

IRRIGATED LANDS REGULATORY PROGRAM UPDATE

August 2010

This month's Irrigated Agricultural Lands Regulatory Program (ILRP) report covers the June through August 2010 period and will provide an update on the activities of the North Coast, Central Coast, Los Angeles, Colorado River Basin, Santa Ana, and San Diego Regional Water Quality Control Board programs.

Future monthly reports will alternate between the status of the ILRP from the Central Valley Water Board for one month, and the status of other Regional Water Boards for the alternate month. Current and past ILRP monthly reports can be found on the [State Water Boards Agriculture Program](#) website.

NORTH COAST REGION

On March 24, 2010, the North Coast Regional Water Quality Control Board adopted the Action Plan for the Klamath River Total Maximum Daily Loads and the Lost River Implementation Plan. These plans include provisions to develop a conditional waiver of WDRs for discharges associated with agricultural activities, including grazing and irrigated agriculture, in the Klamath River basin, and to bring this to the Regional Water Board for consideration by 2012.

At the March adoption hearing, the Regional Water Board further directed staff to prepare a work plan and timeline for meeting the 2012 date. On June 10, 2010, staff presented a work plan and timeline to the Regional Water Board. While this was an information item only, the Board indicated support for staff's recommended approach, work plan and timeline. A key aspect of the approach is to seek input from agricultural interest's regionwide, since it is anticipated that the Klamath River basin conditional waiver will be used as a model for a regionwide waiver for agricultural activities.

Staff is now implementing the work plan. First tasks are development of a stakeholder outreach plan, and scoping meetings to be held in the fall of 2010.

CENTRAL COAST REGION

Agricultural Order Renewal:

On July 8, 2010 the Central Coast Water Board will hold a continuation of the May 12 Board Workshop in Watsonville to provide an opportunity for those members of the public unable to participate in the May 12 meeting to comment on the preliminary draft staff recommendations and the proposed alternatives for regulating agricultural discharges. Staff set a final deadline, June 4, 2010, for submitting written comments on the preliminary draft staff recommendations for an updated Agricultural Order prior to

the July Workshop.

In addition, on July 8, 2010, the Central Coast Water Board will also consider a staff recommendation to extend the existing Agricultural Order for an additional 18 months until December 2011, to allow additional time to finalize recommendations for an updated Agricultural Order for Board consideration.

Public Comments and Alternatives

In response to the February 1, 2010 release of the preliminary draft staff recommendations for an updated Agricultural Order, the Water Board received 1248 comment letters (approximately 212 individual letters and approximately 1036 submittals of six standardized form letters). Included in the comment letters were three alternative proposals for regulating agricultural discharges. An index to the comment letters and copies of all comment letters and alternatives received, as well as background information on the Agricultural Order Renewal and information presented at the May 12 Board Workshop are available at the Water Board's internet site below. Interested persons should visit the Internet site to view and listen to information presented at the May 12 Board Workshop. Staff will NOT repeat this information at the July 8 Workshop. In preparation for the May 12 Board Workshop, the Board set a deadline of April 1, 2010 for submitting comments. After the May 12 Board Workshop and in preparation for the July 8 Board Workshop, staff set a final deadline of June 4, 2010 for submitting written comments on the preliminary draft staff recommendations for an updated Agricultural Order prior to the July Workshop.

In reviewing the stakeholder proposed alternatives for regulating agricultural discharges compared to the preliminary draft Agricultural Order, staff identified several concepts to discuss further with interested persons, including:

- Submittal of an annual report focused on water quality outcomes;
- Minimization or possible elimination of tailwater discharges to achieve compliance with surface water standards;
- Measures to evaluate reduction in pollutant load and concentration; and
- Use of SMART sampling (Simple Methods to Achieve Reasonable Targets).

Staff intends to continue to meet with interested persons, including agricultural and environmental entities, to discuss these concepts and to identify additional areas of agreement.

The May 12 Board Workshop staff report included a preliminary summary of key public comment areas based on comment letters reviewed. Staff identified those comments that appeared with the most frequency. In addition to comment letters containing general statements of support or opposition, many comment letters contained specific suggestions for improving the preliminary draft Agricultural Order - these comments are particularly helpful to inform revisions to the draft Agricultural Order. Some of the key public comment areas are highlighted below.

General Support for Preliminary Draft Agricultural Order

The Water Board received over 880 letters of support for the preliminary draft Agricultural Order, including the following:

- Support for the process, the Agricultural Regulatory Program and preliminary draft recommendations for an updated Agricultural Order;
- Support for the prioritization of agricultural water quality and urges Central Coast Water Board to take timely actions to prevent further degradation;
- Support for the regulation of agricultural discharges to groundwater and the protection of drinking water sources; and
- Support for requirements for individual groundwater monitoring, including private domestic wells and submittal of data and technical reports.

General Concern about Preliminary Draft Agricultural Order

The Water Board received over 200 letters with criticisms of the preliminary draft Agricultural Order, including the following:

- Requirements will result in economic hardship;
- Requirements will result in crop yield reductions and farmers will go out of business;
- The current process is inadequate, including California Environmental Quality Act (CEQA) requirements and specifically requirements to consider the social, environmental and economic impacts, and evaluate alternatives;
- Lack of cooperation with the growers and farm organizations to develop requirements;
- Objections to proposed aquatic habitat requirements; and
- Objections to individual monitoring and reporting.

Next Steps:

Staff will continue to review all alternatives and comments and use suggestions, comments, and concerns to inform revisions to the preliminary draft Agricultural Order.

Following the July 8, 2010 Board Workshop, staff will complete its review of comments and alternatives received, continue to conduct outreach and provide opportunities for additional public input, and consider such feedback in the development of the next draft version of the Agricultural Order. Staff will continue to work on the relevant issues and will bring a comprehensive draft Agricultural Order to the Board for consideration as soon as possible before December 2011. The draft will address each issue area included in the preliminary draft (e.g., groundwater, toxicity, etc.) as well as any relevant additional issue areas raised in comments. The draft Order/staff report will discuss alternative methods and timelines for the Order to deal with each issue with analysis of probable effectiveness of each alternative method. In this manner, all aspects of comments and alternative proposals will be available for evaluation and comparison.

LOS ANGELES REGION

Staff continued follow up work on 4 ACLs issued on February 18, 2010. Staff met with three ACL recipients who wished to engage in settlement discussions. The ACL recipients provided additional written and verbal evidence for staff's consideration. Staff is working with legal counsel to review the additional evidence. The fourth ACL recipient also waived the 90-day hearing requirement and will engage in settlement negotiations with staff. Staff is working to initiate the settlement process for this case.

Staff also continued follow up work on 5 ACLs issued on May 5, 2009. The Executive Officer signed final stipulated orders for two ACL complaints on May 3, 2010. The penalty for one ACL complaint has been paid in full; this case is completed. The penalty for the second ACL complaint will be paid according to the deadline set forth in the settlement agreement. Staff expects this penalty to be paid by July 31, 2010. The Los Angeles Regional Board, at the May 6, 2010 regular Board meeting, approved the decision of the March 15, 2010 Regional Board panel hearing. The decision of the March 15, 2010 panel hearing was to uphold compliant number R4-2009-0052; however, the penalty was reduced due to economic considerations.

Staff is working on the renewal of the Los Angeles Region Conditional Waiver for Irrigated Lands (Order No. R4-2005-0080). Staff expects the revised Conditional Waiver to be available for public comment in late July and is planning to present the revised Waiver for adoption at the October Regional Board meeting. Staff has met with stakeholders to solicit input on revisions to the Conditional Waiver.

Staff continues to manage a Clean Water Act section 319(h) grant for grower education and outreach in the Calleguas Creek and Santa Clara River Watersheds. Staff is working with the grantee to ensure that the grant effectively implements the Los Angeles Region Conditional Waiver for Irrigated Lands, and specifically implements BMPs according to VCAILG's WQMP.

COLORADO RIVER BASIN REGION

The TAC for the Coachella Valley Ag prohibition is still compiling their recommend Best Management Practices, sampling locations, and parameters for the Coachella Valley Stormwater Channel and drains. The next meeting is tentatively scheduled for late July/early September.

The Palo Verde staff report for the Ag Prohibition will be circulated to the public June 30, 2010.

The State Water Board DFA gave Imperial Irrigation District the notice to proceed with preparing a grant agreement for a \$900,000 Prop 50/84 project awarded in 2008. The project title is IID's Agricultural Drain Improvement Project, and the duration of the project is three years. The project goals are as follows:

- Improve substandard areas within IID's earthen drainage system that contribute to water quality impairment;
- Support the propagation of native vegetation to stabilize earthen drain banks;
- Employ precision GPS technology as a management practice tool to reduce water quality impacts that occur during drain dredging operations; and
- Implement a drain water quality monitoring program to quantify benefits that are achieved using the proposed management practices and determine the progress in meeting the established TMDL water quality goals.

The Imperial County Farm Bureau held its annual drain-shed meeting for farmers and growers the first week of June with assistance from Regional Board Assistant Executive Officer Jose Angel.

The Regional Board adopted revisions to the Coachella Valley Storm Water Channel Bacterial Indicators TMDL Basin Plan Amendment on June 17, 2010, exempting agricultural stakeholders and the Coachella Valley Water District from Phase 1 implementation actions.

SANTA ANA REGION

Board staff is proposing that all operators of irrigated land, dry farmed land subject to inundation by flooding, and other agricultural operations not already regulated by the Regional Board, to enroll in a conditional waiver of waste discharge requirements (WDRs). Board staff is calling their agricultural program the “Conditional Waiver (of waste discharge requirements) for Agricultural Discharges” (CWAD). Regional Board staff proposes that the CWAD program will be developed and implemented on a watershed-based, phased approach. The first phase of this program is being developed for waste discharges from agricultural operations (Irrigated and non-irrigated) in the Lake Elsinore / San Jacinto Watershed. The Regional Board adopted separate nutrient Total Maximum Daily Loads (TMDLs) for Canyon Lake and Lake Elsinore. The TMDLs are now part of the Basin Plan. The CWAD program is being designed to be part of the implementation program for these TMDLs.

In order to formulate a strategy to develop a CWAD program, Regional Board staff has been conducting meetings with key potential stakeholders, including Western Riverside County Agricultural Coalition (WRCAC), an NGO, and the Lake Elsinore San Jacinto Watershed Authority (LESJWA). LESJWA is a joint powers authority that represents the Cities of Canyon Lake and Lake Elsinore, Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Santa Ana Watershed Project Authority.

During last few months, Regional Board staff have also met with other potential stakeholders and related agencies, including Riverside County Farm Bureau and Riverside County Agricultural Commissioner’s offices. Board staff is coordinating with representatives of WRCAC and LESJWA and the Southern California Coastal Water

Research Project (SCCWRP) to explore establishing a CWAD monitoring group program for the San Jacinto River watershed that uses both probabilistic and targeted monitoring. Also, the Santa Ana Water Board is coordinating with RWQCB 9, SCCWRP and State Water Board to determine the possibility of integrating monitoring programs for both RWQCB 9's ILRP and the Santa Ana Region's CWAD program. The intent is to integrate the both the Region 8 CWAD and Region 9 ILRP monitoring programs into the regional water quality monitoring program for Southern California coastal watersheds that is being developed and implemented by the Stormwater Monitoring Coalition (SMC).

During summer of 2009, Regional Board staff conducted field surveys of various agricultural operations in the CWAD Program project area. Staff has been meeting with local growers and farmers to introduce the CWAD program to get grower feedback. Regional Board staff is also coordinating with State Water Board staff, TMDL staff and staff of other regions, particularly Regions 4 and 9, to establish criteria for the minimum acreage threshold for enrollment in its CWAD program.

Regional Board conducted its second evening public information meeting on the CWAD program. This meeting was scheduled on Thursday, April 22, 2010, from 7:00-8:30 p.m. The meeting was held at the Eastern Municipal Water District Board room, located in the City of Perris. At this meeting, Regional Board staff discussed the proposed CWAD program, various program elements, current status and solicited suggestions about how best to put the CWAD program in place. Topics of discussions and questions included:

- CWAD program introduction and status;
- Are all farming operations going to be covered, or are there exemptions from the program;
- Criteria to establish minimum acreage enrollment requirement for the program;
- Have "third party representatives" been formed and will there be a cost to be represented;
- How the Regional Board identified operators who will be required enroll in the CWAD program; and
- The schedule for putting the CWAD program in place.

At the end of Regional Board's presentation, there was a question and answer session in which several program related questions and concerns by the representatives of growers and agricultural groups were discussed. Although, the meeting attendance was light, some new ag. growers and farmers attended and actively participated in the discussions during this meeting.

Regional Board has developed a "CWAD Program Advisory Group" which consists of about 15 members belonging to ag. farmers, local growers, industry groups, and major stake-holders, etc.

On June 23, 2010, first CWAD Advisory Group meeting was held in Nuevo Water District's meeting room (meeting's final agenda, attached) to introduce and discuss status of CWAD program, its regulatory and enforcement options, and various ag.

program permitting options (i.e. WDRs, General Permitting, Basin Plan Prohibitions, and Ag. Waiver). In this meeting, the Regional Board staff solicited feedback from group members on the presented items. Regional Board staff also discussed the CWAD program's proposed draft conditions and solicited comments and input from group members. Regional Board staff received several recommendation, suggestions and positive feedback from the group. Action items with follow up schedule were noted by the Board staff. It was decided by the group that the next Advisory Group meeting to be held on September 23, 2010, at the same time and place.

Presently, Regional Board staff is working on some follow up actions, discussed in the meeting.

SAN DIEGO REGION

During the month of June 2010, Regional Board staff met with the region's three monitoring groups to discuss the structure of the regional monitoring program under the waiver. This is part of an ongoing process that is intended to assist the monitoring groups with their efforts to prepare a monitoring plan. The plan is due on the last day of 2011. At the June 2010 Regional Board meeting, staff provided an ILRP progress update on the status of implementing the conditional Ag waiver. On June 14th, staff answered questions about the waiver as a member of a panel at a workshop in Rainbow, California and on June 24th, staff presented the waiver at a workshop which was held at the San Diego County Farm Bureau.