**Third District Court of Appeals decision becomes precedential for ILRP General Orders**

In 2018, the State Water Resources Control Board (SWRCB) revised the Waste Discharge Requirements General Order (General Order) for growers within the Eastern San Joaquin River Watershed. Under the General Order revision, the East San Joaquin Water Quality Coalition (ESJWQC) is responsible for assisting ESJWQC members fulfill regional requirements and conditions including monitoring and reporting of applied nitrogen in irrigated fields. The revised General Order authorizes ESJWQC to anonymize Farm Evaluation and Irrigation and Nitrogen Management Plan (INMP) Summary Report data by using numeric identifiers for member names and field locations to protect its members’ privacy before submitting the information to the Central Valley Regional Water Quality Control Board (CVRWQCB). Once the anonymized data using the numeric identifiers is submitted to the CVRWQC, it is a public document. However, the Coalition retains the key that connects the numeric identifier to names and parcels, and that is not a public document.

Upon the SWRCB’s adoption of the General Order that allowed for submittal of anonymous data, the Environmental Law Foundation (ELF) and Monterey Coastkeeper et al. (Coastkeeper) filed petitions for writs of mandate challenging submittal of aggregate and anonymized date and other elements of the General Order as being noncompliant with the Nonpoint Source Policy. Further, although not directly relevant to the anonymous data issue, Protectores Del Agua Subterranea also filed a petition for writ of mandating alleging that the General Order violated the State’s Antidegradation Policy. The ESJWQC along with the Kings River Water Quality Coalition and other agricultural interests intervened in the actions to protect agriculture’s interests in the litigation. Generally, the ELF and Coastkeeper petitioners argued that they, along with the general public, were entitled to the raw data, including growers’ names and property locations associated with applied nitrogen.

On March 17, 2023, the Third District Court of Appeals issued a decision in *Environmental Law Foundation v. State Water Board* that found on behalf of the SWRCB, CVRWQCB, and the Agricultural-Interveners. According to Tess Dunham, attorney for ESJWQC and other irrigated agricultural coalitions, “All of challenges were rejected by the Court, including the State Water Board Order’s finding that grower data can be submitted to the Water Board in an anonymous fashion. Meaning that grower nitrogen applied and yield data will continue to be protected, at least until the State Water Board or Central Valley Water Board orders otherwise. Most importantly, the Court’s decision recognizes the value of Central Valley agriculture and that the Water Boards have discretion with respect to how they decide to regulate Central Valley agriculture. The Court rejected the environmental advocates arguments that the monitoring programs were not sufficient and were inconsistent with the Nonpoint Source Policy. Instead, the Court found that the ESJ Order and its planning components are a Nonpoint Source Program in its entirety, and that collectively, the program meets the key elements of the Nonpoint Source Policy. The Court’s decision also provides useful and helpful clarification regarding application of the commentary in the Nonpoint Source Policy. It explains, as we and the State argued, that the commentary is just that and it provides suggested guidance to the Regional Boards – but not mandates.” On April 26, 2023, the ELF and Coastkeeper petitioners filed a petition for review with the California Supreme Court asking the Supreme Court to disavow the Court of Appeal’s decision. On June 14, 2023, the California Supreme court denied the petition for review, which means that the Third District Court of Appeal’s decision is a final, published decision.

**Regulatory Alignment Study: Stakeholder Listening Sessions**

The California Department of Food and Agriculture (CDFA) has contracted with Crowe LLP (Crowe) to conduct a Regulatory Alignment Study (Study). The Study is evaluating food safety and water quality regulatory requirements overseen by CDFA, California Environmental Protection Agency (CalEPA), and State Water Resources Control Board (Water Boards) as part of an effort to streamline the administrative processes and optimize information collected by the state.

KRWQC stakeholder input is needed to assist with identifying opportunities to streamline food safety and water quality regulatory requirements.  Listening sessions will be conducted to gain insights from the agricultural community and any interested stakeholders into your experiences with these regulations. These listening sessions offer you the opportunity to provide direct and confidential input on these regulatory requirements.

Listening sessions will take place throughout 2023. You can schedule a listening session, either one-on-one or in a group, in-person or virtual, based on your preferences. To participate or learn more, please contact KRWQC staff at (559) 365-7958 or [info@kingsriverwqc.org](mailto:info@kingsriverwqc.org) or Crowe at [RegulatoryAlignmentStudy@crowe.com](mailto:RegulatoryAlignmentStudy@crowe.com).

**Member Invoices – Payments Due October 31, 2023**

The Coalition conducts regional monitoring, reporting, and assists members in regulatory compliance with Irrigated Lands Regulatory Program (ILRP).  Member fees are determined by State Board fees, salt and nitrate control programs, replacement water fill stations, member compliance, and regulatory requirements such as monitoring programs.

Coalition invoices for July 2023 through June 2024 ILRP coverage were mailed in August and due October 31, 2023.  A 15% late fee will be assessed on all payments not received by the due date.  Payments can be made via check (please use the return envelope enclosed with your invoice or mail to P.O BOX 8259 Fresno, CA 93747) or credit card by logging into the member portal at www.kingsriverwqc.org/account.