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Dr. Karl E. Longley, Chair
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

RE: Additional comments on working draft Monitoring and Reporting Plan,
October 3, 2007 version

Dear Dr. Longley:

The Kern County Water Agency (Agency) appreciates the opportunity to provide additional comments on the October 3, 2007 working draft Monitoring and Reporting Plan (MRP). Bill Thomas has been keeping the So. San Joaquin Valley Water Quality Coalition up to speed on the working draft MRP. On October 31, 2007, initial comments by the Agency were submitted electronically to Ms. Margie Lopez-Read of your staff. Following are some additional comments and clarifications by the Agency.

- The Agency still feels it is appropriate and necessary for the MRP to state that the working draft MRP only applies to surface waters of the state. This will avoid a number of ambiguities which would otherwise arise throughout the working draft MRP regarding its scope. The Regional Water Quality Control Board (Regional Board) has not yet responded to previous comments from the So. San Joaquin Water Quality Coalition on this matter. The Regional Board may prefer to be silent on this matter because it has in mind its interest in extending the irrigated lands program to groundwater. The draft MRP now being considered, however, is not intended to apply to groundwater in any way. Therefore, there is no compelling reason for the current draft MRP to not state its intent to only apply to surface water. In fact, the current conditional waiver program R5-2006-0053 states, "The Conditional Waiver applies to discharges of waste from irrigated lands to surface waters of the State." [Emphasis added.]

Discussions on extending the irrigated lands program to groundwater remain for another day. In fact, the Regional Board is currently preparing an environmental impact report (EIR) to evaluate alternatives for a comprehensive, long-term water quality regulatory program to regulate discharges from irrigated lands. Until that EIR is completed and adopted, the purpose behind not limiting the draft MRP to surface waters when the current MRP does is not transparent. The State Water Resources Control Board's draft strategic plan update begun in 2007 specifically states, "We strive to earn the trust and respect of those we serve through commitment to ... transparency ..." The Regional Board no doubt adheres to the same principle.

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- A related concern is the draft MRP's requirement to characterize water quality on "all waters of the State within the Coalition Group's boundaries." The Agency is concerned that such a requirement is beyond the authority of the Regional Board. Resolution R5-2006-0053 specifically states, "Whether an individual discharge of waste from irrigated lands may affect the quality of the waters of the State depends on the quantity of the discharge, quantity of the waste, the quality of the waste, the extent of treatment, soil characteristics, distance to surface water, depth to groundwater, crop type, management practices and other site specific factors." It further states, "[T]his Order conditionally waives the requirement to file reports of waste discharge ... for Dischargers ..." [Emphasis added.] As referenced in R5-2006-0053, the Regional Board's authority in this matter stems from California Water Code Section 13260(a), which mentions "any person discharging or proposing to discharge waste that could affect the quality of waters of the state." The fact that the irrigated lands program is intended to apply to discharges from irrigated lands renders it inappropriate to expect Coalition Groups to characterize water quality on all waters within its boundaries. Of course, it is necessary to characterize water quality in waters which do receive discharges or generate wastes. The monitoring program embodied in the current MRP is designed to accomplish this.
- Monthly sampling of assessment monitoring sites is still referenced in the draft MRP, with at least two storm events annually per site. The Agency has previously stated that there is no practical way to guarantee this in Kern County because of the lack of rainfall. Another very troubling aspect of this draft requirement is the fact that it is not scientifically based. The vast majority of crops grown in the Central Valley are not irrigated year-round. The scientific value which would accrue to the irrigated lands program by monitoring water quality during parts of the year when no irrigation or storm runoff is occurring is not apparent. Since its inception, the irrigated lands program has focused on monitoring runoff from agricultural lands into surface waters of the state, where downstream beneficial uses are impacted by the runoff. To now require monthly monitoring, even when there is no possibility of runoff occurring, smacks of requiring monitoring for monitoring's sake. This is an unnecessary, impractical and expensive data collection program for purposes other than the irrigated lands program.
- The draft MRP continues to require that a description of the study area would include nutrients being applied. Because nutrient use for agricultural purposes is generally not regulated there is no reliable method of providing this information. Some nutrient uses can be quantified and reported, such as use of sewage sludge for fertilizer, while others cannot. If the Regional Board adopts this requirement in the new MRP, the Agency will be unable to comply because of the lack of information. Unlike pesticide use, nutrient use is not compiled by the county agricultural commissioners or anyone else. The only way to generate the information is to contact each and every farmer in the So. San Joaquin Water Quality Coalition. The Agency is unable to dedicate sufficient staff resources to such a task. Besides the tremendous work entailed, it is not at all clear how this information would help the Regional Board characterize water quality.

The Agency suggests the draft MRP drop the requirement for reporting nutrients being applied in favor of a simple statement that the description of the study area should characterize nutrient applications from animal sources. The Regional Board already has nutrient information from dairies and the county agricultural commissioners typically report

the number of head of livestock and poultry. Kern County's agricultural commissioner also reports tons of animal manure generated. This information is relatively simple to gather and is acceptable to the Agency.

- The concept of assessment monitoring, core monitoring and special project monitoring continues to be a problem for the Agency. These multiple levels of monitoring could take place simultaneously, greatly increasing overall monitoring costs without necessarily generating useful information. For instance, repeating the assessment monitoring every three years may or may not be useful in areas dominated by permanent crops (no change in cropping patterns). The working draft MRP should be modified to provide Coalition Groups with flexibility in determining the frequency of assessment monitoring. The history of monitoring data already collected can serve as an excellent reference in determining frequency. For the Kern River subbasin, which has experienced only a few exceedences of short duration and has only limited opportunities for discharges to impact beneficial uses, multiple levels of monitoring is of little practical or scientific value.
- Current language in the working draft MRP requires, if no sediment is available at the monitoring site, the water quality coalitions would need to take a sediment sample at some other location where sufficient sediment was available for sampling. The Agency wishes to point out that this requirement is unnecessary. The working draft MRP requires the water quality coalitions to update their existing MRPs. As part of that effort, monitoring sites will require justification. If a Coalition Group recommends a monitoring site where no sediment is available (i.e., in a lined section of canal), the Regional Board already has authority to disallow the site. Once monitoring stations are agreed to by the Regional Board, it is scientifically unwise to uncouple water column sampling sites from sediment sampling sites. Under the existing irrigated lands program, if a water column sampling site is dry, Coalition Groups are not required to move somewhere else to find enough water to sample; there may be no relationship between the established sample site and the alternative site. It likewise makes no sense to require such for sediment sampling. In fact, lack of water or sediment for sampling is a significant datum which should be respected by the Regional Board.
- The working draft MRP requires an annual report and three original quarterly reports. The existing irrigated lands program requires semi-annual reports. The Agency may have difficulty dedicating sufficient staff resources to produce two additional reports per year. The Agency recommends the recommendation for an annual report be retained, but the quarterly reports are simply data dumps without analysis. From a practical perspective, when the Coalition Groups submit reports currently it may take many months before your staff provides comments.

Dr. Karl E. Longley

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Thank you again for the opportunity to comment on the working draft MRP. If you have any questions, feel free to contact me at (661) 634-1446 or lfryer@kcwa.com.

Sincerely,

Lloyd Fryer

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Kern River Subbasin Coordinator

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