



Press Release

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Contact:

Bill Jennings, CSPA, C-WIN, (209) 464-5067, deltakeep@me.com

Mike Lozeau, Lozeau/Drury LLP, (510-836-4200), Michael@lozeaudrury.com

GROUPS APPEAL AGRICULTURAL WAIVER AND EIR Oppose ‘license to pollute’ for farmers

Stockton, California – The California Sportfishing Protection Alliance (CSPA) and California Water Impact Network (C-WIN) have appealed the extension of the Irrigated Lands Regulatory Program (ILRP) Waiver and the ILRP Program Environmental Impact Report (EIR) adopted by the Central Valley Regional Water Quality Control Board (Regional Board) to the State Water Resources Control Board (State Board). The “waiver” exempts irrigated agriculture from having to obtain Waste Discharge Requirements for pollutant discharges to surface and ground waters. The Regional Board again extended the waiver for two years at its 9 June 2011 meeting. The 11 July 2011 appeal alleges that the Regional Board egregiously violated numerous laws and regulations, including: the California Environmental Quality Act (CEQA), Porter-Cologne Water Quality Control Act (Porter-Cologne) and California’s Non-point Source Control and Antidegradation Policies.

CSPA/C-WIN also sent a 12 July 2011 letter to the State Board informing them that if it fails to take immediate action to consider the appeal within ten days, the groups intend seek a writ of mandate from the Superior Court to compel compliance with the California Administrative Code. The State Board has a history of stalling and delaying consideration of appeals brought before it. The administrative appeal is a necessary precursor to litigation.

“Pollutant discharges from irrigated agriculture are the largest identified source of pollution to Central Valley waterways. It has turned our rivers into sewers, is a threat to public health and has been identified as a principle cause of the collapse of Central Valley fisheries,” said CSPA Executive Director Bill Jennings. “The waiver extension continues to shield irrigated agriculture from reasonable rules applicable to everyone else and essentially protects polluters from the law rather than protecting our waterways from polluters,” he said.

The waivers require farmers to join third-party coalitions that conduct some regional water quality monitoring. Where multiple exceedances of water quality standards are identified, management plans are required that describe the voluntary efforts coalitions will undertake to address problems. However, coalitions shield the identities of actual dischargers from the

Regional Board and, consequently, the Board doesn't know who is actually discharging, what pollutants are being discharged, the localized impacts to receiving waters, whether management measures are being implemented or if implemented measures are effective in reducing pollution. After almost a decade, the Board cannot quantify or document a single pound of pollution prevented from entering surface or groundwater.

The Regional Board justifies the two-year extension as necessary to allow time to develop a number of specific orders or waivers applicable to coalitions or commodity groups. However, the overarching program framework will continue to cede management to third-party industry controlled coalitions, preclude monitoring of actual discharges or measures to control pollution and prevent the Board from identifying and enforcing against bad actors.

"The Regional Board, in its efforts to allow agricultural dischargers to continue business as usual, seems oblivious to the crisis in our waterways," said C-WIN President Carolee Krieger. "Every Californian has a right to clean water and its unacceptable to allow agribusiness to continue to use our rivers to dispose of toxic wastes," she said.

The EIR is an egregiously deficient document that fails to provide a project description or identify the environmentally superior alternative. It assumes that all alternatives are equally effective. All of the identified alternatives contain a multitude of poison pills and violate numerous state laws. The document is resplendent with flawed analyses lacking evidentiary support, including a seriously inadequate economic analysis. It ignores numerous impacts that are required to be analyzed, including recreation, aesthetics, cultural, public health and cumulative impacts.

Mike Lozeau, an attorney at Lozeau/Drury LLP, observed that, The Environmental Impact Report is perhaps one of the most deficient EIRs he has reviewed," and said "The Regional Board has once again acceded to pressure from California's powerful farm lobby and is allowing agricultural pollution to run unchecked into Central Valley rivers and streams in conflict with their duties as a regulatory body and protector of the public interest."

More than 120 fishing, environmental and environmental justice organizations across the state joined CSPA and C-WIN in opposing the certification of the EIR and renewal of the waivers at both the 7 April 2011 and 9 June 2011 Regional Board hearings on the issue.

CSPA is a 501(c)3 non-profit public benefit conservation and research organization established in 1983 for the purpose of conserving, restoring and enhancing the state's water quality, wildlife and fishery resources and their aquatic ecosystems and associated riparian habitats.
www.calsport.org

C-WIN is a non-profit California Corporation that promotes the equitable and environmental use of California's water, including instream uses, through research, planning, public education and litigation. www.c-win.org