

**North Coast Regional Water Quality Control Board (Regional Water Board)  
Agricultural Lands Discharge Program (Program)  
Stakeholder Advisory Work Group (Work Group)  
DRAFT Meeting Summary**

**Location**

Turtle Bay Exploration Park  
Redding, CA

**Meeting Participants**

- Ryan Walker, Rancher, Shasta Valley RCD Board Member
- Robert Walker, Rancher, Upper/Mid Klamath Watershed Council member
- Steve Orloff, UC Cooperative Extension, Siskiyou County
- Alex Corsins, Trinity County RCD
- Ned Coe, California Farm Bureau
- Jeff Fowle, Rancher, Siskiyou Farm Bureau
- Jack Rice, California Farm Bureau
- David Mauser, USFWS Klamath Basin
- John Nagle, Gallo, Wine Institute
- Brad Kirby, Tule Lake Irrigation District, Klamath Water Users Assoc. Board Member
- Valerie Minton, Sotoyome RCD
- Crystal Bowman, Water Resources Coordinator, Karuk Tribe
- Shelly Janek, Mendocino County RCD
- Chuck Morse, Mendocino County Ag Commissioner
- Devon Jones, Mendocino County Farm Bureau
- Adriane Garayalde, Shasta Valley RCD
- Ric Costales, Natural Resource Specialist, Siskiyou County
- Darron Mierau, Cal Trout
- Emily Cureton, Siskiyou Land Conservancy
- Joe Dillon, Water Quality Coordinator, NOAA Fisheries
- Andrea Souther, NRCS
- Felice Pace, Klamath Forest Alliance/Redwood Chapter of Sierra Club
- Vivian Helliwell, Pacific Coast Federation of Fisherman's Association and the Institute for Fisheries Resources

**Regional Water Board Staff and Consultants**

- Matt St. John, Executive Officer
- Samantha Olson, Office of Chief Counsel
- David Leland, Watershed Protection Division Chief
- Rebecca Fitzgerald, TMDL Unit Supervisor
- Ben Zabinsky, TMDL Unit Staff
- Bob Legge, TMDL Unit Staff
- Clayton Creager, Regional Water Board Staff
- Bryan McFadin, Regional Water Board Staff
- Andrew Baker, Regional Water Board Staff
- Jovita Pajarillo, Staff Volunteer
- Sam Magill, Center for Collaborative Policy

**ACTION ITEMS AND KEY ISSUES FOR FURTHER DISCUSSION**

1. Staff will provide crop acreage/approximate location information (and associated sources) used to generate the 11x17 map at the September 10<sup>th</sup> Advisory Work Group (Work Group) meeting.
2. Staff will distribute BMP and water quality improvement project studies/information for the Upper Klamath Basin to Work Group members.

3. Staff will provide Advisory Work Group members with a link to the USDA irrigated pasture study discussed at the September 10<sup>th</sup> Work Group meeting.
4. Staff will provide links to the Rogue River and Willamette Valley 3<sup>rd</sup> party certification programs.
5. Staff will develop a side-by-side comparison of waivers vs. waste discharge requirements to Work Group members.
6. Staff will discuss potential difficulties for including orchards and vineyards in the same permit with Devon Jones and Joe Dillon.
7. Work Group members will submit any written comments on the recent Program re-scoping proposal to Rebecca Fitzgerald by September 20<sup>th</sup>.

### **MAJOR AREAS OF AGREEMENT/SUPPORT**

1. 22 of 24 Work Group members expressed active support for the re-scoping proposal, representing near consensus across a range of agricultural, agency, tribal, and environmental interests. The 2 remaining Work Group members were unable to express support at this time. One member supported a region-wide/area-specific (as opposed to commodity specific) approach while expressing concern about agricultural areas being left out of an more immediate permit mechanism. The other member requested more information on the specifics of the proposal, and was unable to support it at this time.

### **MEETING SUMMARY**

**\*\*The presentation was provided in PDF to all meeting participants for reference. The summary below captures the discussion around the presentation, and references it directly only when needed for context\*\***

#### **Welcome, Introductions, Logistics and Agenda Review**

Matt St. John delivered opening remarks for the meeting. The purpose of the meeting is to formally present Regional Water Board staff's proposal to re-scope the Program from a single, region wide permit to separate, commodity/geographically based permits targeting areas within the North Coast Region with the highest concentration of agricultural operations. Regional Water Board staff will present the proposal to the Regional Water Board on February 26<sup>th</sup> in Fortuna. Work Group comments and input on the proposal will be presented to the Regional Water Board at that time, and Work Group members are encouraged to provide additional comments.

Mr. St. John explained that the revised approach to the Program includes many aspects of the previous approach, including the tiered threat framework, the best management practice

(BMP) approach to water quality management, discreet monitoring programs for sub-areas within the region, and third-party certification of water quality management plans (plans) as appropriate. Given the differences between agricultural practices for different commodities throughout the Region, the specifics of these issues is yet to be determined. The Work Group will be essential in providing input on these smaller permits as planning proceeds.

After Mr. St. John's remarks, Sam Magill reviewed the objectives for the meeting. Regional Water Board staff is looking for specific input on the proposal. Work Group feedback should be structured to support or request a change to discreet areas within the proposal.

### **Introductions, Meeting Logistics, and Introductory Questions**

Mr. Magill reviewed the agenda and asked Work Group members to introduce themselves. Mr. Magill asked Work Group members if they had any questions before beginning presentations. The following conversation was recorded:

- Felice Pace asked if the goal of the Work Group is still to get 100% consensus from all members. Mr. St. John responded that the goal is to get input from Work Group members. Mr. Magill added that the Work Group Charter states that it is always the goal of the Work Group to achieve consensus wherever possible. On those issues where consensus is not possible, Regional Water Board staff will make an educated decision on how best to proceed. [While not stated clearly during the meeting, staff will document the range of recommendations supported by different interested in the staff report if consensus is not reached.]
- Mr. Pace noted that there are some issues such as plan "secrecy" and the public's right to know the details of water quality management practices that are yet to be discussed, and asked if a decision has been made on these issues. Mr. St. John confirmed that decisions have not been made on this and other issues, and they will continue to be discussed as permit planning proceeds.

### **Presentation: Staff Proposal to Re-Scope Program**

Ben Zabinsky delivered a presentation on the proposal, which focuses on shifting the Program from a single, region-wide permit to series of commodity/area specific permits. The presentation was provided to Work Group participants, and will be posted to the Program website. The following discussion was recorded:

- Mr. Pace asked if there are data to confirm the acreage numbers used for the presentation, and how much acreage will/will not be covered under the new Program proposal, noting that it appears a lot of acreage is missing. Mr. Zabinsky confirmed that the data will be available in time for the Regional Water Board meeting on September 26, and posited that the "missing" acreage may be livestock pasture. Livestock grazing will generally be covered under the state wide grazing program, unless there is irrigated pasture with a confirmed tailwater discharge. Mr. Pace added that agricultural areas in the Klamath Basin and throughout the Hayfork Valley appear to be missing, as does the Indian Valley. Rebecca Fitzgerald passed around the initial acreage information used by Regional Water Board staff, and noted that forage crops with no discharge to tailwater is not included in the Program scope. As more information on acreage amounts/acreage information sources becomes available, Regional Water Board staff will distribute it to Work Group members (**see Action Item #1**).

- Mr. Magill noted that coverage of small operations that are not subject to more immediate permit coverage (i.e., the other category of the re-scoping proposal) are a concern to some, and asked if these operations will still be subject to enforcement. Mr. Zabinsky confirmed that they will be subject to enforcement or individual permits.
- Meeting participants asked for an update on the Napa River and Sonoma Creek vineyard permits under development by the San Francisco Bay Regional Water Board. Mr. Zabinsky said that Region 2 staff are contracting with an outside consultant to prepare California Environmental Quality Act (CEQA) documentation. Ms. Fitzgerald added that Region 2 lost some key staff, leading to a permitting delay. They are also reconsidering some key components of the permit, such as whether it will be a waste discharge requirement (WDR) or waiver. A full Environmental Impact Report (EIR) will be prepared as the permit moves forward.
- Devon Jones noted that the economics of wine growing regions in Napa are very different than those in Sonoma/Mendocino, and asked if that will be taken into account in the Region 1 vineyard/orchard permit. She added that the Russian River is a highly regulated river with a large reservoir that dictates how water is applied. There are also different topographies, and different BMPs are used to manage waste discharges. Mr. Zabinsky responded that the permits for each region won't be identical, but that there will be a high degree of coordination between the two.
- Mr. Pace asked if all monitoring in the Smith River plain is for surface water. Mr. Zabinsky confirmed that current monitoring is being carried out through the state Surface Water Monitoring Program (SWAMP). Ms. Fitzgerald added that the statewide groundwater assessment and monitoring program will look at groundwater, but is not being used on the Smith River right now. Mr. St. John commented that groundwater monitoring efforts are concentrated on the Central Coast (Region 3) right now, but that future groundwater work is very much within the scope of the Program.
- Jeff Fowle asked if enrollment in the Program will be needed in the Scott/Shasta watersheds. Mr. Zabinsky said no enrollment is needed under the TMDL Waivers, at least until the expiration of the existing Scott/Shasta permits. Andrew Baker noted that the Regional Water Board is focusing on high priority areas within the Shasta watershed with sensitive beneficial uses (i.e., coho habitat, cold water habitat, etc). To date, the vast majority of landowners have been willing participants. They are not required to enroll at this point, but are covered under the waiver pending individual assessment.
- Mr. Pace asked if landowners in the Scott/Shasta waivers have to submit water quality management plans to the Regional Water Board for approval. Mr. Baker said they don't submit them, but they are available on sight for inspection by Regional Water Board staff as needed. Bryan McFadin said that the waiver in the Scott is very similar to the Shasta, except that the Scott waiver prioritizes risk to water quality based on lengths of stream adjacent to specific management areas. The largest landowners are being asked to participate first, and good relationships are being formed with agricultural operators. Ric Costales noted that while not everyone is excited to work with the Regional Water Board, the relationships being formed now are critical to developing a sense of trust with the landowners.
- Crystal Bowman asked what happens when a Scott or Shasta landowner in a high priority area doesn't want to work with the Regional Water Board. Mr. Baker confirmed that almost all landowners are working well with the Regional Water Board. For those one or two landowners who don't want to participate, individual action may be needed, including potential 13267 letters or a Notice of Violation.

- Clayton Creager noted that in the Klamath Basin, a Watershed Stewardship Report is under development to assess water quality management efforts to date. This report is showing which BMPs (such as riparian fencing, riparian rehabilitation, etc) are effective. A draft is expected in early November, and will be distributed to Work Group members (**see Action Item #2**).
- In regards to discharges from marijuana cultivation, Samantha Olson noted that the Regional Water Board does not permitting the growing of the commodity, but the discharge of waste. Staff are weighing options for permitting such discharges and will also continue to focus on education and enforcement actions against operations posing a threat to water quality. Mr. Pace noted that not all marijuana operations pose a threat to water quality.
- Mr. Pace asked if groundwater monitoring data for the Butte Valley is available. Ms. Fitzgerald responded that there is a potential funding source available for a groundwater study, but not much data are currently available. Mr. Pace asked to be involved in the Butte Valley groundwater monitoring process.
- Mr. Pace asked if permits in the Tule Lake Basin will focus only on the drains. Mr. Zabinsky responded that the permit will look at any irrigation water coming off of fields; stormwater or irrigation return flows.
- Mr. St. John said the Regional Water Board anticipates a strong outreach and education component to implement the new permits, similar to the Dairy Program. UC Cooperative Extension, NRCS, and other groups will be integral to this effort.
- Vivian Helliwell asked what the timeframe for development of the individual permits is. Mr. Zabinsky responded that each permit will take approximately 16 months to develop. As discussed in the presentation, the Work Group sub-regional groups will be realigned to provide a more focused venue for stakeholder input on each permit. Ms. Olson noted that some permits may move faster than others where there is a single point of discharge or a limited number of growers, as in Tule Lake or the Smith River area, while vineyards/orchards is likely to take a longer time due to the dispersed nature of the commodity. Mr. Pace added that potential litigation could further delay the permitting process. Ms. Fitzgerald noted that the revised Program proposal may be more responsive to potential litigation: if one permit faces litigation, the others can still move forward. If a single, region wide approach was used, litigation would slow the entire process.
- Ms. Bowman asked if areas not covered by the Scott/Shasta waivers are being addressed in the interim period (before permits are implemented). David Leland responded that they are subject to the complaint/response process but that there is not currently another permitting mechanism in place to address discharges from these areas.

## **BREAK FOR LUNCH**

### **Discussion of Proposal**

After lunch, the group reconvened to provide specific comments on the Program re-scoping proposal. Mr. Magill asked participants to provide specific comments on the proposal in terms of items they support and items they would like to change. After introductory comments, the following discussion was recorded:

- Ms. Jones asked if there will be the flexibility to address single permittees growing multiple commodities. Ms. Fitzgerald noted that this is an issue that needs to be addressed. Joe Dillon stressed the importance of working with the State Water Resources Control Board (SWRCB) on this issue, since there are statewide programs under development that could impact growers who also graze cattle.
- Mr. Pace noted that the environmental community is very concerned about what constitutes a protected “trade secret” for farm plans that won’t be publicly disclosed, and requested a legal opinion on the efficacy of “secrete” water quality management plans.
- Ms. Helliwell noted that the downstream cumulative effects of upstream agricultural operations are very hard to track in all Regional Water Board permits. Mr. Creager responded that pilot projects are underway on the Klamath to look into this concern; a draft is available in early November and will be released to work group members **(referenced in Action Item #2 above)**.
- Bob Walker commented that the fee issue was a very big deal for growers, and appreciated that the current proposal does not focus specifically on irrigated pasture outside of the areas discussed above. A USDA study on the water quality effects of irrigated pasture is available with more information on the issue; Regional Water Board staff will provide links to the study for the Work Group **(see Action Item #3)**.
- Ms. Helliwell asked for information on the efficacy of 3<sup>rd</sup> party certification programs. Mr. Creager responded that there is a study of 3<sup>rd</sup> party certification programs on the Rogue River and Willamette Valley; the study will be provided to Work Group members **(see Action Item #4)**.
- Mr. Pace commented that he is supportive of the tiered approach to threat to water quality, but was concerned about a “prioritization effort” among the various permits replacing the need for an overall, region-wide approach to waste discharge permitting for agriculture.
- Ryan Walker commented that the proposal allows the flexibility to take an approach appropriate to each commodity in question.
- John Nagel asked if a TMDL or commodity permit takes precedent in areas that have both. Staff responded that agricultural-related requirements of future TMDLs will likely be implemented by these permits.
- Ms. Helliwell asked that a “complaint line” be developed for the permits to address those operations that fall outside of the scope of the Program. Mr. McFaddin responded that a complain line already exists, but that it should be more visible on the Regional Water Board website.
- Jack Rice expressed support for the tiered approach.
- Mr. Pace asked how periodic discharges from high-flow/storm events will be addressed by the Program. Mr. St. John responded that while BMPs can’t be designed to accommodate 100 year storm events, discharges from smaller, regular high flow events will have to be considered in the design of BMPs.
- Meeting participants discussed the differences between WDRs and waivers at length. Staff explained that the built-in 5 year expiration of a waiver is the primary difference. Participants expressed varying degrees of support for waivers vs. WDRs. Participants asked staff to develop a side-by-side comparison of both permitting mechanisms for Work Group consideration **(see Action Item #5)**.
- Ms. Jones and Mr. Dillon noted that the proposal includes orchards and vineyards in the same permit, and expressed concern that there may be too many differences between

the two commodities for this approach. Staff will work with Ms. Jones and Mr. Dillon to discuss these concerns (**see Action Item #6**).

Other specific concerns or expressions of support are as follows:

- Concerns:
  - Butte Valley representatives are not present at this meeting, and growers/environmental interests in the area should be contacted to discuss it in more detail.
  - Leased lands are not directly addressed in the proposal. Participants had a variety of suggestions for dealing with the lessee/landowner issue, including focusing on working directly with both parties to determine who has a legal responsibility to manage waste discharge, looking at the Central Coast irrigated lands program for examples, or identifying the decision maker for a property directly.
  - The proposal should provide an option for property-wide permits (as opposed to single, commodity-based permits).
  - Staff should work with SWRCB on the fee issue to identify a single fee structure and avoid the possibility of multiple fees for single landowners.
  - The proposal should provide an option for pre-permit, voluntary compliance such as a prohibition of waste discharge or certified group plans for growers to get a “head start” on the permit compliance process.
- Items of support:
  - The Tule Lake area-wide approach makes sense.
  - There is support for having a more localized approach and tailoring permits to commodities.
  - 3<sup>rd</sup> party certification process makes sense for commodity groups employing similar growing practices and BMPs for waste discharge management.
  - The outreach and community efforts discussed in the meeting and proposal will be an important issue for Program compliance.
  - The proposal provides the flexibility to address the water quality needs of specific sub-regions within the larger North Coast region.

After the discussion of the proposal, Mr. Magill asked participants to send any additional written comments on the proposal to Ms. Fitzgerald no later than the close of business on September 20<sup>th</sup> (**see Action Item #7**).

Participants were then asked to participate in a straw poll to show their level of support/discomfort with the re-scoping proposal by giving a thumbs up (indicating support), thumbs sideways (indicating neutrality) or a thumbs down (indicating concern/no support). Of the 24 Work Group members present, 22 members approved of the proposal (thumbs up) while 2 members did not approve (thumbs down) due to concerns about agricultural areas being left out of the proposal or not enough info to make a decision (**Agreement #1**).

## **Closing Comments**

Mr. St. John and Mr. Leland provided closing comments for the meeting, and thanked participants for attending. Mr. St. John reminded Work Group members of the September 26 Board Meeting in Fortuna. Mr. Zabinsky acknowledged all of the hard work by Work Group members, and thanked them for the progress to date. Work Group members were asked for any final questions:

- Ms. Bowman asked if Regional Water Board staff can provide annual updates on the Scott/Shasta waivers, including information on the potential new permit upon expiration of the existing programs.

**ADJOURN**