For example, PG&E and Guadalupe funds were never intended to be used for compliance related activities or to fill budgetary deficiencies;
- 6) Eliminate duplicative regulation;
- 7) Acknowledge that Ag has a finite capacity to absorb regulatory costs. In other words, the regulatory burden can not be passed to the consumer. This should be a critical consideration in implementation plans.
- 8) Base all decisions on objective use of information. This encompasses all aspects of staff's activities: from the analysis of data to enforcement strategies.
- 9) Accept the fact that agriculture can not "do" staff's job. Ag can not monitor, track, and enforce on members of its own community. Such actions violate traditional and strongly-held social norms.

- 10) Discard staff's pre-ordained goals and objectives and require staff to utilize honest, open and fair stakeholder involvement to craft feasible, achievable and reasonable regulation.

Without Board action, the present state of affairs will remain the same or worsen into a protracted, problematic, never-ending mess. And sadly, in the end, water quality and associated beneficial uses will not be protected and water quality will not be improved.

The Coalition thanks you for this opportunity to provide feedback. It is The Coalition's sincere wish is to continue to provide value to growers and the public. We would be more than happy to provide information to the Regional Board about how to effectuate change within the agricultural community. The Coalition and our diverse constituencies are relying on the Board to direct staff onto a more productive and positive course of action.

Most Sincerely,

A handwritten signature in black ink, appearing to be 'Kay Mercer', with a long horizontal line extending to the right.

Kay Mercer
Executive Director

CC: Mr. John Hayashi
Mr. David Hodgkin
Ms. Monica Hunter
Mr. Russell Jeffries
Mr. Gary Shallcross
Mr. Tom O-Malley

Currents

Board of Directors

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San Benito County
- Don Hordness, CFO/V.P.
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- Benny Jefferson, Secretary
District Farm Bureau Rep
- Tom Gibbons, Assist.
Treasurer
Santa Barbara County
- Kevin Merrill, Assist.
Secretary
Grape Growers Rep
- BJ Burns
San Mateo County
- Robert Rodoni
Santa Cruz County
- Bill Hammond
Monterey County
- Ray Allen
San Luis Obispo County
- AJ Cisney
Vegetable Growers Rep
- June VanWingerden
Flower & Nursery Growers Rep
- Tom Thompson
Cattlemen's Representative
- James Bogart, Ex-officio
Grower-Shipper Association of
Central California
- Richard Quandt, Ex-officio
Grower-Shipper Association of
San Luis Obispo & Santa
Barbara Counties

Alternates

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Santa Clara County
- Richard Bianchi
San Benito County
- Steven Rodoni
Santa Cruz County
- Jim Manassero
Monterey County
- Steve Arnold
San Luis Obispo County
- Greg Baldwin
Santa Barbara County
- Bart Haycraft
Grape Growers Rep
- George Adam
Vegetable Growers Rep
- Marvin Teixeira
Cattlemen's Rep
- Alex VanWingerden
Flower & Nursery Growers Rep

Executive Director's Update by Kay Mercer

The Central Coast Agricultural Water Quality Coalition successfully merged with the Southern San Luis Obispo and Santa Barbara Counties Agricultural Watershed Coalition in 2008.

Today's geographical boundaries include Santa Clara, San Mateo, San Benito, Santa Cruz, Monterey, SLO, Santa Barbara and part of Ventura Counties.

All growers and ranchers in the area are represented regardless of their organizational affiliation, geography, size, commodity or farming system.

The new organization is streamlined and now able to truly address common water quality issues throughout the Central Coast.

The Bad News of 2008: Shortly after the merger, the State of California's budget woes resulted in slashed grant funding and The Coalition struggled to survive. We were forced to lay off staff and close the office in Santa Maria. We moved from our office in Soquel to a rent-free location in Corralitos (outside of Watsonville).

The Good News in 2009: WE SURVIVED! We maximized our remaining funds and we were able to produce meaningful work with very little money. We dedicated ourselves to finding restart previously granted funds and have re-procured \$584,000 for 2009/2010.

Now, We're on a roll! Committed people really make a difference! Here are some examples of our 2009 activities:

- Participated in providing an industry perspective on reports and legislative sessions regarding Co-Management of Water Quality and Food Safety
- Participated in the organization of 3 Coast and Ocean Regional Roundtables in SLO, Monterey and Santa Cruz Counties.
- Assisted growers with applications for organic certification using EQIP funds
- Hosted Multiple Seminars:
 - Two organic certification seminars
 - Three IPM seminars which demonstrated how alfalfa border strips next to Strawberry fields could be used to trap Lygus bugs. The use of bug vacuums were then demonstrated in the border strips.
 - "Get the Dirt on Sediment" seminar in Santa Maria
 - Two Bait Station and Irrigation Training Seminars in Monterey County
 - One Nitrate and Nutrient interconnections Seminar in the Monterey Bay
 - One Vegetated Treatments Systems Field Day and Seminar (with ALBA) in the Monterey Bay Area.
- Worked closely with 10 Santa Clara County growers to develop irrigation efficiency and distribution uniformity templates for five different types of irrigation systems
- Worked with private industry to develop pesticide mitigations for commercial adoption.
- Began to update and organize Rangeland Water Quality Planning Education.
- Restarted the Santa Maria Watershed Coordinator Grant to initiate grower watershed groups for transfer of technical information and explore potential solutions with Non-ag partners.
- Participated in the Ag Waiver Renewal Panel.
- Initiated discussions about how to remediate nitrate contamination, mitigate pesticides, use laser technology to measure sediment losses, and measure risk associated with rodent populations.
- Collaborated with NRCS, RCDs, Monterey Bay National Marine Sanctuary on the USDA Ag Water Enhancement Program



There are still challenges in our future:

The economic world has changed, and those changes will likely impact The Coalition in the foreseeable future.

The political environment has changed, too. In the past couple of years, seemingly bad faith actions taken by regulatory agencies and environmental interests have created an environment in which growers have become skeptical about the value of collaboration.

Grant funding sources have shifted away from the core services The Coalition has been providing to funding on-the-ground research, implementation, and demonstration activities. Often, non-profits such as The Coalition are blocked from research funding which is given in preference to research institutions.

Did you know that growers have contributed almost \$0 in financial support to The Coalition in the past ten years? The Coalition has been able to provide its services, free-of-charge, to growers by accessing public grant funds. We may not be able to continue to do that.

We need to chart a course of financial stability. We need to blend public and private funding sources. We must learn to express the intrinsic value of our services in ways to attract funding.

Additionally, we must extend and retrain our staff to provide technical services and to embrace technological innovations that will mitigate water quality impairments.

While these are turbulent times, the importance of water quality and its relation to nutritious and safe food, healthy ecosystems, and abundant drinking water can not be minimized.

The Coalition is poised to continue work with growers on water quality issues specific to the Central Coast of California through broad-based representation, a strong network of partners, our detailed knowledge of local watersheds, our expert outreach and education professionals, our collective coordination and facilitation skills and our ability to bring our members innovative, technical solutions to chronic problems.

We look forward to working with you and your communities as we create a model that is successful in the next ten years. We hope to become the leaders in generating bottom-up solutions to on-farm water quality issues.

Our Staff

- Kay Mercer, Executive Director
- Tim Frahm, Watershed Coordinator for San Mateo County Farm Bureau
- MaryEllen Dick, Watershed Coordinator, Sta Clara and San Benito County Farm Bureaus
- Traci Roberts, Environmental Resources Coordinator, Monterey County Farm Bureau
- Chris Goodson, Watershed Coordinator, Santa Cruz County
- Dina Iden, Program Manager for Rangeland Water Quality Planning Education
- Kathleen Robins, Program Manager for Co-Mgt of Water Quality and Food Safety
- Cressida Silvers, Santa Maria Watershed Coordinator
- Kate Benneche, Golden Hills Bookkeeping
- Paul Moncrief, Pro bono attorney, Johnson and Moncrief

CCAWQC September, 2009 Update

SEDIMENT MANAGEMENT

- Cressida Silvers is organizing an October seminar called "Get the Dirt on Sediment" on October 15, 2009.
- Kay attended Soil and Water Conservation Society's "From the Dust Bowl to the Mud Bowl" Workshop. Check out Facebook in the near future for a summary of interesting information regarding sediment loading and eutrophication.

INTEGRATED PEST MANAGEMENT

- Chris Goodson, Watershed Coordinator in Santa Cruz County, is developing a Lygus bug scouting video in Spanish to be used by Hispanic strawberry growers.
- Chris Goodson is conducting an EPA Sustainable AG Index Survey of growers in Santa Cruz and Santa Clara Counties.

IRRIGATION MANAGEMENT

- Chris Goodson and Michael Cahn, UCCE, continue to develop irrigation SOPs for irrigation efficiency and distribution uniformity for a variety of irrigation systems.
- MaryEllen Dick will organize watershed meetings/ workshops for 2009/2010. The primary focus of the meetings will be irrigation management.

PESTICIDE MITIGATIONS

- Cressida Silvers is organizing 2 pesticide mitigation demonstration projects in Santa Maria
- The Coalition has been invited to submit an abstract to the American Chemical Society to discuss challenges in developing pesticide mitigation technologies.

NUTRIENT MANAGEMENT

- Traci Roberts is organizing a technical seminar in the fall that will focus on nutrient management and irrigation efficiencies in Monterey County.

CO-MGT OF WATER QUALITY AND FOOD SAFETY

- Kathleen Robins, Program Manager, is organizing a Technical Advisory Committee Meeting to plan community outreach on Co-management of Water Quality/Food Safety research data resulting from our research projects.

RANGELAND WATER QUALITY

- Dina Iden, Program Manager and MaryEllen Dick, Watershed Coordinator, began revisions of Rangeland Water Quality Planning education for the Central Coast.

IRWMP

- The Coalition is tracking four IRWMP processes and there are concerns about the return on time invested.

EDUCATION/OUTREACH/PUBLIC RELATIONS. The Coalition is improving outreach systems:

- The Coalition's Web-Site address is <http://www.agwaterquality.org/>
- The Coalition's Facebook Group Page is:
<http://www.facebook.com/home.php?#/group.php?gid=113542024999>
- We post other class schedules and updates through the Agricultural Water Quality Alliance Web-Site:
<http://www.awqa.org/>

2009 AG WATER QUALITY ALLIANCE STEWARDSHIP AWARDS

Traci Roberts, Monterey County Farm Bureau, Sarah Greene, Central Coast Water Quality Preservation, Inc, Rachelle Antinetti, Consultant for Dow AgroSciences and CSIRO, and the Growers of Quail Creek were awarded the 2009 AWQA Stewardship Award for collective and collaborative efforts to improve water quality on Quail Creek in the Salinas Watershed! Join me in extending hearty Congratulations to all involved!!