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August 7, 2014

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

Via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Re: Agricultural Expert Panel Draft Report

Dear Expert Panel, State Board Members, and Staff:

Thank you for the opportunity to comment on the Expert Panel recommendations for solving the critical issues of agricultural water pollution and the nitrate contamination of our drinking water supplies. The following comments are made on behalf of The Otter Project, California Sportfishing Protection Alliance, California Rural Legal Assistance, Environmental Justice Coalition for Water, Santa Lucia Chapter of the Sierra Club, Santa Barbara Channelkeeper, California Coastkeeper Alliance and its 12 member Waterkeepers, and California Rural Legal Assistance Foundation. We agree these are complex and health threatening issues deserving immediate attention and action. In addition, California's recent codification of the Human Right to Water all the more emphasizes the need for regulatory agencies such as the State Water Board to implement practices and policies governing the agricultural community that ensure protection of our potable water sources and the environment.

The Harter Report (<http://groundwaternitrate.ucdavis.edu/>) and the Central Coast Water Quality Conditions Report ([http://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/ag\\_waivers/docs/12\\_09\\_2010\\_s\\_taffrpt/AgOrder\\_AppG.pdf](http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/12_09_2010_s_taffrpt/AgOrder_AppG.pdf)) highlight the seriousness of the issue and the likelihood that agricultural pollution is impacting the health and pocketbooks of tens of thousands of California families.

This Agricultural Expert Panel is not the first of its kind. To date, the State has convened the following panels, experts, and stakeholder groups:

- The Central Coast Regional Board engaged a number of experts to help craft the February 1, 2010 Preliminary Draft Central Coast Agricultural Order ([http://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/ag\\_waivers/ag\\_order.shtml#feb1](http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/ag_order.shtml#feb1));
- An Inter-Agency Nitrates Task Force was created in August 2010 to study and offer recommendations ([http://www.waterboards.ca.gov/water\\_issues/programs/nitrate\\_project/](http://www.waterboards.ca.gov/water_issues/programs/nitrate_project/));
- The UC Davis Harter Report commissioned by the California Legislature was released March 13, 2012 and involved over two dozen experts to study the issues and recommend solutions (<http://groundwaternitrate.ucdavis.edu/>) that included two appendices of solutions;
- The Governor's Office convened a stakeholder group to offer recommendations ([http://www.swrcb.ca.gov/water\\_issues/programs/groundwater/drinkingwater\\_stakeholders.html](http://www.swrcb.ca.gov/water_issues/programs/groundwater/drinkingwater_stakeholders.html));
- The California Department of Food and Agriculture convened a Nitrates Tracking and Reporting Task Force which reported out in December of 2013 (<http://www.cdffa.ca.gov/environmentalstewardship/PDFs/NTRSTFFinalReport122013.pdf>);
- And finally this Agricultural Expert Panel's deliberations and products (<http://www.itrc.org/001/swrcb.htm>).

This Panel's recommendations are often at odds with panels and experts who have previously reported their recommendations. In general, the draft report emphasizes and focuses on what can't be done rather than identifying what can. We recognize that nitrate pollution in groundwater is a highly complex issue, however we are disappointed that the Panel's entire document emanates a tone of futility that fails to adequately rise to the challenge with which it was tasked: to identify and provide the State Board with real solution-oriented recommendations that address the State's critical agricultural pollution problems.

The Panel repeatedly identifies data gaps and quality issues that limit the usefulness of existing studies for policy making and management, however the Panel's recommendations consistently fail to produce outcomes that would help to ameliorate this problem in the short or long-term. Rather, the Panel's recommendations appear to support the status quo. The Panel stresses that monitoring and verification of nutrient management practices is a complex task, however it then ultimately concludes that it is not worth the time and effort to collect data that would allow us to do so and completely dismisses existing science-based solutions that have proven to be successful tools for dealing with groundwater remediation issues for other industries.

Instead of concentrating on science-based metrics and practices to monitor and verify effective nutrient management, the Panel has chosen to focus on farmer education as their preferred strategy. While we agree that grower and consultant education will – in the very long run – provide important dividends, the report does not recognize the language and cultural diversity, high rate of turn-over (especially in the Central Coast region) and other challenges a multi-level educational program present.

In an effort to offer positive solutions, The Otter Project has taken the step of engaging a highly credentialed, widely published, and respected consultant, Dr. Mark Kram, to review the "Draft

*Conclusions of the Expert Agricultural Panel, Recommendations to the State Water Resources Control Board pertaining to the Irrigated Lands Regulatory Program.”* Dr. Kram’s recommendations are science-based and offer benefits and efficiencies to regulators, the agricultural industry, environmental justice and conservation stakeholders, and the public-at-large. Dr. Kram’s report is attached and is an integral part of this comment letter.

Our organizations endorse Dr. Kram’s analysis and recommendations. We believe much needs to be done and much can be done in the short and longer terms to address California’s pressing need for clean water for drinking, agriculture, and the environment.

Sincerely,

Steve Shimek  
Executive Director  
**The Otter Project**

Bill Jennings  
Executive Director  
**California Sportfishing Protection Alliance**

Pearl Kan  
Attorney | Equal Justice Works Fellow  
**California Rural Legal Assistance**

Colin Bailey  
Executive Director  
**Environmental Justice Coalition for Water**

Andrew Christie  
Director  
**Santa Lucia Chapter of the Sierra Club**

Kira Redmond  
Executive Director  
**Santa Barbara Channelkeeper**

Sara Aminzadeh  
Executive Director  
**California Coastkeeper Alliance**

Noe Paramo  
Legislative Advocate  
**California Rural Legal Assistance Foundation**

Attachment:

Review of “Draft Conclusions of the Expert Agricultural Panel, Recommendations to the State Water Resources Control Board Pertaining to the Irrigated Lands Regulatory Program” in Fulfilment of SBX2 1 of the California Legislature. Dr. Mark Kram. August 6, 2014.