

ITEM: 11

SUBJECT: Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands

BOARD ACTION *Consideration of Resolution Amending Resolution No. R5-2003-0105, Attachments B and C*

BACKGROUND

On 11 July 2003, the Regional Water Quality Control Board, Central Valley Region (Water Board) adopted Resolution No. R5-2003-0105, *Conditional Waivers of Waste Discharge Requirements for Discharges From Irrigated Lands Within the Central Valley Region* (Conditional Waivers) and associated Monitoring and Reporting Programs (MRPs). In August 2003, agricultural and environmental organizations submitted petitions to the State Water Resources Control Board (State Water Board) regarding the Conditional Waivers and MRPs. On 22 January 2004, the State Water Board adopted Order WQO 2004-0003, which upheld the Conditional Waivers and MRPs with minor revisions.

In February and March 2004, various environmental groups and the California Farm Bureau filed separate lawsuits alleging that the Conditional Waivers are not in accordance with the law. Additional parties also filed a petition as "Intervenors." The lawsuits were combined and a hearing was held in the Sacramento County Superior Court (Court) on 28 April 2005.

On 9 May 2005, the Court substantially upheld the Conditional Waivers and issued a ruling requiring the Water Board and the State Water Board to address three issues. Water Board staff have proposed a resolution to address two issues – the concerns regarding Water Board staff inspections on private property and confidentiality of certain documents submitted to the Water Board by amending specific language in Attachments B and C of Resolution No. R5-2003-0105. The Water Board staff intend to address the third issue – application of the tributary rule at the September Board meeting.

Water Board staff recommends adoption of Resolution Amending Resolution No. R5-2003-0105, Attachments B and C.

Mgmt. Review_____

Legal Review_____

5 August 2005
Central Valley Regional Water Quality Control Board
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Rancho Cordova, CA