CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER R5-2013-XXXX

WASTE DISCHARGE REQUIREMENTS GENERAL ORDER
FOR
MEMBERS OF A THIRD-PARTY GROUP WITHIN THE TULARE LAKE BASIN, EXCLUDING THE AREA OF THE WESTLANDS STORMWATER COALITION

DRAFT

TABLE OF CONTENTS

Findings 1
I. Coverage 15
II. Prohibitions 15
III. Discharge Limitations 15
A. Surface Water Limitations 15
B. Groundwater Limitations 15
IV. Provisions 16
A. General Provisions 16
B. Requirements for Members of the Third-Party Group 16
C. Requirements for the Third-Party Group 18
V. Effective Dates 19
VI. Permit Reopening, Revision, Transfer, Revocation, Termination, and Reissuance 20
VII. Required Reports and Notices – Member 21
A. Notice of Confirmation / Notice of Intent / Membership Application 21
B. Farm Evaluation 22
C. Sediment and Erosion Control Plan 22
D. Annual Nitrogen Budget 23
E. Mitigation Monitoring 23
F. Notice of Termination 23
VIII. Required Reports and Notices – Third-Party 24
A. Application to Serve as a Third-Party Representing Members 24
B. Farm Evaluation Template 24
C. Membership (Participant) List 24
D. Annual Nitrogen Budget Worksheet Template 25
E. Sediment and Erosion Control Plan Template 25
F. Groundwater Quality Assessment Report and Monitoring Workplans 25
G. Surface Water Exceedance Reports 25
H. Monitoring Report 25
I. Surface Water/Groundwater Quality Management Plan (SQMP/GQMP) 25
J. Technical Reports 27
K. Notice of Termination 28
L. Total Maximum Daily Load (TMDL) Requirements 28
IX. Reporting Provisions 28
X. Record-keeping Requirements 29
XI. Annual Fees 29
XII. Time Schedule for Compliance 30
Figure 1 – Map of the Tulare Lake Basin Area 32

Attachment A: Information Sheet
Attachment B: Monitoring and Reporting Program Order (contains appendices)
Attachment C: CEQA Mitigation Measures
Attachment D: Findings of Fact and Statement of Overriding Consideration
Attachment E: Definitions, Acronyms, and Abbreviations

DRAFT

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

Order R5-2013-XXXX

WASTE DISCHARGE REQUIREMENTS GENERAL ORDER
FOR
MEMBERS OF A THIRD-PARTY GROUP WITHIN THE TULARE LAKE BASIN, EXCLUDING THE AREA OF THE WESTLANDS STORMWATER COALITION

DRAFT

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

Findings

SCOPE OF COVERAGE OF THIS ORDER

1. This Order serves as general waste discharge requirements (WDRs) for waste discharges (as defined by Porter-Cologne) from irrigated lands (or "discharges") that could affect groundwater and/or surface waters of the state. The discharges result from irrigation and/or stormwater infiltration or runoff from irrigated agricultural lands used for commercial crop production. Discharges can reach waters of the state directly or indirectly.[1]

2. This Order applies to owners and operators of irrigated lands within the Tulare Lake Basin, excluding the area of the Westland's Storm Water Coalition (hereafter the Tulare Lake Basin Area [see Figure 1]) that are members of a third-party representing this area (hereafter ""Members"). Either the owner or operator may enroll an irrigated lands parcel under this Order. The owners or operators that enroll the respective irrigated lands parcels are considered Members of the third-party representing this area. The Member is required to provide written notice to the non-Member owner or operator that the parcel has been enrolled under the Order. Enforcement action by the board for non-compliance related to an enrolled irrigated lands parcel may be taken against both the owner and operator. Although the third-party representative has not yet been selected, this Order contains eligibility requirements for a third-party representative and describes the process by which the Executive Officer may approve a request for third-party representation.

3. The Tulare Lake Basin Area is bounded by the crest of the Sierra Nevada Mountain Range to the east, the San Joaquin River to the north, the Westlands Stormwater Coalition and the crest of the Southern Coast Ranges to the west, and the crest of the San Emigdio and Tehachapi Mountains to the south. See Figure 1 for a map of the third-party area.

4. "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.

[1] Definitions for "waste discharges from irrigated lands," "waste," "groundwater," "surface water," "stormwater runoff," "irrigation runoff," and "commercial," 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).

5. This Order is not intended to regulate water quality as it travels through or remains on the surface of a Member's agricultural fields, including, but not limited to, furrows, beds, checks, on farm distribution systems (including tailwater ponds), ancillary structures associated with agricultural operations, and soil pore liquid above the water table.

6. Discharges from irrigated lands can and/or do contain constituents that are defined as in California Water Code (CWC) section 13050[2] that could cause or contribute to conditions of pollution or nuisance, or that could cause or contribute to exceedances of applicable water quality standards. Such "waste" includes, but is not limited to: earthen materials, such as soil, silt, sand, clay, and rock; metals, salts, boron, selenium, potassium, nitrogen; pesticides and wastes that can impact the physical properties of water, such as temperature, pH, and dissolved oxygen that enter or have the potential to enter waters of the state.

7. This Order does not apply to discharges of waste that are regulated under other Central Valley Water Board issued WDRs or conditional waiver of WDRs. If other Central Valley 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 Irrigated Lands Regulatory Program (ILRP) in the Tulare Lake Basin Area. The long-term irrigated lands program 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. Upon adoption of this order, Order R5-2006-0053, Coalition Group Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Coalition Group Conditional Waiver), is rescinded as applied to irrigated lands within the Tulare Lake Basin Area.

DRAFT

GROWERS REGULATED UNDER THIS ORDER

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. In order to be covered by this Order, the landowners or operators must be Members. Because this Order regulates both landowners and operators, but does not require enrollment of both parties, the provisions of this Order require that the Member provide notification to the non-Member responsible party of

[2] The term "waste" as used in this Order is defined in the California Water Code section 13050(d) to include "sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal." 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).

[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

enrollment under this Order. The third-party group representing Members will assist with carrying out the conditions of this Order. Both the landowner and operator are ultimately responsible for complying with the terms and conditions of this Order.

10. The third-party entity proposing to represent Members in the Tulare Lake Basin Area (the third-party) is required to submit to the Central Valley Water Board an application to represent growers within this Order's coverage area. The third-party representation will become effective upon Central Valley Water Board Executive Officer approval of the third party's application. The Southern San Joaquin Valley Water Quality Coalition served as the third-party group representing owners and operators of irrigated lands within the Order watershed area during the interim irrigated lands regulatory program, Order R5-2006-0053 (Coalition Group Conditional Waiver).

11. The third-party will be responsible for fulfilling the regional requirements and conditions (e.g., surface and groundwater monitoring, regional management plan development and tracking) of this Order and associated Monitoring and Reporting Program Order R5-2013-XXXX (MRP). By retaining its third-party membership or establishing a new membership, a Member is agreeing to be represented by the third-party for the purposes of this Order. Any requirements or conditions not fulfilled by the third-party are the responsibility of the individual Member. The Member and non-Member owners and operators will always be responsible for conduct of operations on the Member's enrolled property.

12. To apply for coverage under this Order, a grower that is not a current Member in the third-party group will have different application requirements depending on the timing of its request for regulatory coverage (see section VII.A.2. and VII.A.3. of this Order for specific requirements). Growers that enroll within 120 days of Executive Officer approval of the third-party will enroll under this Order by obtaining membership in the third-party group. This will streamline the initial enrollment process for the bulk of the irrigated agricultural operations within the Tulare Lake Basin Area. Growers who do not enroll within 120 days of Executive Officer approval of the third-party, or whom are prompted to apply by Central Valley Water Board enforcement or inspection, are required to submit a Notice of Intent (NOI) to comply with the terms and conditions of this Order to the Central Valley Water Board and obtain membership with the third-party group. This additional step for late enrollees is intended to provide incentive for growers to enroll promptly. There will be an administrative fee for submitting an NOI to the board. The fee will help recover costs for board efforts to conduct outreach to ensure growers subject to this Order enroll or submit reports of waste discharge.

DRAFT

REASON FOR THE CENTRAL VALLEY WATER BOARD ISSUING THIS ORDER

13. The Tulare Lake Basin Area has approximately 2.9 million acres of cropland under irrigation and approximately 8,000 growers with potential "waste discharges from irrigated lands," as defined in Attachment E to this Order. Currently, approximately 350,000 thousand acres are regulated under the Water Board's General Order for Existing Milk Cow Dairies (R5-2007-0035) and One and a quarter million acres are regulated under the Coalition Group Conditional Waiver. Approximately 3,000 growers and 1.65 million associated irrigated acres will require regulatory coverage under this Order or other WDRs or conditional waivers of WDRs.

14. The Tulare Lake Basin Area contains all or portions of eleven groundwater basins/sub basins which have irrigated agriculture and has approximately 10,600 linear miles of surface water courses that are, or could be, affected by discharges of waste from irrigated lands. This does not include surface water courses in the foothill and mountainous regions of the third-party area, 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.

15. Within the third-party area, there are approximately 981 thousand acres of irrigated lands within Department of Pesticide Regulation (DPR) Groundwater Protection Areas (GWPAs). 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 981 thousand acres, approximately 490 thousand acres of the irrigated lands are within DPR GWPAs that are characterized as vulnerable to leaching of pesticides (leaching areas), approximately 491 thousand acres are within GWPAs that are characterized as vulnerable to movement of pesticides to groundwater by runoff from fields to areas were they may move to groundwater (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 GWPAs with fertilizers and nitrate contamination in mind, and its GWPAs 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 of other potential water soluble contaminants, such as nitrate fertilizers and certain pesticides the pathways to groundwater aquifers may be similar. This Order requires that DPR's vulnerability factors and GWPAs be considered by the third-party in the determination of high vulnerability areas for nitrate contamination.

16. 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 irrigated agriculture, including within the third-party area. The *Irrigated Lands Regulatory 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…."*

17. Eleven (11) water bodies encompassing approximately 300 linear miles of surface water courses have been listed as impaired pursuant to Clean Water Act section 303(d)[5] within the Tulare Lake Basin Area. Five of those water bodies identify the potential source of the impairment as agriculture. The remaining six water bodies list unknown toxicity as the reported impairment.

18. Nitrate pollution of drinking water supplies is a critical problem in the Tulare Lake Basin Area. Studies indicate that fertilizer from irrigated agriculture is a major source of nitrate pollution in drinking water wells and that significant loading of nitrate continues as a result of agricultural fertilizer practices[6,7,8]. Hundreds of drinking water wells serving thousands of people throughout the

DRAFT

[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.
[6].Burton, C.A., Shelton, J.L., and Belitz, K., 2011, *Status and Understanding of Groundwater Quality in the Two Southern San Joaquin Valley Study Units, 2005-2006: California GAMA Priority Basin Project*; U.S. Geological Survey Scientific Investigations Report 2011-5218.
[7] Lindsey, B.D., and Rupert, M.G., 2012, *Methods for evaluating temporal groundwater quality data and results of decadal-scale changes in chloride, dissolved solids, and nitrate concentrations in groundwater in the United States, 1988-2010*: U.S. Geological Survey Scientific Investigations Report 2012-5049, 46p.
[8] Tesoriero, A.J., Sadd, D.A., Burrow, K.R., Frick, E.A., Puckett, L.J., and Barbash, J.E., 2007, *Linking Ground-Water Age and Chemical Data Along Flow Paths: Implications for Trends and Transformations of Nitrate and Pesticide*, Journal of Contaminant Hydrology, Vol. 94, 2007, pp.139-155.

region have nitrate levels exceeding the drinking water standard[9/10]. This presents a significant threat to human health as pollution increases with time, and the actual numbers of polluted wells and people affected are unknown. Protecting public health and ensuring safe drinking water are among the highest priorities of this Order. This Order prioritizes conditions to control nitrate loading to groundwater and impacts to public water systems. In the case where further documentation indicates nitrate impacts to small water systems and/or private domestic wells, the Executive Officer may consider proximity to impacted small water systems and private domestic wells in the prioritization process.

19. The Central Valley Water Board authority to regulate waste discharges that could affect the quality of the waters of the state, which includes both surface water and groundwater and the prevention of nuisances, is found in the Porter-Cologne Water Quality Control Act (California Water Code Division 7).

20. 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 as to 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 Tulare Lake Basin Area 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; (d) due to the large number of operations and their contiguous location, these types of operations are more appropriately regulated under general rather than individual requirements; and (e) the geology and the climate are similar, which will tend to result in similar types of water quality problems[11] and similar types of solutions.

21. 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 the quality of waters of the state. Waste discharges from some irrigated lands have impaired and will likely continue to impair 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).

DRAFT

[9] *Communities that Rely on Contaminated Groundwater, State Water Resources Control Board, Report to the Legislature,* Draft, February 2012.
[10] Groundwater Ambient Monitoring and Assessment (GAMA), *Domestic Well Project Groundwater Quality Data Report, Tulare County Focus Area*, 2010, California State Water Resources Control Board, Groundwater Protection Section, Revised August 2010.
[11] "Water quality problem" is defined in Attachment E.

22. Water Code section 13267(b)(1) states:

> 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.

23. Technical reports are necessary to evaluate Member 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 Member waste discharges on water quality, to verify the adequacy and effectiveness of the Order's conditions, and to evaluate Member compliance with the terms and conditions of the Order. A Member 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.

24. The surface water quality monitoring and trend groundwater quality monitoring under this Order are regional in nature instead of individual field discharge monitoring. The benefits of regional monitoring include the ability to determine whether water bodies accepting discharges from numerous irrigated lands are meeting water quality objectives and to determine whether practices, at the watershed level, are protective of water quality. However, there are limitations to regional monitoring's effectiveness in determining possible sources of water quality problems and assessing individual compliance with this Order's requirements.

    Where regional monitoring does not allow the Central Valley Water Board to determine potential sources of water quality problems, identify whether management practices are effective, or to determine whether there are individuals causing exceedances of water quality objectives, this Order requires the third-party to provide technical reports, which may include field specific special studies, at the direction of the Executive Officer. Such technical reports are needed to determine compliance when regional monitoring or other available information is not sufficient to determine compliance or the effectiveness of management practices. Alternatively, it may be necessary for the board to conduct these investigations by obtaining information directly from Members.

25. The Central Valley Water Board's *Water Quality Control Plan for the Tulare Lake Basin* (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains programs of implementation needed to achieve water quality objectives, and references 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 Finding 28.

DRAFT

26. The Tulare Lake Basin Plan identifies the greatest long-term problem facing the Basin as the increase in salinity in groundwater. A large portion of this increase is due to the intensive use of soil and water resources by irrigated agriculture[12]. The Tulare Lake Basin Plan recognizes that degradation is unavoidable without a plan for removing salts from the Basin and that salt sources should be managed to the extent practicable to reduce the rate of groundwater degradation until there is a long-term solution to the salt imbalance.

27. This Order implements the Basin Plan by requiring 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 discharges on water quality and the effectiveness of management practices designed to comply with applicable water quality objectives.

28. Pursuant to the Tulare Lake Basin Plan and State Water Board plans and policies, including state Water Board Resolution No. 88-63 (Sources of Drinking Water), and consistent with the federal Clean Water Act, the existing and potential beneficial uses of waters in the Tulare Lake Basin Area include one or more of the following:

    a. Municipal and Domestic Supply
    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. Preservation of Biological Habitats of Special Significance
    m. Navigation
    n. Rare, Threatened, and Endangered Species
    o. Freshwater Replenishment
    p. Groundwater Recharge
    q. Industrial Process Supply
    r. Aquaculture

29. 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.

30. 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,

DRAFT

[12] Lindsey, B.D., and Rupert, M.G., 2012, *Methods for evaluating temporal groundwater quality data and results of decadal-scale changes in chloride, dissolved solids, and nitrate concentrations in groundwater in the United States, 1988-2010*: U.S. Geological Survey Scientific Investigations Report 2012-5049, 46p.

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. This Order is consistent with the NPS Policy.

31. 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.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

32. For purposes of adoption of this Order, the Central Valley Water Board is the lead agency pursuant to the California Environmental Quality Act (CEQA) (Pub. Res. 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.

33. 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 Members 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 section 15152).

34. The requirements of this Order are based on the elements found in Alternatives 2-6 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 of 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 and degrees of implementation will be similar to those described in the PEIR for Alternatives 2 through 6. Also, because the cost of this Order is expected to fall within the range of costs described for Alternatives 2 through 6, significant impacts to agriculture resources under this Order will be similar to those described in the PEIR. 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 Overriding Considerations document (Attachment D), which is incorporated by reference into this Order.

35. Where potentially significant environmental impacts identified in Attachment D may occur as a result of Members' compliance activities, this Order requires that Members either avoid the impacts where feasible or implement identified mitigation measures, if any, to reduce the potential impacts to a less

DRAFT

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.

36. 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

DRAFT

37. 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 activity which discharges a waste to existing high quality waters must meet 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.

38. 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). Such impaired water bodies are not high quality waters with respect to those constituents within the meaning of Resolution 68-16, and therefore it is not necessary for the board to analyze discharges to such waters under Resolution 68-16. This Order does not authorize further degradation of such waters.

39. 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. The summary indicates that this Order authorizes limited 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.

CALIFORNIA WATER CODE SECTIONS 13141

40. CWC 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. On DATE, the Basin Plan was amended to estimate potential costs and sources of financing for the long-term irrigated lands program. The estimated costs were derived by analyzing the six alternatives evaluated in the PEIR. This Order, which implements the Long-term ILRP within the Tulare Lake Basin Area, is based on Alternatives 2-6 of the PEIR; therefore, estimated costs of this Order fall within the Basin Plan cost range.[13] The total cost of compliance with this Order, e.g., summation of costs for administration, monitoring, reporting, tracking, implementation of management practices, is expected to be approximately five dollars per acre greater than the current surface water only protection program under the Coalition Group Conditional Waiver. The total estimated cost of compliance of continuation of the previous Coalition Group Conditional Waiver within the Tulare Lake Basin Area is expected to be approximately 96 million dollars per year ($114 per acre annually). The total estimated cost of compliance with this Order is expected to be approximately 100 million dollars per year ($119 per acre annually). These figures 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.*[14] Attachment A includes further discussion regarding the cost estimate for this Order.

41. CWC section 13260 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.
    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.

DRAFT

RELATIONSHIP TO OTHER ONGOING WATER QUALITY EFFORTS

42. 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.

43. 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

[13] When compared on a per irrigated acre basis; as the Basin Plan cost range is an estimate for all irrigated lands in the Central Valley versus this Order's applicability to a portion thereof (irrigated lands in the Tulare Lake Basin Area).
[14] 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

requires actions that will reduce nitrate discharges (e.g., implementation of nutrient management plans) and should result in practices to reduce salt imported with out-of-basin water supplies and salt loading (e.g., improvement in irrigation and fertilization practices). 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 promote coordination with CV-SALTS and to support the development of information needed for the CV-SALTS process.

44. Total Maximum Daily Loads (TMDLs) are set 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. This Order will implement applicable TMDLs.

45. Irrigated agricultural parcels that receive dairy or other confined animal facility[15] wastes from external sources must obtain regulatory coverage for their discharge under this Order or waste discharge requirements that apply to individual growers. The Central Valley Water Board encourages the dairy industry and the third-party to coordinate the surface water and groundwater quality monitoring required of the two orders and coordinate their response to identified water quality problems.

46. 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 implementation of groundwater management plans can support or supplement efforts to evaluate potential impacts of irrigated agricultural discharges on groundwater. This Order requires the third-party to develop regional groundwater monitoring workplans and, where necessary, groundwater quality management plans (GQMPs). The third-party is encouraged to coordinate with local groundwater management plans and integrated regional water management plans, where applicable, when developing regional groundwater monitoring workplans and GQMPs.

47. The California Department of Pesticide Regulation (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.

DRAFT

[15] "Confined animal facility" is defined in Title 27 CCR section 20164 as "*… any place where cattle, calves, sheep, swine, horses, mules, goats, fowl, or other domestic animals are corralled, penned, tethered, or otherwise enclosed or held and where feeding is by means other than grazing*."

48. The California Department of Food and Agriculture (CDFA) Fertilizer Research and Education Program (FREP) coordinates research to advance the environmentally safe and agronomically sound use and handling of fertilizer materials. Nutrient management is a key component to reducing excess plant nutrients, such as nitrogen, from reaching waters of the state. Nutrient management must take site-specific conditions into consideration in identifying steps that will be taken and practices that will be implemented to minimize nitrate movement through surface runoff and leaching past the root zone. Currently, CDFA is developing a nutrient management training program. Central Valley Water Board staff, in consultation with CDFA, third-parties, technical service providers, commodity groups, and other interested stakeholders will develop a template for an annual nitrogen budget worksheet. Members must use the template to develop annual nitrogen budgets. In vulnerable groundwater areas, the budgets must be approved by specified professionals or Members that have completed the CDFA nutrient management training program. This Order leverages CDFA's work with respect to nutrient management training and technical support to the professionals and third-parties that will be developing nutrient management budgets for individual Members.

49. Where other state agencies have a regulatory role for activities or pollution addressed by this Order, the Central Valley Water Board will work cooperatively with these agencies in order to effectively regulate discharges of waste from irrigated lands.

DRAFT

ENFORCEMENT FOR NONCOMPLIANCE WITH THIS ORDER

53 CWC 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 if the discharge involves a discharge of pollutants; 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.

54 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 Members 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 Member. The purpose of an informal enforcement action is to quickly bring the violation to the Member's attention and to give the Member 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 discharge limitations, unless the Member is implementing a Central Valley Water Board approved SQMP or GQMP in accordance with the time schedule provisions of this Order (section XII).

c) The discharge of waste to lands not owned, leased, or controlled by the Member without written permission from the landowner.
d) Failure to implement practices 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 SQMP/GQMP.
g) Failure to pay annual fees, penalties, or liabilities.
h) Failure to monitor or provide information to the third-party as required.
i) Failure to submit required reports on time.

55 Under this Order, the third-party is tasked with developing monitoring plans, conducting monitoring, developing water quality management plans, and informing Members of requirements. It is intended that the following progressive enforcement steps will generally be taken in the event that the third-party fails to comply with the terms and conditions of this Order or attached MRP:

a) First notification of noncompliance to the third-party. The Central Valley Water Board intends to notify the third-party of the non-compliance and allow a period of time for the third-party to come back into compliance. This notification may be in the form of a verbal notice, letter, or written notice of violation, depending on the severity of the noncompliance.
b) Second notification of noncompliance to the third-party and potentially affected Members. The board intends to provide written notice to the third-party and potentially affected Members of the failure to address the first notice.
c) Failure of the third-party to adequately respond to the second notification. Failure to adequately respond to the second notification may result in partial (e.g., affected areas or Members) or full disapproval of the third-party to act as a lead entity, depending on the severity of noncompliance. Growers that were Members affected by partial or full third-party disapproval would be required to obtain coverage for their waste discharge under other applicable general waste discharge requirements or submit a Report of Waste Discharge to the Central Valley Water Board.

DRAFT

GENERAL FINDINGS

56. This Order does not authorize violation of any federal, state, or local law or regulation.

57. 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 Member shall obtain authorization for an incidental take prior to construction or operation of the project. The Member shall be responsible for meeting all requirements of the applicable Endangered Species Act.

58. 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.

59. 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.

60. All discharges of waste into waters of the state are privileges, not rights. (Wat. Code § 13263, subd. (g).) Accordingly, the State Water Resources Control Board, in Order No. WQO 2004-0003 (*Agricultural Water Quality Coalition*) has stated "[i]t is appropriate that where a discharger seeks the right to discharge to waters of the state, that it should be expected to consent to reasonable access to its property." This Order requires Members to provide the third-party with contact information of the person(s) authorized to provide access to the enrolled property for inspections. The Order requires the identified persons to allow representatives of the Central Valley Water Board reasonable access to the Member's property for inspections to determine compliance with this Order.

61. This Order provides a procedure to enable Board staff to efficiently contact grower representatives and obtain access to the Member's property so that it may more efficiently monitor compliance with the provisions of this Order. Given that discharges are a privilege, it is reasonable to require Members to provide access to its property pursuant to the procedure outlined in the Order.

62. Any instance of noncompliance with this Order constitutes a violation of the CWC 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.

63. 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.

64. 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 Member.

65. 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.

66. 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.

67. 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.

68. The Central Valley Water Board has notified interested agencies and persons of its intent to adopt this Order for discharges of waste from irrigated lands within the Tulare Lake Basin Area, and has provided them with an opportunity for a public hearing and an opportunity to submit comments.

69. The Central Valley Water Board, in a public meeting, heard and considered all comments pertaining to this Order.

DRAFT

70. 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 Members of the third-party group, their agents, successors, and assigns shall comply with the following:

I. Coverage

1. Order 2006-0053, Coalition Group Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Coalition Group Conditional Waiver), is hereby rescinded as it applied to Members of the Southern San Joaquin Valley Water Quality Coalition in the Tulare Lake Basin Area.

II. 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.

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 direct discharge of wastes (e.g., fertilizers, fumigants, pesticides) into groundwater via backflow through a water supply well is prohibited.

4. The direct discharge of any wastes (e.g., fertilizers, fumigants, pesticides) down a groundwater well casing is prohibited.

III. Discharge Limitations

A. Surface Water Limitations[16]

1. Wastes discharged from Member operations 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 Limitations[17]

1. Wastes discharged from Member operations 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.

DRAFT

[16] These limitations are effective immediately except where Members are implementing an approved Surface Water Quality Management Plan (SQMP) for a specified waste parameter in accordance with an approved time schedule authorized pursuant to sections VIII.I and XII of this Order.
[17] These limitations are effective immediately except where Members are implementing an approved Groundwater Quality Management Plan (GQMP) for a specified waste parameter in accordance with an approved time schedule authorized pursuant to sections VIII.I and XII of this Order.

IV. Provisions

A. General Provisions

1. The third-party will assist its Members in complying with the relevant terms and provisions of this Order, including required monitoring and reporting as described in MRP Order R5-2013-XXXX. However, individual Members of the third-party group continue to bear ultimate responsibility for complying with this Order.

2. Irrigated lands owners or operators with waste discharges to state waters (or "Dischargers") that are not Members of the third-party group, or whose property is not enrolled by a Member of the third-party group, shall not be subject to coverage provided by the terms of this Order. Such Dischargers shall be required to obtain coverage for their waste discharge under individual waste discharge requirements or any applicable general waste discharge requirements that apply to individuals that are not represented by a third-party.

3. Members who are subject to this Order shall implement water quality management practices, as necessary, to improve and protect water quality and to achieve compliance with applicable water quality objectives.

4. 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)[18] shall be mitigated in accordance with the mitigation measures provided in Attachment C of this Order.

5. 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.

B. Requirements for Members of the Third-Party Group

1. Members shall comply with all applicable provisions of the California Water Code, the *Water Quality Control Plan for the Tulare Lake Basin,* and State Water Board plans and policies.

2. All Members shall comply with the attached Monitoring and Reporting Program (MRP) 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.

3. Members who are covered under this Order shall comply with the terms and conditions contained in this Order.

4. Each Member shall participate in third-party outreach events, at least annually, if any of its parcels are in a designated "high vulnerability" area or governed by a SQMP/GQMP. The Member shall review outreach materials to become informed of any water quality problems to address and the management practices that are available to address those issues.

5. All Members shall provide the third-party with information requested for compliance with this Order.

DRAFT

[18] 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.

6. All Members shall implement water quality management practices in accordance with any water quality management plans approved by the Central Valley Water Board Executive Officer, and/or as necessary to improve and protect water quality and to achieve compliance with surface and groundwater discharge limitations of this Order (section III.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.

7. All Members shall implement sediment discharge and erosion prevention practices to minimize or eliminate the discharge of sediment above natural background levels. Members that have the potential to discharge surface water offsite shall develop a Sediment and Erosion Control Plan as specified in section VII.C below or as directed by the Executive Officer.

8. All Members shall implement practices that minimize excess nutrient application relative to predicted crop need. Members shall prepare and implement a farm-specific annual nitrogen budget as required by section VII.D of this Order.

9. In addition to the reports identified in section VII of this Order, the Executive Officer may require the Member to submit additional technical reports pursuant to California Water Code section 13267.

10. The requirements prescribed in this Order do not authorize the commission of any act causing injury to the property of another, or protect the Member from liabilities under other federal, state, county, or local laws. However, enrollment under this Order does protect the Member from liability alleged for failing to comply with Water Code 13260.

11. This Order does not convey any property rights or exclusive privileges.

12. 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.

13. The Member shall permit representatives of the Central Valley Water Board, at reasonable hours, to:

    a. Enter premises where wastes are treated, stored, or disposed or where any records required by the Order are kept;
    b. Copy any records required to be kept under the terms and conditions of the Order;
    c. Inspect facilities, equipment (monitoring and control), practices, or operations regulated or required by the Order; and
    d. Sample, photograph, and/or video tape any discharge, waste, waste management unit, or monitoring device.

14. The Member shall provide the third-party with the phone number(s) of the individual(s) with authority to provide consent to access its facilities as required by provision IV.B.13 above.

15. The Member shall properly operate and maintain in good working order any facility, unit, system, or monitoring device installed to achieve compliance with the Order.

16. Newly constructed settling ponds, basins, and tailwater recovery systems shall be designed by, or under direct supervision of, and certified by, a licensed Civil Engineer who is registered pursuant to California law or other person as may be permitted under the provisions of the California Business and Professions Code to assume responsible charge of such work.

DRAFT

Modifications to existing systems must comply with these same design and certification requirements. These systems shall be constructed and maintained to prevent groundwater degradation, erosion, and slope failure.

17. Where applicable, the Member 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 Member shall follow the standards and guidelines described in the California Department of Water Resources' *Water Well Standards (Bulletins 74-81 & 74-90 combined)*.

18. The Member shall maintain a copy of this Order at the primary place of business, or the Member's headquarters for its farming operation so as to be available at all times to operations personnel. The Member and his/her designee shall be familiar with the content of this Order.

19. The Member, or the third-party on its behalf as applicable, shall submit all required documents in accordance with section IX of this Order.

20. Members 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.

21. Members shall implement the applicable management practices, or equivalent practices, identified as protective of groundwater in the Summary Representative Monitoring Report.

C. Requirements for the Third-Party Group

In order to remain eligible to serve as a third-party representative to Members, the third-party shall perform the following:

1. Provide the Central Valley Water Board documentation of its organizational or management structure. The documentation shall identify persons responsible for ensuring that program requirements are fulfilled. The documentation shall be made readily available to Members.

2. Prepare annual summaries of expenditures of fees and revenue used to comply with this Order. The summaries shall be provided to or made readily available to Members.

3. If the third-party group receives a notice of violation (NOV) from the Central Valley Water Board, the third-party must provide to Members in the area addressed by the NOV appropriate information regarding the reason(s) for the violation. The notification must be provided to all Members within the area affected by the NOV within thirty (30) days of receiving the NOV from the board. The third-party group must provide confirmation to the board of each notification. A summary of all notices of violation received by the third-party group must be provided to all Members annually.

4. Develop and implement plans to track and evaluate the effectiveness of water quality management practices, pursuant to approved Surface Water Quality Management Plans and Groundwater Quality Management Plans.

5. Provide timely and complete submittal of any plans or reports required by this Order.

6. Conduct required water quality monitoring and assessments in conformance with quality assurance/quality control requirements. Provide timely and complete submittal of any reports

DRAFT

required by this Order.

7. Within 30 days of receiving an NOA from the Central Valley Water Board (as described in section VIII.A), inform Members of this Order's requirements by providing a notice of confirmation form to be completed by each Member.

8. Conduct education and outreach activities to inform Members of program requirements and water quality problems, including exceedances of water quality objectives or degradation of water quality, identified by the third-party or Central Valley Water Board. The third-party shall:

   a. Maintain attendance lists for outreach events, provide Members with information on water quality management practices that will address water quality problems and minimize the discharge of wastes from irrigated lands, and provide informational materials on potential environmental impacts of water quality management practices to the extent known by the third-party group.

   b. Provide an annual summary of education and outreach activities to the Central Valley Water Board. The annual summary shall include copies of the educational and management practice information provided to the growers. The annual summary must report the total number of growers who attended the outreach events and describe how growers could obtain copies of the materials presented at these events.

9. Work cooperatively with the Central Valley Water Board to ensure all Members are providing required information and taking necessary steps to address exceedances or degradation identified by the third-party or board. As part of the Annual Monitoring Report, provide an annual list to the Central Valley Water Board of growers who have: (1) failed to implement improved water quality management practices within the timeframe specified by an applicable SQMP/GQMP; (2) failed to respond to an information request associated with any applicable SQMP/GQMP; (3) failed to participate in third-party site-specific or representative monitoring studies for which the third-party is the lead; or (4) failure to submit required fees to the third-party.

10. Ensure that any activities conducted on behalf of the third-party by subsidiary groups (e.g., subwatershed group) meet the requirements of this Order. The third-party is responsible for any activities conducted on its behalf.

11. Collect any fees from Members required by the State Water Board pursuant to the fee schedule contained in Title 23 CCR. Such fees shall then be submitted to the State Water Board.

DRAFT

V. Effective Dates

1. This Order is effective upon adoption by the Central Valley Water Board on **day month 2013** and remains in effect unless rescinded or revised by the Central Valley Water Board.

2. Regulatory coverage under this Order for discharges of waste from Members already enrolled under Order R5-2006-0053 is effective upon adoption of this Order by the Central Valley Water Board. Regulatory coverage under this Order is automatically terminated, if a Notice of Confirmation (NOC) is not received by the third-party from the currently enrolled Member within 120 days of Executive Officer issuance of an NOA to the third-party.

3. Regulatory coverage for Dischargers not already enrolled under Order R5-2006-0053 as of the date of adoption of this Order can be obtained directly through obtaining membership in the third-party group within 120 days of Executive Officer issuance of an NOA to the third-party.

Regulatory coverage is effective when the third-party notifies the Central Valley Water Board that the Discharger's application for membership has been accepted.

4. After the initial 120-day period, regulatory coverage is effective upon notification by the Central Valley Water Board that this Order applies to the grower through the issuance of a Notice of Applicability (NOA). The Central Valley Water Board shall only issue a Notice of Applicability after it has received a Notice of Intent (NOI) as required by section VII.A, and after the Central Valley Water Board has received notification from the third-party that the Discharger is a Member. The Discharger must pay any applicable State Water Board administrative fees associated with the filing of NOIs.

VI. 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 Plan* (Basin Plan) *for the Tulare Lake Basin*.

2. The filing of a request by the third-party on behalf of its Members 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.

3. The third-party, on behalf of its Members, 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, or to determine compliance with the requirements of this Order that apply directly to the third-party. Members 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 Member, or to determine compliance with the provisions of this Order that apply directly to the Member.

4. After notice and opportunity for a hearing, the Order may be terminated or modified for cause as applied to individual Members 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.

    A Member's regulatory coverage shall be automatically revoked if the Notice of Confirmation is not timely submitted (see section VII.A).

5. After notice and opportunity for a hearing, the approval of the third-party to act as a lead entity representing Members may be partially (e.g., affected areas or Members) or fully revoked. Cause for such termination or modification includes, but is not limited to consideration of the factors in Finding 55 of this Order, and/or:

    a. Violation of any term or condition contained in the Order that applies directly to the third-party;
    b. Third-party misrepresentation;
    c. Failure by the third-party to fully disclose all known relevant facts; or

DRAFT

d. A change in any condition that results in the third-party's inability to properly function as the third-party entity representing Member interests or in facilitating Member compliance with the terms and conditions of this Order.

6. The Central Valley Water Board will review this Order periodically and may revise this Order when necessary.

VII. Required Reports and Notices – Member

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 Member, and only to the extent that the Member has access to the equipment that allows for them to submit the information electronically. If the Member does not have such access, reports and notices must be submitted by mail. Reports and notices shall be submitted in accordance with section IX, Reporting Provisions, as well as MRP Order R5-2013-XXXX. Members must prepare and maintain the following reports as instructed below, and shall submit or make available such reports to the third-party or the Central Valley Water Board as identified below.

DRAFT

A. Notice of Confirmation / Notice of Intent / Membership Application

1. To confirm coverage under this Order, Members that, as of the effective date of this Order, are enrolled under Order R5-2006-0053 as Members of the Southern San Joaquin Valley Water Quality Coalition must submit a completed notice of confirmation (NOC) to the third-party within 120 days of Executive Officer approval of the third party (as provided by issuance of an NOA to the third-party, see section VIII.A of this Order). The third-party will provide a NOC form to Members within 30 days of receiving an NOA (see section VIII.A) from the Central Valley Water Board. As part of the NOC, Members must provide certification that they have provided written notice to any responsible non-Member parties of the Member's enrollment under this Order and of the requirements of this Order (a responsible non-Member is a landowner whose parcel has been enrolled by an operator-Member under this Order or an operator who farms a parcel that has been enrolled by a landowner-Member).

2. Within 120 days of Executive Officer issuance of an NOA to the third-party, all other growers within this Order's boundaries must become Members of the third-party to avoid additional fees and administrative requirements (see VII.A.3 below). To obtain membership, a grower must submit a completed third-party Membership application to the third-party group. As part of the membership application, growers must provide certification that they have provided written notice to any responsible non-Member parties of the Member's enrollment under this Order and of the requirements of this Order. Upon submittal of a complete application, the third-party group may confirm membership, after which the Member will be considered covered under this Order.

3. Beginning 121 days after this Order's effective date, any growers within this Order's boundaries that are not yet Members of the third-party or a Coalition governed by the Coalition Group Conditional Waiver must submit (1) a completed Notice of Intent (NOI) to the Central Valley Water Board to comply with the conditions of this Order, (2) any required State Water Board administrative processing fee for the NOI, and (3) a Membership application to the third-party group. Upon submittal of a complete NOI, and after receiving confirmation from the third-party group that the grower is now a Member, the Central Valley Water Board Executive Officer may then issue a Notice of Applicability (NOA), after which the Member will be considered covered under this Order. In lieu of issuing an NOA, the Executive Officer may deny the NOI and require the submittal of a report of waste discharge or issue an NOA for regulatory coverage

under any applicable general waste discharge requirements for individual dischargers not represented by a third-party.

4. As an alternative to receiving regulatory coverage under this Order, a discharger may submit a report of waste discharge in accordance with Water Code section 13260 or a Notice of Intent for regulatory coverage under any applicable general waste discharge requirements for individual dischargers not represented by a third-party.

B. Farm Evaluation

Within 90-days after the Executive Officer provides the Farm Evaluation Template to the third-party, Members shall complete a Farm Evaluation and submit a copy of the completed Farm Evaluation to the third-party group. A copy of the Farm Evaluation shall also be maintained at the Member's farming headquarters or primary place of business, and must be produced upon request by Central Valley Water Board staff.

1. Requirements for Members in Low Vulnerability Areas
By 1 March 2017, and every five years after the effective date of this Order, Members in Low Vulnerability Areas must update their Farm Evaluation and submit it to the third-party.

2. Requirements for Members in High Vulnerability Areas or subject to a SQMP
By 1 March of each year, Members within areas subject to a Surface Water Quality Management Plan (SQMP) or within a high vulnerability groundwater area must update their Farm Evaluation and submit it to the third-party. As part of the Farm Evaluation, the Member shall provide information on any outreach events it attended in accordance with section IV.B.4 of this Order.

C. Sediment and Erosion Control Plan

The requirements and deadlines of this section (section VII.C) applies as specified to Members that are required to develop a Sediment and Erosion Control Plan per section IV.B.7 of this Order. Sediment and Erosion Control Plans shall be written, amended, and certified by a Qualified Sediment and Erosion Control Plan Developer possessing one of the following registrations or certifications, and appropriate experience: California registered professional civil engineer, geologist, engineering geologist, landscape architect; professional hydrologist registered through the American Institute of Hydrology; Certified Professional in Erosion and Sediment Control (CPSEC)™/Certified Professional in Storm Water Quality (CPSWQ)™ registered through Enviro Cert International, Inc.; professional in erosion and sediment control registered through the National Institute for Certification in Engineering Technologies (NICET). In addition, the third-party can request that other service providers (such as the Natural Resources Conservation Service or the University of California Cooperative Extension) assist Members in preparing the plans. If NRCS or the Cooperative Extension provides such assistance, the Member will need to retain written documentation of the recommendation provided by NRCS or the Cooperative Extension. A copy of the Sediment and Erosion Control Plan shall be maintained at the farming operations headquarters or primary place of business; and must be produced by the Member, if requested, should Central Valley Water Board staff, or an authorized representative, conduct an inspection of the Member's irrigated lands operation.

1. Deadline for Members Outside Areas with Sediment Associated SWMPs Within three (3) years of the Executive Officer providing the Sediment and Erosion Control Plan Template to the third party, Members who are in a Low Vulnerability Surface Water Quality area must complete the Sediment and Erosion Control Plan. For purposes of preparing the Sediment and Erosion Control Plan, a Low Vulnerability Surface Water Quality area is not subject to a Surface Water Quality Management Plan (SQMP) for parameters associated with the discharge of sediment.

DRAFT

2. Deadline for Members in Areas with Sediment Associated SWMPs

Within one (1) year of the Executive Officer providing the Sediment and Erosion Control Plan Template to the third-party, Members within areas subject to a Surface Water Quality Management Plan (SQMP) for parameter(s) associated with the discharge of sediment must complete the Sediment and Erosion Control Plan.

D. Annual Nitrogen Budget

By 1 March of each year, following the year the Executive Officer provides the Annual Nitrogen Budget Worksheet Template, all Members must prepare a Proposed Annual Nitrogen Budget Worksheet(s) for the upcoming year, and a Final Annual Nitrogen Budget(s) for the previous crop year in accordance with the Annual Nitrogen Budget Worksheet Template provided by the Executive Officer. Proposed and Final Annual Nitrogen Budget(s) shall be maintained at the Member's farming operations headquarters or primary place of business. The Member must provide the Nitrogen Budget(s) to board staff, if requested or, should board staff or an authorized representative conduct an inspection of the Member's irrigated agricultural operation.

1. Additional Requirements for Members within a High Vulnerability Groundwater Area

For Members located within a high vulnerability groundwater area , for which nitrate is identified as a constituent of concern, the Proposed Annual Nitrogen Budget Worksheet(s) must be prepared or approved by a certified nutrient management plan specialist. Certified nutrient management plan specialists are defined in Attachment E of this Order and include Professional Soil Scientists, Professional Agronomists, Crop Advisors[19] certified by the American Society of Agronomy, or Technical Service Providers certified in nutrient management in California by the National Resource Conservation Service (NRCS). Alternatively, the Member may attend a California Department of Food and Agriculture or other Executive Officer approved training program for nutrient management certification in order to self-certify the Worksheets. By 1 March of each year, beginning the year after the Central Valley Water Board Executive Officer approves the third-party's Groundwater Assessment Report and provides the Annual Nitrogen Budget Worksheet Template, Members shall submit to the third-party the Final Annual Nitrogen Budget(s) for the previous crop year, and the Proposed Annual Nitrogen Budget(s) for the upcoming crop year.

E. Mitigation Monitoring

As specified in this Order, certain members are required to implement the mitigation measures included in Attachment C. Such Members shall submit mitigation monitoring by 1 March of each year to the third-party. Mitigation monitoring shall include information on the implementation of CEQA mitigation measures, including the mitigation measure implemented, potential environmental impact the mitigation measure addressed, location of the mitigation measure [parcel number, county], and any steps taken to monitor the ongoing success of the measure.

F. Notice of Termination

If the Member wishes to terminate coverage under this Order and withdraw its membership from the third-party, the Member shall submit a complete notice of termination (NOT) to the Central Valley Water Board and the third-party. Termination of regulatory coverage will occur on the date specified in the NOT, unless the Central Valley Water Board specifies otherwise. All discharges of waste to surface and groundwaters shall cease before the date of termination, and any discharges on or after

DRAFT

[19] Should the California Department of Food and Agriculture and the California Certified Crop Adviser's establish a specific nutrient management certification, any Certified Crop Adviser who prepares a nutrient management plan must have a nutrient management certification.

this date shall be considered in violation of the California Water Code, unless other WDRs or waivers of WDRs regulate the discharge.

VIII. Required Reports and Notices – Third-Party

The Central Valley Water Board or the Executive Officer may require any of the reports and notices to be submitted electronically, as long as the electronic format is reasonably available to the third-party. The third-party shall submit reports and notices in accordance with section IX, Reporting Provisions. The third-party must prepare the following reports:

A. Application to Serve as a Third-Party Representing Members

Within 30 days of the effective date of this Order, the third-party must submit a letter to the Executive Officer requesting that the third-party serve as a third-party representing Members to carry out the third-party responsibilities. The Executive Officer will consider the following factors in determining whether to approve the request by issuing a Notice of Applicability (NOA) to the third-party.

1. Ability of the third-party to carry out the identified third-party responsibilities.

2. Whether the third-party is a legally defined entity (i.e., non-profit corporation; local or state government; Joint Powers Authority) or has a binding agreement among multiple entities that clearly describes the mechanisms in place to ensure accountability to its members.

3. Whether the third-party has binding agreements with any subsidiary group (e.g., subwatershed group) to ensure any third-party responsibilities carried out by the subsidiary group, including the collection of fees, are done so transparently and with accountability to the third party. If the third-party will not rely on any subsidiary group to carry out any of its responsibilities, the third-party must state that in its application letter.

4. Whether the third-party has a governance structure that includes a governing board of directors composed in whole or in part of Members, or otherwise provides Members with a mechanism to direct or influence the governance of the third-party through appropriate by-laws.

5. Should the Central Valley Water Board terminate an organization's role as a third-party or the third-party submit a notice of termination, the Executive Officer will apply the above factors in evaluating the request of any successor organization to serve as a third-party and determining whether to approve the request by issuing an NOA.

B. Farm Evaluation Template

The third-party shall work with Central Valley Water Board staff in the development of a draft Farm Evaluation Template. The third-party shall make the final Farm Evaluation Template available to its Members within 30-days of receiving the final Farm Evaluation Template as approved by the Central Valley Water Board's Executive Officer.

C. Membership (Participant) List

The third-party shall submit a list of its Members to the Central Valley Water Board within 150-days of receiving an NOA from the board and then annually by 31 July of each year (beginning the year following initial submission of the list). The membership list shall identify Members. This list shall also identify growers that have had their membership revoked and Members that are pending revocation. The membership list shall contain, at a minimum, the following information for each member: all parcel numbers covered under the membership; the county of each parcel; the section, township, and range associated with each parcel; the number of irrigated acres for each parcel; the

DRAFT

member's name, mailing address, and the contact name and phone number of the individuals authorized to provide access to the enrolled parcels. In lieu of providing Members' phone numbers as part of the membership list, the third-party may provide the office contact name(s) and phone number(s) of a representative of the third-party. Any listed third-party office contact must be available for Central Valley Water Board staff to contact Monday through Friday (except established state holidays) from 8 am to 5 pm.

D. Annual Nitrogen Budget Worksheet Template

The third-party shall work with Central Valley Water Board staff in the development of a draft Annual Nitrogen Budget Worksheet Template. The third-party shall make the Annual Nitrogen Budget Worksheet Template available to its Members within 30-days of receiving the final Annual Nitrogen Budget Worksheet Template as approved by the Central Valley Water Board's Executive Officer.

E. Sediment and Erosion Control Plan Template

The third party shall work with Central Valley Water Board staff in the development of a draft Sediment and Erosion Control Plan Template. The third-party shall make the final Sediment and Erosion Control Plan Template available to its Members within 30-days of receiving the final Sediment and Erosion Control Plan Template as approved by the Central Valley Water Board's Executive Officer.

F. Groundwater Quality Assessment Report and Monitoring Workplans

The Groundwater Quality Assessment Report (GAR) shall be submitted to the Central Valley Water Board and Central Valley Salinity Coalition within one (1) year of receiving an NOA from the Executive Officer. The Groundwater Quality Monitoring workplans shall be submitted to the Central Valley Water Board within 20 months of receiving an NOA from the Executive Officer. The Groundwater Assessment Report shall include the elements described in MRP section IV.B, and the Groundwater Monitoring workplans shall include the elements described in MRP section IV.D. The third party shall implement the Groundwater Monitoring workplans upon approval by the Executive Officer.

G. Surface Water Exceedance Reports

The third-party shall provide exceedance reports if surface water monitoring results show exceedances of adopted numeric water quality objectives or trigger limits, which are based on interpretations of narrative water quality objectives. Surface water exceedance reports shall be submitted in accordance with the requirements described in section V.D of the MRP.

H. Monitoring Report

The third-party shall submit the Monitoring Report to the Central Valley Water Board in accordance with the requirements in section V.C of the MRP.

I. Surface Water/Groundwater Quality Management Plan (SQMP/GQMP)

1. SQMP/GQMP General Requirements

SQMP/GQMPs submitted by the third-party shall conform to the requirements provided in MRP, Appendix MRP-1. Existing SQMPs that were developed and approved under the previous Order (Conditional Waiver Order R5-2006-0053) continue to apply under this Order and shall be implemented as previously approved. Changes to any management plan may be implemented by the third-party only after approval by the Executive Officer. The Executive Officer may require changes to a management plan if the current management plan approach is not making adequate

DRAFT

progress towards addressing the water quality problem or if the information reported by the third-party does not allow the Central Valley Water Board to determine the effectiveness of the management plan. Members shall comply with the revised management plans once they are approved by the Executive Officer.

For newly triggered SQMP/GQMPs, the third-party shall submit a SQMP/GQMP to the Central Valley Water Board within forty-five (45) days. For any SQMP or GQMP that addresses salt or nitrates, the SQMP or GQMP shall also be submitted to the Chair of the CV-SALTS Executive Committee. This 45-day period begins the first business day after the third party's receipt of the field or laboratory results that reported the triggering exceedance. The Central Valley Water Board will post the proposed SQMP/GQMP for a public review and comment period. Stakeholder comments will be considered by Central Valley Water Board staff to determine if additional revisions are appropriate. The third-party may, at its discretion, implement outreach or monitoring contained in a proposed management plan before approval. Members shall comply with the management plans once they are approved by the Executive Officer.

The third-party shall ensure continued implementation of SQMP/GQMPs until deemed completed by the Executive Officer pursuant to the provisions contained in the attached MRP, Appendix MRP-1, section III. The third-party shall submit a progress report in compliance with the provisions contained in the attached MRP, Appendix MRP-1, section I.F.

2. **Conditions Requiring Preparation of SQMP/GQMP**

Surface Water Quality Management Plan (SQMP)

A SQMP shall be developed by the third-party where: (1) an applicable water quality objective or applicable water quality trigger limit is exceeded (considering applicable averaging periods[20]) twice in a three-year period for the same constituent at a monitoring location (trigger limits are described in section VI of the MRP) and irrigated agriculture may cause or contribute to the exceedances; (2) the Basin Plan requires development of a surface water quality management plan for a constituent or constituents discharged by irrigated agriculture, or (3) the Executive Officer determines that irrigated agriculture may be causing or contributing to a trend of degradation of surface water that may threaten applicable Basin Plan beneficial uses.

Groundwater Quality Management Plan (GQMP)

A GQMP shall be developed by the third-party where: (1) there is a confirmed exceedance[21] (considering applicable averaging periods) of a water quality objective or applicable water quality trigger limit (trigger limits are described in section VI of the MRP) in a groundwater well and irrigated agriculture may cause or contribute to the exceedance; (2) in high vulnerability groundwater areas to be determined as part of the Groundwater Assessment Report process (see MRP section IV); (3) the Basin Plan requires development of a groundwater quality management plan for a constitute or constituents discharged by irrigated agriculture; or (4) the

[20] Exceedances of water quality objectives or water quality triggers will be determined based on available data and application of the appropriate averaging period. The averaging period is typically defined in in the Basin Plan, as part of the water quality standard established by the USEPA, or as part of the criteria being used to interpret narrative objectives. If averaging periods are not defined in the Basin Plan, USEPA standard, or criteria, or approved water quality trigger, the Central Valley Water Board will use the best available information to determine an appropriate averaging period.

[21] A "confirmed exceedance of a water quality objective in a groundwater well" means that the monitoring data are determined to be of the appropriate quality and quantity necessary to verify that an exceedance has occurred.

DRAFT

Executive Officer determines that irrigated agriculture may be causing or contributing to a trend of degradation of groundwater that may threaten applicable Basin Plan beneficial uses.

If the extent of Member contribution to a water quality exceedance(s) or degradation trend is unknown, the third-party may propose activities to be conducted to determine the cause, or eliminate irrigated agriculture as a potential source instead of initiating a management plan. Requirements for source identification studies are set forth in MRP Order R5-2013-XXXX, Appendix MRP-1, section I.G.

3. **SQMP/GQMP Not Required**

At the request of the third-party or upon recommendation by Central Valley Water Board staff, the Executive Officer may determine that the development of a SQMP/GQMP is not required. Such a determination may be issued if there is sufficient evidence indicating that Members discharging waste to the affected surface or groundwater are meeting the discharge limitations given in section III of this Order (e.g., evidence indicates that irrigated agriculture does not cause or contribute to the water quality problem) or the Executive Officer determines that the exceedance is not likely to be remedied or addressed by a management plan.

4. **Comprehensive Groundwater Quality Management Plan**

In lieu of submitting separate groundwater quality management plans in the timeframe identified in section VIII.I.1, the third-party may submit a Comprehensive Groundwater Quality Management Plan along with its Groundwater Quality Assessment Report. With the exception of the timeframe identified in section VIII.I.1, all other provisions applicable to groundwater quality management plans in this Order and the associated MRP apply to the Comprehensive Groundwater Quality Management Plan. The Comprehensive Groundwater Quality Management Plan must be updated at the same time as the Management Plan Progress Report (see attached MRP, Appendix MRP-1, section I.F) to address any constituents and areas that would have otherwise required submittal of a Groundwater Quality Management Plan.

5. **Comprehensive Surface Water Quality Management Plan**

In lieu of submitting separate surface water quality management plans in the timeframe identified in section VIII.I.1, the third-party may submit a Comprehensive Surface Water Quality Management Plan or update the Surface Water Quality Management Plan approved under the Coalition Group Conditional Waiver to conform to this Order and MRP. With the exception of the timeframe identified in section VIII.I.1, all other provisions applicable to surface water quality management plans in this Order and the associated MRP apply to the Comprehensive Surface Water Quality Management Plan or an updated Surface Water Quality Management Plan approved under the Coalition Group Conditional Waiver. The Comprehensive Surface Water Quality Management Plan must be updated at the same time as the Management Plan Progress Report (see attached MRP, Appendix MRP-1, section I.F) to address any constituents and areas that would have otherwise required submittal of a Surface Water Quality Management Plan.

J. Technical Reports

Where monitoring required by this Order is not effective in allowing the board to determine the effects of irrigated agricultural waste discharge on State waters or the effectiveness of water quality management practices being implemented, the Executive Officer may require technical reports be provided to determine the effects of irrigated agricultural operations or implemented management practices on surface water or groundwater quality.

DRAFT

K. Notice of Termination

If the third-party wishes to terminate its role in carrying out the third-party responsibilities set forth in section VIII of this Order and other applicable provisions, the third-party shall submit a notice of termination letter to the Central Valley Water Board and all of its Members. Termination of the third-party will occur 30-days from submittal of the notice of termination letter, unless otherwise specified in the letter. With its notice of termination sent to its Members, the third-party shall inform its Members of their obligation to obtain coverage under other WDRs or a waiver of WDRs for their discharges, or inform such Members that they shall cease all discharges of waste to surface and groundwaters.

L. Total Maximum Daily Load (TMDL) Requirements

Approved TMDLs in the Basin Plan that apply to water bodies within the third-party's geographic area and have allocations for irrigated agriculture shall be implemented in accordance with the applicable Basin Plan provisions. Where required, the third-party shall coordinate with Central Valley Water Board staff to develop a monitoring design and strategy for TMDL implementation. Where applicable, SQMPs shall address TMDL requirements.

DRAFT

IX. Reporting Provisions

1. Members and the third-party are required to submit required 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 IX.3 below. The cover letter shall be signed by a person identified below, or by a duly authorized representative of that person:

   For all reports:
   a. For a sole proprietorship: by the proprietor;
   b. For a partnership: by a general partner;
   c. For a corporation or the third-party: by a principal executive officer of at least the level of senior vice-president; or

   A person is a duly authorized representative only if:
   i. The authorization is made in writing by a person described in subsection a, b, or c of this provision; and
   ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility or organization, such as the position of manager. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and
   iii. The written authorization is submitted to the Central Valley Water Board.

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."

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), and the California Food and Agriculture Code. If the third-party or a Member or the third-party 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 Member/third-party 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 Member/third-party 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 Members shall be submitted electronically to irrlands@waterboards.ca.gov, or other designated online reporting system, unless the Member is unable to submit the report electronically. If unable to submit the report electronically, the grower shall mail or personally deliver the report to the Central Valley Water Board. All reports from the third-party shall be submitted electronically to its Central Valley Water Board-assigned staff liaison and upon notification, to a designated online reporting system. .

DRAFT

X. Record-keeping Requirements

The Member and the third-party 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.

XI. 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. Members 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. The third-party is responsible for collecting these fees from Members and submitting them to the State Water Board on behalf of Members.

XII. Time Schedule for Compliance

When a SQMP or GQMP is required pursuant to the provisions in section VIII.I, the following time schedules shall apply as appropriate in order to allow Members sufficient time to achieve compliance with the surface and groundwater discharge limitations described in section III 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 the requirements in section VI of this Order). Any applicable time schedules for compliance established in the Basin Plan supersedes 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 SQMP for compliance with Surface Water Limitation III.A must be as short as practicable, but may not exceed 10 years from the date the SQMP is submitted for approval by the Executive Officer. The proposed time schedule in the SQMP must be supported with appropriate technical or economic justification as to why the proposed schedule is as short as practicable.

Groundwater: The time schedule identified in a GQMP for compliance with Groundwater Limitation III.B must be as short as practicable, but may not exceed 10 years from the date the GQMP is submitted for approval by the Executive Officer. The proposed time schedules in the GQMP must be supported with appropriate technical or economic justification as to why the proposed schedules are as short as practicable.

DRAFT

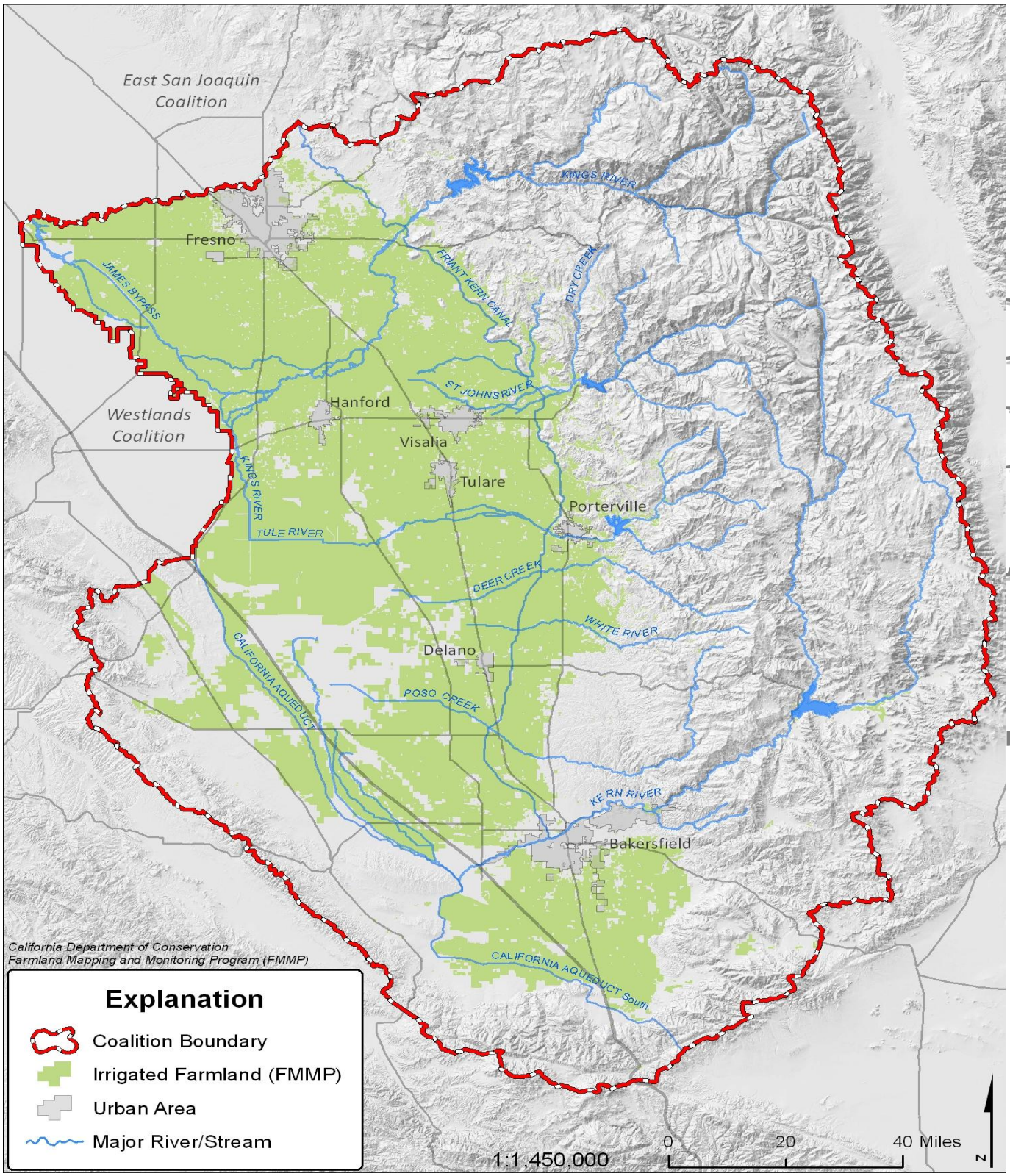
This Order becomes effective on DATE and remains in effect unless rescinded or revised by the Central Valley Water Board.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full 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

_____
Date

DRAFT



DRAFT

Figure 1 – Map of the Tulare Lake Basin Area