

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER R5-2013-XXXX

WASTE DISCHARGE REQUIREMENTS GENERAL ORDER
FOR
DISCHARGES FROM IRRIGATED LANDS WITHIN THE CENTRAL VALLEY REGION
FOR DISCHARGERS NOT PARTICIPATING IN A THIRD-PARTY GROUP

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

Findings

SCOPE OF COVERAGE OF THIS ORDER

- 1 This Order serves as general waste discharge requirements (WDRs) for waste discharges from irrigated lands (or “discharges”) that could affect ground and/or surface waters of the state. The discharges result from runoff or leaching of irrigation water and/or stormwater from irrigated lands. Discharges can reach waters of the state directly or indirectly.¹
- 2 This Order applies to Dischargers who voluntarily enroll or are required by the Central Valley Water Board to enroll as individuals. The Board intends to issue general WDRs for geographic areas and/or commodities that will be administered by third-party groups. This order will apply to Dischargers who fail to enroll under applicable Board-adopted WDRs administered by a third-party, who fail to meet the obligations described in the applicable third-party administered WDRs, or who choose to enroll under this Order.
- 3 To enroll under this Order, Dischargers must submit a complete Notice of Intent (NOI) and appropriate fee to the Central Valley Water Board. The NOI will include the information described in section IV.B of Attachment B to this Order (Monitoring and Reporting Program Order R5-2013-XXXX, or MRP). Central Valley Water Board staff will make the NOI form available electronically and will provide the form to Dischargers upon request. Upon submittal of a complete NOI and appropriate fee, the Executive Officer may issue a Notice of Applicability (NOA), after which the Discharger will be covered under this Order.

The board intends for this Order to apply to all Dischargers not enrolled under an applicable Board-adopted WDRs administered by a third-party. Therefore, the Central Valley Water Board may issue an NOA to a Discharger following a hearing, even though no NOI has been submitted. In these cases, the Discharger’s coverage under this Order will begin upon issuance of an NOA.

- 4 Dischargers are required to comply with the Water Code, but are not required to join a third-party group. Dischargers not covered by a conditional waiver may comply with the Water Code by joining a third-party group and enrolling under a general waste discharge requirements order, filing for coverage under this Order, filing a Report of Waste Discharge

¹ Definitions for “waste discharges from irrigated lands,” “waste,” “groundwater,” “surface water,” “stormwater runoff,” and “irrigation runoff,” as well as all other definitions, can be found in Attachment E to this Order. It is important to note that irrigation water, the act of irrigating cropland, and the discharge of irrigation water unto itself is not “waste” as defined by the Water Code, but that irrigation water may contain constituents that are considered to be a “waste” as defined by Water Code section 13050(d).

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(RWD) to obtain individual WDRs, or by ceasing to discharge wastes that may affect the quality of state waters.

- 5 "Irrigated lands" means land irrigated to produce crops or pasture used for commercial purposes including lands that are planted to commercial crops that are not yet marketable (e.g., vineyards and tree crops). Irrigated lands also include nurseries, and privately and publicly managed wetlands.
- 6 This Order is not intended to regulate water quality as it travels through or remains on the surface of a Discharger's agricultural fields or the water quality of soil pore liquid within the root zone.²
- 7 This Order does not apply to discharges of waste that are regulated under other Water Board issued WDRs or conditional waiver of WDRs. If the other Water Board WDRs/waiver of WDRs only regulates some of the waste discharge activities (e.g., application of treated wastewater to crop land) at the regulated site, the owner/operator of the irrigated lands must obtain regulatory coverage for any discharges of waste that are not regulated by the other WDRs/waiver. Such regulatory coverage may be sought through enrollment under this Order or by obtaining appropriate changes in the owner/operator's existing WDRs or conditional waiver of WDRs.
- 8 This Order implements the long-term ILRP for Dischargers not enrolled in a third-party group. The long-term ILRP has been conceived as a range of potential alternatives and evaluated in a programmatic environmental impact report (PEIR).³ The PEIR was certified by the Central Valley Water Board on 7 April 2011; however, the PEIR did not specify any single program alternative. The regulatory requirements contained within this Order fall within the range of alternatives evaluated in the PEIR. This Order, along with other Orders to be adopted for irrigated lands within the Central Valley, together will constitute the long-term ILRP.
- 9 This Order regulates both landowners and operators of irrigated lands from which there are discharges of waste that could affect the quality of any waters of the state. Both the landowner and operator are ultimately responsible for complying with the terms and conditions of this Order.

REASONS FOR THE CENTRAL VALLEY WATER BOARD ISSUING THIS ORDER

- 10 The Central Valley Region has approximately 7,800,000 acres of cropland under irrigation and approximately 35,000 individuals and operations with "waste discharges from irrigated lands," as defined in Attachment E to this Order. Currently, approximately 567,000 thousand acres are regulated under the Water Board's General Order for Existing Milk Cow Dairies (R5-2007-0035) and most of the remaining acres will be enrolled under WDRs administered by a third-party group (third-party WDRs). However, those Dischargers whose discharges are not regulated under third-party WDRs must comply with Porter-Cologne by obtaining WDRs. In lieu of issuing potentially hundreds of individual WDRs, a general WDR is necessary and appropriate for those individual Dischargers not governed by third-party WDRs.

² Water that travels through or remains on the surface of a Discharger's agricultural fields includes ditches and other structures (e.g., ponds, basins) that are used to convey supply or drainage water within that Discharger's parcel or between contiguous parcels owned or operated by that Discharger.

³ ICF International. 2011. *Irrigated Lands Regulatory Program Final Program Environmental Impact Report*. Final and Draft. March. (ICF 05508.05.) Sacramento, CA. Prepared for: Central Valley Regional Water Quality Control Board, Sacramento, CA

- 11 The Central Valley Region contains 84 groundwater basins and 135 groundwater sub basins (34 and 76, respectively, that are overlain by irrigated agriculture). The Central Valley also contains approximately 34,000 linear miles of surface water courses (including approximately 5,000 linear miles of named surface water courses) that are, or could be, affected by discharges of waste from irrigated lands. This does not include many thousands of miles of surface water courses in the foothill and mountainous regions, where there are few irrigated lands operations. Discharges of waste from irrigated lands could adversely affect the quality of the “waters of the state,” as defined in Attachment E to this Order.
- 12 Within the Central Valley Region, there are approximately 1.3 million acres of irrigated lands within Department of Pesticide Regulation (DPR) Groundwater Protection Areas (GWPA). DPR identifies these areas as vulnerable to groundwater contamination from the agricultural use of certain pesticides, based upon either pesticide detections in groundwater or upon the presence of certain soil types (leaching and/or runoff) and a depth to groundwater shallower than 70 feet. Of the 1.3 million acres, approximately 580,000 acres of the irrigated lands are within DPR GWPA that are characterized as vulnerable to leaching of pesticides (leaching areas), approximately 660,000 acres are within GWPA that are characterized as vulnerable to movement of pesticides to groundwater by runoff from fields to areas where they may move to groundwater (runoff areas), and 30,000 acres of irrigated lands are characterized as both leaching and runoff areas. For leaching areas, certain water soluble pesticides are carried mainly with excess irrigation water or rainwater through the soil profile and potentially to the underlying aquifer. For runoff areas, certain water soluble pesticides are carried mainly with runoff over the land surface to potential conduits to groundwater. However, DPR has not established or analyzed the GWPA with fertilizers and nitrate contamination in mind, and its GWPA are established based upon detections of certain pesticides, many of which are of lower solubility. Solubility is one factor that can lead to groundwater contamination. Depending on the frequency of application and amount applied, certain water soluble constituents, such as nitrate, may share pathways to groundwater with soluble pesticides.
- 13 The Central Valley Water Board’s *Irrigated Lands Regulatory Program Existing Conditions Report* (ECR)⁴ identifies waters of the state with impaired water quality attributable to or influenced by agriculture in areas of irrigated lands. The *Irrigated Lands Program Environmental Impact Report* (PEIR) describes that “[f]rom a programmatic standpoint, irrigated land waste discharges have the potential to cause degradation of surface and groundwater...”
- 14 Approximately 280 water bodies encompassing 6,500 linear miles of surface water courses within the Central Valley Region have been listed as impaired pursuant to Clean Water Act Section 303(d).⁵ The 303(d) list of impaired water bodies identifies agriculture as a potential source of constituents that impair beneficial uses of some waters within the Central Valley Region and threaten the quality of waters of the state. Approximately 83 of those water bodies are listed with agriculture as an identified potential source of the impairment. Many other water bodies are listed with an unknown source of impairment.
- 15 Elevated levels of nitrates in drinking water can have significant negative health effects on sensitive individuals. The Basin Plan contains a water quality objective for nitrate to protect the drinking water uses. The water quality objective for nitrate is the maximum contaminant level (MCL) of 10 mg/L for nitrate plus nitrite as nitrogen (or 45 mg/L of nitrate as nitrate)

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⁴ California Regional Water Quality Control Board, Central Valley Region, and Jones and Stokes. 2008. *Irrigated Lands Regulatory Program Existing Conditions Report*. Sacramento, CA.

⁵ 2008-2010 303(d) List.

established by the California Department of Public Health (22 CCR § 64431) that has been set at a level to protect the most at risk groups – infants under six months old and pregnant women.⁶

In some areas, nitrate from both agricultural and non-agricultural sources has resulted in degradation and/or pollution of groundwater beneath agricultural areas in the Central Valley.⁷ Available data (see Information Sheet and the PEIR) indicate that there are many wells in the Central Valley that have exceeded the MCL for nitrate. Groundwater in the Central Valley has been designated for drinking water uses; therefore, the water quality objective of 10 mg/L for nitrate plus nitrite (as nitrogen) applies to groundwaters in the Central Valley. Where nitrate groundwater quality data are not available, information on the hydrogeological characteristics of the area suggest that significant portions of the Central Valley are vulnerable to nitrate contamination. Sources of nitrate in groundwater include leaching of excess fertilizer, confined animal feeding operations, septic systems, discharge to land of wastewater, food processor waste, unprotected well heads, improperly abandoned wells, and lack of backflow prevention on wells.

- 16 The Central Valley Water Board's authority to regulate waste discharges that could affect the quality of the waters of the state, which includes both surface water and groundwater, is found in the Porter-Cologne Water Quality Control Act (California Water Code Division 7).
- 17 Water Code section 13263 requires the Central Valley Water Board to prescribe WDRs, or waive WDRs, for proposed, existing, or material changes in discharges of waste that could affect water quality. The board may prescribe waste discharge requirements although no discharge report under Water Code section 13260 has been filed. The WDRs must implement relevant water quality control plans and the Water Code. The Central Valley Water Board may prescribe general waste discharge requirements for a category of discharges if all the following criteria apply to the discharges in that category:
 - a. The discharges are produced by the same or similar operations.
 - b. The discharges involve the same or similar types of waste.
 - c. The discharges require the same or similar treatment standards.
 - d. The discharges are more appropriately regulated under general requirements than individual requirements.

The rationale for developing general waste discharge requirements for irrigated agricultural lands in the Central Valley Region includes: (a) discharges are produced by similar operations (irrigated agriculture); (b) waste discharges under this Order involve similar types of wastes (wastes associated with farming); (c) water quality management practices are similar for irrigated agricultural operations; and (d) due to the large number of operations, these types of operations are more appropriately regulated under general rather than individual requirements.

- 18 Whether an individual discharge of waste from irrigated lands may affect the quality of the waters of the state depends on the quantity of the discharge, quantity of the waste, the quality of the waste, the extent of treatment, soil characteristics, distance to surface water, depth to groundwater, crop type, management practices and other site-specific factors. These individual discharges may also have a cumulative effect on waters of the state. Waste

⁶ See, for example, the California Department of Public Health Nitrate Fact Sheet:
<http://www.cdph.ca.gov/certlic/drinkingwater/Documents/Nitrate/FactSheet-Nitrate-05-23-2012.pdf>.

⁷ PEIR, Appendix A.

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discharges from some irrigated lands have impaired or degraded and will likely continue to impair or degrade the quality of the waters of the state within the Central Valley Region if not subject to regulation pursuant to the Porter-Cologne Water Quality Control Act (codified in Water Code Division 7).

- 19 Water Code section 13267(b)(1) states: “ (1) *In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.* (2) *When requested by the person furnishing a report, the portions of a report that might disclose trade secrets or secret processes may not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies. However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report.*”
- 20 Technical reports are necessary to evaluate Discharger compliance with the terms and conditions of this Order and to assure protection of waters of the state. Consistent with Water Code section 13267, this Order requires the implementation of a monitoring and reporting program (MRP) that is intended to determine the effects of Discharger waste discharges on water quality, to verify the adequacy and effectiveness of the Order’s conditions, and to evaluate Discharger compliance with the terms and conditions of the Order. A Discharger who is covered under this Order must comply with MRP Order R5-2013-XXXX which is part of this Order, and future revisions thereto or with an individual monitoring and reporting program, as specified by the Central Valley Water Board or Executive Officer.
- 21 The Central Valley Water Board’s *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* and the *Water Quality Control Plan for the Tulare Lake Basin* (hereafter Basin Plans) designate beneficial uses, establish water quality objectives, contain programs of implementation needed to achieve water quality objectives, and reference the plans and policies adopted by the State Water Board. The water quality objectives are developed to protect the beneficial uses of waters of the state. Compliance with water quality objectives will protect the beneficial uses listed in Findings 23 and 24.
- 22 This Order implements the Basin Plans by requiring the implementation of management practices to achieve compliance with applicable water quality objectives and requiring the prevention of nuisance. The Order requires implementation of a monitoring and reporting program to determine effects of waste discharges on water quality and the effectiveness of management practices designed to comply with applicable water quality objectives.
- 23 Pursuant to the Basin Plans and State Water Board plans and policies, including State Water Board Resolution 88-63, and consistent with the federal Clean Water Act, the existing and potential beneficial uses of surface waters in the Central Valley Region may include:
 - a. Municipal and Domestic Supply

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- b. Agricultural Supply
 - c. Industrial Service Supply
 - d. Hydropower Generation
 - e. Water Contact Recreation
 - f. Non-Contact Water Recreation
 - g. Warm Freshwater Habitat
 - h. Cold Freshwater Habitat
 - i. Migration of Aquatic Organisms
 - j. Spawning, Reproduction and Development
 - k. Wildlife Habitat
 - l. Estuarine Habitat
 - m. Preservation of Biological Habitats of Special Significance
 - n. Shellfish Harvesting
 - o. Navigation
 - p. Rare, Threatened, and Endangered Species
 - q. Freshwater Replenishment
 - r. Groundwater Recharge
 - s. Industrial Process Supply
 - t. Aquaculture
 - u. Commercial and Sportfishing
- 24 Pursuant to the Basin Plans and State Water Board plans and policies, including State Water Board Resolution 88-63, all ground waters in the region are considered as suitable or potentially suitable at a minimum, for:
- a. Municipal and Domestic Supply
 - b. Agricultural Supply
 - c. Industrial Service Supply
 - d. Industrial Process Supply
- 25 In May 2004, the State Water Board adopted the *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program* (NPS Policy). The purpose of the NPS Policy is to improve the state's ability to effectively manage NPS pollution and conform to the requirements of the Federal Clean Water Act and the Federal Coastal Zone Act Reauthorization Amendments of 1990. The NPS Policy requires, among other key elements, an NPS control implementation program's ultimate purpose to be explicitly stated. It also requires implementation programs to, at a minimum, address NPS pollution in a manner that achieves and maintains water quality objectives and beneficial uses, including any applicable antidegradation requirements.
- 26 This Order constitutes an NPS Implementation Program for the discharges regulated by the Order. The ultimate purpose of this program is expressly stated in the goals and objectives for the ILRP, described in the PEIR and Attachment A to this Order. Attachment A, Information Sheet, describes the five key elements required by the NPS Policy and provides justification that the requirements of this Order meet the requirements of the NPS Policy.
- 27 The United States Environmental Protection Agency adopted the National Toxics Rule (NTR) on 5 February 1993 and the California Toxics Rule (CTR) on 18 May 2000, which was modified on 13 February 2001. The NTR and CTR contain water quality criteria which, when combined with beneficial use designations in the Basin Plans, constitute enforceable water quality standards for priority toxic pollutants in California surface waters.

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- 27 Section 106.3 of the Water Code establishes the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by, among other things, utilizing a tiered system that imposes more stringent requirements in areas deemed “high vulnerability” based on threat to surface or groundwater quality, requiring surface and groundwater monitoring and management plans, requiring an identification and evaluation of management practices that are protective of surface and groundwater quality, and requiring discharges to meet applicable water quality objectives, which include maximum contaminant levels designed to protect human health and ensure that water is safe for domestic uses. Protection of the beneficial uses of groundwater and surface water is described throughout this Order, including the discussion in Attachment A to this Order of State Water Board Resolution 68-16 *Statement of Policy with Respect to Maintaining High Quality Waters in California*. As discussed below, this Order is established consistent with the Program Environmental Impact Report (PEIR) for the Irrigated Lands Regulatory Program. The PEIR includes a specific goal and objective to ensure that discharges from irrigated lands do not impair access to safe and reliable drinking water.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- 28 For purposes of adoption of this Order, the Central Valley Water Board is the lead agency pursuant to CEQA (Public Resources Code sections 21100 et seq.). Pursuant to board direction in Resolutions R5-2006-0053 and R5-2006-0054, a Program Environmental Impact Report (PEIR) was prepared. In accordance with CEQA, the Central Valley Water Board, acting as the lead agency, adopted Resolution R5-2011-0017 on 7 April 2011, certifying the PEIR for the Irrigated Lands Regulatory Program.
- 29 This Order relies on the environmental impact analysis contained in the PEIR to satisfy the requirements of CEQA. Although the Order is not identical to any of the PEIR alternatives, the Order is comprised entirely of elements of the PEIR’s wide range of alternatives. Therefore, the PEIR identified, disclosed, and analyzed the potential environmental impacts of the Order. The potential compliance activities undertaken by the regulated Dischargers in response to this Order fall within the range of compliance activities identified and analyzed in the PEIR. Therefore, all potentially adverse environmental impacts of this Order have been identified, disclosed, and analyzed in the PEIR. If it is determined that a grower filing for coverage under this Order could create impacts not identified in the PEIR, individual WDRs would be prepared for that grower and additional CEQA analysis performed, which would likely tier off the PEIR as necessary. (See Title 14, CCR § 15152).
- 30 The requirements of this Order are based on elements of Alternative 5 of the PEIR. The PEIR concludes that implementation of some of these elements has the potential to cause significant adverse environmental impacts. Such impacts are associated, directly and indirectly, with specific compliance activities growers may conduct in response to the Order’s regulatory requirements. Such activities are expected to include implementation of water quality management practices and monitoring well installation and operation. Attachment A to this Order describes example water quality management practices that may be implemented as a result of this Order and that monitoring wells may be installed as a result of this Order. The types of practices implemented in response to this Order will be substantially similar to those described in the PEIR for Alternative 5. Because of these similarities, this Order relies on the PEIR for its CEQA analysis. A listing of potential environmental 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

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Overriding Considerations document (Attachment D), which is incorporated by reference into this Order.

- 31 Where potentially significant environmental impacts identified in Attachment D may occur as a result of Dischargers' compliance activities, this Order requires that Dischargers either avoid the impacts where feasible or implement identified mitigation measures, if any, to reduce the potential impacts to a less than significant level. Where avoidance or implementation of identified mitigation is not feasible, use of this Order is prohibited and individual WDRs would be required. The Monitoring and Reporting Program (MRP) Order, Attachment B, includes a Mitigation Monitoring and Reporting Program to track the implementation of mitigation measures.
- 32 The PEIR finds that none of the program alternatives will cause significant adverse impacts to water quality. Consistent with alternatives in the PEIR, this Order contains measures needed to achieve and maintain water quality objectives and beneficial uses, reduce current pollutant loading rates, and minimize further degradation of water quality. As such, this Order will not cause significant adverse impacts to water quality.

STATE WATER RESOURCES CONTROL BOARD RESOLUTION 68-16

- 33 State Water Resources Control Board (State Water Board) Resolution 68-16 *Statement of Policy with Respect to Maintaining High Quality of Waters in California* (Resolution 68-16 or "antidegradation policy") requires that a Regional Water Quality Control Board maintain high quality waters of the state unless the board determines that any authorized degradation is consistent with maximum benefit to the people of the state, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in a Regional Water Quality Control Board's policies (e.g., quality that exceeds applicable water quality objectives). The board must also assure that any authorized degradation of existing high quality waters is subject to waste discharge requirements which will result in the best practicable treatment or control (BPTC) of the discharge necessary to assure that pollution, or nuisance will not occur and the highest water quality consistent with the maximum benefit to the people of the state will be maintained.
- 34 The Central Valley Water Board has information in its records that has been collected by the Central Valley Water Board, growers, educational institutions, and others that demonstrates that many water bodies within the Central Valley Region are impaired for various constituents, including pesticides, nitrates, and salts. Many water bodies have been listed as impaired pursuant to Clean Water Act section 303(d). This Order does not authorize further degradation of such waters.

Appendix A to the PEIR for the Irrigated Lands Program describes that "*there may be cases where irrigated agricultural waste discharges threaten to degrade high quality waters.*" For discharges to water bodies that are high quality waters, this Order is consistent with Resolution 68-16. Attachment A to this Order summarizes applicable antidegradation requirements and provides detailed rationale demonstrating how this Order is consistent with Resolution 68-16. As indicated in the summary, this Order authorizes degradation of high quality waters, not to exceed water quality objectives, threaten beneficial uses, or cause a condition of pollution or nuisance. The Order will also result in the implementation of BPTC by those discharging to high quality waters and assure that any change in water quality will be consistent with maximum benefit to the people of the state.

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CALIFORNIA WATER CODE SECTIONS 13141 AND 13241

35 California Water Code section 13141 states that “*prior to implementation of any agricultural water quality control program, an estimate of the total cost of such a program, together with an identification of potential sources of financing, shall be indicated in any regional water quality control plan.*” Section 13141 concerns approvals or revisions to a water quality control plan and does not necessarily apply in a context where an agricultural water quality control program is being developed through waivers and waste discharge requirements rather than basin planning. However, the Basin Plan includes an estimate of potential costs and sources of financing for the long-term irrigated lands program as a whole. The estimated costs were derived by analyzing the six alternatives evaluated in the PEIR. This Order, which implements the long-term ILRP across the Central Valley Region, is based primarily on Alternative 5 of the PEIR. The estimated average annual per acre cost of compliance with this Order, e.g., summation of costs for administration, monitoring, reporting, tracking, implementation of management practices, is expected to be 184.29 dollars per year.⁸

Approximately \$121.12 of the estimated \$184.29 per acre annual cost of the Order is associated with implementation of management practices. This Order does not require that Dischargers implement specific water quality management practices.⁹ Many of the management practices that have water quality benefits can have other economic and environmental benefits (e.g., improved irrigation can reduce water and energy consumption, as well as reduce runoff). Management practice selection will be based on decisions by individual Dischargers in consideration of the unique conditions of their irrigated agricultural lands; water quality concerns; and other benefits expected from implementation of the practice. As such, the cost estimate is an estimate of potential, not required costs of implementing specific practices. Any costs for water quality management practices will be based on a market transaction between Dischargers and those vendors or individuals providing services or equipment and not based on an estimate of those costs provided by the board. These costs have been estimated using the same study used to develop the Basin Plan cost estimate, which applies to the whole ILRP. The basis for these estimates is provided in the *Draft Technical Memorandum Concerning the Economic Analysis of the Irrigated Lands Regulatory Program*.¹⁰ Attachment A includes further discussion regarding the cost estimate for this Order.

36 California Water Code section 13263 requires that the Central Valley Water Board consider the following factors, found in section 13241, when considering adoption of waste discharge requirements.

- a. Past, present, and probable future beneficial uses of water.
- b. Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.
- c. Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.
- d. Economic considerations.

⁸ A per acre cost is provided here because it is unknown how many irrigated lands operations will be enrolled under this Order. Without information regarding the potential irrigated acreage that may enroll, a reliable total cost cannot be determined. It is assumed, however, that very few operations will be enrolled under this Order.

⁹ Per Water Code section 13360, the Central Valley Water Board may not specify the manner in which a Discharger complies with water quality requirements.

¹⁰ ICF International. 2010. *Draft Technical Memorandum Concerning the Economic Analysis of the Irrigated Lands Regulatory Program*. Draft. July. (ICF 05508.05.) Sacramento, CA. Prepared for: Central Valley Regional Water Quality Control Board, Sacramento, CA

- e. The need for developing housing within the region.
- f. The need to develop and use recycled water.

These factors have been considered in the development of this Order. Attachment A, Information Sheet, provides further discussion on the consideration of section 13241 factors.

RELATIONSHIP TO OTHER ONGOING WATER QUALITY EFFORTS

- 37 Other water quality efforts conducted pursuant to state and federal law directly or indirectly serve to reduce waste discharges from irrigated lands to waters of the state. Those efforts will continue, and will be supported by implementation of this Order.
- 38 The Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) initiative has the goal of developing sustainable solutions to the increasing salt and nitrate concentrations that threaten the achievement of water quality objectives in Central Valley surface and groundwater. This Order requires actions that will reduce nitrate discharges and should result in practices that reduce salt loading. The board intends to coordinate all such actions with the CV-SALTS initiative. CV-SALTS may identify additional actions that need to be taken by irrigated agriculture and others to address these constituents. This Order can be amended in the future to implement any policies or requirements established by the Central Valley Water Board resulting from the CV-SALTS process. This Order includes provisions to support the development of information needed for the CV-SALTS process.
- 39 Total Maximum Daily Loads (TMDLs) are established for surface waters that have been placed on the State Water Board's 303(d) list of Water Quality Limited Segments for failure to meet applicable water quality standards. A TMDL, which may be adopted by the Central Valley Water Board as Basin Plan amendments, is the sum of allowable loads of a single pollutant from all contributing point sources and nonpoint sources. The Central Valley Water Board is currently developing a pesticide TMDL and organochlorine pesticide TMDL, among others in development. This Order will implement these and other future TMDLs to the extent there are established requirements that pertain to irrigated agriculture, as well as existing approved TMDLs given in the Basin Plans.
- 40 The General Order for Existing Milk Cow Dairies (R5-2007-0035) and NPDES Dairy General Permit CAG015001 (Dairy General Orders) regulates discharges of waste to surface waters and groundwater from existing milk cow dairies in the Central Valley. Discharges from irrigated agricultural parcels are regulated by the Dairy General Orders if the owner or operator of the parcel applies dairy waste from its dairy operation. Irrigated agricultural parcels that receive dairy waste from external sources must obtain regulatory coverage for their discharge under this Order, individual waste discharge requirements, or an order administered by a third-party.

COORDINATION AND COOPERATION WITH OTHER AGENCIES

- 41 Integrated Regional Water Management Plans: Pursuant to part 2.75 of Division 6 of the Water Code (commencing with section 10750), local agencies are authorized to adopt and implement groundwater management plans (hereinafter "local groundwater management plans"), including integrated regional water management plans. The legislation provides recommended components to the plans such as control of saline water intrusion, regulation of the migration of contaminated water, monitoring of groundwater levels and storage, and the development of relationships with regulatory agencies. The information collected through

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implementation of groundwater action plans can support or supplement efforts to evaluate potential impacts of irrigated agricultural discharges on groundwater.

- 42 California Department of Pesticide Regulation (DPR): DPR has developed a Groundwater Protection Program under the authority of the Pesticide Contamination Prevention Act (PCPA) (commencing with Food and Agriculture Code section 13142). The program is intended to prevent contamination of groundwater from the legal application of pesticides. In addition to activities mandated by the PCPA, DPR's program has incorporated approaches to identify areas vulnerable to pesticide movement, develop mitigation measures to prevent pesticide contamination, and monitor domestic drinking water wells located in groundwater protection areas. The Groundwater Protection Program can provide valuable information on potential impacts to groundwater from agricultural pesticides. If necessary, DPR and the county agricultural commissioners can use their regulatory authorities to address any identified impacts to groundwater or surface water attributable to pesticide discharges from agricultural fields.
- 43 California Department of Food and Agriculture (CDFA): The CDFA Fertilizer Research and Education Program (FREP) coordinates research to advance the environmentally safe and agronomically sound use and handling of fertilizer materials. Currently, CDFA is developing nitrogen management training programs for farmers and Certified Crop Advisors (CCA). Among other certification options available for nitrogen management plans, the CDFA training programs will be recognized as providing the training necessary for a farmer or CCA to certify nitrogen management plans in high vulnerability groundwater areas. This Order leverages CDFA's work and expertise with respect to nitrogen management training and technical support to the professionals that will be developing nitrogen management plans for individual Dischargers.
- 44 The Central Valley Water Board will continue to work cooperatively with the other state agencies to identify and leverage their efforts.

ENFORCEMENT FOR NONCOMPLIANCE WITH THIS ORDER

- 45 California Water Code section 13350 provides that any person who violates Waste Discharge Requirements may be: 1) subject to administrative civil liability imposed by the Central Valley Water Board or State Water Board in an amount of up to \$5,000 per day of violation, or \$10 per gallon of waste discharged; or 2) be subject to civil liability imposed by a court in an amount of up to \$15,000 per day of violation, or \$20 per gallon. The actual calculation and determination of administrative civil penalties must be set forth in a manner that is consistent with the State Water Board's Water Quality Enforcement Policy.
- 46 The State Water Board's Water Quality Enforcement Policy (Enforcement Policy) endorses progressive enforcement action for violations of waste discharge requirements when appropriate, but recommends formal enforcement as a first response to more significant violations. Progressive enforcement is an escalating series of actions that allows for the efficient and effective use of enforcement resources to: 1) assist cooperative Dischargers in achieving compliance; 2) compel compliance for repeat violations and recalcitrant violators; and 3) provide a disincentive for noncompliance. Progressive enforcement actions may begin with informal enforcement actions such as a verbal, written, or electronic communication between the Central Valley Water Board and a Discharger. The purpose of an informal enforcement action is to quickly bring the violation to the Discharger's attention and to give the

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Discharger an opportunity to return to compliance as soon as possible. The highest level of informal enforcement is a Notice of Violation.

The Enforcement Policy recommends formal enforcement actions for the highest priority violations, chronic violations, and/or threatened violations. Violations of this Order that will be considered a priority include, but are not limited to:

- a) Failure to obtain required regulatory coverage.
- b) Failure to meet receiving water limitations, unless the Discharger is implementing a Central Valley Water Board approved SWAP or GWAP in accordance with the time schedule provisions of this Order (section X).
- c) The discharge of waste to lands not owned, leased, or controlled by the Discharger without written permission from the landowner.
- d) Failure to prevent future exceedances of water quality objectives once made aware of an exceedance.
- e) Falsifying information or intentionally withholding information required by applicable laws, regulations or an enforcement order.
- f) Failure to implement a Farm Water Quality Plan (FWQP), Surface Water Action Plan (SWAP), or Groundwater Action Plan (GWAP).
- g) Failure to pay annual fees, penalties, or liabilities.
- h) Failure to monitor or provide information to the Central Valley Water Board as required.
- i) Failure to submit required reports on time.

GENERAL FINDINGS

- 47 This Order does not authorize violation of any federal, state, or local law or regulation.
- 48 This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any action authorized under this Order, the Discharger shall obtain authorization for an incidental take prior to construction or operation of the project. The Discharger shall be responsible for meeting all requirements of the applicable Endangered Species Act.
- 49 This Order does not supersede the Central Valley Water Board's Basin Plans and policies, including prohibitions (e.g., pesticides) and implementation plans (e.g., Total Maximum Daily Loads), or the State Water Board's plans and policies.
- 50 As stated in California Water Code section 13263(g), the discharge of waste into waters of the state is a privilege, not a right, and regulatory coverage under this Order does not create a vested right to continue the discharge of waste. Failure to prevent conditions that create or threaten to create pollution or nuisance will be sufficient reason to modify, revoke, or enforce this Order, as well as prohibit further discharge.
- 51 This Order requires Dischargers to provide the Central Valley Water Board with contact information of the person(s) authorized to provide access to the enrolled property for inspections. This requirement provides a procedure to enable board staff to contact Discharger representatives so that the board may more efficiently monitor compliance with the provisions of this Order.

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- 52 Any instance of noncompliance with this Order constitutes a violation of the California Water Code and its regulations. Such noncompliance is grounds for enforcement action, and/or termination of coverage for waste discharges under this Order, subjecting the Discharger to enforcement under the Water Code for further discharges of waste to surface or groundwater.
- 53 All discharges from the irrigated agricultural operation are expected to comply with the lawful requirements of municipalities, counties, drainage districts, and other local agencies regarding discharges to storm drain systems or to other courses under their jurisdiction.
- 54 The fact that it would have been necessary to halt or reduce the discharge in order to maintain compliance with this Order shall not be a defense for violations of the Order by the Discharger.
- 55 This Order is not a National Pollutant Discharge Elimination System Permit issued pursuant to the Federal Clean Water Act. Coverage under this Order does not exempt a facility from the Clean Water Act. Any facility required to obtain such a permit must notify the Central Valley Water Board.
- 56 Water Code section 13260(d)(1)(A) requires persons subject to waste discharge requirements to pay an annual fee established by the State Water Board.
- 57 The Findings of this Order, supplemental information and details in the attached Information Sheet (Attachment A), and the administrative record of the Central Valley Water Board relevant to the Irrigated Lands Regulatory Program, were considered in establishing these waste discharge requirements.
- 58 The Central Valley Water Board has notified interested agencies and persons of its intent to issue this Order for discharges of waste from irrigated lands by individuals not enrolled in a third-party, and has provided them with an opportunity for a public hearing and an opportunity to submit comments.
- 59 The Central Valley Water Board, in a public meeting, heard and considered all comments pertaining to this Order.
- 60 Any person affected by this action of the Central Valley Water Board may petition the State Water Board to review this action. The State Water Board must receive the petition within 30 days of the date on which the Central Valley Water Board adopted this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

IT IS HEREBY ORDERED that, pursuant to California Water Code sections 13260, 13263, and 13267 and in order to meet the provisions contained in Division 7 of the California Water Code and regulations and policies adopted there under; all Dischargers that have received a Notice of Applicability¹¹ their agents, successors, and assigns shall comply with the following:

I. Prohibitions

1. The discharge of waste to waters of the state, from irrigated agricultural operations other than those defined in the Findings of this Order, is prohibited.

¹¹ The board intends for this Order to apply to all Dischargers not enrolled under applicable Board-adopted WDRs administered by a third-party. Therefore, the Central Valley Water Board may issue an NOA to a Discharger following a hearing, even though no NOI has been submitted.

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2. The discharge of hazardous waste, as defined in California Water Code section 13173 and Title 23 CCR section 2521(a), respectively, is prohibited.
3. The discharge of wastes (e.g., fertilizers, fumigants, pesticides) into groundwater via backflow through a water supply well is prohibited.
4. The discharge of any wastes (e.g., fertilizers, fumigants, pesticides) down a groundwater well casing is prohibited.

II. Receiving Water Limitations

A. Surface Water Limitations¹²

1. Wastes discharged shall not cause or contribute to an exceedance of applicable water quality objectives in surface water, unreasonably affect applicable beneficial uses, or cause or contribute to a condition of pollution or nuisance.

B. Groundwater Limitations¹³

1. Wastes discharged shall not cause or contribute to an exceedance of applicable water quality objectives in the underlying groundwater, unreasonably affect applicable beneficial uses, or cause or contribute to a condition of pollution or nuisance.

III. Provisions

A. General Specifications

1. Dischargers shall comply with all applicable provisions of the California Water Code, the applicable Basin Plan, and State Water Board plans and policies.
2. Dischargers who are covered under this Order shall comply with the terms and conditions contained in this Order.
3. Dischargers shall comply with the attached Monitoring and Reporting Program R5-2013-XXXX, and future revisions thereto or with an individual monitoring and reporting program, as specified by the Central Valley Water Board or the Executive Officer.
4. Dischargers shall implement water quality management practices described in their FWQP and, as necessary, to achieve compliance with surface and groundwater limitations of this Order (section II.A and B). Water quality management practices can be instituted on an individual basis, or implemented to serve multiple growers discharging to a single location. Where applicable, the implementation of practices must be in accordance with the time schedule contained in an approved Surface Water Action Plan or Groundwater Action Plan.

¹² These limitations are effective immediately except where Dischargers are implementing an approved Surface Water Action Plan (SWAP) for a specified waste parameter in accordance with an approved time schedule authorized pursuant to sections VI.C and X of this Order.

¹³ These limitations are effective immediately except where Dischargers are implementing an approved Groundwater Action Plan (GWAP) for a specified waste parameter in accordance with an approved time schedule authorized pursuant to sections VI.D and X of this Order.

5. Dischargers shall, at a minimum, implement water quality management practices that meet the following farm management performance standards:
 - a. Minimize waste discharge offsite in surface water,
 - b. Minimize percolation of waste to groundwater,
 - c. Protect wellheads from surface water intrusion.
6. Installation of groundwater monitoring wells or implementation of management practices to meet the conditions of this Order at a location or in a manner that could cause an adverse environmental impact as identified in the *Irrigated Lands Regulatory Program, Final Program Environmental Impact Report* (PEIR)¹⁴ shall be mitigated in accordance with the mitigation measures provided in Attachment C to this Order.
7. Dischargers shall implement effective sediment discharge and erosion prevention practices to minimize or eliminate the discharge of sediment above background levels.
8. Where utilized, settling ponds, basins, and tailwater recovery systems shall be constructed, maintained, and operated to prevent groundwater degradation, erosion, slope failure; and minimize the discharge of sediment. The construction and operation must be consistent with the applicable Natural Resources Conservation Service (NRCS) conservation practice standard, an NRCS or University of California Cooperative Extension recommendation, or an equivalent alternative standard. Alternatively, within Runoff Groundwater Protection Areas, Dischargers can follow the DPR approved management practice for recycling of runoff at 3 CCR section 6487.4(h)(1).
9. Dischargers shall implement practices that minimize excess nutrient application relative to crop need. Dischargers shall prepare and implement a farm-specific nitrogen management plan as required by section VI.B of this Order.
10. Dischargers shall properly operate and maintain in good working order any facility, unit, system, or monitoring device installed to achieve compliance with the Order.
11. Where applicable, Dischargers shall follow state, county or local agency standards with respect to water wells and groundwater quality when constructing new wells, modifying existing wells, or destroying wells. Absent such standards, at a minimum, the Discharger shall follow the standards and guidelines described in the California Department of Water Resources' *Water Well Standards (Bulletins 74-81 & 74-90 combined)*.
12. In addition to the reports identified in section VI of this Order, the Executive Officer may require the Discharger to submit additional technical reports pursuant to California Water Code section 13267.
13. The provisions of this Order are severable. If any provision of the Order is held invalid, the remainder of the Order shall not be affected.
14. The requirements prescribed in this Order do not authorize the commission of any act causing injury to the property of another, or protect the Discharger from liabilities under other federal, state, county, or local laws. However, enrollment under this Order does protect the Discharger from liability alleged for failing to comply with Water Code 13260.
15. This Order does not convey any property rights or exclusive privileges.

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¹⁴ On 7 April 2011, the Central Valley Water Board adopted Resolution R5-2011-0017, certifying the PEIR for the long-term irrigated lands regulatory program.

16. This Order shall not create a vested right, and all such discharges of waste shall be considered a privilege, as provided for in Water Code section 13263.
17. The Discharger understands that the Central Valley Water Board or its authorized representatives, may, at reasonable hours, inspect the facilities and irrigated lands of persons subject to this Order to ascertain whether the purposes of the Porter-Cologne Act are being met and whether the Discharger is complying with the conditions of this Order. To the extent required by Water Code section 13267(c) or other applicable law, the inspection shall be made with the consent of the Discharger, owner or authorized representative, or if consent is withheld, with a duly issued warrant pursuant to the procedure set forth in Title 13 Code of Civil Procedure Part 3 (commencing with section 1822.50). In the event of an emergency affecting the public health and safety, an inspection may be performed without the consent or the issuance of a warrant.
18. The Discharger shall provide the Central Valley Water Board with the phone number(s) of the individual(s) with authority to provide consent to access its facilities as described in provision III.A.17 above.
19. The Discharger shall maintain a copy of this Order at the primary place of business, or the Discharger's headquarters for its farming operation so as to be available at all times to operations personnel. The Discharger and his/her designee shall be familiar with the content of this Order.
20. The Discharger shall submit all required documents in accordance with section VII of this Order.
21. The Discharger shall implement the applicable management practices, or equivalent practices, identified as protective of groundwater in the Management Practices Evaluation Report.

IV. Effective Dates

1. This Order is effective upon adoption by the Central Valley Water Board on **DATE** and remains in effect unless rescinded or revised by the Central Valley Water Board.
2. Regulatory coverage under this Order is effective upon Central Valley Water Board issuance of an NOA, which may be issued upon receipt of a complete Notice of Intent and appropriate enrollment fee from the Discharger.

V. Permit Reopening, Revision, Transfer, Revocation, Termination, and Reissuance

1. This Order may be reopened to address any changes in state statutes, regulations, plans, or policies that would affect the water quality requirements for the discharges, including, but not limited to, the Central Valley Water Board *Water Quality Control Plans* (Basin Plans) *for the Sacramento River and San Joaquin River Basins, and for the Tulare Lake Basin*.
2. The filing of a request by the Discharger for modification, revocation and re-issuance, or termination of the Order, or notification of planned changes or anticipated noncompliance, does not stay any condition of the Order.

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3. Dischargers shall provide to the Executive Officer any information which the Executive Officer may request to determine whether cause exists for modifying, revoking and re-issuing, or terminating the Order as applied to the individual Discharger, or to determine compliance with the requirements of this Order.
4. After notice and opportunity for a hearing, the Order may be terminated or modified for cause as applied to individual Dischargers identified by the Central Valley Water Board. Cause for such termination or modification, includes, but is not limited to:
 - a. Violation of any term or condition contained in the Order;
 - b. Obtaining the Order by misrepresentation; or
 - c. Failure to fully disclose all relevant facts.
5. The Order is not transferable to any person except after notice to the Central Valley Water Board. The Central Valley Water Board may modify or revoke and re-issue the Order to incorporate such other requirements as may be necessary under the California Water Code.
6. In the event of any change in control or ownership of the irrigated agricultural operation covered under this Order, the Discharger shall notify the succeeding owner or operator of the existence of this Order by letter at least 60 days in advance of such change, a copy of which shall be immediately forwarded to the appropriate Central Valley Water Board office.
7. To assume operation under the Order, any succeeding owner or operator must request, in writing, that the Executive Officer transfer coverage under this Order. The succeeding owner or operator shall provide their full legal name, address and telephone number of the persons responsible for contact with the Central Valley Water Board and a signed statement in compliance with section VII, Reporting Provisions, below. The request will also include a statement and signature that the new owner or operator assumes full responsibility for compliance with the Order and that the new owner or operator will implement the FWQP prepared by the preceding owner or operator. Transfer of the Order shall be approved or disapproved in writing by the Executive Officer. The succeeding owner or operator is not authorized to discharge under the Order and is subject to enforcement until written approval of the coverage transfer from the Executive Officer.
8. If the Discharger wishes to terminate coverage under this Order, the Discharger shall submit a complete Notice of Termination (NOT). Central Valley Water Board staff will post a NOT form on the internet and will provide the form to Dischargers upon request. Termination of regulatory coverage will occur on the date specified in the NOT, unless specified otherwise. All discharges shall cease before the date of termination, and any discharges on or after this date shall be considered in violation of the Water Code, unless other WDRs or waivers of WDRs cover the discharge.
9. The Central Valley Water Board will review this Order periodically and may revise this Order when necessary.

VI. Required Reports and Notices

The Central Valley Water Board or the Executive Officer may require any of the following reports and notices to be submitted electronically as long as the electronic format is reasonably available to the Discharger, and only to the extent that the Discharger has access to the equipment that allows for them to submit the information electronically. If the Discharger does not have such access, reports and notices must be submitted by mail or in person. Reports and notices shall

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be submitted in accordance with section VII, Reporting Provisions, as well as MRP Order R5-2013-XXXX. Dischargers must prepare and maintain the following reports as instructed below, and shall submit or make available such reports to the Central Valley Water Board as identified below.

A. Notice of Intent

To apply for coverage under this Order, the Discharger must submit a complete Notice of Intent (NOI) to comply with the conditions of the Order for approval by the Executive Officer. Central Valley Water Board staff will post an NOI form on the internet and will provide the form to Dischargers upon request. The information that must be provided in the NOI is described in section IV.B of the MRP.

B. Farm Water Quality Plan

Within one (1) year of issuance of an NOA, the Discharger shall develop a Farm Water Quality Plan (FWQP), which will include a nitrogen management plan, and submit the plan to the Central Valley Water Board. The FWQP shall describe the water quality management practices used or to be used to meet the requirements of this Order and shall include the elements specified in section IV.C of the MRP. The FWQP shall be updated annually, or if the Executive Officer requests that additional information be included. It shall be maintained at the Discharger's farming operations headquarters or primary place of business; and must be produced, upon request by board staff, should board staff or authorized representative conduct an inspection of the Discharger's irrigated agricultural operation.

C. Surface Water Action Plan

The Discharger shall develop a Surface Water Action Plan (SWAP) when surface water discharge monitoring results required by the MRP exceed an applicable water quality objective or trigger limit twice in a three year period for the same constituent or as required in the MRP. The Discharger shall develop a SWAP if the Executive Officer determines monitoring results indicate a trend in degradation that may threaten applicable Basin Plan beneficial uses. The SWAP shall describe the water quality management practices to be implemented and shall include the elements specified in section IV.D of the MRP. The Discharger shall submit the SWAP to the Central Valley Water Board Executive Officer within 60 days of receipt of data or information indicating that the requirement to develop a SWAP has been triggered or within 60 days of the Executive Officer informing the Discharger that monitoring results indicate a trend in degradation of a constituent that may threaten applicable beneficial uses. The SWAP is subject to Executive Officer review and approval. The Discharger shall begin implementing the SWAP immediately and will implement any changes to the SWAP required by the Executive Officer.

SWAP completion. A SWAP is considered completed for a constituent when the Executive Officer concurs that the elements of the SWAP have been successfully completed and the water quality condition requiring the SWAP has been successfully addressed.

D. Groundwater Action Plan

The Discharger shall develop a Groundwater Action Plan (GWAP) when groundwater monitoring shows that its discharge is causing or contributing to groundwater quality conditions that exceed applicable water quality objectives or trigger limits; or where management practices currently in use are not protective of groundwater quality based upon information contained in the management practices evaluation report (section IV.F, MRP). The Discharger shall develop a GWAP if the Executive Officer determines monitoring results indicate a trend in degradation that may threaten applicable Basin Plan beneficial uses. The GWAP shall describe the water quality management practices to be implemented and shall

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include the elements specified in section IV.E of the MRP. The Discharger shall submit the GWAP to the Central Valley Water Board Executive Officer within 60 days of receipt of data or information indicating that the requirement to develop a GWAP has been triggered or within 60 days of the Executive Officer informing the Discharger that monitoring results indicate a trend in degradation of a constituent that may threaten applicable beneficial uses. The GWAP is subject to Executive Officer review and approval. The Discharger shall begin implementing the GWAP immediately and will implement any changes to the GWAP required by the Executive Officer.

GWAP completion. A GWAP is considered completed for a constituent when the Executive Officer concurs that the elements of the GWAP have been successfully completed and the water quality condition requiring the GWAP has been successfully addressed.

E. Annual Monitoring Report (AMR)

The Discharger shall submit an AMR in accordance with section IV.G of the MRP to the Central Valley Water Board by 1 May of each year.

F. Management Practices Evaluation Workplan

Per the schedule in section III.C of the attached MRP, Dischargers within a high vulnerability groundwater area shall submit a management practices evaluation workplan to the Executive Officer for review and approval. The workplan shall be designed to achieve the objectives and requirements described in section III.C of the attached MRP. The Discharger shall implement the workplan upon Executive Officer approval.

G. Management Practices Evaluation Workplan Reports

The Discharger shall submit reports on the implementation of their management practices evaluation workplan in accordance with section IV.F of the MRP to the Executive Officer. The final report is subject to Executive Officer approval.

VII. Reporting Provisions

1. Dischargers are required to submit reports and notices in accordance with the requirements in this Order and attached Monitoring and Reporting Program Order R5-2013-XXXX, unless otherwise requested by the Executive Officer.
2. All reports shall be accompanied by a cover letter containing the certification specified in section VII.3 below. The cover letter shall be signed by a person duly authorized under California law to bind the party submitting the report.
3. Each person signing a report required by this Order or other information requested by the Central Valley Water Board shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment for violations."

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4. All reports prepared and submitted to the Executive Officer in accordance with the terms of this Order will be made available for public inspection at the offices of the Central Valley Water Board, except for reports, or portions of such reports, subject to an exemption from public disclosure in accordance with California law and regulations, including the Public Records Act, Water Code section 13267(b)(2). If the Discharger asserts that all or a portion of a report is subject to an exemption from public disclosure, it must clearly indicate on the cover of the report that it asserts that all or a portion of the report is exempt from public disclosure. The complete report must be submitted with those portions that are asserted to be exempt in redacted form, along with separately-bound unredacted pages (to be maintained separately by staff). The Discharger shall identify the basis for the exemption. If the Executive Officer cannot identify a reasonable basis for treating the information as exempt from disclosure, the Executive Officer will notify the Discharger that the information will be placed in the public file unless the Central Valley Water Board receives, within 10 calendar days, a satisfactory explanation supporting the claimed exemption. Data on waste discharges, water quality, meteorology, geology, and hydrogeology shall not be considered confidential. NOIs shall generally not be considered exempt from disclosure.
5. To the extent feasible, all reports submitted by Dischargers or an authorized representative shall be submitted using the Geotracker ESI (Electronic Submittal of Information) system. Geotracker ESI is a web-based electronic reporting tool maintained by the State Water Board. If unable to submit the report electronically, the Discharger shall email, mail or personally deliver the report to the Central Valley Water Board.

VIII. Record-keeping Requirements

The Discharger shall maintain any reports or records required by this Order for five years. The maintained reports or records shall be made available to the Central Valley Water Board upon request. This includes all monitoring information, calibration and maintenance records of sampling equipment, copies of reports required by this Order, and records of all data used to complete the reports. Records shall be maintained for a minimum of five years from the date of sample, measurement, report, or application. This five-year period shall be extended during the course of any unresolved litigation regarding the discharge or when requested in writing by the Executive Officer.

IX. Annual Fees

1. Water Code section 13260(d)(1)(A) requires persons subject to waste discharge requirements to pay an annual fee established by the State Water Resources Control Board (State Water Board).
2. Dischargers shall pay an annual fee to the State Water Board in compliance with the Waste Discharge Requirement fee schedule set forth at 23 CCR section 2200.6.

X. Time Schedule for Compliance

When a SWAP or GWAP is required pursuant to the provisions in sections VI.C and D, the following time schedules shall apply as appropriate in order to allow Dischargers sufficient time to achieve compliance with the surface and groundwater receiving water limitations described in section II of this Order. The Central Valley Water Board may modify these schedules based on evidence that meeting the compliance date is technically or economically infeasible, or when evidence shows that compliance by an earlier date is feasible (modifications will be made per

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the requirements in section V of this Order). Any applicable time schedules for compliance established in the Basin Plan supersede the schedules given below (e.g., time schedules for compliance with salinity standards that may be established in future Basin Plan amendments through the CV-SALTS process, or time schedules for compliance with water quality objectives subject to an approved TMDL).

Surface water: The time schedule identified in the SWAP for addressing the problem triggering its preparation (including, but not limited to violation of the Surface Water Limitation II.A) shall be as short as practicable, but may not exceed 10 years from the date the SWAP is submitted for approval by the Executive Officer. The proposed time schedule in the SWAP must be supported with appropriate technical or economic justification as to why the proposed schedule is as short as practicable. The maximum time schedule of 10 years may not be extended based on approval of a new or revised SWAP that addresses the same waste constituent addressed by an existing SWAP.

Groundwater: The time schedule identified in a GWAP for addressing the problem triggering its preparation (including, but not limited to violation of Groundwater Limitation II.B) shall be as short as practicable, but may not exceed 10 years from the date the GWAP is submitted for approval by the Executive Officer. The proposed time schedules in the GWAP must be supported with appropriate technical or economic justification as to why the proposed schedules are as short as practicable. The maximum time schedule of 10 years may not be extended based on approval of a new or revised GWAP that addresses the same waste constituent addressed by an existing GWAP.

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This Order becomes effective on **DATE** and remains in effect unless rescinded or revised by the Central Valley Water Board.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on **DATE**.

PAMELA C. CREEDON, Executive Officer

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