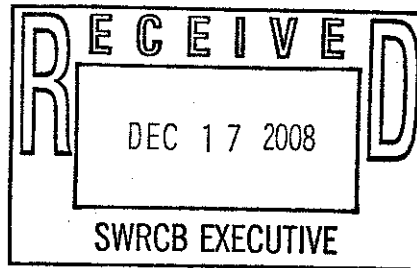




CALIFORNIA FARM BUREAU FEDERATION  
NATURAL RESOURCES AND ENVIRONMENTAL DIVISION

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December 17, 2008



*Via Email*

[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

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

**Re: Comment Letter – Anti-degradation Policy (Resolution 68-16)**

Dear Chairman Doduc and Members of the Board:

The California Farm Bureau Federation (“Farm Bureau”) is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California’s largest farm organization, comprised of 53 county Farm Bureaus currently representing approximately 88,000 members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California’s resources.

Farm Bureau appreciates the opportunity to comment on SWRCB Resolution No. 68-16 (the Statement of Policy with respect to maintaining high quality of waters in California); specifically, its implementing guidelines as contained in the Administrative Update 90-004 (APU 90-004), precedential decisions, and legal memoranda. In response to the State Water Board’s questions on possible revisions to the Anti-degradation Policy, Farm Bureau provides the following:

- 1. Should the State’s Anti-degradation Policy be revised as it pertains to surface waters? If so, how should it be revised?**

No. California’s Anti-degradation Policy is composed of both the federal Anti-degradation Policy and the State Water Board’s Resolution 68-16 (State Water Resources Control Board, Water Quality Order 86-17, p. 20 (1986); Memorandum from Chief Counsel William Attwater, SWRCB to Regional Board Executive Officers, “federal Anti-degradation Policy,” pp. 2, 18 (Oct. 7, 1987) (“State Anti-degradation Guidance”). As a state policy, with inclusion in Water Quality Control Plans (Basin Plans), the Anti-degradation Policy is binding on all of the Regional Boards (Water Quality Order 86-17, pp. 17-18). Given this, State Water Board

Resolution No. 68-16 should not be revised as it pertains to surface waters. Because of the overlay between the application of the state's Anti-degradation Policy coupled with the federal policy, the two policies work together well. Changes to State Water Board Resolution No. 68-16 as it applies to surface waters could upset the harmonious relationship between the two.

**2. Should the implementation procedures as contained in APU 90-004 be revised? If so, how should they be revised?**

No. Implementation of the state's Anti-degradation policy is guided by the State Anti-degradation Guidance, SWRCB Administrative Procedures Update 90-004, 2 July 1990 ("APU 90-004") and USEPA Region IX, "Guidance on Implementing the Anti-degradation Provisions of 40 CFR 131.12" (3 June 1987) ("Region IX Guidance"), as well as Water Quality Order 86-17. The State Water Board's APU 90-004 specifies adequate guidance to the Regional Boards through the establishment of a two-tiered process for addressing these policies and by setting forth two levels of analysis: a simple analysis and a complete analysis.

**3. Should the implementation procedures be formally adopted as guidance or regulations by the State Water Board?**

A policy guidance document with implementation procedures is needed in order to ensure that all entities, including regulators, the Regional Boards, and stakeholders, are appropriately interpreting the policy. Such implementation procedures need flexibility, must consider economic impacts and practicability of implementation, and provide clarification to ensure proper use and implementation of the policy. Such guidance should call for analysis of the relative economic burden as an aggregate impact across the entire region, along with the economic and social impacts to water supply, irrigated agriculture, industrial uses, recreation, fisheries, etc.

**4. Should the implementation procedures in APU 90-004 be expanded beyond the point source discharge permitting program?**

Farm Bureau reserves the right to comment on this question at a future date.

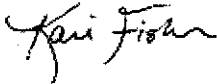
**5. Should the State's Anti-degradation Policy be revised as it applies to groundwater? If so, why should it be revised, and how should it be revised?**

No. The State's Anti-degradation Policy should not be modified or amended. Rather, clarification and/or direction given to staff through a guidance document is recommended. Specifically, Farm Bureau recommends that the State Water Board:

- Provide better direction with regard to the actual application of groundwater beneficial uses and water quality objectives.
- Provide clarification regarding when a best practicable treatment or control (BPTC) study or assessment is required for constituents in the effluent regardless of groundwater quality that may be impacted by the discharge of effluent to land.
- Because of the actual limited application of State Water Board Resolution 68-16 as discussed in existing State Water Board orders, any discussions regarding revisions to State Water Board Resolution 68-16 must necessarily be limited to situations where the groundwater is of better quality than the applicable water quality objective unless the State Water Board intends to expand the current scope of State Water Board Resolution 68-16.

Thank you for the opportunity to assist the State Water Board in determining the scope and content of any revisions to the Anti-degradation Policy or its implementation procedures, or both.

Sincerely,



**Kari E. Fisher**  
Associate Counsel

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