

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

RESOLUTION R5-2013-XXXX

**APPROVING
WAIVER OF REPORTS OF WASTE DISCHARGE AND
WASTE DISCHARGE REQUIREMENTS
FOR SPECIFIC TYPES OF DISCHARGE
WITHIN THE
CENTRAL VALLEY REGION**

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

1. Water Code section 13260(a) requires that any person currently discharging or proposing to discharge waste that could affect the quality of the waters of the State (other than into a community sewer system) file a Report of Waste Discharge (RWD) with the appropriate Regional Water Quality Control Board that contains such information and data as may be required.
2. Pursuant to Water Code section 13263, the Central Valley Water Board has the obligation to prescribe waste discharge requirements (WDRs) for waste discharges, except where the Central Valley Water Board finds that waiving this requirement for a specific type of discharge is not against the public interest pursuant to Water Code section 13269.
3. Water Code sections 13260(b) and 13269 authorize the Central Valley Water Board to waive WDRs and RWDs, respectively, for specific types of discharge where such a waiver is not against the public interest, is conditional, and may be terminated by the Board at any time.
4. ~~On 1 January 2003~~In 1999, the Water Code section 13269 was amended by the California Legislature. Following these amendments, waivers automatically expire after five years, unless the Board that issued the waiver reviews the terms of the waiver at a public hearing and determines that the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest.
5. In December 2008, the Central Valley Water Board adopted Resolution R5-2008-0182 (*Waiver of Reports of Waste Discharge and Waste Discharge Requirements for Specific Types of Discharge Within the Central Valley Region*), which renewed the General Waiver (i.e., Resolution R5-2003-0008), which had been in effect for five years. Resolution R5-2008-0182 waived WDRs, and in some cases RWDs, for 12 specific types of discharges to land.
6. The Central Valley Water Board, in compliance with the Water Code, has reviewed the previously-issued waivers set forth in Resolution R5-2008-0182 and has determined that waivers for the following types of discharges to land pose a low threat to the quality of

waters of the State and are consistent with all applicable state or regional water quality control plans, and thus should be renewed:

- a. Conditional waiver of WDRs or Water Recycling Requirements (WRRs), but not the requirement to submit RWDs, for:
 - Disposal of dredge material to land,
 - Water recycling for construction purposes and road dust control, and
 - Small, short-term sand and gravel operations.
 - b. Conditional waiver of WDRs and in some instances the requirement to submit RWDs, for:
 - Air conditioner, cooling, and elevated temperature waters,
 - [Fresh water well](#) Drilling muds/boring wastes,
 - Inert solid waste disposal,
 - Test pumping of fresh water wells,
 - Swimming pool discharges,
 - Construction dewatering discharges,
 - Hydrostatic testing,
 - Agricultural commodity wastes, and
 - Disposal of residual waste to land as a soil amendment.
7. In 2003, the State Water Resources Control Board (State Water Board) adopted Statewide General Order 2003-0003-DWQ for “low-threat” discharges to land. This Statewide General Order was adopted to handle those types of discharges that posed a low threat to water quality, but was not intended to supersede the authority of the Regional Water Quality Control Boards to issue individual WDRs or conditional waivers.
 8. A review of the Statewide General Order shows that several categories covered by the Order are nearly identical to those covered by Resolution R5-2013-XXXX. For those categories that are also covered by the Statewide General Order, the waiver only applies to those discharges that represent the very lowest threat to water quality. As a result, categories for discharges of drilling muds/boring wastes, inert solid waste disposal, test pumping of fresh water wells, swimming pool discharges, construction dewatering discharges, and hydrostatic testing, are restricted to those instances which represent the lowest threat to water quality.
 9. Waiver of WDRs for discharges from projects requiring Water Quality Certification was dropped from the General Waiver in 2008 since discharges from dredge and fill activities would be best regulated under Statewide General Order 2003-017-DWQ for “Jurisdictional” waters and Statewide General Order 2004-0004-DWQ for “Non-jurisdictional” waters.

10. The Central Valley Water Board reviewed the conditions for the drilling muds/boring wastes waiver category (Waiver Category No. 2) ~~and determined that several additional conditions are needed for this waiver category which conditionally waives WDRs and the requirement for a RWD, which applied to drilling muds/boring wastes from both fresh water supply wells and oil and gas operations.~~ The Central Valley Water Board considered impacts to water quality based on increases in oil and gas drilling in the Central Valley Region over the last five years, advances in oil and gas drilling technologies (e.g., horizontal drilling and well stimulation activities), and increases in the drilling for oil and gas outside of existing oil and gas fields and determined that Waiver Category No. 2 should be renewed only for the drilling of fresh water supply wells. Discharge of drilling muds/boring wastes from oil and gas operations will be considered in a separate action to determine whether or not a waiver of RWDs and/or WDRs is appropriate.
11. The Board's waiver of the requirement to file RWDs and the Board's waiver of WDRs for discharges that will cause no or insignificant impairment to water quality and that pose little risk of creating a nuisance condition is not against the public interest, as these actions reduce the cost of activities that produce innocuous or small amounts of waste, are protective of the environment, and allow Central Valley Water Board staff to direct resources towards addressing waste discharges that have significant potential to degrade water quality or create nuisance conditions.
12. The waiver of RWDs under a discharge category does not preclude the Executive Officer from requesting a RWD for a specific project if it is necessary to perform an evaluation of the discharge.
13. The waiver of WDRs and, in some instances, RWDs for discharge categories covered under the General Waiver for low threat discharges to land, were previously waived under Resolution 82-036. As lead agency under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA), the Central Valley Water Board determined that adoption of Resolution 82-036 waiving WDRs for 23 specific discharges to land would not cause a significant environmental impact and, on 23 December 1981, adopted a Negative Declaration. Pursuant to California Code of Regulations, title 14, section 15162, a subsequent environmental impact report or negative declaration is not required.
14. The conditional waiver is consistent with State Water Board Resolution 68-16, the Statement of Policy with Respect to Maintaining High Quality of Waters in California, because the waiver of WDRs imposes conditions to prevent impacts to water quality and authorizes no degradation of water quality, will not unreasonably affect beneficial uses of water, and will not result in water quality less than that prescribed in plans and policies.
15. The Central Valley Water Board conducted a public hearing on XXX December 2013 in Rancho Cordova, California, and considered all testimony and evidence concerning this matter.

THEREFORE BE IT RESOLVED, that in accordance with Water Code section 13269, the Central Valley Water Board adopts the “*Waiver of Reports of Waste Discharge and Waste Discharge Requirements for Specific Types of Discharge*” as set forth in Attachment A, hereafter informally referred to as the “General Waiver,” and that;

1. The Central Valley Water Board waives the requirement to obtain WDRs and/or WRRs, and for some instances the requirement to submit a RWD and filing fee, for discharge types that fulfill the conditions set forth in Attachment A of this Order.
2. Discharges that result from emergency work or emergency projects as described under Water Code section 13269(c) are not affected by this action.
3. Discharge of wastes to wetlands, surface waters, drainage courses, or biologically sensitive areas, is prohibited.
4. Based on the testimony received at the aforementioned hearing, and the above-noted findings, the General Waiver is not against the public interest provided dischargers subject to such waiver:
 - (a) comply with the conditions for waiver of waste discharge requirements as set forth in the General Waiver;
 - (b) file with the Central Valley Water Board a Report of Waste Discharge and filing fee when required as part of the General Waiver; and
 - (c) comply with applicable State and Central Valley Water Board plans and policies.
5. For those discharges requiring submittal of a RWD, the discharger must submit the fee specified in California Code of Regulations, title 23, section 2200, for a threat to water quality and complexity of “3C”.
6. Based on the above-noted findings, it is not necessary at this time to adopt individual or general waste discharge requirements for the discharge of wastes related to the types of discharges identified in Attachment A and that are conducted in accordance with the conditions specified in the General Waiver as these types of discharges are considered to be of low threat to water quality and Central Valley Water Board resources should focus on higher threat discharges.
7. For the seven categories in the General Waiver that are also covered by Statewide General Order 2003-0003-DWQ for low threat discharges to land, this waiver shall only apply to those discharges that are of such good quality and of limited volume/duration that coverage under the Statewide General Order for low threat discharges is not necessary. Specifically:

- Non-contact cooling water discharges;
 - [Fresh water well](#) Drilling muds/boring wastes;
 - Inert solid waste disposal;
 - Test pumping of fresh water wells;
 - Swimming pool discharges;
 - Construction dewatering discharges; and
 - Hydrostatic testing.
8. The discharge of any waste not specifically regulated by the General Waiver is prohibited unless the discharger complies with Water Code section 13260(a) and the Central Valley Water Board either issues WDRs pursuant to Water Code section 13263 or an individual waiver pursuant to Water Code section 13269, or the time frames specified in Water Code section 13264(a) have elapsed.
 9. This General Waiver shall not create a vested right to discharge. All discharges authorized under this General Waiver shall be considered a privilege, as provided for in Water Code section 13263.
 10. Pursuant to Water Code section 13269, this action waiving the issuance of WDRs for certain specific types of discharges: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Central Valley Water Board from administering enforcement remedies (including civil liability) pursuant to the Water Code.
 11. The Executive Officer or Central Valley Water Board may terminate the applicability of the General Waiver described herein as to any type of discharge or individual discharger at any time when such termination is in the public interest or the activity could affect the quality or beneficial uses of the waters of the State.
 12. The Central Valley Water Board may review the General Waiver at any time and may modify or terminate the General Waiver in its entirety, as applicable for a specific type of discharge, or for individual dischargers, as is appropriate.
 13. This General Waiver shall expire on XXX December 2018, unless terminated or renewed by the Central Valley Water Board.

If any person discharging a waste that falls within the scope of the waiver fails to comply with the conditions of the waiver, the Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with the conditions of the waiver may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350 and 13385. The

Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on XXX December 2013.

PAMELA C. CREEDON, Executive Officer

Order Attachments:

- A. Specific Discharges Covered by the General Waiver
- B. Staff Report

SJK/DAS/DKP: 9/26/13