

**Smith, Megan**

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**From:** Roberta Firoved [rfiroved@calrice.org]  
**Sent:** Friday, 24 September 2010 16:32  
**To:** ILRP Comments  
**Subject:** PEIR Comments to the LT-ILRP  
**Attachments:** CRC Comments LT-ILRP PEIR.pdf

Megan Smith

RE: Program Environmental Impact Report for the Long-term Irrigated Lands Regulatory Program

Please accept the attached comments from the California Rice Commission.

Thank you and best regards,

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CALIFORNIA RICE COMMISSION

September 24, 2010

ILRP Comments  
Ms. Megan Smith  
630 K Street, Suite 400  
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RE: CALIFORNIA RICE COMMISSION (CRC) COMMENTS ON THE PROGRAM ENVIRONMENTAL IMPACT REPORT (PEIR) FOR THE LONG-TERM IRRIGATED LANDS REGULATORY PROGRAM (LT-ILRP)

Dear Ms. Smith:

The CRC represents the state's 2,500 family farmers and marketers who grow and mill approximately 500,000 acres of rice in California. In California, rice grows primarily north of Sacramento in an area that provides winter habitat for migrating waterfowl, shorebirds and 230 species of wildlife. In California, rice is one of the top 20 commodities and contributes one-half billion dollars annually to the state's economy.

We are greatly concerned that every alternative evaluated under the PEIR produces a significant and unavoidable impact on prime, unique and important agricultural lands. All other resource impacts, however, are mitigated.

The impact on loss of agricultural lands is estimated between 9,596 – 249,490 acres (Alternative 2 low, Alternative 5 high). Unfortunately, the Central Valley Regional Water Quality Control Board (CVRWQCB) staff preferred alternative was not scoped in the PEIR, leaving the board, public and regulated community to guess its impact on this important state resource.

Impact of this magnitude is contrary to overwhelming public opinion and developing public policy which seeks to preserve agricultural lands, the value of ecosystems services they provide, and ensure that an adequate supply of locally produced food is available to consumers.

Finally, Mitigation and Improvement Measures outlined in **Chapter 5, Section 5.10.5**, are overly optimistic and funding is inadequate to address the level of costs that are projected to be incurred under any alternative.

Please accept the CRC Staff Report comments from the following:

**Table 2. Top 20 crops by acreage in the Central Valley, 2007**

Rice is given credit with **606,000** acres of production in **2007**. The CRC utilizes the National Agricultural Statistics Service (NASS), under the U.S. Department of Agriculture (USDA), for annual acreage reporting. In 2007, the NASS/USDA report accounted for **534,000** acres planted to rice in Butte, Colusa, Fresno, Glenn, Merced, Placer, Sacramento, San Joaquin, Stanislaus, Sutter, Tehama, Yolo and Yuba Counties. The CRC assumes that the PEIR includes wild rice acreage. Wild rice grain comes from a grass, which is different than the *Japonica*, conventional rice grain-crop the CRC represents. As a statutory organization, the CRC authority extends to mandatory membership of all conventional rice (including organic) production and the mills that handle the commodity. The CRC is a commodity specific coalition bringing continuity to 30-years of managing water quality issues for the industry. Under the LT-ILRP, the CRC membership will remain static. We will not add new members because the regulatory authority of the CRC to represent the entire rice industry remains unchanged.

**Table 4. Management Plan Pesticides: Coalition and Water District Monitoring Data Summary for Sites with Two or More Samples Collected (Per Analyte) between July 2004 and June 2009**

The table includes thiobencarb, a rice-specific herbicide regulated under a prohibition of discharge, the Rice Pesticides Program, through the *Water Quality Control Plan (Basin Plan) for the Sacramento River and San Joaquin River Basins*, by the CVRWQCB. The Rice Pesticides Program is specific to the Sacramento River Basin and includes performance goals for the herbicides thiobencarb, molinate (no longer registered), and the insecticides carbofuran (no longer registered), malathion (less than 500 treated rice acres annually) and methyl parathion (no longer used). In 2004, at the start-up of the ILRP, thiobencarb was on the list of constituents for all coalitions to monitor because the CVRWQCB staff misunderstood that the pesticide registration was exclusive to rice. The UC Davis monitoring results

depicting thiobencarb exceedances were from sample collection within a closed system. That is an irrigation system specifically established to capture and hold early field releases of thiobencarb, which is the same as sampling within a rice field under a water holding requirement. The PEIR cites thiobencarb management under the Rice Pesticides Program and outside the ILRP, so the CRC questions the relevance in including the pesticide in the LT-ILRP.

**Third-party Monitoring Group:**

The CRC is inserting a comment about third-party monitoring because it relates to the previous example that describes collection of thiobencarb samples within a closed system. The example demonstrates that contracting third-party monitoring is not effective in the LT-ILRP because the coalitions have the most expertise to understand field conditions. Persons outside of production agriculture have the misperception that using the coalitions to manage the ILRP and LT-ILRP monitoring programs creates a conflict of interest. Two separate consulting firms handle the monitoring and reporting for the CRC. The consulting firm is the client to the lab so that there is no connection to the CRC, and the laboratory must perform quality control/quality assurance measures as additional safeguards. The results are transferred to the second consulting firm for recording and reporting. The CRC has no ability to collect samples, handle the samples, or the data, and the transfer of information includes communication with the CVRWQCB liaison.

Please accept the CRC **Technical Memorandum** comments from the following:

**Table 2-6. Constituent of Concern Applicability by Land Type**

The CRC finds it troubling that the PEIR relies on information from the Pesticide Action Network (PAN), an advocacy group, rather than the unbiased data from government agencies regulating the registration and use of pesticides. Application of this table is problematic because the constituent does not match the registered use, nor does the list coordinate with the constituents in the currently approved general order for the monitoring and reporting program (MRP) under the conditional ILRP. The list is overwhelmingly incorrect due to the use of an inaccurate advocacy group database, which is problematic because of inconsistencies with the ILRP constituents of concern where the Technical Issues Committee spent resources developing evaluation protocols and methods for analysis.

The CVRWQCB provides the CRC a resolution for a commodity specific MRP. We would hope that the inclusion of **Table 2-6** in the PEIR would not undo eight years of monitoring and reporting, and thousands of dollars of work in defining a commodity specific program with reportable improvements to water quality and the environment.

The following comments are specific to rice:

- Aldrin (Group A)** – Not registered on rice and not a rice pesticide
- Chlordane (Group A)** – Not registered on rice and not a rice pesticide
- Endosulfan (Group A)** – Correct: No rice; not a registered rice pesticide
- Endrin (Group A)** – Not registered on rice and not a rice pesticide
- Heptachlor (Group A)** – Not registered on rice and not a rice pesticide
- Lindane (Group A)** – Not registered on rice and not a rice pesticide
- Toxaphene (Group A)** – Not registered on rice and not a rice pesticide
- Arsenic** – An element monitored under the ILRP, not added to rice
- Azinphos-methyl** – Correct: No rice; not a registered rice pesticide
- Bacteria (fecal coliform/*E. coli*)** – Monitored under the ILRP
- Bifenthrin (in sediment)** – Correct: No rice; not a registered rice pesticide
- Boron** – An element monitored under the ILRP, not added to rice
- Cadmium** – An element monitored under the ILRP, not added to rice
- Carbofuran** – Not registered on rice and not a rice pesticide
- Chlorpyrifos** – Correct: No rice; not a registered rice pesticide
- Copper** – Correct: Registered for use on conventional and organic rice – and an element
- Cypermethrin** – Not shown on the table in the rice column; registration includes rice
- DDD** – Not registered on rice and not a rice pesticide
- DDE** – Not registered on rice and not a rice pesticide
- DDT** – Not registered on rice and not a rice pesticide
- Demeton** – Not registered on rice and not a rice pesticide
- Diazinon** – Correct: No rice; not a registered rice pesticide
- Dieldrin** – Not registered on rice and not a rice pesticide
- Dimethoate** – Correct: No rice; not a registered rice pesticide
- Disulfoton** – Correct: No rice; not a registered rice pesticide
- Diuron** – Correct: No rice; not a registered rice pesticide

- DO** – Physical parameter monitored under the ILRP
- EC** – Physical parameter monitored under the ILRP
- Esfenvalerate** – Correct: No rice; not a registered rice pesticide
- Esfenvalerate/fenvalerate, total** – Correct: No rice; not a registered rice pesticide
- Fenproprathin (in sediment)** – Correct: No rice; not a registered rice pesticide
- Group A Pesticides** – Not registered on rice and not rice pesticides
- Iron** – An element not monitored under the ILRP, not added to rice
- Lambda-cyhalothrin** – Not shown on the table in the rice column; registration includes rice
- Lead** – An element monitored under the ILRP, not added to rice
- Linuron** – Not registered on rice and not a rice pesticide
- Malathion** – Not shown on the table in the rice column; registration includes rice; regulated under the Rice Pesticides Program
- Manganese** – An element not monitored under the ILRP, not added to rice
- Methomyl** – Correct: No rice; not a registered rice pesticide
- Methyl parathion** – Correct: An insecticide that includes rice; regulated under the Rice Pesticides Program
- Molinate/ordram** – Not registered on rice and no longer a rice pesticide
- Molybdenum** – An element not monitored under the ILRP, not added to rice
- Nickel** – An element monitored under the ILRP, not added to rice
- Nutrients** – Monitored under the ILRP
- PCBs** – Not a pesticide – a manufacture chemical banned since 1979
- Permethrin** – Not shown on the table in the rice column; registration includes conventional and organic rice (certified products only)
- pH** – Physical parameter monitored under the ILRP
- Sediment** – Monitored under the ILRP
- Selenium** – An element monitored under the ILRP, not added to rice
- Simazine** – Not registered on rice and not a rice pesticide
- Temperature** – Physical parameter monitored under the ILRP
- Thiobencarb** – Correct: a rice-specific herbicide; regulated under the Rice Pesticides Program
- Toxicity** – Monitored under the ILRP
- Toxicity (algae)** – Monitored under the ILRP

**Toxicity (minnow, flea, algae, sediment)** – Monitored under the ILRP

**Zinc** – An element monitored under the ILRP, not added to rice

The list of 56 constituents shows 37 with rice land use; 17 of the 37 constituents were pesticides, but only 6 pesticides are registered for use on rice, and 3 of the 6 pesticides are regulated under the Rice Pesticides Program; 4 pesticides were not identified with rice, but registered for use on the crop; 12 elements (metals) of which 8 were monitored under the ILRP – none of the elements include rice usage except copper; physical parameters, nutrients, bacteria and toxicity were monitored under the ILRP.

**Table 2-7. Hardware Management Practice Applicability by Constituent**

Under the column, Tailwater Recovery (Field, Pasture, Rice Grain), constituents in this column identified with rice include chlorpyrifos, diazinon, dimethoate, diuron, malathion, simazine, thiobencarb, toxicity and toxicity (minnow, flea, algae, sediment). The CRC understands the table summarizes management practices by constituent and land type use. Under the ILRP, the CRC manages a commodity specific coalition with monitoring specific to rice pesticides. The pesticides chlorpyrifos, diazinon, dimethoate, diuron and simazine are not used on rice. Due to the unique cultural practices of rice production, the crop has no impact on the movement of these chemicals. The list also includes thiobencarb under the columns, Pressure Irrigation (Citrus, Nuts, Trucks, Vines); Sediment Trap, Hedgerow, or Buffer; Cover-Crop or Conservation Tillage. It is unnecessary to include thiobencarb under these headings because it is a rice-specific herbicide. The CRC went to great lengths in educating the CVRWQCB staff on the rationale to remove thiobencarb from the monitoring schedule for other coalitions. The PEIR cites thiobencarb management under the Rice Pesticides Program outside the ILRP, so the CRC questions the relevance in including the pesticide in the LT-ILRP.

Please accept the CRC PEIR comments from the following:

**Chapter 5: 5.8.4 Existing Effects of Impaired Water Quality on Fish; Sources of Information**

In assessing water quality impairments on fish relevant to non-point source runoff within the program area, the assessment includes studies of the potential effects on salmonoids

because these species receive the most study. An example of pesticide use that changes over time includes the bullet, “ For example, molinate (a rice pesticide) was no longer sold or distributed after June 30, 2008.”

During the five-year period (1977-1982), the application of molinate more than tripled on California rice fields. The Department of Fish and Game (DFG) attributed annual carp kills in the surface drains to molinate field releases. Through assessment monitoring, University research, industry involvement, and multi-agency collaboration, management practices such as water holding requirements mitigated all negative environmental impacts of molinate. In 2003, the CRC supported cancellation of molinate with a five-year phase out due to characterization of the herbicide as a human reproductive toxicant for mixers and loaders handling the product. The cancellation took place from 2003 to 2008 with existing stocks used in 2009, and the tolerance (registration) revoked on August 31, 2009. The CRC supported the cancellation as a business decision because substantial resources were necessary to dispute the human toxicological data on an older chemistry with documented resistance to water grass (weed) control. The effects on fish were not in the assessment due to industry management practice implementation starting in 1982. Including molinate as an example in the fisheries section of the PEIR is irrelevant.

**Table 5.8.7. Effects Determinations for Pesticide Active Ingredients on Listed Central Valley Anadromous Salmonids**

The United States Endangered Species Act (ESA) is administered through the Fish and Wildlife Service (FWS), in the Department of the Interior, and NOAA's National Marine Fisheries Service (NOAA Fisheries Service), in the Department of Commerce. These responsibilities include listing and delisting species, designating critical habitat, and formulating recovery plans. In 1988, the U.S. EPA established the Endangered Species Protection Program (ESPP) to promote the recovery of listed species. Under a court order, the U.S. EPA must consult with the FWS and the National Marine Fisheries Services (Services) on the effects of pesticides to endangered species. Unfortunately, the process has been plagued with lawsuits and stipulated injunctions from private interest groups.

In California, the Department of Pesticide Regulation (DPR) coordinates endangered species protection strategies with the DFG, the Department of Food and Agriculture (CDFA), and the county agricultural commissioners in accordance with a State Plan. Alternative protection strategies under this project are subject to U.S. EPA authorization and FWS approval. In 1988, DPR implemented the Endangered Species Project to provide use restrictions in specific geographic areas for protection of endangered and threatened species. Implementing a federal program through the LT-ILRP (or any CVRWQCB program) is outside the jurisdiction of the CVRWQCB.

In addition, the CRC has concerns with the assessment of pesticides found on **Table 5.8.7**. The cited draft Biological Opinions (BiOps) are fraught with erroneous information due to the time the Services took to complete the work. For example, the BiOp for malathion is completely inadequate for rice with an overestimation of actual use. The highest malathion use was on 9,278 treated rice acres (1991), and less than 500 acres annually in recent years (DPR, Pesticide Use Report (PUR). 1989-2008).

The following comments are specific to rice:

**2,4-Dichlorophenoxyacetic Acid** - The herbicide is used on rice, but never reported with this specific formulation. The average rice acreage treated with 2,4-D is less than 20% of the total acres – a small amount in comparison to other crops (DPR, PUR).

**Molinate** – No longer registered for use.

**Thiobencarb** – On the list in the proposed stipulated injunction, but never connected to fish toxicity, which was evaluated by the DFG in collaboration with the CVRWQCB and CDFA from 1977-1982. In 1990, thiobencarb was adopted in the Basin Plan as the data, cited in the proposed stipulation, was developed. Water holding requirements at the field level went into effect to support the secondary maximum contaminant level (MCL) for mitigating a nuisance (taste) in drinking water.

The complainant for the proposed stipulated injunction references the US Geological Services (USGS) study for San Francisco Bay runoff from the Central Valley and local watersheds, "The USGS is studying sediment transported into the San Francisco Bay Estuary from the Sacramento and San Joaquin Rivers, which carry waters from the Central

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Valley where more than 500 different pesticides are used." The citation does not specify a particular USGS report, so the CRC assumes the research was through the San Francisco Bay Estuary Priority Ecosystem Study. The USGS website cites several studies for thiobencarb sampling and monitoring during the 1990s, shortly after the adoption of the Basin Plan to implement mitigation measures for taste complaints.

In California, thiobencarb use has decreased by 75 percent since 1997 (DPR, PUR). Thiobencarb is older chemistry with a niche herbicide for specific weed pressure, which creates a minor use on California rice. Additional thiobencarb use patterns, management practices and product re-formulations have transpired since the 1990s.

The CRC appreciates the opportunity to provide feedback and expects the CVRWQCB to accept our clarifying comments in the final version of the PEIR. We reflect on the fact that the rice industry has the only commodity specific coalition in the state. The CRC has the expertise to maintain a commodity coalition from our knowledge of pesticide regulation and many years managing water quality issues.

Sincerely,



Tim Johnson  
President & CEO



Roberta L. Firoved  
Industry Affairs Manager