

East San Joaquin Water Quality Coalition
Western Plant Health Association



April 23, 2015

Via Electronic Mail Only

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24h Floor
Sacramento, CA 95814
commentletters@waterboards.ca.gov

SUBJECT: Comment Letter - Central Valley Region Diazinon and Chlorpyrifos Basin
Plan Amendment

Dear Ms. Townsend:

The East San Joaquin Water Quality Coalition (ESJWQC) and the Western Plant Health Association (WPHA) (collectively referred to as “Organizations”) have reviewed the Final Amendments to the Water Quality Control Plan for the Sacramento and San Joaquin River Basins for the Control of Diazinon and Chlorpyrifos Discharges (March 2014) (Basin Plan Amendment), and provide the following comments to the State Water Resources Control Board (State Water Board) for consideration. Both Organizations (individually and collectively) provided timely comments to the Central Valley Regional Water Quality Control Board (Central Valley Water Board). Comments on certain provisions in the Diazinon and Chlorpyrifos Basin Plan Amendment are necessary because they were not adequately addressed by the Central Valley Water Board and/or because the final amendments are unclear as to their applicability.

I. Identification of Major Dams

The list of major dams in Table III-2B does not include Shasta Dam. Is this an oversight, or purposeful? If purposeful, why would Shasta Dam be excluded, which means that the Sacramento River upstream of Shasta Dam would be subject to the diazinon and chlorpyrifos water quality objectives.

II. Final Amendment Provision 6 (pp. C-6 through C-7)

Provision 6 contains the primary substantive requirements with respect to agricultural dischargers. As currently written, it is confusing with respect to what requirements apply, depending on the water body in question. Specifically, the requirement states that water bodies listed in Table III-2A that are not attaining the applicable water quality objectives for diazinon and chlorpyrifos are to submit management plans, and that the schedule for meeting

Jeanine Townsend

Re: Comment Letter - Diazinon and Chlorpyrifos Basin Plan Amendment

April 23, 2015

Page 2

objectives within the management plan shall not exceed five years from the effective date of the amendment. (Basin Plan Amendment, p. C-6.) The time schedule reference here conflicts directly with the time schedule provisions provided in provision 3, which allows for time schedules consistent with other existing law or policies, but no longer than 10 years from the effective date of this amendment. Accordingly, the time schedule reference in provision 6.b should be revised to be consistent with provision 3.

Further, a later provision in provision 6 states that, if after the Executive Officer determines a water body listed in Table III-2A is exceeding an applicable objective, the Executive Officer shall require a management plan. This provision is inconsistent with the first paragraph of provision 6, which requires these same water bodies in Table III-2A to submit management plans. Was it the intent of the Central Valley Water Board for the provision in the first paragraph to apply to the specifically listed water bodies and the provision in the later paragraph to apply to those not specifically named (i.e., waters designated with WARM and/or COLD that are not upstream of the major dams in Table III-2B)? The language of the Basin Plan Amendment should be modified to clarify how the provision applies to the different categories of water bodies identified in Table III-2A.

Next, there is a renumbering error. After provision 6, appears provision 8. There is no provision 7.

III. Surveillance and Monitoring

The Organizations continue to be concerned with the Agricultural Discharge Monitoring provision 4. (Basin Plan Amendment, p. C-9.) Specifically, it would require agricultural dischargers to “determine whether alternatives to diazinon and chlorpyrifos are being discharged at concentrations which have the potential to cause or contribute to exceedances of applicable water quality objectives.” In its response to comments on this requirement, the Central Valley Water Board replied, “this information requirement does not necessarily require monitoring if these alternatives pose no threat to water quality. The development of the monitoring and reporting programs must be designed to address all significant threats to water quality, be they diazinon and chlorpyrifos alternatives or not.” (Basin Plan Amendment, p. E-15.) This response seems to imply that any monitoring and reporting program for agricultural dischargers would require such monitoring anyway, thus including the same requirement here does not create an additional burden.

We find this response, and the requirement itself, to miss the primary point that was being made by the Organizations. That is, waste discharge requirements for agricultural discharges address what is required monitoring for pesticides. The monitoring provisions in waste discharge requirements have a specified process for identifying appropriate pesticides for monitoring, including pesticides that are alternatives for chlorpyrifos and diazinon. The Basin Plan Amendment, however, applies to diazinon and chlorpyrifos. It is not a “general pesticide” Basin Plan Amendment, and thus should not include provisions beyond those that apply to the two pesticides specified. We continue to be concerned that the Central Valley

Jeanine Townsend

Re: Comment Letter - Diazinon and Chlorpyrifos Basin Plan Amendment

April 23, 2015

Page 3

Water Board uses pesticide specific Basin Plan Amendments to impose general pesticide requirements that are beyond the scope of the Basin Plan Amendment and the environmental review associated therewith. Accordingly, we request that this monitoring provision be deleted.

Thank you for your consideration of these comments. Please contact Tess Dunham at tdunham@somachlaw.com or (916) 446-7979 if you have questions regarding our comments.

Sincerely,

Parry Klassen
Executive Director
East San Joaquin Water Quality Coalition

Rachel Kubiak
Director of Environmental and Regulatory Affairs
Western Plant Health Association

TAD:cr