

ITEM: 4

SUBJECT: Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area that are Members of a Third-party Group

BOARD ACTION: *Consideration of Adoption of the Waste Discharge Requirements*

BACKGROUND: On 15 March 2013, the board circulated tentative waste discharge requirements for discharges from irrigated lands within the Tulare Lake Basin Area (tentative Tulare Lake Basin Areas Order, tentative TLBA Order, or tentative Order) for review and comment by the public. The tentative Order represents the third in a proposed series of geographically-based orders, one commodity-based order, and a general order for individual growers that will implement the long-term irrigated lands regulatory program (long-term ILRP).

A board workshop was held in Tulare in November 2012 to receive input from the public regarding a draft version of the Tulare Lake Basin Area Order. Written comments on the tentative Tulare Lake Basin Area Order were due 15 April 2013. A second board workshop was held in Fresno in April 2013 to receive oral comments on the tentative Order. Comment letters and the staff response to comments are included in the agenda package. The tentative Tulare Lake Basin Area Order has been revised in response to comments received.

ISSUES: ***General Summary of Revisions***

The revised tentative TLBA Order is similar to other Irrigated Lands Regulatory Program orders. Staff recognizes that differences in climate, geology, and agricultural crops and practices exist between different areas in the Central Valley. The tentative Order contains sufficient flexibility in its requirements to accommodate regional differences. Staff does not recommend any major changes in the overall Irrigated Lands Regulatory Program approach for protecting water quality in the areas covered by the TLBA Order. The revised tentative Order includes the following changes:

*Sign up period* – the sign up period for new and existing members has been extended from 150 days to 180 days. This revision was requested by the existing coalition due to the large number of new members that are anticipated and the outreach efforts that will be necessary to ensure they are included in coverage under the TLBA Order.

*Basin Plan Amendments* – the tentative Order now includes an acknowledgement that portions of some aquifers within the Tulare Lake Basin Area may have naturally occurring levels of constituents that are not of sufficient quality to meet water quality objectives for designated municipal/domestic use or agricultural uses. Such areas

would be considered “high vulnerability” areas. In these circumstances, the tentative Order allows the third party to pursue a basin plan amendment to address the use designations and request reduced monitoring and reporting requirements for those areas. The Order allows the Executive Officer to approve the request, if the identified areas would likely qualify for de-designation through a Basin Plan Amendment and the third party submits and implements a Basin Plan Amendment Workplan, which would be coordinated through CV-SALTS if salt or nitrate issues are being addressed. If studies conducted by the third-party find that a basin plan amendment cannot be successfully pursued, the original monitoring and reporting requirements for the area will be reinstated.

*Nitrogen Management and Control* – the tentative Order acknowledges ongoing collaborative efforts by the California Department of Food and Agriculture (CDFA) and the Water Boards in addressing nitrogen management. CDFA has formed a Task Force to identify intended outcomes and expected benefits of a nitrogen mass balance tracking system in nitrate high-risk areas. The Task Force may identify appropriate nitrogen tracking and reporting systems, and potential alternatives, that would provide meaningful and high quality data to help better protect water quality. The State Water Resources Control Board has formed an Expert Panel to recommend improvements in agricultural nitrate control programs. The deadlines for preparation of a nitrogen management plan and associated reports have been established to allow the board to make any necessary adjustments to this Order based on the findings and recommendations of the CDFA Task Force and the State Water Resources Control Board’s Expert Panel.

*Formation of a new third party* – the tentative Order recognizes that new third parties may be formed within the Tulare Lake Basin Area after the Executive Officer has issued a Notice of Applicability to a third party to represent growers in all or a portion of the Tulare Lake Basin Area. In this instance, the proposed new third party must include as part of its application, all reports due up to the date of the application, and demonstrate that it can comply with the schedule of reporting established by the date that the original third party was accepted.

*Formatting and Wording* – a number of sections have been reformatted and some wording has been revised for clarity or ease of reading, without making substantive changes to the provisions or requirements.

RECOMMENDATION: Staff recommends adoption of the waste discharge requirements.

Mgmt. Review \_\_\_\_\_

Legal Review \_\_\_\_\_

September 19, 2013 \_\_\_\_\_

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