



Regional Water Quality Control Board, Santa Ana Region

May 14, 2009

FACT SHEET: Conditional Waiver of Waste Discharge Requirements

for waste discharges from agricultural operations
in the Lake Elsinore / San Jacinto Watershed

Who is the Regional Water Quality Control Board (RWQCB), Santa Ana Region? Regional boards are state agencies responsible for water quality management and protection. The RWQCB, Santa Ana Region, one of nine regional boards in California, is responsible for managing and protecting water quality in the Santa Ana River Basin, including the San Jacinto River and Lake Elsinore watershed. The RWQCB's authority comes from the Porter Cologne Water Quality Control Act, within the California Water Code, and the federal Clean Water Act.

How do the Water Boards manage and protect water quality? Each of the nine regional boards in California adopts a water quality control plan for its region; these "basin plans" include the water quality standards for all waters in a region. Basin Plans are the basis for regulating and managing water quality. Using administrative and regulatory authority granted by the Water Code, the regional boards require collection of water quality information, authorize discharges of waste to waters of the state, and take enforcement actions for violations of their requirements and the California Water Code.

What are Waste Discharge Requirements? Waste Discharge Requirements (WDRs) are the permits adopted by a RWQCB for a specific waste discharge (or type of discharge) to waters of the state. WDRs include limitations on the chemical or physical quality of waste discharges and/or set other conditions on waste discharges to assure that discharges of wastes do not unreasonably affect surface and ground water quality. WDRs are based on the water quality standards established in Basin Plans, and on state-wide water quality control regulations, policies and plans. WDRs almost always include monitoring and reporting requirements.

What is a conditional waiver of Waste Discharge Requirements? The Water Code also gives the RWQCBs authority to regulate waste discharges by formally waiving waste discharge requirements for specific types of waste discharges, provided that certain conditions, established by the regional board, are met. The conditions are designed and are intended to assure that discharges will not cause or contribute to violations of water quality standards.

Is there a problem? The Regional Board knows that in the Lake Elsinore / San Jacinto Watershed, waste discharges from a variety of sources are contributing to pollution in Canyon Lake and Lake Elsinore. This pollution has caused massive fish kills and huge algae blooms. The non-point source¹ (NPS) pollutants responsible for these violations are discharged from urban areas, open space, agricultural activities, transportation facilities and other land uses in the watershed.

¹ Non-point source (NPS) pollutants come from a wide variety of activities and land uses, including agriculture, urban areas, forestry, marinas, highways and other transportation facilities, hydromodification of waterways, etc.

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Massive algae bloom in Lake Elsinore

What's being done about this problem? In response to these violations, the Regional Board adopted separate nutrient [Total Maximum Daily Loads \(TMDLs\) for Canyon Lake and Lake Elsinore](#). The TMDLs are now part of the Basin Plan. The TMDLs are watershed management plans for restoring the water quality of these lakes. In order for these TMDLs to be effective, improvements in water quality management throughout the entire San Jacinto River watershed are necessary. The TMDLs include a variety of tasks that need to be completed in order to achieve the TMDLs' objectives of restoring water quality and preventing or minimizing fish kills and algae blooms. The TMDLs assign key individual stakeholders or groups of stakeholders in the watershed with the responsibility for implementing these tasks. Among other tasks, the TMDLs require water quality monitoring plans, to gauge the effectiveness of the management plan. The TMDLs also require stakeholders to develop problem-specific management plans, such as for nutrient management.

Who are the stakeholders? Stakeholders include the Regional Board, and everyone in the watershed who is responsible for discharging pollutants that affect the quality of Canyon Lake and Lake Elsinore. This includes residents of the watershed, the incorporated cities within the watershed, water supply agencies, the Lake Elsinore San Jacinto Watershed Authority (LESJWA)(a joint-powers authority that represents the Cities of Canyon Lake and Lake Elsinore, Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Santa Ana Watershed Project Authority), other public agencies, including agencies that own or control large land holdings, such as the U.S. Forest Service and the U.S. Air Force, Caltrans, owners and/or operators of dairies and other agricultural operations (represented by Western Riverside County Agricultural Coalition, or WRCAC), etc. Land and facilities controlled by the stakeholders are known to be a source of the NPS pollutants covered by the TMDLs. Collectively, these stakeholders have formed a Lake Elsinore/Canyon Lake TMDL Task Force so that they can work collaboratively, and more effectively respond to the requirements of the TMDLs.

What are the stakeholder's responsibilities? The TMDLs and Basin Plan hold stakeholders responsible for implementing the tasks necessary to reduce the pollutant loads affecting Canyon Lake and Lake Elsinore. In adopting the TMDLs, the Regional Board gave itself responsibility for identifying all stakeholders who are dischargers, including dairies and other agricultural operators. The Board placed financial responsibility for TMDL implementation on the stakeholders who are discharging the pollutants targeted by the TMDLs. Each of the member agencies and parties of the Lake Elsinore/Canyon Lake TMDL Task Force is paying their share of the program costs.

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With stakeholder assistance, Board staff identified dairy operators that are stakeholders in the TMDLs, and the operators are now contributing their share of program costs. Board staff has also identified operators of both irrigated and dry-farmed land, and notified them of their TMDL responsibilities, including sharing the cost of TMDL implementation. WRCAC is assisting Board staff in this effort.

What's being proposed? Board staff is proposing that all operators of irrigated or dry-farmed land, and of other agricultural or livestock operations not already regulated by the Regional Board, enroll in a conditional waiver of waste discharge requirements. Board staff is calling this the Conditional Waiver (of waste discharge requirements) for Agricultural Discharges (CWAD, or "quad") program. The CWAD program will allow the agricultural operators to continue to discharge waste to waters of the state from their operations, provided they also comply with the TMDLs by paying implementation fees, taking steps to implement best management practices (BMPs) to reduce the NPS pollutant load of their discharge, etc. Other conditions, such as regular reporting and water quality monitoring, will apply as well.



Efficient irrigation practices reduce runoff and NPS pollutant discharges

The CWAD program will allow some conditions to be met through the collective action of a group or groups of agricultural operators who are enrolled in the program, or by a third party representing a coalition of enrollees. An example of conditions that could be met by a representative acting for a coalition are monitoring and reporting conditions. The representative could obtain the required information for the group it represents and report the information to the Regional Board. The representative could also collect TMDL fees for payment to the TMDL Task Force. The CWAD program will require that any third party representing enrollees will have to be approved by the RWQCB. Agricultural operators who enroll in the CWAD program but who chose to not be represented by a third party will be responsible for complying with all aspects of the program, including TMDL fee payment, discharge monitoring, reporting to the Regional Board, etc. Agricultural operators who do not enroll in the Conditional Agricultural Waiver will be required to apply for individual waste discharge requirements, and will have full responsibility for their own compliance.

Is there a fee for the CWAD program? At this time, there is no fee for the conditional agricultural waiver proposed for the Santa Ana Region (see California Code of Regulation Title 23 Section 2200.6 (c)²). However, in the future, it is expected that an acreage-based fee will be required for the Santa Ana Region's CWAD program. Currently, annual fees for waivers for discharges from agricultural land adopted by the Regional Water Quality Control Boards for the

² For 23 CCR 2200.6. Annual Waiver Fee Schedules see <http://www.waterboards.ca.gov/resources/fees/docs/adoptedfeeschedule.pdf>

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Central Coast, Central Valley, and Los Angeles Regions have been set at \$100 per farm, plus a fee ranging from \$0.12 to \$0.30 per acre. Similar fees will likely apply in the Santa Ana Region.

Is the regional board authorized to regulate discharges from agriculture?

State Water Resources Control Board policy and the California Water Code require regulation of all discharges of waste to waters of the state. This includes discharges of non-point source pollutants from agricultural operations.

What are the consequences if I don't enroll in the CWAD program or apply for individual waste discharge requirements? Agricultural operators who are required to comply with the CWAD program and don't enroll, and who don't apply for individual waste discharge requirements, will be subject to civil liability of up to \$5,000 per day of violation. In addition, they may also be liable for unpaid TMDL fees.

What's next? Over the next several months, Regional Board staff will be meeting with key stakeholders, and conducting semi-formal public workshops to get ideas about how best to put the CWAD program in place. Possible topics for workshop discussions will include:

- Why is the CWAD program even necessary?
- Are all farming operations going to be covered, or are there exemptions from the program?
- Is there a minimum acreage for the program?
- Have "third party representatives" been formed? Will there be a cost to be represented?
- How is the Regional Board identifying operators who should participate in the CWAD program or obtain individual waste discharge requirements?
- What's the schedule for putting the CWAD program in place?
- How is what's being proposed for the San Jacinto River watershed the same as the other "ag. waiver" programs in the state? How is it different?
- Are all agricultural operations going to be regulated the same – for example, is a farming operation going to be regulated the way same as a livestock operation?

Workshops will be publicized on the Regional Board's website and through stakeholders throughout the watershed.

More next steps... Using what RWQCB staff learns from stakeholder meetings and workshops, staff will prepare for, and conduct, a formal, publicly noticed workshop of the CWAD program at a scheduled Regional Board meeting. All potential enrollees in the CWAD program that are known to the Board will receive a notice of this workshop, and will have an opportunity to participate in it. Using information presented at the Board workshop, staff will produce a final draft of the conditional waiver of waste discharge requirements for agricultural discharges and staff report. The final draft conditional waiver and staff report will be circulated for a public comment period. The conditional waiver will be presented for adoption by the Regional Board at a public hearing during a scheduled Board meeting. Once the conditional waiver of waste discharge requirements is adopted by the Board, affected agricultural operators will be required to enroll in the CWAD program, or to obtain individual waste discharge requirements.

For more information...

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