

North Coast Regional Water Quality Control Board (Regional Water Board)
Agricultural Lands Discharge Program (Program)
Advisory Group Meeting #4
Tulelake Sub-Regional Meeting
Meeting Summary
5/8/2012

ATTENDEES

ADVISORY GROUP MEMBERS AND STAFF

David Leland, Regional Water Board staff
Sam Magill, Center for Collaborative Policy
Jovita Pajarillo, Regional Water Board volunteer
Dave Mauser, US Fish and Wildlife Service
Ned Coe, CA Farm Bureau Federation
Gene Kelly, NRCS
Joe Sammis, Butte Valley Irrigation District
Ben Zabinsky, Regional Water Board staff
Samantha Olson, Regional Water Board counsel
Dee Samson, Lava Beds-Butte Valley RCD
Otto Huffman, Modoc County Farm Bureau
Brad Kirby, Tulelake Irrigated District
Curt Mullis, Klamath Water Users Association
Glen Spain, Pacific Coast Federation of Fishermen Association
Rob Wilson, UC Davis
Clayton Creager, Regional Water Board staff

PUBLIC

Felice Pace, Klamath Forest Alliance
Mike Byrne, Lava Beds-Butte Valley RCD

ACTION ITEMS/ITEMS OF AGREEMENT

1. Advisory Group members agreed that the Program should not exclude agricultural operations based solely on some type of "acreage threshold" where small operations are automatically excluded.
2. Advisory Group members agree that the concept of risk-based tiers for the Program framework are appropriate, but acknowledged that significant changes are needed before the framework can be finalized.
3. Advisory Group members will submit revisions to the DRAFT Program scope and framework to Regional Water Board staff by May 22nd. Staff will use revisions and comments received from all sub-regional groups to revise the Program framework in advance of the June 26th meeting.

SUMMARY

****All presentations and meeting materials referenced below are available online at http://www.waterboards.ca.gov/northcoast/water_issues/programs/irrigated_lands/****

INTRODUCTIONS, MEETING LOGISTICS, AGENDA REVIEW

David Leland opened the meeting, thanked participants for attending, and provided an overview of other Regional Water Board regulatory programs. Participants asked if all Waste Discharge Requirements (WDRs) currently in place with the Regional Water Board have fees associated with them. Mr. Leland responded that agricultural permits/WDRs are the only programs where fees are required by the State Water Resources Control Board (SWRCB). The Regional Water Board recognizes that the SWRCB fee structure does not meet the needs of the North Coast Region and is actively working to revise it for the purposes of this Program.

After an initial round of questions, Sam Magill provided meeting logistic information, reviewed the agenda, and walked through ground rules for the meeting. After a review of the agenda, Advisory Group members and members of the public introduced themselves.

PRESENTATION & DISCUSSION OF PROGRAM SCOPE

Ben Zabinsky presented the Regional Water Board staff-developed DRAFT Program scope. This scope outlines the land use types/activities intended for inclusion within the Program, and discusses those agricultural activities specifically excluded from the scope. Mr. Leland asked participants to think of whether or not small animal feeding operations should be included in the scope of this Program, or if they should need a separate permit under an as yet undefined program. After the presentation, the following discussion was recorded:

- Rob Wilson asked if sprinkler irrigation constitutes a tailwater discharge even if no water leaves the field. Staff responded that runoff from sprinklers would constitute a discharge, but only if water is leaving the field. Groundwater discharge may be considered by the Program, but is not a priority for the Regional Water Board at this time. Participants stressed the need for more definition of groundwater if it is being considered for inclusion in the Program.
- Glen Spain commented that the task of the Advisory Group is to identify situations that pose a real risk to water quality and the requirement; determining a “cutoff” for de minimus impacts to water quality should be the focus of this discussion.
- Otto Huffman asked that stormwater be explicitly included or excluded in the Program scope.
- A public participant suggested that the size of a farming operation is irrelevant, since stormwater discharge can be significant, even from small operations. Staff responded that the Program scope and framework must be able to prioritize risk; the Regional Water Board always maintains the option of pursuing small violators on a case by case basis.
- Mr. Huffman commented that Tulelake agricultural operations do not percolate into groundwater, and that the groundwater in the basin is already impaired due to non-agricultural contaminant sources.
- Joe Sammis commented that the Butte Valley is a closed basin, and that runoff doesn’t reach waters of the state.
- Brad Kirby asked if there is a pesticide problem with irrigated agricultural water quality in Tulelake. Staff responded that they have not looked at all the data concerning pesticides, but that other contaminants (such as nutrients, sediment and temperature) must be considered as well.

- Mr. Wilson suggested that any future monitoring for the Program must be done at the top and bottom of irrigation districts to identify contaminant inputs to the system. While temperature improvements may not be possible, it is possible that agricultural operations are actually *helping* with any nutrient problems.
- Dave Mauser noted that nutrient issues may be due in part to the exposure of organic sediments on the bottom of Tulelake. In this case, agricultural best management practices (BMPs) may not be the solution to the problem.
- Participants discussed the effect of the Klamath Straits Drain on dischargers of agricultural waste to the Klamath River. Although some felt that the increase in the size of the drain during the 1970s increased contaminants such as sediment and nutrients, others noted that contaminants entering the Tulelake area are responsible for most of the exceedances at the drain. One person noted that without the drain in place, salts in the basin would build up.
- Advisory Group members generally agreed that using acreage as the main threshold for inclusion/exclusion in the Program is not appropriate (**see Action Item #1**). When asked for suggestions for other ways to set a threshold for inclusion in/exclusion from the Program, Advisory Group members were not able to provide an alternative. A member of the public suggested that any and all agricultural operations be included in the Program until they can show they do not pose a risk to water quality and participate in certified educational sessions. Advisory Group members representing agricultural interests raised a concern that this suggestion implies that all growers are causing a problem without first demonstrating any impact to water quality.
- Ned Coe noted that in the Central Valley, the threshold is commercial vs. hobby agriculture. No specific income level is set, so no revenue verification is required.
- Mr. Huffman noted that the existing BMPs on Sprague and Williamson Act lands don't apply to this Program. Mr. Zabinsky agreed that it makes sense to use locally developed BMPs to address local issues. Mr. Kirby stated that a coordinated Program effort consistent with the ODA approach makes sense.
- Participants noted that in the Tulelake and Butte Valley areas, farms are based around the historic homestead size of 40 to 60 acres. Samantha Olson said that this presents an owner/operator issue, for farm land that is leased. The Program must determine how to ensure that those responsible for any discharge of waste are included (including individuals who might own the land, but not do any farming).

PRESENTATION & DISCUSSION OF RISK-BASED TIERS

After the discussion of Program scope, Mr. Zabinsky delivered a presentation on the DRAFT Program framework. The framework was described as a DRAFT work product for discussion purposes only, and was developed by Regional Water Board staff at the request of Advisory Group members to provide a starting point for discussions.

The framework is divided into three risk-based tiers. If a grower's operation falls within the general scope of the Program, s/he would enroll in one of the tiers depending on the level of water quality risk posed by their operation and the management practices/plans they have in place to mitigate that risk. Although not explicitly captured in the presentation, Mr. Leland noted that a "Tier 4" could be considered for high risk agricultural activities. Furthermore, he commented that the Regional Water Board retains the authority to bring growers into the Program at any time if there is a risk to water quality. After the presentation, the following discussion was recorded:

- Mr. Magill asked Advisory Group participants if the concept of a risk-based tiering system makes sense. Advisory Group members conceptually supported the idea of a risk-based tiering system, but noted that a number of substantial changes are needed (**see Action Item #2**).

- Mr. Spain noted that while the system makes sense, there must be a system set up to verify that growers enroll in the correct tier. Ms. Olson noted that those individuals who don't meet the existing tier 1 criteria will start in tier 3. They must then provide verifiable management plans to move into tier 2.
- Mr. Mauser suggested that the tiers be taken into the field to see how they would apply to existing farming operations and how they might affect landowners.
- Mr. Coe suggested that any elements of the Program related to roads should be determined on a subregional basis, since roads and road construction methods vary throughout the North Coast region. Mr. Huffman added that irrigation canal roads are not private like farm roads in other regions.
- Gene Kelly noted that erosion is caused by more factors than just slope (soil type, rainfall amounts, cover crop, etc.) and that all factors should be explored for Tier 1. Some type of checklist could be developed to make the process easier. Staff stressed the need to keep Tier 1 criteria very easy to apply on the ground.
- Mr. Huffman expressed significant concern over slope and discharge criteria across all Tiers. He added that any erosion is primarily from the sides of canals into drainage ditches, but that ditches as constructed do not transport any sediment.
- Mr. Wilson suggested that the Advisory Group look at maps of the affected areas to see where criteria apply.
- A majority of participants expressed concern that Tier 1 as written would exclude most (if not all) agricultural operations in the area. Staff responded that in some areas, this will be the case; the purpose of Tier 1 is to easily identify those growers that pose no/little risk to water quality. It allows staff to focus on areas of significant concern and those operations that are likely to have an impact to water quality. Mr. Magill noted that other sub-regional groups have suggested an addition tier ("Tier 2 lite") that could acknowledge those growers who pose a risk to water quality, but have demonstrated management actions in place to reduce/eliminate that risk. The other groups suggested that this tier could have lower requirements over time and reduced fees.
- A public participant stressed the need for specific education requirements for the Program in each tier. Mr. Kelly noted the educational value of planning in consultation with NRCS staff.
- Advisory Group members discussed nutrient application rates for the Program. Mr. Kelly noted that nutrient management plans will help growers focus on where treatment is needed and where it is not.
- Participants asked for more clarification on the types and amount of monitoring required by the Program. Although Program monitoring requirements have not been designed at this time, staff suggested that monitoring could include BMP implementation monitoring (i.e., verifying that BMPs have been installed and are functioning properly) in addition to in stream monitoring. A member of the public noted that while implementation monitoring is a good first step, additional monitoring to check on the effectiveness of those BMPs over time will be needed.
- Mr. Leland asked the Advisory Group if animal feeding operations on irrigated lands exist within the sub-region, and whether or not they should be included in the Program. Mr. Huffman said that while there are a few operations that included cultivation and animal feeding, they are not irrigated and don't pollute.

Next Steps

After discussion of the Program framework and risk-based tiers, staff discussed next steps. Advisory Group members were asked to submit any specific comments on the Program framework via email to

Mr. Zabinsky no later than May 22nd. These comments will be compiled by staff and used to create the next version of the document for discussion at the June 26th Advisory Group meeting (**see Action Item #3**). Mr. Zabinsky encouraged participants to focus their comments on examples specific to this sub-region.

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