

Southern San Joaquin Valley Water Quality Coalition

MEMBER AGENCIES:

*Buena Vista Water Storage District
Kaweah and St. Johns Rivers Association
Kaweah-Delta Water Conservation District
Kern County Water Agency
Kern Delta Water District
Kings River Conservation District
Navalencia Resource Conservation District
Kings River Water Association
North Kern Water Storage District
Tule River Association*

2004 Annual Report

The Coalition and the Past Year

Ten water agencies continue to be members of the Southern San Joaquin Valley Water Quality Coalition. This Second Annual Report includes activities and issues that occurred during calendar year 2004. The participating agencies at the conclusion of 2004 included the:

- Buena Vista Water Storage District
- Kaweah and St. Johns Rivers Association
- Kaweah-Delta Water Conservation District
- Kern County Water Agency
- Kern Delta Water District
- Kings River Conservation District
- Kings River Water Association
- Navalencia Resource Conservation District
- North Kern Water Storage District
- Tule River Association.

DEALING WITH ISSUES

For areas in which irrigated agriculture plays a dominant role throughout the Central Valley, the conditional agricultural discharge waiver and its related matters dominated the water quality arena throughout 2004, as they have done since the Coalition was organized in 2002.

The Coalition did continue to monitor developments, including Aquatic Pesticide Permit issues continuing from the Talent (Oregon) Irrigation District case, development of Total Maximum

Daily Loads (TMDL) under the Clean Water Act, and the State and Regional Water Quality Control Boards' Section 303-D list of impaired waterways.

The Coalition is committed to preservation and protection of water quality in the southern San Joaquin Valley. The Coalition continues to believe that a collective watershed approach can most effectively deal with difficult and complex water quality issues in the Tulare Lake Basin. The Tulare Lake Basin is hydraulically unique and distinct from other basins in the State that drain to the Sacramento-San Joaquin River Delta.

Coalition's Purpose:

The Coalition's participating agencies pledged at the time of organization to pursue creative solutions to water quality issues affecting associated southern San Joaquin Valley watersheds. Their goal, then and since, is to protect and preserve the quality of water supplies and associated water rights of Coalition members and those they serve.

Organization, Governance and Administration:

The Coalition is organized under a Memorandum of Understanding, adopted in the summer of 2002, to jointly and cooperatively address water quality-related issues. The Coalition's initial term and funding arrangement was for one year. The MOU was subsequently extended and amended to permit members to selectively participate in some activities.

BUDGET ADOPTION & PARTICIPATION

The Coalition fiscal year begins October 1. The Coalition adopted an annual budget for general activities during the 2004-05 fiscal year of \$90,000. An additional \$12,000 was approved for legal expenses.

In October 2004, the Friant Water Users Authority gave notice of its intent to withdraw on the basis that individual member districts in the FWUA would be better served in water quality matters as members of sub-watershed units. The Coalition's budget total was not affected but it was reorganized under the following formula of member responsibility:

Buena Vista Water Storage District	5.72%
Kaweah and St. Johns Rivers Association	14.30%
Kaweah Delta Water Conservation District	14.30%
Kern County Water Agency	11.44%
Kern Delta Water District	5.72%

Kings River Conservation District	14.30%
Kings River Water Association	14.30%
Navalencia Resource Conservation District	*
North Kern Water Storage District	5.72%
Tule River Association	14.30%

* — *Navalencia is included in the Kings River sub-watershed.*

GOVERNANCE

The Coalition's governance structure remained unchanged, as did the officers. The Coalition:

- Is directed by a Steering Committee comprised of one representative of each member agency. The Steering Committee, in turn, elects a Coordinator. David Orth of the Kings River Conservation District serves as Coordinator.
- Has a Technical Committee that reviews issues and provides advice as requested by the Steering Committee. Lyn Garver of the Kings River Conservation District chairs the Technical Committee.
- Receives legal advice and direction from a Legal Committee composed of counsel from the member agencies.

CONSULTANT

William Thomas, a Sacramento attorney specializing in water quality matters, continues to serve as the Coalition's consultant.

FISCAL AGENT

The Kings River Conservation District is designated as the Coalition fiscal agent, to pay all Coalition bills approved by the Steering Committee and invoice each member for its share of the expenses.

Issues and Actions

Ag Discharge Waiver Issue:

INTRODUCTION OF 2004 EVENTS AND ACTIVITIES

The agricultural discharge waiver issue, which dominated the Coalition's first year of operation, again was the focal point of Coalition discussions and deliberations in 2004. Also during the year, considerable effort was directed toward establishing four sub-watershed groups within the Coalition representing the Kings, Kaweah, Tule and Kern rivers to meet the requirements of the State Water Resources Control Board and Regional Water Quality Control Board Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Ag Lands. Extensive water quality monitoring programs were also established for each sub-watershed.

BACKGROUND AND PREVIOUS AG DISCHARGE WAIVER ACTIONS

In 1969, California's Legislature approved the Porter-Cologne Water Quality Act. Three years later, Congress enacted the federal Clean Water Act. In 1982, the Central Valley Regional Water Quality Control Board, which has rulemaking authority over some seven million acres of cropland, adopted general waiver conditions for discharges from irrigated agricultural lands. In 1999, the California Legislature amended the state Water Code to require that all waivers – including the ag discharge waiver – in effect as of January 1, 2000 would “sunset” on January 1, 2003. Future waivers were to be limited to a maximum of five years.

The situation flared into a major issue with the environmental community taking aim on irrigated agriculture. In November 2000, a petition was filed by DeltaKeeper and NRDC asking the Regional Board to immediately rescind the ag discharge waiver then in effect. Ten months later, the Regional Board denied the petition but in early 2002 the Regional Board asked that a voluntary water quality monitoring program be initiated within local watersheds. As a major political issue in the making, the ag discharge waiver program hastened the formation of the Southern San Joaquin Valley Water Quality Coalition.

A series of actions regarding new ag discharge waivers began in December 2002 when the Regional Board approved a 3-year conditional waiver, effective January 1, 2003. Less than four months later, the Regional Board staff issued a new conditional waiver plan that went far beyond the Regional Board's original action and was obviously aimed at strictly regulating ag discharges on a farm-by-farm basis. In July 2003, the Regional Board cancelled the previous December's action and adopted still another plan for conditional waivers with certain reporting and discharger identification requirements. In October 2003, the State Water Resources Control Board decided not to immediately require submission of personal information about farmers and farm operators in connection with ag discharges. The Coalition submitted the required Notice of Intent by the November 1, 2003 deadline, which did not include information on individual dischargers.

STATE BOARD ACTION AND GENERAL COMPLIANCE DURING 2004

The year was filled with extensive implementation work carried out at both the Coalition and sub-watershed level. By year's end, the Chairman of the Regional Board commended the Southern San Joaquin Valley Water Quality Coalition and other watershed coalitions, noting the progress made over the past year. The comment was encouraging because Regional Board officials had been initially reserved in their observations about local and regional compliance and implementation activities.

The year began with a final decision by the State Water Resources Control Board in response to seven petitions from various groupings of environmental and agricultural interests. These petitions challenged certain legal and factual matters related to the July, 2003 conditional waiver issued by the Regional Board. On January 22, 2004, the State Board issued a final order in response to these petitions, concluding that the Regional Board acted appropriately, with certain exceptions, in adopting the waiver and monitoring requirements for irrigation return flows and

storm water runoff. Among these exceptions, the State Board determined that it was not appropriate to require Coalition Groups to identify their members. Coalition Groups were directed to compile lists of Participants who had knowingly elected to participate, with contact information and information on location within six months of the Order. The Regional Board was directed to request membership information where monitoring data shows exceedance of water quality standards or evidence of other violations of the Waiver.

Under the action, farmers and farm operators were left with three options:

- Seeking an individual discharge permit from the Regional Board and being subjected to strict plan development and water monitoring requirements at a potential annual cost of thousands of dollars.
- Signifying intent to comply as an individual with the ag discharge waiver, also at a potential annual cost of thousands of dollars.
- “Knowingly electing” to join a sub-watershed group.

Differing approaches were taken by the four primary river systems represented within the Coalition in regard to the formation of sub-watershed coalitions that landowners could join. The Kings and Kern river agencies encouraged individual landowners to sign up without charge, a process that continued through the rest of 2004. Within the Tule River sub-watershed, the various water districts agreed to be the Participant representing the landowners within the district of the basin sub-watershed group. Kaweah landowners were charged an initial assessment of \$100 per entity to cover monitoring and implementation costs in that sub-watershed. Details on compliance efforts and activities were complicated by inconsistencies between the State Board order and the Regional Board resolutions.

The Coalition approach was among the first coalition groups to be deemed acceptable. On September 16, 2004, the Regional Board gave notice that the Coalition met the Regional Board’s requirements but with some conditions. During the fall, sub-watershed monitoring-technical review committees began to be organized.

Meanwhile, the Coalition submitted a required April 1, 2004 report which included a watershed evaluation, quality assurance and a monitoring plan. The watershed evaluation included the Friant Water Authority service area and Navelencia Resource Conservation District territory into the Coalition’s mapped area. The April 1 reports from developing watershed groups generated a great deal of review by state officials as well as public comment. By early summer, the environmental community had attacked filings made by the Coalition and similar groups around the Central Valley Region as wholly inadequate.

As summer arrived, the Coalition became engaged with the Regional Board and State Board and their staffs regarding the implementation process. Implementation issues continued, ranging from definitions of discharge and discharger to certain monitoring program issues and the proposed collection of fees. State Board staff formed a Public Advisory Committee of stakeholders to discuss issues and status of implementation. The Coalition actively participated in these meetings.

MONITORING PROGRAM

Perhaps the most important Coalition activity of 2004 was to establish and implement a surface water monitoring and data collection program.

In the wake of the State Board's January 22, 2004 order, Coalition member agencies began working toward establishment of monitoring sites. Monitoring began in July 2004 at locations along the Kern, Tule, Kaweah and Kings rivers. Four monitoring sites were established on the Kings River, with four locations on the Kaweah River, two sites on the Kern and six monitoring sites were designated in the Tule River sub-watershed. All were tested during the shortened irrigation seasons in 2004 (July through September). One sediment sample was taken on each river at the end of the irrigation season. Two additional tests of storm water runoff were being planned for early 2005. Monitoring results for 2004 are summarized in a separate annual Monitoring Report. Preliminary results of monitoring reflected very good water quality throughout the Tulare Lake Basin watershed.

A Coalition technical committee, formed to examine data collected from the monitoring and sub-watershed technical committees, began making analysis of monitoring results on the four river systems. Coalition leaders also participated in the Regional Board's Technical Issues Committee, chaired by Dr. Karl E. Longley, a Regional Board member, now a research engineer with the California Water Institute.

Sub-watershed technical advisory committees were also organized to evaluate monitoring results, assess and evaluate best management practices and coordinate communications with growers if monitoring should suggest a need for more advanced best management practices on a specific property.

The Coalition also monitored and addressed water quality sampling being conducted by other interests, including samples taken by the University of California, Davis, under contract with the State Water Resources Control Board and the Regional Board's Surface Water Ambient Monitoring Program.

CONDITIONAL AG WAIVER IMPLEMENTATION FEE PROPOSAL

In October 2004, continuing a trend among state regulatory agencies pressed for revenue under austere state budgets, the State Board proposed a fee to cover costs of implementing and administering the ag waiver program. The Board was directed by the State Legislature in passage of the 2004-05 budget to generate \$1.9 million in revenue starting in June 2005. The State Board staff proposed to assess a fee of approximately 30 cents per acre on all irrigated ag

lands in the Central Valley. Coalition members adamantly opposed the state fee proposal as being counter-productive to the voluntary sub-watershed coalition process.

By year's end, a decision on fees had not been made. The State Board staff developed several alternatives based on input from various coalition groups, including a tiered fee structure; for coalitions or groups that collect fees from their participating growers, the fee is \$100 per coalition or group, plus 12 cents per acre. For coalitions or groups that do not collect fees, each participating grower must pay a base fee of \$100, plus 20 cents per acre. For individual growers, the charge is \$100 plus 30 cents per acre. The Coalition developed and advanced an alternative fee for service contract approach. The final fee structure will be established by the State Board at hearings scheduled for May, 2005.

LITIGATION INVOLVEMENT

During the spring of 2004, the Coalition considered becoming part of the *Deltakeeper-NRDC-Ocean Conservancy-Environment California and California Sportfishing Protection Alliance vs. Regional Water Control Board and State Water Resources Control Board* case. That litigation was brought by an environmental organization against the State Water Resources Control Board in an attempt to overturn the new conditional agricultural waiver process. By July, the Coalition joined the litigation and by year's end a number of motions were being made. More significant activity was not anticipated until at least the spring of 2005.

Other Issues:

Although the ag discharge issue's mandates compelled attention and commanded nearly all of the Coalition's attention, Coalition members agreed that a host of other important water quality questions remain to be dealt with.

The Coalition monitored developments in issues such as Aquatic Pesticide Permit issues continuing from the Talent Irrigation District case, Total Maximum Daily Loads (TMDL) under the Clean Water Act and the State and Regional Water Quality Control Boards' Section 303-D list of impaired waterways.

Public Affairs

Outreach:

Given the significance and potential impacts of the ag discharge issue and other water quality concerns, the Coalition and its members regularly took their message to affected audiences.

MEETINGS AND WORKSHOPS

Dozens of presentations were made during 2004 on behalf of the Coalition to growers, landowners, organizations and agencies to improve understanding of the conditional agricultural water discharge waiver and compliance obligations. Individual Coalition members produced and circulated newsletters and other information about the issue. In February, the Coalition provided briefings at a Plant and Soil Conference in Visalia and a California Pesticide Applicators (CAPCA) workshop, also in Visalia. In March, the Coalition discussed the ag discharge waiver at an IFDM meeting in Bakersfield and during a conference for the Asian community sponsored by the Fresno County Farm Bureau. In October, the Coalition was a featured presenter at the annual CAPCA conference in Anaheim. In November, the Coalition participated in a panel discussion on the ag waiver issue at a meeting of the California Watershed Coalition in San Diego and spoke at a meeting of the California Treefruit Agreement in Parlier.

Grower presentations and membership sign-ups for the Kings River sub-watershed were conducted with the James Irrigation District in February, the Alta Irrigation District in June, the Consolidated Irrigation District in May, and the Laguna Irrigation District in September.