

COMMERCIAL GROWERS WHO IRRIGATE BEWARE:

Regional Water Board Takes Steps Toward Increased Enforcement of Irrigated Lands Regulatory Program

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In the fall of 2017, the Central Valley Regional Water Quality Control Board (“Regional Board”) sent 464 “outreach letters” to likely owners of commercial irrigated farmland located in the Eastern San Joaquin County and Sacramento Valley regions. This is the first step in the Regional Board’s process to request commercial farmers who irrigate to comply with the Irrigated Lands Regulatory Program, or ILRP, before taking enforcement action against the farmer.

Under California law, all owners of commercial irrigated farmlands are required to comply with California Water Code section 13260 and file reports of waste discharge. There are two ways to comply: (1) Join one of the existing coalitions that help regionally located farmers comply as a group; or (2) Meet the regulatory requirements as an individual.

The penalties for ignoring the Regional Board’s request to comply can be significant. Violations may result in a misdemeanor conviction and potentially cost the farmer \$1,000 to \$5,000 per day for each day in violation. For instance, in August of 2017, the Regional Board settled with a farmer of 35 acres in Fresno and Madera Counties over an alleged violation of the Irrigated Lands Regulatory Program for approximately \$27,000. However, past settlement amounts for violations of the program have reached over double that amount.

If farmers do not contact the Regional Board after receiving an initial “outreach letter,” they can expect to receive a final “outreach letter,” followed by one or more “Directive Letters,” requesting that the farmer comply with the ILRP. If those Directives are ignored, farmers should expect the Regional Board to issue a Notice of Violation and start the formal enforcement process, which may result in significant penalties being issued.