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Water Update

Much has happened in the water arena during the past few weeks – much of it encouraging -- but the bottom line is that west side San Joaquin Valley landowners still have only a 10 percent federal water allocation for 2009.

Last week, the federal Bureau of Reclamation announced increases in allocations for northern California federal Central Valley Project (CVP) water service contractors and discussed the “potential for increases” for water service contractors south of the Delta. Based on the latest runoff forecast from the CA Department of Water Resources and the final snow survey of 2008-2009, the snowpack water content was 66 percent of normal statewide and federal CVP reservoirs currently average 62 percent of capacity. Above-normal precipitation in early May resulted in a small increase in available water supplies for mostly northern California customers.

The allocation to water service contractors south of the Delta remains officially at 10 percent; however, improved hydrologic conditions create a possible five-to-10 percent supply increase if additional pumping capacity can be made available through the summer, reported a Bureau news release. Reclamation is working closely with DWR to coordinate operations to help convey CVP supplies. Recognizing the critical conditions for many growers south of the Delta, Reclamation will announce any increase to allocations as soon as these supplies are secure.

Preliminary injunction granted; economic impacts must be considered

Legal wrangling over continued restrictions on CVP operations to protect threatened and endangered fish species moved in a positive direction for west side water users last Friday when federal Judge Oliver Wanger granted the San Luis Delta Mendota Water Authority's and Westlands Water District's Preliminary Injunction against the Biological Opinion for the ESA-listed Delta Smelt.

Judge Wanger granted the Preliminary Injunction, calling it "prohibitory injunction," meaning that he has no authority to tell U.S. Fish and Wildlife or Bureau of Reclamation under ESA to consider the impacts currently being felt by both human and the environment. However, he did grant the injunction and ordered both U.S. Fish and Wildlife Service and Bureau of Reclamation to consider the irreparable harm and injury that is being felt due to these water cutbacks to save the fish, said Westlands spokesperson Sarah Woolf. The judge spent considerable time on the fact that there is significant human and environmental damage occurring because of the water cutbacks.

It's expected that there likely will not be immediate relief on the pumping restrictions in the next 30 days, but bigger benefit is that the determination the impacts have to be considered, said Woolf. "It's a step in the right direction," she said.

Another lawsuit is filed, calling cutbacks unconstitutional

Flanked by affected farmers, farm workers and rural residents, attorneys with Pacific Legal Foundation filed a federal lawsuit against the U.S. Fish and Wildlife Service, calling the Delta water cutbacks a violation of the U.S. Constitution.

At a news conference last week in downtown Fresno, PLF attorneys Damien Schiff and Brandon Middleton claimed the federal government has no constitutional authority to put the Delta Smelt on an ESA list, and therefore the Fish and Wildlife Service is barred from ordering pumping cutbacks to manage or "protect" smelt populations.

The U.S. Constitution's Commerce Clause limits federal domestic regulatory power to persons, things, or activities involved in, or affecting, interstate commerce (Article I, Section 8). The PLF lawsuit points out the Delta Smelt does not fall into any of those categories. "There's nothing 'interstate' about the Delta Smelt," said PLF's Middleton. "The Fish and Wildlife Service admits that this fish is found only in California. The Service also admits that it has no commercial value – nobody buys or sells this fish. The courts need to tell the Service it has no business imposing any regulations whatsoever related to the Delta Smelt – let alone extreme water cutoffs that are creating a crisis in California and could threaten the nation's food supply," he said.

The lawsuit asks for an injunction against the "biological opinion" on Delta Smelt protection measures, which the Fish and Wildlife Service issued in December. In addition to the constitutional cause of action, the lawsuit also challenges the biological opinion on statutory grounds. The lawsuit points out that, in violation of administrative law, the Fish and Wildlife Service failed to follow its own regulations in developing and issuing the opinion. For instance, it failed to adequately demonstrate (as its own regulations require) that pumping cutbacks would significantly benefit the Delta Smelt population; and it failed to balance the economic impacts of the pumping cutbacks. The suit was filed on behalf of Stewart and Jasper Orchards, of Newman; Arroyo Farms, of Firebaugh; and King Pistachio Grove, of Kettleman City.

Energy meeting for western Fresno/Kings county processors set for June 4

The Westside Resource Conservation District and PG&E are co-sponsoring an informational meeting on Thursday, June 4 about free energy audits and energy efficiency incentives for agricultural product processors in western Fresno and Kings counties. The meeting will be held at Harris Ranch Restaurant on June 4 from 11a.m. to 1p.m. and includes a hosted lunch.

Bob Riding, of PG&E, will explain how rebates and incentives from four PG&E programs can be integrated to fit the needs of each energy user. Participation is limited to 25 agricultural processors interested in reducing annual and peak kilowatt hour use, and who believe they could benefit from an energy audit and the implementation of recommended energy efficiency measures.

For details, contact PG&E's Riding at (559) 977-5006; or WRCD's Phil Erro at (559) 349-4285 or Sarge Green at (559) 647-9198.

Air quality programs offer cost-share funding programs

The federal government and regional air district are offering cost-share funds to help farmers and ranchers replace older diesel engines under two separate programs currently underway. Up to 80 percent of cost-share funds are available from both programs to help replace, repower or retrofit existing equipment with cleaner burning equipment.

Federal EQIP funds available

At a workshop on Wednesday at the Fresno County Farm Bureau office, the USDA-Natural Resources Conservation Services (NRCS) and Agriculture Improving Resources (A.I.R) announced a \$20.9 million federal program for farmers and ranchers interested in upgrading or replacing off-road mobile or stationary equipment to improve air quality. Up to 50 percent cost-share funds are available from the NRCS' program, with higher priority given to the NRCS' combustions system air emissions management practice to improve high polluting, fully functional engines with newer, reduced-emission technologies that meet or exceed current emission standards. Stationary, portable and heavy-duty off-road mobile systems will be eligible. The old engine must be an uncontrolled or early Tier (typically Tier 0) and rated to at least 50 horsepower. The new engine is within 25 percent of the horsepower rating of the old engine.

Other covered air quality practices under EQIP will include conservation tillage, dust control on farm roads, precision pest control and manure injection. For the complete list of practices and for information on how payments will be calculated see www.ca.nrcs.usda.gov.

Air District offers joint funding opportunities

In addition, the San Joaquin Valley Unified Air Pollution Control District is offering a separate, but compatible, program for equipment replacements from applicants who have applied to the NRCS program. With funding from both the federal and air district programs, applicants can qualify for a maximum of up to 80 percent of the cost of new equipment.

To be eligible, the existing old equipment must be operated annually 75 percent within California and 50 percent within the Air District. Like the federal program, engines must be 50 horsepower or greater, and be of uncontrolled (Tier 0) engines. The new engines must be a Tier 3 or cleaner.

Once the applicant is notified by the NRCS in August of acceptance into the federal program, the applicant should immediately notify the Air District. The cost-share funds will be disbursed on a first-come, first-served basis by the Air District, said Stephanie Hitchman, of the Air District. The application for this program must be submitted by June 26, as well.

For an application and additional details, visit the Air District's Web site at: www.valleyair.org.

Air District offers money to replace 1993 and older diesel trucks

The San Joaquin Valley Unified Air Pollution Control District is offering money for heavy-duty diesel owners of small fleets to replace their older, polluting trucks with newer, cleaner models. The Voucher Incentive Program (VIP) is a new, streamlined option funded through the Carl Moyer Memorial Air Quality Attainment Program.

More than \$15 million is available through the program, which is open to any owner to fund heavy-duty truck replacements statewide. Between \$30,000 and \$35,000 is available per grant, depending on the age of the truck. Trucks with 1993 and older engines are eligible. Grants are made on a first-come, first-served basis and applications will be approved within five business days.

Eligible trucks must operate 75 percent of the time in California but need not be based in the Valley. Additional criteria include:

- Fleet size must be no more than three heavy-duty diesel trucks;
- Old truck must have a 1993 or older engine;
- Truck must be registered with the Department of Motor Vehicles with a declared combined weight greater than 60,000 pounds (Class 8);
- Truck must have operated more than 30,000 miles per year or consumed 4,700 gallons of diesel fuel per year in each of the previous two years. In cases where one truck did not earn enough mileage, the operator may retire two trucks for one replacement to meet the usage requirement;
- Truck must be operational and have been registered in California for each of the last two years (partial registration for at least three months per year is eligible).

The replacement truck(s) must meet at least 2007 emission standards and be purchased through a participating dealership, and the old truck destroyed. Trucks purchased through the program are subject to three-year reporting. A list of participating dealerships is available at http://valleyair.org/Grant_Programs/vip/VIP%20Dealer%20List.pdf. For additional program information, call the grants and incentives department at (559) 230-5800 or ARB's diesel hotline at 1-866-6DIESEL; or Web sites www.valleyair.org or www.arb.ca.gov/msprog/moyer/voucher/voucher.htm.

Respiratory Protection handout is available

Last year, California implemented strict new rules making state regulations consistent with Cal/OSHA respiratory protection regulations, as required on pesticide labels. The new rules mandate that farmers develop and maintain a written Respiratory Protection Program (RRP) for each employee who uses a respirator and that it be kept on file at the farm office.

To help farmers comply with the new rules, the Coalition for Urban/Rural Environmental Stewardship (CURES) and Syngenta have prepared a handout titled, "Respiratory Protection Program." The handout is an overview of the current regulations from CA Department of Pesticide Regulation, and will help growers in getting in compliance with the RPP requirements. The handout includes information about identifying the types of respirators; conducting fit tests; storing, cleaning and disinfecting equipment; employee training and record keeping. The brochure can be downloaded from www.curesworks.org/publications/respirator.asp. A link to it is available on the FCFB Web site at www.fcfb.org, check under "Ag Resources."

Intern joins FCFB staff

Johannah Sorensen, of Caruthers, has joined the FCFB staff as the summer intern and will be contributing to the FCFB team through August.

Sorensen currently is a sophomore at Biola University in La Mirada, CA, where she is majoring in business marketing. She also is a member of the New Student Orientation Staff at Biola.

Sorensen, graduated in 2008 from Immanuel High School, and remains very involved in the Caruthers community. She was the 2007 Caruthers District Fair Queen for the Caruthers Fair Association.

I love being a part of the agricultural community and realize the importance that we have in our nation," Sorensen said. "I am very thankful to have this opportunity to work for the Farm Bureau."

Sorensen was raised on a farm, where her parents, Mark and Kim Sorensen, grow raisins and blueberries. Her father, Mark is a fourth-generation raisin farmer. She also has been very involved with the blueberry business, helping her family sell them at various Farmer's Markets in the Bay Area. She hopes to continue in the family business one day.

Next Week's Calendar

June 2 San Joaquin Valley Air District Citizen's Advisory Committee meeting, 10 a.m., Air District

June 4 FCFB Executive Committee meeting, noon, FCFB office;
Model Farmland Conservation Program meeting, 2 p.m., Fresno COG;
CMAC Board meeting, 3:30 p.m.

This Week's Calendar

May 26 San Joaquin Political Academy; Fresno Fair Board of Directors' meeting

May 27 A.I.R / NRCS Workshop

May 28 Leadership Kerman presentation

May 29 Fresno Ag Roundtable, 7 a.m., Marie Calendars Restaurant, Cedar and Shaw avenues

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