



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

July 28, 2014

Attn: Tammie Olson
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Re: Agenda Item Number 13, Irrigated Lands Regulatory Program: Water Board Review of Central Coast Groundwater Coalition's Drinking Water Notification Process

Dear Central Coast Regional Water Quality Control Board:

This letter follows the original letter CRLA, Inc. submitted seeking discretionary review of the coalition's notification process. This letter supports the Central Coast Regional Water Quality Control Board ("Regional Board") staff's recommendation not to implement any changes in the existing Work Plan approval conditions for the cooperative groundwater monitoring program, and to require the CCGC ("coalition") to make its reporting of drinking water exceedances and associated follow up equivalent to the notification process growers conduct through the individual monitoring program.

- I. Cooperative groundwater monitoring reporting and follow-up procedures must be equivalent to the individual groundwater reporting and follow-up procedures.

Under the State Board Order, dischargers conducting individual groundwater monitoring and dischargers participating in cooperative groundwater monitoring programs are both held to the same standard with regards to notification requirements. (*See* State Board Order WQ 2013 – 0101, pg. 34) As was outlined by the Staff Report and by the Regional Board's own directive pursuant to the January 30, 2014 Board Meeting, any cooperative groundwater monitoring program's reporting of MCL exceedances and follow-up reporting must be equivalent to the individual groundwater monitoring program as well.

- II. The Regional Board should utilize reasonable and appropriate confirmation mechanisms incidental to its authority to both investigate potential dischargers and implement the monitoring and reporting program of the Agricultural Order.

The coalition's argument that the Regional Board has no authority to examine its notification letters to its members is lackluster for it attempts to construe examination of its notification letters as a separate legal issue from the monitoring requirements itself. The Regional Board's exercise of its authority to receive the notification letters sent by the coalition to its member dischargers is but a logical and logistical mechanism to ensure compliance with the requirements of the Agricultural Order and the corresponding MRPs.

If the Regional Board has (1) the authority to mandate that dischargers comply with the monitoring requirements of the Agricultural Order; (2) the authority to approve or disapprove of third party monitoring programs, and; (3) authority to investigate and inspect reports that implicate the "quality of any waters of the state within its region" under Porter-Cologne section



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13267(a), it does not follow that the Regional Board cannot obtain copies of notification letters from the regulated party to confirm that the regulated party did in fact carry out what it assured the Regional Board it would do in order to comply with the requirements of the both the Agricultural Order and the Work Plan.

The coalition's argument that "copies of individual notification letters sent to growers by the CCGC are not relevant with respect to an investigation of water quality" (CCGC Response Letter June 10, 2014, pg. 6) unsuccessfully attempts to segment the affirmative monitoring and reporting requirements apart from confirmation mechanisms that are incidental to the Regional Board's authority to implement investigations as well as the Agricultural Order itself.

The notification letter is directly related to investigation of water quality, as Water Board Staff Report indicates. Notification letters serve dual purposes: (1) prima facie evidence that water quality exceeds nitrate MCLs, and; (2) notification to water users that they are at risk of drinking contaminated water. Drinking water evaluation and evaluation of groundwater used for domestic drinking water purposes has been underscored as one of the most imperative goals for the implementation of the Agricultural Order and its corresponding MRPs. Drinking water quality is one of the highest water quality objectives for the region, and for the state, and so it follows that the Regional Board cannot delegate away its authority to confirm that dischargers are complying with the law.

III. Withholding data from the Regional Board is not and should not be one of the main purposes behind cooperative groundwater monitoring programs.

In its letter to the Regional Board, the coalition writes that: "one of the central tenants [sic] of the CCGC program includes not providing individual member information that specifically ties domestic well exceedances with individual growers, companies, or landowners in a manner that would then be public." (CCGC Response Letter June 10, 2014, pg. 7)

The coalition's self-articulated tenet for the cooperative monitoring program— withholding member information—does not comport with the regulatory spirit behind allowing for cooperative monitoring programs as a cost effective alternative to individual monitoring.

The Regional Board Order "encourages Dischargers to coordinate the effective implementation of . . . cooperative monitoring and reporting efforts to lower costs, maximize effectiveness, and achieve compliance with this Order." (R3-2012-0011, Finding 11) The State Board Order underscores the potential cost effectiveness of cooperative groundwater monitoring programs: "[d]ischargers may participate in a cooperative groundwater monitoring effort to help minimize costs and to develop an effective groundwater monitoring program." (Order WQ 2013-0101, pg. 33)

Both the State Board Order and the Regional Board Order reason that cooperative monitoring efforts are worthwhile for their **ability to lower costs** and **maximize effectiveness in order to**



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achieve compliance. In contradistinction, the central tenet articulated by the coalition for cooperative monitoring efforts: withholding data, has no place in the regulatory scheme. If the Regional Board affords the coalition's reasoning for denying the Regional Board access to notification letters any serious consideration, it would erode the integrity of its monitoring program. The Regional Board should avoid creating a dual track system whereby electing to participate in a cooperative monitoring program would, in effect, allow a regulated discharger to evade its full suite of regulatory responsibilities under the Agricultural Order.

Respectfully,

/s/ YPK
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