

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – OFFICE OF THE CHIEF COUNSEL
JULY 23, 2013**

ITEM 12

SUBJECT

CONSIDERATION OF AN ORDER FOR STATE WATER BOARD REVIEW ON ITS OWN MOTION OF CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS ORDER NO. R3-2012-0011 FOR DISCHARGES FROM IRRIGATED LANDS, MONITORING AND REPORTING PROGRAM ORDER NOS. R3-2012-0011-01, R3-2012-0011-02, AND R3-2012-0011-03, AND RESOLUTION NO. R3-2012-0012, ISSUED BY THE CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD. (SWRCB/OCC FILES A-2209(A)-(E)).

DISCUSSION

On March 15, 2012, the Central Coast Regional Water Quality Control Board (Central Coast Water Board) adopted, pursuant to Water Code section 13269, a waiver of waste discharge requirements, [Order No. R3-2012-0011](#), associated monitoring and reporting orders, [Orders Nos. R3-2012-0011-01](#), [R3-2012-0011-02](#), and [R3-2012-0011-03](#) (collectively “Agricultural Order”) that regulate the discharge of irrigation return flows and storm water from irrigated lands in the region. The State Water Resources Control Board (State Water Board) received five petitions challenging various provisions of the Agricultural Order (SWRCB/OCC Files A-2209(a)-(e)).

The petitions were deemed complete on September 17, 2012. The State Water Board's regulations generally require final disposition of petitions within 270 days of the date a petition is deemed complete, but allow for a 60-day extension with agreement from petitioners.¹ In this case, the State Water Board obtained petitioners' agreement to a 60-day extension, which set the expiration of the time period for final disposition at August 13, 2013. If the State Water Board has not made a formal disposition within this time frame, the regulations deem the petition denied.² When the State Water Board anticipates addressing a petition on the merits after the review period passes, it may indicate that it will review the matter on its own motion.³

On June 6, 2013, the State Water Board circulated a proposed order resolving the petitions, set a deadline of July 16, 2013 to receive written comments on the proposed order, and scheduled a July 23, 2013, workshop to receive oral comments. The State Water Board intends to act promptly to adopt a final order resolving the petitions, but anticipates that it will not necessarily be able to do so by August 13, 2013. The State Water Board accordingly proposes to take up the Agricultural Order on its own motion.

POLICY ISSUE

Should the State Water Board adopt the proposed order to review the Agricultural Order on its own motion?

¹ Cal. Code Regs., tit. 23, § 2050.5, subd. (b).

² *Id.*

³ Wat. Code, § 13320, subd. (a); Cal. Code Regs., tit. 23, § 2050.5, subd. (c).

FISCAL IMPACT

None.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Adopt the proposed order.

State Water Board action on this item will assist the Water Boards in reaching Goals 1 and 2 of the Strategic Plan Update: 2008-2012 to support beneficial uses of impaired water bodies by 2030 and to improve and protect groundwater quality in high-use basins by 2030, by establishing interim regulatory strategies, and developing long-term strategies, for protecting surface waters and ground waters from agricultural discharges.

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WQ 2013-

In the Matter of Review of

Conditional Waiver of Waste Discharge Requirements Order No. R3-2012-0011
for

DISCHARGES FROM IRRIGATED LANDS

and Monitoring and Reporting Program Order Nos. R3-2012-0011-01,
R3-2012-0011-02, and R3-2012-0011-03,
and Resolution No. R3-2012-0012

Issued by the
California Regional Water Quality Control Board,
Central Coast Region

SWRCB/OCC FILES A-2209(a)-(e)

BY THE BOARD:

On March 15, 2012, the Central Coast Regional Water Quality Control Board (Central Coast Water Board) issued Conditional Waiver of Waste Discharge Requirements [Order No. R3-2012-0011](#), the accompanying Monitoring and Reporting Program Order [Orders Nos. R3-2012-0011-01](#), [R3-2012-0011-02](#), and [R3-2012-0011-03](#), and the accompanying Resolution No. R3-2012-0012 (collectively referred to hereinafter as the Agricultural Order) for discharges from irrigated agricultural lands in the Central Coast region. The State Water Resources Control Board (State Water Board) received timely petitions for review of the Agricultural Order from five groups of petitioners: (1) Monterey Coastkeeper, Santa Barbara Channelkeeper, San Luis Obispo Coastkeeper; (2) Ocean Mist Farms and RC Farms; (3) Grower-Shipper Association of Central California, Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties, and Western Growers; (4) California Farm Bureau Federation, Monterey County Farm Bureau, San Benito County Farm Bureau, San Luis Obispo County Farm Bureau, San Mateo County Farm Bureau, Santa Barbara County Farm Bureau, Santa Clara County Farm Bureau, and Santa Cruz County Farm Bureau; and (5) Jensen Family Farms, Inc. and William Elliott. These petitions were deemed complete on September 17, 2012.

State Water Board regulations generally require final disposition on petitions within 270 days of the date a petition is deemed complete, but allow for a 60-day extension with agreement from petitioners.¹ In this case, the State Water Board obtained petitioners' agreement to a 60-day extension, which set the expiration of the time period for final disposition at August 13, 2013. If the State Water Board has not made a formal disposition within this time frame, the regulations deem the petition denied.² The denial of a petition for review would ordinarily require a petitioner to file any judicial challenge within 30 days of the denial.³ When the State Water Board anticipates addressing a petition on the merits after the review period passes, it may indicate that it will review the matter on its own motion⁴ to avoid unnecessary or premature litigation.

On June 6, 2013, the State Water Board circulated a proposed order resolving the petitions and invited written comment by July 16, 2013. On July 23, 2013, the State Water Board held a workshop to take oral comment on the proposed order. The State Water Board will adopt a final order following revisions to address comments received, but will not necessarily complete revisions in time to adopt the order by August 13, 2013. Therefore, the State Water Board has decided to review the Agricultural Order on its own motion.

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¹ Cal. Code Regs., tit. 23, § 2050.5, subd. (b).

² *Id.*

³ Wat. Code, § 13330, subd. (b).

⁴ Wat. Code, § 13320, subd. (a); Cal. Code Regs., tit. 23, § 2050.5, subd. (c).

D R A F T

July 2, 2013

ORDER

IT IS HEREBY ORDERED that the State Water Board will review the Agricultural Order on its own motion.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 23, 2013.

AYE:

NO:

ABSENT:

ABSTAIN:

DRAFT

Jeanine Townsend
Clerk to the Board