

IRRIGATED LANDS REGULATORY PROGRAM UPDATE

October 2019

This month's Irrigated Lands Regulatory Program (ILRP) update provides a summary of significant activities of State Water Board from September 15, 2019 to October 15, 2019; and, the North Coast, San Francisco Bay, Central Coast, Los Angeles, Lahontan, Colorado River Basin, Santa Ana and San Diego Water Boards' from August 15, 2019 to October 15, 2019. Next month's report will present activities of the Central Valley Water Board's Program and cover the time-period from September 15, 2019 to November 15, 2019.

STATE WATER BOARD

From September 17-19, 2019, State Water Board staff (staff) attended the Groundwater Resources Alliance's Annual Congress held in Sacramento. The conference featured speakers from a variety of governmental and industry backgrounds. Lectures focused on water policy in western states, PFAS and other emerging contaminants, and the Sustainable Groundwater Management Act (SGMA).

On September 17, staff participated in a meeting with the Natural Resource Conservation Service (NRCS) to discuss source water protection. The goal was to provide input to NRCS regarding locations on source water protection areas and priorities. NRCS has a new mandate to target 10% of their annual budget toward targeted regions where source water protection is needed and specifically where there is an interface with agriculture. NRCS is soliciting geospatial data on source water priorities in California from the Water Board.

Staff attended the September 18, 2019 State Water Board meeting at which the fee schedule for the ILRP was adopted. The new fee schedule will be effective starting the 2019-2020 Fiscal Year, and includes a tiered structure based on whether a grower is an individual or a member of a third-party group, and whether the grower has been determined to be exempt by the appropriate Regional Water Board from the requirement to develop an Irrigation and Nitrogen Management Plan (INMP). The INMP is a precedential requirement set by the State Water Board in Order WQ 2018-0002, In the Matter of Review of Waste Discharge Requirements General Order No. R5-2012-0116 for Growers Within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group (ESJ Order).

Additionally, on September 18, staff attended a meeting with the California Roundtable on Agriculture and the Environment (CRAE). Discussion included extending CRAE land use & water scenarios work to include the actions (or inaction) that enable them. The group also discussed how to refine the CRAE comments on the Water Resilience Portfolio to include specific recommendations that arise from scenario work.

Staff also participated in the Lahontan Regional Water Board meeting on September 18 and 19, 2019, in South Lake Tahoe. The meeting included items that discussed future pathways for the agriculture program in the Region, the Water Resiliency Portfolio, and Constituents of Emerging Concern.

On September 23, staff attended a panel discussion on the effects of drought on Water Resiliency. The speakers featured were State Water Board member Sean Maguire, staff, and members of industry. The discussions focused on drought response and preparedness.

On September 25, staff attended an Eastern San Joaquin Advisory Group meeting. The advisory group was formed from direction from the State Water Board in the ESJ Order and is charged with selecting and advising an expert panel to determine the adequacy of the surface water monitoring program in the Eastern San Joaquin watershed. The meeting focused on finalizing plans for the field trip scheduled to be held in January 2020.

On September 27, October 8, and October 9, staff participated in California Bioresources Alliance meetings to plan for the annual symposium. On September 27 and October 9, staff participated in meetings to discuss finalizing discussions for the permitting panel members. On October 8, the final speaker and panel selections were selected, and the agenda was finalized. The symposium will be held November 14 and 15, 2019, in the Ziggurat building in Sacramento.

NORTH COAST REGION

North Coast Regional Water Quality Control Board staff are currently developing an administrative vineyard and orchard discharge draft permit internally and plan to get input from an existing Stakeholder Advisory Group once the draft is ready for review.

As of October 10th, 2019, the North Coast Water Board had a total of 3,097 active sites enrolled in the North Coast Region Conditional Waiver of Waste Discharge Requirements for discharges from cannabis cultivation and associated activities and the State Water Resource Control Board general permit combined.

Staff are continuing to develop the Smith River Plain Water Quality Management Plan (SRPWQMP) to address water quality impacts associated with lily bulb cultivation. As part of the plan, staff are developing a detailed map of the hydrology on the Smith River Plain that will group the lily bulb operational units into 'drainsheds' corresponding to the major waterbodies draining the cultivation area. Staff are developing another map for the purposes reporting the implementation of management practices. Each field will be assigned a field ID and growers will submit a list of practices being implemented by field for the current growing season.

Staff are also preparing for sampling this wet season. Several sites have been added to the network previously sampled from 2013-2017 to cover more of the small coastal tributaries of the Smith River Plain. One of the goals of the monitoring is to collect data for the Biotic Ligand Model, which will be used to develop site specific toxicity endpoints for copper. Another goal of the monitoring is to screen for the presence of pesticides in the coastal tributaries, and to assess the effectiveness of recently implemented management practices on pesticide concentrations detected in the previous sampling effort.

A preliminary draft of the SRPWQMP is scheduled to be complete by December 2019. The draft will undergo review by the agency and tribal development team as well as by the growers. An informational item to the Regional Board is preliminarily scheduled for December 2019 in Santa Rosa.

SAN FRANCISCO BAY REGION

There were no significant program updates for the San Francisco Bay Region for the time-period of August 15, 2019 to October 15, 2019.

CENTRAL COAST REGION

Agricultural Order 3.0 Implementation:

In early October staff issued one hundred and twenty (120) directive letters to potential dischargers in Ventura County that have not yet enrolled in the Irrigated Lands Program. Staff continued to work on issuing an additional four hundred (400) directive letters to potential dischargers in Santa Barbara County that have not yet enrolled in the Irrigated Lands Program.

Staff continued to work with GeoTracker staff on the Total Nitrogen Applied Report that is nearly ready to go live. Staff worked with a consultant to beta test the report and are now working with GeoTracker staff to address the consultant's concerns raised during the beta test.

All growers were notified that the current agricultural order R3-2017-0002, known as Agricultural Order 3.0, will remain in effect until January 31, 2021, pursuant to a Sacramento Superior Court order. The court order is the result of a legal agreement between parties involved in a lawsuit pertaining to Agricultural Order 3.0.

Agricultural Order 4.0 Development:

In September, a workshop was held consisting of speakers with expertise and experience associated with farm field-level agricultural food safety implementation and the environmental benefits of riparian vegetation. The speakers discussed strategies and potential challenges of required environmental protection while co-managing food safety risks at the farm field level. This workshop was not intended to solve this complex

issue. But was merely intended to provide context on this issue's complexity to inform the Water Board's consideration of riparian habitat management requirements as it relates to the co-management of food safety and environmental protection.

LOS ANGELES REGION

On August 21, the Los Angeles Water Board sent Notices of Violation for failure to enroll under the Conditional Waiver to 30 growers in Los Angeles County that received a Notice to Enroll in May 2018 but have never responded. Currently, Los Angeles Water Board staff are responding to calls and emails regarding these notices.

On August 19, 2019, the Ventura County Agricultural Irrigated Lands Group (VCAILG) submitted their revised Water Quality Management Plan (WQMP). Los Angeles Water Board staff has reviewed the revised WQMP and concluded that the plan meets the Conditional Waiver requirements. On October 1, 2019 the Los Angeles Water Board sent an approval letter on the revised WQMP.

Los Angeles Water Boards staff has reviewed, the VCAILG's revised Groundwater Management Practice Evaluation Plan (GMPEP) submitted on May 17, 2019. On October 4, 2019, the Los Angeles Water Board sent a conditional approval letter on the revised GMPEP.

In August and September 2019, staff reviewed and approved four education credit requests for two classes offered by the Nursery Growers Association-Los Angeles County Irrigated Lands Group (NGA-LAILG) and two classes offered by VCAILG. On September 27, 2019, the NGA-LAILG submitted their revised WQMP. Los Angeles Water Boards staff is currently reviewing the plan.

On September 30, 2019 the Los Angeles Water Boards staff attended a meeting with VCAILG, City of Oxnard and Channel Islands Harbor citizens representatives to discuss water quality in the harbor and alternatives to reduce agricultural runoff.

Los Angeles Water Board staff continues to focus on outreach and enforcement in Ventura and Los Angeles counties. Staff continues to follow up with growers who received Notices of Violation for failure to enroll in the Conditional Waiver but have never responded. This has been an ongoing effort to enroll all growers under the Conditional Waiver.

LAHONTAN REGION

The Lahontan Region held a Board Workshop on September 17, 2019 to provide a summary of the Irrigated Lands Regulatory Program. Regional Board staff, Ben Letton, Supervising Engineering Geologist, provided an overview of state actions related to irrigated lands, discussed the status of irrigated lands in the Lahontan Region,

summarized other regions' approaches to regulating irrigated lands, and raised key issues staff may consider in developing a framework for regulating irrigated lands in the Lahontan Region. Mr. Letton indicated that Brianna St. Pierre, Sr. Engineering Geologist, from the State Water Board is in attendance to answer any questions regarding the Irrigated Lands Regulatory Program. Staff plan on bringing a Staff Report outlining options for a permitting approach to the Board in late spring or early summer of 2020.

COLORADO RIVER BASIN REGION

On August 21, 2019, Colorado River Basin Water Board staff received a Monitoring and Reporting Program plan from our coalition group in the Palo Verde area. Staff are reviewing the plan.

On August 27, 2019, Regional Water Board staff received a "GeoTracker for Regulators" training from the State Water Board's GeoTracker Unit in the morning. The Bard and Palo Verde coalition groups received a "GeoTracker for Dischargers" training in the afternoon.

On September 24, 2019, the Regional Water Board noticed the Public of their intent to renew the Conditional Waiver for Agricultural Dischargers in Imperial Valley. Regional Water Board staff is developing general Waste Discharge Requirements to replace the Conditional Waiver but is not likely to be finished before the waiver expires on January 15, 2020. The short-term renewal of the Conditional Waiver is for a period of twelve months and will expire on January 15, 2021. This short-term renewal does not modify any other terms of the Conditional Waiver. The Regional Water Board is accepting written comments regarding this matter during a public comment period that ends on October 31, 2019.

SANTA ANA REGION

During this period the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) continue to verify enrollee information for the Conditional Waiver for Agricultural Discharges in the San Jacinto River watershed (Order No. R8-216-0003 as amended by Order No. R8-2017-0023; the CWAD). There are currently 33 electronic Notice of Intent (eNOI's) for 28 different agricultural operations in the CWAD program. There are two agricultural operators with two or more separate eNOIs due to conditions within their leases with the landowner. There are 27 additional enrollees that are currently deemed exempt from the CWAD program. The properties given exempt status were properties that do not have current agricultural activities or activities meeting the CWAD requirements.

In April 2019, four agricultural operations were identified as non-filers for the CWAD program. First and Second Notices of Failure to Apply have been sent certified/return

receipt to the four operations. Drive-by inspections of three of the four properties show active farming operations which meet the criteria of the CWAD; use of irrigation, fertilizer, mulch, manure and/or pesticides. In June 2019, the Santa Ana Regional Board staff mailed out Notice of Violation letters to three different agricultural operations, one of the operations has completed the enrollment process and follows the CWAD. Staff are continuing to reach out to bring the remaining two operations into compliance.

With the signing of the California Industrial Hemp Farming Act (Senate Bill 566, Chapter 398, Statutes of 2013), industrial hemp was identified as a legal commercial crop in California. The County of Riverside Agricultural Commission requires prospective industrial hemp operations to complete an application which opened April 2019. Staff has identified four industrial hemp operations within the San Jacinto Watershed, one of which is currently enrolled in the CWAD and listed as a wheat operation. Staff is in the process of contacting the hemp operators that are not currently in the CWAD to bring them into compliance and work with the current enrollee to update their eNOI information to reflect the change in cultivation.

As of October 2018, the San Jacinto Coalition, coordinated by Eastern Municipal Water District (EMWD), is the only coalition available in the San Jacinto Watershed. We continue to work with and encourage those that do not meet the requirements for the San Jacinto coalition to combine their efforts in establishing a second coalition that would encompass the remaining operations. Staff continues to meet with outside agencies to assist in identifying an agency that can assist the remaining operators.

The CWAD is the primary mechanism directing agricultural operations in the watershed to compliance with the Lake Elsinore and Canyon Lake nutrients Total Maximum Daily Loads (TMDLs; Order No. R8-2004-0037), which allocate a portion of the nitrogen and phosphorus loads to agriculture. The TMDLs are undergoing a technical evaluation to establish revised allocations. Santa Ana Water Board staff are working cooperatively with agricultural representatives and other stakeholders in this ongoing process.

SAN DIEGO REGION

The Commercial Agriculture Regulatory Program (Program) continues to take enforcement actions on growers who are subject to regulation but have failed to enroll in one of two agricultural orders issued by the San Diego Water Board (Order Nos. R9-2016-0004 and R9-2016-0005). In September and October 2019, staff issued over 100 letters directing non-filers to enroll. Subsequently, several growers have contacted staff to request assistance in the enrollment process. One challenge our enforcement and enrollment activities face is obtaining accurate contact information for land and operation owners.

Until recently, the San Diego Region's growers were able to choose from four Third-Party Group coalitions for compliance assistance. However, on September 24, 2019, the De Luz Ag Group submitted a 30-day notice to the San Diego Water Board of their

intent to dissolve. In the letter, the De Luz Ag Group explained that the approximately 70 members would likely join the Upper Santa Margarita Irrigated Lands Group (USMILG). The San Diego Water Board will follow up with the former De Luz Ag Group members to ensure that they follow through with joining USMILG. The two other Third-Party Groups serving the San Diego Region are the San Diego Region Irrigated Lands Group (SDRILG) and Frog, Environmental, Inc.

In addition to enrollment, Program staff is conducting compliance inspections and enforcing the Provisions of Order No. R9-2016-0004. On August 22, 2019, the San Diego Water Board offered to settle an administrative civil liability levied on TreeSap Farms, LLC, dba Hines Growers in Rainbow Valley. The settlement offer described several alleged violations of Order No. R9-2016-0004, including the discharge of irrigation and storm water runoff with elevated nutrient concentrations into Rainbow Creek, a nutrient-impaired waterbody. TreeSap Farms, LLC agreed to pay the administrative civil liability of \$18,132 to settle the alleged violations. Subsequently, on September 19, 2019, the San Diego Water Board released Tentative Settlement Agreement/Stipulated Order No. R9-2019-0144 for public review and comment. If no substantive comments are received by October 21, 2019, the San Diego Water Board will adopt Order No. R9-2019-0144 accepting TreeSap Farms, LLC's, payment to settle the alleged violations.