

EXECUTIVE OFFICER SUMMARY REPORT  
June 9, 2010

ITEM: 11

SUBJECT: Agricultural Waiver Status Report (*Pete Peuron*)

PURPOSE: To provide an update on the current state of the implementation of the Conditional Waiver for Agriculture and Nursery Operations, including what the waiver requires, the schedule for waiver implementation and where we are in terms of achieving compliance with the waiver.

PUBLIC NOTICE: Notice was provided in the agenda mailing and posted on the San Diego Water Board website.

DISCUSSION:

Background

On October 10, 2007, the San Diego Water Board adopted Resolution No. R9-2007-0104, a resolution to amend the Basin Plan to Incorporate 11 Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharges within the San Diego Region. Conditional Waiver No. 4 applies to waste discharges related to irrigated agriculture and nurseries. On November 4, 2008, the State Water Board adopted Resolution No. 2008-0081 which slightly amended Resolution No. R9-2007-0104. On February 3, 2009, the State Office of Administrative Law approved Resolution No. R9-2007-0104.

Conditional waivers allow dischargers to enroll under a waiver instead of having to file a Report of Waste Discharge (RoWD) and obtain a permit (i.e., WDRs). By enrolling in the waiver, dischargers certify that they are employing management practices to reduce pollutant loads to minimize or eliminate pollution associated with their operations. Conditional Waiver No. 4 (hereafter waiver or ag. waiver) requires growing operations that utilize irrigation to implement Best Management Practices (BMPs) to reduce or eliminate discharges of agricultural waste which typically include fertilizers, pesticides, salts (Total Dissolved Solids),

and sediment. Other major requirements of the ag. waiver include:

1. Enrollment in the waiver by January 1, 2011
2. Submittal of a plan to perform water quality monitoring by January 1, 2012.
3. Submittal of a monitoring report by December 31, 2012.

To enroll, growers must submit a Notice of Intent. Any commercial growing operation that does not enroll is subject to enforcement action including monetary penalties and requirements to file WDRs. Growers may enroll as members of a monitoring group. By enrolling in a monitoring group, the costs of preparing monitoring plans, conducting sampling, analyzing samples and preparing monitoring reports are shared among group members (which can number in the thousands) resulting in significant cost savings over enrollment as an individual.

There are about 6,000 agricultural operations in San Diego County alone. The number of operations subject to the waiver is even larger because this number does not include growers in the southern sections of Orange and Riverside Counties that are part of the San Diego Region. There is, therefore, a critical need to create awareness of the requirements of the waiver among the many growers.

#### Status

The San Diego Water Board has compiled a list of growers who are subject to the waiver, based on databases obtained from other agencies such as the County Agriculture Commission and the California Department of Food and Agriculture. Notification letters which inform growers throughout the San Diego Region of their obligations under the waiver were mailed out in March, May and August of 2009. Since the waiver was adopted, the San Diego Water Board has given presentations regarding waiver requirements at six workshops and one municipal water district hearing. There are currently two additional workshop presentations scheduled for later this month. The San Diego Water Board also continues to provide guidance to numerous growers who have been calling in with questions, and continues to work with the San Diego Farm Bureau and other organizations that are currently forming monitoring groups. Currently, the San Diego County Farm Bureau and the Rainbow Municipal Water District have formed a

monitoring group and the Riverside County Farm Bureau and Fallbrook Public Utilities Commission have been taking steps towards the formation of monitoring groups.

Since the monitoring program is a key component of the ag. waiver, early emphasis has been placed on defining and developing this program. During the last year, a series of meetings were held both internally and with current and prospective monitoring groups, to discuss the structure of the monitoring program. Some degree of consensus appears to have been reached with regard to the need to coordinate regional agricultural monitoring with ongoing monitoring efforts throughout the region. These ongoing efforts include the Southern California Stormwater Monitoring Coalition (or SMC), which includes applicable monitoring from the San Diego County Municipal Storm Water program, the Surface Water Ambient Monitoring Program, and various POTW monitoring programs. The goal of the SMC is to 1) assess the conditions of our watersheds with regard to their ability to support aquatic life, 2) determine what the major stressors to aquatic life are, and 3) to determine whether these conditions are getting better or worse. The ag. waiver monitoring program will provide a potential source of data that can be used to supplement these ongoing efforts to fully characterize all of the region's watersheds while also providing a means of evaluating the need for improvements in Best Management Practices.

Achievement of a cost-effective program that addresses multiple questions is technically complex, and it is necessary to consider how best to apply limited resources in designing the program. Currently, the monitoring groups and the San Diego Water Board are evaluating a proposal by the Southern California Coastal Water Research Project (SCCWRP) to develop recommendations for an Ag Waiver monitoring program that prioritizes and addresses monitoring objectives in consideration of limited funds. SCCWRP has been attending the monitoring program meetings and has drafted a Scope of Work to perform a study that will develop recommendations for the implementation of the monitoring program (i.e. the program design). The next meeting with SCCWRP and the monitoring groups is scheduled for June 14th and will, in large part, discuss the SCCWRP proposal.

Various current and prospective monitoring groups have requested that the San Diego Water Board provide an

estimate of what the costs of monitoring will be. This information is, understandably, of great interest to growers and those that would assume the monitoring group obligations. At the last meeting with the monitoring groups, the San Diego Water Board proposed an estimate of \$5/acre as a guideline for determining the total amount of resources each monitoring group should be required to contribute to the waiver's monitoring program (i.e., the cost of the monitoring for each monitoring group). This number is based on a review of the data from other regions that are implementing agricultural waiver programs, with consideration to the two most applicable programs. The San Diego Water Board has provided an estimate of the total amount that any monitoring group can expect to pay into a collective monitoring effort (5 dollars times the total enrolled acreage of a monitoring group) without making any direction or recommendation with regard to how that sum is allocated among monitoring group members.

There are currently a large number of growers that have not yet enrolled in a monitoring group. With approximately six months left in the enrollment period, it can be expected that many will enroll near the deadline of December 31, 2010. There are, however, thousands of mostly small growing operations that the San Diego Water Board has yet to identify or notify, due to their not being listed on any available databases. The San Diego Water Board is working to find a means of identifying these growers in order to provide appropriate notification.

LEGAL CONCERNS:	No legal concerns.
SUPPORTING DOCUMENTS:	Supporting Document 1: Conditional Waiver No. 4 (excerpt from Resolution) Supporting Document 2: Ag Waiver Notification Documents
RECOMMENDATION:	The Board will not be taking action on this item.