County of San Luis Obispo
Agricultural Liaison Advisory Board

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Agricultural Liaison Advisory Board (ALAB)

Positions/Members/Terms

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VICE CHAIR: Jean-Pierre Wolff

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Neil Roberts (4/12)

County Agricultural Commissioner
Bob Lilley
Ex-Officio
U.C. Coop. Extension Farm Advisor
Mary Bianchi
Ex-Officio

DATE: April 12, 2010

TO: San Luis Obispo County Board of Supervisors

SUBJECT: Central Coast Regional Water Quality Control Board (CCRWQCB) regarding the preliminary draft Agricultural Order to Control Discharges from Irrigated Lands

Members of the Agricultural Liaison Advisory Board (ALAB) met on April 5, 2010, to discuss the proposed CCRWQCB draft order and its impact on agriculture in the county. Members unanimously agreed to the following motion:

ALAB requests the Board of Supervisors support the agriculture community's Preliminary Alternative Agricultural Proposal as presented in the California Farm Bureau Federation's April 1, 2010 letter to the CCRWQCB, by requesting the CCRWQCB direct its staff to develop an order based upon this alternative concept proposal.

The alternative concept proposal is attached.

ALAB requests that a Board of Supervisor member attend and testify on behalf of the County at the CCRWQCB workshop scheduled for May 12, 2010. Alternatively, ALAB would support your Board sending a letter to the CCRWQCB expressing the County's concerns about the proposed order and supporting the alternative concept proposal.

Sincerely,

Dee Lacey

Dee Lacey, Chair
Agricultural Liaison Advisory Board

CALIFORNIA FARM BUREAU FEDERATION
NATURAL RESOURCES AND ENVIRONMENTAL DIVISION
2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 · PHONE (916) 561-5665 · FAX (916) 561-5691

Via US Mail and Email
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April 1, 2010

Jeffrey S. Young, Chairman of the Board
Roger Briggs, Executive Officer
California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Re: ***Preliminary Alternative Agricultural Proposal in Response to Preliminary Staff Recommendations for an Agricultural Order to Control Discharges from Irrigated Lands***

Dear Mr. Young and Mr. Briggs,

Please find the attached Preliminary Agricultural Proposal submitted in response to the Central Coast Regional Water Quality Control Board's "Preliminary Staff Recommendations for an Agricultural Order to Control Discharges from Irrigated Lands." This Preliminary Agricultural Proposal is submitted on behalf of 7 County Farm Bureaus, as well as numerous additional entities listed at the conclusion of the proposal. Given the draft nature of this agricultural proposal, the agricultural community respectfully requests future and continuing collaboration with Regional Board staff and Board members as a new discharge program is developed.

Sincerely,

Kari E. Fisher
Associate Counsel

Attachment

CALIFORNIA FARM BUREAU FEDERATION
NATURAL RESOURCES AND ENVIRONMENTAL DIVISION
2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 · PHONE (916) 561-5665 · FAX (916) 561-5691

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April 1, 2010

Jeffrey S. Young, Chairman of the Board
Roger Briggs, Executive Officer
California Regional Water Quality Control Board
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895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Re: ***Preliminary Alternative Agricultural Proposal in Response to Preliminary Staff Recommendations for an Agricultural Order to Control Discharges from Irrigated Lands***

Seven county Farm Bureaus comprising the counties within the jurisdiction of the Central Coast Regional Water Quality Control Board ("CCRWQCB") have met with representatives of other agricultural groups and individuals on numerous occasions to consider alternative elements to be included in a new agricultural discharge program. At the request of the CCRWQCB Board, we submit this conceptual proposal for revision of the current Conditional Agricultural Waiver of Waste Discharge Requirements ("Conditional Ag Waiver"). Members of the Central Coast agricultural community recognize that the quality of agricultural water discharges can and will improve through implementation of on-farm practices. During presentations by agricultural representatives at CCRWQCB Board meetings in October and December 2009, growers requested an opportunity to present an alternative concept ("Ag Proposal") for the new Ag Waiver to the CCRWQCB Board prior to the formal commencement of the Conditional Ag Waiver renewal process. The CCRWQCB Board established a timeline for agriculture to submit a proposal by April 1, 2010, to be followed by a CCRWQCB Board workshop on May 12, 2010. The concepts set forth herein are the result of numerous area meetings with growers who all understood that the objective is to improve water quality attributable to commercial irrigated agriculture, which constitutes the largest industry and employer on the Central Coast. Farmers have reviewed the CCRWQCB's Draft Conditional Ag Waiver ("Staff Draft Waiver") which was distributed for comment on February 1, 2010, and will provide extensive independent individual comment prior to April 1, 2010.

The true goal of the Conditional Ag Waiver is to improve water quality. The State Water Code and the CCRWQCB Basin Plan provide the authority for CCRWQCB to impose regulations on dischargers to improve water quality. Farmers are equally concerned about water quality and the

environment. However, there is no need for CCRWQCB to impose arbitrary restrictions on commercial agriculture so long as farmers take necessary steps to demonstrate water quality improvement over a scientifically feasible timeline with intermediate milestones. The process of designing and adopting a new Ag discharge program will not be simple or quick. Further collaboration between the CCRWQCB and agriculture will be necessary to develop a workable long term solution. The Farm Bureaus hope the CCRWQCB will proceed with the development of a long term program rather than conditional waivers limited to five year terms. In that light, this proposal does not attempt to address every item necessary for inclusion in a new long term discharge program; it only strives to move the points of discussion on six key points:

1) The Farm Plan,
2) Practice Implementation,
3) Education,
4) Monitoring,
5) Groundwater, and
6) Land Use Regulations.

PROGRESS THUS FAR Farmers throughout the Central Coast had a history of voluntary water quality improvements prior to the first waiver. Individual growers report that fertilizer inputs have been reduced by up to 60% in the past 15 years. Progressive change from furrow to sprinkler to drip irrigation has improved efficiency and reduced water runoff. Conservation practices were implemented to minimize erosion and loss of sediment. All of this was undertaken prior to any regulatory mandate of the first Conditional Ag Waiver.

In 1999 the Agriculture and Rural Lands Water Quality Protection Program was developed by the Monterey Bay National Marine Sanctuary ("MBNMS"). The MBNMS worked directly with volunteer farmers and local Farm Bureaus to establish watershed working groups and develop an educational program through the U.C. Cooperative Extension ("UCCE") that was later turned into the UCCE Short Course. Through this outreach program in Monterey, San Luis Obispo, San Benito, Santa Cruz, San Mateo and Santa Clara counties, farmers voluntarily implemented innovative on-farm water and soil conservation practices. Many of the concepts developed in this voluntary program were later adopted by the CCRWQCB in the first Ag Waiver.

Prior to January 2005, there was no specific regulation of agricultural water quality in the Central Coast. The implementation of the first Ag Waiver and the Monitoring and Reporting Program ("MRP") created a monthly monitoring program for the first time to provide growers with information on water quality. Since there was no prior water quality regulation, no focused monitoring and no outreach, beyond voluntary programs, information and understanding of the water quality impacts of irrigated agriculture has been limited. Since 2005, with the enrollment in the Ag Waiver, there has been extensive outreach and education focused on monitoring results and water quality practice implementation.

Central Coast Water Quality Preservation, Inc. ("CCWQP") was established by growers in December 2004 to conduct the Cooperative Monitoring Program ("CMP") which commenced in January 2005. Monthly monitoring is meaningful only after sufficient data have been assembled, analyzed, and the results made available to the growers. CCWQP participated in UCCE Short

Courses and other practice related outreach since 2005. However, only since 2007 has there been sufficient data to conduct outreach and education on the nature and scope of water quality impairments in agricultural areas of the Central Coast. CCWQP provided regional, watershed, sub-watershed, and individual outreach sessions throughout the region. To supplement the CMP, CCWQP conducted upstream monitoring on selected watersheds, and followed up with more outreach. Throughout this period, voluntary outreach and practice implementation programs continued through the work of a large network of providers, who were themselves better informed about agricultural water quality impacts due to the CMP dataset. CCWQP also provided individual confidential on-farm sampling to work with growers who implemented new and sometimes innovative management practices. All of this work directly with growers had a positive impact on water quality in the Central Coast.

Changes in Water Quality: The optimal dataset length for trend analysis depends on the variability of the data (the more variability, the longer the dataset needed). Ten years of data is the time frame often cited as an optimal minimum for trend analysis, given the level of variability typical of many water quality datasets. In a recent trend analysis of Central Coast data, significant water quality trends were detected at a number of the sites. With a less robust dataset, failure to detect trends may be due to a true lack of trends, or it may be due to a lack of sufficient statistical power to detect trends that actually exist. A "power analysis" of the CMP dataset has not yet been conducted.

A preliminary seasonal Mann-Kendall trend analysis on nitrate, turbidity, and stream flow data from a subset of CMP sites has identified many significant downward trends in stream flow, and very few trends in nitrate or turbidity. Loading trends for nitrate and suspended sediment (turbidity) were not analyzed, but significant downward trends in flow were generally much larger than any upward trends in constituent concentration. Therefore, loading to downstream water bodies from CMP areas has likely declined substantially at any site experiencing significant declines in flow.

The very limited organophosphate ("OP") time series that is available does not support a statistical trend analysis, but shows "across-the-board" declines in September concentrations of Chlorpyrifos at Santa Maria CMP sites and in Diazinon at Salinas CMP sites from 2006 to 2009. Due to the concurrent decline in stream flows, loads of these OP's also declined substantially.

In conclusion, current water quality data sets support only limited analysis of water quality change in agricultural areas of the Central Coast. Thus far, analysis shows very little concentration-based water quality change, with the possible exception of late-summer organophosphate concentrations in a few areas, which appear to have declined between 2006 and 2009. Evidence of declining trends in stream flow during the growing season is more compelling, which suggests load reductions for many constituents to downstream areas. Currently, there are very few practices which demonstrably improve concentration-based water quality in agricultural discharges. Therefore, near-term changes in agricultural watersheds should be expected to show more in stream flow and loading rate declines than in concentration-based water quality.

PRELIMINARY ALTERNATIVE AGRICULTURAL PROPOSAL

FARM PLAN The Farm Plan is an important element of the new Ag Program. The draft Ag Proposal recommends the continued use of Farm Plans for specific and limited use:

- Farm Plans are kept on site or in the farm offices
- Annual Farm Reports by each grower
- All growers will update their Farm Plans after renewal of the Ag Waiver
- Farm Plans are available for inspection by CCRWQCB staff
- Business operational records are proprietary and remain confidential

The present Conditional Ag Waiver requires a Farm Plan. The UCCE Short Course and Ag association representatives helped farmers write their first farm plans in 2005. The Farm Plan as initially developed by UCCE was for the growers to use and retain on farm and was intended to be confidential to the grower. The goal was to focus growers on those elements of farming which impact water quality. The present Conditional Ag Waiver provides that CCRWQCB staff may review the farm plans when inspecting the enrolled farm as part of usual enforcement inspections.

Staff's Draft Waiver makes the Farm Plan a catch all for record keeping for each farm a grower may operate. It proposes that the Farm Plan would contain Monitoring results, farm information, and records of detailed Practice Implementation. Upon 30 days notice, CCRWQCB staff could demand delivery of the farm plan to CCRWQCB offices for review. Upon submission of the Farm Plan, all information in the Farm Plan would become a public record.

Over 1,800 farmers and farm companies are enrolled in the current Conditional Ag Waiver. This represents over 390,000 acres, 95% of all commercially farmed land on the Central Coast. Each of these growers competes with each other to market their crops, throughout the region and nation. Farming is a business with significant risks, due to the weather, markets and regulation. Successful growers may make a profit only two out of every five years. Profit margins are very slim. A very good farmer may find success only because s/he can produce 5 or 10% more yield per acre than neighboring competitors. In such a highly competitive environment individual business practices must remain confidential. This is particularly important in every commodity crop, where the produce is virtually indistinguishable between each farm. Submission of the Farm Plan to CCRWQCB would eliminate any competitive advantage a grower may have in the market, without improving water quality or providing relevant information to CCRWQCB for enforcement purposes.

Ag Proposal: Farm Plans
Farm Plans should remain as key components in the program and should be maintained onsite, but available for CCRWQCB inspection upon noticed request. The present procedure of allowing inspection of Farm Plans during site enforcement visits is preferable for several reasons. Only through onsite farm inspections can a CCRWQCB staff member see the linkage between the written plan and on farm practices. The information in the plans is only relevant when compared to the farm site. Abstract review of the plans in a remote office setting may lead

to misleading conclusions regarding the intent and impact of the contents, and their relevance to water quality improvement.

A Farm Plan should be a meaningful document for both the grower and the regulator. Farming operations should revise and/or update their Farm Plans within an appropriate set time period after adoption of the new waiver. Revisions of Farm Plans could include descriptions and or discussions on how the farming operation intends to implement certain management practices to improve water quality and/or comply with the conditions in the Ag Waiver. Farm Plans should continue to be maintained by each grower in their offices. Development and implementation of Farm Plans should create a presumption of compliance with the Basin Plan. The General Conditions of the new Ag Program should be revised to state: "Compliance with this Order shall constitute compliance with applicable Basin Plan provisions, including any prohibitions and water quality objectives governing protection of receiving waters from non-point source discharges." Detailed farm operation and business records are not relevant to improvements in agricultural water quality, are not appropriately part of the Farm Plan, and should not be included.

Annual Report: In lieu of submission of the Farm Plan to CCRWQCB, each grower could be required to submit an annual report of practices similar in format to the Monterey County Water Resources Agency ("MCWRA") annual Agricultural Water Conservation Plan (attached). This would provide meaningful information to CCRWQCB to evaluate farm and practice changes from the prior year. The MCWRA receives the reports from individual growers, which it holds as confidential business records, and assembles an annual report from the information submitted. CCRWQCB should adopt the same procedure for handling these reports as confidential business records. This form would be edited so that it directly relates to the types of farm practices which have an impact on water quality. It will provide staff with a better and more consistent way to review farm practices.

IMPLEMENTATION OF PRACTICES Growers will continue to address water quality issues through practice implementation. The Ag Proposal proposes the following practices:

- Summarize water quality related practices
- Evaluate effectiveness of practices
- Implement and/or maintain practices designed to improve water quality
- Fit practice implementation to the unique circumstances of each farm

Many growers have already implemented management practices or made operational changes that have reduced or eliminated tailwater discharge from their farms. If a grower has already eliminated tailwater there should be no further surface water requirement, as nothing more is needed to address the issue. For the remaining growers, the focus should be on practices, either ongoing or new, which will improve water quality and/or reduce discharge.

Ag Proposal: Practice Implementation
Growers should periodically evaluate the effectiveness of management practices and document this review in their Farm Plan. Growers should refine management practices to improve their effectiveness as necessary, protect against pollution, and protect the waters of the State. Growers

should address identified impairments and implement additional management practices, if applicable and appropriate. Growers should document management practice effectiveness in order to protect themselves from the imposition of practices that are ineffective or wasteful of resources. All of this can be accomplished with a clear focus on water quality improvements without excessive and massive record keeping involving trade secrets and confidential business practices.

Tailwater: All tailwater is not the same. 1) Tile drains: Without tile drains some of the most productive local farm land in the nation would become fallow, eliminating continued agricultural use and severely impacting local property tax revenues. Tile drains allow high perched subsurface water to be kept below the root zone, so plants can grow successfully. The perched subsurface water may be the result of adjacent rivers or nearby marine influence. Tile drains need to be maintained. Growers with tile drains could work with technical advisors to develop a better understanding of the benefits and water quality concerns associated with their use. Growers with tile drains should be allowed sufficient time to develop practices to improve water quality without the prospect of elimination of the drains. No grower can afford the investment in practices which will progressively improve water quality if there is a perpetual fear that the existing drains will become illegal. 2) Surface Tailwater: Tailwater from surface flows can be the result of excessive irrigation. It can also be generated because of local soil types and topography. The best management practices cannot change soils or slopes. Each farm needs to be able to address their unique circumstances. Most importantly, each farm needs to be able to allocate resources to address water quality issues that are real to their operation. Growers should not be compelled to spend time or money on practices or documentation that do not address their specific water quality issues.

Nurseries: Nurseries with impervious floors have been excluded from Staff's Draft Waiver, and are now required to get a Waste Discharge Requirement ("WDR"). Other commercial nurseries have specific proposed restrictions, such as preventing rainfall from striking potted plants. Seasonal precipitation varies considerably from Santa Cruz to Santa Barbara, which will require differing approaches to solving winter runoff in areas holding potted plants. It is better to establish water quality improvement goals and allow nursery operators discretion in reaching this target. They have a better understanding of the unique needs of the varieties of plants they grow and their ability to improve water discharge.

EDUCATION Education is an important element of any future agricultural discharge program.

- All enrollees must complete 5 hours of water quality related education within 5 years.

Success of the current Conditional Ag Waiver can be credited to grower participation and educational hours completed by growers. Staff's Draft Waiver removes the educational requirements mandated in the current waiver. In order to improve and maintain water quality, the CCRWQCB should support educational activities. The Ag Proposal supports the inclusion of educational requirements.

Ag Proposal: Education

All enrollees of the program must complete at least five (5) hours of water quality education over a five (5) year period.

MONITORING In order to determine progress of water quality improvements, selective surface water monitoring should occur. The Ag Proposal offers the following surface water monitoring components:

- Continuation of the Cooperative Monitoring Program
- Voluntary and Confidential SMART Sampling
- Revised CMP Follow-Up Monitoring

The existing Conditional Ag Waiver requires enrolled growers to either conduct described individual monitoring or to participate in the Cooperative Monitoring Program ("CMP"). Since no farmers elected to conduct individual monitoring, all are participating in the CMP. The CMP conducts monthly monitoring at 50 sites, annual follow-up monitoring, aquatic toxicity monitoring four times per year, and annual benthic surveys and sediment toxicity testing at the 50 core sites. The results of this monitoring are reported quarterly to CCRWQCB and summarized and distributed to growers during outreach meetings and in CCWQP newsletters.

Staff's Draft Waiver proposes several levels of reported on-farm monitoring for every grower on every farm. The CCRWQCB does not presently know how many discrete farm parcels are enrolled in the current Conditional Ag Waiver, but it is estimated to exceed 10,000 individual farms. The requirement that every farm submit multiple monitoring results will not improve water quality and will instead result in a flood of meaningless data at great expense to farmers and the government.

Ag Proposal: Surface Water Monitoring Program

Cooperative Monitoring Program: The Cooperative Monitoring Program currently in place should continue to be utilized as the mechanism for implementing surface water monitoring requirements set forth in the current Ag Waiver. Growers need only continue to participate in the CMP (or elect to perform Individual Monitoring as described in the first Waiver). The Cooperative Monitoring Program should continue to be used to document water quality improvements, as well as documenting if water quality standards are being achieved. Results from this monitoring will be reported to CCRWQCB. Such data will then be fully analyzed and evaluated by CCRWQCB. The Executive Officer will provide regular updates to the Regional Board regarding the monitoring data and results, and progress of activities to maintain, improve, and/or protect the water quality within the Region.

Additional monitoring or sampling may be needed in specific watershed areas of concern. However, a one-size fits all approach is inadequate and inappropriate due to the different types of agriculture, topography, irrigation use practices, and geography throughout the region. The agricultural industry seeks to continue to develop flexible practices and measures to aid in water

quality improvements and desires to continue to collaborate with the CCRWQCB on such programs after the release of the MRP.

SMART Sampling: The Ag Proposal supports confidential, voluntary, on-farm "SMART sampling" conducted by growers. SMART sampling refers to Simple Methods to Achieve Reasonable Targets. SMART sampling educates growers about their individual operations and practices. Such sampling includes evaluating grower practices to document steps taken to address water quality and to confirm the effectiveness of such measures. The sampling data will be used by individual growers to revise management practices or modify operations to improve water quality or eliminate discharges. SMART sampling is encouraged for watershed areas of concern. The goals of voluntary SMART sampling include:

1) Identify water quality issues and a practice/change for the operation which can address these issues;
2) Implement practice/change in farm operations; and
3) Re-sample water to confirm improvement or identify continued water quality issues. If issue is not resolved, repeat steps 2 and 3 until the issue is resolved, at least annually.

Data and results from SMART sampling will remain confidential and kept in the Farm Plan. A two hour training on how to perform SMART sampling will be developed to provide consistency in application.

Revised CMP Follow-Up Monitoring: The revised surface water monitoring program proposal also builds upon the concept of the current "Follow-Up Monitoring" in the CMP, expanding the scope and broadening the existing program. The revised Follow-Up Monitoring Program would perform public access, reported "upstream monitoring" in all watersheds with documented water quality impairments related to the irrigation season on a rotational basis. To justify not reporting any farm-level data, the revised Follow-Up Monitoring Program would need to report data from upstream locations within watersheds of concern at public access sites. As part of the overall reporting for this program, CCRWQCB would receive an annual report from CCWQP at a noticed hearing that includes a thorough discussion of water quality results, on-farm activities, and the hydrologic and agricultural context of the results of those sites monitored in that year, addressing the goals below.

Goals of Follow-Up Monitoring:

1. In each area of concern being monitored, a detailed understanding of watershed hydrology, sources of impairment, and the degree to which sources of impairment are readily controllable will be developed. Factors to be examined include lack of natural baseflow, contributions from urban stormwater or a wastewater treatment plant ("WWTP") need to be understood to provide context for water quality impacts.
2. In each area of concern, a narrative report of activities undertaken by growers to address specifically-identified water quality issues will be developed, in a manner which does not publically attribute water quality issues specific to any individual farm.
3. An informed discussion linking changes implemented or in progress by growers, and how these changes have demonstrably changed or can be expected to change nearby in-stream

water quality.

4. An informed discussion linking fine-scale sub-watershed level water quality and changes to water quality status at the bottom of the watershed.

Follow-Up Monitoring will be conducted on a rotating basis in agricultural areas with water quality impairments. The Follow-Up Monitoring Program will include traditionally-reported, public access monitoring of high spatial resolution (similar to the CMP 2008 "Upstream Monitoring" project) monthly during the irrigation season, for two years, in two selected watersheds per rotation. This monitoring will characterize water quality at a finer scale than the core CMP, to identify source areas for impairment and to provide for shorter-term opportunities to detect change. Water quality and hydrologic conditions at each site will be characterized in detail so as to understand what factors control stream flow and water quality at each point, and thus what impacts changes at the farm level can have at each monitoring point. The costs of this additional monitoring should not exceed 10% of the core CMP monitoring cost.

GROUNDWATER Groundwater is more difficult to understand and to characterize in relation to agricultural activities. The Ag Proposal advocates that:

- An existing agency or third party should develop a groundwater management plan within five years of adoption of the revised Ag Discharge program.

Groundwater aquifers are incredibly complex. "Research has shown that marked changes in fertilizer application rates at the surface may require up to 60 years for the soil leachate to reach and affect the groundwater." (*Nitrates in Groundwater* MCWRA, 1995.) However, it is important to also note that nitrate concentrations in Monterey County groundwater did not change appreciably between 1988 and 1995, so present practices do not seem to impact existing nitrate levels. Some counties within the region have extensive research dealing with their major aquifers, while other counties have little data on aquifers. Most of the research has dealt with the height of water tables and/or salt water intrusion. Little research has been conducted on the causes or sources of pollution.

Staff's Draft Waiver suggests that someone submit a Conceptual Plan for Groundwater Monitoring Program within 2 years after adoption of the new Conditional Ag Waiver. A better alternative is to take advantage of existing research and overlapping regulatory authority of county Water Resource agencies. For example, Monterey and Santa Barbara Counties have decades of experience and data on aquifers, water quality, nitrates and aquifer management. They are concerned that the concepts raised in Staff's Draft Waiver are inconsistent with water quality and recharge goals already in place in these Counties. Their vast knowledge of the complexity of multiple county and regional aquifers shows that the impact by agriculture on any single aquifer is not easily quantifiable. Similar to the work of Dr. Harter, Monterey County data shows that not all farms pose similar risks to future impairment of the aquifer.

Not every county in the region has data or experience similar to Monterey. Santa Barbara and Santa Clara have some research on the impacts of farming on aquifers in their counties. Other counties have not addressed the issue. Some water agencies, like the Pajaro Valley Water Management Agency, do not even know where area aquifers recharge. Without a better

understanding of local aquifer diversity, it is not possible to design a groundwater monitoring program within two years.

Ag Proposal: Groundwater
It would be more effective to spend time assembling existing groundwater research from the counties and academic researchers who have worked in the Central Coast and then design a proposal based upon that information. Existing county resource agencies or a third-party could develop groundwater quality management plans ("GQMPs") designed to minimize waste discharge to groundwater from irrigated agricultural lands. As part of GQMP development, they would collect and evaluate available groundwater data, identify groundwater management areas ("GMAs") of concern, identify constituents of concern within the GMAs, prioritize the GMAs and constituents of concern, identify agricultural practices that may be causing or contributing to the problem, and identify agricultural management practices that should be employed by local growers to address the constituents of concern. Where local agencies have developed local groundwater management plans (e.g., AB 3030, SB 1938, Integrated Regional Water Management plans), the local groundwater management plan may be substituted for the GQMP.

LAND USE REGULATION Regulating land use is not within the purview of the Regional Water Quality Control Board. The Water Code and the Basin Plan focus on water quality and activities which may impair water quality. While there is authority to prohibit an act which may result in discharge, there is no authority to require an act which is unrelated to discharges to waters of the state.

Riparian vegetation: The regional Farm Bureaus chose not to address this issue as it is clearly beyond the jurisdiction of the CCRWQCB and the California Water Code provides no authority to regulate the usage of land beyond consideration of implementation of practices at the election of the discharger that maintain water quality within established parameters for the regulated industry. Riparian vegetation is a regulatory taking of land by restricting its use without any relationship to water quality.

Prior existing legal use of land, such as farming, cannot be terminated through a regulatory change without compensation for the permanent loss of use of the land. It may be appropriate for a county government, with zoning authority granted by the Government Code, to regulate the expansion of an industry into an area where it has not previously operated, but not to restrict an existing use. However, there is no similar authority granted to the CCRWQCB pursuant to the State Water Code, or any other state law.

A simple due process illustration shows why the possible imposition of this concept may be dispensed with before it clouds the entire Ag Waiver process. Water by its nature flows to the lowest point on property, where it is discharged, off the property into a ditch or waterway. Thereafter the water flows down gradient past another farmer's property. The concept of mandatory vegetative treatment in the mutually used ditch imposes a huge financial and legal liability on the downstream landowner to deal with water generated by their neighbor. Therefore the impact of this mandate falls on a party not responsible for the discharge in any manner. There is no possible way to refashion this proposed regulation so that there is any causal relation

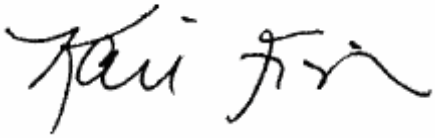
to the party bearing the burden of the regulation. As such, the concept is not only a taking of property but clearly inequitable and discriminatory in its potential enforcement.

CONCLUSION In cooperating and collaborating with the CCRWQCB, agricultural interests are fundamentally interested in ensuring the long term improvement of water quality in the region. We recognize that these improvements may not occur in discrete five year windows so we encourage the Board to work with us to establish a long term "program" with benchmarks and milestones that can be utilized to evaluate progress over time.

Agriculture is also concerned with the release or sharing of confidential and proprietary data in ways that will undermine the competitive position of area growers. We encourage the CCRWQCB to work with agriculture to bring relevant and necessary data forward in ways that advance water quality objectives while at the same time preserving the confidentiality of individual grower data. Using third party facilitators to aggregate data and allowing for data to be inspected on farm rather than requiring its submission to the CCRWQCB protect confidentiality, increase efficiencies, and will inform water quality improvement without compromising a grower's livelihood.

Agriculture remains committed to water quality improvements. The above concepts combined with a phased long-term approach to achieving mutual goals for water quality improvement will result in significant and measurable improvements in water quality during the term of the new long-term Ag Program.

Very truly yours,



Kari E. Fisher
Associate Counsel

Submitted on behalf of the following entities that support this proposal:

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
Western Growers
Grower-Shipper Association of Central California

The Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties
California Strawberry Commission
Central Coast Vineyard Team
San Luis Obispo County California Women for Agriculture
The Upper Salinas-Las Tablas Resource Conservation District
United Vegetable Growers
Paso Robles Wine Country Alliance
Central Coast Agricultural Water Quality Coalition
The California Artichoke Advisory Board
Central Coast Greenhouse Growers Association
Kendall Jackson
Monterey County Vintners and Growers Association
Salinas Valley Water Coalition
Christensen & Giannini
William Tarp, Triangle Farms, Inc.
Neil Bassetti Farms
Candi DePauw, California Poppy Company
Mark Pisoni, Pisoni Farms
Richard Sauret, President - Independent Grape Growers of the Paso Robles area
Jeff Frey, Frey Farming
Bob Martin, Rio Farms
Frank Capurro & Son
Tim Buffalo, Buffalo Land Management
Bill De Vor, Greenheart Farms
Ocean Mist Farms – Castroville, California
Sea Mist Farms – Castroville, California
Boutonnet Farms – Castroville, California
Laguna Mist Farms – Castroville, California
Sea Breeze Harvesting – Castroville, California
Valley Pride – Castroville, California
Ag Services – Salinas, California
Kleen Globe Inc – Castroville, California
Francis Giudici - L.A. Hearne Company
Giudici Family Properties
Mark Mitani and Douglas Iwamoto, MKM Farms, Inc.
Gary Tanimura, Tanimura & Antle
Luis Scattini & Sons
Premium Packing Inc.
Paraiso Vineyards
Mary Ann Martinus
Mike Manfre
Ann R. Myhre

Office Use
address code : _____
staff : _____
date : _____

2009 Agricultural Water Conservation Plan

(Submit one plan per company)

Please check all that apply, fill in the acreage blanks and sign below.

❑ **I farm property** in Zone(s) 2, 2A, 2B; the information included in this Agricultural Water Conservation Plan for the 2009 growing season is correct; I am engaged in the business of raising crops for commercial purposes; and I will implement the irrigation management practices selected in this plan during the 2009 growing season.

❑ The amount of acreage that I will farm/operate **in 2009 ...**

❑ **... will not change** since 2008.

❑ **... will increase** since 2008.

❑ **... will decrease** since 2008.

List Ranch Changes Here

	Added/Deleted	Ranch Name	Acreage	Wells	Previous/New Company
1.					
2.					
3.					
4.					

❑ **I do not farm** any property in Zones 2, 2A, or 2B.

	2008	**2009**
① **Gross Acres** (All acreage **including** farm roads, buildings, etc.)	_____	_____
② **Net Acres** (Physical field acres, Nurseries, **excluding** farm roads, buildings, etc.)	_____	_____
③ **Crop Acres** (Net Acres multiplied by number of crops per year)	_____	_____
④ **Number of Irrigation Wells** [State reason for change in number of wells below, i.e., abandoned, newly drilled, well went inactive, well re-activated, lost ranch or gained ranch (see above "**List Ranch Changes Here**")]:	_____	_____

X _____ X _____

Signature Print Name Date Phone No.

Comments:

COMPANY: _____

CONTACT: _____

ADDRESS: _____

CITY, STATE ZIP: _____

❑ I would like my raw data kept confidential.

2009 Agricultural Water Conservation Plan

Please complete the chart below listing the number of acres associated with the general crop types and irrigation methods. Record the sum of all listed acres on the Total Acres line below the chart (do not multiply by number of crops per year).

		IRRIGATION METHOD (NET ACRES)								
The Total NET Acres below, must equal your Net Acres from page 1, line ②, 2009 column.	Average number of crops per acre	Furrow Only	Sprinkler / Furrow combination	Hand-move sprinkler only	Solid-set or permanent sprinkler	Sprinkler / Drip Combination	Drip Only	Micro-spray / Micro-sprinklers	Linear-Move (overhead)	Other (specify): _____
Vegetables										
Field Crops (beans, grain, etc.)										
Berries	1.0									
Grapes	1.0									
Tree Crops	1.0									
Forage Crops (alfalfa, pasture, etc.)										
Other: _____										
Set-aside (fallow)										
								Total NET Acres: 0		

Results of this irrigation method survey provide valuable and unique information regarding the status of irrigation practices in the Salinas Valley. For example, in 1993, 3% of the vegetable crops and 55% of the vineyards in the Salinas Valley were drip irrigated. Results from this 2009 survey will show further progress in this area.

_____

_____

_____

_____

2009 Agricultural Water Conservation Plan

Irrigation Best Management Practices (BMPs)

For 2009, please indicate whether or not you intend to implement the management practice and how many acres (***net acres; must not exceed the figure on line ②, page 1, 2009 column***) would be affected by the practice.

For 2008, please indicate whether or not the management practice was implemented and how many acres (***net acres***) were affected by the practice.

For guidelines and definitions of terms, please refer to the attached appendix.

	2008				2009			
Irrigation Management Practices	**Yes**	**No**	**N/A**	**Net Acres**	**Yes**	**No**	**N/A**	**Net Acres**
12-month Set-aside	☐	○	△	_____	☐	○	△	_____
Summer Fallow (90 days between Apr.1 and Sep.30) or Other Fallow (210 consecutive days)	☐	○	△	_____	☐	○	△	_____
Water Flowmeter(s)	☐	○	△	_____	☐	○	△	_____
Time-clock on pump and/or pressure switch on booster	☐	○	△	_____	☐	○	△	_____
Use of Soil Moisture Sensors (tensiometer or neutron probe) and/or ET Data (CIMIS)	☐	○	△	_____	☐	○	△	_____
Pre-irrigation Reduction	☐	○	△	_____	☐	○	△	_____
Agricultural Mobile Irrigation Lab	☐	○	△	_____	☐	○	△	_____
Transplants	☐	○	△	_____	☐	○	△	_____
Educational Sessions (Applies to all Net Acres. List sessions attended below.)	☐	○	△	_____	☐	○	△	_____
Conservation Program	☐	○	△	_____	☐	○	△	_____
Reuse of Tailwater or Run-off	☐	○	△	_____	☐	○	△	_____
Recycled Water (Castroville Seawater Intrusion Project)	☐	○	△	_____	☐	○	△	_____

List other BMPs or innovative ideas that you incorporate on your ranches not listed above (i.e., PAM, drip germination, variety selection, furrow dikes, etc.):

_____

_____

_____

_____

2009 Agricultural Water Conservation Plan

	2008				2009			
Sprinkler Irrigation System Improvements	**Yes**	**No**	**N/A**	**Net Acres**	**Yes**	**No**	**N/A**	**Net Acres**
Reduced Sprinkler Spacing	☐	○	△	____	☐	○	△	____
Sprinkler Improvements (uniform nozzle sizes and/or flow control nozzles)	☐	○	△	____	☐	○	△	____
Off-wind Irrigation	☐	○	△	____	☐	○	△	____
Leakage Reduction (replacing gaskets)	☐	○	△	____	☐	○	△	____
Linear-Move (overhead)	☐	○	△	____	☐	○	△	____
Micro Irrigation Systems								
Drip Tape / Hose	☐	○	△	____	☐	○	△	____
Pressure Compensating Emitters / Tape (reduce pressure fluctuations along a row)	☐	○	△	____	☐	○	△	____
Micro-spray / Micro-sprinklers	☐	○	△	____	☐	○	△	____
Surface Irrigation System Improvements								
Surge Flow Irrigation	☐	○	△	____	☐	○	△	____
Shorten Field Run (Lessen furrow length or add a manifold line down center of field to cut water run in half.)	☐	○	△	____	☐	○	△	____
Tailwater Return System	☐	○	△	____	☐	○	△	____
Laser Leveling / Major Land Grading	☐	○	△	____	☐	○	△	____

List other BMPs or innovative ideas that you incorporate on your ranches not listed above (i.e., PAM, drip germination, variety selection, in-furrow cross-ditches, etc.):

_____

_____

_____

_____