



July 11, 2013

Chair and Members  
State Water Resources Control Board  
1001 'I' Street  
24<sup>th</sup> Floor  
Sacramento, CA 95814

**Re: Comments to A-2209(a)-(e) – July 23 Board Item [Electronic Submission]**

Dear SWRCB Board Chair and Members:

On behalf of Sierra Club California and our more than 380,000 members and supporters statewide, I am writing to urge the State Water Resources Control Board to adopt the June 6 draft of the proposed order on the conditional waiver for agricultural discharges, and associated monitoring and program orders, as SCWRCB/OCC Files A-2209 (a)-(e).

On September 12, 2012, Governor Brown signed AB 685, the Human Right to Water Bill, which declares that “every human being has the right to safe, clean, affordable, and accessible water.” AB 685 places the human right to water at the center of state policy and underscores the role of state agencies in addressing the human impact of unsafe water.

Last year, the State Water Resources Control Board sent to the legislature its report on “Communities that Rely on Contaminated Groundwater.” That report concluded that “contamination of the State’s groundwater resources results in higher costs for rate payers and consumers due to the necessity of additional treatment, and can pose a threat to public health for communities that cannot afford the necessary treatment systems.”

Monterey and San Luis Obispo are on the Water Board’s list of the Top 15 Counties with the Greatest Number of Communities that Rely on Contaminated Groundwater as their Primary Source of Drinking Water. A 2012 report by UC Davis found that nitrate leaching from agriculture is responsible for 96 percent of the current groundwater contamination in the four California counties with the largest agricultural production in the nation.

We urge you to be mindful of these facts when considering the petitions from the agriculture industry in opposition to the conditional waiver of waste discharge requirements for discharges from irrigated lands. Further, we believe that the current order, while perhaps not as forceful or as robust as my organization believes it should be, is a fair and reasonable outcome reflecting years of public debate and methodical development and consideration.

Specifically, that public consideration, which included many agricultural stakeholders, began in 2008 with the convening by the Central Coast Water Board of an Agricultural Advisory Panel --

dominated by representatives of the agricultural industry -- to assist in developing a new waiver. The panel met five times before the 2004 waiver was set to expire, and, after the waiver was extended in 2009, went on to hold multiple meetings with regional board staff. Staff then solicited, and petitioners submitted, input for alternative proposals.

When the draft waiver was issued in February 2010, two "Ag Alternative" proposals were submitted for consideration and the deadline for public comment was extended by 3 months. More comments and presentations were made by ag industry representatives at two regional board workshops in May and July 2010. Regional Board staff held a scoping meeting for the project's environmental review in August, and met with the Agricultural Petitioners multiple times through the fall of that year; in November they issued a Draft Supplemental EIR and a new draft order with longer timeframes for compliance and more monitoring options, also publishing the Draft EIR that month and taking comments through January 2, 2011. They received comments from the Agricultural Petitioners, continued to meet with the Agricultural Petitioners, and issued a new draft waiver and Final SEIR on March 1, 2011. The Regional Board took more public comment at a March 17 hearing, and still more on May 4. It responded to changes requested by the Ag industry in a report issued on August 10, 2011, held another public workshop at the request of the Agricultural Petitioners on February 1, 2012, at which still more public testimony was taken, and commenced the hearing on adoption of the waiver on March 14, 2012, adopting the waiver order after two days of public testimony.

Now petitioners contend that the public process was insufficient. That clearly is not the case.

All the other claims by the agricultural petitioners are likewise invalid, and should be rejected.

In the report entitled "The Human Right to Water Bill in California - An Implementation Framework for State Agencies," The UC Berkeley International Human Rights Law Clinic analyzed AB 685 as signed by Governor Brown. It concludes its analysis thus:

"In joining the global effort to address water challenges as a human rights issue, California has recognized the human impact of contaminated drinking water and prioritized removing barriers to access faced by underserved communities."

The report notes that California is the first state in the nation to legislatively recognize the human right to water. The State Water Resources Control Board's decision in this case will illuminate the state's commitment to that recognition.

Thank you for your consideration of these comments.

Sincerely,



Kathryn Phillips  
Director