

North Coast Regional Water Quality Control Board (Regional Water Board)
Agricultural Lands Discharge Program (Program)
Advisory Group Meeting #4
Scott/Shasta/Upper Mid Klamath Sub-Regional Meeting
Meeting Summary
5/9/2012

ATTENDEES

ADVISORY GROUP MEMBERS AND STAFF

Adrienne Garayalde, Shasta Valley RCD
Amy Campbell, The Nature Conservancy
Crystal Bowman, Karuk Tribe
Felice Pace, Klamath Forest Alliance
Jeff Fowle, Grower
Jim Patterson, Natural Resources Conservation Service (NRCS)
Ken Fetcho, Yurok Tribe
Larry Alexander, Upper Mid Klamath Watershed Council
Rick Costales, Siskiyou County
Robert Walker, Grower
Ryan Walker, Grower
Steve Orloff, UC Cooperative Extension
Tim Beck, Grower
Ben Zabinsky, Regional Water Board
David Leland, Regional Water Board
Matt St. John, Regional Water Board
Bryan McFadin, Regional Water Board
Andy Baker, Regional Water Board
Samantha Olson, Regional Water Board
Jovita Parajillo, Regional Water Board
Sam Magill, Center for Collaborative Policy
Jane Vorpapel, California Department of Fish and Game (DFG)
Cliff Munson, Siskiyou County Cattlemen's Association/Rancher

PUBLIC

John Menke, Protect Our Water

ACTION ITEMS/ITEMS OF AGREEMENT

1. Advisory Group members agreed that an acreage threshold/limit is not an appropriate criteria for defining Program scope (i.e., determining who is in/out of the Program based solely on the size of an agricultural operation is not appropriate).
2. Regional Water Board staff will work with Jim Patterson to determine how CRP criteria could be incorporated into the Program framework.

3. Advisory Group members generally agreed with the concept of a tier-based Program framework. Two Advisory Group members did not actively support the concept, but did not object either.
4. Advisory Group members will submit any revisions/comments on the Program to Regional Water Board staff by May 22nd. Staff will use the comments/revisions to develop the next iteration of the Program scope and framework for discussion at the June 26th full Advisory Group meeting in Redding.

SUMMARY

****All presentations and meeting materials referenced below are available online at http://www.waterboards.ca.gov/northcoast/water_issues/programs/irrigated_lands/****

INTRODUCTIONS, MEETING LOGISTICS, AGENDA REVIEW

David Leland opened the meeting, thanked participants for attending, and provided an overview of other Regional Water Board regulatory programs.

- Ric Costales asked if compliance with a Regional Water Board permit means there is no chance of water quality impacts. Mr. Leland responded that permits give individuals permission to discharge.
- Mr. Costales asked if the reason for the US Forest Service (USFS) permit is to de-list Wooley Creek. Samantha Olson and Bryan McFadin said that USFS data will determine whether it can be delisted.
- Ryan Walker asked if any water bodies have ever been delisted. Staff confirmed that some water bodies have been delisted.
- Felice Pace asked how rural stormwater discharges are dealt with. Matt St. John noted that stormwater is addressed through multiple programs.

After an initial round of questions, Sam Magill provided meeting logistic information, reviewed the agenda, and walked through ground rules for the meeting. After a review of the agenda, Advisory Group members and members of the public introduced themselves. The Group was asked to accept Jane Vorpapel from the DFG as an Advisory Group member. The Group concurred with a unanimous vote.

PRESENTATION & DISCUSSION OF PROGRAM SCOPE

Ben Zabinsky presented the Regional Water Board staff-developed DRAFT Program scope. This scope outlines the land use types/activities intended for inclusion within the Program, and discusses those agricultural activities specifically excluded from the scope. Mr. Leland asked participants to think of whether or not small animal feeding operations should be included in the scope of this Program, or if they should need a separate permit under an as yet undefined program. After the presentation, the following discussion was recorded:

- Mr. Leland asked Advisory Group members whether animal feeding operations (AFOs) not addressed by other programs and associated with agricultural production should be included in the Program. Meeting participants did not reach consensus on the issue. Additional discussion is needed at future meetings.
- Participants discussed which roads should be included in the scope of the Program. Mr. Zabinsky commented that only those private roads leading to agricultural acreage in production would be included in the Program. Mr. Walker suggested that roads adjacent to agricultural operations should be included; access roads leading to acreage should not be included. Jeff Fowle

suggested that roads with no demonstrated discharge should be excluded from the Program. Ms. Olson said that flat roads and roads on levees may not be the Regional Water Board's concern at this time.

- Mr. Pace said that size/acreage is not a good threshold for a property's inclusion/exclusion from the Program. Small operations and hobby AFOs may have significant water quality impact. He also commented that flat roads can still pollute. All Advisory Group members present agreed that farm size/acreage is not an appropriate criteria for the Program threshold (**see Action Item #1**).
- Adrienne Garyalde said that for AFOs, animal density could be a measure for inclusion/exclusion from the Program.
- Jim Patterson noted that the CRP is limited in geographic scope. They are often planted to enhance wildlife values, but sometimes pesticides are used. Staff will follow up with Mr. Patterson offline to see how the CRP could be incorporated into this Program (**see Action Item #2**).
- Ms. Olson acknowledged that the Regional Water Board can't address all discharges with this Program. She said that county enforcement is a better approach. If additional agricultural discharges need to be included at a later point in time, the Program can be amended.
- Participants discussed the importance of addressing discharges from marijuana grows in the area. Staff acknowledged the importance of this issue, but added that the Regional Water Board is not equipped as a law enforcement agency.

PRESENTATION & DISCUSSION OF RISK-BASED TIERS

After the discussion of Program scope, Mr. Zabinsky delivered a presentation on the DRAFT Program framework. The framework was described as a DRAFT work product for discussion purposes only, and was developed by Regional Water Board staff at the request of Advisory Group members to provide a starting point for discussions.

The framework is divided into three risk-based tiers. If a grower's operation falls within the general scope of the Program, s/he would enroll in one of the tiers depending on the level of water quality risk posed by their operation and the management practices/plans they have in place to mitigate that risk. Although not explicitly captured in the presentation, Mr. Leland noted that a "Tier 4" could be considered for high risk agricultural activities. Furthermore, he commented that the Regional Water Board retains the authority to bring growers into the Program at any time if there is a risk to water quality. After the presentation, the following discussion was recorded:

- Mr. Costales asked if tailwater only applies to surface water, or groundwater as well. Mr. Zabinsky confirmed that it applies to surface discharge only.
- Mr. Magill asked participants if the concept of the tier-based system makes sense. Nearly all participants agreed that the tiering concept is appropriate; two Advisory Group members did not fully support, but did not actively object to the concept (**see Action Item #3**).
- Amy Campbell asked who will verify which tier a grower falls in to. Mr. Leland suggested that it could be either self-verified (by the grower) or by Regional Water Board staff.
- Crystal Bowman commented that Tier 1 shouldn't apply to any lands requiring riparian management. Mr. Zabinsky responded that Tier 1 requires riparian buffers.
- Tim Beck said that if riparian management is done properly, riparian grazing does not have impacts on woody species through grazing exclusion, fences, and properly timed grazing. Jeff Fowle added that selective grazing can reduce willow growth and allow cottonwood establishment.
- Ms. Bowman asked if Total Maximum Daily Load (TMDL) results can be folded into a risk assessment to determine which tier a grower belongs in. Mr. McFadin responded that in the

Scott Valley, the Regional Water Board has defined risk by the proximity of agricultural activities to watercourses. TMDL information can be used to identify high beneficial value areas, but all areas that pose risk of discharge must be addressed. Ms. Garayalde added that in the Shasta Valley, the tailwater project is being used to identify risks and opportunities.

- Advisory Group members discussed slope criteria for Tier 1. Mr. Fowle asked if the maximum slope on a property designates the tier, or if slope only matters if steep areas are adjacent to streams. Mr. Walker noted that many growers have “terraced” lands between ditches. He suggested that slope is a good indicator of risk by land type generally, but for the purposes of the Program, agricultural type/activity is a better indicator of risk (i.e., row crops, pasture, forage, etc). Mr. Pace said that grazing on slopes can pose substantial risk to water quality. Mr. Magill acknowledged that Regional Water Board staff will need to revise the slope criteria, but reminded Advisory Group members that some farms will not be able to enroll in Tier 1 based solely on physical characteristics.
- Robert Walker noted that in some areas like Willow Creek, no water flows during the summer (snowfed only during Winter/Spring). In these areas, farming activities can’t pose a risk to water quality since there *is* no water flowing. He suggested that the Program should not apply to these areas. Ryan Walker stated that according to Water Code §13241, the tiers must take into account the condition of beneficial uses in adjacent watercourses. Monitoring results should be taken into account to determine which tier a grower falls into.
- Mr. Costales stressed the importance of designing the tiers such that once a grower/rancher implements BMPs and passes necessary evaluations, they should no longer be subject to Program requirements. He also said that there are political consequences to requiring people to enroll in the Program and pay a fee if there is no demonstrated threat to water quality.
- Ms. Olson said that some type of ongoing verification must be part of the process, but that the fee structure should be designed to give agricultural operators incentive for compliance (i.e., compliance over time results in reduced fees). The State Water Resources Control Board (SWRCB) sets fees for agricultural programs statewide, so the Regional Water Board will have to work with SWRCB to design a fee schedule that provides the North Coast region the flexibility it needs to create a successful Program.
- Steve Orloff asked what specific conditions place a grower into Tier 3 vs. Tier 2. Mr. Zabinsky responded that the lack of management plans and implementation of effective BMPs places a grower into Tier 3; standard permit conditions will also apply as discussed in the presentation. Mr. Orloff suggested that all Butte Valley farmers should fall in Tier 1.
- Mr. Pace stressed the importance of a verification system for all tiers, and cautioned against allowing growers to self-select the tier they belong in. Additionally, he said that maintenance of BMPs must be required and ongoing. Ms. Olson noted that Tier 1 must be based on easily identifiable physical characteristics.
- All participants supported the idea of incentives for enrollment in the Program and implementing BMPs to reduce overall risk to water quality. The most common incentive suggested was a reduction of fees over time. Ms. Bowman suggested upstream/downstream water quality sampling to get people into Tier 1 if no threat to water quality is demonstrated (or if a grower reduces threat to water quality over time). Mr. Walker agreed.
- Mr. Walker noted that on his property, agency analysis has verified that conditions are good for fish, despite a tailwater discharge. He asked if, despite the discharge, there is no threat to beneficial uses, if he is still in Tier 2. Ms. Olson said that situations like this must be considered further. Mr. Pace thought that it could qualify for Tier 1 or a similar “de minimus” tier.
- Mr. Beck asked if annual rainfall will be taken into account when considering the risks posed by runoff from roads. Mr. Pace agreed that this is a legitimate risk factor to consider.
- Crystal Bowman asked if members of the Group could look at some examples of the farming/ranching practices.

Next Steps

After discussion of the Program framework and risk-based tiers, staff discussed next steps. Advisory Group members were asked to submit any specific comments on the Program framework via email to Mr. Zabinsky no later than May 22nd. These comments will be compiled by staff and used to create the next version of the document for discussion at the June 26th Advisory Group meeting (**see Action Item #4**). Mr. Zabinsky encouraged participants to focus their comments on examples specific to this sub-region.

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