

WATERSHED COALITION

INFORMATION FOR CENTRAL VALLEY AGRICULTURE

News

WINTER 2012



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Growers Heard at Tulare Water Board Workshop

Regional Water Board clearly was not ready for the turnout at the August 21 workshop on the new Irrigated Lands Regulatory Program. All 280 chairs in the Tulare Ag Center building were filled and more than 100 growers stood in the back and along aisles. The message from dozens of growers and ag representatives who gave oral testimonies before the board and its staff: the new program will be too expensive, requiring too much paperwork to be in compliance and timelines being too short.

Growers were most upset about reports released days before the event that the new groundwater program could cost up to \$120 an acre. Board staff stating that costs would likely be closer to \$21 an acre was not well received. It was not until after the meeting that the Regional Board clarified that the costs were not new fees but estimates used in the Environmental Impact Report (EIR) for potential costs to implement the program.

Apparently, the message that more time is needed got

through. Regional Water Board announced shortly after the meeting that the scheduled October 4 vote for the East San Joaquin Water Quality Coalition General Order would be delayed until the December 7 meeting. A two month extension was also given to South San Joaquin Water Quality Coalition, moving the vote on its General Order to its April 2013 meeting. No changes in timelines have been announced for other coalitions.

In the months following the event, coalitions and commodity groups met to propose revisions to the language used in draft General Orders for both east and south valley coalitions. While agriculture coalitions were told more than a year ago that each region could develop orders specific to their geography, draft orders released so far are virtually identical to the ESJWQC documents which will be voted on in December. All Central Valley coalitions are expected to receive initial draft WDR documents by February or March 2013. ☛

East San Joaquin Order Set For Hearing December 7

The Regional Water Board is set to hold a two-part hearing to make its decision on the first Waste Discharge Requirements (WDR) being adopted for Central Valley coalitions. On November 30 in Bakersfield, the Board will begin taking testimonies on the final draft of the WDR for the East San Joaquin Water Quality Coalition. Then on December 7, the hearing will be continued in Rancho Cordova where a final vote is expected by the sitting board.

The Bakersfield meeting was scheduled in response to south valley grower groups who expressed concerns that their viewpoints were not being heard.

Presentations at both locations are expected to focus on a revised tentative WDR released on November 6. That version reflected significant changes made after both agriculture and other groups lobbied hard to modify an earlier draft released in July. The latest documents can be found at <http://www.esjcoalition.org/generalOrder.asp> ☛

Last Minute Changes to E San Joaquin WDR

In meetings with Regional Water Board staff this fall, watershed coalitions and commodity groups were successful in easing some of the reporting requirements for growers participating in coalitions. While the types of reports mandated for members are unchanged — farm evaluations, nitrogen management plans and sediment and erosion control plans (see WCN Groundwater Issue 2012) — deadlines for submissions have changed. While the deadlines will not be final until the Regional Water Board votes on December 7, significant changes are not expected. The changes include:

- Growers under 60 acres, in low vulnerable areas, will have until 2017 to complete a farm evaluation.
- Sediment and erosion control plans will not need to be signed off by certified engineer.
- Members can gain accreditation through CDFA nutrient training to sign off on nitrogen management plans (or use a Certified Crop Advisor, CCA). ☛



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Legal Action Against Orders In Progress

As expected, legal action has already been taken against the programmatic Environmental Impact Report (EIR) by activist and farm groups. California Sport Fisherman's Alliance (CSPA) filed an action in superior court, demanding that the EIR be invalidated and that all future actions be stopped until the EIR is revised and recirculated. In their lawsuit, CSPA argues that the EIR and the existing Conditional Waiver are inadequate because they fail to require individual farm reporting and individual farm monitoring. CSPA continues to argue that the coalitions are inappropriate in the role that they play and that there should be more direct, public reporting between individual growers and the Regional Board. A decision by the courts isn't expected anytime soon. 🐾

States Fees Remain Unchanged for 2013

No increase in the acreage fee is expected for fiscal year 2012-2013, according to the State Water Resources Control Board. In 2012, per acre fees collected by coalitions for their members increased from 12 cents per acre to 56 cents per acre. The fees are used to pay for Regional Water Board staff to implement the Irrigated Lands Regulatory Program. Most coalitions in the Central Valley expect to pass along the dues increases to members, adding to anticipated cost increases to implement the new groundwater program.

On average, growers in the Central Valley currently pay annual dues of \$1.50 and \$2.50 an acre to coalitions to cover the cost of regional surface water monitoring programs and reporting to the Regional Water Board. Some coalitions estimate the cost for adding the new groundwater program could double the membership dues charged to growers. 🐾

Dairy Order Court Decision May Impact Irrigated Lands Program

A November 6 court ruling against the dairy groundwater program is expected to impact grower requirements for the new irrigated lands program. A Sacramento Appeals court ruled that the dairy monitoring requirements did not comply with the state's anti-degradation policy for high quality groundwaters. While details were still being worked out at press time, the Regional Board was considering requiring Central Valley growers in low vulnerability areas to complete nitrogen management plans as the way to protect high quality groundwater. The most recent WDR draft only

recommends those plans be completed. The plans are mandated for farms in high vulnerable areas. Dairy activists were calling the court ruling a victory for stricter regulations on dairy waste. The Regional Water defended its dairy program in press accounts, calling the rules "a practical suite of solutions to protect groundwater from manure and other wastes." The case has been sent back to a lower court, which could potentially mandate more detailed monitoring of 1,600 dairies in the Central Valley. 🐾

New Regulations Delayed for Central Coast

Growers on the Central Coast are going through their own turmoil as new, stricter ground and surface rules are being adopted by the Region 3 Water Board. Grower groups appealed the new regulations, adopted on July 1, 2012, to the State Water Board. A ruling on the petition on September 20 "stayed" certain sections from being

adopted until further information is collected. Those items include: compliance deadline for installation of backflow prevention devices (stayed until March 1, 2013); requirements for containment structures (stayed until the petitions for review are resolved); requirements for practice effectiveness verification (stayed until the petitions for review are resolved); requirements

for calculation of nitrate loading risk factors and crop nitrogen uptake (stayed until the petitions for review are resolved); and compliance deadline for photo monitoring of streams and riparian and wetland area habitat (stayed until June 1, 2013). 🐾

Proposition 84 Grants Support Irrigation Improvements

Almost 8,000 acres of cropland is benefiting from a Proposition 84-funded program that is helping support installations of drip, microsprinkler and irrigation recirculation systems on farms across five counties. The \$8 million program, managed by the Coalition for Urban Rural Environmental Stewardship (CURES), held three proposal solicitations over the past 18 months with a total of 64 projects eventually selected by an independent review committee.

The CURES program is unique on several fronts, this being the first time a voter-approved bond fund has helped pay for projects that eliminate irrigation drain water into streams, creek and rivers. A key funding requirement was that a project has to be located upstream of a watershed coalition monitoring site. The field also has to be draining irrigation water in the past. Grant recipients were also required to pay at least 50% of the project cost although some growers used funds from other grants to pay a larger percentage.

Projects are located in five counties; Merced, Stanislaus, San Joaquin, Solano and Sacramento. The total for all the projects is expected to exceed 8,000 acres, although the final total will not be released until all the projects are completed in 2013. When taking into account the grower contribution to the projects, more than \$12 million was spent on system installations in the program. 🐾

Individual Farm Permit Draft Released Nov 14

Growers who choose not to join a coalition got their first look at potential regulations under the new Individual Waste Discharge Requirements (WDR). The Regional Water Board on November 14 released for public comment the first draft of the individual order and if requirements remain unchanged, it appears to be a high cost alternative to coalition membership.

If farm fields are in high vulnerability areas, many of the requirements mirror what coalitions will be performing under the third party program including having to perform on-farm surface and groundwater monitoring. Landowners in high vulnerability areas will also be required to drill monitoring wells on their property in addition to monitoring irrigation supply and domestic drinking water wells. Individual permit holders will have to pay a state permit fee based on farm acreage.

As with coalition members, individual permit holders will need to develop farm water quality plans and farm specific nitrogen management plans. However, rather than be compiled by the township level, reports will contain information on each specific farm enrolled in the individual permit. Should surface or groundwater monitoring identify problems, a grower would need to develop a Surface Water Exceedance Plan or Groundwater Exceedance Plan.

The Regional Water Board may require additional groundwater monitoring if an evaluation of annual reports or local information triggers such actions. Those factors include:

- nitrate concentrations in the supply wells;
- nitrate concentrations in domestic wells adjacent to the property;
- location of property relative to a DPR Groundwater Protection Area;
- distance from an artificial recharge area as identified by the Department of Water Resources, Central Valley Water Board, or local groundwater management agency;
- distance between the property and the nearest off property domestic well;
- distance from the property to the nearest off property municipal well;
- number of crops grown per year per field;
- NMP completed by deadline; and
- annual nitrogen application versus estimated crop need.

Comments on the draft individual WDR can be submitted to the Regional Water Board through January 10, 2013. In addition, interested parties can provide comments as part of an informational item at the January 31- February 1, 2013 board meeting. Adoption is expected in Spring or Summer 2013. 🐾

Ask the Water Board

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

What are the estimated costs to growers regulated by the Irrigated Lands Regulatory Program (ILRP)?

The Central Valley Water Board has the estimated average cost of the first two draft orders for the long-term ILRP to be \$17.50/acre and \$115/acre per year. Average costs are estimated to increase \$3.40/acre and \$5.20/acre per year for the proposed requirements. Individual grower costs will vary depending on field location and current management practices. Growers already implementing practices that protect water quality will have minimal costs, while growers who need to improve their practices will have greater costs. Most costs associated with implementing agricultural practices have multiple benefits including protecting water quality. As the Water Board develops specific requirements for each geographic area, it will select the least costly options that results in the protection of water quality.

How were the cost estimates developed?

They were based on analysis performed by agriculture economics consultants hired by the board. They gathered cost information relevant to Central Valley conditions from available reports and discussions with technical experts. The cost estimates span four areas: 1) program administration; 2) farm specific plans; 3) surface water and groundwater monitoring; and 4) implementation of management practices to protect groundwater and surface water quality. The most costly component is implementing management practices to protect water quality. For the two waste discharge requirements developed so far, the combined estimated costs for administration, farm specific plans and monitoring range between \$2.90 - \$5.20 / acre per year, while the costs estimates for management practices may range from less than \$20/acre to greater than \$110/acre per year.

Why the differences in estimated costs of management practices?

The economics team reviewed available information on water quality and existing practices. Based on this information, the team and Water Board staff identified

which areas had water quality problems and identified the types of practices growers might choose in order to address those problems. If an area had a water quality problem, the Water Board staff assumes that growers who have not already implemented practices protective of water quality will need to do so. Areas with many water quality problems and fewer protective practices already in place have greater estimated costs to implement those new practices than areas with fewer identified water quality problems and more protective practices.

Is the Water Board requiring adoption of specific management practices?

The Water Board is not specifying the type of management practices growers choose to adopt. Growers will continue to determine which practices make the most sense for their farming operation, as long as they protect surface and ground water quality.

Read more about this subject at http://waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/long_term_program_development/lilrp_cost_est.pdf

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Watershed Coalition

Farmer Appointed to Regional Water Board

Four new appointments to the Regional Water Board over the last twelve months include a Yolo County farmer. Jennifer (Jenny) Lester Moffitt is Managing Director at Dixon Ridge Farms, her family's organic walnut operation. Before returning to the farm, she worked in research and policy for the American Farmland Trust. Ms. Lester Moffitt currently sits on the Food Safety Committee of the Walnut Marketing Board, California Organic Products Advisory Committee and the Yolo Ag's Futures Alliance.

Serving again as Board Chairman is Dr. Karl Longely, who was vice-chair before getting the top position again in 2012. Dr. Longely is coordinator for Water Resources at the California Water Institute, Fresno and Dean Emeritus of the Lyles College of Engineering at California State University, Fresno. Jon Costantino, the new vice chairman of the Regional Board, is a Senior Advisor at Manatt, Phelps & Phillips,

LLC. Costantino has worked in resource protection since 1991, specializing in climate change policy and air pollution control. He was formerly the lead legislative analyst at the California Air Resources Board.

Carmen L. Ramirez, also newly appointed to the Board, is an attorney at the Law Offices of Fagalde, Albertoni, & Flores, Atwater, and works in civil litigation. Returning to the Board is Robert (Bob) Schneider, Verve Enterprises, Davis. Schneider was board chairman when the current program was adopted in 2003. Also on the board is Sandra O. Meraz, vice president of the Tulare County Water Works District. The board currently has one vacancy since recent legislation reduced the number of positions from nine to seven. 🐾

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