

DRAFT Meeting Summary

Long-term Irrigated Lands Regulatory Program (ILRP) Straw Proposal Review General Stakeholder Meeting

MEETING DATE: 11 May 2010

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

ATTENDEES: See Attachment A

Welcome and Introductions

Dave Ceppos, Center for Collaborative Policy (CCP), opened the meeting, reviewed the agenda, and asked participants to introduce themselves. He explained that the purpose of the meeting was to give Central Valley Regional Water Quality Control Board (Board) staff (staff) the opportunity to receive comments and answer questions on the ILRP straw proposal.

Review ILRP Process Schedule and Remaining Deliverables

Joe Karkoski, staff, reviewed the ILRP process to date and the remaining schedule/deliverables through the final adoption of the ILRP Environmental Impact Report (EIR) in March, 2011. The process schedule and other meeting materials are available online at:

http://www.swrcb.ca.gov/rwqcb5/water_issues/irrigated_lands/long_term_program_development/index.shtml.

Mr. Karkoski noted that due to a recent court-ordered stipulated agreement between the Board and current ILRP enrollees, the Board is required to release the Draft ILRP EIR by July 31st, 2010. Also, the agreement requires that staff present and recommend that the Board certify a final EIR by March 31st, 2011.

He explained the purpose of the meeting was to receive comments on the staff ILRP straw proposal. The straw proposal was developed out of ILRP Advisory Work Group alternatives developed in 2009, topic-specific small work group input in early 2010, and information from EIR economics analysis. He stressed that the straw proposal is *not* the staff preferred alternative, as the full analysis for the EIR is not available at this time. Staff will develop formal responses to stakeholder comments after the release of the Draft EIR. The following questions/comments on the schedule were recorded:

- A participant asked if the staff preferred alternative will be dramatically different than the straw proposal. Mr. Karkoski responded that after the meeting, staff will meeting with the Board management to receive input and direction on which alternative to pursue. Although management could direct staff to pursue a different alternative than the one captured in the straw proposal, it has been briefed throughout the ILRP process and is supportive of the work done by stakeholders to date.
- A participant noted that the full economics analysis has not been completed or received stakeholder input. Mr. Karkoski explained that the economics analysis will

be available for comment with the Draft EIR. The straw proposal process was completed at the request of stakeholders with the understanding that the analysis would not be available until a later date.

Straw Proposal Discussion

The remainder of the meeting was spent discussing the straw proposal. Mr. Karkoski explained that the straw proposal (and eventually the staff preferred alternative) is at the *programmatic level of detail*. It will not be project specific, but instead will set up the framework for the ILRP at the Central Valley-wide level. While this provides the Board with the flexibility to design the ILRP and develop a general understanding of the environmental/economic affects of the program, it doesn't provide a high level of site-specific detail. Supplemental analysis of specific projects/requests may be needed at a later date.

Mr. Karkoski explained that staff would review each section of the straw proposal and then open the floor for participant comments. He noted that the straw proposal seeks to balance environmental affects with economic impacts. Everything under the existing ILRP scope is covered by the straw proposal; additional requirements in the straw proposal apply to groundwater, spray drift, backflow issues, and wellhead protection. The goals and objectives of the straw proposal were adopted directly out of the Advisory Work Group input. These include: protecting water quality, maintaining agricultural viability in the Central Valley, and ensuring that Central Valley communities have access to safe and reliable drinking water.

One of the major components of the straw proposal is the idea of a "phasing in" period to transition from the existing ILRP to the new program. Three-years was identified as an appropriate timeframe to move from the current program to the new program. During the "phasing in" period, the current ILRP will remain in effect. The following discussion is separated into headings corresponding to section titles in the straw proposal.

Implementation mechanism

The straw proposal suggests developing geographic orders for the ILRP based on 8-12 geographic regions (under the current ILRP, agricultural coalitions represent 8 distinct regions in the Central Valley). This will allow the ILRP to respond to the unique conditions in each region.

Conditional waivers could be developed for any region where there aren't significant agricultural-related water quality problems. Every 5 years, these waivers would be reexamined to ensure their applicability. In areas where significant problems do exist, waste discharge requirements (WDRs) would be developed. No specific review period for the WDRs exist at this time. It is also conceivable that there may be a situation in which a grower has no discharge to waters of the state. In this situation, the ILRP would not apply to the grower in question. However, this would be the exception and staff is not aware of any specific cases.

Finally, Mr. Karkoski explained that there is also a conditional prohibition of discharge in the straw proposal. This prohibition would go into effect if a grower with a waste discharge fails to enroll in the ILRP by the end of the designated enrollment period. This prohibition would not apply to anyone already under WDRs, a conditional waiver, or if there is not a waste discharge to surface or groundwater. In addition to the staff presentation, the following conversation was recorded:

- A participant asked how the EIR will be legally defensible without a "no program" alternative based on the assumption that the ILRP doesn't exist. Mr. Karkoski

responded that Board legal staff has determined that the no action alternative in the EIR is a continuation of the current program (as opposed to just letting it expire). The California Environmental Quality Act (CEQA) appears to support this interpretation.

- One meeting member asked whether the ILRP will evaluate other existing point and non-point source programs for the EIR. Mr. Karkoski responded that staff is considering “background sources” and existing programs that could influence pollutant levels. The ILRP will expect growers to deal with water quality problems they are responsible for, but not other water quality issues.
- A number of people raised a concern about duplicating regulations that may already be covered by the Department of Pesticide Regulation. Staff responded that ILRP implementation would be coordinated closely with DPR. The ILRP would only impose additional requirements where DPR requirements are ineffective at addressing a water quality concern.
- Two participants asked that the straw proposal clearly state that DPR has primacy on all pesticide issues except in specific situations.
- One person noted that on page 7 of the straw proposal, there is a statement that compliance during the phasing in period will be based on completion of required actions, and asked what actions this refers to. Mr. Karkoski responded that these actions would be identified during the development of long-term program waivers/WDRs. The actions would be designed to slowly phase in new ILRP requirements in order to avoid an abrupt transition from the current program to the new program.
- Participants generally agreed that it would be helpful to know the results of conversations with Board management regarding the straw proposal.
- A meeting member commented that DPR regulations are ineffective regarding the issue of spray drift onto organic farms. Organic farmers already employ management practices to deal with waste discharge issues; this should be reflected in the EIR.
- A participant suggested that the ILRP include a clear definition of the Board’s jurisdiction on groundwater issues, and added that the Board might be going beyond its authority to regulate discharge to groundwater. Mr. Karkoski responded that one option is for the Board to take the position that once water goes below the root zone; it will eventually end up in an aquifer even though it may take many years. Another option would include trying to determine a general set of geophysical characteristics where waste discharge to groundwater within a realistic time period would be improbable.
- One person asked how the Board intends to collect information from the existing agricultural coalitions (i.e., through informal channels or through a formal §13267 request). Mr. Karkoski responded that the Board would prefer to keep requests informal and collaborative.
- A participant asked for a definition of “discharge to groundwater” in the EIR.
- One person stated that the economic analysis needs to take into account that increasing the number of individual orders a coalition will have to adhere to will substantially increase the cost of administering the ILRP.
- Participants asked where the “2 million acre” figure in the footnote on page 3 came from. Mr. Karkoski responded that the existing program applies to 5 million acres of irrigated agriculture in the Central Valley. The additional 2 million acres are based on the Department of Water Resources (DWR) Water Plan estimate of a total of 7 million acres of irrigated agriculture in the Central Valley.

Regulatory Requirements

Adam Laputz, staff, discussed the regulatory requirements section of the straw proposal. The requirements are based on “tiering structure” that places regions with few agricultural waste discharge related water quality problems in a less stringent program than those with more substantial problems. A number of participants in the Advisory Work Group were supportive of a low threat tier. The tiering system in the straw proposal is based on a number of priority factors. Water quality information and other regional factors are used to determine the priority (i.e., high or low threat) and the associate requirements for a given area. The priorities are:

1. Irrigated agricultural operations cause or contribute to a water quality problem for surface or groundwater.
2. Irrigated agricultural operations are located within a high threat area based on environmental conditions (e.g. State Water Board groundwater vulnerability area, etc.)
3. Irrigated agricultural operations have management practices in place to protect water quality.
4. Irrigated agricultural operations have a demonstrated history of non-compliance with the ILRP.

The goal of the priority system is to provide a means of determining where to focus limited State and agricultural community resources. The assumption is if there are no problems in a region, growers are essentially using good agricultural practices (tier 1, low priority). Growers without good practices or those with water quality problems are subject to more comprehensive monitoring and ILRP requirements (tier 2, high priority). The following discussion was recorded:

- A participant asked if new coalition members would apply directly with the coalition or the Board. The participant also asked how fees would be determined. Mr. Karkoski responded that new members will apply directly with the Board. Page 6 of the straw proposal will be revised to reflect this idea. The Water Board fee structure is yet to be determined. The State Water Resources Control Board has flexibility in deciding how the fee structure will work depending on whether growers are covered by a WDR or general order.
- Participants suggested that more clarity is needed on what responsibilities the “third-party” groups will have. Mr. Karkoski replied that responsible third-parties will be subject to requirements similar to the coalition requirements in the current program, and will report directly to the Board. One person suggested that materials be developed as part of the ILRP to explain new groundwater requirements to growers.
- A participant commented that the 100% coalition participation requirement on page 7 is unreasonable.
- A number of participants asked for additional clarification on the way growers move from tier 1 to tier 2 and vice versa. As written, the tiering criteria do not specify how many exceedances are required to bump a grower from tier 1 to tier 2. Staff responded that additional clarification will be provided, but that staff are unable, in the programmatic approach, to anticipate and define all potential circumstances at this time.
- A person asked whether groundwater quality management plans (GWQMPs) will be based on new criteria from the Board or use the existing DWR criteria developed in local groundwater quality management plans. Mr. Laputz responded that GWQMPs can be based on local groundwater plans as long as they meet all of the ILRP requirements.
- One participant asked what happens to growers already in tier 2 if discharge problems are continuing. Mr. Laputz responded that if problems are linked to

individual growers, individual FWQMPs will be required. The participant suggested that all growers in tier 2 develop FWQMPs from the outset of the program instead of waiting for additional problems to occur.

Monitoring

Mr. Laputz described the straw proposal monitoring requirements. As proposed, monitoring for surface water discharge would be very similar to the current ILRP. Monitoring requirements for groundwater in tier 2 are based wholly on Advisory Work Group Alternative 4. The following discussion was recorded:

- A participant suggested that where discharge data is unavailable for prioritization, growers should automatically be placed in tier 2 and have WDRs. Staff responded that the Board wants to rely on existing data as much as possible, but that where there is no information available for area prioritization, additional monitoring or studies may be required.
- One person suggested creating a variety of tier 1 monitoring options, including farm based (as opposed to lab based) water testing and the ability for farmers to develop their own FWQMPs.
- One participant suggested there shouldn't be groundwater monitoring requirements where there is no groundwater table. The participant also noted that in some areas, such as where the aquifer is 800 feet deep or more, groundwater monitoring may be very difficult or impossible.
- A participant asked if the ILRP will only include assessment monitoring instead of assessment and core monitoring. Mr. Karkoski responded that tier 1 and tier 2 have assessment monitoring. Tier 2 has annual monitoring for key constituents of concern, but would not have core monitoring requirements for other constituents (e.g., constituents that are not of "concern").

Time Schedules for Compliance

Mr. Karkoski explained that instead of specifying compliance timelines, the straw proposal offers a general timeline and specific priorities for compliance. He then described the overall schedule for compliance. The following discussion was recorded:

- One participant noted that existing total maximum daily load (TMDL) programs have longer compliance periods than the straw proposal, and cautioned the Board against creating conflicting compliance timelines for the ILRP.
- A participant commented that the straw proposal description of beneficial uses includes water quality for aquatic species that may go beyond the Board's legal requirements.
- Another participant asked that the difference between compliance schedule and tiering priorities be clarified in the straw proposal.

Meeting Recap/Next Steps

- Several participants thanked Board staff for their responsiveness to stakeholder concerns when developing the straw proposal.
- Mr. Karkoski closed the meeting by stating that staff will meet with the Board Executive Officer to present the straw proposal. He asked that participants voice their support for the proposal in advance of this meeting. Participants agreed, and

asked that if the Executive Officer asks for substantial changes to the straw proposal, staff contact stakeholders describing the changes.

Attachment A: 11 May 2010 Long-term ILRP Meeting Attendees

Adam Laputz	Central Valley Regional Water Quality Control Board
Bill Thomas	South San Joaquin Water Quality Coalition
Jodi Pontureri	State Water Resources Control Board
Bruce Houdesheldt	Northern California Water Association
Bud Hoekstra	Berry Blast Organics
Carol Dobbas	UFRWG
Chad Dibble	California Department of Fish and Game
Tess Dunham	Somach, Simmons, and Dunn
Dan Hinrichs	DJH Engineering
David Cory	SJUDA
David Nesmith	Environmental Water Caucus
Dennis Heiman	Central Valley Regional Water Quality Control Board
Gail Delihant	WGA
Joel Miller	SJV NWRS
Jas O'Growney	STWEC
Jeff Pylman	Nevada County Agricultural Commissioner
Jennifer Clary	Clean Water Action
Jim Atherstone	South San Joaquin Irrigation District
Joe Karkoski	Central Valley Regional Water Quality Control Board
John Currey	Dixon Resource Conservation District
Kandi Manhart	CESP
Gabriele Ludwig	Almond Growers of California
Rick Landon	Yolo County Agricultural Department
Bob Blakely	CCM
Mark Commandatore	Central Valley Regional Water Quality Control Board
Bonny Starr	Starr Consulting
Michael Niemi	Turlock Irrigation District
Mike Wackman	San Joaquin County and Delta Water Quality Coalition
James Cornelius	Butte Yuba Sutter
Nick Konovkoff	RCRC
Orvil McKinnis	Westlands Water District/Westlands Stormwater Coalition
Parry Klassen	East San Joaquin Water Quality Coalition
Pat Matteson	California Environmental Protection Agency/DPR
Paul Bertuqua	Shasta County Cattlemen
Lisa Ross	Department of Pesticide Regulation
Richard Price	Butte County Agricultural Commissioner

Dave Ceppos	Center for Collaborative Policy
Sam Magill	Center for Collaborative Policy
Tom Aguilar	PNSSNS
Tom Wegge	TCW Economics
Chris Valadez	California Grape and Tree Fruit League
Isabel Baer	State Water Resources Control Board
Kathryn Chandler	Reclamation District 108
Max Stevenson	Yolo County Flood Control and Water Quality District
Elaine Archibald	CUWA
Tom Stephens	Merced Irrigation District
Becky Waegell	SAWQA
Ben Letton	Central Valley Regional Water Quality Control Board
David Olson	HDR
Robert Weis	Grimmway Enterprises
Beckie Challender	USDA Natural Resources Conservation Service
Loren Harlow	Stoel Rives
Johnny Gonzales	State Water Resources Control Board
Breanna Owens	Vestra Resources
Carolyn Yale	US Environmental Protection Agency
Wayne Zipster	East San Joaquin Water Quality Coalition
Nick Konovaloff	RCRC