

## IRRIGATED LANDS REGULATORY PROGRAM UPDATE

### April 2011

This month's Irrigated Lands Regulatory Program (ILRP) report covers the April 2011 period and will provide an update on the activities of the North Coast, San Francisco, Central Coast, Los Angeles, Colorado River Basin, Santa Ana, and San Diego Regional Water Quality Control Board ILRPs.

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.

### STATE WATER BOARD

On March 15, 2011, Division of Water Quality (DWQ) staff presented an ILRP information item to the State Water Board. The information item focused on ILRP enrollment. For various reasons, not all growers are enrolling in the ILRP. This has created concerns that growers that have enrolled in the ILRP are paying fees and incurring compliance costs that non-enrollees are not incurring, which is diminishing the effectiveness of the ILRP.

During the presentation, a State Water Board member asked DWQ staff to report on the following questions:

- What is the effectiveness of the regional water boards' enforcement efforts in addressing ILRP enrollment;
- Are growers now in compliance; and
- Are more administrative civil liabilities needed?

The enforcement analysis below is for the Los Angeles Water Board ILRP. Central Coast Water Board staff is in the process of renewing their conditional agricultural waiver and have not had the resources to develop an enforcement analysis at this time. However, the Central Coast enforcement analysis should be available for the next ILRP bi-monthly report. The enforcement analysis for the Central Valley Water Board ILRP was presented in last month's Executive Director's Report.

#### **Enforcement Analysis:**

##### Los Angeles Water Board

Of the 1100 NOVs issued, approximately 150 growers enrolled after receiving the NOV. In addition, about 250 NOVs were rescinded based on updated land use information provided by NOV recipients. Staff is following up with the remaining 700 non-responders with ACLs and additional outreach.

Of the 9 ACLs issued so far, all recipients have enrolled or are in the process of

enrollment. Regional Board 4 has not tracked the increased enrollment among non-filers who did not receive ACLs, but who may have heard of the ACLs issued to others. The first 5 ACLs issued did not attract much attention, but we suspect that the next 4 ACLs issued attracted more attention. We should know by late Spring 2011 the number of additional growers enrolled.

## **NORTH COAST REGION**

As of March 2011, staff have reconsidered the scope of the agriculture program. In June 2010, the proposed scope included a focus on discharges associated with both irrigated agriculture and grazing in the Klamath River Basin. Staff has since decided to recommend expansion of the geographic scope of the program to include all the North Coast Region, while at the same time limiting the types of discharges covered to those associated with irrigated lands.

Discharges associated with dryland grazing activities have been removed from the scope of the regional program due to a recent decision to develop a statewide approach to address grazing activities on non-federal lands. North Coast Regional Water Board staff will be actively involved in the process to ensure the statewide program adequately addresses the water quality concerns and the unique nature of dryland grazing within ranching communities in the North Coast Region.

There are several reasons for the expansion in geographic scope to the entire North Coast Region for irrigated lands. Developing a region-wide program utilizes staff resources more efficiently by consolidating program development efforts and precluding the need for separate programs around the region. Expanding the scope also provides an opportunity for all the agriculture-based stakeholders to participate in the development of this key program at the same time. Having a region-wide program will create a level playing field, while maintaining the flexibility for growers to form watershed or commodity-based groups and develop management plans specific to their area.

Regional Water Board staff have contracted with the Center for Collaborative Policy (CCP) to assist with stakeholder involvement throughout the development of the North Coast Region's irrigated lands program. A stakeholder involvement strategy is currently under development. The initial steps in the strategy are as follows:

- Discuss program development concepts with key stakeholders;
- Survey stakeholders to gauge interest in participating in program development, likely via a stakeholder advisory group;
- Develop mailing list and distribute outreach materials;
- Create stakeholder advisory group(s), which may be multiple geographically based or commodity-based focus groups throughout the region or, alternatively, one large group of 50 or fewer stakeholders; and
- Initiate workgroup process and draft a working group charter.

The specific timeline for the stakeholder process will be determined based on the results of the initial stakeholder outreach effort. The initial outreach will continue through the summer of 2011 with the first stakeholder advisory group meetings planned to begin before the end of 2011. Aside from changes to the timeline due to the shift in scope, staff are maintaining the same timeline and workplan tasks, including the endpoint of a Board adoption hearing in December 2012.

## **SAN FRANCISCO BAY REGION**

Region 2 staff is currently developing a Vineyard Waiver to require effective management practices be implemented to control human-caused discharges of pollutants from vineyard facilities. Potential pollutants from vineyard facilities include sediment, erosive forces (that cause excessive erosion and sedimentation), heat (human-caused effects on channel or riparian conditions that may cause increases to stream temperature), nutrients, pesticides, and pathogens.

### **Stakeholder Outreach:**

Staff is soliciting input from stakeholders during development of the Vineyard Waiver. The stakeholder outreach plan includes multiple phases, including formation of a Technical Advisory Committee (TAC), as well as a broader Stakeholder Advisory Group (SAG). The mission of the TAC is to vet focused technical issues with local experts, while the SAG will cover a broader suite of issues, including implementation and policy. To date, staff has held two meetings with the TAC, and anticipates convening the SAG this summer.

### **Vineyard Waiver Public Workshop and CEQA Scoping Meeting/Key Elements:**

On April 14, staff convened a public workshop and California Environmental Quality Act (CEQA) scoping meeting for the [Vineyard Waiver](#). The event, which was held at the Napa Main Library, was well-attended with approximately sixty people in the audience.

Regional Board staff opened the public workshop by providing an introduction and overview of the regulatory framework associated with agriculture and nonpoint source pollution. Staff then presented the key elements of the proposed Vineyard Waiver, including the proposed conditions, which would require vineyard owners and operators to:

- Enroll in the Vineyard Waiver program by submitting a Notice of Intent form;
- Develop a farm water quality plan (Farm Plan) that addresses erosion control, attenuation of increases in peak runoff, roads, pesticide and fertilizer applications, and sediment delivery sites such as gullies, rills, and landslides;
- Implement and maintain management practices in accordance with the Farm Plan;
- Conduct compliance monitoring and undertake corrective action as necessary; and
- Report annually on the status of their current and anticipated management practices.

The audience was very interested in the Vineyard Waiver, and a productive question/answer/comment session followed.

Immediately following the public workshop, Regional Board staff opened the CEQA scoping meeting by describing the Water Board's role as "lead agency" and the environmental review of the project's potential impacts. The audience provided informative comments on the scope of the environmental review, which we will consider in the CEQA evaluation. We are accepting written CEQA scoping comments through May 17, 2011.

## **CENTRAL COAST REGION**

### **Meeting for Agricultural Order Renewal:**

On March 17, 2011, the Central Coast Water Board held a panel hearing to consider the staff recommendation for an updated Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Draft Agricultural Order). The Water Board heard a staff presentation and many hours of comments on the recommended Draft Agricultural Order. The Water Board continued the hearing to allow all members of the public who came to the meeting an opportunity to present their oral comments (the Chair provided an opportunity for anyone at the March meeting to come to the podium and address the Board if they would not be able to attend the next meeting in San Luis Obispo). The hearing will be continued at a Water Board meeting on Wednesday, May 4, 2011, beginning at 10:00 a.m. in San Luis Obispo. Members of the public who submitted testimony cards in Watsonville on March 17th, indicating their intent to provide oral comments at the March 17 Board Meeting, but who did not address the Board, will be able to provide their oral comments at the May 4, 2011 Board meeting. The Board established a written comment deadline of January 3, 2011 and is not accepting additional written comments. By April 15th, the Water Board will post the agenda notice for the May 4, 2011 meeting. Information related to the March 17, 2011 Board Meeting is available on the [Central Coast website](#).

### **Enforcement:**

Central Coast Water Board staff recently issued approximately 200 enforcement letters to Dischargers for failure to comply with the Monitoring and Reporting Requirements of the *Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands, Order No. R3-2010-0040*. More detailed information follows below.

On April 4, 2011, Central Coast Water Board staff issued 183 enforcement letters to Dischargers who failed to pay fees for participation in the cooperative monitoring program (CMP). The enforcement action issued is an expedited payment letter which is an offer of a settlement. The settlement amount ranges from \$250 to \$1050, depending on the size of the operation and the number of years out of compliance. In addition to the settlement offer, Dischargers must also pay past due monitoring fees. Dischargers must settle within 45 days and for those Dischargers who choose not to settle,

enforcement action will progress to an Administrative Civil Liability Complaint.

In addition, on April 12, 2011, Central Coast Water Board staff issued 22 enforcement letters to Dischargers who selected the individual monitoring and reporting option for meeting the mandatory monitoring and reporting requirements and have failed to submit individual quarterly and annual monitoring reports since January 1 of 2007, and a Quality Assurance Project Plan and Sampling Plan. The enforcement action issued is a Notice of Violation (NOV) letter which informs the Dischargers that since they failed to comply with reporting requirements, the Central Coast Water Board may now assess discretionary administrative civil liabilities beginning with the date that the violations first occurred. However, the NOV letter explains that Central Coast Water Board staff will temporarily withhold its recommendation for enforcement action to allow them to respond to the NOV letter and return to compliance by submitting the requested information. Dischargers must respond to the NOV letter and submit the past due reports within 30 days. Dischargers that submit partial and/or incomplete individual monitoring reports remain subject to formal enforcement action, although staff will recommend consideration of partial compliance in any such actions.

## **LOS ANGELES REGION**

### **Enrollment in Renewed Conditional Waiver:**

The Regional Board renewed the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Conditional Waiver) at their October 7, 2010 meeting as Order No. R4-2010-0186. The renewed Conditional Waiver requires dischargers to enroll by April 7, 2010. In the previous waiver term, the Los Angeles County discharger group, headed by the Nursery Growers Association (NGA), struggled with low enrollment. Los Angeles County is confronted with unique challenges, such as the small amount of irrigated acreage and the difficulties in identifying and communicating with small growers. In response to these challenges, staff held two enrollment workshops in March in Los Angeles County with NGA and Southern California Edison (SCE), who leases their land to growers. These enrollment workshops were aimed at enrolling growers in the new waiver by the April 7, 2011 enrollment deadline. At the workshops, staff made a presentation about the waiver requirements, enrollment options, and the status of the program so far. The University of California Cooperative Extension, the Natural Resources Conservation Service, NGA, and the Los Angeles and San Gabriel Rivers Watershed Council also made presentations at the workshop about the assistance and resources they could provide. Approximately 80 growers attended the workshops and came prepared with questions about the program. NGA enrolled numerous growers in their discharger group on the spot.

Staff believes that the workshops, especially with the cooperation of SCE, will increase the enrollment percentage in Los Angeles County. Staff is also working with the Ventura County Agriculture Irrigated Lands Group (VCAILG) to plan workshops to maintain the high levels of enrollment in Ventura County and increase

implementation of BMPs. Staff is having ongoing meetings with VCAILG to discuss these workshops. Staff will continue to meet with stakeholders in both Los Angeles and Ventura Counties on an ongoing basis to ensure successful implementation of the Conditional Waiver program.

**Grant Management:**

Additionally, 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 renewed Los Angeles Region Conditional Waiver for Irrigated Lands, and specifically implements BMPs according to VCAILG's WQMP. Staff is also working to negotiate a final grant agreement for Proposition 84 funding for a mobile irrigation laboratory to improve irrigation efficiency on farms in Ventura County. The grant will be overseen by the Ventura County Resource Conservation District (RCD). Under the proposed grant, RCD staff would travel to farms, evaluate irrigation efficiency, recommend improvements, and provide cost share funding to implement the recommended improvements. The goal of the grant is to reduce dry-weather loading of agriculture-related pollutants.

**COLORADO RIVER BASIN REGION**

No Report Submitted for April 2011.

**SANTA ANA REGION**

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

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

On April 18, 2011, the fourth CWAD Program Advisory Group meeting was held at the Riverside County Farm Bureau's Moreno Valley meeting room in which the current status of CWAD program was discussed. Regional Board staff updated the CWAD

Program Advisory Group members about its CWAD program draft schedule which contained major milestones. The draft schedule included initiation of the CEQA process, initial study, and CEQA process leading to the CEQA checklist, scoping meeting with interested parties and stakeholders, group review of the CWAD waiver requirements and internal review process. The Regional Board staff anticipates these meetings will lead to adoption of the waiver requirements, sometime in the second quarter of the year 2012.

At the April 18, 2011 meeting, group members also discussed project watershed area flooding situation during the wet season and its possible implications on application of fertilizers, pesticides and herbicides during crop growing seasons. Staff from Riverside County Flood Control District gave a presentation on the typical wet season situation in the project area. The group also discussed the dust control BMPs requirements during the crop seasons and agreed that Local AQMD's PM10 dust control and BMP requirements, will be adequate.

A staff member from the Western Riverside County Agricultural Coalition (WRCAC) gave a brief presentation on "coalition forming". Further discussion and feedback from the CWAD Program Advisory Group on this topic will be continued at the next meeting.

The next CWAD Program Advisory Group meeting is to be held on July 28, 2011, at the Riverside County Farm Bureau office. Regional Board staff will solicit the advisory group's consensus on choosing specific conditions and prohibitions on application of fertilizers and herbicides during the wet season in view of flooding situation in the project area during and after the rain events. The listed action items and proposed topics for the next meeting were decided by the CWAD Program Advisory Group and include:

- Coalition forming, monitoring program and pollutants trading project-by WRCAC staff;
- Recycled water use in the project watershed and Boron issue-by Eastern Municipal Water District;
- Wet season and flooding season clarification-by Riverside County Flood Control staff;
- CWAD program schedule updates;
- CEQA updates; and
- Manure application prohibition in the project area based on the high TDS levels in local groundwater.

## **SAN DIEGO REGION**

Barry Pulver, Engineering Geologist has assumed the role as project manager for Conditional Waiver No. 4 – Discharges from Agricultural and Nursery Operations (Ag Waiver). The sudden departure of the former manager caused a brief, but significant delay in the California Regional Water Board, San Diego Region's (San Diego Water Board) efforts to maintain the implementation of the Ag Waiver. Mr. Pulver's transfer to

this position resumes the San Diego Water Board's proactive work on the conditional Ag Waiver.

The San Diego Water Board will resume meetings with representatives of the Monitoring Groups in early May 2011 to assist them with development of their monitoring plans.

In late May 2011, the San Diego Water Board will issue warning letters to approximately 4,000 property owners of irrigated agricultural parcels who did not submit a Notice of Intent (NOI) for the Ag Waiver or enrolled with an established Monitoring Group by the January 1, 2011 deadline. The purpose of the letter is to determine whether these growers qualify as commercial growers as defined in the Ag Waiver, and to inform them of the requirement to enroll if they do qualify. These letters request that commercial growers notify the San Diego Water Board of the following: they are/ are not required to enroll, and that they intend on submitting an individual NOI, join an existing Monitoring Group, or create a new monitoring group. A plan is being developed to ensure that the San Diego Water Board has enough resources to issue the letters and provide a timely response to questions and concerns raised by property owners who receive these letters.