

 October 10, 2013

Dr. Karl Longley, Chairman

Central Valley Regional Water Quality Control Board

11020 Sun Center Dr #200
Rancho Cordova, CA 95670-6114

 **RE: Administrative Draft Sacramento Valley Waste Discharge Requirements**

Dear Chairman Longley:

The Sacramento River watershed Waste Discharge Requirements (WDR) General Order is unlike any previous WDR the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has considered to date. It will cover a diverse landscape. For example, the Sacramento River watershed has tens of thousands of acres hundreds of miles away from the Delta where livestock graze in the summer on irrigated pasture at elevations above 3000 feet and the growing season is a mere five months . It is home to a major portion of the Pacific Flyway where millions of birds forage and nest in state and federal refuges. It extends from the Delta north to the shadow of Mount Shasta then northeast to the Oregon border. A landscape where the cropping pattern is predominately alfalfa, walnuts and almonds with fewer acreage of field and row crops than in other parts of the Central Valley.

 

 *Source: California Department of Food and Agriculture, 2013*

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But whether it is a Sierra Valley ranch, a Lake County pear organic orchard, or walnuts in Butte County, there is one unifying theme to the Sacramento Valley its proactive stewardship. Stewardship that has fostered a partnership between irrigated agriculture and local Farm Bureaus, UC Extension crop specialists, County Agricultural Commissioners, and Resource Conservation Districts to improve and protect surface water quality. A partnership that has resulted in over $25 million dollars in funding (Table 3, Pages 22-23, Attachment A – Information Sheet) available to growers and livestock operations for management practices that protect and improve water quality.

The results of the partnership are evident and unlike those anywhere else other in the Central Valley. As documented in Figure 3, Page 19, and Table 2, Summary of Surface Water Quality Data 2005 – 2012, Pages 20-21 of Attachment A- Information Sheet, 96% of monitoring results from 50 sampling sites in the Sacramento Valley are below water quality trigger limits. Two-thirds of the remaining 4% are exceedances of field measurements, drinking water or general physical parameters (e.g., dissolved oxygen).

There are numerous examples of where the partnership has benefited water quality. In Walker Creek (Glenn County) and Pine Creek (Butte County) the Agricultural Commissioners Pilot Program was instrumental in conducting outreach to growers, documenting management practices and determining the source of chlorpyrifos exceedances. These exceedances have not reoccurred.

In Northeastern California, where the amount of irrigated agricultural is dwarfed in comparison to timber and forest land (Appendix MRP-3, Page 13, 56% percent of the land is held by federal or state agencies), the growers took the initiative to work with extension specialists from the University of California and document management practices related to all the crops grown in the high elevation of the Modoc plateau, even though it was not required to by a management plan. In partnership with the Resource Conservation Districts landowners have funded projects that improve water quality and minimize stream bank erosion through livestock and irrigated pasture management practices.

It is this same partnership that the Sacramento Valley growers will implement to protect and improve groundwater quality.

The sustainable nature of Sacramento Valley agriculture is not happenstance. Many growers have been farming in the Sacramento River watershed for three or more generations. Water quality is as important to agriculture as it is to others who rely on it.

As the Central Valley Regional Water Quality Control Board (Regional Water Board) considers the Administrative Draft of the Sacramento River Watershed Waste Discharge Requirements (WDR) and Monitoring Reporting Program (MRP) Order keep in mind how different the Sacramento Valley is from the other areas of the Central Valley for which the Regional Water Board has reviewed and/or approved WDRs and MRPs. The agronomic, topographic, cropping and land use patterns, and hydrogeological conditions are significantly different from other parts of the Central Valley.

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We request the Central Valley Regional Board recognize these differences in tailoring the reporting requirements to match our stewardship ethic and documented improvement to water quality. The Administrative Draft WDR and MRP in several places contain the foundational elements for a program that is tailored to the characteristics of the Sacramento Valley. A continued dialog and further revisions will benefit both water quality and the regulated community alike.

Attached are our specific comments on the Administrative Draft WDR and MRP.

Sincerely,

Larry Domenighini John Currey

President/Grower Manager Dixon Resources Conservation District/Grower

Colusa Glenn Subwatershed Dixon Solano Subwatershed

Steve Danna Norm Krizl

President/Grower Chairman/Grower

Butte Yuba Sutter Subwatershed El Dorado County Water Quality Management Corporation

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ATTACHMENT - Sacramento Valley Water Quality Coalition Specific Comments

**Controlling Cost of Compliance is Imperative to Benefit Water Quality**

Despite this record of stewardship and lack of surface water quality exceedances the ranchers and growers of the Sacramento Valley will be saddled with the increased cost of an expanded regulatory program. A program whose focus is protecting groundwater quality from discharges (i.e., nitrates) that will not been similar in scope in the Sacramento River watershed than they are in other regions of the Central Valley or state. It concerns us to hear that costs in the Eastern San Joaquin have doubled from $2 to $4 to comply with the new program requirements. Money can be spent on reports or it can be spent on projects to improve water quality. In our view is it best spent on projects that improve water quality.

Our coalition understands that there is a legacy nitrate groundwater contamination problem in the Central Valley and elsewhere in the state. The Central Valley Water Board needs take action to ensure the problem does not get worse.

But in the Sacramento Valley we are already protecting water quality from degradation. Extensive and increasing use of drip or low flow irrigation methods and good pesticide, herbicide and nutrient management practices are used in the Coalition already that are protective of water quality.

If the cost of this program on a per acre-basis doubles or triples it will be a perceived disincentive to join a Coalition increasing the Regional Board outreach and enforcement costs, as well as its staff costs to manage individual WDRs. Water quality is important for agricultural production. This approach must work to the benefit of all.

It is important to recognize that ranchers and growers face increasing costs, not just from water quality programs, but fire protection, water masters, air quality, etc., that each landowner must pay. These new regulatory requirements should not be viewed in isolation or the near term. Groundwater quality protection proposals like the Management Practices Effectiveness Program (MPEP) will be in place for a decade or more, through the inevitable up and down economic cycle of agriculture. The MPEP will cost millions of dollars to provide the scientific understanding of what amount of nitrate potentially impacts groundwater quality.

The ability to tailor the Waste Discharge Requirements (WDR) and Monitoring Reporting Program (MRP) to the diverse landscape of the Sacramento Valley is imperative. Recognizing that a dissolved oxygen exceedance in the Upper Pit River is different than in Stockton and therefore creating flexibility in the new program is essential.

**Waste Discharge Requirements (WDR) Order Farm Evaluations High Vulnerability Areas, Section VII. B. 2., Page 24**

By 1 March 2015, all members within high vulnerability areas (Surface/Groundwater) must prepare their Farm Evaluation and submit it to the third-party entity. In order to meet this March 1 2015 deadline growers will have to know if they are in high vulnerability areas in the fall/winter of 2014.

As the schedule of deliverables, required timelines, and approximate due dates listed in Table 7, on Page 60 of Attachment A (Information Sheet) indicates the Groundwater Quality Assessment Report (GAR) which will identified high vulnerability areas is not due until 11 March 2015. The Regional Board staff will be reviewing, revising and making recommendations to the Executive Officer on a number of GARs at the same time.

It is requested that this deadline be changed to 1 August 2015 to allow time for approval of the GAR, notification to those in high vulnerability areas, as well as time to complete and submit the Farm Evaluation template. The date in Table 8 for Farm Evaluations in high vulnerability areas should also be changed.

**Attachment A (Information Sheet) Table 7, Page 60, Due Date for GAR**

The schedule of deliverables, required timelines, and approximate due dates listed in Table 7 on Page 60 of Attachment A (Information Sheet) indicates the Groundwater Quality Assessment Report (GAR) is due 11 March 2015 one year after the Notice of Applicability (NOA). This date seems to presume that the NOA will occur at the same time as the Regional Board’s decision on the Sacramento River Watershed WDR General Order. In all likelihood the NOA will be one 11 April 2014. The due date for the GAR should be changed to 11 April 2015, one year after the NOA.

**Attachment B (Monitoring Reporting Program), Section III.C, Pages 2-3, Reduced Monitoring/Management Practices Verification Option**

The inclusion of the Reduced Monitoring/Management Practices Verification Option in the Sacramento Valley MRP is one step to achieving flexibility. But there is more that can be done by the Regional Board to craft a Sacramento Valley WDR and MRP that distinguishes and delineates it from the remainder of the Central Valley.

For example, the last sentence of the first paragraph in Section III. C. 1. a, which states, “The Central Valley Water Board does not anticipate that this option will apply to areas of the valley floor due to the intense agricultural land use.” , should be stricken. There are portions of the Sacramento Valley which have taken action to address water quality exceedances by funding and using management practices. They should be credited with their proactive efforts and qualify for this option. The frequency of monitoring should match the occurrence of exceedances. Especially given the new MRP increases the number of assessment years, requiring at least two consecutive years.

Lastly, two subwatersheds—El Dorado County and the Upper Putah Creek (Napa) subwatersheds—have successfully implemented a Pilot Management Practices Program for the last three years. They have used a more comprehensive survey of management practices than is proposed in the Farm Evaluation templates for the Eastern San Joaquin WDR. Have verified the practices are in place. Done outreach and education. In the case of the Napa subwatershed, there is a conservation ordinance in place to address sediment and erosion control. These two subwatersheds should not have to start all over again. They should be grandfathered into the option.

In a United States Geological Survey (USGS) publication entitled, *Groundwater-Quality Data for the Sierra Nevada Study Unit, 2008: Results from the California GAMA Program,* the groundwater quality data results were summarized on pages 13 and 14. Contaminants were rarely detected with very
few cases of contaminants approaching or exceeding drinking water health thresholds groundwater quality in the Sierra Nevada Study Unit. Nitrates are essentially a non-existent, and only a couple of highly mobile herbicides plus one common residential use pesticide (fipronil) were detected. None of these were at levels  considered to be a health concern. Of the herbicides, atrazine and simazine have some agricultural use, and hexazinone is almost exclusively used for forestry applications. Fipronil is used only for "structural pest control" (termites mostly).

The conclusions of the report indicate that agriculture has not degraded groundwater quality in the Sierra Nevada region, and supports the reduced monitoring option.

**Attachment B (Monitoring Reporting Program), Section III. A. 1, Page 5, Assessment Monitoring**

Currently the MRP requires just one year, followed by two years of Core Monitoring (field parameters) plus management plan parameters. The proposed MRP will if adopted require two consecutive years of Assessment Monitoring and a third year if a water quality objective or trigger limit  **is exceeded only once at a Representative Monitoring site during the two-year assessment period.**  This has the potential to create cost inefficiencies, by having monitoring and sampling crews travelling sporadically throughout the Sacramento Valley taking one sample here and another there. One exceedance does not trigger a Management Plan. This requirement for a third assessment year should be dropped.

Additionally, as discussed below this requirement makes no distinction between water quality objectives or parameters.

**Attachment E (Definitions) Page 4, Low Vulnerability Area**

One of the distinguishing characteristics of the Sacramento Valley is the low occurrence of water quality exceedances that trigger Management Plans for registered pesticides. As Table 2 and Figure 4 on Page 20, of the Information Sheet (Attachment A) document there are 11 registered pesticide Management Plans and several of those are being considered by the Executive Officer for completion because proactive efforts have resulted in no exceedances in over three years. Similarly the Executive Officer has deemed several of the ten (10) toxicity and trace metals management plans listed in Table 2 complete. The Regional Board was provided in 2011 a Source Evaluation Report for Pathogen Indicators (*E. coli)* that ruled out irrigated agriculture as the source in 19 waterbodies.

On average the percentage of exceedances compared to number of tests is less than 10% for all constituents. Even the range of detect levels is low compared to other parts of the Central Valley. For instance, electric conductivity (salinity) ranges from 58-1677 uS/cm. Proactive efforts by Sacramento Valley growers and ranchers have protected and improved surface water quality.

Yet a strict interpretation of the low vulnerability area definition would preclude any area of the Sacramento Valley from qualifying as low vulnerability, negating the flexibility in the WDR and MRP created by different reporting cycles for Farm Evaluations, Nitrogen Management Plans, and/or Sediment Erosion Control Plans.

The definition of low vulnerability area on Page 4 of Attachment E (Definitions) simply states, “are all areas not designated as high vulnerability for either surface or groundwater or as determined by the Executive Officer.” High vulnerability areas for surface water are those that require a Surface Water Quality Management Plan (SWQMP). There is no regard for the type of exceedances that triggered the SWQMP. There should be. As is shown on Page 19 of Attachment A (Information Sheet) Central Valley Water Board staff found in analyzing surface water quality monitoring results for the entire Sacramento Valley that fewer than 4% exceeded water quality trigger limits. Two-thirds of the four percent were field measurements (e.g. dissolved oxygen, pH), drinking water and general physical parameters.

In our subwatershed it is these field measurements that have triggered Management Plans, not pesticides, nutrients or toxicity. The Regional Board must distinguish between water quality parameters so there is delineation between low and high vulnerability areas. A prioritization of parameters delineating those with the highest potential to create vulnerability to water (pesticides, toxicity, salinity, nutrients) should be listed in the definition, with low vulnerability areas those with dissolved oxygen, pH and *E. coli*  viewed as low vulnerability areas.

**Attachment E (Definitions) Page 5, Small Farming Operations**

According to Regional Board staff estimates 61% of growers and 4% of irrigated acres in the Sacramento Valley would be classified as Small Farming Operations. This represents an estimated 7320 members and 71,080 irrigated acres. This definition was an accommodation made in the Eastern San Joaquin WDR Order. It is not of interest in the Sacramento Valley and will create administrative inefficiencies and costs by requiring us to track three separate classifications (low, high, small farming operations) of growers for reporting cycle purposes. This provision should be removed from the Sacramento Valley WDR Order.

**General Order Page 28, Provision VIII. B—Membership (Participant) List**

 Requiring the third party entity to report participants whose membership is pending revocation places it in the role of regulator.

**General Order Page 28, Provision VIII. C—Template Requirements for Farm**

**Evaluations, Nitrogen Management Plans, and Sediment and Erosion Control Plans**

The inclusion of language to allow third-parties the ability to modify the templates due to coalition-specific issues, including geographic area, the commodities grown, known water quality impairments, the propensity to impact water quality, and the size and scale of farming operations. Such tailoring will allow the Regional Board to obtain the most relevant information specific to the area being regulated while also allowing growers to minimize costs.