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February 11, 2016

Via Email To:
commentletters@waterboards.ca.gov

State Water Resources Control Board
Attn: Clerk to the Board
1001 I Street
Sacramento, CA 95814



Re: **2/16/16 BOARD MEETING, ITEM NO. 6: Comments of Kern River Watershed Coalition Authority on Revised Draft Resolution No. 2016-___, Titled: Adopting the Human Right To Water as a Core Value and Directing its Implementation in Water Board Programs and Activities (February 4, 2016)**

Dear Clerk, Board Chair, Vice Chair, Members:

These comments are submitted on behalf of the Kern River Watershed Coalition Authority ("KRWCA") on the above-referenced revised draft resolution titled "Adopting the Human Right To Water as a Core Value and Directing its Implementation in Water Board Programs and Activities," dated February 4, 2016 ("Proposed Resolution"). The KRWCA is a joint powers authority established and approved by the Central Valley Regional Water Quality Control Board to serve as the coordinator and coalition (third-party) group under the Irrigated Lands Regulatory Program (or ILRP) in the Kern River watershed portion of Kern County. The KRWCA Board is comprised of representatives from agricultural water districts representing member owners/growers of hundreds of thousands of acres of prime irrigated agricultural lands.

KRWCA has reviewed the Draft Resolution, which would expand the human right to water policy provisions in Water Code section 106.3 added by Assembly Bill 685, effective January 1, 2013 ("Section 106.3"), by (among other things) adopting the human right to water as a core value and realization of the same as a top priority for the State Water Resources Control Board ("Board") and its regional water quality control boards (collectively, "Water Boards"). KRWCA has had little time to review the Proposed Resolution and believes it should be circulated for formal public review and comment, and revised accordingly, before being presented or considered for adoption by the Board. In any event, KRWCA respectfully submits the following comments for consideration by the Board, and recommends that the Board not adopt the Proposed Resolution.

1. As mentioned, the Proposed Resolution has not been vetted through a robust public review and comment process, which in our view is prudent (if not required) prior to



consideration of adoption of a policy position on important and potentially controversial matters such as the priority and value to be given to the human right to water in the Water Boards' decision making on a broad range of future actions.

2. Section 106.3 already requires relevant state agencies to consider the human right to water policy when taking certain actions. Thus, there is no need for the Board to adopt a resolution to implement its provisions or expand them.
3. According to the following statement in the Staff Report, the Proposed Resolution:

“will not expand the legal scope of the human right to water as described in Water Code section 106.3, nor will it impose new requirements on the regulated community, expand any obligation of the Water Boards to provide water, or otherwise alter existing law.”

While this statement may be comforting to some, it raises several (unanswered) questions including: Why the Proposed Resolution is being considered at all and what it is intended to accomplish? Unfortunately, there is nothing in the Staff Report or anything else we are aware of that explains the rationale for the determinations – including adopting human right to water as a “top priority” and “core value” – in the Proposed Resolution or the real world implications including to existing and future agricultural water users such as those represented by members of the KRWCA.

4. Section 106.3 requires the Board to “consider” the human right to water policy when taking certain actions. It does not make such policy a “top priority” or core value. Thus, contrary to the Staff Report's statement (above), the Proposed Resolution would appear to attempt to expand upon the legal scope of human right to water and alter existing law.
5. Finally, we note that Section 106.3 declares that it is California policy that every human has the right to safe, clean, affordable, and accessible water adequate for “human consumption, cooking, and sanitary purposes.” The Proposed Resolution can be read to suggest that the Board Staff may be interpreting the words “human consumption” narrowly as for “drinking water” (only). Does “drinking water” include water in food consumed by humans?

Of course, a significant portion of water humans consume is contained within fruits, vegetables and other food crops grown in Kern County and elsewhere in California's important agricultural regions. To that end, at a minimum, the Proposed Resolution (if adopted) should also expressly direct the staff of Water Boards to work with those in the agricultural community as relevant stakeholders. Regardless of how narrowly or broadly the words of Section 106.3 are intended, safe, clean, affordable and accessible water for production of crops for human consumption should be a top priority and core value for the Water Boards. However, unlike municipal and



domestic, agricultural uses of water and the agricultural community are mentioned nowhere in the Proposed Resolution. Thus, for example, it is unclear how agricultural water uses and users may be impacted by the Proposed Resolution.

The KRWCA appreciates the Board's consideration of our comments on the Proposed Resolution.

Very truly yours,

Nicole M. Bell, Manager