

Meeting Summary

Meeting #2 Long-term Irrigated Lands Regulatory Program Stakeholder Advisory Workgroup

MEETING DATE: 17 December 2008

LOCATION: Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

ATTENDEES: See Attachment A

Action Items

1. Advisory Workgroup (Workgroup) members will submit their formal letters of commitment to the Water Board Executive Officer as soon as possible, if they have not already done so.
2. Water Board staff will send the updated and ratified Workgroup Charter (Charter) to Workgroup participants.
3. Water Board staff will query Workgroup participants via email to see if anyone proposes a confidentiality clause for posting Workgroup participant contact information on the internet.
4. Water Board staff will send Sarah Ryan examples of standard-based (effluent limitation-based) and plan-based regulatory programs.
5. Water Board staff will update the draft Stakeholder Advisory Workgroup Strategy (draft Workgroup strategy) to reflect the changes decided upon in the meeting. The updated strategy will include a short summary of the requirements for each type of program implementation mechanism (e.g., waiver, waste discharge requirements). Water Board staff will also provide a standardized template for developing long-term program alternatives.
6. Workgroup participants and Water Board staff will design their preferred long-term program alternatives that will include statements of purpose and program objectives. In developing program alternatives, Workgroup participants should make an effort to describe how their alternatives meet other stakeholders' interests and objectives. The group will discuss the alternatives at the next Workgroup meeting on February 17, 2009.

Welcome, Introductions, Announcements

Dave Ceppos, Workgroup facilitator (California State University Sacramento, Center for Collaborative Policy), welcomed all attendees to the second long-term Irrigated Lands Regulatory Program (ILRP) Advisory Workgroup meeting. Anyone interested in becoming a Workgroup participant should refer to page 4 of the [Workgroup Charter](#), which describes the participation initiation process. The Workgroup will be informed by public comments throughout the process, but participants at the table will be holding the discussions and forming Workgroup recommendations.

Mr. Ceppos clarified that the Workgroup will be comprised of participants rather than members as they were previously referred to (a minor terminology change). Workgroup participants who have not yet submitted their formal letters of commitment should do so in the next few weeks. Page three of the Charter describes the process and need for these formal letters.

Draft Charter and October 9th Meeting Summary

Mr. Ceppos briefly reviewed the purpose of the Workgroup Charter. The Charter describes the general ground rules on how this Workgroup will operate, and how everyone at the table will commit to work together. It outlines the decision making process for the group. The draft Charter and October 9 meeting summary were sent via email on November 6 for Workgroup participant review; comments were due by December 3. Comments on the draft Charter were received from the California Rice Commission and the California Farm Bureau Federation. No comments were submitted on the draft October 9 meeting summary.

Based on the comments received, four proposed adjustments were made:

- a. Added to the last paragraph of page 1 that Workgroup participants are not required to fund studies or provide services other than their participation in the Workgroup.
- b. Added "Water Board approved" to the sentence about groundwater in number 2 on page 1.
- c. Added to the last paragraph of page 6 that ILRP staff will coordinate with local and state agencies, and added some examples of these agencies.
- d. Deleted the sentence "All contact information for a participant will be kept confidential" from the third paragraph of page 9. This change was made because Water Board staff counsel advised that making a blanket statement about keeping contact information confidential was not allowable. The Water Board is a public agency and cannot guarantee this type of confidentiality.

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A participant had concern over proposed change (b). The participant stated that all requirements for the program will need to be Water Board approved, so calling it out for this one aspect of the program seems misleading.

Joe Karkoski, Chief of the Irrigated Lands Regulatory Program, suggested changing the last sentence of the paragraph before the numbered items on page 1 to clarify that any modifications to the ILRP will require Water Board approval, rather than just the proposed change (b). There were no objections to this suggestion.

Workgroup participants and Mr. Ceppos suggest that proposed change (c) be changed to “local, state, federal, and tribal”, and to omit the specific agency examples. There were no objections to this suggestion.

Regarding proposed change (d), Water Board staff counsel stated that while the Charter cannot guarantee that all Workgroup participant contact information will be kept confidential, that doesn't prevent the Workgroup from coming up with its own specific provisions such as not posting contact information on the internet, etc.

Mr. Ceppos asked the Workgroup if there were any objections to approving the Charter as it stands, pending the changes discussed and agreed upon. There were no objections, so the Charter was ratified. Staff will update and send the ratified Charter to Workgroup participants.

Water Board staff will query Workgroup members via email to see if anyone proposes a confidentiality clause for posting Workgroup member contact information on the internet.

A participant asked a question about the project/program (long-term ILRP) referred to in the Charter, and why there is no description of the program in the context of California Environmental Quality Act (CEQA) requirements.

Mr. Karkoski responded that the purpose of this Workgroup is to come up with potential program description(s) that will be evaluated in the context of CEQA.

The participant responded that he will continue to ask for the program description, and that it should have been developed in 2004.

Draft Workgroup Strategy

Mr. Karkoski introduced the [draft Advisory Workgroup Strategy](#) (draft Workgroup strategy). A Workgroup strategy is needed because there are so many different possible designs, or alternatives, for how waste discharges from irrigated agriculture could be regulated. The Workgroup needs a method to narrow down

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the universe of all possible program alternatives to the list of viable potential program alternatives that the Workgroup is interested in considering.

Adam Laputz, lead staff for the long-term ILRP, gave a presentation on the Water Board staff proposed draft Workgroup strategy. The goal of the Workgroup strategy is to narrow down from all of the possible program alternatives to some Workgroup preferred alternatives. Then the Workgroup will move on to a detailed design and evaluation of the preferred alternatives. The goal of the process is to develop recommended alternatives for analysis in an Environmental Impact Report (EIR). Mr. Laputz described the example long-term program matrix (or matrix) he included in the draft Workgroup strategy.

Mr. Karkoski added that the draft Workgroup strategy was an attempt to come up with a structure and common language to work through the process of designing the long-term program. Using the matrix as an example, there are over 300 program design possibilities. This example matrix presents potential program elements at a general level. As the Workgroup completes its work, it will hopefully prepare more detail for the range of reasonable alternatives.

A participant asked about the first column in the long-term program example matrix, with the three gray cells “Program Type, Surface Water, and Groundwater.” The participant asked if the first row of elements were only for surface water, and the second row of elements were for groundwater. Mr. Laputz responded that any of the elements in the matrix can be chosen to design a surface water alternative or a groundwater alternative; one does not have to move laterally across the matrix.

There were questions from Workgroup participants about the elements “standard-based” vs. “plan-based” in the matrix under the category “Core Requirements.” They expressed confusion as to how some program alternatives could be designed that were solely plan-based, since all Basin Plan standards and objectives will need to be met no matter what the program alternative looks like. They felt the titles “standard-based” vs. “plan-based” were misleading since all program alternatives are essentially standards-based. One participant felt the confusion was over the word “standard”, where maybe “effluent limitation-based” could be used in the place of “standard-based”. The participant also cautioned that there may be different core requirements depending on the implementation mechanism that is chosen, and that it would aid the group to have any potential legal differences in core requirements defined.

Mr. Laputz clarified that yes, no matter what the long-term program alternatives look like, Basin Plan standards and objectives would have to be met. Under Core Requirements on page 1 of Attachment II of the draft Workgroup strategy it states this in the first paragraph.

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Mr. Karkoski described the two main types of regulatory programs that the Water Board currently operates: those based on effluent discharge limitations (such as the NPDES Program), and those based on management plans and practices (such as the Stormwater Program). All dischargers are required to comply with the Basin Plan, regardless of what type of regulatory program they fall under.

A participant asked whether the long-term program will incorporate new requirements and restrictions adopted, such as the Department of Pesticide Regulation's dormant spray regulations.

Mr. Karkoski stated that the scope of this Workgroup includes developing a long-term ILRP that will meet current water quality standards. The Workgroup's goals do not include amending the Basin Plan to include additional requirements (e.g., dormant spray regulations). The question is not whether it would be good to spend time on Basin Plan objectives and issues, but what we can reasonably address as part of developing a long-term ILRP.

Another participant asked about the legitimacy of the process to narrow down the program alternatives, and when/how staff plans to gather Board feedback on this narrowing of potential alternatives. The participant doesn't want to see the group waste time, say if the group eliminates an alternative that Water Board members want.

Mr. Laputz assured the group that staff will continue to update Board members on the progress of the Workgroup with information items at Board meetings, through communication with the Executive Officer (EO), as well as monthly EO Reports. In addition, the Ag Subcommittee of the Board expressed interest in attending Workgroup meetings. The Water Board Ag Subcommittee includes Dr. Karl Longley and Soapy Mulholland.

A participant reminded the group that it needs to focus on what its task is, which is exploring the realm of options for this particular regulatory program, not an overall task like changing the Basin Plan.

Another participant asked if the group should come up with one alternative for groundwater and one for surface water. Mr. Laputz responded that most likely the group will come up with a range of alternatives for each.

Another participant pointed out that the group should be developing alternatives to meet program goals, so it would be helpful for staff to state program goals on paper and provide this to the Workgroup. The participant feels that the program goal is to protect water quality from the impacts of irrigated agricultural waste discharges.

Mr. Laputz moved on to the proposed evaluation measures. He stated that the idea is to come up with some means of evaluating each potential program

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alternative. But these evaluations are at the general level. For instance, not actual cost in dollars, but a relative general cost. Water Board staff is looking for feedback on the potential evaluation measures presented in the draft Workgroup strategy. The idea is to assign a score for each possible alternative based on the evaluation criteria. The scores would be used to develop a list of preferred alternatives.

Several participants voiced questions and concerns about the scoring system:

- It will be extremely difficult to score objectively;
- everyone will score each element differently (e.g., for feasibility we would score one way based on the Board's current fiscal situation and another way based on an appropriately-funded Board);
- the group will never agree on what score to assign each element;
- it seems that in the proposed Workgroup strategy and attached examples, some categories are scored as compared to the current program, and other categories are scored compared to something else.

Mr. Laputz clarified that it was intentional to score some categories compared to the current program and others not. Not all elements can be compared to the current program; for instance, there isn't a current groundwater program, therefore, groundwater alternatives must be compared to something else.

Mr. Ceppos suggested that if the proposed evaluation measures and scoring system will not work for everyone, then the group needed to come up with some other ideas.

A participant pointed out that the example evaluation measures were weighted evenly in the draft Workgroup strategy. The participant felt that cost should not be weighted evenly with protecting water quality. Protecting water quality is the goal of the program, so it should carry higher weight. Mr. Laputz recognized her point. He also stated that the scoring system may be useful in discussing the long-term program with the group, but the scoring system is not the "end all be all." The goal is to move through the scoring quickly in order to come up with the list of preferred alternatives that can be further evaluated.

Mr. Ceppos stated that there are more than 30 Workgroup participants that want to be involved, everyone is already busy, and there is also a tight time schedule. Staff presented this scoring system today as an option for narrowing down the program alternatives. Another option is narrative evaluation, which can be more time consuming. It is important to remember that no one Workgroup participant is going to get everything they want in the design of this program; the Water Board and staff will need to make some of the decisions along the way. The group should decide today how it wants to move forward with screening program alternatives – either a narrative dialogue-driven system, or a quantitative scoring system.

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A participant asked whether the intent of the proposed Workgroup strategy is for Water Board staff to do the scoring for Workgroup comment, or will the Workgroup develop scores as a group, or will each participant score individually?

Mr. Laputz clarified that using the matrix, each of the boxes in the matrix would be scored once, and then those scores would be used to tally up total scores for each potential alternative. Water Board staff would do the initial matrix scoring and gather feedback from Workgroup members.

Mr. Karkoski added that the intent was to get some feedback today and in the next few weeks on the proposed Workgroup strategy and then staff would make a first attempt at scoring. Then staff would show the scores to the group and make adjustments as needed. Also, it is important to note that Water Board staff will be open to looking at a potential alternative if a participant feels strongly about it, even if the scoring system “eliminated” that alternative.

One participant was concerned that the Workgroup participants have the harder job of responding narratively to staff’s easier job of assigning numeric scores. Mr. Laputz wasn’t sure how much easier it will be to assign scores.

One participant voiced support for the proposed strategy. The participant thinks the strategy can be efficient, and that there might be some program elements that the group can all agree should be eliminated right off the bat.

Another participant said that many of the Workgroup participants could probably write each other’s preferred alternatives after several years of stakeholder meetings. The group needs an approach to arrive at the alternatives that are going to be considered. Participants are not going to fully agree on any proposed long-term ILRP. The participant suggested that each Workgroup participant propose how agriculture should be regulated, and Water Board staff and the Workgroup can respond to that.

A participant brought up the fact that if one point is given for each category, then the example in the proposed Workgroup strategy adds up to one point possible for water quality and four points possible for cost and feasibility. The participant does not think that the example scoring system is weighted accurately, because water quality points will never add up to more than the other categories. If the goal of the program is to protect water quality, then this should be the first consideration (and thus weighted heavier).

A second participant suggested that Workgroup members propose long-term ILRP alternatives for the respective caucuses and bring those to the Workgroup for discussion.

Based on the comments from Workgroup participants, Mr. Ceppos asked the group if they wanted to remove the quantitative scoring step from the Workgroup

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strategy; instead the Workgroup could collaboratively develop program alternatives for discussion and comment.

A participant offered that discussion of preferred alternatives (Phase II) of the proposed Workgroup strategy will involve a lot of collaboration and group discussion. The quantitative scoring step (Phase I) could be used to educate everyone, to get to a transparent understanding of the program elements. This participant felt the Workgroup might get bogged down in the scoring process at this point, when what the group needs is to learn about the elements that will make up a long-term program alternative (referring to long-term program matrix).

Another participant said there are other important evaluation measures that the group should use (e.g., cost to the environment and cost to the public). In addition, some program alternatives could improve water quality while others may only protect current water quality conditions, and the group may want to evaluate based on that as well.

Mr. Ceppos informed the group that Board Chairman Dr. Karl Longley joined the Workgroup about 15 minutes ago.

Mr. Karkoski stated that the group can cut to the chase, rather than looking at the broad range of alternatives (referring to Phase I of the proposed Workgroup strategy), but it needs to be done in a structured way. To do that effectively the group needs to have a common language about the potential long-term program elements. What are the different categories? What are some of the elements (referring to long-term program matrix)? What are some of the evaluation measures? What are the program objectives? Then participants can design and bring their alternatives to the Workgroup.

Due to time constraints, Mr. Ceppos took a straw poll to see if people preferred to put the groundwater presentations off for a later meeting in order to continue discussing the proposed Workgroup strategy, and most people agreed to do this.

Lunch

Mr. Ceppos reconvened the meeting after lunch by saying that the Workgroup seems to view the quantitative scoring methodology as a second choice for the strategy, because most participants would rather jump right into discussions about specific alternatives. The group should use the long-term program matrix as an organizational tool when designing program alternatives. Workgroup participants should either in caucus groups or as individuals design their recommended program alternative(s), and when the group reconvenes on February 17, the group will share ideas.

Rapidly after today's meeting, Water Board staff will send out a standardized template for writing program alternatives. Participants will construct their

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alternatives between now and February 17, as well as write their own interest statements. In addition, they should make an effort to describe how their alternative meets other stakeholders' interests and objectives.

Mr. Karkoski added that even if a participant wants to make the argument later in the process that groundwater should not be included in the ILRP; they should still prepare groundwater alternatives if groundwater were to be included in the program. He also reminded the group that at the October 9 Workgroup meeting, the Water Board Executive Officer made it clear that we are going to have to consider groundwater as we develop long-term program alternatives.

Mr. Ceppos stated that staff will be available to meet with participants after the first of the year if there are any questions.

A participant stated that the Workgroup needs the updated Existing Conditions Report (ECR) as soon as possible, and it was asked when it will be released. Mr. Laputz said it is scheduled to be completed by the end of 2008. The participant also stated that staff needs to set forth the essential components that the board will require in a regulatory program for irrigated agriculture, and participants need to make sure these essential components are included in each proposed alternative.

It was agreed that the term "Categories" in the proposed Workgroup strategy long-term program matrix will be changed to "Components."

Next, Mr. Laputz described the components and elements of the matrix by reviewing Attachment II of the proposed Workgroup strategy.

Some participants suggested that the Component "Core Requirements" was termed incorrectly, because core requirements are the same no matter what the program alternative looks like.

In response to a participant question about whether the ILRP will need to be re-designed every five years, Mr. Karkoski stated that if the program implementation mechanism is still a conditional waiver, then legally the waiver will need to be reviewed every five years. However, the program will not need to be re-designed every five years— the purpose of this Workgroup and the long-term program is to design a program that can be in place for longer than that, where the essential program elements will remain the same.

A participant asked if there will be an analysis of sources leading to groundwater contamination. Mr. Laputz responded that while staff will not be completing a source identification of groundwater contamination, staff is looking at where contamination has been measured. The participant stated that the analysis should be science-based. Another participant asked about the contribution from cities to groundwater pollution, and if they have established verified contributions

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from waste water treatment plants, can that be considered in the long-term program design? Water Board staff responded that participants can design their proposed alternatives as they wish.

Meeting adjourn.

Please see the list of action items on page 1 for next steps.

Attachment A: 17 December 2008 Long-term ILRP Meeting Attendees

Adam Laputz	Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board)
Andrew Tauriainen	Westlands Water District
Barbara Todd	Department of Food & Agriculture (CDFA)
Bill Jennings	CA Sportfishing Protection Alliance (CSPA)
Bill Thomas	Southern San Joaquin Water Quality Coalition
Bob Blakely	CA Citrus Mutual
Camron King	CA Association of Winegrape Growers
Carol Dobbas	Upper Feather River Watershed Group (UFRWG)
Carolyn Yale	United States Environmental Protection Agency (USEPA)
Charlotte Hodde	Planning and Conservation League
Christopher Valadez	CA Grape & Tree Fruit League
Dan Hinrichs	El Dorado Subwatershed Group
Dana Kulesza	Water Board
Danny Merkley	CA Farm Bureau Federation
Dave Ceppos	California State University Sacramento Center for Collaborative Policy (CCP)
Dave Luscher	Department of Food & Agriculture
David Cory	Westside San Joaquin River Watershed Coalition
David Nesmith	Environmental Water Caucus
Debbie Liebersbach	Turlock Irrigation District
G. Fred Lee	G. Fred Lee & Associates
Gary Caseri	San Joaquin Valley Agricultural Commissioners
Greg Yarris	California Waterfowl Association
Henry Giacomini	Upper Watershed
Henry Hamanishi	Simplot Co.
Joe DiGiorgio	Eco:Logic Engineering
Jennifer Clary	Clean Water Action
Jennifer Hadra	CA Urban Water Agencies
Jim Atherstone	South San Joaquin Irrigation District
Jodi Pontureri	CA State Water Resources Control Board
Joe Karkoski	Central Valley Regional Water Board
John Sanders	Department of Pesticide Regulation
Justin Oldfield	CA Cattlemens Association
Kari Fisher	CA Farm Bureau Federation
Dr. Karl Longley	Central Valley Water Board
Kevin King	Oakdale Irrigation District
Laurel Firestone	Community Water Center
Marshall Lee	Department of Pesticide Regulation
Michael Niemi	Modesto Irrigation District

Attachment A – Meeting Attendees List

Mike Wackman	San Joaquin County and Delta Water Quality Coalition
Nasser Dean	Western Plant Health Association
Orvil McKinnis	Westlands Water District
Parry Klassen	East San Joaquin Water Quality Coalition
Paul Martin	Western United Dairymen
Phoebe Seaton	CA Rural Legal Assistance Foundation
Polly Lowry	Central Valley Regional Water Board
Richard Price	Sacramento Valley Agricultural Commissioners
Rick Landon	Sacramento Valley Agricultural Commissioners
Roberta Firoved	California Rice Commission
Sam Magill	CCP
Sarah Ryan	Big Valley Rancheria, Lakeport CA
Tess Dunham	Somach, Simmons & Dunn/ Pyrethroid Workgroup
Tina Lunt	Northern CA Water Association
Tom Stephens	Merced Irrigated District