

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2011-_____

SHORT-TERM RENEWAL OF THE COALITION GROUP
CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES FROM IRRIGATED LANDS

The Central Valley Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds that:

1. On 22 June 2006, the Central Valley Water Board adopted Order No. R5-2006-0053, which is a Coalition Group Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Conditional Waiver). This Order became effective on 1 July 2006 and expires on 30 June 2011 unless rescinded or renewed.
2. The Conditional Waiver, which is included as Attachment A, has been amended by Resolutions No. R5-2006-0077 and R5-2008-0052. Resolution No. R5-2006-0077 established a deadline for irrigated lands operations to join water quality coalition groups and required submittal of a management plan when more than one exceedance of a water quality objective occurs. R5-2008-0052 rescinded the deadline established by Resolution No. R5-2006-0077 to join water quality coalitions; however, Executive Officer approval was required and the application required submittal of fees established by the State Water Resources Control Board.
3. California Water Code Section 13269 states that waivers of waste discharge requirements adopted by Regional Boards may not exceed five years in duration, but may be renewed.
4. The Central Valley Water Board has been working with stakeholders to develop a long-term program for addressing discharges from irrigated lands. As part of this process, on 7 April 2011 the Board adopted Resolution No. R5-2011-0017 certifying the *Irrigated Lands Regulatory Program, Program Environmental Impact Report* (Final Program EIR).
5. Staff has begun an effort to develop proposed orders and other regulatory actions that will establish the long-term irrigated lands regulatory program (long-term program). Renewal of the Conditional Waiver beyond 30 June 2011 would allow the existing water quality efforts to continue while the Board develops proposed orders that will comprise the long-term program. This would minimize disruption of the

ongoing regulatory effort and allow the Board to devote the maximum staff effort toward implementing the new program.

6. Staff has developed a proposed schedule to draft all Orders for Board consideration within twenty-one (21) months. Despite the good faith efforts of staff and the Central Valley Water Board to complete issuance of all long-term program Orders within twenty-one months, it is reasonable to include an additional three month buffer within the waiver renewal to accommodate necessary schedule changes due to factors outside of the control of the Central Valley Water Board.
7. When considering whether to renew the waiver, the Board must determine that the waiver is consistent with applicable water quality control plans and is in the public interest. The waiver must be conditional and must include monitoring except where it is determined that the discharge does not pose a significant threat to water quality. Prior to renewing any waiver for a specific type of discharge the Board must review the terms of the waiver at a public hearing and determine whether the discharge for which the waiver policy was established should be subject to general or individual waste discharge requirements. The conditions of the waiver must include the performance of individual, group, or watershed-based monitoring, unless waived.
8. At this time, it is appropriate to approve a 24 month renewal of the Conditional Waiver for discharges from agricultural lands because: 1) the discharges have the same or similar waste from the same or similar operations and use the same or similar treatment methods and management practices (e.g., source control, reduced chemical use, holding times, cover crops, etc.); 2) the Coalition Groups and agencies have been collecting water quality and management practice data in the region and additional assessment information continues to be collected; and 3) staff anticipates requiring twenty-one to twenty-four months beyond the expiration date to bring all new proposed orders establishing the long-term irrigated lands regulatory program to the Board for consideration.
9. During the term of the renewal, it is appropriate to regulate discharges of waste from irrigated lands under a Conditional Waiver rather than individual waste discharge requirements (WDRs) in order to simplify and streamline the regulatory process. It is not appropriate at this time to adopt individual WDRs to regulate discharges of waste from irrigated lands because there are estimated to be more than 25,000 individual owners and/or operators of irrigated lands who discharge waste from irrigated lands and it is neither feasible nor practicable due to limitations of Central Valley Water Board resources to adopt WDRs within a

reasonable time. It is not appropriate on this date to adopt general WDRs because staff needs additional time to develop draft orders and other regulatory actions for the Board's consideration during the next twenty-four months.

10. This Resolution renews the Coalition Group Conditional Waiver in its entirety and adds conditions that require the implementation of mitigation measures identified in the Program EIR. The Coalition Group Conditional Waiver contains findings required by law, and those findings are incorporated by reference into this Resolution, to the extent that they are consistent with the findings in this Resolution.
11. The conditions of the Conditional Waiver require actions to protect and improve the quality of the waters of the State within the Central Valley Region. The Conditional Waiver sets forth conditions that require Coalition Groups and/or Dischargers to 1) conduct activities required by monitoring and reporting programs issued by the Board or the Executive Officer; 2) implement and evaluate management practices that will result in achieving compliance with applicable water quality standards in surface waters of the State; 3) at the request of the Executive Officer or after more than one exceedance of a water quality objective within a three-year period, develop and implement Management Plans when discharges are causing or contributing to exceedances of applicable water quality standards; and 4) conduct activities in a manner to prevent nuisance. The conditions of the Conditional Waiver may be enforced in a manner similar to enforcement of WDRs. Coverage under the Conditional Waiver may be terminated at any time and the Executive Officer may require any person to submit a Report of Waste Discharge and comply with the Water Code pursuant to individual or general WDRs.
12. The Water Board finds that a 24 month renewal of the Conditional Waiver for dischargers of waste from irrigated lands is in the public interest because it would allow the existing water quality efforts to continue while the Board develops the details of the long-term program. This would minimize disruption of the ongoing regulatory effort and allow the Board to devote the maximum effort toward establishing the new program. The renewal of the Conditional Waiver is also in the public interest because: 1) it complies with Water Code Section 13269 and other applicable law; 2) it requires compliance with water quality standards for discharges to surface water, 3) it includes conditions that are intended to reduce and prevent pollution and nuisance and protect the beneficial uses of surface waters of the State; 4) it contains conditions that include evaluation and implementation of management practices to meet applicable water quality standards; 5) Coalitions are

evaluating water quality conditions in accordance with Board issued monitoring and reporting program orders; 6) given the magnitude of the discharges and number of persons who discharge waste from irrigated lands, it provides for an efficient and effective use of limited Central Valley Water Board resources; and 7) it provides reasonable flexibility for the Dischargers who seek coverage under the Conditional Waiver by providing them with the option of complying with the Water Code through participation in Coalition Groups.

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13. For purposes of adoption of this Resolution, the Central Valley Water Board is the lead agency pursuant to CEQA (Public Resources Code sections 21100 et seq.). The Final Program EIR certified by the Board lists potential environmental impacts associated with implementation of a long-term irrigated lands regulatory program.
14. One of the alternatives analyzed in the Final Program EIR is the long-term continuation of the existing regulatory program for irrigated lands. The existing regulatory program consists primarily of Resolution R5-2006-0053, which is a conditional waiver applicable to Coalition Groups.
15. The Final Program EIR concludes that the long-term continuation of the existing regulatory program for irrigated lands has the potential to cause significant adverse environmental impacts. Those impacts are associated with the practices growers may implement in response to the regulatory requirements. The types of practices, and, therefore, the potentially significant adverse environmental impacts associated with those practices, will be similar for a short-term renewal of the Coalition Group Waiver as the impacts expected from long-term reliance on the Coalition Group Waiver. However, the extent of practice implementation will be less in the short-term than the long-term. A listing of those impacts, the written findings regarding those impacts consistent with § 15091 of the CEQA Guidelines, and the explanation for each finding are contained in a separate Findings of Fact and Statement of Overriding Considerations document (Attachment C), which is incorporated by reference in this resolution and made a part of this record.
16. In the Final Program EIR, the Central Valley Water Board has identified mitigation measures that reduce potentially significant effects to a less than significant level. Additional conditions have been added to the Coalition Group Waiver to address potential adverse environmental impacts that could occur resulting from the continued implementation of

the Coalition Group Waiver by Coalitions and Dischargers. Pursuant to §§ 15091(d) and 15097 of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program has been incorporated into the Coalition Group Waiver.

THEREFORE, BE IT RESOLVED that:

1. The Coalition Group Conditional Waiver (Resolution No. R5-2006-0053), as amended by Resolutions No. R5-2006-0077 and R5-2008-0052 (Attachment A), is hereby renewed with additional conditions specified in Attachment B. The term of the renewal is 24 months beyond its current expiration date. The Coalition Group Conditional Waiver expires on 30 June 2013 unless rescinded or renewed by the Central Valley Water Board.
2. The Central Valley Water Board makes the Findings of Fact and Statement of Overriding Considerations described in Attachment C.
3. As part of the Coalition Group Conditional Waiver, Dischargers shall implement the Mitigation Monitoring and Reporting Program required by this Coalition Group Conditional Waiver as additional conditions specified in Attachment B and submit the Mitigation Monitoring Report by 1 April 2013. A Coalition Group representing the Discharger may submit the report in lieu of the Discharger.
4. Coalition Groups and the Dischargers who are participants in Coalition Groups shall comply with the terms and conditions of the Conditional Waiver and take action to improve and protect waters of the State. Compliance is required until such time that this waiver is renewed or superseded by WDRs or a conditional waiver of WDRs applicable to the Coalition Group and Dischargers within the area described by the subsequently issued WDRs or conditional waiver of WDRs.
5. The Executive Officer shall ensure that the Coalition Groups, the Dischargers who are participants in Coalition Groups and other interested parties are informed of the renewal of the Conditional Waiver.
6. Staff is directed to prepare within five working days a Notice of Determination in regards to the renewal of the Coalition Group Conditional Waiver.

I, PAMELA C. CREEDON, 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 June 2011.

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PAMELA C. CREEDON, Executive Officer