

LATE REVISIONS – 7 January 2014

Agenda Item 5: Consideration of Adoption of Waste Discharge Requirements General Order for Growers within the Western San Joaquin River Watershed that are Members of a Third-Party Group

WASTE DISCHARGE REQUIREMENTS

Page 21, added a new section III.C as follows:

C. Compliance with Receiving Water Limitations

1. If the discharge of wastes from Member operations does not comply with III.A Surface Water Limitations or III.B. Groundwater Limitations, the Member is not in violation of this Order relative to sections III.A or III.B for a specific waste parameter provided:
 - a. The third-party has submitted a Surface Water Quality Management Plan or Groundwater Quality Management Plan for that waste parameter in accordance with Section VIII.H of this Order, and such plan is pending action by the Executive Officer or board; or
 - b. The Executive Officer or board has approved the applicable Surface Water Quality Management Plan or Groundwater Quality Management Plan for that waste parameter, and
 - i. The Member is implementing or has a documented schedule to implement improved management practices consistent with the approved plan to achieve compliance with III.A or III.B, as applicable, and
 - ii. The Member is in compliance with Section XII. Time Schedule for Compliance of this Order.

Page 21, deleted footnotes 19 and 20:

~~¹⁹These limitations are effective immediately except where Members are assuring compliance with the limitations by implementing management practices consistent with an approved Surface Water Quality Management Plan (SQMP) for a specified waste parameter in accordance with the time schedule authorized pursuant to section XII of this Order.~~

~~²⁰These limitations are effective immediately except where Members are assuring compliance with the limitations by implementing management practices consistent with an approved Groundwater Quality Management Plan (GQMP) for a specified waste in accordance with the time schedule authorized pursuant to section XII of this Order.~~

Page 22, modified section IV.A.3 as follows:

Members who are subject to this Order shall implement water quality management practices, as necessary, to protect water quality ~~and to achieve compliance with applicable water quality objectives~~. Water quality management practices can be instituted on an individual basis, or implemented to serve multiple growers discharging to a single location.

ATTACHMENT A – INFORMATION SHEET

Page 17, second paragraph, fourth sentence is revised as follows:

If the Executive Officer is assured that the growers in the area are taking appropriate action to come into compliance with the receiving water limitations (as described in the SQMP), the growers will be considered in compliance with those limitations~~Executive Officer will not pursue enforcement.~~

Page 23, first full paragraph is revised as follows:

The GQMPs are work plans describing how the third-party will assist their Members in addressing the identified water quality problem; the types of actions Members will take to address the identified water quality problem; how the third-party will conduct evaluations of effectiveness of implemented practices; and document consistency with Time Schedule for Compliance (Section XII of the Order). Executive Officer approval indicates concurrence the GSQMP is consistent with the waste discharge requirements and that that the proper implementation of the identified practices (or equivalently effective practices) should result in addressing the water quality problem that triggered the preparation of the GSQMP. Approval also indicates concurrence that any proposed schedules or interim milestones are consistent with the requirements in section XII of the Order. If the Executive Officer is assured that the growers in the area are taking appropriate action to come into compliance with the receiving water limitations (as described in the GSQMP), the growers will be considered in compliance with those limitations~~Executive Officer will not pursue enforcement.~~ Approval of GQMPs does not establish additional waste discharge requirements or compliance time schedule obligations not already required by these waste discharge requirements. Instead, the Executive Officer is approving a method for determining compliance with the receiving water limitations in the affected area. See *Russian River Watershed Committee v. City of Santa Rosa* (9th Cir. 1998) 142 F.3d 1136; *CASA v. City of Vacaville* (2012) 208 Cal.App.4th 1438.

Pages 26 and 27, the section titled “*Spatial Resolution of Nitrogen Management Plan and Farm Evaluation Information*” is revised as follows:

The Order requires reporting to the Central Valley Water Board of nitrogen management information and management practices identified through the farm evaluation. These data are required to be associated with the township (36 square mile area) where the farm is located. The spatial resolution by township provides a common unit that should facilitate analysis of data and comparisons between different areas.

Information collected from nitrogen management summary reports will be provided annually.

The nitrogen management data collected by the third-party from individual Members will be aggregated by the township where the enrolled parcel is located and will not be associated with the Member or their enrolled parcel. For example, the third-party may have information submitted for 180 different parcels in a given township. At a minimum, the board would receive a statistical summary of those 180 data records describing the range, percentiles (10th, 25th, 50th, 75th, 90th), and any outliers for similar soil conditions and similar crops in that township. A box and whisker plot or equivalent tabular or graphical presentation of the data approved by the Executive Officer may be used. Based on this analysis, the Central Valley Water Board intends to work with the third-party to ensure that those Members who are not meeting the nitrogen management performance standards identified in the Order improve their practices. As part of its annual review of the monitoring report submitted by the third-party, the board will evaluate the effectiveness of third-party outreach efforts and trends associated with nitrogen management. The board intends to request information from the third-party for those Members who, based on the board’s evaluation of available information, do not appear to be

meeting nitrogen management performance standards. The reporting of nitrogen management data may be adjusted based on the outcomes of the efforts of the State Water Resources Control Board's Expert Panel and the California Department of Food and Agriculture's Nitrogen Tracking and Reporting System Task Force (see Finding 50 and the State Water Board's Report to the Legislature¹).

In order to determine whether growers in a given township are improving their practices, the third-party will need to assess the data [collected from Farm Evaluations](#) and evaluate trends. The third-party's assessment and evaluation, along with the data used to make the evaluation, will be provided in the third-party's annual monitoring report. ~~Since a report on management practice information and nitrogen management summary reports will be provided annually, the Central Valley Water Board will be able to determine what the trends are, if any.~~ By receiving the individual data records [identified to at least the township level](#), the board will be able to determine whether individual Members are in compliance and the board will be able to identify specific data records for additional follow-up (e.g., requesting that the third-party provide the Member name and parcel associated with the data record). The board will be able to independently verify the assessments and evaluations conducted by the third-party. The board, as well as other stakeholders, can also conduct its own analysis and interpretation of the data, which may not be possible if only summary information [for implemented management practices](#) were provided. If the data suggest that growers are not improving their practices, the Executive Officer can require the third-party to submit the management practice or nitrogen management plan summary information in a manner that specifically identifies individual Members and their parcels.

Page 29, deleted footnote 22.

~~²² Kratzer CR, Dileanis PD, Zamora C, Silva SR, Kendall C, Bergamaschi BA, Dahlgren RA. (2004). Sources and Transport of Nutrients, Organic Carbon, and Chlorophyll-a in the San Joaquin River Upstream of Vernalis, California, during Summer and Fall, 2000 and 2001. USGS Water Resources Investigations Report 03-4127.~~

ATTACHMENT D – FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

Page 25, first full paragraph, first sentence is edited as follows:

Title II of the 2008 Farm Bill (the Food, Conservation, and Energy Act of 2008, in effect through 30 September 2012 and extended in the American Taxpayer Relief Act of 2013 through ~~through~~ 30 September 2013) authorizes funding for conservation programs such as the Environmental Quality Incentives Program (EQIP) and the Conservation Stewardship Program.

RESPONSE TO COMMENTS

Page 12, third full paragraph, response to comment 2-2 is revised as follows:

Board staff reviewed some of the information available for wetlands in the Westside San Joaquin River Subbasin; San Luis NWR; Grassland RCD and Volta, Los Banos, and North

¹ [NOTE-THIS IS FOOTNOTE 20 IN THE INFORMATION SHEET] State Water Board Resources Control Board. 2013. Report to the Legislature, Recommendations Addressing Nitrate in Groundwater <http://www.swrcb.ca.gov/water_issues/programs/nitrate_project/docs/nitrate_rpt.pdf>

Grassland Watershed Areas. One study demonstrated that BOD loads from the Grassland Watershed to the SJ River were proportional to flow during June-October and wetland and irrigated agriculture drainage both negatively impacted water quality in the watershed (Stringfellow et.al. 2008²). ~~In another study, loading rates of nutrients and organic carbon increased in the San Joaquin River in October and November with the release of wetland drainage³.~~—Studies, and reports available in Central Valley Water Board files, indicate that the Grassland area wetlands are also of a source of elevated salt levels.⁴ These studies and reports are specific to issues associated with the Grasslands wetland discharges and provide sufficient evidence that the discharges from the Grasslands wetlands contain wastes that could affect the quality of waters of the state.

In addition, the managed wetlands that would be regulated under the proposed Order have been regulated under the Conditional Waiver since 2003, suggesting the parties responsible for those managed wetlands ~~believed-recognized that~~ their discharges required regulatory coverage. However, should the commenter or any other wetland managers wish to pursue an alternative method of complying with Porter-Cologne (e.g., individual WDRS or a WDR specific to managed wetlands), staff will work those wetland managers to further explore those alternatives.

² Stringfellow WT, Hanlon JS, Borglin SE, Quinn NWT. (2008). Comparison of wetland and agriculture drainage as sources of biochemical oxygen demand to the San Joaquin River, California. *Agricultural Water Management* 95: 527-538.

³ ~~Kratzer CR, Dileanis PD, Zamora C, Silva SR, Kendall C, Bergamaschi BA, Dahlgren RA. (2004). Sources and Transport of Nutrients, Organic Carbon, and Chlorophyll-a in the San Joaquin River Upstream of Vernalis, California, during Summer and Fall, 2000 and 2001. USGS Water Resources Investigations Report 03-4127.~~

⁴ Quinn, NWT. (2009). Environmental decision support system development for seasonal wetland salt management in a river basin subjected to water quality regulation. *Agricultural Water Management* 96: 247-254.