

April 22, 2016

To: PNSSNS Irrigated Lands Regulatory Program members

From: PNSSNS Board of Directors

Re: **URGENT NOTICE- NEED YOUR SUPPORT TO REDUCE THE REGULATORY BURDEN !!!!**

Many of you have asked us over the past years how you can help us stop or reduce the regulatory burden and reduce the costs of this program which largely makes no sense. Now is the time to sign and send letters and be heard! Wait until you hear below what the State Water Quality Control Board is proposing and the comment period ends at 5pm on May 18th, 2016. More importantly, please show up in Sacramento for the **May 4th workshop, sign in and be counted as being opposed.** Please read carefully and forward your comments to the State Water Board and copy to your Board of Supervisors, local legislators, organizations and people who care about farm fresh foods. Please cc. Pnssnsubwatershed@gmail.com so we can track the comments as well.

Current requirements:

The Central Valley Regional Water Quality Control Board (CVRWQCB) regulates the Irrigated Lands Regulatory Program (ILRP) since 2003. **The Placer-Nevada-South Sutter-North Sacramento (PNSSNS) Subwatershed group** works with the Sacramento Valley Water Quality Coalition to collect our information, coordinate the water quality monitoring and coordinate the reporting requirements for 13 subwatersheds in the Sacramento Valley. Our groups have been required to pay millions of dollars on this program including members from many economically disadvantaged communities. PNSSNS alone has collected over one million dollars from the 510 members in our group and the costs are drastically rising and out of control.

Next, the Sacramento Valley Water Quality Coalition reports our information to the Central Valley regional waterboard. Members currently pay four layers of cost from this Irrigated Lands Regulatory Program; (1) farmer /rancher labor/ costs for developing information and multiple reporting requirements down to what you are doing on every parcel, where your well is located, what type of irrigation, what crops do you grow and how much nitrogen and pesticide you use, if any, etc. (2) farmer /rancher must report to PNSSNS which assists local members to be compliant, coordinates education and outreach, collects information, works on your behalf and sends some information to the Sacramento Valley Water Quality Coalition, (3) the Sacramento Valley Water Quality Coalition collates all the information from the 13 subwatersheds and reports to the Central Valley waterboard in addition to completing multiple million dollar plans required by the Central Valley waterboard, and (4) the Central and State Water Boards collect a per acreage fee from every acre a member owns/ manages to pay for the cost of government the government created from this regulatory

program. Four levels of costly reporting all paid by farmers or ranchers and what has been the result??? Excellent water quality results yet the regulations and costs keep skyrocketing; there are no checks and balances with state government for this program at all.

PNSSNS has monitored the waters for 12+ years for any potential agricultural pollutants, even Legacy pesticides that haven't been used for fifty years, current pesticides approved by the State of California, metals, toxicity, bacteria and sediment. The Central Valley board has completely disregarded the fact that wildlife and natural metals and sediment movement occur naturally in the watershed. The waterboard ignores the fact low flows in creeks and drainages especially in late summer can cause dissolved oxygen exceedances which have nothing to do with something a farmer causes nor can correct. Nonetheless, they continue to require PNSSNS and others to continue costly monitoring and reporting whether agriculture is a contributor or not. In fact, the Central Valley waterboard adds testing requirements whether it is warranted or not. Again, there is no one looking at the waterboards requirements or practices, no checks and balances in the CA system.

PNSSNS submitted a **Reduced Monitoring and Management Verification Option Plan** June 2015 (as allowed under the waterboard's Waste Discharge order R5-2014-030) and still have not had it approved. PNSSNS has repeatedly asked the regional board for approval and was granted a meeting in October 2015 and then PNSSNS hosted a tour of the western most subwatershed April 2016. No matter how much information PNSSNS provides, the regional board asks for more and seems to change the rules or requirements as they desire. Members are paying for the government that created this program regardless of the excellent water quality data!

PNSSNS has a history of excellent water quality as demonstrated by thousands of tests over the 12 years, has a predominance of low intensity agriculture and limited to no pesticide use amongst most members. Nonetheless, the Central Valley waterboard staff seem to keep changing the requirements and refuse thus far to grant approval to PNSSNS for a recognition of low threat and Reduced Monitoring / Management Verification Plan approval. PNSSNS is not alone in this situation.

Urgent- Proposed additional regulatory requirements by the State Water Board:

So it gets worse and this is what we need all your help with including your friends, families, agricultural customers, county Board of Supervisors, legislators, farmer/ rancher organizations and anyone that likes high quality, fresh food and open space that supports an abundance of wildlife AND clean water.

The State Water Quality Control Board which regulates water rights has recently taken over water quality control responsibilities in California. After further lawsuits from radical environmental groups that continue to sue the State of California, the State Water Quality Control Board has stepped into the Central Valley waterboard's Irrigated Lands Regulatory Program with many new and VERY invasive requirements.

The current DRAFT Order (February 8, 2016, State Water Board SWB/OCC files A-2239(a)-(c)) is for East San Joaquin Coalition which is in line for additional regulations first, before the Sacramento Valley Water Quality Coalition area gets regulated.

The State Water Board has written per their Fact Sheet, “The Proposed Order would directly affect growers that are members of the East San Joaquin Water Quality Coalition. **The Proposed Order would also give direction to the Central Valley Water Board and the other Regional Water Boards to update their irrigated lands regulatory programs to be consistent with the Proposed Order**”. So once again, the waterboards are proposing a “one size fits all” approach with complete disregard to small growers, low threat or low vulnerability areas or crops and disregard for the excellent water quality results from 12+ years of monitoring under this program.

The State Board is specifically requesting comments on the proposed Order with three alternatives to reporting requirements, yet all **the alternatives create uniform (annual) reporting requirements for ALL members regardless of vulnerability designation**. This is not even necessary according to 12 years of costly, yet good water quality results, and **will cost each grower thousands of dollars** in certified plans and reporting regardless of small acreage, regardless of low vulnerability/ low threat to water quality, regardless of minimal to no pesticide use, regardless of irrigation efficient systems and drip or micro-jet irrigation, regardless of economic impact to low income growers in disadvantaged communities and complete disregard for all the best management practices already implemented to protect water quality !!!

The proposed requirements by the State Water Board include the following:

1. All growers/ ranchers with irrigated lands must submit private landowner information directly to the State Water Board **which becomes public information**. Information would have to be submitted via Geotracker, a state reporting requirement although some of our members do not have computers or internet access. Currently private information is not required to be reported.
2. Private information such as where your well is located (confidential information previously by the Ca Dept. of Public Health which regulated well drilling information) and it is expected this is a precursor to controlling groundwater and metering wells.
3. Landowners will be required to test your own drinking water wells, at your own expense, at least twice in the first year and submit results to the State Water Board **AND** the results will be made public.
In addition, the proposed Order does not specify the well testing frequency and the type of tests other than nitrates/nitrites that may be required and they will set their own “exceedance levels”. The new provisions require that users receive notification if a drinking water exceeds 10 mg/L of nitrate+nitrite as N. The Member or Third Party must

provide notification to the Central Valley Water Board within 24 hours of learning of the exceedance. They most likely will add tests and costs as they have done with the Irrigated Lands regulatory Program.

Currently, even with wildlife contributions to water quality, the waterboard ignores the fact that many things are normally occurring in the environment especially from the geology associated with wells in the fractured rock system of the foothills and mountain areas.

4. It would require ALL members to attend annual education and outreach events and report the activity. More work by growers/ ranchers and more costly reporting while there is no evidence any further requirements are warranted.

All members (even those previously thought to be low vulnerability living in the foothill areas) will be noted as **HIGH VULNERABILITY for sediment and erosion loss** which requires a certified plan and annual reporting. This requirement does not take into consideration that all foothills have slopes which naturally have some sediment loss having nothing to do with irrigated agriculture. This would require CERTIFIED Sediment and Erosion Control Plans with a minimal estimated costs of \$1,000 to 10,000 per member, good for up to five years only. Where is the economic impact to each grower considered?

In fact, irrigated agriculture in the foothills is very low intensity and has cover crops or irrigated pasture to maintain the soil cover year round as a best management practice. There are many other best management practices implemented such as catchment basins, tailwater return systems to reuse water, field borders, etc. to keep water and soil on the property.

5. New requirements would consider ALL irrigated lands members to be **HIGH VULNERABILITY for nitrogen leaching** whether nitrogen is even used or not and require this plan to be CERTIFIED ANNUALLY. In addition, your private information would be submitted to the waterboard AND made public, mostly meaning someone will purposely misinterpret your information and cause you more regulations. Annual cost for CERTIFIED Nitrogen Management Plan, estimated at \$1,000+/member annually.
6. It also requires **CERTIFIED Irrigation Management Plans** although all the members have already been required to report what type of irrigation is used in the Farm Evaluation Surveys. Redundant and more costly reporting and regulations!
7. Members must submit how much nitrogen is applied to crops and what their crop yields are which has been proprietary information up to now. All information is made public.

8. For the Nitrogen Management Plans, the waterboards WILL decide on a ratio to allow and an exceedance level for your crop!!!
They already don't understand farming, what happens if you rotate crops which is good for soil productivity and soil health? What about irrigated pasture which has legumes which fix nitrogen naturally and how do you figure out how much nitrogen your animals consume while figuring out how much the animals defecate and how much is left in the leaves/plants after each time they graze? This is crazy and there doesn't seem to be an original issue except that government got involved in farming and is regulating us all to death.
9. The draft State Water Board Order makes no mention whatsoever if your subwatershed group is designated Low Vulnerability and has reduced monitoring requirements. Some of the subwatersheds including PNSSNS paid to develop plans. This proposal only states ALL members will be in HIGH VULNERABILITY!!!!
The data does not support even a need for the current regulations let alone a need for increased requirements and costly reporting.
10. State Water Board wants to increase the number of surface water quality monitoring locations which costs each subwatershed about an additional \$35,000+/ year per site plus analysis and reporting costs. It has already been difficult to find agricultural drainages without other urban, residential or industrial influences and other land uses. Our data shows EXCELLENT water quality, why do more? There is no need.
- 11. The State and Central Valley waterboard did what they call an economic analysis (EIR) for this draft Order. It is a complete joke and severely flawed in its interpretation. It does not represent even close to what this will cost each members in labor, member costs, additional monitoring of wells, groundwater and more surface water monitoring sites, certifying plans and reporting to 3 other levels of reporting (grower/rancher→ subwatershed→ Coalition→ waterboards). **The State Water Board Fact Sheet says specifically, "We find that the additional costs and burden associated with these revisions are not substantial".****
12. There are many sections of the CA Water Code which concern and protect the economic impact to a person/ entity. For instance, CA Water Code section 13267 states that "[t]he burden, including costs, of [monitoring and reporting] shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports." Where has this ever been addressed appropriately???

The State Water Board includes the following statement with respect to costs (pg. 18), "potentially reduced costs in management practice implementation facilitated by access

to management practice effectiveness information”. How in the world does information on how to do something or its effectiveness lessen the cost of implementation?????

13. The EIR does not take into account the following:
 - a. Small growers are disproportionately affected. The USDA report states that 87,000 growers in California have 9 acres or less. Some irrigated pasture and crops take multiple acres before realizing any financial return and/or have low value crops per acre. Many of these small growers provide fruits, vegetables, meat and other agricultural commodities to farmer’s markets, local communities, schools, etc.
 - b. Much of agriculture is grown in rural and economically disadvantaged communities which has already paid dearly for a regulatory program while providing clean waters and draining millions of dollars from their communities.
 - c. The State water Board expects to have to hire 90 new positions for the new requirements!!!!!!!!!!!!!!!!!!!! They already ignore our good water quality results and reports; this is not warranted whatsoever!
14. The State Water Board wants to require that all members maintain this information for 10 years more than the IRS requires currently.
15. The State Water Board will require that all members pay for an independent entity specializing in protection of data to provide a backup data source for 10 years. \$\$\$ The State can’t even provide this; how can members or small coalitions afford this?
16. All members/ coalitions are to develop another study for Management Practices Effectiveness Plan to prove that the best management practices are effective in protecting water quality. This is totally disregarding all the good research that our academic institutions have done working with agricultural and providing recommendations for us to follow such as UC Davis, UC Berkeley, Cal Poly and Fresno State.
17. New Groundwater requirements, monitoring groundwater irrigation wells, etc.- to be announced but you can believe these will be VERY costly

PNSSNS and all the other subwatershed are heavily regulated with minimal results from the millions of dollars expended from this costly government program. The water quality has always been good and farming practices improve with education over time anyway. Agriculture now has the data to prove what they are doing is safe to the environment and in many cases beneficial to the environment!

Where is the cost/ benefit ratio and the economic analysis representing the per grower cost?

It is estimated that these new requirements would **cost each grower approx. \$10,000 to comply** and for what?

- Pay membership and per acreage fees that go to the State Water Board already of which they had one million dollars in excess of the growers money last year, and did not reduce the cost to growers. These costs increased 375 % since 2003
- Certify irrigation plans annually estimate age cost \$1,000
- Certify nitrogen management plans annually, estimate \$1,000
- Certify Sediment and erosion Control Plans, avg estimate \$5,000 + (\$3-10,000)
- Submit annual Farm Evaluation Plans per parcel and have information made public
- Attend at least one annual Education and Outreach plus travel times and costs from rural locations for a centralized meeting
- Increased monitoring sites means a substantial cost shared by each grower (\$35,000 plus analysis and reporting costs= \$50, 000 approx. for an additional site)
- Pay staff or increase your time to report and coordinate all requirements monthly, seasonally and annually
- Increased reporting costs growers pay subwatersheds to work with local farmers and ranchers, develop databases to track and report information, develop and disseminate Annual or Monthly Newsletters and coordinate meetings, coordinate Education and Outreach workshops, attend regulatory and Sac Valley Coalition meetings to report information back to growers, represent growers to Sac Valley and the waterboards, etc.
- Increased reporting costs with Sac Valley Coalition as this entity then coordinates information for 13 subwatersheds and represents the Sacramento Valley and surrounding areas. The SVWQ Coalition coordinates regional reports, hires and coordinates water quality monitoring, analysis and reporting, hires subcontractors/ scientists and develops other major reports on groundwater, water quality trends, management practices effectiveness reporting among just a few that cost approximately \$500,000 to over \$1,000,000 dollars each.
- Estimate the waterboards would need to add 90 new positions for the new requirements, which in turn would dramatically increase the cost on a per grower basis through acreage fees

Where has the programmatic and regulatory costs paid by farmers and ranchers since 2003 been evaluated as to the cost/ benefit ratio?

This is a JUST SAY NO campaign to the regulators that enough is enough!!!!!!!!!!!!!!!!!!!!!!!!!!!!

Epecially help our economically disadvantaged communities to keep their income local

Attend the May 4th State Water Board Workshop Meetings, 9am-

Register your attendance and be counted, numbers do matter!

**State Water Quality Control Board (Coastal Hearing Room)
2nd floor of the CAL/EPA Building
1001 I St
Sacramento, CA 95814**

Please submit your comments in writing via a letter or email to the State Water Board! Please send as early as you can!

******* Must be received no later than 5pm on May 18th, 2016*******

Email comments to: **commentletters@waterboards.ca.gov**

Put in the email subject line: “Comments to A-2239(a)-(c)”

**FAX: Subject line the same “Comments to A-2239(a)-(c)”
Addressed to Jeanine Townsend, SWB Clerk of the Board
916-341-5620 fax number**

**Mailed: Ms. Jeanine Townsend
SWB Clerk of the Board
State Water Quality Control Board
P.O. Box 100
Sacramento, CA 95812-0100**

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