

**Irrigated Lands Discharge Program
Advisory Group Meeting #1
Meeting Summary
12/14/2011**

Meeting Participants

Tim Beck, Shasta Valley RCD
Jeff Fowle, Siskiyou County Farm Bureau
Ned Coe, California Farm Bureau
Ryan Pierre, The Wine Institute
Kari Fisher, California Farm Bureau Federation
Dee Samson, Lava Beds/Butte Valley RCD
Crystal Bowman, Karuk Tribe
Don McEnhill, Russian Riverkeeper
Erica Terrance, Klamath Riverkeeper
Rich Shafers, Beckstoffer Vineyards
Laurel Marcus, Fish Friendly Farming Program
Director
Jim Morris, Rancher
Ric Costales, Siskiyou County
Adriane Garayalde, Shasta Valley RCD
Andrea Souther, NRCS
Katherine Ziemer, Humboldt County Farm
Bureau
Linda Crockett, Del Norte Farm Bureau
Harry Harms, Grower
Lee Riddle, Easter Lily Research Foundation
Andrew Orahoske, EPIC
Shelley Janek, Mendocino Co RCD
Kathy Reese, Sonoma Co Farm Bureau
Daniel Myers, Sierra Club
Tony Lineager, Mendocino County Ag
Commissioner
Jeff Dolf, Humboldt Co Ag Commissioner
Felice Pace, Klamath Forest Alliance
Alan Levine, Coast Action Group

Robert Boeller, Kendall Jackson
Pat Frost, Trinity Co RCD
Steve Orloff, UCCE
Rick Carlson, BOR
Brad Kirby, Tulelake Irrigation District
Curt Mullis, Klamath Water Users Association
Glen McGourty, UCCE
Janet Pauli, Mendocino Co Inland Water and
Power Commission
Devon Jones, Mendocino Co Farm Bureau
Tiffany Hayes, NRCS
Jeff Gaarder, CRA Associates
Ryan Walker, Shasta Valley RCD Board Member
Robert Walker, Upper Mid Klamath W Council
Ruth Anne Shoulte, Buckeye
Erin Ryan, Congressman La Malfa's Office
Margo Parks, Cattlemen's Association

Staff and Consultants

Catherine Kuhlman, Regional Water Board,
Executive Officer
Samantha Olson, Regional Water Board,
Counsel
David Noren, Regional Water Board, Member
and Vice Chair
David Leland, Regional Water Board
Rebecca Fitzgerald, Regional Water Board
Mark Neeley, Regional Water Board
Matt St. John, Regional Water Board
Ben Zabinsky, Regional Water Board
Sam Magill, Center for Collaborative Policy
Dave Ceppos, Center for Collaborative Policy

ACTION ITEMS AND KEY ISSUES FOR FURTHER DISCUSSION

1. Staff will provide a link to irrigated lands programs from other regions to Advisory Group members via email.
2. Staff will investigate representation from Butte Valley for the Advisory Group.
3. Advisory Group members will submit comments on membership (based on the list sent via email on December 2nd) to Ben Zabinsky as soon as possible. Staff will discuss membership and Advisory Group participation generally and distribute a revised list to all members in mid/late January.
4. All presentations from meeting #1 will be distributed to Advisory Group members. Future presentations will be made available to Advisory Group members in advance of meetings.

5. The first meeting of subgroups will be held in February. A notice of proposed meeting times will be released to all Advisory Group members in early January.
6. A full summary of the meeting will be distributed to the Advisory Group by December 23rd. The summary will also be posted online.
7. Participants will send meeting location preferences to Ben Zabinsky as soon as possible. Staff will determine locations for the February subgroup meetings based on:
 - o Proximity to other locations within the subregion
 - o Availability for proposed meeting date
 - o Facility logistics such as internet/phone availability, size, etc.
 - o Cost

MEETING SUMMARY

Opening Remarks, Introductions, and Agenda Review

Catherine Kuhlman, North Coast Regional Water Quality Control Board (Regional Water Board), delivered opening remarks and thanked Stakeholder Advisory Group (Advisory Group) members for attending. She reviewed the historical context for the Irrigated Lands Discharge Program (Program), including the seven key components that must be included in the Program once complete:

- A permit or set of permits
- Enrollment requirements
- A monitoring component
- Application of best management practices (BMPs) to meet water quality objectives
- A reporting component
- Training and/or compliance assistance
- An enforcement component for parties not wishing to work within the regulatory requirements of the Program

After opening remarks, Sam Magill, Center for Collaborative Policy (CCP), asked Advisory Group members to introduce themselves and provided a brief review of the agenda.

Program Purpose and Regulatory Requirements

Ben Zabinsky and Samantha Olson, Regional Water Board, delivered a presentation on the purpose and regulatory requirements of the Program. All slides are being e-mailed to Advisory Group members and will be available online at

http://www.swrcb.ca.gov/northcoast/water_issues/programs/irrigated_lands/.

After the presentation, Advisory Group members and members of the public were invited to ask clarifying questions and provide comments. The following discussion was recorded:

- Laurel Marcus asked how the Program will affect areas within the North Coast Region who don't have Total Maximum Daily Loads (TMDLs) in place. Ms. Kuhlman responded that TMDLs exist in areas that have recorded water quality issues. While it is the goal of the Program to reduce discharges in these areas, it is also a goal to protect high quality waters in *all* areas with irrigated agriculture.
- Ric Costales commented that additional clarification is needed on the idea of a minimum threshold for participation in the Program. TMDLs are different throughout the region, and can't be applied equally across all watersheds. If some discharges don't threaten water quality in the area, will those growers be required to participate in the Program? Ms. Olson responded that the Program is likely to be BMP based instead of TMDL based to ensure consistent application of the Program. Ms. Kuhlman and David Leland, Regional Water Board, added the idea of a

minimal threshold for participation will need to be part of future Advisory Group discussions. It is likely that requirements for dischargers who don't pose a threat to water quality will be much less stringent than those who do pose a direct threat to water quality.

- Erica Terrence asked how the Program will be coordinated with similar programs in Oregon (specifically in the Klamath basin). Ms. Kuhlman responded that the Regional Water Board has a memorandum of agreement (MOA) with Oregon to coordinate regulatory programs. Two participants added that while growers in the Klamath already operate under an Oregon discharge permit, this permit may not have monitoring or performance criteria. Ms. Kuhlman noted that California has different regulatory requirements; these differences will be addressed in the permits for the Program.
- Alan Levine asked if the Advisory Group will consider variation within the North Coast Region as to how the Program is applied. Ms. Kuhlman confirmed that it will.
- Mr. Levine asked for additional clarification on the Anti-degradation Clause in the California Water Code. Ms. Olson responded that the goal of the Anti-degradation Clause is to preserve high quality water. It is a specific water quality objective and does not allow the issuance of any permits which may degrade these water sources.
- Felice Pace noted that the notion of a "threshold" give some the impression that growers don't need to comply with the Program if they discharge below a certain level. Ms. Kuhlman responded that no one would be exempt from the Program, but that it could include threat "tiers." If a grower falls in the low/no risk tier, they will still be regulated, but because they pose low/no risk to water quality, the regulation will be easier to comply with. **NOTE:** The issue of thresholds was flagged for additional discussion at a future meeting.
- Andrew Orahoske noted that large scale agricultural operations generally have return flows to native waters and could be considered point source discharges, and asked how the Program will address point source issues. Ms. Olson responded that agricultural is specifically exempted by the NPDES program, so the Program will treat all agricultural discharge like nonpoint source.
- Shelly Janek asked what the legal definition of irrigated agriculture is. Although a specific legal definition was not available, Matt St. John, Regional Water Board, noted that it can be broadly defined as agriculture that use some type of conveyance to deliver water to a crop. This includes irrigated pasture, but not dryland grazing. **NOTE:** This question was flagged for additional discussion at a future meeting. Mr. Pace noted that the US Department of Agriculture has some definitions that may be useful.
- Robert Walker asked if food production is considered a beneficial use by the Regional Water Board, and whether there are conflicting uses (i.e., water quality vs. agricultural production). Ms. Olson confirmed that food production is a beneficial use, and that the Regional Water Board has the discretion to balance uses to protect the most sensitive.
- Crystal Bowman noted that dryland agriculture can discharge pollutants during rain and snow melt, and should be included in the scope of the Program. Laurel Marcus noted that the San Francisco Bay Regional Water Quality Control Board has said that if polluted water comes off of someone's land (regardless of whether it's from irrigation or storm runoff) the landowner is responsible for the discharge. Staff noted that this is an issue to revisit at a later meeting; the Regional Water Board does not know how the Program will address the issue at this time.
- Devon Jones asked how recycled water will be included in the Program. Ms. Kuhlman responded that it will be addressed through an NPDES permit to be developed at the same time as the Program.
- Rick Carlson asked if the Program will affect entities which convey agricultural return flows but don't irrigate. Ms. Kuhlman responded that this Program will look at agricultural; organizations/agencies like the Bureau of Reclamation won't be regulated. Ms. Olson added that a conveyer can be responsible under certain circumstances. Staff will be discussing coverage under the Program in the coming months.

- Katherine Ziemer asked staff to provide web links to irrigated lands programs from other regions. **See Action Item #1.**

Advisory Group Charter, Structure, and Membership

Mr. Magill delivered a presentation on the Advisory Group charter and membership. This presentation will be available online at http://www.swrcb.ca.gov/northcoast/water_issues/programs/irrigated_lands/. Key topics included an overview of the voluntary guidelines Advisory Group members agree to work within as part of the process, the participant selection process, and the decision making protocols for the Advisory Group. After the presentation, the following discussion was recorded:

- Mr. Pace raised a number of concerns about the makeup of the Advisory Group. Specifically, he suggested that the subgroups should be limited to 12 individuals, and that each organization should only be allowed to have one representative per group. As an alternative to multiple representation, he suggested that subgroups could be organized using the “fishbowl” method where only one representative sits at the table to make decisions, but organizations are allowed multiple representatives as alternates. Mr. Levine and Ms. Terence concurred with his concerns.
- Kari Fisher noted that the fishbowl method was not successful in other regions like the Central Coast. Due to the unique characteristics of different areas within the region, multiple representatives may be needed from similar organizations (i.e., RCDs, agriculture, environmental, UC Cooperative Extension, etc.) Other representatives from the agricultural community including Tony Linegar, Kathy Reese, and [unknown] concurred.
- Steve Orloff noted that the Butte Valley is not currently represented on the Advisory Group and should be added. **See Action Item #2.**
- **Mr. Pace asked for commitment from staff to schedule all meetings with at least 2 weeks notice.**
- Mr. Pace noted that the decision making protocol as laid out in the presentation may not be effective, and suggested that each individual organization have a single representative and a single vote. NOTE: participants were asked to submit comments on the existing membership list for Regional Water Board staff consideration. Staff will meet with the Executive Officer to determine the correct path forward on representation. **See Action Item #3.**
- Mr. Pace asked if the Scott Valley Waiver would be subsumed by the Program. Mr. Leland responded that it would not. The Program will be broader; how the two work together has not been determined.
- Mr. Harms noted that the Program will not be successful unless the regulated community cooperates and complies with it.
- Mr. Harms asked if a facilitator will be available for all meetings. Mr. Magill that someone from CCP or the State Water Resources Control Board (SWRCB) will be at all meetings to facilitate.
- Mr. Orahoske asked if there will be any effort to normalize decisions between the subgroups. Mr. Magill responded that this will require further discussion. Ms. Kuhlman noted that there will be some things that will need to be unique to a particular area (i.e., specific BMPs and education requirements). Other things (such as enforcement) will be normalized across the region. How exactly that happens will be determined later in the Advisory Group process.
- Tim Beck asked if the Regional Water Board legal counsel will be at all subgroup meetings. Ms. Kuhlman confirmed that Ms. Olson would attend meetings in person or by phone.

Program Framework Presentation

Mr. Zabinsky delivered a presentation on the initial staff developed framework for the Program. Key topics in the presentation included the basic required components of the Program and sample elements

from existing regulatory requirements within the North Coast Region and throughout California. After the presentation, the following discussion was recorded:

- Mr. Pace asked that forage crops such as hay be included in the initial Program description.
- Mr. Costales asked if a prohibition to discharge would be sufficient to cover dryland hay production (i.e., instead of enrolling in the Program). Mr. Zabinsky confirmed that this could be sufficient.
- Participants asked if the slides will be available online, and whether it is possible to get copies of presentations in advance of meetings. Staff confirmed that the presentations will be posted and future presentations will be provided in advance of meetings. **See Action Item #4.**
- Glen McGourty asked if pollution issues caused by other agencies and organizations affecting private landowners will be covered by the Program. Mr. Leland responded that only issues caused by irrigated agriculture will be regulated by the Program.
- Mr. Levine commented that additional explanation on the scientific background for the Program could be needed. Mr. Magill said that scientific presentations on specific components of the Program could be delivered at future meetings.
- Mr. Linegar asked how drip irrigation fits in with the notion of risk-based criteria and protecting groundwater. Mr. Zabinsky responded that a variety of factors will be looked at using risk-based criteria such as how far a grower is from surface water. Consideration will be given to what type of irrigation practices are used.
- Mr. Walker noted that some farms have exceptionally high quality sources of water, and asked whether a prohibition of discharge could be used to protect water quality. Mr. St. John responded that the Regional Water Board is open to this being included as a component of the Program.
- Mr. Pace asked if the Regional Water Board is anticipating monitoring and reporting for lower risk areas at all, or whether these areas would just have less frequent monitoring/reporting requirements than high risk areas. Ms. Kuhlman responded that it would likely be an issue of frequency and type of monitoring.
- Janet Pauli noted that work being done in the Shasta Valley has resulted in measureable water quality improvements. She asked if the Program was being developed too soon without knowing first if there is a problem with discharges throughout the North Coast Region. Ms. Kuhlman responded that in addition to improving water quality where problems exist, the Regional Water Board also has a responsibility to protect water quality. The Program will seek to do both.
- Ms. Janek noted that illegal marijuana cultivation is a major issue, and asked how the Program will be enforced on marijuana growers. Mr. Leland responded that work is being done with the medical marijuana community, and is beginning work on illegal crops. He added that there is reluctance to put staff in harms way, and that outreach to the Mendocino Sherriff is ongoing. Ms. Janek added that legal agriculture does not want to be held responsible for illegal activities.
- Ryan Pierce asked what the process will be for third party certification, and what metrics will be used. Ms. Fisher added that she wrote the process for the Central Coast irrigated lands program, and that something similar could be used in the North Coast Region. Ms. Kuhlman suggested that this should be carried forward for discussion in the subgroups.
- Mr. Pace asked if the Regional Water Board has reviewed irrigated lands programs from other regions for effectiveness, particularly in regards to growers implementing their own monitoring programs. Ms. Kuhlman responded that the Regional Water Board is in the process of doing this.
- Mr. Pace asked to hear about quality assurance in other programs, and asked whether the Program could be performance based instead of BMP based. Mr. Zabinsky responded that other programs do have benchmarks for success. Monitoring does not always show if BMPs are working. Mr. Leland noted that performance targets are already in the Basin Plan, TMDLs, and in place separate from any permitting action.

- Participants discussed what the costs of monitoring and reporting requirements are in other programs. Ms. Fisher responded that it varies, but in the Central Valley, agricultural coalitions spend approximately \$1 million; this is considered a high cost. Toxicity and pesticide monitoring is very expensive.
- Mr. Levine asked if there was an understanding of performance timelines for the Program. Mr. St. John said that the timeline for compliance and success of the Program has not been determined, but that it will likely be years or decades.
- Mr. Orahoske noted that he supports the idea of independent monitoring for compliance. Ms. Kuhlman added that on some level, independent inspection will be done.

Closing Comments and Next Steps

Mr. Zabinsky delivered an overview of next steps. Specifically:

- The first meeting of subgroups will be held in February. A notice of meeting times will be released to all Advisory Group members in early January. **See Action Item #5.**
- A full summary of the meeting will be distributed in 1 week. **See Action Item #6.**
- The next meeting will focus on the overarching questions asked during the first meeting and a further refinement of the Program framework.
- Meeting participants are encouraged to distribute Regional Water Board and facilitator contract information to all interested participants.

After Mr. Zabinsky's overview, meeting participants were asked for any final comments. The following conversation was recorded:

- Ms. Ziemer asked how meeting locations will be determined. Participants were encouraged to provide suggestions; staff will query subgroup members for specific locations. Staff noted that some meetings will be held via teleconference. **See Action Item #7.**
- Mr. Mullis asked how the Program will interact with Tule Lake Irrigation District/growers and how the Regional Water Board will interface with these enrollees. Ms. Kuhlman responded that this will be an item for further discussion.
- Jeff Fowle asked if this Program will be similar to an Incidental Take Permit (ITP) and cautioned the Regional Water Board against this course of action. Ms. Kuhlman said that the permit structure is not decided yet, and that the Advisory Group will be involved in these discussions.

After closing comments from the Advisory Group, Ms. Kuhlman and David Noren thanked participants for attending and adjourned the meeting.