



January 21, 2014

Dr. Karl Longley, Chairman  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670-6114

**ATTN: Mark Cady**

**RE: Tentative Order - Sacramento River Watershed WDR/MRP**

Dear Chairman Longley:

On behalf of the 8000 plus growers and ranchers enrolled in the Sacramento Valley Water Quality Coalition (Coalition) and those who appeared at the Public Workshop held last October 2013, we appreciate your response to the concerns expressed on the Sacramento River Watershed Waste Discharge Requirements (WDR) General Order. Many of the changes requested at the Public Workshop are reflected in the Tentative WDR and Monitoring Reporting Program (MRP) Order released December 19, 2013. It is important for decision makers to find equilibrium between needed regulatory protections and economic impact, especially in establishing precedential programs that will exist for decades after they are implemented. Without balance, those saddled with the responsibility of funding the program will diminish, thus both agriculture and water quality lose.

It is also important that inaugural regulatory proposals such as the groundwater quality component of the Irrigated Lands Regulatory Program have an adaptive management component to reflect evolving circumstances over the life of the program. That is especially true in light of the impact Mother Nature is having on the economic viability of agriculture throughout the State of California. Whether it is 1976-77, 1987-1992, 2008, or the unprecedented drought currently being experienced, there is real economic impact, not just to the grower, but throughout the communities whose very existence is tied to agriculture.

Growers will be seriously calculating whether it is cost prohibitive to plant or best to fallow their lands in months to come, if not already. Their decisions will be based upon a number of factors: cost of feed, cost of water, and/or cost of energy for pumping groundwater to name a few. The increasing regulatory cost burden facing agriculture must not be discounted and do know it is compounding that decision, to plant or to fallow.

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With the recent increase in the State Water Quality Fee, the Coalition currently collects \$890,805. This is a significant amount. And, this is on top of the annual monitoring and reporting costs of over \$1.5 million for **surface water only**. As demonstrated at the Public Workshop, grower and landowner contributions and commitment to protecting water quality is clear. Keep in mind the expanded Irrigated Lands Regulatory Program will likely double the annual cost to growers in the Sacramento Valley.

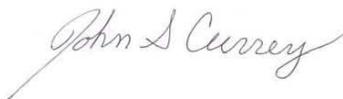
We are predicting that hundreds of thousands of dollars in costs annually will be borne by growers for database development, groundwater quality assessment, management practices evaluation studies, and litigation to defend challenges to the newly adopted WDR; therefore, we are encouraging you for opportunities to reduce costs in the historically successful surface water program, where justified, which will be critical in implementing the Long-Term Irrigated Lands Regulatory Program.

Attached are the Coalition's specific comments on the Tentative WDR and MRP. They are intended to ensure the goals of the Coalition, and the Order, reflect the stewardship of the Sacramento Valley growers and landowners. We would like to make record of our successes with the surface water program and that they are fully, and clearly, captured in the WDR and MRP. In addition, the WDR brings opportunities to the right-size monitoring and reporting requirements, while continuing to be protective of water quality and meeting the balance, between needed regulatory protections and economic impact as mentioned above. The growers and ranchers of the Sacramento Valley Water Quality Coalition strongly believe that results not reports should be the metric of success.

Sincerely,



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President/Grower  
Colusa Glenn Subwatershed



John Currey  
Manager Dixon Resources Conservation District/Grower  
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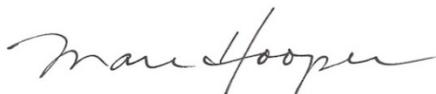


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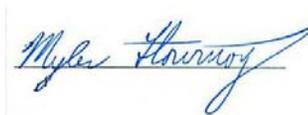
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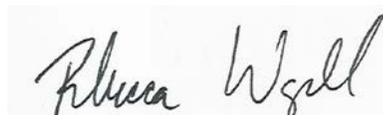
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Cc: Jenny Lester Moffitt, Vice-Chair  
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Jon Costantino  
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Pamela Creedon  
Susan Fregien

Joe Karkoski  
Mark Cady

ATTACHMENT - Sacramento Valley Water Quality Coalition Specific Comments Tentative Order (released December 19, 2013)

**1. Waste Discharge Requirements (WDR) Order- Finding 46, Page 13**

Growers of rice for seed should be covered under the Rice Commission Order. It is requested that this be stricken from the Sacramento River Watershed Order.

**2. Waste Discharge Requirements (WDR) Order – Discharge Limitations Provisions III.A. and B. Page 18**

*“Wastes discharged from Member operations shall not cause or contribute to an exceedance.”*

This is an important item to have clarified. It is important given the type of exceedances (i.e., pH, dissolved oxygen, *E. coli*) that occur in the Sacramento Valley, which could be from natural background sources or non-irrigated lands, to understand the extent of the ILRP obligation.

Is any contribution considered sufficient? What determines how much of a “contribution” is necessary to require management practices implementation?

**3. Waste Discharge Requirements (WDR) Order – Requirements for Members of a Third Party Group Section IV. B. 8, Page 20**

The word “need” was stricken and replaced with “consumption” in the following sentence:

*All Members shall implement practices that minimize excess nutrient application relative to crop consumption.*

What prompted the change? What is the Regional Board’s view of the difference between “need” and “consumption”?

**4. Waste Discharge Requirements (WDR) Order – Requirements for Third Party Group, Section IV. C. 7. Page 22,**

The language states that a Notice of Confirmation (NOC) be provided within 45 days of the Notice of Applicability (NOA). To reduce paperwork and align the NOC with annual invoicing cycles it is requested that the 45 day language be stricken and replaced with,

*“ . . . as part of the 2014 annual member invoicing a Notice of Confirmation (NOC) form will be provided.”*

In the Westside San Joaquin Coalition WDR, the Regional Board agreed to modify the language to allow the Third-party to provide Members with a notice of the requirements and process for the NOC and Farm Evaluation Plan within 30 days of the NOA, but will not require the actual forms be provided within 30 days.

**5. Waste Discharge Requirements (WDR) Order - Notice of Confirmation / Notice of Intent / Membership Application, Section VII. A. 1., Page 24**

Will the “requirements” specified in this section be provided by the Coalition or by the Regional Board Executive Officer as referenced in Section IV. B. 18, Page 21?

*The Member shall also maintain excerpts of the Order’s Member requirements*

**6. Waste Discharge Requirements (WDR) Order - Farm Evaluations, Section VII. B. 1, Page 25**

The Coalition notes the date change for the initial Farm Evaluation for low vulnerability areas from March 1 2016 to March 1 2015.

1. *All Members must submit the initial Farm Evaluation to the third-party by 1 March 2015.*

The Coalition appreciates that the reporting cycle for low vulnerability areas will still be once every five years, with the next farm evaluation for those in low vulnerability areas is due in March 2020. A 2015 or 2016 due date for Farm Evaluation will tie the information to Assessment Year monitoring (2015) and enable areas seeking Reduced Monitoring/Management Practices Verification alternative to tie management practices to monitoring results.

**7. Waste Discharge Requirements (WDR) Order - Farm Evaluations, Section VII. B., Page 25**

The Coalition appreciates the inclusion of Footnote 22

*“Any farm map or information on the location of wells on the farm does not need to be provided to the third-party group.”*

This change will simplify and expedite completion of the Farm Evaluations.

**8. Waste Discharge Requirements (WDR) Order – Templates, Section VIII. C., Page 30**

Significant change to the development of templates and timeline for modification to the template is reflected in this section. The ability of the Coalition to modify the templates approved by the Regional Board on December 9, 2013, has been removed. The Coalition can only comment within 30 days on the proposed templates provided by the Executive Officer.

Additionally, Language states that third party shall provide templates to Members within 90 days of NOA, or approximately 120 days after Regional Board action. That makes the date July 2014. Current members have until June 2015 to provide the third party the Notice of Confirmation.

**Recommendation:** Request original language is reinstated for modification to template. Request the date for distributing the templates be a “date certain” versus tied to a triggering event/milestone. The date in this case should be October or November 2014.

*“ . . . the third-party shall make the templates available to its Members by November 1 2014.”*

**9. Waste Discharge Requirements (WDR) Order – Watershed/Subwatershed Based Sediment and Erosion Control Plans, Section VIII. F., Page 32**

The timeline for the third party to submit a list of those individual members participating in a collective (watershed or subwatershed) sediment and erosion control plan has been reduced from 180 days to 90 days. The 90 period (April – July) falls during a busy time for agriculture operations and a period when the third party will be submitting reports and responding to Regional Board comments.

**Recommendations:** Rather than the third party “submitting a list of those individual members,” the third party will “compile a list of those individual members” which the Regional Board Executive Officer can review if a sediment discharge occurs in the area where a collective program is implemented. It is requested that the time period the third party to submit the list be 120 days after the Regional Board Executive Officer accepting the third party’s Sediment and Erosion Control Assessment Report.

**10. Waste Discharge Requirements (WDR) Order – Surface Water/Groundwater Quality Management Plan (SQMP/GQMP), Section VIII. , I., 1. Page 33,**

Language in this section states. . .

*“SQMPs triggered by data gathered under Conditional Waiver Order R5-2006-0053 that were not completed or approved by the Executive Officer prior to adoption of this Order shall be implemented in accordance with MRP-1 of this Order.”*

Appendix MRP-1 (Management Plans) changes significantly the current determination if a management plan is required and imposes requirements even if irrigated agriculture is not the source of the exceedance. The language in C. 4. d., on Page 4 of MRP 1 states that the Management Plan Strategy must provide a “time estimated to identify new management practices as necessary to meet the Order’s surface and groundwater receiving water limitations”. Inclusion of this language in the Management Plan Strategy presumes irrigated agriculture is the source and appears to preclude the ability of the third party to request the management plan be deemed complete after source identification work is done.

Over two-thirds of the Coalition’s management plans are related to field parameters and *E.coli*. This documentation requirement for dissolved oxygen, pH, and *E. coli* seems excessive and costly. Furthermore, establishing measureable performance goals (C.4. e) for these constituents of concern will be challenging given natural background in some instances.

The current Management Plan process allows the Coalition to prepare a Source Evaluation Report Equivalent to the results of the “Source Identification Study” in the WDR. If irrigated agriculture is not found to be the source a request is made of the Executive Officer to deem the Management Plan complete.

In MRP-1 there is a Source Identification Study that may be requested but no initial step of determining whether irrigated agriculture is the source or the Executive Officer finding a management plan is not required because irrigated agriculture is not the source.

The Coalition requests the Order be modified to make clear that the first optional step, taken at the Coalition's discretion, is to conduct a Source Identification Study of a scope approved by the Executive Officer, to determine whether agriculture is a significant contributor to the observed exceedances that triggered the management plan requirement.

Additionally, the Coalition seeks clarification on when current Management Plans with goals of increasing implementation of management practices and no reoccurring water quality exceedances will be allowed to discontinue monitoring for that parameter?

**11. Attachment B – Monitoring and Reporting Program (MRP), Section III. C. 1.a., Reduced Monitoring/Management Practices Verification Option, Page 9**

The Coalition appreciates the direction of the Regional Board to eliminate the "Valley Floor exclusion" language for the proposed Order. The increased costs of reporting and groundwater quality monitoring must be offset where appropriate in the surface water monitoring program.

Surface water monitoring results coupled with information from every member's Farm Evaluation on their management practices will provide the Regional Board with the assurance that beneficial uses are being protected as a result of ongoing efforts and actions by the Coalition and its members. In these instances reduced monitoring of surface water should be an option.

However, the language referencing low intensity of agriculture land use in the subwatershed would seem to negate any documentation of management practices or surface water quality results.

**Recommendations:** 1) In areas where there are existing Management Practices Pilot Programs surface water quality monitoring will only be required in 2015 if there has been a significant change in agricultural land use and mixture of crops.

2) Either strike the language referencing low intensity of agricultural land use in Section III.C.1.a., or add a bullet stating:

*"Where management practices are well documented and surface water quality monitoring results have not resulted in a continuing trend or pattern of registered pesticides cooper or nutrients or, toxicity attributed to an irrigated agricultural source the Executive Officer may permit a reduction in the annual frequency of surface water quality monitoring."*

**12. Attachment B – Monitoring and Reporting Program (MRP), Section III. C. 2 Monitoring Schedule and Frequency, Page 10**

The Coalition is concerned that the language below will require monitoring more than once. In discussions with Regional Board staff concerned was expressed that monitoring during the storm season (November –April) would not capture actual storm event runoff. The Coalition made the commitment to ensure that at least two monitoring events would be scheduled to capture runoff during the storm season. The 2014 monitoring schedule reflects that commitment. The Coalition requests that the language "may require monitoring more than once per month" be replaced with the following language, "The monitoring program will be designed

and implemented to ensure that adequate characterization of runoff from storm season monitoring is captured.”

*Monitoring must be conducted when the pollutant is most likely to be present. If there is a temporal or seasonal component to the beneficial use, monitoring must also be conducted when beneficial use impacts could occur. The frequency of data collection must be sufficient to allow determination of compliance with the relevant numeric water quality objective(s) or water quality triggers. **Adequate characterization of the presence of some pollutants may require monitoring more than once per month.** The third-party may submit written requests for the removal or addition of monitoring sites or parameters, or to modify the monitoring **schedule and frequency**, for approval by the Executive Officer.*

**13. Attachment B – Monitoring and Reporting Program (MRP), Section III. C. 3, Monitoring Parameters, Footnote 5, Page 11**

The Coalition proposes the following alternative language to Footnote 5;

*Pesticides to be monitored includes the parent compound and any environmentally stable degradates of the registered active ingredient. The evaluation factors applies to the parent compound and the degradates, which constitutes the total registered pesticide. Potential pesticides to evaluate will be identified through rice specific process.*

**14. Attachment B – Monitoring and Reporting Program (MRP), Section V. C. 20 Report Component 20, Page 32**

The Coalition questions the need and strongly objects to the need to submit individual data records. The Farm Evaluation templates will require the member to “certify under penalty of law” that what is being submitted is “true, accurate and complete.” The Regional Water Board originally indicated it would *only* require submittal of data aggregated to the Township geographic level. What is the point of our aggregating the data if we also must submit all individual data? This will require the Regional Water Board to develop another parallel and massive data management system for this information that will be even more complex than the current water quality data management system. It is not reasonable for growers to be required to support the cost of two redundant data management efforts.

**Recommendation:** Strike the requirement that individual data be submitted.