

# Watershed Coalition

## News

INFORMATION FOR CENTRAL VALLEY AGRICULTURE

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## Groundwater Regulation Taking Shape

Central Valley Coalitions got their final look in mid May at a “straw proposal” for new groundwater regulations set to be in place by March 2011. The straw proposal outlines the approach Regional Board staff is taking to add groundwater to the existing surface water program, the Irrigated Lands Regulatory Program.

In March, Water Board staff held meetings with stakeholders to preview a first draft of the straw proposal and solicit comments for improving the approaches outlined. A revised proposal released in May was viewed favorably by many, but not all, Central Valley Coalitions and ultimately, the Water Board executive staff. That approval leads to the next step in the process, preparing the “Staff Recommended Long Term Program” which is due for release in July 2010.

While there were few specifics in the straw proposal, it outlined the approach for regulating groundwater in coming years:

- Existing coalitions will remain an option for landowners to obtain Water Board coverage for discharges to groundwater (also the individual permit option);
- Irrigated land will be divided into tiers based on its threat to ground and surface water; tier 1 low threat, tier 2 high threat.
- For tier 2 lands with ground or surface water issues associated with agriculture, landowners will need to develop Farm Water Quality Management Plans (FWQMP). Coalitions are expected to assist in developing the plans.
- Tier 2 lands for groundwater will initially be assigned to areas already in a groundwater protection area (GWPA) currently in place under the county agricultural commissioners and the Department of Pesticide Regulation.

- Nutrient management plans will be required under a FWQMP where groundwater is impaired in a Tier 2 area. These plans will need to be signed off by the Water Board, an agronomist or certified crop adviser (CCA).

Most of the language in the straw proposal came from options “two” and “four” of the alternatives developed for the Environmental Impact Report (EIR) released by the Regional Water Board in August 2009 (See WCN Groundwater Issue 2009). A draft EIR is also set for release in July along with the staff recommended program. A public comment period plus several workshops will follow in August or September.

Left unresolved in the final straw proposal was language objected to by several agricultural coalitions in a detailed comment letter to Water Board staff. In particular, putting in place a “Conditional Prohibition of Discharge” that applies to anyone not in a watershed coalition or filing individually. The coalitions maintain that a prohibition allows the Water Board to circumvent due process and move quicker to fines.

Also lacking in the straw proposal was a clear definition of “discharges to groundwater.” Some in the ag community question the authority of Regional Water Board to regulate irrigation water that passes beyond the root zone. Language in the straw proposal requires individual or regional groundwater monitoring but there is no mention of how existing local groundwater monitoring programs can be used for obtaining groundwater quality information.

How these and other issues are handled will be apparent this July 31, a court ordered deadline, when the Regional Water Board must release for public comment a draft EIR, an economic analysis of the five alternatives and a staff-recommended long-term program. ☞

## State Acreage Fees Could More Than Triple

State budget cuts and loss of general fund support could lead to an increase from 12 to 42 cents an acre for the State Water Acreage fees paid by watershed coalitions for every member acre. Through fiscal year 2010, the Irrigated Lands Regulatory Program along with the NPDES dischargers program is augmented by \$1.7 million in general fund support. In the upcoming State budget now being negotiated, the general fund support has been dropped.

The fee increase was initially voted down in April in an Assembly budget subcommittee.

Unfortunately, it later passed in the Senate budget subcommittee, pushing the decision to the conference committee which will be looking for ways to reduce a \$20 billion State budget deficit for the 2010-11 fiscal year. A final State budget and decision on the fee isn't expected until August or September.

The current 12 cent per acre charge is paid annually by all Central Valley coalitions to the State Water Resources Control Board and is used to cover the cost of staffing the Irrigated Lands Regulatory Program. ☞

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## Winter 2010 Storms Increase Runoff

The heavy rains in January, March and April were a welcome relief to the dry winters of recent years. Unfortunately, heavy storm runoff carried from several watersheds pesticides and more widely, *E. coli* bacteria. Water quality sampling by Sacramento Valley Water Quality Coalition (SVWQC) in January found nine waterways with exceedances of *E. coli* standards: Anderson Creek, Colusa Basin Drain, Coon and Freshwater Creeks, Lower Honcut, Lower Snake, Ulatis Creek, Walker Creek and Willow Slough. At the Grand Island pumping plant, sampling found *E. coli* and chlorpyrifos (Lorsban, NuPhos) at ten times the State standard. Exceedances of diuron (Karmex) were also found in Ulatis Creek and Willow Slough in January.

One or a combination of sources of *E. coli* could be causing the high levels: waterfowl, squirrels and other rodents; domestic animals; leaky sewer lines or septic systems; dairy runoff, pasture or manure applied to land and washed off in rain or irrigation.

Other than the single chlorpyrifos

exceedance at Grand Island, no other sites showed pesticides used by growers for dormant orchard sprays. In the 1990s and early 2000s, pesticide runoff, particularly diazinon, was commonly found in Sacramento Valley creeks and rivers after growers applied dormant sprays to almonds, peaches and prunes. Even with heavy winter rains in January, no pesticide detections or exceedances were recorded in the northerly orchard regions where dormant sprays are commonly applied.

Much lower rainfall in February resulted in no pesticide or *E. coli* exceedances at any of the eight sample sites in Sacramento Valley.

More downpours in March likely contributed to exceedances of state standards for insecticides commonly used in alfalfa during the month, with two exceedances of malathion and one each of chlorpyrifos and dimethoate. Those occurred in Willow Slough, Rough and Ready and Grand Island pumping plants. In Pine and Walker Creeks, *E. coli* was

recorded at levels just above standards (240 and 300 respectively; 235 standard).

The exceedances in April were predominately *E. coli* and conductivity and occurred in Lower Honcut Creek, Lower Snake River, Freshwater Creek, Walker Creek, Anderson Creek and Shag Slough. The SVWQC is working with the Regional Water Board and other watershed coalitions to develop a strategy for determining sources for continued *E. coli* exceedances in the Central Valley. ☞

## Nicole Bell Loses Regional Board Seat

A key agricultural ally on the Regional Water Board failed to be approved by the State Senate, forcing her to step down after serving only one year of her term. Nicole Bell, formerly a subwatershed coordinator for the Sacramento Valley Water Quality Coalition/Sacramento-Amador Water Quality Alliance, was appointed by the governor in April 2009. The Senate has one year to act on nominations; the 2010 deadline passed without a vote, abruptly ending Bell's tenure on the board. Watershed coalitions and farm groups are actively seeking new candidates to pursue the board position that represents the agriculture industry. ☞

## Hart New Regional Board Chair

Katherine Hart is the new chair of the Central Valley Regional Water Quality Control Board. Hart, who was elected by board members to the position in January 2010, has served on the board since October 2005 as the representative for "Recreational, Fish & Wildlife". Ms. Hart replaces Karl Longley, who was chair since 2006 and remains on the board as the representative for "Water Quality." Longley also served as chair from 1993 to 1997. Hart is an associate with Abbott & Kinderman LLP in Sacramento with a legal practice focusing on land use and environmental issues for public and private entities. ☞

## Water Board Continues Program Enforcement

The Regional Water Board stepped up its enforcement activities last winter, continuing to focus on identifying and contacting landowners not participating in the Irrigated Lands Regulatory Program. In the last several years, the Regional Water Board has followed a progressive approach to enforcement:

- Postcards are mailed to landowners asking if their land needs coverage under the Irrigated Lands Regulatory Program;
- Those not responding to postcards receive 13267 orders (requires submittal of technical information) through registered mail;
- Notices of Violations (NOVs) are issued to those not responding to 13267 orders.
- Fines are issued if the landowner does not respond to a NOV.

From November 2009 through April 2010, the Regional Water Board took the following actions:

- 653 postcards were mailed to landowners in San Joaquin, Contra Costa, Placer, Colusa and Tehama counties.
- 408 13267 Orders were sent via registered mail to landowners in Sacramento, Placer, El Dorado and Solano counties
- 82 NOVs were sent to landowners in Mariposa, Merced, Madera, Stanislaus, El Dorado and Sacramento counties.
- No fines have been assessed as of June 1, 2010.

Additionally, Regional Water Board staff performed 27 inspections to verify claims by landowners that the land was not used for agriculture, was not irrigated or had no irrigation or stormwater runoff from the property.

Regional Water Board enforcement staff regularly reports its activities in the Executive Officer report, filed in advance of each meeting of the Regional Water Board. ☞

## East San Joaquin Shows Progress In Solving Problems

Since initiating water and sediment quality monitoring in 2004, the East San Joaquin Water Quality Coalition (ESJWQC) has found numerous waterways where farm inputs are believed to have caused exceedances of State water quality goals. In winter 2008-09, the Coalition launched an aggressive effort to notify its member farmers in targeted watersheds about those problems and encourage adoption of practices that limit impacts of farm inputs on water quality.

This effort involved the Coalition staff meeting individually with farmers with irrigated land adjacent to three priority waterways in the Coalition region. During the visits, information was gathered on existing farming practices used on the fields next to the waterway. Discussions also covered practices to prevent future movement of farm inputs from fields into adjacent waterways.

Coalition water and sediment quality sampling from summer and fall 2009 in the three watersheds with focused outreach showed no exceedances of water quality standards

except for a sample from one waterway which showed an exceedance of chlorpyrifos. Later investigation found that the insecticide was applied by a farmer who is in a separate Water Board program and was not informed of the Coalition's effort.

Two out of the three priority waterways had no exceedances of any farm inputs, in particular the targeted pesticides (chlorpyrifos, diuron and copper). Whether Coalition efforts can be credited with the absence of pesticide exceedances cannot be said with 100% certainty. However, the Coalition considers the significant decrease in chlorpyrifos exceedances in 2009 an important step in demonstrating the effectiveness of its management plan strategy. In addition, member feedback on this strategy has been positive and encouraging. In all cases the growers have appreciated the individual visits and are much more aware of downstream water quality concerns as a result. The results also provide evidence that the Coalition approach for addressing water quality can make a measurable difference to the impact of farm inputs on waterways. ☺

## Growers Face Regulatory Challenges from Pesticide Drift and Runoff

Regulatory pressure continues to build on growers after years of exceedances of state water quality standards for organophosphate (OP) and pyrethroid insecticides in California waterways. Regulations are in the works that could lead to prohibition of discharges and fines.

Statewide, the California Department of Pesticide Regulation (DPR) is proposing surface water regulations similar to the dormant spray regulations currently in effect. Such statewide regulations would require growers to implement water management plans and adopt best management practices to reduce drift and runoff into surface waters.

In the South Valley, a Total Maximum Daily Load (TMDL) is now in place for chlorpyrifos and diazinon in the San Joaquin River, from Mendota Pool to Vernalis. According to the TMDL adopted by the Regional Water Board in 2009, exceedances in the SJR after December 31, 2010 could lead to the Regional Water Board filing prohibition of discharges or fines against growers who discharge either pesticide into surface waters.

A reevaluation of both chlorpyrifos and diazinon by DPR has led to requirements of the product registrants, Dow AgroSciences and Makhteshim Agan respectively, to track and report water quality exceedances in

Central Valley and Central Coast watershed coalitions to the state agency. Both companies have made significant label changes including widening of buffer zones and continue their product stewardship efforts, focusing on application precautions and managing field runoff.

A county in Sacramento Valley made chlorpyrifos a restricted material and now requires a Notice of Intent (NOI) on all uses of the insecticide. Changes in uses include restrictions on applications if irrigation is planned or if rain is forecast within 72 hours. Violations of permit conditions are subject to fines.

Unfortunately, instead of changing practices to correct off-site movement of pesticides, some growers are just changing products. Changing products but not changing practices that allowed products to leave the field ends up shifting the problem to other products. Now, those products are being found in waters and are facing increased regulatory pressure.

A prime example is some growers have switched from OPs to pyrethroid insecticides (Asana, Capture, Baythroid, etc.). These insecticides move off fields, through irrigation or storm water drainage that contains sediment. When pyrethroids accumulate in

## AWEP Grant Supports BMPs in Three Counties

A second round of USDA funding totaling \$1.5 million has been awarded to landowners in Stanislaus, Merced and Madera counties to install water quality protection practices. The funding comes from the Agricultural Water Enhancement Program (AWEP) created in the 2008 Farm Bill. The awards in 2010 are added to last year's total when \$2 million in projects were funded as part of a five year commitment by USDA.

High priority projects include irrigation drainage sediment basins and irrigation tailwater recirculation systems as well as other water quality related practices installed on fields currently draining into the waterways. Larger community (multi-farm/group project) systems can also be funded.

The funding applicant, the Coalition for Urban Rural Environmental Stewardship (CURES), worked in conjunction with the Partnership for Agriculture and the Environment, a coalition of the Stanislaus and Merced County Farm Bureaus, Almond Board of California, and Western United Dairymen and Environmental Defense Fund.

The AWEP project was approved under the 5-year Farm Bill but requires annual funding renewals in the USDA budget. Applications are open for the 2011 round of funding and are handled through local offices of the Natural Resource Conservation Service. The payment rate is approximately 50% of the statewide average cost for an installation. ☺

stream sediment, they can cause toxicity to test organisms. Watershed coalition sampling in the Central Valley has identified several sites with sediment toxicity, some associated through chemistry analysis with pyrethroid insecticides. Pyrethroids are now proposed for inclusion in state 303(d) listing for impairments, a status that could eventually lead to a pyrethroid TMDL.

A successful example of growers making changes is in the East San Joaquin Water Quality Coalition where 23 waterways are under Management Plans for chlorpyrifos. As part of the implementation plans, coalition representatives hold individual meetings with landowners. Discussions focus on farming practices that can be used to prevent pesticides from reaching waterways, including spray drift management and controlling storm water or irrigation drainage. Exceedances of chlorpyrifos are down in watersheds where visits were made but continue to be found in other areas.

Growers, applicators, and landowners are encouraged to contact their water quality coalition representative, local UC farm advisor, or Natural Resources Conservation Services representative for development of a site specific water quality management plan. ☺

## DPR Moving On Irrigation Runoff Regs

**A**griculture shares the focus with urban pest control companies in new proposed restrictions targeting pesticides in irrigation and storm runoff. The new restrictions from California Department of Pesticide Regulation (DPR) include a list of 68 pesticides commonly used in agriculture and urban pest control. Over the last 12 months the state agency held formal and informal outreach meetings to explain the proposals and seek information on practices workable in the respective industries.

DPR said it planned to modify its existing dormant spray regulations to include in season and dormant use of pesticides.

The list of 68 is based on insecticides and herbicides detected in DPR, Water Board and watershed coalition water sampling.

As with the current DPR dormant spray regulations, pesticide users are provided a menu of mitigation measures to choose from to reduce the adverse impact of pesticides on water quality. The practices target the pathway for all types of farm inputs entering waterways. DPR is expected to release a revised version of the regulations in fall 2010 with adoption in 2011 or 2012.

The comment period is still open for the proposed regulations and can be submitted via email to [surfacewater@cdpr.ca.gov](mailto:surfacewater@cdpr.ca.gov) ☞

## Water Quality Practices Online at MP Miner

**A** website that catalogs studies on management practices for improving water quality has been launched by the State Water Resources Control Board. Management Practice Miner (MP Miner) is an online database with sections covering these land use categories: agriculture, forestry, urban, marinas and recreational boating, stream channel and riparian and wetlands. Each practice has a general description, cost-efficacy information, installation instructions, environmental considerations and bibliographic links. The site has a key word search function and summary lists of practices. Information can be found using key word searches by land use category drop downs or by viewing summary lists of practices. Also cataloged are links to relevant websites to facilitate further research. Visit the MP Miner at <http://69.77.187.33/mpminer/>. ☞

## BMP Grant Could Still Provide Funds

**A**n \$8 million grant once thought sunk by the state's fiscal crisis appears to be back on track. The \$8 million will go to Central Valley farmers in the form of grants for installing practices to help improve water quality in local streams and rivers. The funding, approved through Proposition 84, a water bond passed in 2006, can be used by farmers on projects such as sediment ponds and irrigation recirculation systems (25% match requirement). A freeze was ordered by the Governor in December 2008 on all grant spending just as the contract for the project was being finalized with CURES, the project manager. On May 5, the State announced the bonds were sold and that Prop 84 projects could begin moving forward. Funds could be available as soon as fall 2010. ☞

*Watershed Coalition News* asks readers to pose questions to the Water Board. The question this issue is answered by Joe Karkoski, Program Manager, Central Valley Regional Water Quality Control Board.

### **Why is the Regional Water Board writing new regulations to cover groundwater?**

When renewing the current surface water program in 2006, the Regional Water Board directed staff to develop a program that included discharges to groundwater. The Board has extensive data showing that nitrate in groundwater is impacting the drinking water of numerous small communities in the Central Valley. The process is underway to develop a program to address the contribution of irrigated agriculture to that problem. Although the program is not yet final, many aspects are fairly certain to be adopted by the Board in mid-2011.

### **I'm already a watershed coalition member. Will I have to file again if groundwater is impacted in my area?**

The Water Board will likely gradually enroll operations in the new program once specific provisions for the new program are established. The proposal now is to automatically enroll current ILRP participants; reapplication would not be required. Those not currently enrolled would have application requirements similar to the existing ILRP with individual operations enrolling directly with the Water Board for approval to join a third-party group or filing individually.

### **What happens if I'm in an area with high nitrates in groundwater?**

If the discharge pathway is determined to be leaching to groundwater, the current proposal requires development of a regional Groundwater Quality Management Plan. As part of that plan, we would expect growers to take steps to reduce nitrate inputs through nutrient budgeting and efficient irrigation practices, where appropriate. In such cases, plan implementation would be tracked and groundwater monitoring data and other information would be reviewed to determine whether program objectives are being met. Plan requirements are likely to be iteratively adjusted based on program tracking/monitoring feedback.

### **Who would write these plans?**

In general, we expect the coalitions would write the plans that in turn would need Regional Water Board approval. An option exists for growers to develop individual plans that would need to be certified by a Regional Water Board-approved certification entity. We expect that the coalition developed plans will be seen as a more cost effective approach.

Send your questions for "Ask the Water Board" to [pklassen@unwiredbb.com](mailto:pklassen@unwiredbb.com).

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# Watershed Coalition

## Stream Bioassessments Begin Route To Regulation

**R**egional Water Boards require watershed coalitions — and permitted stormwater and wastewater dischargers — to analyze sampled water for chemicals, metals, bacteria and other constituents. They often must also perform “toxicity tests” with three species representing the aquatic food chain: algae, water fleas and minnows.

The State Water Board announced in March 2010 that it was starting a three-year process that will eventually lead to use of “bioassessments” along with toxicity tests and chemistry analysis to gauge the health of waterways in the State. This move reflects the State Water Board’s position, shared by many scientists, that biological condition can be a more direct measure of beneficial uses than chemical constituents alone.

Bioassessments can examine a broad range of stream characteristics to determine a waterway’s health: riparian condition plus populations of fish, amphibians,

algae, or benthic macroinvertebrates among other biological organisms. Survey results are then compared to “reference streams” (unaltered waterways) or other benchmarks that provide a standard for gauging stream status, as well as tracking improvements or degrading conditions over time. The State Water Board is focusing the development of bioassessment methods initially on benthic macroinvertebrates because significant work has already been conducted on this indicator in the State.

Before bioassessments can be part of any Regional Water Board regulatory program, the State Water Board will need to set standards for data collection, analysis, and interpretation. Many methods have already been established by the State Water Board’s Surface Water Ambient Monitoring Program (SWAMP), but much remains to be done defining reference conditions and benchmarks for categories of streams. The State Water Board established a technical team, sup-

ported by scientific and stakeholder advisory committees, to investigate approaches for a consistent bioassessment method and to advise the State Water Board on development of “biological objectives” which would function as formal water quality objectives. Once in place, this policy would mean that exceeding those objectives would trigger further data gathering, enforcement and remedial actions similar to other water quality objectives.

In June 2010, candidates were being reviewed for the scientific advisory committee, which is scheduled to meet in September. According to the State Water Board, the project team’s first report is due in March 2011 and will cover reference condition assessment, method standardization and information management. A final report from the project team covering a range of issues is due December 2012. This material will provide essential input to State Water Board staff as they draft the new policy. ☞

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