California Rice

November 30, 2020

Ms. Susan Fregien, Senior Environmental Scientist
Irrigated Lands Regulatory Program
Central Valley Regional Water
Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

RE: CALIFORNIA RICE COMMISSION COMMENTS ON THE DRAFT FINDINGS AND RECOMMENDATIONS OF THE EXPERT REVIEW PANEL FOR THE EASTERN SAN JOAQUIN SURFACE WATER MONITORING PROGRAM

Dear Ms. Fregien:

The California Rice Commission (CRC) is a statutory organization representing the state's rice industry, which comprises 2,500 rice growers, 40 millers, and approximately 500,000 acres of farmland (CDFA). The majority of California rice is grown in eight contiguous counties north of Sacramento in a watershed with low vulnerability designation to impacts from water quality resulting in the CRC managing a commodity specific Irrigated Land Regulatory Program (ILRP) through implementation as the Rice Waste Discharge Requirements Order (Rice WDR).

In January 2020, and Expert Review Panel (Panel) was convened to review the ILRP and assess the effectiveness of the General Order for regulating discharges in the Eastern San Joaquin (ESJ) Surface Water Monitoring Program (the Program). The Panel concludes the ESJ ILRP is adequate and appropriate to achieve the overarching goals of the General Order.

The Panel recommends multiple changes to improve and strengthen the program, which may also address suggestions for modifications from Petitioners'. Several recommendations to the key findings are troublesome from a coalition perspective in overall implementation. We realize the Panel review and recommendations are specific to the ESJ ILRP and, through experience, comment in support of the current Rice WDR.

We provide responses to two of the Panel's key findings and recommendations by sharing our concerns. Most notably, the Draft Report recommends that the ESJ Program modify its approach to how current-use pesticides are monitored, adjust how dissolved oxygen is measured, revise the Program's approach to developing management practices, expand focused outreach to growers, and make minor modification to how some types of Program data are displayed.

Our comments are specific to Key Findings 3.2 and 3.3. We are not commenting on Key Findings 3.1, 3.4 and 3.5 as those Panel recommendations are specific to the ESJ ILRP.

Key Finding 3.2: The measurement parameters and methods are inadequate for characterizing concentrations and biological effects of some current-use pesticides.

3.2.1: The *Chironomus sp.* toxicity test should be added to the Program.

Response: We see no justification in including *Chironomus sp*., and in this context, causes the WDR permittee to lead the laboratory in testing with no reporting limits. It is true the State Water Resources Control Board includes *Chironomus sp*. in the Surface Water Ambient Monitoring Program (SWAMP). Justification for using *Chironomus sp*. as a species in SWAMP relies on monitoring imidacloprid (neonicotinoid) and fipronil. While the neonicotinoid insecticides are registered in California for agricultural uses, fipronil has no agricultural crop uses (CDPR PUR). Regardless, it is inappropriate and excessive to add an additional test species for toxicity by placing the onus on a permittee to direct changes in laboratory reporting limits for one or more classes of pesticide.

3.2.2: Analytical chemistry methods should be refined to ensure the Program is capable of detecting pesticides at biologically active concentrations.

Response: Use of the approved methods assure evaluation of toxic effects to target organisms. The use of non-standard laboratory methods increases the level of uncertainty in the monitoring results.

3.2.3: The Program's Pesticides Evaluation Protocol (PEP) should be expanded to encompass the selection process for toxicity texting, analytical chemistry methods and temporal sampling density.

Response: The level of monitoring density would discount all environmental fate data and assessment for registration and re-registration of pesticides. The intent and purpose of the WDR Orders is to evaluate impacts to water quality – not require studies designed to repute the data development and reviews by the U.S. Environmental Protection Agency (U.S. EPA) and California Department of Pesticide Regulation (CDPR). The PEP selection process should take into account current fate end points and the pesticide use pattern.

3.2.4: An analysis should be conducted to understand whether grower changes to the pesticides being applied are leading the Program to improperly credit management plans for observed outcomes.

Response: The Panel claims the Program has not kept up with changing pesticide use practices, and not been future-proofed to ensure the Program can adequately adjust its measurement parameters and methods going forward to keep up with future changes in pesticide use.

The pesticide regulatory program provides a process where growers and ILRP managers have adequate time for adapting to changes in available pesticides. California law includes a pesticide registration program that is above and beyond that applied by the U.S. EPA under federal law. In short, before a new pesticide can be sold and used in California, the data must pass scientific evaluation, CDPR provides notification of registration, and implements a public review process (specific to California) after the chemical undergoes a similar federal process. A new pesticide cannot be sold or used until this process is complete and the product is registered in California. Often, California imposes additional label restrictions or county permit conditions in the form of local enforcement limitations.

Key Finding 3.3: The Program does not accurately quantify dissolved oxygen (DO) problems or provide appropriate insights about the degree to which agricultural practices contribute to low DO concentrations.

Response: It is well documented the DO measurements are sensitive to environmental factors such as temperature and flows.

3.3.1: DO should be measured either continuously or at times of day when concentrations are likely to be lowest.

Response: Measuring DO at dawn would increase our program costs tenfold as the change adjusts the monitoring schedule to one site per day. An evaluation of DO measurements in agricultural drains and the Sacramento River at different times of the day provides no changes in the outcome. No monitoring site locations are exempt from vandalism with the installation of continuous recording devices.

3.3.2: Statistical analysis should be improved to enhance the insights provided by existing DO data.

Response: CRC fails to see where data mining for specific times of the day will alter the results, since comparisons to other monitoring locations provides a more effective analysis.

3.3.3: Additional eutrophication parameters, including Chlorophyll-a, should be measured.

Response: Impacts from dairy discharge are practically non-existent in the Sacramento Valley where we monitor agricultural drains and conveyances. The Panel recommendations suggest changing the monitoring program into a study.

Thank you for the opportunity to provide comments and share our experiences with the ILRP surface water monitoring program.

Sincerely,

Roberta L. Firoved

Roberta L. Firoved
Industry Affairs Manager

cc: Dr. Steve Weisberg, SCCWRP

References

California Department of Food & Agriculture. Food & Agricultural Code. Sections 71000-71138.

California Department of Pesticide Regulation. Pesticide Use Report. 1989-2017.