

Colusa Glenn Subwatershed Program

P.O. Box 1205, Willows, California 95986 Phone (530) 934-8030 Email: colusaglenn@colusa-glenn.com

Local Implementation of the Irrigated Lands Regulatory Program (formerly ag waivers)

Water Advisory Committee March 9, 2010

Conditional Waivers-Dec 2002 to Now

- Central Valley Regional Water Quality Control Board (Regional Board) jurisdiction
- Landowners had 3 options:
 - 1) Join a Coalition and be under its Conditional Discharge Waiver
 - 2) File for Individual Discharge Waiver
 - 3) File a Report of Waste Discharge with Regional Board and receive a Waste Discharge Requirement (permit)
- Regional Board updated/revised Waiver several times, expires June 2011 and will be replaced by Long Term Irrigated Lands Regulatory Program (LT-IRLP)

Coalition Organizations

- 6 Coalitions in San Joaquin Valley
- 2 Coalitions in Sacramento Valley
 - Sacramento Valley Water Quality Coalition (SVWQC), administered by NCWA
 - 11 subwatershed groups cover Sacramento Valley
 - We cover Colusa and Glenn Counties
 - Drainages tied together
 - Economies of scale
 - California Rice Commission
 - Only commodity specific coalition, works with SVWQC

Colusa Glenn Subwatershed Program

- Originally partnered with Colusa Basin Drainage District in 2003-2006
 - Able to get up and running immediately, interim setup
- Now partnered with Glenn County RCD for outreach and management plans and Bond Tax & Financial Services for billing and membership reporting
- Established 501(c)6 non-profit in January 2007
- 5 member Board of Directors
 - 2 from Colusa County
 - Joe Carrancho and Denise Carter
 - 2 from Glenn County
 - Greg Overton and Larry Domenighini
 - 1 at large
 - John Garner

Conditional Waiver Requirements

- Requires owners/operators of irrigated lands to manage their discharges of wastes to surface and groundwater so they do not cause or contribute to pollution.
 - Water quality monitoring plans approved by Regional Board
 - Implementation of management practices to address water quality problems
 - Reporting of monitoring results and management plans to remedy problems

Monitoring Implementation

- Identify areas with water quality problems (establish baseline)
- Move upstream to identify more specific causes
- Determine needs for and implement management practices
- Evaluate effectiveness of management practices
- If management practices are effective, monitoring may be scaled back

Monitoring Results Management Plans

- What is an exceedance and what triggers a Management Plan?
 - When a water sample exceeds the Water Quality Objective (WQO) as set by the Regional Board for that particular Constituent of Concern (COC)- pesticides, nutrients, metals, etc.
 - More than one exceedance for a particular COC in a three year period triggers the need for the development of a management plan to address the causes of that exceedance

Management Plan Basics

- Survey landowners/operators about their current management practices
- If exceedance is due to a pesticide, review reported pesticide use from County Ag Commissioners office
- Educate landowners/operators about Best Management Practices (BMPs) available
- Monitor for implementation/effectiveness of BMPs
- If exceedances still occur, require that additional BMPs be adopted by landowners/operators
- If pesticide, restrict or eliminate use
- Reporting to Regional Board

Monitoring Results

- Most monitoring sites have had multiple exceedances for:
 - Dissolved Oxygen (DO)
 - Pathogen indicators (e. coli)
 - pH
 - Salinity: Total Dissolved Solids (TDS) and Electrical Conductivity (EC)
 - Legacy pesticides: DDT breakdown products
- Most are due to natural conditions and more efficient use of irrigation water

Current Management Plans

- Diazinon Runoff Management Plan for Orchard Growers in the Sacramento Valley
- Stony Creek (Glenn)-Toxicity
 - Management practice surveys (done) and education, Continued monitoring
- Walker Creek (Glenn)-Chlorpyrifos, Toxicity
 - Management practice surveys (done) and education, Continued monitoring

Management plans to develop 2010-2011

- **Colusa Basin Drain:** DO, pH, Pathogen indicators (e. coll), Salinity
- **Freshwater Creek:** DO, pH, Legacy Pesticides (DDT breakdowns), Pathogen indicators
- **Logan Creek:** Pathogen indicators
- **Luriline Creek:** Salinity, pathogen indicators, Legacy pesticides
- **Stone Corral Creek:** DO, pH, pathogen indicators, Salinity

Management plans to develop 2010-2011 (cont)

- **Sycamore Slough:** DO, pH, Legacy pesticides, pathogen indicators, Salinity
- **Walker Creek:** (other than Chlorpyrifos) DO, Ph, pathogen indicators, Toxicity

Long Term Irrigated Lands Regulatory Program (LT-IRLP)

- Current waiver expires June 2011
- Workgroup developed 5 alternatives
 - Regional Board Staff
 - Agricultural groups
 - Environmental justice groups
- Details of alternatives in *Watershed Coalition News-Groundwater Special*
- Alternative 1 is "no change" option for EIR

Alternative 2: 3rd Party Lead

- 3rd party is lead entity (Coalition, Commodity group, etc.)
- Management Plans required where problems identified
- Regional groundwater quality management plans required with an option for local groundwater management plans (AB 3030, SB 1938) if Regional Board approves
- Tracking of management practices

Alternative 3: Individual Farm Water Quality Management Plans (FWQMP)

- Regional Board is lead entity
- Landowners/operators develop and implement individual FWQMPs within 2 years
- Monitoring of management practices (inspections and tracking)
- Additional monitoring (surface and groundwater) to be determined on a case-by-case basis

Alternative 4: Direct Oversight with Regional Monitoring

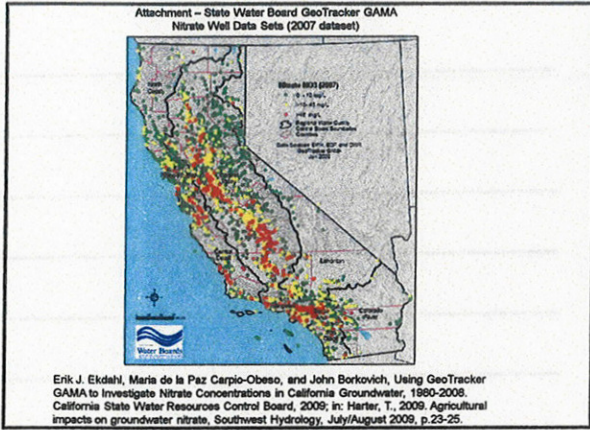
- Regional Board or legal entity is lead agency
- Individual FWQMP
- Mandatory education program
- Monitoring:
 - Individual farm water quality monitoring and/or 3rd party run regional monitoring program
 - Tracking and reporting of management practices, nutrients, pesticides
 - Inspections by Regional Board staff

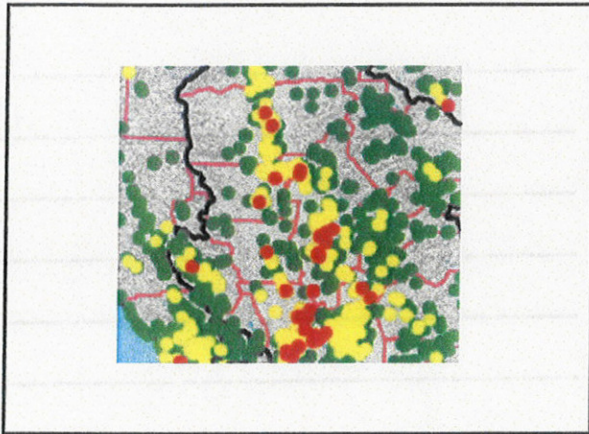
Alternative 5: Direct Oversight with Farm Monitoring

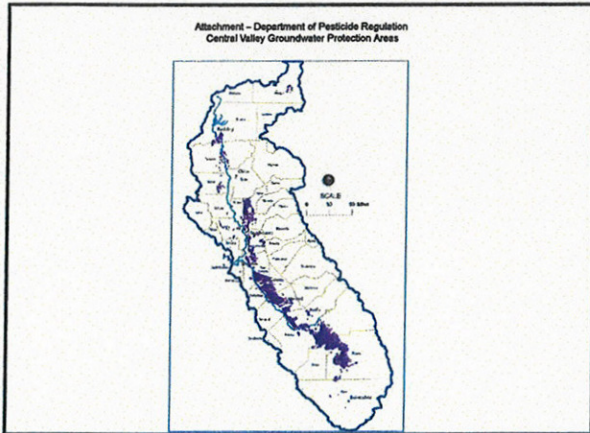
- Regional Board is lead entity
- Individual FWQMPs
- Nutrient Management Plan
- Farm Based Monitoring
 - Tailwater, stormwater, tile drainage
 - Existing well testing
 - Additional monitoring wells as needed
 - Tracking and reporting of management practices, nutrients, and pesticides

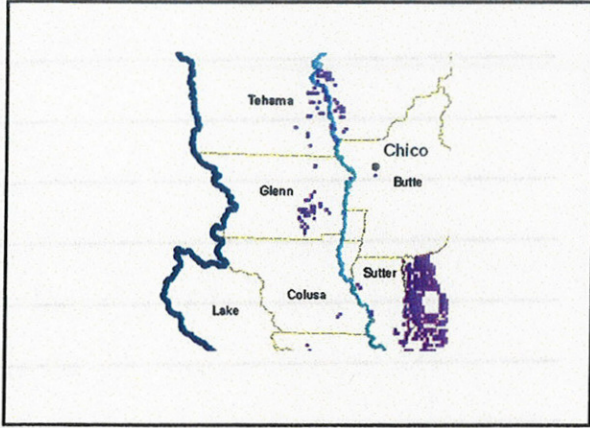
Next Steps

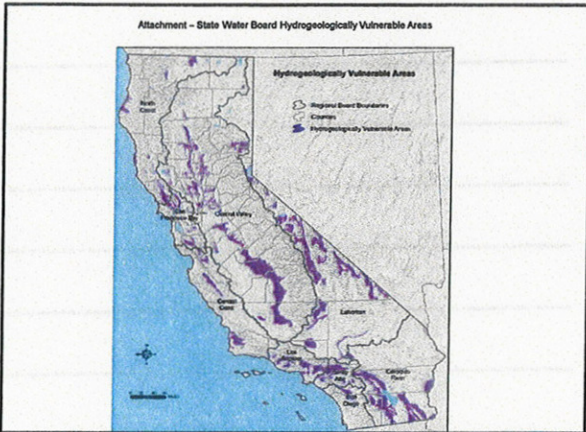
- **Winter 2009/2010:** Regional Board staff drafts EIR
- **Spring 2010:** Draft EIR released, draft recommended Long Term Program, public meetings
- **Fall 2010:** Final EIR and recommended Long Term Program
- **Winter 2010/2011:** Regional Board hearings and adoption
- Will need "political output" by landowners/operators











**GLENN-COLUSA IRRIGATION DISTRICT
PROVIDENT IRRIGATION DISTRICT
PRINCETON-CODORA-GLENN IRRIGATION DISTRICT**

January 11, 2010

Steve Soeth
Glenn County Board of Supervisors
525 W. Sycamore Street
Willows, California 95988

Leigh McDaniel
Glenn County Board of Supervisors
525 W. Sycamore Street
Willows, California 95988

Re: Draft Water Transfer Guidelines

Dear Steve and Leigh:

We are sending this joint letter to advise you of the views our Districts share about the Water Transfer Guidelines (Guidelines) pending before the Water Advisory Committee.

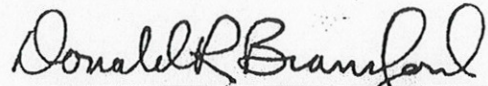
Our managers have been participating in all of the substantive discussions on the Guidelines, and have provided comments. We are not completely comfortable with the current direction, however. Our attorneys have reviewed the most recent draft of the Guidelines, and we are providing the enclosed outline of our primary concerns to County staff today.

We understand that the intention of the WAC staff is to bring a draft ordinance to you this spring. It is appropriate at this point, however, to let you know about the current issues. We hope that as we continue to work with the staff and the other members of the WAC, that we will be able to find a workable solution that addresses the County's interests in assuring protection of the water resources available in the area and the rights of our Districts and our landowners.

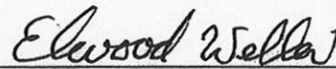
Steve Soeth
Leigh McDaniel
January 11, 2010
Page 2

We will continue to keep you informed. In the meantime, if you have any questions, or comments, please do not hesitate to contact any of us.

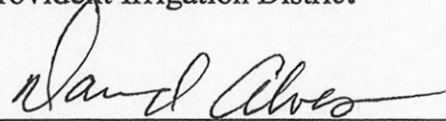
Sincerely yours,



DONALD BRANSFORD, President
Glenn-Colusa Irrigation District



ELWOOD WELLER, President
Provident Irrigation District



DAVID ALVES, President
Princeton-Codora-Glenn Irrigation District

cc: Andrew Hitchings
J. Mark Atlas

MEMORANDUM

To: Thad Bettner
Lance Boyd

From: J. Mark Atlas
Andrew M. Hitchings

Subject: Draft Glenn County Export Water Transfer Guidelines (dated Dec. 11, 2009)

Date: January 11, 2010

As requested, we have reviewed the above-referenced draft Guidelines. This memorandum provides our initial comments, questions and concerns associated with the draft Guidelines. Given the nature of our comments, we believe it would be prudent for the County Counsel's office to thoroughly review the draft Guidelines for legal sufficiency before any significant additional effort is undertaken on them.

1. The December 11, 2009 draft is labeled "Guidelines," but in many places it reads like an initial draft ordinance. Which is it?
2. State pre-emption. It appears the County intends to regulate and approve the substantive terms of water transfers between willing buyers and sellers (as opposed to exercising its police powers under a lawful groundwater ordinance). There is a significant legal question as to whether State law has pre-empted such County regulation of water transfers.
3. Federal pre-emption. Section 3405(a) of the Central Valley Project Improvement Act (CVPIA), and provisions of settlement and water service contracts implementing the CVPIA, control, authorize and grant the right to transfer CVP water. Section 3405(a)(1) establishes a process for Department of Interior Secretarial review of proposed project water transfers. The County may have a right to participate in that federal review process, but has no right to establish guidelines or charges that will impair the rights of contractors or their landowners to utilize the provisions Section 3405(a) of the CVPIA.
4. The Guidelines fail to acknowledge the limitations that exist on the County's ability to regulate the water transfer activities and actions of special districts within the district's boundaries.
5. The proposed fee provisions in the Guidelines present numerous areas of concern, including, but not limited to, the following:
 - (a) There is a significant question as to whether the County must comply with the procedural and substantive provisions of Proposition 218 before imposing any of the proposed fees.

- (b) In any event, all of the fees must prove their relationship to the actual costs the County would incur, and the fees cannot exceed the costs of County services.
 - (c) In the "Document Review" section, for instance, regarding the flat \$2,500 fee for "Document Review," an additional level of scrutiny is what work must the County do in reviewing documents? How much of this work will be duplicative of review done by others? What is meant by, "If the program proceeds, this cost will be absorbed into the overall program fees?"
 - (d) The Guidelines are not clear on the purpose of the fees. The opening section of "Part 2" talks about loss of economic benefits to the county of transferred water. *If* there is a mitigation element to the fees, that is inappropriate for a groundwater substitution transfer since there will be no reduction in economic activity in the County.
 - (e) In addition, the Guidelines suggest that the fee schedule will be \$2,500 *for each acre* (for instance, \$2,500 for transfers involving 0 to 1,999 acres).
6. With respect to groundwater substitution transfers, why does the county assume that the mechanism established in chapter 20.03 of the Glenn County Code (Groundwater Management) will not protect, and, if necessary, bring to the attention of the WAC and Board of Supervisors, any Basin Management Objective (BMO) issues?
 7. Related to Number 6, there is no need for preliminary document review of a groundwater substitution transfer. If problems with BMOs develop, chapter 20.03 provides the necessary corrective mechanisms. At most, perhaps the transferor should file a notice with the County of the transfer but, because there would be no work necessary on the part of the County, there should be no fee.
 8. The section entitled "Part 4: Guideline and Legal Principles" is irrelevant. The section begins by citing Water Code §1810 *et seq.* Those code sections address entities that may have availability of excess conveyance capacity to facilitate transfers by wheeling water. The County has no jurisdiction under that statutory scheme. The remainder of Part 4 appears to be a repetition of DWR and /or USBR policies. Those policies may be relevant to some transfers, but they are *not* relevant to a County policy.
 9. In several areas, the Guidelines appear to require the inclusion of specific terms and conditions in the actual water transfer agreements between sellers and buyers (*See e.g.* page 4, "Any water transfer agreement . . . needs to expressly recognize the legal protections afforded the seller's underlying water rights"; page 7, "The details of the proposed water management operations will be included as contractual commitments in the water purchase agreement . . ."). Does the County intend to control the negotiated terms of transfer agreements?