

IRRIGATION NEWS

Ag Waiver Updates

Water quality issues and regulations are steadily growing in concern to valley growers. Since the Clean Water Act was adopted in 1972, regulation of point sources (direct discharge of wastes from industrial and municipal sites) into waterways has taken place. Attention is now being focused on non-point sources, which typically include agricultural runoff from either tailwater discharge or stormwater runoff.

The Central Valley Regional Water Quality Control Board for the past three years has shifted from a waiver of agricultural waste discharge permits under the Porter-Cologne Act and the California Water Code to a conditional waiver program. The conditional waiver program, fraught with changing rules and uncertainty, provides several options that all growers must consider.

Valley water agencies, including the Kings River Conservation District and Kings River Water Association, have struggled to help growers and owners of irrigated land comply with the new regulations. They have formed the Southern San Joaquin Water Quality Coalition and sub-watershed coalitions for each river system, including the Kings.

Membership in sub-watershed coalitions (representing farmers within defined boundaries, or with similar cropping interests, who elect to join) is the preferred and easiest means of three forms of compliance. These coalition groups have the responsibility of conducting monitoring required by the conditional ag waiver, filing all the reports necessary and working with farmers if a problem is detected.

A second option is for growers seeking to file for an individual waiver, and assuming responsibility for all monitoring and reporting - a highly costly process - as required by the Regional Board.

A final grower option (and the one least likely to be employed) is to file for a waste discharge permit, one that is similar to those issued to industrial concerns. To be in compliance with the waiver, individual

farmers must choose one of those options or face possible administrative penalties imposed by the Regional Board. Membership in the Kings River sub-watershed coalition has overwhelmingly been the most popular alternative with some 1,900 growers having signed up.

Under the current waiver, the Kings River coalition and similar groups have been conducting basic water quality examinations at representative points, and submitting samples for bioassays on toxicity to three critical organisms within the food chain. Stepped-up monitoring is likely to be ahead, as are efforts by regulators to change farming practices in order to reduce potential contamination.

To date, water samples from the Kings River have showed no indication of any problems, other than reduced algae growth, which may be due to the purity of the river water.

The Regional Board in December acted to extend the current waiver without change through June 30, 2006. That action, on a 5-2 vote, came after the Regional Board seated three new members but took the contentious step of compelling two of those to sit in the audience on grounds that their valley farming operations may constitute a conflict of interest.

The six-month extension, granted ostensibly to permit the new board members to become familiar with the issue, came as the conditional waiver faced a December 31 expiration date. Kings River interests and Central Valley water quality coalition groups sought a renewal of the waiver without change for five years. The Regional Board staff had also proposed extending the waiver for five years but with major and restrictive revisions.

KRCD and fellow Southern San Joaquin Water Quality Coalition members argued that the current waiver has only recently been fully implemented and that changes proposed by the Regional Board's
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Signup for Water Quality Coalition

The Agricultural Discharge Waiver requires that growers choose between filing for individual regulatory compliance or "knowingly elect" to join a water quality coalition. KRCD is the lead agency for the Kings River interests and encourages growers to enroll with the coalition. You can either return this portion of the newsletter or call (559) 237-5567 and select extension 117 or ext 126 and leave your information there. We will immediately send you an enrollment form. It is also available on our website at www.krkd.org.

Name: _____ Address: _____

Phone Number(s): _____ City: _____ State: _____ Zip: _____

After completion, please mail this portion to **KRCD, 4886 E. Jensen Ave, Fresno, CA 93725.**

PLEASE NOTE: If you have previously signed up, there is no need to sign up again. ♠

Ag Waiver Updates (continued)

staff were arbitrary, did not consider input from its own Technical Issues Committee, or guidance from the Regional Board members themselves. The Regional Board staff sought disclosure of the membership lists compiled by the sub-watershed coalitions. The Southern San Joaquin Water Quality Coalition opposes such a release because those growers joining the coalition were promised privacy when they signed up unless they are upstream from where an actual water quality problem is found through monitoring.

The Regional Board staff also wanted to require a coalition's grower members to implement management practices that improve and protect water quality, register directly with the Central Valley Water Boards Irrigated Lands Conditional Waiver Program by assigned dates according to acreage farmed, and develop and maintain a copy of a farm water quality plan on-site by specified dates based on acreage farmed.

On top of all this, fees are being imposed upon farmers in order to fund Regional Board staff for compliance efforts. The Regional Board staff proposed a three-tier fee structure on all south valley irrigated acreage, which the Southern San Joaquin Water Quality Coalition rejected. Instead, the south valley coalition proposed (and the Regional Board accepted, for this year only) paying a fee of 12 cents per acre on the approximately 800,000 acres on the south valley's East Side that are believed to have the direct potential to discharge. KRCD and the Kings River Water Association have agreed to pay a total of some \$57,000 to cover this year's Kings River fees which are considered likely to increase dramatically next year.

Growers need to be concerned and attentive to all this because the Regional Board and its staff has thus far mentioned that all irrigated land is subject to regulation.

An example is increased enforcement related to stormwater runoff. This issue is addressed in state law, but not in federal law (the stricter of the two applies). The regulators' concern is the "washing off" of leaves and other surfaces that have had agricultural chemicals applied down to the soil surface, as well as potential

off-site movement of this discharge into "waters of the state." Those are legally defined as natural rivers, creeks and man-made water channels (irrigation canals and other bodies of surface water). The Regional Board is concerned that risks of pesticide movement are obvious, but the risks of fertilizer movement may not be. Fertilizers, particularly nitrogen and phosphorus, cause increased algae growth within waterways, which eventually depletes the dissolved oxygen content of the water, thus impacting other aquatic organisms.

As a farmer, you may say that water doesn't leave your property and you need not be concerned with all this. However, in its recent action extending the current waiver, the Regional Board instructed its staff to come up with clear definitions of both sub-watershed group membership and what constitutes a "discharger."

In fact, until now, the Regional Board and its staff have been using a definition that literally states anyone who uses supplemental irrigation on their property is considered a potential discharger, and thus is subject to the conditions of the waiver. The coalitions have pressed for a more realistic definition. The waiver applies to everyone including those who utilize high efficiency systems and thus have very low risk of tailwater or stormwater runoff. Movement of discharge water into groundwater supplies has not yet been addressed within the waiver's framework.

Considering the potential penalties that the Regional Board could assess to farmers who have not elected to join a coalition or file for individual coverage under the conditional waiver program, it is strongly recommended that farmers make that choice at this time, if they have not already done so. It is far easier to enroll as a member of one of the sub-watershed coalitions on the Kings, Kaweah, Tule, and Kern rivers, than to file as an individual.

The Kings River Conservation District is the lead agency for the Kings watershed. A request for an enrollment form is on the front page; simply return it for an election form, or print the form from the District's website, www.krcd.org or call (559)237-5567, extension 117 to have one sent to you. ♠

Winter Pump Testing

The time to evaluate your pump's performance is now, before another growing season begins. Call the Associate Resource Analyst at the Kings River Conservation District, Eric Athorp, to schedule your appointment for a free pump test at (559) 237-5567 extension 117.

**DON'T FORGET TO STOP BY OUR BOOTH AT THE WORLD AG EXPO FEBRUARY 14-16, 2006.
We will be at Pavillion B, Booth 2420. See you there !**

IRRIGATION N E W S KRC D

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For more information contact
Eric Athorp at
(559) 237-5567 ext 117
www.krcd.org

Kings River Conservation District
4886 E. Jensen Avenue
Fresno, CA 93725-1899

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