

Regional Water Quality Control Board  
Central Valley Region

Response to Written Comments for  
Revising Order No. R5-2013-0120 Waste Discharge Requirements General Order for  
Growers within the Tulare Lake Basin Area that are Members of a Third-Party Group

This document contains the response to written comments received by the Central Valley Water Board regarding the proposed tentative Order Revising Waste Discharge Requirement General Order R5-2013-0120 for Growers within the Tulare Lake Basin Area that are Members of a Third-Party Group (Tentative Order). The Tentative Order proposes revisions to allow additional time for owners and operators of managed wetlands to obtain membership in a third-party group, and modifies the existing time schedule for the submission of the Farm Evaluations and Nutrient Management Plans. These revisions include modifications to the Waste Discharge Requirements and the Monitoring and Reporting Program.

The Tentative Order was circulated for 30 days for public comment, which ended on 7 November 2014. Written comments were received during this comment period from the following:

A. Advocates for Wetlands Interests

1. Mark Biddlecomb – Ducks Unlimited
2. Greg Burns – PAZUSA Land and Water Company
3. Edward Joseph – PAZUSA Land and Water Company
4. Edward Bostick – Private Wetlands Owner
5. Rick Nunez – Interested Party / Sportsman and Conservationist
6. Ken Barton – Private Wetlands Owner
7. James Wattenbarger – Spoonville, LLC
8. Steven Silver – Rancho Visalia Hunt Club
9. Dana Hair – White Ranch Land Company, LLC and Hog Island Hunting Club
10. Rick McPheeters – Pintail Slough Land Company
11. David Renuart – Central City Gun Club
12. Mark Swaim – Private Wetlands Owner
13. Austin Hope – Kahala Wildlife Refuge
14. Steve Miller – PAZUSA Land and Water Company
15. Ron Hulbert – Private Wetlands Owner
16. Jonathan Pickett – California Waterfowl Association

B. Third-Party Groups and Agricultural Interests

1. Donald Ikemiya – Kaweah Basin Water Quality Association and Nicole Bell – Kern River Watershed Coalition Authority<sup>1</sup>

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<sup>1</sup> Other parties represented in these written comments include; Buena Vista Coalition, Corcoran Irrigation District, California Cotton Ginners and Growers Association, California Fresh Fruit Association, Kings County Farm Bureau, Kings River Water Quality Coalition, North West Kern Resource Conservation District, Tulare Lake Basin Water Storage District, Tulare Lake Drainage District, Tulare Lake Resource Conservation District, Tule Basin Water Quality Coalition, Westside Water Quality Coalition, Western Agricultural Processors Association.

2. David Hampton – Cawelo Water District Coalition
3. Jose Gutierrez – Westlands Water District
4. Greg Wegis – Kern County Farm Bureau

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## **A. Advocates for Wetlands Interests**

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### **Comment A.I: Wetlands**

The commenters contend that it is unclear how Order No. R5-2013-0120 may be applicable to managed wetlands, and encourages the Central Valley Water Board to adopt the Tentative Order.

**Response A.I:** Comment Noted.

### **Comment A.II: Exemptions for Certain Types of Wetlands**

The commenters contend that certain types of managed wetlands (e.g. those that do not apply herbicides or fertilizers) should be exempt from the Irrigated Lands Regulatory Program.

**Response A.II:** Central Valley Water Board staff (Staff) is currently working with stakeholders to consider alternative regulatory options for discharges from managed wetlands, including those that do not apply herbicides or fertilizers.

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## **B. Third-Party Groups and Agricultural Interests**

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### **Comment B.I: Farm Evaluations**

The commenter proposes extending the initial Farm Evaluation submittal deadline for large farming operations in high vulnerability areas by one year. The commenter contends that this change will not delay the third-party groups' efforts in evaluating management practices through the Management Practice Evaluation Program.

**Response B.I:** Staff is in agreement with the comment and has revised the Tentative Order to require that large farming operations in high vulnerability submit a completed Farm Evaluation to the third-party group by 1 March 2016.

### **Comment B.II: Nitrogen Management Plan**

The commenter proposes revising the 1 March 2015 deadline for large farming operations in high vulnerability areas to submit a completed Nitrogen Management Plan to the third-party group to within 90 days of the date the Executive Officer issues the Nitrogen Management Plan Template. The commenter also proposes delaying the Nitrogen Management Plan certification requirement for large farming operations in high vulnerability areas by one year due to the lack of qualified individuals to certify the plans and the short timeframe for implementation of the plans.

**Response B.II:** Staff is in agreement with the comment and has revised the Tentative Order to require that large farming operations in high vulnerability submit a completed Nitrogen Management Plan to the third-party group within 90 days of the date the Executive Officer issues the Nitrogen Management Plan Template and must certify these plans by 1 March 2016.

**Comment B.III: Nitrogen Management Plan Summary Report**

The commenter contends that postponing the Nitrogen Management Plan Summary Report for large farming operations in high vulnerability areas for one year will ensure that the requirements are not retroactive for crops with longer cycles. The commenter proposes that this submittal deadline be postponed by one year.

**Response B.III:** Staff is in agreement with the comment and has revised the Tentative Order to require large farming operations in high vulnerability areas submit a Nitrogen Management Plan Summary Report to the third-party group by 1 March 2017.

**Comment B.IV: Managed Wetlands**

The commenter contends that no definition for managed wetlands exists within the Tentative Order or in Waste Discharge Requirement General Order R5-2013-0120 and that a definition is needed. The commenter requests the opportunity to comment on the issues regarding managed wetlands and be involved in the process for developing alternative compliance options.

**Response B.IV:** To date, Staff has hosted multiple meetings with self-identified managed wetlands stakeholders to discuss the range of options for regulatory coverage and anticipates continuing to meet with stakeholders to develop appropriate solutions to regulating discharges from managed wetlands. These meetings are open to all interested parties and are announced on the Central Valley Water Boards' website. Staff encourages the commenter to participate in future meetings.

**Comment B.V: Drought**

The commenter contends that the drought has caused significant impacts to a large number of growers within the Tulare Lake Basin Area and that the proposed changes to the Farm Evaluation, Nitrogen Management Plans, and Nitrogen Management Plan Summary Report submittal schedule would provide temporary relief to these growers.

**Response B.V:** Staff is in agreement with the comment and has revised the Tentative Order accordingly by adding an additional finding to the Tentative Order about the drought proclamation, and by modifying the reporting schedule.

**Comment 6.VI: General Support for Comment Letter B.1**

The commenter generally support the comments in Comment Letter B.1. However, the commenter does not support the proposed change to require large farming operations in high vulnerability to prepare a Nitrogen Management Plan within 90 days of the date the Executive Officer issues the Nitrogen Management Plan Template. The commenter contends additional time is needed since the Cawelo Water District Coalitions' GAR is not due until 27 April 2014.

**Response B.VI:** Staff recognizes this issue and has proposed additional language to address it. The Tentative Order now requires third-party groups meet with Central Valley Water Board staff by 31 December 2014 to discuss their proposed process for determining high and low vulnerability areas to be submitted as part of their GAR. If an agreement on the vulnerability designation process is not reached by 1 February 2015, the Executive Officer will make the final determination regarding high and low vulnerability areas.

**Comment 6.VII: General Support for Comment Letter B.1**

The commenter supports the comments in Comment Letter B.1

**Response B.VII:** Comment noted.