



**California Sportfishing  
Protection Alliance**

*"An Advocate for Fisheries, Habitat and Water Quality"*



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## **Regional Water Board Sued Over Agricultural Pollution** Farmers Allowed to Continue to Pollute Despite Demise of Delta Populations

(Stockton, CA) Today, the California Sportfishing Protection Alliance (CSPA) and Baykeeper filed a lawsuit against the Central Valley Regional Water Quality Control Board (Regional Board) for renewing waivers that excuse polluted discharges from 25,000 farms from meeting statewide water quality objectives. The lawsuit alleges that the Regional Board's adoption of the waivers violates the California Environmental Quality Act (CEQA), state and federal endangered species acts and Porter-Cologne, California's water quality law. The lawsuit also claims that coalitions of farmers have blatantly refused to comply with the minimal requirements of the previous 2003 waiver and that the Regional Board has failed to enforce the law in the face of significant noncompliance. The latest waivers were adopted in July 2006. The environmental groups appealed the Regional Board's decision to the State Water Resources Control Board (State Board). Even though State Board's technical staff agreed with virtually all of the groups' claims in their technical assessment of the petition, the Board bowed to political pressure and rejected the appeal "as not raising significant issues." CSPA and Baykeeper filed the lawsuit within the 30-day period specified by law.

State and federal scientists have identified agricultural pesticides as a principle cause of the catastrophic collapse of Delta smelt. Discharges of agricultural wastes are identified as the largest source of pollution to Central Valley Waters and are responsible for polluting and impairing thousands of miles of streams, rivers and the seriously degraded Sacramento-San Joaquin Delta. The waivers exempt irrigated agriculture from routine waste discharge requirements applicable to industry, municipalities and mom-and-pop businesses.

"Here is yet another example of the water board's pandering to special interests and ignoring the law. Given the degraded state of California's waterways and collapsing fisheries, the Regional Board cannot legally continue to shield agriculture from reasonable rules applicable to everyone else," explained CSPA Executive Director Bill Jennings. "The waivers protect polluters from the law rather than protecting our waterways from polluters. They authorize agribusiness to continue to hide discharge locations, type and volume of pollutants discharged, impacts to water quality and whether control measures are implemented or effective. They do not require the reduction of a single pound of pollution or implementation a single control measure. Consequently, we're asking the Courts to take charge and create a meaningful and effective pollution control program for Central Valley agribusiness."

Toxicity from agricultural pollutants, along with water exports and invasive species, have been identified by state and federal scientists as one of the principle causes for the catastrophic collapse of the Delta's pelagic (i.e., Delta smelt, splittail, threadfin, longfin, young-of-the-year striped bass, etc.) fisheries.

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“The Regional Board has ignored the growing body of evidence that farm pollution is causing our Central Valley waters to be too polluted to sustain fishing, swimming or drinking,” said Sejal Choksi, Baykeeper Program Director. “Every Californian has a right to clean water, but the Board is saying that big agriculture can use our rivers and streams as a dumping ground. We’re not going to sit by and allow that to happen.”

As a result of the waivers, Central Valley agribusinesses can continue discharging unlimited quantities of pesticides, fertilizers, salts, sediment and other pollutants into state waterways for another five years without having to implement control measures. In approving the waiver, the Regional Board also determined that its action was exempt from CEQA’s requirement to prepare a full analysis of environmental impacts and alternatives – a determination that is challenged by the lawsuit filed today.

“The Delta and its tributaries are among the most polluted waterbodies in the nation,” said Michael Jackson, one of the attorneys representing plaintiffs. “At a time when Delta smelt and other species are hovering on the brink of extinction, partly attributable to agricultural pollution, the Regional Board’s actions in allowing uncontrolled discharges of toxic wastewater in violation of state and federal statutes are simply unacceptable. The Regional Board, in its efforts to allow agricultural dischargers to continue business as usual, seems oblivious to the looming crisis in the Delta.”

The specific violations of Porter-Cologne include: failure to protect groundwater; inconsistency with the state’s Nonpoint Source Control and Antidegradation Policies; noncompliance with the Toxic Hot Spots program and Water Quality Control Plan for the Central Valley; and failure to comply with numerous other regulatory provisions governing the discharge of toxic pollutants into California’s waters.

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CSPA is a public benefit conservation and research organization established in 1983 for the purpose of conserving, restoring, and enhancing the state’s water quality, fisheries and associated aquatic and riparian ecosystems. On behalf of its members, CSPA participates in administrative and judicial proceedings before state and federal agencies and actively enforces laws protective of fisheries and water quality.

Founded in 1989, Baykeeper is a nonprofit organization dedicated to protecting the water quality of the San Francisco Bay for the benefit of the fish, wildlife and human communities who depend on it. Baykeeper uses advocacy, science and the courts to hold polluters accountable and ensure that our clean water laws are enforced.