



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

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Mr. Joe, Karkoski, Acting Assistant Executive Officer
Mr. Adam Laputz, Senior WRCE
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6144

VIA: Electronic Submission
Hardcopy if Requested

RE: Initial Draft Proposals: Long-Term Irrigated Lands Regulatory Program Alternatives

Dear Messrs Karkoski and Laputz;

The California Sportfishing Protection Alliance and San Francisco Baykeeper (CSPA/Baykeeper) have reviewed the draft Long-Term Irrigated Lands Regulatory Program Alternatives.

Before addressing the specific alternatives, we make the following general comments.

- The legal basis for any long-term irrigated lands program must be the nexus between the actual discharger or other legal entity (i.e., JPAs) and the responsible regulatory agency. Legally fictitious entities (i.e., coalitions) may serve valuable roles in coordinating efforts and providing economies of scale but simply cannot be the legally responsible party, as they have no enforcement authority over actual dischargers.
 - It is impossible to ensure compliance with the conditions of any program unless the responsible or regulating entity has sufficient direct enforcement powers and a demonstrated willingness to use those powers where necessary.
- Any adopted long-term program alternative must ultimately ensure compliance with applicable water quality standards and incorporate the explicit Key Elements of the State's Nonpoint Source Control Program.
 - Key Element 2 states, "an NPS control implementation program **shall include a description of the MPs (BMPs) and other program elements that are expected to be implemented to ensure attainment of the implementation program's stated purpose(s), the process to be used to select or develop MPs, and the process to be used to ensure and verify proper MP implementation.**
 - Key Element 3 states, "Where a RWQCB determines it is necessary to allow time to achieve water quality requirements, the NPS control implementation program

shall include a specific time schedule, and corresponding **quantifiable milestones** designed to measure progress toward reaching the specified requirements.”

- Key Element 4 states, “An NPS control implementation program **shall include sufficient feedback mechanisms** so the RWQCB, dischargers, and the public can determine whether the program is achieving its stated purpose(s), or whether additional MPs or other actions are required.”
- Key Element 5 states, “Each RWQCB **shall make clear, in advance, the potential consequences for failure** to achieve an NPS control implementation program’s stated purposes.”
- The program should universally apply to all irrigated agricultural practices that result in discharges of wastes to surface or ground waters. Elements of the program should be prioritized based upon threats to water quality.
- It is technically impossible to protect water quality without knowing: 1) who is discharging wastes, 2) the location where wastes are being discharged, 3) the constituents actually discharged, 4) the concentration and mass of discharged constituents, 5) impacts to local receiving waters, 6) the identity of those implementing or failing to implement management measures, and 7) whether implemented management measures have been properly applied and are effective.
- Individual Waste Discharge Requirements (WDRs) are the most direct and efficient means of ensuring compliance with water quality standards where exceedances of standards have been identified.
- A General Order incorporating both standards and plan-based requirements prioritized on the basis of identified water quality problems or impairments would provide flexibility and maximize limited resources.
 - Threats to water quality could be prioritized on the basis of: 1) severity of identified exceedances or impairment or 2) agricultural activities (i.e., chemical usage, irrigation practices, etc. They might be further prioritized on the basis of watershed size, number of dischargers to a specific waterway, likelihood of success or the nature of receiving waters (i.e., sensitive species, critical habitat, etc.).
- Waivers should be reserved for those waterways or watersheds where no serious impacts to water quality have been identified.
- A common element of enrollment in any program should be the electronic submission of either a Report of Waste Discharge (ROWD) for individual Waste Discharge Requirements or a Notice of Intent (NOI) to comply with applicable requirements of a General Order or Waiver. Either should include, at a minimum: 1) the discharger seeking

coverage, 2) a general description of the lands and types of activity being covered, 3) receiving waters, 4) location(s) of discharge points, 5) constituents likely to be discharged, 6) existing management measures to reduce pollution (if any), and 7) whether the applicant is a member of a larger group or coalition.

- Monitoring programs must be comprehensive and specific enough to protect water quality and beneficial uses. They can be adjusted to reflect localized conditions, cropping patterns and condition of receiving waters but must be sufficient to identify water quality impacts, sources of pollution and the effectiveness of applied management measures.
 - All constituents likely to be present in discharges that have a potential to impact water quality should be monitored at a frequency sufficient to protect receiving waters.
 - For individual WDRs where receiving water impacts have been identified: edge-of-field or end-of-pipe monitoring should be required monthly during irrigation season and during at least two wet weather events. Monitoring may be relaxed where standards are being met. Must monitor receiving waters individually or under a group-monitoring program.
 - For general orders where receiving water impacts have been identified: must monitor receiving waters, either individually or through participation in a group-monitoring program. Surface waters (waterways, watersheds) should continue to be monitored monthly during the irrigation season and a minimum of two samples collected during wet weather events, unless specific conditions warrant otherwise, especially where sensitive habitat or listed species are identified. The number of sampling locations should be increased until sources or responsible parties are identified. Frequency and parameters can be reduced as standards are met in order to identify trends. In addition to present receiving water sampling, monitoring should include random statistically significant scientifically based edge-of-field and groundwater monitoring. It should also include before/after BMP implementation to evaluate effectiveness. Photo documentation is highly recommended. All results should be electronically submitted and posted on a GIS database. An indispensable component is Regional Board or independent third-party random inspections and sampling to verify the accuracy of submitted results.
 - For waivers where no receiving water exceedances are identified: surface water should be monitored for basic parameters to evaluate trends or discover previously unidentified impacts. Identified exceedances should trigger enhanced monitoring.

With respect to the specific alternatives for a Long-Term Irrigated Lands Regulatory Program recommended for consideration in the EIR, CSPA/Baykeeper believes that only the Direct Oversight SW/GW 4(a) and the Direct Oversight SW/GW 4(b), **as modified by the preceding**

general comments and augmented by necessary groundwater monitoring and implementation requirements, will meet the statutory requirements to ensure that water quality standards are met and beneficial uses are protected.

We further recommend that the:

1. Groundwater component of SW/GW 4(a) should be strengthened to include random statistically significant monitoring of groundwater.
2. SW/GW 4(b) alternative include provisions that, at least initially, allow for the use of indicator surrogates or group monitoring using statistically significant sampling of discharges. Otherwise, costs are likely to be prohibitive for those operating pursuant to general orders.
3. Farm water quality management plans be electronically transmitted to the Regional Board, and
4. Specific Key Elements of the state's Non-Point Control Policy be woven throughout each of the components of any alternative carried forward for CEQA review.

Thank you for considering these comments. If you have questions or require clarification, please don't hesitate to contact us.

Sincerely,



Bill Jennings, Executive Director
California Sportfishing Protection Alliance

Cc: Mike Lozeau
Sejal Choksi