

**From:** Michael Wackman [michaelkw@msn.com]  
**Sent:** Monday, September 27, 2010 4:16 PM  
**To:** ILRP Comments  
**Subject:** LTILRP Comment from SJC & DWQC  
**Attachments:** Letter to regional board on LTILP.pdf

Megan Smith,

Attached are San Joaquin County and Delta Water Quality Coalition comments on the LTILRP DPEIR. Please acknowledge your receipt of this email.

Thank you,

*Mike Wackman*

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# San Joaquin County and Delta Water Quality Coalition

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September 27, 2010

Ms. Megan Smith  
630 K Street, Suite 400  
Sacramento, CA 95814

RE: Comments on Draft Program Environmental Impact Report and Staff  
Recommended Alternative

The San Joaquin County and Delta Water Quality Coalition represents farmers and ranchers within San Joaquin County, Calaveras and Contra Costa County. As a water quality coalition that has been implementing the current Irrigated Lands Regulatory Program (ILRP), we have been able to experience first hand how the ILRP works and what needs to be improved. With this knowledge, we strongly urge the Regional Board to consider adopting Alternative 2 of the Long Term Irrigated Lands Draft Program Environmental Impact Report. This alternative is a workable solution to address water quality issues both in surface water and ground water.

We are extremely concerned about the staff recommended alternative being presented as the preferred alternative. This alternative puts extraordinary burdens on agriculture without truly addressing water quality.

The following are some major issues that could be extremely detrimental to agriculture in San Joaquin County, Contra Costa County, Calaveras County and the Delta.

- 1. The assumption by the Regional Board that all irrigation is a discharge of waste thus causing the degradation of groundwater or surface water regardless of soil and/or climatic conditions**

The assumption in the staff recommended alternative that the act of irrigating a crop is considered a discharge to groundwater thus causing the degradation of groundwater is not provable or plausible in many areas of the State. Many areas throughout the state are irrigated and do not cause a degradation groundwater or transport constituents of concern to the groundwater. While a blanket determination that all irrigated agriculture creates a discharge of waste may be convenient for regulatory authority purposes, it is an inaccurate presumption with no evidentiary support. Presuming all irrigated agriculture creates a discharge of waste simply because some irrigated agriculture may potentially or could possibly affect water quality is entirely inappropriate and does not fall within the Regional Board's authority to regulate only those irrigation practices that result in a "discharge of waste."

Within the staff recommended alternative farmers and ranchers must prove to the Regional Board that their operation does not create a discharge of waste to the ground or surface water by conducting expensive studies and research. Otherwise, farmers and ranchers would be required to implement expensive and potentially unnecessary management practices. This assumption institutes a guilty until proven innocent within the regulation. Water Code section 13267 authorizes the Regional Board to require reports from those who discharge waste, but requires that the Regional Board “provide the person with a written explanation with regard to the need for the reports” and “identify the evidence that supports requiring that person to provide the reports.” In contrast, the Draft Staff Report makes a broad assumption that all irrigated agriculture creates a discharge of waste, subjecting operations to various reporting requirements without providing a written explanation or supporting evidence, even while acknowledging that some of those operations do not create a discharge of waste.

## **2. Definition of groundwater to be protected.**

Groundwater is defined as the first encountered groundwater within the DEIR and the staff recommended alternative. In many areas throughout the state the first encountered ground water does not have any true beneficial use. It is assumed in the staff recommended alternative that first encountered groundwater will need to be protected even though there are areas where first encountered groundwater is not and has never been usable water for drinking, municipal or agriculture. Also, the assumption that if a constituent is detected at first encountered groundwater, then that constituent will move downward into the other stratus of the groundwater is not based on scientific evidence of how groundwater moves through the aquifer. Depending on the aquifer, water can move laterally as well as both upward and downwards in the water profile. Also, many aquifers are separated by layers of clay or impermeable layers that prevent the water from the upper aquifer from moving into the lower aquifer and vice-a-versa. So assuming that a detection of a constituent in the first encountered groundwater will move into aquifers being used by domestic or municipal wells thus causing a discharge of waste is not necessary plausible in many areas of the state.

## **3. Duplication of Regulations.**

The Regional Board proposes a new program to regulate groundwater when many programs already exist. Many areas already have or are developing groundwater management plans that address water supply and water quality at the local level. Alternative 2 within the DPEIR has a more common sense approach using local agencies to address groundwater issues. The staff recommended alternative does not address the complexity of groundwater by recognizing the different soils and climatic conditions throughout the state, or even within individual counties. Many organizations have been studying groundwater to determine how and where it moves, the effects of not only pumping but recharge areas and aspects that affect the quality of the water. These programs can be used as a basis to develop programs that can address water quality concerns.

**4. Staff recommended alternative was not fully analyzed or recognized by the DPEIR**

The DPEIR analyzes five proposed alternatives. Staff has combined elements of many of these alternatives to develop a sixth alternative, which staff is now recommending for approval. As the recommended alternative, the staff-developed alternative has become the proposed project. However, the DPEIR does not analyze this project *at all*. While the elements of the staff-recommended alternative have been cherry-picked from the other alternatives, the DPEIR does not make any attempt to analyze the environmental impacts that would result if these elements were combined with each other, which is how they would be implemented if the alternative were selected.

Again, the San Joaquin County and Delta Water Quality Coalition considers alternative 2 of the Draft Program Environmental Impact Report a workable solution to address water quality concerns in the Central Valley. The staff recommended alternative is based on assumptions that have not been scientifically researched or scientifically proven.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Wackman". The signature is written in a cursive, slightly slanted style.

Mike Wackman  
San Joaquin County and Delta Water Quality Coalition