CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

May 14, 2014

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
Via email: commentletters@waterboards.ca.gov

Agricultural Expert Panel Public Meeting # 1

Dear Expert Panel Members, State Water Board Staff, and Board Members:

The Salinas Valley Safe Drinking Water Project is an initiative of California Rural Legal Assistance, Inc., which aims to provide disadvantaged communities in the Greater Salinas Valley with access to safe drinking water. We thank the State Water Resources Control Board for this opportunity to comment on the Agricultural Expert Panel Public Meeting #1 associated with SBX2, 1 (Perata), which took place on May 5 and 6 in San Luis Obispo.

The *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program*, *May 20, 2004* document discusses ways in which to approach each regional board's specific NPS program: "[Regional Water Quality Control Boards] are not required to endorse or approve any specific program or type of program. Each program brought before a RWQCB or SWRCB must be individually judged on its merits. The scale against which it will be measured will assess its potential to result in the implementation of actions to successfully prevent or control discharges of nonpoint sources of pollution. The ultimate goal of any NPS control implementation program must be to protect the beneficial uses of the State's waters."[i]

In this NPS policy context, Region 5 and Region 3 each have their individualized Irrigated Lands Regulatory Program pursuant to the landscape of each region. Instead of assessing the differences between the two programs for purely comparative purposes, the agricultural expert panel should assess which program has the most "potential to result in the implementation of actions to successfully prevent or control discharges of nonpoint sources of pollution." Failure to do so misses the mark and diverts the expert panel from its true mission.

A great majority of the invited testimony at the agricultural expert panel was testimonials from growers and other agricultural businesses,[ii] and much of that testimony focused on the cost-effectiveness and burdens of regulatory mandates. It remains unclear how these testimonials can properly contribute to the agricultural expert panel's assessment of whether existing regulatory control programs are protective of groundwater quality.

We are here today to address whether ongoing regulatory measures are sufficiently protective, not merely cost effective to growers.

Further, the cost of unchecked degradation of groundwater aquifers is being born by taxpayers, the public. According to the Harter report, approximately "$17 to $34 million per year will be needed to provide safe drinking water for 85 identified community public and state small water systems in [the Tulare Lake Basin and Salinas Valley study area]."[iii] This figure refers to addressing safe drinking water needs for only 85 identified community public and state small water systems in the study area.

And yet, in Monterey County alone, in 2013, over 187 state and local small systems had nitrate contamination above the maximum contaminant level and seventeen public water systems were out of compliance.[iv] Further, these chilling figures alone do not capture the social and health costs for disadvantaged communities, nor do these figures capture the exorbitant administrative costs of public agencies to implement regulations targeting the widespread nonpoint source pollution that leads to groundwater contamination.

The panel must address the overarching question of whether existing nitrate control programs are protective of groundwater quality based on the guidance of the NPS Policy and also on the merits of each Irrigated Lands Regulatory Program as it pertains to protection of water quality. Failure to do so will in effect shuttle what was originally a multi-year public process into the hands of a select group of experts.

Sincerely,

/s/ YPK

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[i] *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program, May 20, 2004* pg. 9. Porter-Cologne Water Quality Control Act section 13269 (a)(1) "also requires that any 'waiver' is consistent with any applicable state or regional water quality control plan and is in the public interest."

[ii] Refer to ITRC Agricultural Expert Panel Agenda to see the full list of invited guest testimonial speakers: http://www.itrc.org/swrcb/presentations.htm

[iii] *Addressing Nitrate in California's Drinking Water: With a Focus on Tulare Lake Basin and Salinas Valley Groundwater, California Nitrate Project, Implementation of Senate Bill X2 1*, Executive Summary, pg. 5.

[iv] Data gathered from Monterey County Environmental Health Drinking Water Protection Services Unit.