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Ag Water & Land Resource Manager

TEHAMA, GLENN, COLUSA, AND SHASTA COUNTIES

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A newsletter from the University of California Cooperative Extension seeking to support wise and judicious use of limited water and land resources in the Northern Sacramento Valley.

In This Issue

Regional Board Adopts Irrigation and Storm Water Runoff Conditional Waiver

Irrigated Landowners Need to Decide on an Approach to Comply

After considerable public debate and several public hearings for more than a year, on July 11, 2003 the Central Valley Regional Water Quality Control Board adopted a "Conditional Waiver" to regulate agricultural irrigation and storm water runoff. This "Conditional Waiver" has the potential to affect any landowner with commercial or non-commercial irrigated lands in the Central Valley of California (from the Fall River Valley northeast of Redding to the foot of the Tehachapi Mountains south of Bakersfield). This newsletter provides background on the issue and discusses how the irrigated agricultural community is working to comply with this new surface water regulation. As a private landowner, you are encouraged to stay current on the implementation of this regulation and understand the options available to you to comply.

A handwritten signature in cursive script that reads 'Allan E. Fulton'.

Allan Fulton
Irrigation/Water Resource Advisor
Tehama, Glenn, Shasta, and Colusa Counties

Background

Waste is broadly defined in the California Water Code to include nearly all water management and agricultural activities that add materials to a watercourse. The Central Valley Regional Water Quality Control Board (“Regional Board”) is the state regulatory agency responsible to enforce the Water Code and to protect the beneficial uses of receiving waters. The Regional Board uses a permitting process where waste discharge reporting is required to formulate Waste Discharge Requirements as a means of regulating and protecting waterways.

In 1982, the Regional Board adopted a resolution waiving Waste Discharge Requirement Permits for 23 categories of discharge, including irrigation return flows and storm water runoff from irrigated lands. The 1982 waiver expired on December 31, 2002 and the right of an entity or irrigated landowner to allow irrigation or storm water runoff from their irrigated lands into watercourses was terminated. The Regional Board attempted to adopt new regulations before the expiration of the 1982 waiver that would provide the framework to protect surface water quality and enable irrigated agriculture to remain functional and viable. However, forming and adopting new regulations proved to be difficult, controversial, and required several attempts by the Regional Board. It was not until July 11, 2003 that a new “Conditional Waiver” for Irrigation and Storm Water Runoff was adopted by the Regional Board.

Under the July 11, 2003 “Conditional Waiver” the Regional Board will allow irrigation and storm water runoff into watercourses through December 31, 2005 under the following conditions:

- 1) Owners of irrigated lands will actively participate in a watershed effort that assists in achieving water quality objectives to comply with the waiver;

OR

- 2) Owners of irrigated lands will apply for and obtain an individual Waste Discharge Requirement Permit from the Regional Board to comply with the waiver.

Sacramento Valley Water Quality Coalition

In anticipation of a new Conditional Waiver, a broad group of Sacramento Valley water districts, farm organizations, and waterfowl organizations formed the Sacramento Valley Water Quality Coalition in January of 2003. It is one of six coalitions formed throughout the Central Valley of California. The Coalition initiated a watershed approach to better understand and manage water quality and to comply with the new Conditional Waiver for irrigation return flows and storm water runoff from irrigated farmlands in the Sacramento Valley. A watershed approach is viewed by the Coalition as a sensible and effective way to preserve and enhance the high quality of water resources in the Sacramento Valley. It is also viewed as an efficient and cost effective means for an entity or private landowner of irrigated lands to comply with these new surface water quality regulations.

Figure 1 displays the cover page of a regional plan for action submitted in June 2003 to the Regional Board by the Sacramento Valley Water Quality Coalition. Portions of this plan were accepted by the Regional Board and incorporated into the Conditional Waiver adopted on July 11, 2003. You are encouraged to review this 17-page plan to understand how the Sacramento Valley Water Quality Coalition is working to help Irrigated landowners and other entities involved in irrigation comply with this

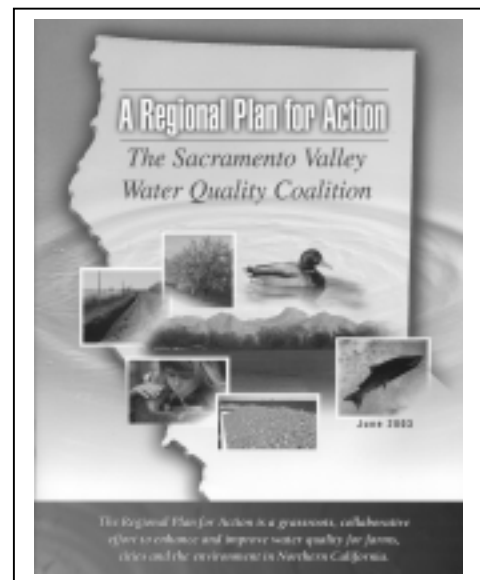


Figure 1. Cover page of the Sacramento Valley Water Quality Coalition's plan to assist entities and private landowners in the Sacramento Valley comply with a new Irrigation and Storm Water Runoff “Conditional Waiver”. For copies: see <http://www.norcalwater.org>, call the Northern California Water Association at (916)-442-8333, or contact UC Cooperative Extension in Tehama County at (530)-527-3101.

Conditional Waiver and continue to return irrigation and storm water runoff into downstream watercourses, when necessary.

Key Components of the July 11, 2003 Conditional Waiver

- The Regional Board adopted an approach of incremental development and implementation of water quality monitoring and compliance points rather than imposing a pre-determined and expansive network of monitoring and compliance points throughout the Central Valley. Monitoring for water quality compliance will occur at much fewer points and be flexible to change. It will be more affordable and respectful of private property rights because hydrologic settings, common cropping patterns, and shared farming practices will be considered to establish only essential monitoring and compliance points. This approach was favored by the Sacramento Valley Water Quality Coalition and submitted as part of their June 2003 plan to the Regional Board.
- The Regional Board adopted a “phase-in” approach to monitoring constituents of concern rather than beginning with a broad list of constituents from the onset of imposing this new Conditional Waiver. Phase I monitoring will be conducted in 2004 and 2005 and the objective will be to identify constituents in the watercourses that are of valid concern. In a sense, this two-year period of monitoring will be a process of elimination where watercourses with harmful contaminants originating from irrigated agriculture will be distinguished from watercourses where there are not any harmful contaminants in the water that are linked to irrigated agriculture. Monitoring will include identifying pesticide use patterns for lands upstream of monitoring points and conducting toxicity tests using aquatic test species for those specific pesticides in water samples collected from each monitoring site. Monitoring of pH, temperature, electrical conductivity, flow rates and other basic parameters will also be conducted routinely as indicators of water quality conditions.
- Landowner identity was a critical issue where the Regional Board and the Sacramento Valley Water Quality Coalition were in disagreement. The July 11, 2003 Conditional Waiver requires that watershed groups should submit a membership document with names of irrigated landowners and entities “who knowingly elect” to participate. By identifying themselves as participants in the Coalition, these individual landowners will be covered under the new Conditional Waiver and be allowed to release irrigation and storm water runoff when necessary from their irrigated farmlands into downstream watercourses until December 31, 2005 while the first phase of monitoring is implemented.
- At this time, the Regional Board has not imposed any fees or fee structure on entities or landowners of irrigated farmlands to financially support the implementation of this Conditional Waiver. However, the issue of fees will be revisited in an upcoming hearing before the Regional Board in January 2004. In its June 2003 plan, the Coalition proposed to begin complying with the Conditional Waiver without imposing fees upon owners of irrigated land and favored funding the initial efforts with public funds ear-marked to preserve water quality.

What Irrigated Landowners and Entities Involved in Irrigation Need to Do?

To begin with understand that the Regional Board is very serious about protecting the high quality of surface water in the Sacramento Valley and other areas of the central valley and upholding their regulatory responsibility. So, this issue is not going to go away. Upon adopting the July 11, 2003 Conditional Waiver the Regional Board committed to a framework to protect the high quality water in the Sacramento Valley’s streams and river systems and still enable irrigated agriculture to manage irrigation and storm water runoff. Although this Conditional Waiver will be challenged by both environmental and agricultural interests in an upcoming appeal to the California State Water Quality Control Board (a governing board whose authority supercedes the Central Valley Regional Board), through the California legal system, and through upcoming state legislation, it is the Regional Board’s intent that this waiver will remain in effect through at least December 31, 2005. The Regional Board believes that the Conditional Waiver represents a balanced approach to protect

water quality that it is considerate of agricultural and environmental concerns, technically feasible, and legally defensible. As an indicator of the Regional Board's commitment to this Conditional Waiver, a timeline for implementation of three phases has been established through 2008.

Each irrigated landowner (commercial or non-commercial) or entity in the Sacramento Valley has a decision to make before November 1, 2003. You will need to decide whether you would like to be identified as a member of the Sacramento Valley Water Quality Coalition and are agreeable with the Coalition's plan to comply with the new Conditional Waiver. By granting your permission, you will be covered under the new Conditional Waiver and be able to return irrigation and storm water runoff into downstream watercourses as needed through December 31, 2005. It is critically important to realize that by agreeing to partner with the Coalition that you may also be agreeing to cooperate with new surface water quality monitoring in your local area and may or may not be asked at some point in the future to help manage a valid water quality issue in your local watershed.

Remember, every landowner or entity has the option of working directly with the Regional Board and independently of the Coalition by requesting a Waste Discharge Requirement Permit and agreeing to be responsible for water quality monitoring and compliance for their own irrigated lands. However, the Coalition believes that the stakeholder-based watershed approach will prove to be the least imposing on irrigated landowners. Some preliminary research suggests that it will cost an individual commercial, 200-acre farm about \$7000 to \$14,000 just for basic water quality field monitoring equipment to begin to comply with an individual Waste Discharge Requirement Permit.

The Conditional Waiver requires that a Notice of Intent to comply must be filed by the Sacramento Valley Water Quality Coalition before November 1, 2003. Identifying and requesting the permission of every commercial and non-commercial irrigated landowner and entity in the Sacramento Valley who might want to participate in the Coalition is a daunting task, so landowners will be contacted through several avenues. In later August through mid October, you will very likely receive a letter outlining alternatives for satisfying the regulatory requirements from your Agricultural Commissioner. Look for supporting information from you county farm bureau, water district, the Farm Service Agency, local watershed groups, or resource conservation districts. The letter will request that you notify the Coalition that you wish to "**opt-out**" or **not be listed as a member** of the Coalition and covered under the waiver granted to the Coalition. It is important to understand, that if the Coalition does not receive any response from you as an individual landowner that you will be listed as a participating member of the Coalition. An individual landowner can request their name be removed from the Coalition membership at any time.

After this task of identifying willing participants in the Coalition is completed and the Notice of Intent to comply with the new Conditional Waiver by the Sacramento Valley Water Quality Coalition is submitted to the Regional Board, efforts will focus on the development of water quality monitoring along selected watercourses affected by irrigation drainage. At that time, there will be additional communication and interaction with irrigated landowners on this issue at the local level through more newsletters, public meetings, and workshops (refer to announcement below).

MEETING ANNOUNCEMENT

(SPONSORED BY NORTHERN SACRAMENTO VALLEY WATER FORUM)

Agricultural Discharge Waivers: What Is the Decision? What are the Impacts?

WHEN: August 28, 2003

TIME: 1:30 to 3:30 p.m.

WHERE: Sutter County Veteran's Hall, 1425 Veterans Memorial Circle
Yuba City, CA

Moderator: David Guy, Northern California Water Association

Speakers: Ryan Broddrick, **Ducks Unlimited**, Bill Croyle and Shakoora Azimi -Gaylon, **Central Valley Regional Water Quality Control Board**, Bill Jennings, **Delta Keepers**, Parry Klassen, **CURES**, Tony Francois, **California Farm Bureau**.