

North Coast Regional Water Quality Control Board (Regional Water Board)
Agricultural Lands Discharge Program (Program)
Advisory Group Meeting #4
Eureka Sub-Regional Meeting
Meeting Summary
5/3/2012

ATTENDEES

ADVISORY GROUP MEMBERS

Jovita Pajarillo, Regional Water Board Volunteer
Andrew Orahoske, Environmental Protection Information Center (EPIC)
Greg King, Siskiyou Land Conservancy
Ken Miller, Siskiyou Land Conservancy
Linda Crocket, Del Norte County Farm Bureau
Andrea Souther, Natural Resources Conservation Service (NRCS)
Katharine Ziemer, Humboldt County Farm Bureau
Ben Zabinsky, Regional Water Board
Rebecca Fitzgerald, Regional Water Board
Harry Harms, Grower
Jim Waldvogel, Del Norte County
Jeff Dolf, Humboldt Co Ag Commissioner
David Leland, Regional Water Board
Lee Riddle, Easter Lily Research Foundation
Sam Magill, Center for Collaborative Policy (CCP)

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Vivian Helliwell, Pacific Coast Federation of Fishermen Association (PCFFA)
Ryan Messinger, CRA
Alison Sterling, Humboldt Growers Association

Phone:

Pat Frost, Trinity County Resource Conservation District (RCD)

ACTION ITEMS/ITEMS OF AGREEMENT

1. Participants agreed that non-irrigated forage crops with no pesticide/nutrient application should not be included in the scope of the Program.
2. Pat Frost will provide Regional Water Board staff with GIS layers to show farm size/number in Trinity County.
3. Jeff Dolf will provide Regional Water Board staff with the California Code of Regulations list of pesticides known to contaminate groundwater.
4. Staff will develop a glossary of key terms for the Program for distribution to the full Advisory Group at the June 26th Advisory Group meeting in Redding.

5. Advisory Group participants will provide specific, written comments on the Program framework to Regional Water Board staff by May 18th.

SUMMARY

****All presentations and meeting materials referenced below are available online at http://www.waterboards.ca.gov/northcoast/water_issues/programs/irrigated_lands/****

INTRODUCTIONS, MEETING LOGISTICS, AGENDA REVIEW

David Leland opened the meeting and thanked participants for attending. Sam Magill provided meeting logistic information, reviewed the agenda, and walked through ground rules for the meeting. After a review of the agenda, Advisory Group members and members of the public introduced themselves.

PRESENTATION & DISCUSSION OF PROGRAM SCOPE

Ben Zabinsky presented the Regional Water Board staff-developed DRAFT Program scope. This scope outlines the land use types/activities intended for inclusion within the Program, and discusses those agricultural activities specifically excluded from the scope. Mr. Leland asked participants to think of whether or not small animal feeding operations should be included in the scope of this Program, or if they should need a separate permit under an as yet undefined program. After the presentation, the following discussion was recorded:

- Andrew Orasoske asked what the definition of “tailwater” is as it applies to the Program. Mr. Leland responded that for the purposes of this Program, “tailwater” means excess applied irrigation water (and the associated runoff).
- Meeting participants asked why forage crops are suggested for inclusion in the Program, since they are rarely irrigated in the Eureka sub region, and the land is not usually disced or exposed to pesticides/herbicides. Participants generally agreed that the Program should not cover non-irrigated forage crops at this time (**see Action Item #1**). Several participants commented that if irrigation occurs, if fertilizer is applied, or forage crop lands appear to cause water quality problems in the future, the issue should be revisited. Forage crops could be included in the pending statewide grazing program or this Program at a later date as needed.
- Jeff Dolf asked if a separate “module” could be added on this Program at a later date to include small animal feeding operations (AFOs). Mr. Leland responded that staff generally supports this idea. Although meeting participants generally agreed that AFOs associated with agricultural activities already included in the Program, several participants commented that including activities beyond traditional farmed agriculture may be too difficult to implement within the Program, and may be too burdensome for the Program. Staff will make a determination for the next draft of the Program document and bring it in front of the entire Advisory Group at the June 26th Advisory Group meeting in Redding.
- Pat Frost suggested that one criteria for including/excluding lands within the Program could be to look at overall density of agricultural lands within watersheds/sub watersheds.
- Mr. Frost asked staff how production farm acreage will be accounted for as a cutoff for exclusion/inclusion in the Program. Staff acknowledged the difficulty in creating an equitable system to develop the cutoff point, but suggested that the acreage threshold would like apply to contiguous production lands owned by a single owner/corporation. Many participants acknowledged that a fair and equitable acreage threshold for the Program will be difficult to develop. Participants suggested that a better threshold for inclusion/exclusion from the

Program is overall risk to water quality; this theme would be discussed in detail during the Program Framework discussion later in the meeting.

- If an acreage threshold for inclusion/exclusion from the Program is used, participants suggested using different acreage limits for different crops (i.e., low threshold for intensive and/or high value crops like blueberries and a much larger threshold for low value and/or less intensive crops like forage crops or irrigated pasture).
- To have a better understanding of the types/sizes of agricultural operations in Trinity County, Mr. Frost offered to have the Trinity RCD provide GIS layers of existing operations (**see Action Item #2**).
- Ken Miller asked if groundwater would be included within the scope of the Program. Mr. Leland said groundwater discharge is within the scope of the Program, but that surface water discharges will be the main focus of the Program at this time.
- Staff suggested that another threshold for inclusion/exclusion from the Program could be differentiating between commercial agriculture and hobby agriculture. The intention is to cover commercial activities at this time using gross income derived from agricultural activities or crop value.. Mr. Harms highlighted the difficulty of using crop value as an indicator of commercial agriculture, since a single farming “operation” could be split into multiple parcels, and “value” or income could be adjusted to avoid inclusion in the Program. Mr. Harms and Ms. Ziemer thought an acreage threshold was more appropriate than crop value or gross income from agricultural activities.
- Jim Waldvogel asked if a grower has 400 acres of land, but only 100 acres in production rotating on a four year cycle, would the entire 400 acres be enrolled in the Program, or only 100 acres. Mr. Leland responded that as it stands now, the entire 400 acres would be included in the Program.

PRESENTATION & DISCUSSION OF RISK-BASED TIERS

After the discussion of Program scope, Mr. Zabinsky delivered a presentation on the DRAFT Program framework. The framework was described as a DRAFT work product for discussion purposes only, and was developed by Regional Water Board staff at the request of Advisory Group members to provide a starting point for discussions.

The framework is divided into three risk-based tiers. If a grower’s operation falls within the general scope of the Program, s/he would enroll in one of the tiers depending on the level of water quality risk posed by their operation and the management practices/plans they have in place to mitigate that risk. Although not explicitly captured in the presentation, Mr. Leland noted that a “Tier 4” could be considered for high risk agricultural activities. Furthermore, he commented that the Regional Water Board retains the authority to bring growers into the Program at any time if there is a risk to water quality. After the presentation, the following discussion was recorded:

- Vivian Helliwell asked how Regional Water Board staff will access grower’s land to assess which tier they should fall in. Mr. Zabinsky responded that access to land would be covered in the standard provisions of the permit for the Program; this will be discussed in detail at future meetings.
- Ms. Ziemer asked if the Regional Water Board anticipates a different enrollment fee for Tier 2 vs. Tier 3 (i.e., lower for 2 and higher for 3). Mr. Leland responded that this proposal makes sense to Regional Water Board staff, but that the State Water Resources Control Board sets fees. The state fee schedule for agricultural lands programs is in the process of being revised; Mr. Leland responded that Advisory Group members should petition the State Water Resources Control Board directly to highlight the need for an alternate fee schedule.

- Mr. Harms stressed the importance of ensuring that growers can move from higher risk tiers to lower risk tiers to ensure growers have an incentive for instituting management practices on their land.
- Participants discussed the requirements for Tier 1 (Low-Risk Tier) in detail. Staff explained that as currently designed, only those operations on flat land with few roads, no use of certain pesticides, and limited hydrologic connectivity to streams and waters of the state would qualify for Tier 1. Representatives of the agricultural community expressed concern that these requirements would disqualify most growers in the Eureka, Del Norte, and Trinity sub-region and force them into the higher risk tiers. Specific suggestions for modifications to the existing Tier 1 included:
 - Lee Riddle suggested that erosive potential of production acreage should be used instead of slope as a defining criteria for Tier 1. Mr. Harms noted that based on the slope criteria, most people in the sub-region will not qualify for tier 1, particularly in the Smith River Plain, where most farmed areas are sloped and/or have direct connectivity to streams. Mr. Orahoske commented that erosive potential/sediment are not the only concerns associated with slope; steeper lands also expedite runoff of pesticides and fertilizers.
 - Participants noted that “impairment of local water bodies” is not a listed risk factor. Mr. Magill responded that in addition to covering impaired waters, the Program also seeks to protect high quality waters. Mr. Leland added that while other regions have focused on specific pesticides, the water quality concern in the North Coast region is *generally* sediment, temperature, and nutrients, so a broader approach to water quality risk is needed.
 - Mr. Harms noted that slope alone may not be a risk factor if the slope is moving away from a water course. This should be taken into account in Tier 1.
 - Mr. Leland noted that based on physical criteria alone, it may not be possible for growers to enroll in Tier 1. Participants suggested that if this is the case, there be some other tier to “reward” growers with lower requirements when/if they manage risks such that their operation poses little or no risk to water quality. Staff will discuss this possibility and forward the suggestion to the other sub regional groups for consideration.
- Participants discussed including pesticide use as a criteria for the tier system. Mr. Harms and Mr. Riddle noted that pesticides break down and may not pose a significant risk when properly applied. Mr. Orahoske suggested that use of certain pesticides should lead growers into higher risk tiers. Participants generally acknowledged that since pesticide application is strictly controlled, small hobby growers or gardening enthusiasts may pose a larger water quality risk than commercial operations since they often obtain pesticides from out of state or apply them improperly. Mr. Leland noted that the Framework must be finalized before a specific list of pesticides can be developed for the Program, and asked participants to send information on high-risk pesticides in to Regional Board Staff. Mr. Dolf will send the list of known groundwater contaminating pesticides to Mr. Zabinsky. (**see Action Item #3**).
- Linda Crockett commented that although she has a tailwater discharge as defined, it is clean and does not pose a risk to water quality. She added that growers in this situation should not automatically be enrolled in Tier 2 as a result. Mr. Zabinsky responded that if the water is clear of all pollution, it does not constitute a discharge. Mr. Leland noted that if this is true, the tier system would have to take similar situations into account.
- Mr. Miller asked if the Program will look at water quality in wells. Mr. Leland responded that if there is evidence of contamination in drinking water wells, it will need to be covered. So far, the criteria developed for the tiers have not taken this into account. Groundwater monitoring will be a function of the Program on a site-specific basis. Participants requested that specific mention of groundwater monitoring be included in future iterations of the Program framework.

- Participants discussed the need for buffer zones between agricultural operations and creeks/streams. Ms. Souther noted that the NRCS minimum buffer from streams is 15 feet from the normal high water mark. Where nutrients are applied, it is 35 feet. Mr. Waldvogel added that the National Marine Fisheries Service tends to work with 50 feet buffers from the high water mark of a creek/stream; he added that a 100 foot buffer in the Smith River Plain would result in a 10% of production acreage in the area. Mr. Orahoske suggested that buffer strips should vary based on slope, and suggested that Federal Emergency Management Agency (FEMA) floodplain maps could be used to determine appropriate high water marks for buffer zones.
- Participants asked for additional definition of key terms including tailwater, drainwater, frost water, hydrologically connected conveyance, and blue line stream. These terms will be added to a Program glossary for discussion at the June 26th Advisory Group meeting (**see Action Item #4**).

Next Steps

After discussion of the Program framework and risk-based tiers, staff discussed next steps. Advisory Group members were asked to submit any specific comments on the Program framework via email to Mr. Zabinsky no later than May 18th. These comments will be compiled by staff and used to create the next version of the document for discussion at the June 26th Advisory Group meeting (**see Action Item #5**). Mr. Zabinsky encouraged participants to focus their comments on examples specific to this sub-region.

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