

William Elliott
323 McCarthy Avenue
Oceano, California 93445
Tel: 805.473.9377
e-mail: ElliottSLO@aol.com



September 17, 2013

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, California 95814

Re: Comments to A-2209 (a)- (e) – September 14, 2014 Board Meeting

Dear Ms. Townsend:

This letter will address several points that arose during the September 10, 2013 meeting of the State Water Resources Control Board ("Board") concerning the revised September 9, 2013 Draft Order dealing with the Conditional Waiver of Waste Discharge Requirements Order No. R3-2012-0011 for Discharge from Irrigated Lands (Conditional Waiver), and Monitoring and Reporting Program Order Nos. R3-2012-0011-01 – R3-2012-0011-03.

A. Measurement And Notification of Drinking Well Water Exceedances.

The September 9, 2012 version of the Draft Order revised (and created) Section A.7 to Part 2 of the Tier 1, 2, and 3 MRPs (at pp. 32-35). At least three problems and comments arise from the creation of Section A.7.

First of all and with regard to the revision to the notification of exceedances of water from a "well that is or may be used for drinking water ("domestic wells"), we continue to believe – and are apparently joined by the Regional Board – that the exceedance notice should be sent (if at all) only by the Regional Board rather than the individual discharger conducting groundwater monitoring and/or a third party conducting cooperative groundwater monitoring. That such an agreement exists is amazing since, frankly, it is the first thing upon which the Regional Board and we have agreed during the entire pendency of the conditional waiver proposal. We have stated our reasons in our prior letter and join in the comments of the Regional Board Staff (particularly its Executive Officer) regarding the reasons why the Regional Board should issue the notice.

Second and despite having noted that the requested change should be made, we believe that Section A.7 should be further modified by restricting its application to domestic wells from which drinking water is exported from the given ranch/farm upon which it is located for use by off-ranch members of the public. It is common, particularly in the Salinas Valley and pursuant to California law allowing the practice, that a residence for the owner/operator of the ranch is built on the farm property. It is also somewhat common that a "shop area" at which farm equipment is stored and maintained is also constructed on a farm. Both the owner/operator and personnel attending the "shop area" obtain their drinking water from a domestic well located on the property and, further, that such domestic well does not provide any water that is exported for drinking water purposes for persons located off the

ranch/farm property. Like the situation with the Jensen family (members of which, by the way, still reside at the residence built on one of its ranches located at 1776 Old Stage Road in Salinas), it is common that reverse osmosis equipment is installed at the residence and “shop area” so that the well water is treated to safe drinking levels prior to its being available for consumption on the ranch. In that instance, then, the notice would be sent to the owner and others whose water is treated such that any exceedances are of no moment to the quality of their drinking water. Thus, notice of an exceedance sent to them – regardless of who sends it – is a waste of time and, hence, is unreasonable.

Third and finally, we join in the September 3, 2013 comments of the Central Coast Groundwater Coalition regarding sampling of all domestic wells. This Board has, of course, ruled that matters contained in that letter are not admissible in the record – such as the specifics of the domestic well measuring regime created by the Regional Board after the passage of its adoption of the conditional waiver. Regardless of whether they are admissible in the record or not, the Coalition’s statements of the specifics of that regime (and the regime itself) provide an independent basis which this Board may adopt in its Revised Order. In short, the Revised Order should be revised so that rather than providing for the sampling of every domestic supply well twice a year, the quality of the drinking water is to be established through the use of commonly known groundwater evaluation methods such as kriging to evaluate larger areas with existing data or that includes the collection of some additional data where there are identified data gaps. The specifics of the necessary revisions are set forth in detail in the Coalition’s September 3 letter and, in lieu of being repeated in full here, are incorporated herein by reference.

B. Reporting Of Purported High Nitrate Loading Risk On A Field Or Management Block Basis Should Be Revised To Allow For Individual Farm/Ranch Reporting

The farms/ranches owned or operated by Jensen Family Farms are, like other farms in the Salinas Valley, divided into growing field or management blocks. Each of these blocks represents the planting – on a discrete area of a farming parcel – of differing crops. At its Esperanza Road ranch (which is a Tier 2 ranch), there are at least 82 separate management blocks in the current growing season on which are grown a variety of crops: e.g., asparagus, cauliflower, seed broccoli, broccoli, lettuce varieties (such as iceberg, butter, green leaf, red leaf, romaine). These management blocks are subject to change with each new planting season. (Parenthetically, Mr. Shimek’s comments concerning the absence of such blocks during his September 10 presentation is belied by these facts as well as inspection of various of the pictures introduced by him during his oral presentation which depicted management block farming of various crops on the same overall parcel or farm.)

We join in the comments and arguments presented by Ms. Tess Dunham on behalf of the Grower-Shipper petitioners both during the September 10 oral presentation and her letter to this Board of September 3. We believe, as do the Grower Shippers, that the change in the scale of total nitrogen applied reporting from a farm/ranch basis to a field/block proposed in the Draft Order is improper. That change is inconsistent with the other reporting provision contained in the conditional waiver and no sound reason exists or has been proffered supporting the wisdom of the proposed change.

Very truly yours,



William Elliott

cc: attached list

SERVICE LIST
SWRCB/OCC Files A-2209(a)-(e)

Mr. Ken Harris
Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
kharris@waterboards.ca.gov

Frances McChesney, Esq.
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
fmccchesney@waterboards.ca.gov

Mr. Michael Thomas
Assistant Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
mthomas@waterboards.ca.gov

Jessica M. Jahr, Esq.
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
jjahr@waterboards.ca.gov

Ms. Angela Schroeter
Senior Engineering Geologist
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
aschroeter@waterboards.ca.gov

Lori T. Okun, Esq.
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
lokun@waterboards.ca.gov

Ms. Lisa McCann
Environmental Program Manager I
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
lmccann@waterboards.ca.gov

Philip G. Wyels, Esq.
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
pwyels@waterboards.ca.gov

Deborah A. Sivas, Esq.
Leah Russin, Esq.
Alicia Thesing, Esq.
Brigid DeCoursey, Esq.
Environmental Law Clinic
Mills Legal Clinic at Stanford Law School
Crown Quadrangle
559 Nathan Abbott Way
Stanford, CA 94305-8610
dsivas@stanford.edu

Emel G. Wadhvani, Esq.
Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
ewadhvani@waterboards.ca.gov

*Attorneys for Petitioners Monterey Coastkeeper,
Santa Barbara Channelkeeper, San Luis Obispo
Coastkeeper [File No. A-2209(a)]*

Mr. Gordon R. Hensley
San Luis Obispo Coastkeeper
Environment in the Public Interest
EPI-Center
1013 Monterey Street, Suite 202
San Luis Obispo, CA 93401
coastkeeper@epicenteronline.org
*Petitioner San Luis Obispo Coastkeeper [File
No. A-2209(a)]*

Mr. Steven Shimek
Monterey Coastkeeper
The Otter Project
475 Washington Street, Suite A
Monterey, CA 93940
exec@otterproject.org
*Petitioner Monterey Coastkeeper [File
No. A-2209(a)]*

Ms. Kira Redmond
Mr. Ben Petterle
Santa Barbara Channelkeeper
714 Bond Avenue
Santa Barbara, CA 93103
kira@sbck.org; ben@sbck.org
*Petitioner Santa Barbara Channelkeeper [File
No. A-2209(a)]*

Nancy McDonough, Esq.
Kari E. Fisher, Esq.
Ms. Pamela Hotz
California Farm Bureau Federation
2300 River Plaza Drive
Sacramento, CA 95833
kfisher@cfbf.com; photz@cfbf.com
*Attorneys for Petitioners 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 [File No. A-2209(b)]*

Johnny A. Gonzales
Irrigated Lands Regulatory Program
Coordinator
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
jgonzales@waterboards.ca.gov

Jonathan Bishop
Chief Deputy Director
Executive Office
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
jbishop@waterboards.ca.gov

Michael A.M. Lauffer, Esq.
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
mlauffer@waterboards.ca.gov

Victoria Whitney, Deputy Director
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
vwhitney@waterboards.ca.gov

Mr. Dale Huss
Ocean Mist Farms
10855 Ocean Mist Parkway
Castroville, CA 95012
daleh@oceanmist.com
Petitioner Ocean Mist Farms [File No. A-2209(c)]

William J. Thomas, Esq.
Wendy Y. Wang, Esq.
Best Best & Krieger
500 Capitol Mall, Suite 1700
Sacramento, CA 95814
William.thomas@bbklaw.com;
wendy.wang@bbklaw.com
*Attorneys for Petitioners Ocean Mist Farms and
RC Farms [File No. A-2209(c)]*

Mr. Dennis Sites
RC Farms
25350 Paseo del Chaparral
Salinas, CA 93908
dsitesagmt@aol.com
Petitioner RC Farms [File No. A-2209(c)]

Ms. Abby Taylor-Silva
Vice President
Policy and Communications
Grower Shipper Association of Central California
512 Pajaro Street
Salinas, CA 93901
abby@growershipper.com
*Petitioner Grower Shipper Association of Central
California [File No. A-2209(d)]*

William Elliott
Jensen Family Farms, Inc.
323 McCarthy Avenue
Oceano, CA 93445
elliottsl@aol.com
*Attorney for Petitioners Jensen Family Farms, Inc.
and William Elliott [File No. A-2209(e)]*

Tom Howard, Executive Director
Executive Office
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
thoward@waterboards.ca.gov

Mr. Darrin Polhemus
Deputy Director
Division of Administrative Services
P.O. Box 100
Sacramento, CA 95812-0100
dpolhemus@waterboards.ca.gov

Claire Wineman
President
Grower-Shipper Association of Santa Barbara
and San Luis Obispo Counties
P.O. Box 10
Guadalupe, CA 93434
richard@grower-shipper.com
*Petitioner Grower-Shipper Association of
Santa Barbara and San Luis Obispo
Counties [File No. A-2209(d)]*

Mr. Hank Giclas
Senior Vice President
Strategic Planning, Science & Technology
Western Growers
P.O. Box 2130
Newport Beach, CA 92658
hgiclas@wga.com
*Petitioner Western Growers [File
No. A-2209(d)]*