



WPHA

Western Plant Health Association

VIA ELECTRONIC MAIL: jkarkoski@waterboards.ca.gov and mawong@waterboards.ca.gov

December 28, 2007

Mr. Joe Karkoski
Manager, Irrigated Lands Regulatory Program (ILRP)
Central Valley Water Quality Control Board (Region 5)
11020 Sun Center Drive
Rancho Cordova, CA 95670-6114

Re: Coalition Group Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands - Amended Order R5-2006-0053

Dear Mr. Karkoski:

On behalf of the Western Plant Health Association (WPHA) I am providing comments concerning the Monitoring and Reporting Program (MRP) under the Coalition Group Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands; revision dated 26 November 2007.

WPHA represents the interests of fertilizer and crop protection manufacturers, distributors, formulators and retailers in California, Arizona, and Hawaii, and our members comprise more than 90 percent of all the companies marketing crop protection products in these states. WPHA welcomes the opportunity to comment on the Region 5 tentative MRP that proposes specific regulatory requirements that each recognized Coalition must meet or exceed as described in the MRP Order which is scheduled to be adopted on either January 24th or 25th of 2008. The purpose of WPHA's letter serves to support the comments provided by the Coalitions.

General Comments

WPHA commends the work that has been performed by your staff on the tentative MRP's development through a constructive, scientifically-based, transparent stakeholder process with direct involvement of the Coalitions, Technical Issues Committee (TIC) and the TIC Focus Groups. WPHA was an active participant through several of the stakeholder meetings during 2007. Accordingly, Region 5 has produced one of the most comprehensive monitoring and reporting regulatory structures for irrigated agriculture that more than adequately satisfies the requirements under California Water Code §13269(a) (2).

However, it would be judicious for Region 5 to afford adequate flexibility within this regulatory document in order to ensure that Coalitions have the opportunity to successfully address water quality issues and concerns without incurring additional restrictions and penalties. This includes affording any reasonable adjustments merited on the local conditions (hydrology, topography, soil conditions, cropping patterns and other characteristics) within each Coalition's geographic boundary. In addition, WPHA promotes fostering the ongoing professional relationship between the respective Coalitions and Region 5 staff which will help to facilitate compliance with water quality issues.

As such, WPHA encourages cooperative dialogue with the respective Coalitions when triggers are to be established and exceedances have been identified - more can be effectively accomplished through a bi-lateral process that will also maintain enumerated water quality standards.

WPHA appreciates the need to evaluate impacts of discharges to waters of the State through the MRP process. It is also equally important to recognize the enormous economic impact that the MRP Order will have on the Central Valley's Coalitions and the agricultural industry they respectively represent. To date, over \$9.5 Million have been incurred by the Coalitions during the last 3 years to meet the stringent requirements of the ILRP. The predominate expense has been administrative outlays that includes monthly sampling, detailed lab analysis, and effective grower best management practices (BMP) outreach programs. Many of the Coalitions diligently perform these important tasks with limited financial and personnel resources. In spite of these daunting challenges, these efforts merit recognition for having demonstrated the Coalitions' solid commitment toward water quality compliance.

WPHA remains quite concerned over the duplicative efforts in pesticide water monitoring conducted by the Department of Pesticide Regulation (DPR) and the Regional Water Quality Control Boards. DPR has been long been recognized by California statute to have primacy in pesticide regulatory actions. As such, WPHA would encourage DPR water program protocols and results to be regularly communicated and reviewed by both Region 5 and the Coalitions on a timely basis.

Specific Comments

WPHA is quite concerned that Region 5 is proposing to have Coalitions monitor for **Molybdenum (Mo)** as constituent from the list of water quality parameters identified within Table II.D. In consultation with our members, Mo is rarely added as a micronutrient to anthropogenic fertilizers, especially based on the cropping patterns within Region 5. Should on rare occasions that Mo is utilized, the concentration levels are negligible and highly unlikely to cause an adverse impact to water quality. It is an erroneous supposition by Region 5 staff to conclude in the "Information Sheet" (Attachment A to the Draft Order), that Mo is a constituent of concern to waters of the State through agricultural activities. Therefore, WPHA recommends Mo be removed from Table II.D for additional monitoring.

The tentative MRP Order states that monitoring sites must be established on water bodies that carry, or that directly or indirectly receive agricultural drainage. This document also states that monitoring locations should not be limited to sites where there is substantial dilution, but shall also include sites that represent contaminant concentration levels in tributary streams and drainages, and should be focused on agriculturally dominated water bodies. The inference that is being drawn is Region 5 contemplating to require monitoring sites on water bodies such as drainage ditches and tail-water return systems that are not recognized as meeting the legal definition as "**waters of the State**"? If this is indeed the case, it would in fact exceed the statutory authority of Region 5. WPHA recommends that the foregoing proposed text be clarified to reconcile the site and monitoring parameters be restricted to the legally recognized "waters of the State".

The issue of requiring **additional Total Maximum Daily Load (TMDL) monitoring** by respective Coalitions when the Clean Water Act (CWA) §303(d) listing is due to an agricultural related contaminant is very problematic. It is unclear as to the rationale and justification to require additional monitoring if the §303(d) listed water bodies are already being monitored by other entities as part of an approved TMDL. Has Region 5 staff considered that some TMDLs will not become complete and effective for at least a decade? Would it not be premature to invest time and resources to monitor a §303(d) listed water body prior to an approved TMDL? What if the source of the contamination cannot be identified?

Requiring additional monthly TMDL monitoring would impose an unnecessarily onerous economic burden on the respective Coalitions. Accordingly, WPHA cannot support this proposal, and recommends that the additional TMDL monitoring text found on page 6, par. 2 of the tentative MRP Order be removed.

Capturing the results of a "representative" **sampling of 2 storm events** at each monitoring site annually would impose a tremendous expense on the Coalitions. What would be the contingency plan if there was no measureable amount of precipitation within the respective Coalition's boundary? This issue clearly demonstrates the need for flexibility and consideration of local conditions when developing an effective monitoring strategy. Accordingly, WPHA recommends that the referenced text on page 10, par. 1 be removed.

Thank you for your consideration of WPHA's comments, questions and recommendations concerning the tentative MRP under the Coalition Group Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands. We continue to welcome all opportunities to work with Region 5 in coordination with the Coalitions on this and other important water quality issues impacting irrigated agriculture in the Central Valley.

Sincerely,

/s/ Nasser Dean

Nasser Dean
Director, Environmental & Regulatory Affairs

cc via email: George Gomes, CDFA
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