ATTACHMENT C

Conditional Waiver of Waste Discharge Requirement
Order No. R1-2012-0003

Definitions

25-year, 24-hour rainfall event means precipitation events with a probable recurrence interval of once in twenty five years as defined by the National Weather Service in Technical Paper No. 40, "Rainfall Frequency Atlas of the United States," May 1961, or equivalent regional or State rainfall probability information developed from this source.

Agronomic rates: is the land application of irrigation water and nutrients (which may include animal manure, bedding, or process wastewater) at rates of application in accordance with a plan for nutrient management that will enhance soil productivity and provide the crop or forage growth with needed nutrients for optimum health and growth.

Aquifer: is ground water that occurs in a saturated geologic unit that contains sufficient permeability and thickness to yield significant quantities of water to wells or springs.

Artificial recharge area: an area where the addition of water to an aquifer is by human activity, such as putting surface water into dug or constructed spreading basins or injecting water through wells**.**

Bioaccumulative pollutants are those substances taken up by an organism from its surrounding medium or from food, and subsequently concentrated and retained in the body of the organism.

Carcinogenic pollutants are substances that are known to cause cancer in living organisms.

Catastrophic rainfall event: means a rainfall event equivalent to the 25-year, 24-hour rainfall event, and includes events like tornadoes, hurricanes or other catastrophic conditions that would cause an overflow.

Chronic rainfall event: means a series of wet weather conditions that preclude dewatering of properly maintained waste retention structures.

Confined area: is the area where cows are confined within the production area.

Cropland: is the land application area where dry or solid manure and/or process wastewater is recycled for the purpose of beneficially using the nutrient value of the manure and/or process wastewater for crop production.

Degradation: is any measurable adverse change in water quality.

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Design volume for a liquid storage structure includes allowances for the volume of manure, process wastewater, and other wastes accumulated during the storage period; volume of "normal precipitation" (precipitation other than the design rainfall event) minus evaporation; volume of runoff from the facility's drainage area during normal rainfall events; volume of precipitation from the 25-yr, 24-hr storm event on the storage structure area; volume of runoff from the facility's drainage area for the 25-yr, 24-hr storm event; volume of solids necessary freeboard requirements; and any additional storage requirements, such as to meet management goals, or the minimum treatment volume for anaerobic lagoons.

Discharge: is the discharge or release of waste to land, surface water, or ground water. The Federal Pollution Control Act states that **"discharge"** includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

Discharger: is the property owner and the operator of an existing milk cow dairy subject to Waste Discharge Requirements.

Enclosed Bays means indentations along the coast that enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all bays where the narrowest distance between the headlands or outermost harbor works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. Enclosed bays include, but are not limited to, Humboldt Bay and Bodega Harbor. Enclosed bays do not include inland surface waters or ocean waters.

Estuaries means waters, including coastal lagoons, located at the mouths of streams that serve as areas of mixing for fresh and ocean waters. Coastal lagoons and mouths of streams that are temporarily separated from the ocean by sandbars shall be considered estuaries. Estuarine waters shall be considered to extend from a bay or the open ocean to a point upstream where there is no significant mixing of fresh water and seawater. Estuarine waters included, but are not limited to, the Sacramento-San Joaquin Delta, as defined in Water Code section 12220, Suisun Bay, Carquinez Strait downstream to the Carquinez Bridge, and appropriate areas of the Smith, Mad, Eel, Noyo, Russian, Klamath, San Diego, and Otay rivers. Estuaries do not include inland surface waters or ocean waters.

Existing Cow Dairy or **Existing Facility:** is, consistent with Title 14 CCR Section 15301, a cow dairy that is fully constructed and operating as of January 18 & 19, 2012, and which has subsequently undergone no expansion in the size or scope of its herd, facilities, or operation. Existing Facilities (CCR, Title 14, §15301) applies to "…the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination…" The environmental baseline for this action considered the dairies as they and their surrounding physical environment existed on

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January 18 & 19, 2012. Board action with regard to facilities existing as of November 3, 2011, is categorically exempt from the requirements of CEQA.

Existing Herd Size is defined as the maximum number of mature dairy cows plus bred heifers for the year.

Facility: is the property identified as such in the Waste Discharge Requirements Order.

Fecal coliform: means the bacterial count (Parameter 1) at 40 CFR 136.3 in Table 1A which also cites the approved methods of analysis.

Field moisture capacity: is "the upper limit of storable water in the soil once free drainage has occurred after irrigation or precipitation."

Freeboard: is the elevation difference between the process wastewater (liquid) level in a pond and the lowest point of the pond embankment before it can overflow.

Groundwater is water stored underground in rock crevices and in the pores of geologic materials that make up the Earth's crust; and water that flows downward and saturates soil or rock, supplying wells and springs. The upper surface of the saturated zone is called the water table.

Incorporation into soil: is the complete infiltration of process wastewater into the soil, the disking or rotary tiller mixing of manure into the soil, shank injection of slurries into soil, or other equally effective methods.

Inland Surface Waters are all surface waters of the State that do not include the ocean, enclosed bays, or estuaries.

Irrigation return flow: has the same meaning as return flow from irrigated agriculture in Section 502 (14) of the federal Clean Water Act, and for purposes of this Order is defined as surface and subsurface water that leaves a field following application of irrigation water, where the irrigation water is not a wastewater and where such irrigation water has been applied in accordance with a site specific nutrient management plan. "Tailwater" may be considered an irrigation return flow if it meets the conditions in this paragraph.

Irrigation water: is water that is applied to fields to grow crops.

Land application: means the application of manure, litter, or process wastewater onto or incorporated into the soil.

Land application area: is land under control of the cow dairy owner or operator, whether it is owned, rented, or leased, to which manure or process wastewater from the production area is or may be applied for nutrient recycling.

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Liquid manure handling system: means a system that collects and transports or moves waste material with the use of water, such as in washing of pens and flushing of confinement facilities. This would include the use of water impoundments for manure and/or wastewater treatment.

Manure: is the fecal and urinary excretion of livestock and other commingled materials. Manure may include litter, bedding, compost, raw materials, and waste feed.

Manured solids: is manure that has sufficient solids content such that it will stack with little or no seepage.

Mature dairy cow: is a dairy cow that has produced milk at any time during her life.

Maximum Daily Effluent Limitation (MDEL) means the highest allowable daily discharge of a pollutant, over a calendar day (or 24-hour period). For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the arithmetic mean measurement of the pollutant over the day.

Method Detection Limit (MDL): is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in: Title 40 of the Code of Federal Regulations, Part 136, Attachment B, revised as of July 3, 1999.

Minimum Level (ML): is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

Mixing Zone: is a limited volume of receiving water that is allocated for mixing with a wastewater discharge where water quality criteria can be exceeded without causing adverse effects to the overall water body.

Multi-year Phosphorus Application: means phosphorus applied to a field in excess of the crop needs for that year. In multi-year phosphorus applications, no additional manure, litter, or process wastewater is applied to the same land in subsequent years until the applied phosphorus has been removed from the field via harvest and crop removal.

Negligible Expansion: the annual average number of mature dairy cows in the herd may not expand more than 15% beyond the maximum number declared in the Notice of Intent (Attachment A).

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Not Detected (ND): are those sample results less than the laboratory's MDL.

Notice of Intent (NOI) is a form submitted by the owner/operator applying for coverage under a general permit. It requires the applicant to submit the information necessary for adequate program implementation, including, at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s). [(section §128.28(b)(2)(ii)]. See Order Attachment A.

New Source: is defined in the federal regulations as "*any building, structure, facility, or installation from which there is or may be a 'discharge of pollutants,' the construction of which commenced: (a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or (b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal*." (40 C.F.R. § 122.2) Further, a facility is a "new source" if (1) the facility is constructed at a site where no other facility is located, (2) the facility totally replaces the process or production equipment that causes the discharge of pollutants at the existing facility, or (3) the facility process is substantially independent of an existing facility at the same site. (40 C.F.R. §122.29 (b)).

Normal Precipitation: is the long-term average precipitation based on monthly averages over the time that data has been collected at a particular weather station. Normal precipitation is usually taken from data averaged over a 30-year period (e.g. 1971 to 2000) if such data is available.

Nuisance: is defined in the Porter-Cologne Water Quality Control Act as "…*anything which meets all of the following requirements:*
(1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
(2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
(3) Occur during, or as a result of, the treatment or disposal of wastes."

Nutrient: is any element taken in by a plant which is essential to its growth and which is used by the plant in elaboration of its food and tissue.

Nutrient Management Plan (NMP): is a description of site-specific nutrient management practices that ensure appropriate agricultural utilization of manure, litter, or process water, as specified in this Order. See MRP, Appendix 2, NMP. NMPs must be prepared and signed by a specialist who is certified in developing nutrient management plans. A certified specialist is: a Professional Soil Scientist, Professional Agronomist, Professional Crop Scientist, or Crop Advisor certified by the American

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Society of Agronomy; a Technical Service Provider certified in nutrient management in California by the Natural Resources Conservation Service, Resource Conservation District, University of California Cooperative Extension, California Dairy Quality Assurance Program, or other specialist approved by the Executive Officer.

Nutrient recycling: is the application of nutrients at agronomic rates for crop production.

Ocean Waters are the territorial marine waters of the State as defined by California law to the extent these waters are outside of enclosed bays, estuaries, and coastal lagoons. Discharges to ocean waters are regulated in accordance with the State Water Board's California Ocean Plan.

Off-property discharge: is the discharge or release of waste beyond the boundaries of the property of the dairy's production area or the land application area or to water bodies that run through the production area or land application area.

Open tile line intake structure: is an air vent for a subsurface (tile) drain system.

Order: is the Waste Discharge Requirements General Order.

Overflow: means the discharge of manure or process wastewater resulting from the filling of wastewater or manure storage structures beyond the point at which no more manure, process wastewater, or storm water can be contained by the structure.

Persistent pollutants: are substances for which degradation or decomposition in the environment is nonexistent or very slow.

Pollutant: is defined in Title 40 Code of Federal Regulations Section 122.2 as "…*dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.*"

Pollution: is defined in Section 13050(l)(1) of the Porter-Cologne Water Quality Control Act as *"…an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (A) The waters for beneficial uses. (B) Facilities which serve these beneficial uses." Please note that the Basin Plan states that* "Pollution" means an alteration of the quality of the waters of the State by waste to a degree which unreasonably affects: (1) such waters for beneficial uses, or (2) facilities which serve such beneficial uses. "Pollution" may include "contamination".

Pollutant Minimization Program (PMP) means waste minimization and pollution prevention actions that include, but are not limited to, product substitution, waste stream

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recycling, alternative waste management methods, and education of the public and businesses. The goal of the PMP shall be to reduce all potential sources of a priority pollutant(s) through pollutant minimization (control) strategies, including pollution prevention measures as appropriate, to maintain the effluent concentration at or below the water quality-based effluent limitation. Pollution prevention measures may be particularly appropriate for persistent bioaccumulative priority pollutants where there is evidence that beneficial uses are being impacted. The Regional Water Board may consider cost effectiveness when establishing the requirements of a PMP. The completion and implementation of a Pollution Prevention Plan, if required pursuant to Water Code section 13263.3(d), shall be considered to fulfill the PMP requirements.

Pollution Prevention: means any action that causes a net reduction in the use or generation of a hazardous substance or other pollutant that is discharged into water and includes, but is not limited to, input change, operational improvement, production process change, and product reformulation (as defined in Water Code section 13263.3). Pollution prevention does not include actions that merely shift a pollutant in wastewater from one environmental medium to another environmental medium, unless clear environmental benefits of such an approach are identified to the satisfaction of the State or Regional Water Board.

Pond: is defined as retention ponds, storage ponds, settling ponds, or any structures used for the treatment, storage, disposal, and recycling of process wastewater. Ponds are differentiated from sumps, which are structures in a conveyance system used for the installation and operation of a pump.

Process wastewater: is water directly or indirectly used in the operation of a cow dairy for any or all of the following: spillage or overflow from animal watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other dairy facilities; washing or spray cooling of animals; or dust control…and includes any water or precipitation and precipitation runoff which comes into contact with any raw materials, products, or byproducts including manure, feed, milk, or bedding.

Propose to Discharge: is defined as a dairy facility being designed, constructed, operated, or maintained such that a discharge to waters of the United States will occur.

Production area: is that part of a cow dairy that includes the animal confinement area, the manure storage area, wastewater, litter, waste containment area, the raw materials storage area such as feed, silage, and bedding materials. The animal containment area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water. The raw materials storage

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area includes but is not limited to feed silos, silage bunkers, and bedding materials. Also included in the definition of production area is any area used in the storage, handling, treatment, or disposal of mortalities.

Salt: in animal rations is defined as the sodium chloride and any added minerals (such as calcium, phosphorus, potassium, sulfur, iron, selenium, copper, zinc, or manganese) in the animal ration. Salt is defined as the products, other than water, of the reaction of an acid with a base. Salts commonly break up into cations (sodium, calcium, etc.) and anions (chloride, sulfate, etc.) when dissolved in water. Total dissolved solids is generally measured as an indication of the amount of salts in a water or wastewater.

Setback means a specified distance from waters of the United States or potential conduits to waters of the United States where manure, litter, and process wastewater may not be land applied. Examples of conduits to surface waters include but are not limited to: Open drainage ditches, tile drainage lines, intake structures, sinkholes, and agricultural well heads.

Significant quantity: is the volume, concentrations, or mass of a pollutant that can cause or threaten to cause pollution, contamination, or nuisance; adversely impact human health or the environment; and/or cause or contribute to a violation of any applicable water quality standards for the receiving water.

Significant storm event: is a precipitation event that results in continuous runoff of storm water for a minimum of one hour, or intermittent discharge of runoff for a minimum of three hours in a 12-hour period.

Sole-source aquifer: is an aquifer that supplies 50 percent or more of the drinking water of an area.

Source of Drinking Water: any water designated or potentially suitable as municipal or domestic supply (MUN) in the Water Quality Control Plan for the North Coast Basin (Basin Plan).

State: the State of California.

State Water Board: the State Water Resources Control Board.

Storm water: storm water runoff, snowmelt runoff, and storm water surface runoff and drainage.

Subsurface (tile) drainage: water generated by installing and operating drainage systems to lower the water table below irrigated lands. Subsurface drainage systems, deep open drainage ditches, or drainage wells can generate this drainage.

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Surface water: includes essentially all water that is on the Earth's surface, such as in a stream, lake, river, reservoir, or ocean. Surface waters include waters of the United States and their tributaries such as interstate waters and their tributaries, intrastate waters, all impoundments of these waters, and all wetlands hydrologically connected to lakes, streams, or rivers. Manure ponds are not considered surface waters in the context of this Regional Water Board Order.

Tailwater: the runoff of irrigation water from an irrigated field.

Toxicity Reduction Evaluation (TRE): a study conducted in a step-wise process designed to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity. The first steps of the TRE consist of the collection of data relevant to the toxicity, including additional toxicity testing, and an evaluation of facility operations and maintenance practices, and best management practices. A Toxicity Identification Evaluation (TIE) may be required as part of the TRE, if appropriate. (A TIE is a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests.)

Vegetated buffer: a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching waters of the United States.

Waste: is set forth in Water Code Section 13050(d), and includes manure, leachate, process wastewater and any water, precipitation or rainfall runoff that came into contact with raw materials, products, or byproducts such as manure, compost piles, feed, silage, milk, or bedding. The Basin Plan states that "waste" includes sewage and any and all other substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

Waste Management Plan (WMP): is a designed, written, and implemented plan for the dairy to ensure that the production area is designed, constructed, operated, and maintained so that wastes generated by the dairy are managed to prevent adverse impacts to surface water and groundwater in compliance with this Order. See MRP Appendix 2. The portions of the WMP that are related to facility and design specifications must be prepared by, or under the charge of a responsible professional with experience in manure containment and structural facility specification. Examples of this professional include, but are not limited to, registered professional engineers, or the qualified staff of the National Resource Conservation District (NRCS), the Resource

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Conservation District, the California Dairy Quality Assurance Program, or the University of California Cooperative Extension.

Wastewater: is the same as "process wastewater" as defined above.

Waters of the state: is defined in Section 13050 of the California Water Code as "*…any surface water or groundwater, including saline waters, within the boundaries of the state*." Note this includes isolated wetlands.

Waters of the United States: is defined in 40 CFR § 122.2 as (a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate "wetlands;" (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as waters of the United States under this definition; (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial sea; and (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR § 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland.

Wetland: For regulatory purposes under the Clean Water Act, the term wetlands means "those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas."

Wet season: is the period of time between 1 October and 30 April of each year.

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