
From: Matt Byrne [mbyrne@calcattlemen.org]
Sent: Monday, September 27, 2010 1:44 PM
To: ILRP Comments
Cc: Justin Oldfield
Subject: CCA ILRP Comments
Attachments: CCA ILRP CEQA Comments 9-27-10.pdf

Please find attached a copy of the California Cattlemen's Association's comments on the Draft Program Environmental Impact Report for the Irrigated Lands Regulatory Program Long-Term Program Development.

If you have any questions, please contact Justin Oldfield in the CCA office at justin@calcattlemen.org

Thank you.

Matt

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September 27, 2010

Mrs. Katherine Hart
Chair
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Sent via email: ilrpcomments@icfi.com

RE: Draft Program Environmental Impact Report for the Irrigated Lands Regulatory Program
Long-Term Program Development

Dear Madam Chair,

The California Cattlemen's Association (CCA) appreciates the opportunity to comment on the Draft Program Environmental Impact Report for the Irrigated Lands Regulatory Program Long-Term Program Development. CCA represents ranchers and beef producers who own or manage over 34 million acres of California rangelands, including many ranchers operating in the Central Valley region who participate in the current Irrigated Lands Regulatory Program, and are ardent stewards of the water and natural resources in their care.

Water and other resources are scarce and the ability to economically graze livestock becomes ever more challenging with new regulations adopted by local authorities, the state and federal government. As such, the renewal of the Irrigated Lands Regulatory Program greatly impacts ranchers operating on irrigated pasture within the Central Valley region.

Independent of the regulation put in place in 2005, ranchers already employ range and grazing practices to protect water quality and manage rangelands to ensure riparian areas remain ecologically healthy. Management of grassland as irrigated pasture, based on the best available science and on-going research developed by the University of California Cooperative Extension and Natural Resources Conservation Service, effectively filters irrigation water and stormwater and reduces nutrient loading.

These management practices embody what ranchers consider good range management and are heavily utilized by beef producers throughout California. Ranchers depend on land and water resources to raise livestock year after year, and subsequently work to sustain these resources to ensure adequate forage and water is available for continued livestock production.



TOM TALBOT, DVM
PRESIDENT
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Ranchers are faced with an economic burden to comply with the Irrigated Lands Regulatory Program even though sampling to date has demonstrated that their operations have had no significant effect on water quality. Despite these results, actions taken by Regional Board staff in the past have presumed that the presence of cattle and grazing on irrigated pasture results in a discharge of waste that affects water quality. Additionally, CCA opposes the idea that the natural flow of stormwater from un-irrigated land is presumed to constitute a discharge of waste to the waters of the state and has concerns that irrigation of any portion of a parcel has rendered entire parcels – including un-irrigated sections - subject to the program's authority and presumptions.

Future actions and subsequent policy development should avoid the presumption that water running off of irrigated pasture inherently constitutes a discharge of pathogens or other constituents of concern. As stipulated by Porter-Cologne, only activities that discharge or propose to discharge wastes that affect water quality must be covered by regulatory mechanisms authorized by the California Water Code.

Pursuing enforcement actions or sending 13267 letters based on the broad assertion that, by irrigating, a landowner is also discharging and therefore subject to restrictions and compliance under the program is inconsistent with law. Section 13267 of the Water Code specifically states that "in requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."

Requiring all irrigators to comply with the program without the Regional Board providing sufficient evidence inappropriately shifts the burden of proof to the farmer or rancher where state law indisputable requires the Regional Board to present evidence of a discharge prior to requiring compliance under the program. This is an incorrect interpretation of the law and the Regional Board should take action, under the administration of program and in current and future enforcement activities, to recognize that not all irrigators within the program area discharge and thus not all are subject to the regulation.

Ranchers work to ensure the efficient use of irrigation water and seek to ensure that irrigation runoff does not occur for ecological reasons and because the inefficient use of water results in higher input costs. In instances that runoff does occur, monitoring has demonstrated that grazing livestock on irrigated pasture is not likely to cause exceedances of water quality standards.

In light of the concerns expressed above, CCA is interested in working with the Regional Board to explore the possible establishment of a reduced threshold, based on the minimal discharge risk posed by grazing, that would be available to irrigated grazers who believe activities on their operation are resulting in a discharge and choose to enroll. Such a category for lower risk enrollees would reduce monitoring frequencies and reduce compliance and other overhead costs that should then result in lower fees charged by coalitions or the Regional Board.

While this potential option will not alleviate all regulatory burdens placed on ranchers to comply with the Irrigated Lands Program, it might be a step in the right direction that would recognize the minimal discharge risk of livestock grazing on irrigated pasture. Consideration of such a request is further warranted because ranchers are not significant users of pesticides, fertilizers and other constituents of concern on non-cropland used for irrigated pasture.

Ranchers and CCA members have also expressed serious concerns that increasing coalition fees to meet current program requirements has created an economic burden that is increasingly reducing the ability for ranchers to balance profitability margins. Because economic return per-acre from beef production on

rangeland and irrigated pasture is typically much lower than other irrigated agricultural uses, ranchers are more significantly impacted by these per-acre fee adjustments.

Many coalitions and the state have commenced discussions about increase fees under the current program, notwithstanding the additional fees that might arise from including groundwater in the long-term program, which will also likely drive coalitions to raise fees to cover new monitoring and reporting costs for study of unknown water quality impacts. CCA opposes fee changes that would result in higher costs to landowners under the program.

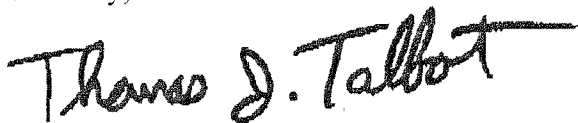
CCA is concerned with any policy asserting that all agricultural lands or agricultural operations operating on irrigated lands discharge to groundwater. This a general and open-ended assertion by the Regional Board made with no plausible justification. Measuring and seeking to improve groundwater quality throughout the region is an extremely complex issue in its own right, let alone identifying the source of groundwater impairment. The potential for irrigated pasture to discharge to groundwater is even less likely than to surface water and it should not be targeted as a source of groundwater degradation.

The Regional Board's intention to require all operations of irrigated lands to comply with the regulation, whether it is surface or groundwater, expands regulatory authority beyond that authorized by law. For these reasons, CCA would strongly encourage the Regional Board to not include groundwater as part of the Long-Term Irrigated Lands Program at this time.

Once again, CCA appreciates the opportunity to comment on the draft Environmental Impact Report for the Long-Term Irrigated Lands Regulatory Program and would request that the Regional Board consider our comments in the development of the final report. We also strongly encourage staff to thoroughly review comments submitted by individual ranchers and take their concerns and suggestions into account when crafting the final regulatory package that will be submitted to the governing board for approval.

Should you have any questions or CCA can be of any assistance please don't hesitate to contact Justin Oldfield in the CCA office.

Sincerely,

A handwritten signature in black ink that reads "Thomas J. Talbot". The signature is written in a cursive, slightly slanted style with a long horizontal stroke at the end.

Tom Talbot, DVM
President

cc: Members of the Central Valley Regional Water Quality Control Board