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# California Regional Water Quality Control Board Central Valley Region

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7 January 2003

To: Interested Parties

Attached is RESOLUTION NO. R5-2002-0201, CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM IRRIGATED LANDS adopted by the CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CENTRAL VALLEY REGION, on 5 December 2002.

The Resolution has been amended to incorporate the correct motion of the Regional Board that was passed in adopting the proposed resolution. The language that has been added is on the last page of the Resolution (page 5) that states:

“BE IT FURTHER RESOLVED, that the Regional Board will develop a 10 year implementation program to assure water quality standards are met, and will undertake an EIR process over the next two years with respect to the 10 year implementation program.”

THOMAS R. PINKOS  
Executive Officer

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***California Environmental Protection Agency***



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2002-0201

CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR DISCHARGES FROM IRRIGATED LANDS

WHEREAS, Section 13269 of the California Water Code (CWC) allows the Regional Water Quality Control Board, Central Valley Region (Regional Board) to waive waste discharge requirements for a specific discharge or specific type of discharge if the following conditions are met: 1) the waiver is not against the public interest, 2) the waiver is conditional and may be terminated at any time, and 3) compliance with waiver conditions are required, and 4) a public hearing has been held; and

WHEREAS, California Water Code Section 13269(f) requires the Regional Board to review the terms of the waiver policy at a public hearing prior to renewing any waiver for a specific type of discharge and at the hearing the Board must also determine whether the discharge for which the waiver policy was established should be subject to general or individual waste discharge requirements; and

WHEREAS, in 1982 the Regional Board adopted Resolution No. 82-036 conditionally waiving waste discharge requirements for 23 categories of dischargers, including "irrigation return water" and "storm water runoff". Pursuant to CWC section 13269, these waivers will terminate on 1 January 2003 unless renewed by the Regional Board; and

WHEREAS, the Regional Board has reviewed the existing waiver related to irrigation return water and stormwater runoff from irrigated lands and determined that additional conditions are required to protect water quality; and

WHEREAS, as used in this resolution, the term "discharges from irrigated lands" includes surface discharges (also known as tailwater), operational spills, subsurface drainage limited to that generated by installing drainage systems to lower the water table below irrigated lands, and storm water runoff flowing from irrigated lands [but does not include discharges subject to the National Pollutant Discharge Elimination System (NPDES) permit program under the Clean Water Act (CWA)]. Irrigated lands are lands where water is applied for producing crops and, for the purpose of this waiver, includes, but is not limited to, land planted to row, field and tree crops as well as commercial nurseries, nursery stock production and managed wetlands; and

WHEREAS, the Central Valley Region has more than seven million acres of cropland under irrigation and several thousand individuals and agencies involved in generating wastewater that falls into the category of "discharges from irrigated lands"; and

WHEREAS, the Central Valley Region has thousands of miles of surface waters that are dominated by discharges from irrigated lands and the quality of these discharges may adversely impact the beneficial uses of these receiving waters and downstream waters; and

WHEREAS, discharges from irrigated lands that constitute agricultural return flows are exempt from regulation under the NPDES permit program in the federal CWA; and

WHEREAS, the State Water Resources Control Board (State Board) has adopted the "Plan for California's Nonpoint Pollution Control Program" dated January 2000 and this plan provides guidance to Regional Boards on the control of nonpoint source pollution. This guidance includes a three-tier process that indicates that conditional waivers of waste discharge requirements can provide regulatory-based guidance to dischargers on steps that must be taken to control discharges; and

WHEREAS, the State Board's Strategic Plan calls for the use of the watershed approach to develop unique approaches for each watershed that address multiple pollutants versus focusing on specific pollutants; and

WHEREAS, addressing issues on a watershed basis involves efforts of both dischargers and interested persons; and

WHEREAS, formation and operation of watershed efforts are the responsibility of local entities or individuals; and

WHEREAS, some regional watershed efforts have recently formed to address agricultural water quality issues and the Regional Board needs time to determine if these efforts will become universal and will be self-sustaining; and

WHEREAS, an effective watershed program with active involvement of the water community and the agricultural community has the potential for identifying and correcting water quality problems without the need for individual or general waste discharge requirements, thus saving both the dischargers and the state the administrative burden involved with a permit-based program; and

WHEREAS, the Regional Board recognizes the advantages of the watershed approach and encourages watershed programs while recognizing that the Regional Board, not the watershed group, has the responsibility to regulate to protect water quality in the Central Valley Region. The Regional Board also recognizes the need to work with the water community and the agricultural community to cooperatively take action to protect water quality; and

WHEREAS, even where watershed groups exist, individual dischargers have a responsibility to take action to protect water quality; and

WHEREAS, persons who do not have the opportunity to join in watershed efforts or who choose not to participate in watershed efforts should also have the opportunity to operate under a waiver of WDRs if the conditions of the waiver are protective of water quality; and

WHEREAS, some dischargers may elect to not participate in a waiver program, even after being notified formally; and

WHEREAS, the Regional Board finds that the adoption of the “Waiver of Waste Discharge Requirements from Irrigated Lands Pursuant to Water Code Section 13269: will not have a significant impact on the environment; and

WHEREAS, the Board considered all testimony and evidence at a public hearing on 5 December 2002 and good cause was found to adopt the “Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands Pursuant to Water Code Section 13269” and to approve the Initial Study and adopt the Negative Declaration; and

Therefore, be it

RESOLVED, that the Regional Board waives the submittal of a report of waste discharge and waste discharge requirements for discharges from irrigated land if the discharger complies with the “Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands Pursuant to California Water Code Section 13269” specified in Attachment A; and

BE IT FURTHER RESOLVED, that no later than 1 July 2004 persons that generate discharges from irrigated lands shall notify the Regional Board directly or through a watershed group of their intent to operate under the terms of a waiver or shall submit a report of waste discharge by 1 August 2004 or a notice of intent (NOI) to comply with general waste discharge requirements (if such an order is adopted); and

BE IT FURTHER RESOLVED, that the goal of these waiver conditions is to assist in achieving water quality objectives in the Water Quality Control Plans (Basin Plans) by providing a program to manage discharges from irrigated lands that cause or contribute to conditions of pollution or nuisance as defined in Section 13050 of the California Water Code or that cause or contribute to exceedances of any Regional, State, or Federal numeric or narrative water quality standard. Failure to establish a program that will meet these goals will result in loss of the waiver; and

BE IT FURTHER RESOLVED, that production agriculture and commodity organizations are urged to work with the University of California Cooperative Extension,

the U.S.D.A. Natural Resources Conservation Service and others to develop crop-specific management practices that can assist farmers and watershed management groups in reducing discharges of waste; and

BE IT FURTHER RESOLVED, such renewal of the existing conditional waivers is not against the public interest because the conditions are intended to prevent pollution and should be continued until new information indicates the need to revise the conditions or adopt general waste discharge requirements; and

BE IT FURTHER RESOLVED, the Regional Board, based on the above-noted facts and findings, determines that it is not appropriate at this time to adopt individual or general waste discharge requirements for waste discharges related to discharges from irrigated land because there are in excess of 25,000 persons that discharge waste from irrigated lands and it is not feasible due to staff resources to adopt waste discharge requirements in a reasonable time; and

BE IT FURTHER RESOLVED, that this conditional waiver shall become effective 1 January 2003 and expire 31 December 2004 unless renewed or extended by the Regional Board; and

BE IT FURTHER RESOLVED, the discharge of any waste not specifically regulated by the Waiver described herein is prohibited unless the discharger complies with CWC Section 13260(a) and the Regional Board either issues waste discharge requirements pursuant to CWC Section 13263 or an individual waiver pursuant to CWC Section 13269 or the time frames specified in CWC Section 13264(a) have elapsed; and

BE IT FURTHER RESOLVED, this Waiver shall not create a vested right and all such discharges shall be considered a privilege, as provided for in CWC Section 13263; and

BE IT FURTHER RESOLVED, pursuant to CWC Section 13269, this action waiving the issuance of waste discharge requirements for certain specific types of discharges: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Regional Board from administering enforcement remedies (including civil liability) pursuant to the CWC; and

BE IT FURTHER RESOLVED, a waiver of waste discharge requirements for a type of discharge may be superseded by the adoption by the State Water Board or Regional Board of specific waste discharge requirements or general waste discharge requirements for that type of discharge; and

BE IT FURTHER RESOLVED, that the Regional Board may review this conditional waiver at any time and may modify or terminate the waiver in its entirety or for individuals or watershed groups, as is appropriate; and

BE IT FURTHER RESOLVED, that the Regional Board will develop a 10 year implementation program to assure water quality standards are met, and will undertake an EIR process over the next two years with respect to the 10 year implementation program.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 5 December 2002.

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THOMAS R. PINKOS, Executive Officer

AMENDED  
6 January 2003

**ATTACHMENT A**  
**WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES**  
**FROM IRRIGATED LANDS**  
**PURSUANT TO**  
**CALIFORNIA WATER CODE SECTION 13269**

California Water Code Section 13269 authorizes the Regional Water Quality Control Board, Central Valley Region (Regional Board) to waive waste discharge requirements as to a specific type of discharge if the waiver is not against the public interest and the waiver is conditional. Any waiver may be terminated at any time by the Regional Board.

This waiver applies to discharges of waste from irrigated lands to surface water that is not subject to regulation under the National Pollutant Discharge Elimination System (NPDES) set forth in the Clean Water Act and includes surface discharges (also known as tailwater), operational spills, subsurface drainage limited to that generated by installing drainage systems to lower the water table below irrigated lands and storm water runoff flowing from irrigated lands. This waiver sets forth two categories of waivers of waste discharge requirements. One category applies to dischargers who participate in a group effort on a watershed level to comply with the conditions of the waiver. The other category applies to individual dischargers who do not participate in a group watershed or subwatershed effort. The dischargers must comply with the conditions set forth in the waiver.

Regardless of which category a discharger falls under, the following requirements must be met:

- (1) Discharges shall not cause or contribute to conditions of pollution or nuisance as defined in Section 13050 of the California Water Code; and
- (2) Discharges shall not cause or contribute to exceedances of any Regional, State, or Federal numeric or narrative water quality standard.

The discharger shall be considered in compliance with this requirement if the conditions listed in I. or II, below, are met.

**I. Waiver of Waste Discharge Requirements for Participation in Watershed Programs**

The Central Valley Regional Water Quality Control Board waives waste discharge requirements and the submission of reports of waste discharge for discharges from irrigated lands (tail waters, subsurface drainage, and stormwater runoff) in the Central Valley Region if the discharger complies with the following conditions:

The discharger actively participates in a Regional Board-approved watershed-level effort that is designed to assist in achieving water quality objectives by providing a program to manage discharges that cause or contribute to conditions of pollution or nuisance as

defined in Section 13050 of the California Water Code or that cause or contribute to exceedances of any Regional, State, or Federal numeric or narrative water quality standard. Failure of a watershed effort to demonstrate an ability to meet these criteria will result in loss of this waiver.

To obtain Regional Board approval, the watershed group must conduct certain minimum work and report progress to the Board on a regular basis. Watershed programs may be organized on a basin scale but should be conducted on a sub-watershed level to be able to identify and address local circumstances. A comprehensive program may take several years to develop, but local efforts must meet specified milestones in order to allow dischargers to maintain a waiver. Components of an acceptable watershed program and the dates that they must be in place are listed below:

The following deliverables are intended to provide the Regional Board with information regarding the progress of development of a watershed program. The deliverables must be submitted in writing to the Executive officer as specified in the timetable. All submittals must be well organized and complete (professional quality). If submittals are returned with comments from Regional Board staff, watershed groups shall have 30 days to address comments and revise the submittals as necessary. Failure to submit reports as required is grounds for loss of a waiver.

Dischargers participating in watershed groups that provide the deliverables on schedule can assume that they are operating in compliance with this waiver unless notified otherwise in writing by the Regional Board.

## **DELIVERABLES**

### ***Organization***

#### **General**

The initial submittal from the watershed group must identify the lead agencies and/or organizations that will develop a watershed or subwatershed program, the key contact(s), a description of the watershed, a map of the watershed and a commitment to work with the Regional Board to satisfy the conditions of this waiver.

#### **Map**

The watershed group will provide a map of the area covered by the watershed program. Additional participants who are not identified as a lead agency/organization should also be provided at this time.



### ***Watershed Program Description***

The watershed or subwatershed group shall compile a report containing:

- Details of subwatersheds showing which fields are served by each drain.
- Information on crops grown in the watershed or subwatershed area, pesticides used and other factors that may impact the quality of discharges.
- Inventory of management practices that are in place and that are effective pollution control measures
- Historical water quality monitoring results
- Known water quality issues
- Known programs addressing the water quality issues associated with discharges from irrigated lands

### ***Monitoring Program***

Watershed groups will review results of ongoing monitoring conducted by the Regional Board and other agencies. This information, along with historical information, will be used in developing a watershed monitoring plan that will be submitted to the Regional Board for review and approval.

The watershed group shall develop a monitoring plan to assess the sources and impacts of waste in discharges from irrigated lands in the subwatersheds and to track progress toward lowering discharges and meeting TMDL goals. This plan must include a quality assurance/quality control component. All data developed by watershed groups shall be submitted to the Regional Board.

### ***Prioritization***

Based on the information available, the watershed group shall identify in writing its priorities with respect to work on specific subwatersheds and constituents.

### ***Management Practices***

A key responsibility of the watershed groups is the development and promotion of management practices that reduce discharges of waste to acceptable levels. The watershed group will be responsible for monitoring the success of identified management practices through the program's water quality monitoring program as well as through the evaluation of the management practices. The watershed program should identify a process to adapt the management practices utilized as necessary based upon the monitoring information.

The watershed program must include a plan for the implementation of management practices. The implementation of management practices should be based on the prioritization required above.

Each watershed program should identify pilot projects for the implementation of management practices on prioritized sub-watersheds.

When monitoring results indicate that water quality improvements are necessary, the watershed group shall submit a report describing how it will evaluate the effectiveness of one or management practice[s] at preventing release of waste constituents to surface waters. The selection of evaluation projects shall include consideration of contribution of target waste constituents to known water quality impairments, potential application of the management practice over a broad geographic area and large spectrum of crops, and ease and immediacy of possible implementation. Projects need not involve new practices, but can involve quantification of benefits of existing practices. Reports shall be submitted for each proposed, implemented, or completed project which shall include, at a minimum: description of management practice(s) being evaluated, target chemical(s), reasons for selecting the specific project, methodology for evaluating the effectiveness of the practice (including sampling and QA/QC plans), and involvement by stakeholders and agencies in developing, implementing and evaluating the project. If projects are completed, the report shall present the conclusion(s) of the evaluation project.

Watershed groups may take advantage of management practice development conducted by the University of California or other organizations, as appropriate.

### ***Implementation Plan***

The watershed group shall develop an implementation plan that will promote and track the progress of water quality control efforts. The plan may address water quality issues related to stormwater runoff separately from those caused by irrigation return flows. This plan must include a schedule for implementation of management practices and may include, but is not limited to, the following components:

- Grower education
- Technical assistance
- Financial assistance

### ***Funding Mechanisms***

The watershed group shall identify the funding mechanisms that will support water quality monitoring, management practice evaluation and development, and administrative costs.

### ***Annual Reports***

In addition to the reports identified above, the watershed group shall submit annual reports covering the calendar year detailing accomplishments and plans relative to all aspects of the watershed effort, including, but not limited to the following:

- All water quality monitoring results, an interpretation of the data and proposed responses. Data must be tabulated and graphed and maps shall be provided to illustrate where samples were collected.
- Results of management practice evaluations conducted during the reporting period.
- Status of management practice implementation.
- Planned activities for the coming year, including, but not limited to details of monitoring programs, management practice evaluations and revisions to compliance timetables.

**TIMETABLE**

<u>Component</u>	<u>Date</u> No later than:
Identification of participants including key contacts, agencies and organizations, and dischargers <ul style="list-style-type: none"> <li>• General report</li> <li>• Detailed report</li> </ul>	30 June 2003 30 June 2004
Watershed description	31 December 2003
Monitoring program <ul style="list-style-type: none"> <li>• Track developments of Regional Board monitoring</li> <li>• Submit watershed monitoring plan</li> <li>• Initiate watershed monitoring plan</li> </ul>	30 June 2003 30 June 2004 1 January 2005
Prioritization of sub-watersheds	30 June 2004
Management practices <ul style="list-style-type: none"> <li>• Compilation of existing information</li> <li>• Evaluation of management practice</li> <li>• Tracking</li> </ul>	<ul style="list-style-type: none"> <li>• 30 June 2004</li> <li>• 2005 and subsequent seasons</li> <li>• Continuous following management practice identification</li> </ul>
Plan addressing <ul style="list-style-type: none"> <li>• Development &amp; implementation of management practices</li> <li>• Grower education</li> <li>• Technical assistance</li> <li>• Financial assistance</li> </ul>	30 June 2004
Identification of funding mechanisms for: <ul style="list-style-type: none"> <li>• Administration</li> <li>• Water quality monitoring</li> <li>• Management practice evaluation and development</li> </ul>	30 June 2004
Participation in previously-identified water quality issues within the watershed	Continuous
Annual reports on the previous calendar year	30 January

## **II. Waiver of Waste Discharge Requirements for Individual Dischargers Not participating in Watershed Efforts**

This waiver applies to dischargers that do not participate in watershed efforts.

The Central Valley Regional Water Quality Control Board waives waste discharge requirements and the submission of reports of waste discharge for discharges from irrigated lands (tail waters, operational spills, subsurface drainage, and stormwater runoff) in the Central Valley Region if the discharger complies with the following conditions:

1. The discharger actively participates in an effort that assists in achieving water quality objectives by providing a program to manage discharges from irrigated lands that cause or contribute to conditions of pollution or nuisance as defined in Section 13050 of the California Water Code or that cause or contribute to exceedances of any Regional, State, or Federal numeric or narrative water quality standard. Failure to demonstrate an ability to meet these criteria will result in loss of this waiver.
2. The discharger files a Notice of Intent to comply with this waiver that provides the following information:
  - Name, address and phone number
  - Maps of irrigated lands generating the discharge, showing points of discharge
  - Crops commonly grown
  - Chemicals (pesticides, fertilizers, etc.) commonly applied in a manner that may result in the material coming in contact with irrigation water or storm water.
  - Management practices utilized for reducing or eliminating adverse discharges of pollutants.
  - The names of water bodies receiving the discharge
  - Details of any subsurface drainage collection system
  - Other information as called for by the Executive Officer
3. By 1 September 2004 or within two months of receiving written notice from the Regional Board that the individual's discharge is not within a watershed to which this conditional waiver applies, the discharger develops a written water quality management plan containing at least the following:
  - Information provided to the Regional Board in the NOI
  - Specific management practices followed to implement the management measures in the State's Nonpoint Source Management Plan for the control of

- (1) irrigation water management, (2) pesticide management, (3) nutrient management, and (4) erosion and sediment control.
4. By 1 November 2004 or within four months of receiving written notice from the Regional Board that the individual's discharge is not within a watershed to which this conditional waiver applies, the discharger initiates a water quality monitoring program addressing discharges from irrigated lands. This program must include the following:
- A written quality assurance/quality control program
  - Estimates of the volume discharged (recorded daily)
  - Sampling for turbidity, toxicity and constituents that may be picked up through contact with crops or soils.
  - Focus on specific constituents of concern in the watershed (contact the Regional Board for this information).
5. Annual Report - By 30 January of each year following submittal of an NOI, the discharger shall submit a written annual report to the Regional Board providing the water quality monitoring results from the previous calendar year. If the results indicate that changes in management are required to protect water quality, details of the changes to be made and the dates by which they will be in place shall be provided.

### **III. Limitations**

1. This waiver is limited to discharges from irrigated lands, which includes surface discharges (also known as tailwater), operational spills, subsurface drainage generated by irrigating crop land or by installing drainage systems to lower the water table below irrigated lands and storm water runoff flowing from irrigated lands regardless of whether it originates on the discharger's property or on upslope lands.
2. This waiver is limited to discharges that are not subject to the National Pollutant Discharge Elimination System permit program under the Clean Water Act.
3. This waiver may be terminated at any time by the Regional Board.

Definitions

Irrigated lands – lands where water is applied for the purpose of producing crops. For the purpose of this waiver policy, commercial nurseries, nursery stock production and managed wetlands are considered irrigated lands.

Irrigation return flow – surface and subsurface water which leaves the field following application of irrigation water.

Operational spill – irrigation water that is diverted from a source such as a river, but is discharged without being delivered to or used on an individual field.

Stormwater runoff – the runoff of precipitation from the lower end of an irrigated field.

Subsurface drainage – water generated by installing drainage systems to lower the water table below irrigated lands. This drainage can be generated by subsurface drainage systems, deep open drainage ditches or drainage wells.

Tailwater – the runoff of irrigation water from the lower end of an irrigated field.

Watershed group - As used in this waiver, the term watershed group shall be defined broadly to include any group of individuals and organizations that form to meet the waiver conditions described in section I, above. Watershed groups can be organized on a geographic basis or can be groups with other factors in common such as commodity organizations.