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January 9, 2016

Mr. Chris Rose  
Irrigated Lands Regulatory Program Manager  
Regional Water Quality Control Board  
895 Aerovista Pl, Suite 101  
San Luis Obispo, CA 93401  
[AgNOI@waterboards.ca.gov](mailto:AgNOI@waterboards.ca.gov)

*Re: California Regional Water Quality Control Board, Central Coast Region, Draft Order No. R3-2017-0002, Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands*

Mr. Rose:

The California Strawberry Commission (CSC) represents California's 400 family farmers, shippers and processors of strawberries, an industry predominately located in Region 3. California's strawberry farmers have a long history of implementing water efficiencies, maintaining cultural practices to preserve water quality and a conservative and careful use of plant health measures focused on Integrated Pest Management and prevention rather than treatment.

This includes pioneering drip irrigation and water conservation measures four decades ago. By placing drip lines next to the plants, water is delivered directly to the plant roots under a cover of plastic mulch that retains the moisture in the applied area rather than permitting runoff and discharge. This practice greatly reduces the amount of water needed to irrigate strawberries, and allows our operators to carefully control the runoff and the loss of nutrients from our crop to the environment.

Because we use direct drip application and barrier fabric in most operations, natural precipitation that falls on our fields rarely comes in direct contact with the soils, a factor that prevents loading of surface runoff with nutrients and nitrates. This preserves the high water quality leaving our fields and entering nearby waterways.

Our long experience with early pest and disease detection focused on scouting, combined with regular observation of our drip application of water, reduces the need for pesticides in strawberry operations to spot treatment rather than area spraying. Our implementation of non-pesticide control measures, including in-field vacuums to remove Lygus bug infestations, stringent weed control, and hand harvesting provides an opportunity for human eyes and hands to visit each plant throughout production. This in turn ensures early detection of pest infestations or disease outbreaks before widespread pesticide applications become necessary.

As you know, CSC is building on current industry efficiencies and developing a strawberry sustainability certification program which aims to improve the water quality in the Pajaro River, Lower Salinas and Santa Maria/Oso Flaco watersheds by reducing non-point source discharge. While the certification program may provide California strawberry growers an option for complying with waste discharge requirements in the future, our growers need a workable option for the present. As such, our Commission has analyzed the effect proposed Ag Order 3.0 would have on strawberry farming operations and we share many of the same concerns expressed in the January 09, 2017, comment letter submitted by The Grower-Shipper Association of Central California. Additionally, we want to share the following concerns:

1. **Substantial Substantive Changes from 2.0.** Agenda Item 6 of the Board’s July 2016 meeting stated, “The proposed 2017 ag order (version 3.0) will be largely unchanged from the current order in most aspects, but will have new compliance dates.” However, the proposal issued includes significant and extensive changes — as do amendment made to the MRPs. Previously, the Board indicated that significant changes would be postponed until pending legal issues could be resolved; at which point, the board would draft a new order, 4.0, consistent with the legal decisions and inclusive of other necessary changes.
2. **Duration.** Waivers of waste discharge requirements may have a duration of five years, yet Ag Order 3.0 is limited to three years. As allowed under law, we request that the order be issued for a full term of five years (expiration date to March 8, 2022) to minimize the potential for interruption of regulated discharges of waste from irrigated agricultural operations. (Draft Order, Item 85)
3. **Supporting Justifications.** Changes to the order are being made despite the apparent failure of Board staff to update its justifications and scientific research underlay to reflect state-of-the-art findings, research outcomes and technology discoveries. The proposed order and supporting justification documents contain and are based on out-of-date and incomplete or contradictory scientific information. Citations classifying agricultural practices do not reflect current modern crop production methods and practices. For example, the CSC funded a two-year study to look at the presence of nitrates (a form of nitrogen) in the soil on strawberry farms in California. This research shows that, in most fields the quantity of nitrogen applied is nearly the same as the amount taken up and used by the crop. Researchers also found that at the end of the season, there is little nitrate left in the field’s soil. Both findings demonstrate that the strawberry plants are utilizing nearly all the nitrogen applied by operators. As a result, the study provides data that there are minimal nitrates remaining in soils used to grow strawberries to dissolve and run off to surface waters or percolate to contaminate groundwater aquifers. Yet, strawberries are listed as a “Crop Type with High Potential to Discharge Nitrogen to Groundwater” based on assumptions made in a 20-year-old study which needs to be updated. This is but a single example of many that could be made of new provisions of the proposed order not aligning with current knowledge and science.
4. **Clarifications.** The proposed order is vague and should be clarified. For example, the transfer of responsibility for submittal of a notice of intent (NOI) for operators that occupy for less than 12 months to the landowner is unnecessarily vague, is subject to confusion and may result in unintentional situations in which neither party performs its duties under the order (Draft Order, Item 55). Further, the current draft continues the same vague and overly generalized language CSC previously identified as unworkable in version 2.0.
5. **MRP Expansion and Changes.** Ag Order 3.0 relies on expanded sampling frequencies as prescribed in the August 2016 MRPs which is unnecessary and will increase compliance costs without benefit to the program. Increasing the frequency of pesticide sampling does not reflect a coherent planning process nor does the monitoring design address clear scientific objectives sufficiently to mitigate the additional burden and cost it requires. The Board should consider a sufficient interval in such sampling to reflect changes to cultural practices by owners and operators and modifications to available pesticides and restrictions on use imposed by the California Department of Pesticide Regulation.
6. **Expansion of Total Nitrogen Applied (TNA) Reporting.** Ag Order 3.0 greatly expands TNA reporting -in turn expanding data which is publicly available in our Region. For growers in tier I and tier II who grow any crop type with high potential to discharge nitrogen to groundwater, they will now have to track and report TNA for all crops on their farm/ranch, regardless of their demonstrated potential to discharge nitrogen. Instead

of expanding TNA, we ask that the Board reevaluate the TNA requirement and consider alternatives such as scientific evidence of total nitrogen fate in crops such as strawberry in place of simple TNA reporting.

Thank you for the opportunity to share our concerns with the proposed Ag Order 3.0 and its accompanying MRPs. Should you have any questions about our concerns, please do not hesitate to contact Marla Livengood at 916-445-3335.

Sincerely,

A handwritten signature in cursive script that reads "Marla Livengood".

Marla Livengood  
Regulatory Affairs Manager