

California Agricultural Irrigation Association
California Grain and Feed Association
California Pear Growers
California Seed Association
California Warehouse Association
California Wheat Growers Association
California State Floral Association
East San Joaquin Water Quality Coalition
Grower-Shipper Association of Central California
Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties
Kings River Conservation District
Kings River Water Association
Monterey County Farm Bureau
Pacific Egg and Poultry Association
Paso Robles Wine Country Alliance
Santa Barbara County Farm Bureau
Southern San Joaquin Valley Water Quality Coalition
Valley Ag Water Coalition
Wine Institute

May 2, 2011

Senator Joseph Simitian
Chair, Senate Environmental Quality
State Capitol, Room 2205
Sacramento, CA 95814

RE: SB 900 (Steinberg) Regional Water Quality Control Boards - SUPPORT

Dear Senator Simitian:

The above mentioned organizations strongly support SB 900 Steinberg which seeks to address the conflict of interest requirements and the 10 percent rule that governs the State Water Resources Control Board (SWRCB) and Regional Water Quality Control Board (RWQCB) members. Currently, water board members are subject to both the Political Reform Act (PRA) and the Porter/Cologne conflict of interest requirement provisions. SB 900 would hold the water board members to the same standard as other board members/appointees in the State.

The primary impact this would have pertains to the "public generally" exception where a board member may be a discharger, but the impact of an order on the board member is no different than the orders' impact on the "public generally." Under Porter-Cologne's conflict rules, the Board member is prohibited from voting on such an order that would affect them, even if it is a broad order that affects a whole class of dischargers, of which the board member is only one.

The PRA recognizes that these types of decisions will be made affecting a members' economic interests, but that the impact will be no different than the impact on the public generally. The act and its implementing regulations establish a test for determining this impact. If the decision passes the test, then a board member may participate.

Porter/Cologne conflict of interest requirements have caused a tremendous amount of concern to the regulated community as it is increasingly difficult to find qualified people to serve. Every RWQCB has a designated seat for a member from "irrigated agriculture." Clearly, the Legislature in creating these entities sought to ensure that farmers would be appointed to and serve as fully voting members of these boards. Yet over time, the effects of stringent application of the conflict provisions in the state water code have caused a dramatic reduction in the pool of farmers eligible to be appointed, and have forced non-participation of the few who are appointed when regulatory proposals affecting agriculture are decided. The result has been growing insulation of water regulators from this important regulated community, and a concomitant loss of confidence in, and support for, the actions of the regional water boards relative to agriculture.

The simple modifications proposed in this measure would restore the full participation of agriculture on these boards as was originally intended and serve to restore the credibility of their regulatory programs and encourage greater cooperation in their implementation.

Additionally, the 10 percent rule provision has likewise been problematic in finding qualified people to serve. This bill would apply the 10 percent rule provision to income from persons/entities that receive NPDES permits from the member's regional water board, and would not apply the restriction to income that is from persons/entities subject to an NPDES permit issued by the other RWQCB. It is our understanding this measure would address about 10-15 percent of the historical regional board 10 percent rule conflicts.

For these reasons, we strongly support SB 900 Steinberg.

CC: Senator Darrell Steinberg
Senate Environmental Quality Committee Members