

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

Conditional Waiver of Waste Discharge
Requirements
for Discharges from Agricultural Operations in
the San Jacinto River Watershed, Riverside
County

TENTATIVE ORDER NO. RB-2016-0003

Staff Report

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CALIFORNIA

Water Boards

STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

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1. INTRODUCTION

Staff of the California Regional Water Quality Control Board, Santa Ana Region (Regional Board) recommend that the Regional Board adopt a conditional waiver of waste discharge requirements for discharges from agricultural operations in the San Jacinto River Watershed within the Santa Ana Region (Conditional Waiver) (Order No. R8-2016-0003, or Order), in accordance with California Water Code (Water Code) section 13269. This report describes the foundation for this recommendation.

The San Jacinto River Watershed includes the San Jacinto River and its tributaries, and Canyon Lake and Lake Elsinore and the tributaries to these lakes. This area (the Project area) is located in Riverside County.

Agricultural activities can generate pollutants such as sediment, pesticides, and nutrients that, when discharged to receiving water bodies, can degrade water quality, impair beneficial uses and cause nuisance conditions. Under the proposed Order, waste discharge requirements for these discharges by agricultural operators within the San Jacinto River Watershed would be waived, provided that the dischargers:

- implement management measures (MMs) and best practices (BPs), collectively known as best management practices or “BMPs”, that improve the quality of the waste discharged from agricultural operations;
- monitor the water quality effects of discharges from these operations on waters of the state and assess the efficacy of implemented BMPs; and,
- mitigate the effects of their discharges as necessary.

The goal of the Conditional Waiver program is to set conditions for discharges from certain agricultural operations within the Project Area that, when implemented, will assure that these discharges do not cause or contribute to violations of water quality standards¹ in receiving waters. Staff calls this conditional waiver program the Conditional Waiver for Agricultural Discharges (CWAD) program, to distinguish it from other regional boards’ agricultural waiver programs that focus on irrigated agriculture, known collectively as the Irrigated Lands Regulatory Program (ILRP).

This staff report reviews the proposed Conditional Waiver, Order No. 2016-0003, and based on this review, recommends its adoption.

2. BACKGROUND

An updated Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) was adopted by the Regional Board on March 11, 1994, approved by the State Water Resources Control Board (State Board, or SWRCB) on July 21, 1994, and approved by

¹ Beneficial uses, water quality objectives, and anti-degradation policy constitute federal water quality standards.

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the Office of Administrative Law on January 24, 1995. Subsequent amendments to the Basin Plan include a revised Total Dissolved Solids (TDS) and nitrogen management plan, Total Maximum Daily Loads (TMDLs) for impaired surface waters, and implementation plans associated with those TMDLs. The Basin Plan summarizes applicable water quality control policy, identifies ground and surface waters within the Santa Ana Region (Region), designates beneficial uses for those waters, establishes water quality objectives for the protection of those uses, prescribes implementation plans for achieving the objectives, and establishes monitoring and surveillance programs.

In 2004, the Regional Board amended the Basin Plan to incorporate an updated Total Dissolved Solids (TDS) and Nitrogen Management Plan for the Santa Ana Region. The management plan includes TDS and nitrate-nitrogen quality objectives for groundwater management zones (GMZ) established by the plan, revised TDS and nitrogen waste load allocations for wastewater discharges to the Santa Ana River, and specific changes to standards for surface waters throughout the Region. The TDS/Nitrogen management plan also included updated findings regarding assimilative capacity for both TDS and nitrogen in each GMZ. These amendments were approved by the State Water Resources Control Board on October 1, 2004 and by the Office of Administrative Law on December 23, 2004. The surface water standards provisions of the amendments were approved by the U.S. EPA on January 20, 2007.

Nitrogen and TDS assimilative capacity findings in groundwater management zones are reviewed regularly and may be revised. Most recently, updates to GMZ assimilative capacity findings were approved by the Regional Board in April 2014 (Resolution No. R8-2014-0005). With the exception of the San Jacinto Upper Pressure GMZ, for which maximum benefit objectives and a maximum benefit implementation plan have been established, all GMZs in the San Jacinto Watershed lack assimilative capacity for both TDS and nitrogen, i.e., TDS and nitrogen quality conditions in these GMZs exceed the applicable TDS and nitrogen objectives. Assimilative capacity findings have significant regulatory implications that affect the requirements in the recommended Conditional Waiver.

The Project Area covers the approximately 780 square mile San Jacinto River Watershed, which is shown on Attachment 1. The Project Area encompasses approximately 59,192 acres of land zoned for agriculture. About 35,000 acres are in active agricultural use on parcels greater than 20 acres (See Attachment 2, San Jacinto Watershed Agriculture Land Use). Agricultural activities include dairy and other types of livestock operations and irrigated and dry-land farming. Currently, there are an estimated 184 agricultural operators who are responsible for hundreds of active agricultural operations at different sites within this watershed.

Point and non-point source waste discharges in the San Jacinto Watershed, including agricultural discharges, have contributed to exceedances of water quality objectives and impairment of beneficial uses in both Canyon Lake and Lake Elsinore. Accordingly, Lake

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Elsinore is included on the Clean Water Act section 303(d) list of impaired waters, due to elevated levels of nutrients (nitrogen and phosphorus), organic enrichment, PCBs, low dissolved oxygen, and toxicity (sediment and water column). Canyon Lake is included on the 303(d) list for nutrients and pathogens.

To address the nutrient impairment in the lakes, in 2004, the Regional Board adopted Nutrient Total Maximum Daily Loads (TMDLs) for Canyon Lake and Lake Elsinore. The TMDLs were subsequently approved by the State Water Board, Office of Administrative Law and the U.S. Environmental Protection Agency, and are now being implemented. These TMDLs established load allocations and waste load allocations for nitrogen and phosphorus inputs from specified sources, including agricultural activities.

The State Water Resources Control Board (SWRCB) approved a Plan for California's Non-Point Source (NPS) Pollution Control Program (Plan), and, in 2004, adopted a Policy for the Implementation and Enforcement of the NPS Pollution Control Program (http://www.waterboards.ca.gov/santaana/water_issues/programs/nps/index.shtml). This Plan and Policy provide the framework for regulating NPS pollutant discharges in California, which includes discharges from agricultural operations. Under the Policy, NPS discharges must be regulated by general or individual waste discharge requirements (WDRs), conditional waivers of WDRs, or Basin Plan waste discharge prohibitions. This proposed Conditional Waiver is intended to implement applicable parts of the Plan and Policy.

Pursuant to Water Code section 13263, regional boards are required to prescribe waste discharge requirements for proposed or existing discharges of waste to waters of the state, or, under Water Code section 13269, to waive those requirements, with conditions. Water Code section 13269 provides that a regional board may waive waste discharge requirements for a specific discharge or type of discharge if the regional board determines, at a properly noticed public meeting, that the waiver is consistent with the applicable water quality control plan (i.e., a Basin Plan) and is in the public interest. Water Code section 13269 establishes 5 year duration for waivers, and provides for their review and renewal. Under section 13269, waivers must include monitoring, which may be done on an individual, a group, or watershed basis. The Regional Board may waive this monitoring requirement based on a determination that the discharges subject to the waiver do not pose a significant threat to water quality. Section 13269 also establishes that a condition of a waiver may be payment of an annual fee established by the State Board. The State Board has established such fees.

As part of a concerted effort to provide ample opportunities for Project Area growers, and other stakeholders, to contribute to the development of a regulatory program that would directly affect them, Regional Board staff formed a CWAD Program Advisory Group. This group has met periodically to discuss the Regional Board's regulatory approaches toward agriculture, and related matters. Members and the executive director of the Western Riverside County Agriculture Coalition (WRCAC), a non-government organization that represents many growers and livestock operators (collectively, "agricultural operators") in

the San Jacinto River Watershed in TMDL matters, are active, regular participants in meetings of the advisory group.

The advisory group members unanimously recommended that Board staff develop a Conditional Waiver as a control mechanism for agricultural operations, in lieu of other regulatory options, including individual or general WDRs, or a Basin Plan prohibition. The conditional waiver is expected to simplify and streamline the regulatory process.

The overarching goal of this proposed Conditional Waiver is to improve and protect water quality and attain water quality standards in the Project Area by providing a program for regulating NPS discharges from agricultural operations. If not adequately regulated, NPS discharges from agricultural operations can cause or contribute to conditions of pollution or nuisance and to violations of applicable water quality standards. Additionally, this proposed Conditional Waiver program is intended to contribute to timely implementation of the load allocations specified for agriculture in the Nutrient TMDLs adopted to restore the water quality and beneficial uses of Canyon Lake and Lake Elsinore. The beneficial uses of these waters include warm water aquatic habitat, water contact recreation, and wildlife habitat².

3. APPLICABILITY OF PROPOSED WAIVER

As proposed, this Conditional Waiver would apply to:

- Irrigated agricultural operations and otherwise unregulated livestock operations that are 20 acres or more in area.
- Irrigated agricultural operations and unregulated livestock operations that are smaller than 20 acres if they are part of a larger operation that has a cumulative area of 20 acres or more under the constructive control of a single entity. The 20 or more cumulative acres may include lands that are all irrigated or a portion of which is dry farmed and/or fallow, on a permanent or periodic basis, and upon which pesticides, fertilizers and/or manure, mulch or compost is applied.
- Unregulated livestock operations that are less than 20 cumulative acres and maintain an animal density of more than three (3) animal units per acre (see Attachment A to the tentative Order).
 - The proposed Conditional Waiver would not apply to dairies already regulated by the Regional Board (General Waste Discharge Requirements for Concentrated Animal Feeding Operations (CAFO) (Dairies and Related Facilities) within the Santa Ana Region, Order No. R8–2013-0001, NPDES No. CAG018001 and its subsequent iterations.)

² The beneficial uses of waters in the Project Area are summarized in findings of the proposed Conditional Waiver

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- The proposed Conditional Waiver would not apply to point of sale nurseries that are not engaged primarily in production and are regulated under the Regional Board's Municipal Separate Storm Water (MS4) permit for Riverside County (Order No. R8-2010-0033, NPDES No. CAS 6180333, Riverside County Flood Control and Water Conservation District, County of Riverside and the Incorporated Cities of Riverside County within the Santa Ana Region - Area-Wide Urban Runoff Management Program, and its subsequent iterations). Likewise, parks, golf-courses, cemeteries, play grounds, recreational facilities, and similar facilities are regulated under the MS4 Permit and would not be subject to this proposed Conditional Waiver.
- Other agricultural operations, whether or not 20 cumulative acres in size and whether the operations entail irrigated agriculture, livestock operations, dry land farming or fallow land, that Regional Board staff finds to be a high risk for discharging wastes that could affect water quality. An operation, other than irrigated agriculture or livestock operations on 20 or more cumulative acres, would be considered high-risk if dry-weather runoff discharges are observed, or if topographic features, location, existing management practices or materials applied as part of the agricultural operations (e.g., fertilizers, pesticides or herbicides) represent a significant potential for waste discharges that could adversely affect water quality standards of receiving waters. These high risk dischargers would be required to file a Notice of Intent to be enrolled in this Conditional Waiver when notified to do so by Board staff.
- Agricultural waste discharges, including irrigation tail-water and stormwater runoff, whether such discharges are directed to surface waters or to land.

These acreage applicability criteria are based, in part, on data produced in compliance with the requirement in the nutrient TMDLs for Canyon Lake and Lake Elsinore that calls for the Board to establish a list of all known agricultural operations in the San Jacinto River Watershed. This requirement was met with a data set that was produced by a WRCAC contractor using available, rectified GIS land use and parcel tax data layers to show parcels of 20 acres or more where an agricultural land use was occurring. These data are summarized on Attachment 2, San Jacinto River Watershed Land Use Map.

In collecting the data set of agricultural operations, it became apparent that there were some farming operations that consisted of many parcels that are individually less than 20 acres but are under the control of a single entity or grower. Collectively, these operations may be 20 acres or more. Board staff believes that these several small farming operations may pose a risk of discharge equal to or greater than that of a single agricultural operation of 20 acres or more. This is because several small operations that total 20 acres or more in area, under the control of a single operator, cumulatively have a greater perimeter length from which mismanaged discharges could potentially occur compared to a single operation of the same area, and because several smaller operations under the control of a single operator will likely not all be supervised simultaneously or equally and will therefore be at greater risk for mismanaged discharges. Therefore, the proposed Conditional

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Waiver establishes that agricultural operations that are cumulatively 20 acres or more in area are subject to the waiver. Future reconsideration of this Conditional Waiver may result in recommendations for a revised acreage (or other) qualifying criterion, based on experience and evidence regarding the efficacy of the currently recommended waiver in protecting water quality.

Under the terms of the proposed Conditional Waiver, and consistent with applicable law, both owners and operators of agricultural operations have responsibility for compliance with the conditions of the waiver. Appropriate management practices will need to be identified, implemented, maintained and documented to comply with waiver conditions. Many management practices will be operational in nature and under the direct control of the operator, while structural practices that remain in place through changes in operators or leaseholders will more likely be the responsibility of the landowner.

In the event that a tenant operator of an enrolled agricultural operation violates waiver conditions, the Regional Board may hold both the owner and the operator accountable. Owners and operators may consider delineating their respective responsibilities with regard to complying with the Regional Board's proposed Conditional Waiver in lease agreements; however, both the owner and operator would be responsible for complying with all provisions of the Conditional Waiver.

Enrollees in this Conditional Waiver may form a Discharger or Coalition Group with other enrollees for the purpose of collaborating on strategies and practices that enable efficient compliance with this Conditional Waiver. See 4.B. DISCHARGER/COALITION GROUPS, below.

4. SCOPE AND REQUIREMENTS OF THE ORDER

A. ENROLLMENT PROCESS

An individual discharger or discharger group may apply for coverage under the proposed Conditional Waiver. To enroll in this Waiver and obtain individual coverage under it, each discharger shall, no later than July 29, 2016, complete an electronic NOI form available on the Regional Board's website. Dischargers who wish to obtain coverage under and comply with the Waiver as part of a discharger group (see B. DISCHARGER/COALITION GROUPS), would also be required to complete an eNOI form, no later than July 29, 2016, and indicate the name of the coalition or discharger group they belong to as well as the name of the Group Administrator accepted by the Regional Board to carry out this responsibility. The proposed Order specifies the information that is to be submitted in the eNOI. A hard copy of the proposed eNOI Form is shown in an attachment to the proposed Conditional Waiver.

Upon receipt of complete eNOIs, the Executive Officer would determine whether each discharger (including individual dischargers within a Discharger or Coalition Group) is

eligible for coverage under the Conditional Waiver. If so, the Executive Officer would issue a Notice of Applicability (NOA) to each individual discharger, authorizing coverage under the Conditional Waiver. If a specific discharge(s) cannot or should not be authorized under the terms and conditions of the Conditional Waiver, then the Executive Officer would provide written notification and identify the appropriate regulatory alternative. Operators and owners of facilities for which discharges cannot be authorized by the Conditional Waiver may be requested to submit a report of waste discharge, and obtain individual waste discharge requirements.

In the case of an incomplete eNOI submittal, the person submitting the NOI will be notified of deficiencies and will be given a reasonable period of time to provide the additional information needed to complete the eNOI. These notices will clearly indicate that failure to address eNOI deficiencies in a timely manner while continuing to discharge will be considered a violation of the Water Code and grounds for enforcement action in accordance with the Water Code and the State Board's Enforcement Policy.

B. DISCHARGER/COALITION GROUPS

Individual agricultural dischargers may comply with this Conditional Waiver as a member of a Discharger or Coalition Group. In order to qualify as a Discharger/Coalition Group, the agricultural dischargers must identify a third party representative (Group Administrator) who is not a discharger under this Waiver. The Group Administrator will act as the agent for the group of individual dischargers for the purpose of complying with enrollment and reporting requirements and conducting other program related activities, such as submitting enrollment documents, collecting and remitting annual State Board waste discharge fees, and providing/contracting for training, monitoring programs and the like. The choice of the third party Group Administrator must be approved by the Regional Board Executive Officer based on the demonstration that the proposed Administrator has the technical and financial capability to carry out the functions it would be responsible to undertake on behalf of its members.

No later than six months from the date of approval of the Coalition Administrator by the Executive Officer, the Coalition Group shall submit for approval a proposed Compliance Program, including plans and schedules for actions by the discharger members of the Group to achieve compliance with the requirements of this Order. The formation, operation, management, and funding of a discharger/coalition group is the responsibility of the individual dischargers who are represented by and who participate in the group.

Around the state, third party administrators for groups of dischargers who have elected to form coalitions for the purpose of complying with agricultural waivers of WDRs include growers' associations, farm bureaus, and resource conservation districts. Agricultural operator dischargers who participate in a conditional waiver as a member of a State Board-approved group are eligible for reduced annual fees. Fees are reduced further for dischargers participating in a group if the Group Administrator manages fee collection and payment to the State Board.

C. MANAGEMENT MEASURES AND BEST PRACTICES

Dischargers receiving a NOA are expected to implement reliable and effective management practices and management measures (collectively, best management practices, or BMPs) in accordance with the requirements of the Order. “Reliable and effective BMPs” are BMPs that have been identified in an approved nutrient management plan, or other qualified technical resource, as having been vetted and shown to be effective locally.

The purpose of these BMPs is to prevent agricultural operations from discharging wastes that adversely affect water quality standards of the surface and ground waters to which they discharge. This includes implementing BMPs necessary to achieve compliance with applicable TMDL load allocations and targets.

All enrollees in this proposed Conditional Waiver will be required to report annually on BMPs that are in use on their agricultural operations and, coupled with monitoring (see F. Monitoring Program), assess the efficacy of the BMPs. It is expected that the dischargers will use the results of this effectiveness assessment to identify and implement revised BMPs, which may include enhanced educational programs. Information on the type and size of BMPs, and when they were implemented, will need to be reported, as will documentation of participation in educational programs on reducing water quality impacts from agricultural practices.

D. TMDL IMPLEMENTATION

The Lake Elsinore and Canyon Lake Nutrient TMDLs require all dischargers in the San Jacinto River Watershed, including agricultural dischargers, to limit their discharges of nitrogen and phosphorus to surface waters. The TMDLs established limitations on discharges of these pollutants from different sources and land uses, expressed as waste load and load allocations. Compliance with these allocations and the TMDLs is to be achieved as soon as possible and no later than December 31, 2020. The final total phosphorus and total nitrogen TMDL load allocations assigned to agriculture are identified in the proposed Conditional Waiver³. The Nutrient TMDLs also include an implementation plan that identifies specific tasks that are to be performed by responsible parties, including agricultural operation dischargers, in order to achieve the TMDLs. The proposed Waiver includes conditions that address these TMDL implementation requirements.

Since the Nutrient TMDLs were adopted in 2004, a considerable body of relevant data and analyses has been collected. Based on review of the new data and evidence to date, substantive revisions to the TMDLs, including wasteload and load allocations and obligations for contributions to internal nutrient loading reductions in the lakes, are likely to be necessary. Modification of the implementation tasks and compliance schedules may also be appropriate. This Order includes provisions that recognize these circumstances. This Order will be revised as appropriate based on approved revised Nutrient TMDLs.

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In order to implement the existing Nutrient TMDL requirements and to develop effective solutions for improving water quality in Lake Elsinore and Canyon Lake, responsible agencies and stakeholders formed the Lake Elsinore and Canyon Lake TMDL Task Force (TMDL Task Force)⁴. The Lake Elsinore and San Jacinto Watershed Authority (LESJWA) serves as the Task Force administrator. To facilitate timely action towards achieving the TMDLs, and to foster anticipated resource expenditure efficiencies, the TMDL implementation plan encourages responsible agencies/parties to participate in TMDL compliance activities in a coordinated fashion through the TMDL Task Force. Participation in the TMDL Task Force includes paying a fairly apportioned share of the cost of implementation measures that are being carried out by the TMDL Task Force.

However, individual agencies/parties, including agricultural operators, are permitted to implement TMDL tasks independently if they prefer. In this case, the individual agencies/parties assume the costs of implementation.

The Western Riverside County Agricultural Coalition (WRCAC) represents the interests of its member agricultural operators on the TMDL Task Force. WRCAC has been given responsibility by its membership to coordinate responses to TMDL implementation tasks on behalf of its members, and to collect from those members the apportioned share of TMDL implementation costs. WRCAC provides the funds collected to the LESJWA to support TMDL implementation.

The TMDL Task Force, including WRCAC, is implementing a Regional Board approved San Jacinto River Watershed-wide nutrient monitoring program. WRCAC has submitted a proposed final Agricultural Nutrient Management Plan (April 2013) that will be revised to address the requirements of this Order and will be implemented upon Regional Board approval. WRCAC members are thus in compliance with these TMDL requirements. Regional Board staff is engaged in actions to compel other agricultural operators who are not members of WRCAC to comply with TMDL implementation requirements.

A detailed discussion of the nutrient problems in Lake Elsinore and Canyon Lake is provided in the documentation supporting the TMDLs (available on the Regional Board's website at http://www.waterboards.ca.gov/santaana/water_issues/programs/tmdl/elsinore_tmdl.shtml).

⁴ As of June 1, 2015, the Task Force includes: US Air Force (March Air Reserve Base); March Joint Powers Authority; California Dept. of Transportation (Caltrans); California Dept. of Fish and Wildlife; County of Riverside; Riverside County Flood Control and Water and Water Conservation District; the cities of Lake Elsinore, Canyon Lake, Hemet, San Jacinto, Perris Moreno Valley, Murrieta, Riverside, Menifee, Wildomar, and Beaumont; Eastern Municipal Water District; Elsinore Valley Municipal Water District; and the Western Riverside County Agricultural Coalition (on behalf of concentrated animal feeding operators and agricultural operators within the San Jacinto watershed).

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It is noteworthy that the largest source of nutrient inputs to these lakes is internal loading from sediments in the lakes, rather than external inputs such as from agriculture. The Nutrient TMDLs take this into account in several interrelated ways.

First, the implementation plan for the TMDLs requires the development and implementation of the Lake Elsinore Sediment Nutrient Reduction Plan and Canyon Lake Sediment Nutrient Treatment Plan.

Second, the phosphorus allocations assigned in the TMDLs to each of the external nutrient sources to Lake Elsinore, including agriculture, were calculated based on the assumption that internal loading of phosphorus would be reduced by thirty-five percent (35%) as the result of the operation of an aeration and mixing system in the Lake. Absent the successful operation of that system (and/or an alternative internal nutrient loading reduction strategy) to achieve a 35% reduction in phosphorus loading from internal sediment, there would be no assimilative capacity for external phosphorus inputs to Lake Elsinore, i.e., the phosphorus allocations from external sources, including from agriculture, would need to be set to zero. Compliance with these zero allocations would require that virtually all external inputs of phosphorus, including from agriculture, would need to cease.

In adopting the Nutrient TMDLs, the Regional Board recognized that the elimination of these external sources was infeasible, as a practical matter. Thus, the TMDLs provided the opportunity for pollutant trading or offsets, whereby external dischargers could participate in one or more projects to reduce internal sediment loading and thereby provide assimilative capacity for their external discharges of phosphorus to the Lake. Accordingly, the implementation plan for the TMDLs requires the responsible parties, including agricultural dischargers, to develop and submit a proposed Pollutant Trading Plan. This requirement was included in the TMDL implementation plan at the request of the responsible parties, who assumed that a formalized Pollutant Trading Plan would be necessary to allocate the costs and nutrient reduction credits accrued through internal nutrient reduction strategies among the parties responsible for implementing the strategies. However, practical experience with the aeration and mixing system in Lake Elsinore since it was built in 2006-7 and commenced operation in 2008 has demonstrated that cost and credit sharing responsibilities can be implemented effectively through Regional Board-approved operation and maintenance agreements and/or approved nutrient management plans prepared by the responsible parties. This alternative approach obviates the need for a formalized Pollutant Trading Plan, which, in turn, provides significant plan preparation cost savings to the responsible parties. Those funds can then be applied to the implementation of the actual nutrient control strategies.

While the Nutrient TMDLs assumed that an aeration/system would be implemented and thereby provide assimilative capacity for external discharges of phosphorus to Lake Elsinore, the TMDLs did not assign the responsibility for doing so to any specific party(-ies). Rather, it was assumed that appropriate cost-sharing agreements and commitments to construct, operate and maintain the aeration/mixing system by and among the

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responsible parties, including agricultural dischargers, would be developed and implemented, likely under the auspices of the TMDL Task Force. It was also assumed that one or more responsible parties might propose an alternative to the aeration/mixing system to achieve the equivalent, requisite internal nutrient loading reductions, e.g., implementation of a fisheries management program.

As noted above, the Lake Elsinore Aeration and Mixing System (LEAMS) has been implemented and is operating successfully to reduce the internal loading of phosphorus (and nitrogen) from sediment in the Lake. To date, funding for the implementation, operation and maintenance of this system has been provided by the City of Lake Elsinore and the Elsinore Valley Municipal Water District (EVMWD). Funding commitments for the system were made by the City and EVMWD to a) provide offset credits for discharges of phosphorus and nitrogen in recycled water discharges by EVMWD to the Lake to maintain a stable lake level, and b) to allow the implementation of the aeration and mixing system as soon as possible and thereby facilitate water quality and beneficial use improvements in Lake Elsinore. However, other dischargers with allocations assigned in the established TMDLs are expected to participate in the operation and maintenance of this system over the long term, or to implement an alternative strategy identified in an approved Pollutant Trading Plan or nutrient management program. Participation in LEAMS or an alternative, approved nutrient reduction strategy is necessary to offset all external discharges of phosphorus to Lake Elsinore since without this system or an alternative approved nutrient reduction strategy there would be no assimilative capacity for any phosphorus inputs to the Lake.

As described above, this Conditional Waiver requires the development and implementation of an approved nutrient management program or Pollutant Trading Plan(s). As stated in the TMDLs, the Regional Board encourages agricultural dischargers to collaborate with the TMDL Task Force and other responsible parties to formulate and implement a comprehensive plan to assure fairly-apportioned, long-term funding for the operation and maintenance of LEAMS, and/or other strategies designed, to reduce internal nutrient loading and thereby offset external discharges of nutrients to the Lake.

In summary, pursuant to the established Nutrient TMDLs, the application of the phosphorus load allocation assigned to agricultural discharges to Lake Elsinore is contingent on the participation by agricultural dischargers in the operation and maintenance of LEAMS, or an alternative internal nutrient loading reduction strategy in a manner to be established by a Regional Board-approved nutrient management plan or Pollutant Trading Plan. Agricultural dischargers are also required to implement specific tasks identified in the implementation plan for the TMDLs. The recommended Conditional Waiver implements these requirements.

As noted above, based on new data and analyses, it appears that substantive modifications of the TMDLs will be necessary and that these modifications may have significant effects on the waste and load allocations assigned to responsible dischargers, including agricultural operators. Obligations for internal nutrient loading reductions in the

lakes may also be modified. This Order includes provisions that recognize these circumstances. The TMDL Task Force has initiated the process to develop recommendations for revised Nutrient TMDLs. Recommendations for revised TMDLs and allocations are expected to be submitted by April 2017.

E. TDS/NITROGEN PLAN IMPLEMENTATION

One of the major features of the San Jacinto River watershed, located in southwestern Riverside County, is the extensive groundwater resource that serves as a vital source of water supply in the area. Hydrogeology in the area is characterized by alluvium fills within the valley that serve as excellent permeable aquifers for groundwater storage. Groundwater replenishment occurs throughout the valley, with natural recharge of storm water occurring primarily where the foothills meet the valley floor. Due to high evapotranspiration rates within the San Jacinto River valley, rain or other waters that are applied in the valley are not as likely to reach underlying groundwater.

Salt levels in most of the groundwater management zones in the San Jacinto River Watershed, as expressed by the concentration of total dissolved solids (TDS), exceed the secondary drinking water standard of 500 mg/L. For most irrigation uses, water should have a TDS concentration under 700 mg/L. The TDS levels in many of the groundwater management zones in the San Jacinto River Watershed have increased over time as a result of land use and water management practices. Waste discharges from the agricultural industry have contributed to this water quality decline.

Irrigated agriculture in the Project Area requires large applications of water and fertilizer, which is high in salts. The high rates of evaporation and evapotranspiration that occur in the area allow TDS to become concentrated in the soil; carried by infiltrating water, this TDS migrates through the soil column over time and contributes to groundwater mineralization. Within the San Jacinto River watershed, significant increments of salts are also added by municipal and industrial water use, and the reuse and recycling of wastewater throughout the watershed. Since dairy manure used as fertilizer contains high levels of TDS, its excessive or long term use also contributes to groundwater mineralization.

The 2004 TDS/Nitrogen Management Plan included updated findings regarding assimilative capacity for both TDS and nitrogen in each of the Groundwater Management Zones (GMZs) that comprise the San Jacinto River Watershed. These findings are reviewed and updated to reflect conditions in the GMZs⁵. With the exception of the San Jacinto Upper Pressure GMZ, for which maximum benefit objectives and a maximum benefit implementation plan have been established, all GMZs in the San Jacinto watershed lack assimilative capacity for both TDS and nitrogen, i.e., TDS and nitrogen quality conditions in these GMZs fail to meet the applicable TDS and nitrogen objectives.

⁵ Most recently, updates to GMZ assimilative capacity findings were approved by the Regional Board in April 2014 (Resolution No. R8-2014-0005).

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As a result of these assimilative capacity findings, discharges that affect these GMZs, including discharges from agricultural operations, must be held to the applicable TDS and nitrogen objectives. This requirement is included as a condition of this Order. However, the Regional Board has recognized the inherent difficulties of specifying and complying with TDS and nitrogen waste discharge limits on agricultural discharges. This recognition is demonstrated in the Regional Board's approach in the regulation of dairy facilities throughout the Santa Ana Region. The Regional Board's (see Order No. R8-2013-0001, NPDES NO. CAG018001) "General Waste Discharge Requirements For Concentrated Animal Feeding Operations (Dairies And Related Facilities) Within The Santa Ana Region" provides the opportunity to offset TDS and nitrogen discharges through the development and implementation of Regional Board approved offset programs.

Consistent with this approach, the proposed Waiver calls for agricultural dischargers to participate in approved programs that offset the amount of TDS and nitrogen discharged that exceeds the TDS and nitrogen water quality objectives of the GMZs affected by these discharges.

The TDS and nitrogen requirements in the proposed Conditional Waiver are structured in a manner consistent with those specified in Order No. R8-2013-0001. Specifically, the Conditional Waiver requires that agricultural owners/operators: (1) collect data on the nitrogen and TDS quality of their discharges to ground (and surface) waters; (2) evaluate the effects of ongoing agricultural operations on ground (and surface) waters; (3) implement approved agricultural nutrient management plans, management measures and management practices to minimize nitrogen and TDS discharges; and, (4) develop and/or participate in Regional Board-approved offset programs as necessary.

With respect to manure application in the San Jacinto River Watershed, the proposed Conditional Waiver again relies on requirements consistent with those in Order No. R8-2013-0001. First, the disposal of manure to land is prohibited. Second, the application of manure on lands that overlie GMZs that lack assimilative capacity for TDS and/or nitrate nitrogen is prohibited, unless a plan, acceptable to the Executive Officer, is implemented that offsets the effects of that application on the underlying groundwater management zone. For all intents and purposes, since all GMZs within the San Jacinto River Watershed (except the San Jacinto Upper Pressure GMZ; see below) lack TDS and nitrate-nitrogen assimilative capacity, this means that land application of manure anywhere in the San Jacinto River Watershed is prohibited, unless an acceptable offset plan is implemented.

As noted above, only the San Jacinto Upper Pressure GMZ has assimilative capacity for TDS and nitrogen and this results from the implementation of a maximum benefit program and associated maximum benefit objectives for these constituents. The Regional Board will consider the allocation of assimilative capacity created by the implementation of the maximum benefit program only to discharges by those agencies/parties responsible for that program. At all times, the Regional Board retains the discretion to determine whether

and how much assimilative capacity will be allocated among the responsible agencies/parties.

Therefore, absent a demonstration that agricultural operators are in part responsible for and contributing to the maximum benefit program for the San Jacinto Pressure GMZ and may therefore be entitled to some allocation of TDS/nitrogen assimilative capacity, there is no assimilative capacity available for TDS and nitrate-nitrogen inputs in the San Jacinto Upper Pressure GMZ. Once again, land application of manure, or other waste discharges that contribute nitrate-nitrogen and TDS to groundwater, would be permitted in the area overlying this GMZ only if an acceptable offset program is implemented.

To comply with the waiver, agricultural owners/operators will be required to routinely monitor and report on their nitrogen and TDS management activities.

F. MONITORING PROGRAM

Dischargers who receive notice (NOA) that they have been authorized under the Conditional Waiver will be expected to submit a draft Water Quality Monitoring Program Plan (WQMPP) for approval by the Executive Officer. The purpose of the WQMPP is to establish an acceptable monitoring and reporting program that can be used to determine if discharges from enrolled agricultural operations are having an adverse effect on waters of the state and their beneficial uses, to determine compliance with applicable TMDL load allocations, and where necessary, to monitor trends in the amount of pollutants discharged to waters of the state. Based on discussions with stakeholders, Board staff expects that the Group Administrator will accept the responsibility to prepare a WQMPP for discharges, and submit it for approval.

The proposed Conditional Waiver specifies that dischargers must submit a draft groundwater and surface water WQMPP to Board staff for approval within 180 days of receipt of a Notice of Authorization. For discharger members of a Coalition Group, this requirement may be satisfied by the submittal of a proposed Group WQMPP as part of a proposed Compliance Program. Dischargers would be required to implement the WQMPP upon approval. Since the composition of a Discharger Group may change over time, the Executive Officer may require periodic review and revision of the group's WQMPP. WQMPPs are to include the following:

- a. Assess the effects of the waste discharges on the surface and ground waters of the state;
- b. Evaluate the efficacy of and inform adaptive management of farm best management practices in reducing or eliminating discharges of pollutants to waters of the state;
- c. Determine compliance with applicable load allocations established in TMDLs;
- d. In a representative manner, monitor the quality of waste discharges from agricultural operations that occur during dry weather and as a result of stormwater or flood flow runoff;

- e. Evaluate TDS and nitrogen discharges and the need for and magnitude of offset measures to assure that waste discharges do not cause or contribute to violations of groundwater TDS and nitrate-nitrogen objectives.
- f. Inform source investigations of waste discharges with excessive pollutant loads;
- g. Monitor temporal trends in the types and amounts of pollutants discharge and in the condition of the receiving waters.

Water quality monitoring requirements for discharges that do not pose a significant threat to water quality may be waived by the Executive Officer [Water Code section 13269(a)(3)].

In addition, the proposed Waiver requires dischargers, or Coalition Groups, to report annually on payment of apportioned TMDL implementation fees to Western Riverside County Agriculture Coalition (WRCAC), or directly to the TMDL Task Force if the discharger is complying with the TMDLs on an individual basis.

G. WATER QUALITY IMPROVEMENT PLAN

If inspection findings or monitoring report data suggest that one or more enrolled dischargers are not practicing appropriate BMPs, or are discharging concentrations or loads of pollutants that cause or threaten to cause adverse impacts on water quality standards, the proposed Conditional Waiver includes conditions calling for dischargers to submit a Water Quality Improvement Plan (WQIP) for approval.

A WQIP is a plan for determining the source of the pollutant(s) discharge, identifying appropriate BMPs for controlling the pollutants at their source, implementing the identified BMPs according to a schedule, and monitoring the results. Once a WQIP is approved, its implementation is required.

H. MONITORING MANURE TRANSFERS

The extensive use of manure fertilizer within the San Jacinto River Watershed, indiscriminate and unlawful dumping of manure, and manure imports from outside the watershed pose a threat to effective nutrient management and water quality in the Project Area. To address these concerns, the proposed Conditional Waiver calls for agricultural owners/operators who accept control of manure to implement a comprehensive manure manifest system that would report manure generation, transport, and utilization within the watershed. The manifest system will be used to monitor nutrient and salt loadings that can be attributed to manure, and as a tool that can be used to assess the efficacy of, and adherence to, nutrient management and salt management plans. A tracking manifest will also contribute to the analysis of compliance with the Canyon Lake and Lake Elsinore Nutrient TMDLs.

I. OTHER REQUIREMENTS

Dischargers enrolled in the proposed Waiver would have the option to participate in a pollutant trading program, when and if such a program is developed and when such a program is approved by the Regional Board. Each Discharger's participation in an approved pollutant trading program is subject to Executive Officer approval. The intent of a pollutant trading program is to achieve water quality improvements in the most effective and efficient manner. For example, the control of agricultural nutrient inputs to Lake Elsinore to meet the established load allocation may be less effective than implementation, by agricultural operators, of measures to reduce internal sediment nutrient loading.

The proposed Waiver includes additional constraints on the land application of mulch, compost and manure (tentative Order No. R8-2016-0003, G. General Conditions and Other Reporting, #11 and 12) and requires that stockpiling of these materials not exceed 30 days prior to land application.

The proposed Waiver specifies certain discharge prohibitions intended to minimize or prevent water quality impacts from agricultural discharges, including:

1. The discharge of wastes to land or to surface waters shall not cause a condition of contamination, pollution or nuisance, as defined in Water Code Section 13050.
2. The discharge of wastes containing any substance in concentrations toxic to human, animal, plant or aquatic life, is prohibited.
3. If the National Weather Service predicts a 40% or greater chance of rainfall in the forecast within 72 hours, application of chemical fertilizers (including nitrogen carriers of herbicides for foliar application), manure, and herbicides and other pesticides to agricultural operations is prohibited.
4. The discharge of municipal solid waste subject to regulation according to Title 14 of the California Code of Regulations at agricultural operations.

5. ESTIMATED COMPLIANCE COSTS

In coordination with local growers and major stakeholders, Board staff have prepared a report in which the costs of some of the activities that will be necessary to implement this program have been roughly estimated. This report is included as Attachment 3 of this staff report.

6. CEQA

In accordance with the requirements of the California Environmental Quality Act, Regional Board staff conducted an evaluation and completed an Environmental Checklist to assess the potential effects of the adoption and implementation of the proposed Conditional Waiver on the environment. Board staff concluded that the project would not have a significant effect on the environment, since revisions to the order will reduce potential impacts to levels of insignificance. Accordingly, Board staff prepared and circulated for

comment a draft Mitigated Negative Declaration, attached to this staff report. Board staff recommends that the Regional Board adopt this Mitigated Negative Declaration in concert with the approval of this Conditional Waiver (Order No. R8-2015-0019).

7. PERIODIC REVIEW AND RECONSIDERATION

If the Conditional Waiver is adopted and dischargers subsequently enrolled, Regional Board staff will report to the Regional Board periodically regarding the status of compliance. These status reports will evaluate whether the Conditional Waiver is adequate to protect and/or improve water quality and to implement applicable provisions of the Canyon Lake and Lake Elsinore Nutrient TMDLs, or whether changes are needed. The evaluation will be based on data and analyses to be provided by the dischargers that characterize the discharges covered by the waiver, evaluate the effect of these discharges on waters of the state, and assess the effectiveness of BMPs that are being implemented to address waste discharges and the requirements of applicable TMDLs. If warranted by this evaluation, Board staff will recommend modification of the conditions of the waiver.

The Regional Board may review this Conditional Waiver at any time and may modify or terminate the waiver for individual dischargers, members of a Discharger Group, Discharger Groups, or in its entirety, as appropriate.

8. CONCLUSION AND STAFF RECOMMENDATION

Implementation of the proposed Conditional Waiver in the San Jacinto River Watershed will lead to the implementation of new and/or improved BMPs, additional water quality monitoring and reporting, and ongoing education and outreach opportunities by/with agricultural operators. These activities are expected to lead to: reductions in the amount of salts, sediment, pesticides, and nutrients discharged from agricultural operations; a greater understanding of the effect of these discharges on water quality; and, compliance with applicable water quality standards, including assistance in achieving established TMDLs.

Adopting a conditional waiver in lieu of the issuance of general or individual waste discharge requirements, the likely regulatory alternative, is in the public interest since it is expected to streamline the regulatory process and use the Regional Board's and regulated community's resources more efficiently.

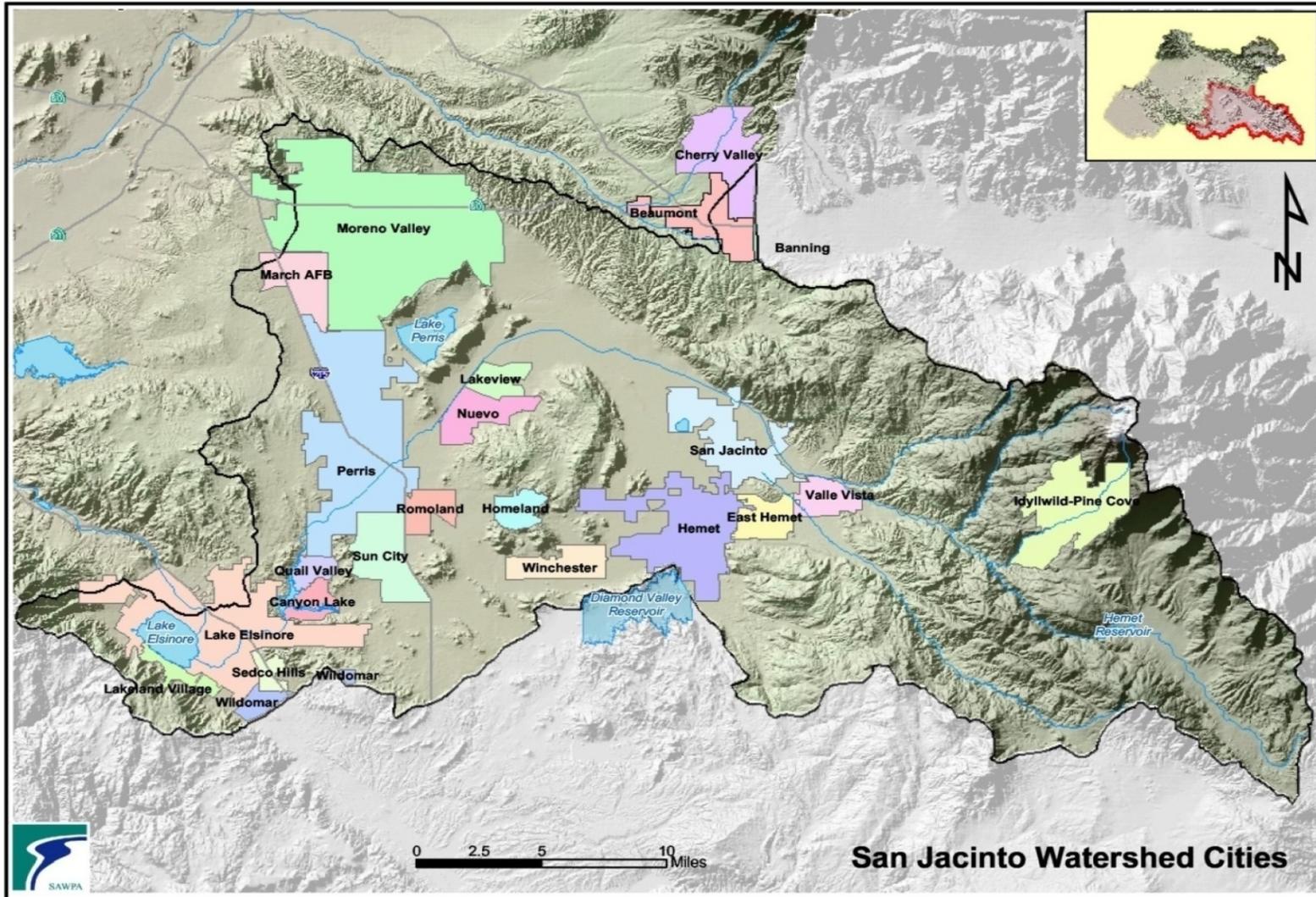
Staff recommends: (1) the adoption of the draft Mitigated Negative Declaration attached to this staff report/tentative order; and, (2) the adoption of Order No. R8-2016-0003, Conditional Waiver of Waste Discharge Requirements for Discharges from Agricultural Operations in the San Jacinto Watershed, Riverside County.

If approved, this Conditional Waiver would expire in five years from the date of issuance, unless renewed.

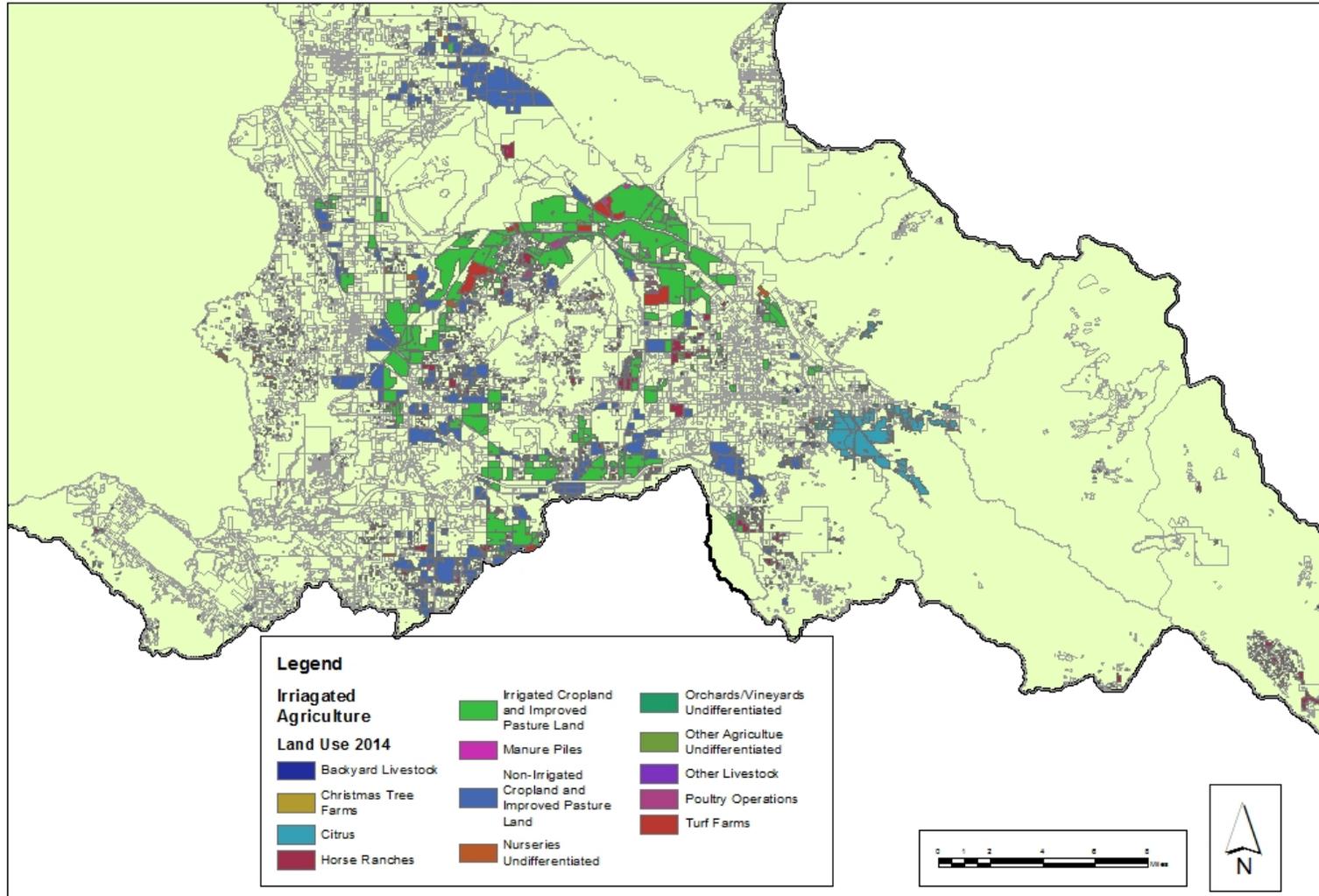
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Pursuant to Water Code section 13320, any aggrieved party may seek review of this Order, if adopted by the Regional Board, by filing a petition with the State Board. A petition must be sent to the State Water Resources Control Board, P.O. Box 100, Sacramento, California 95812-0100, or delivered to the State Water Board at 1001 I Street, Sacramento CA, within 30 days of adoption of the Order.

Attachment 1. Map of the San Jacinto River Watershed



WRCAC - Agriculture Land Use 2014



ATTACHMENT 3

COST ESTIMATE STUDY FOR THE CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FROM AGRICULTURAL OPERATIONS IN THE SAN JACINTO RIVER WATERSHED

INTRODUCTION

It is anticipated that the most significant costs associate with the proposed Conditional Waiver for Agricultural Discharges program (CWAD), on the part of the regulated community, would likely be the cost associated with the development and implementation of best management practices (BMPs), and the costs and fees affiliated with the monitoring and reporting needed to comply with the conditions within the waiver.

However, due to unknown factors such as: the specific monitoring that will be conducted, total number of monitoring locations, and the nature and extent of the BMPs to be implemented by the enrollees, developing a detailed cost estimate analysis would lack precision. Moreover, estimated costs for surface water monitoring, consisting of sample collection at designated monitoring stations in the project watershed area, sample analysis, and reporting the results of the sampling program (for both individual and group monitoring) would vary depending on contractor rates and overhead costs, etc.

This analysis, therefore, aims to highlight four primary requirements, within the CWAD program, that the regulated community would be responsible for completing:

- I. Water quality monitoring and reporting
- II. Water quality improvement program plan
- III. Implementing Best Management Practices
- IV. Other costs (administration costs, annual SWRCB fees, training costs, etc.)

I. WATER QUALITY MONITORING AND REPORTING

Staff at the Regional Board have considered costs associated with a conceptual monitoring program for discharges from irrigated and livestock operations. Below are cost estimates for analytical testing of water samples collected during the sampling events and based on the Board's 2014-2015 contract rates with a state- certified environmental laboratory. These Constituents of Concern (COCs) are from the proposed CWAD and based on the monitoring required by the nutrient TMDLs for Lake Elsinore and Canyon Lake.

For example, a monitoring program that covers four years could be divided into two periods of two years each, for both individual dischargers and discharger groups. The first monitoring period will begin one year following enrollment in the CWAD and receipt of a

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Notice of Applicability (NOA), and will continue for two years. The second monitoring period will begin after the end of first period, and continue for two years, until the expiration of the Conditional Waiver.

During the first two year monitoring period, four sampling events would be anticipated; two storm water runoff sampling events per year, during the first half of the water year (October 1 through September 30). During the second two year monitoring period, two sampling events would be anticipated; one during the first half of each water year. This monitoring concept will yield six sampling events over a four year period.

A. Sampling and Analysis

Below are cost estimates for analytical testing of water samples, based on the Regional Board’s 2014-2015 contract rates with a state- certified environmental laboratory. The COCs are from the proposed CWAD and based on the monitoring required by the nutrient TMDLs for Lake Elsinore and Canyon Lake.

Table 1. Constituents of Concern

CONSTITUENT FAMILY	2014-2015 REGIONAL BOARD CONTRACT COSTS
Nutrients: Organic nitrogen, nitrate nitrogen, nitrite nitrogen, ammonia nitrogen, total phosphorus, ortho-phosphate	<u>\$69.00</u> ("Combined Nutrient Analysis")
Oxygen Demand: biochemical oxygen demand (BOD), chemical oxygen demand (COD)	<u>\$29.00 & \$19.00 respectively</u> (total of unit costs)
Physical Properties: electrical conductivity, total suspended solids, pH, total dissolved solids (TDS)	<u>\$</u> (total of unit costs)
Toxicity to <i>ceriodaphnia dubia</i>	<u>\$208.00</u> (unit cost)

Table 2. Anticipated Sampling Frequencies

SAMPLING PERIOD	ANTICIPATED SAMPLING/TESTING PERIOD
Years 1 and 2	Nutrients, Oxygen Demand, Physical Properties: 4 times per year Toxicity: 1 time per year
Years 3, and 4	Nutrients, Oxygen Demand, Physical Properties: 2 times per year Toxicity: 1 time per year

B. Water Quality Monitoring Program Plan (WQMPP)

Dischargers who receive a Notice of Authorization (NOA) under the Conditional Waiver will be expected to submit a draft Water Quality Monitoring Program Plan (WQMPP). The purpose of the WQMPP is to establish a monitoring and reporting program that can be effectively used to determine if dischargers are adversely affecting water quality standards¹. In addition, a WQMPP would provide helpful information in determining if enrollees are in compliance with TMDL load allocations, and in monitoring trends in the amount of pollutants discharged to waters of the state.

The conditional waiver specifies that individual dischargers, or the Group Administrator, must submit draft WQMPP to Board staff for approval within 180 days of receipt of a NOA. WQMPP are to include the following:

- a. A receiving water monitoring program that identifies locations to be monitored, rationale for selection of monitoring locations, monitoring methods, constituents or parameters to be monitored, and monitoring frequency;
- b. A water quality and BMP reporting program; and,
- c. A Quality Assurance Project Plan (QAPP) that conforms to the guidance developed by the State Board's Surface Water Ambient Monitoring Program (SWAMP).

The conditional waiver allows dischargers to perform individual monitoring, or participate in a group monitoring program, and requires them to submit annual monitoring reports to the Regional Board. A Group Administrator would be responsible for submitting annual reports on behalf of the dischargers represented by the Discharger Group.

C. Annual Reporting

Annually, by August 15 of each year, dischargers shall report the BMPs that are being used in their agricultural operation. Dischargers may submit this information individually or the report may be submitted by a Discharger Group administrator on behalf of the Group members.

Cost pertaining to preparing an annual report would vary depending whether the dischargers chooses to prepare the report individually, or as part of a Discharger Group.

I. BMP COSTS

The San Jacinto River Watershed (SJRW) is home to a wide variety of agricultural operations, including irrigated farms producing row, vineyard, field, market, garden, feed, orchard, grove and fodder crops, as well as commercial production nurseries, turf farms, and poultry and livestock operations. These large and diverse agriculture practices in the SJRW represent potential NPS pollutant sources. The conditional Waiver therefore requires that dischargers implement reliable and effective management practices and management measures (collectively, best management practices, or BMPs) in accordance with the requirements of the Order.

The purpose of these BMPs is to prevent agricultural operations from discharging wastes that adversely affect water quality standards of the waters to which they discharge. This includes implementing BMPs necessary to achieve compliance with applicable TMDL load allocations and targets and Basin Plan water quality objectives for surface and groundwater.

The following list of BMPs serve as a basis for cost estimates but do not constitute an endorsement, recommendation or approval of specific BMPs. Owners and operators of agricultural facilities should consult with their farm advisor, producer organizations, local NRCS/RCD advisor, and other technical resources to identify specific practices appropriate for their agricultural operations.

AGRICULTURE PRACTICES IN THE SAN JACINTO RIVER WATERSHED	MOST UTILIZED BMPs	ESTIMATED ANNUAL COST (\$/Acre/Yr)
	• Conservation Crop Rotation	\$15
	• Conservation Cover Mulching/Residue Mgmt./Till Practices	\$162
	• Pest/Weed Control	\$30
Row and Field Crops:	• Cover Crops	\$158-300
Feed, Fodder, Fruits & Vegetables	• Polyacrylamide (PAM) Application	\$50
	• Buffer Strips/Filter Strips	\$76
	• Smart Irrigation/ Micro-Irrigation (Drip),	\$218
	• Sprinklers	\$297
Nurseries & Sod Farms	• Smart Irrigation / Micro-Irrigation (Drip)	\$218
	• Sprinklers	\$297
Citrus/Groves/Vineyards	• Smart Irrigation / Micro- Irrigation (Drip) Sprinklers	\$218
	• Nutrients Management	\$6-37
	• Sediment Ponds	\$5000/Pond
Livestock	• Terrace	\$0.81/Ft.
	• Pest Management	\$125
	• Tail Water Recovery	\$144-1,630
	• Education & Awareness	\$150/Grower/Farm

II. OTHER COSTS

A. Administrative Costs

Administrative costs associated with the CWAD program that will be incurred by enrollees and individual dischargers are unknown at this time. These will likely include a Discharger Group's membership fee and annual operating fees determined by the Discharger Group's governing body, paid to the group's administrator.

B. Annual State Board Waste Discharge Fees

The annual fees that the State Board charges agricultural operators are described in 23 CCR, Section 2200.6, "Annual Agricultural and Irrigated Lands". This fee schedule is currently being adjusted every two years. The current fee regulations state:

"Annual fees for waste discharge requirements and waivers of waste discharge requirements for discharges from agricultural lands, including irrigated lands, shall be as follows:

- (1) Tier I: If a discharger is a member of a group that has been approved by the State Board to manage fee collection and payment, then the fee shall be \$100 per group plus \$0.75 per acre of land.
- (2) Tier II: If a discharger is a member of a group that has been approved by the State Board but that does not manage fee collection and payment, then the fee shall be \$100 per farm plus \$1.27 per acre of land.
- (3) Tier III: If a discharger is not a member of a group that has been approved by the State Board, the following fee schedule applies:

Acres	Fee Rate	Minimum Fee	Maximum Fee
0-10	\$404 + \$13.50/Acre	\$404	\$539
11-100	\$1,010 + \$6.70/Acre	\$1,084	\$1,680
101-500	\$2,692 + \$3.40/Acre	\$3,035	\$4,392
501 or More	\$5,384 + \$2.70/Acre	\$6,737	No Max Fee

- a) Upon approval by the Regional Board to join a group subject to waste discharge requirements or waivers of waste discharge requirements for discharges from agricultural lands, including irrigated lands, the discharger shall submit to the State Water Board an application fee, unless such fee is not required by the Regional Board. The application fee is a one-time fee of \$200 for dischargers that have received a California Water Code §13267 Order and \$50 for all other dischargers. This application fee shall not apply to dischargers who were members of a group on or before June 30, 2008.
- b) For purposes of this section, the words "agricultural lands," "irrigated lands", "farm", and "discharger" have the meaning contained in the applicable Regional Board or State Board waste discharge requirements or waiver of waste discharge requirements for discharges from agricultural lands, including irrigated lands.

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Note: Authority cited: Sections 185 and 1058 of the Water Code. Reference: Section 13269 of the Water Code.”

Board staff expects that all agricultural operations subject to the CWAD will join a Discharger Group, and will qualify for Tier 2 fees. The coalition likely to organize a Discharger Group has determined that it will not collect fees for remittance to the State Board, therefore dischargers who are part of this group will not be eligible for the lowest Tier 1 fees.

**California Regional Water Quality Control Board
Santa Ana Region**

ORDER NO. R8-2016-0003

**CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES FROM AGRICULTURAL OPERATIONS
IN THE WATERSHEDS OF THE SAN JACINTO RIVER AND ITS TRIBUTARIES,
AND CANYON LAKE AND LAKE ELSINORE AND THEIR TRIBUTARIES, COLLECTIVELY,
“THE SAN JACINTO RIVER WATERSHED”
RIVERSIDE COUNTY**

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), finds that:

WATERSHED CHARACTERISTICS

1. The San Jacinto River Watershed (see Exhibit 1, Watershed Map) covers approximately 487,900 acres or about 762.3 square miles of the Santa Ana River Basin. It includes the San Jacinto River, Canyon Lake and Lake Elsinore and their tributaries.
2. Based on 2014 aerial mapping, the San Jacinto River Watershed includes approximately 59,192 acres of land zoned for agriculture. About 35,000 acres are in active agricultural use on parcels greater than 20 acres. Agricultural activities include dairy and other types of livestock operations and irrigated and dry-land farming. Currently, there are an estimated 184 agricultural operators who are responsible for hundreds of active agricultural operations at different sites within this watershed.
3. Discharges of waste from irrigated lands, livestock operations, dry-land farming and fallow land, (collectively, “agricultural operations”; see **DEFINITIONS**) within the San Jacinto River Watershed enter or threaten to enter into surface and/or ground waters of the state, and may cause or contribute to conditions of pollution or nuisance and/or to violations of applicable water quality standards.
4. Discharges from agriculture operations may result primarily from tail water (see **DEFINITIONS**, below) releases, irrigation water leakage, irrigation system malfunction, over- application of irrigation water, infiltration into underlying groundwater, and stormwater runoff. Discharges may contain waste substances such as soil, silt, sand, clay, and rock; inorganic chemicals and compounds, such as boron, selenium, potassium, nitrogen, phosphorus, salts of metallic elements, etc.; and, organic chemicals and materials, such as those that contribute to total organic carbon, including organic pesticides, organic fertilizers, etc.
5. The Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) identifies ground and surface waters within the Santa Ana Region (Region), including the San Jacinto River Watershed, designates beneficial uses for those waters, establishes water quality objectives for the reasonable protection of those uses, prescribes implementation plans for achieving the objectives, and establishes monitoring and surveillance programs.

Conditional Waiver for Agricultural Operations in the San Jacinto River Watershed

6. Beneficial uses, surface water quality objectives and the antidegradation policy constitute federal water quality standards. California’s antidegradation policy (State Water Resources Control Board [SWRCB] Resolution No. 68-16) is incorporated in the Basin Plan by reference.
7. An updated Basin Plan was adopted by the Regional Board on March 11, 1994, updated February 2008 and subsequently approved by the State Board, Office of Administrative Law and United States Environmental Protection Agency (U.S. EPA). Subsequent amendments to the Basin Plan include a revised Total Dissolved Solids (TDS) and nitrogen management plan that includes the San Jacinto River Watershed, Total Maximum Daily Loads (TMDLs) for impaired surface waters in the San Jacinto River Watershed, and implementation plans associated with those TMDLs.
8. The Basin Plan specifies the following beneficial uses for Lake Elsinore, Canyon Lake and the San Jacinto River:

Water Body	Beneficial Uses
<p>Lake Elsinore</p>	<p><i>All beneficial uses are existing or potential:</i></p> <ul style="list-style-type: none"> • Municipal and domestic water supply (MUN)* • Warm freshwater aquatic habitat (WARM) • Body Contact (REC1) • Non-body contact recreational (REC2) • Wildlife habitat (WILD)
<p>Canyon Lake</p>	<p><i>All beneficial uses are existing or potential:</i></p> <ul style="list-style-type: none"> • Warm freshwater aquatic habitat (WARM) • Body Contact (REC1) • Non-body contact recreational (REC2) • Wildlife habitat (WILD) • Municipal and domestic water supply (MUN) • Agriculture water supply (AGR) • Groundwater recharge (GWR)
<p>San Jacinto River Reach 1- Lake Elsinore to Canyon Lake</p>	<p><i>All beneficial uses are intermittent:</i></p> <ul style="list-style-type: none"> • Municipal and domestic water supply (MUN)* • Agriculture water supply (AGR) • Groundwater recharge (GWR) • Body contact recreation (REC1) • Non-body contact recreation (REC2) • Warm freshwater aquatic habitat (WARM) • Wildlife habitat (WILD)
<p>San Jacinto River Reach 2- Canyon Lake</p>	<p><i>See Canyon Lake, above.</i></p>
<p>San Jacinto River Reach 3- Canyon Lake to Nuevo Road</p>	<p><i>All beneficial uses are intermittent:</i></p> <ul style="list-style-type: none"> • Municipal and domestic water supply (MUN)* • Agriculture water supply (AGR) • Groundwater recharge (GWR) • Body contact recreation (REC1) • Non-body contact recreation (REC2) • Warm freshwater aquatic habitat (WARM) • Wildlife habitat (WILD)

Water Body	Beneficial Uses
<p>San Jacinto River Reach 4- Nuevo Road to North-South Mid-Section Line, T4S/R1W-S8</p>	<p><i>All beneficial uses are intermittent:</i></p> <ul style="list-style-type: none"> • Municipal and domestic water supply (MUN)* • Agriculture water supply (AGR) • Groundwater recharge (GWR) • Body contact recreation (REC1) • Non-body contact recreation (REC2) • Warm freshwater aquatic habitat (WARM) • Wildlife habitat (WILD)
<p>San Jacinto River Reach 5- North-South Mid-Section Line, T4S/R1W-S8, to Confluence with Poppet Creek</p>	<p><i>All beneficial uses are intermittent:</i></p> <ul style="list-style-type: none"> • Municipal and domestic water supply (MUN)* • Agriculture water supply (AGR) • Groundwater recharge (GWR) • Body contact recreation (REC1) • Non-body contact recreation (REC2) • Warm freshwater aquatic habitat (WARM) • Wildlife habitat (WILD)
<p>San Jacinto River Reach 6- Poppet Creek to Cranston Bridge</p>	<p><i>All beneficial uses are intermittent:</i></p> <ul style="list-style-type: none"> • Municipal and domestic water supply (MUN)* • Agriculture water supply (AGR) • Groundwater recharge (GWR) • Body contact recreation (REC1) • Non-body contact recreation (REC2) • Warm freshwater aquatic habitat (WARM) • Wildlife habitat (WILD)
<p>San Jacinto River Reach 7- Cranston Bridge to Lake Hemet</p>	<p><i>All beneficial uses are existing or potential:</i></p> <ul style="list-style-type: none"> • Municipal and domestic water supply (MUN) • Agriculture water supply (AGR) • Groundwater recharge (GWR) • Body contact recreation (REC1) • Non-body contact recreation (REC2) • Warm freshwater aquatic habitat (WARM) • Wildlife habitat (WILD)

**Excluded from MUN beneficial use*

9. Point and nonpoint source waste discharges in the San Jacinto River Watershed have contributed to exceedances of some water quality objectives and impairment of some beneficial uses in both Canyon Lake and Lake Elsinore. Accordingly, both lakes are included on the federal Clean Water Act section 303(d) list of impaired waters¹. Canyon Lake is listed as impaired due to elevated levels of nutrients and pathogens. Lake Elsinore is listed as impaired due to elevated levels of nutrients, organic enrichment and low dissolved oxygen, elevated polychlorinated biphenyls (PCBs), and toxicity. To address nutrient (nitrogen and phosphorus) impairment in the lakes, on December 20, 2004, the Regional Board adopted TMDLs for Canyon Lake and Lake Elsinore

¹ SWRCB, 2010 Integrated Report

http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtm

(Resolution No. 2004-0037). These Nutrient TMDLs established load allocations and waste load allocations for nitrogen and phosphorus inputs from specified sources, including agricultural activities. These TMDLs were approved by the State Board on May 19, 2005 (Resolution No. 2005-0038), by the Office of Administrative Law on July 26, 2005, and by the U.S. EPA on September 30, 2005, and are now being implemented.

DEFINITIONS

10. "Agricultural discharges" are aqueous releases of waste to waters of the state, as defined in the California Water Code, from agricultural operations. Agricultural discharges include irrigation return or tailwater flows, runoff of irrigation water from the site of application resulting from over-application or malfunction, and wet weather and flood flow runoff. Agricultural discharges may include infiltration of excess irrigation water into underlying groundwater basins. Agricultural discharges may contain or transport waste materials such as earth (including humus, soil, sand, and rock, and suspensions of silt and clay), dissolved inorganic chemical materials (including "salts" and other compounds of metals, sulfur, boron, selenium, potassium, nitrogen, phosphorus, etc.), and organic chemicals and materials (including oxygen-demanding substances, organic chemicals such as pesticides, etc.).
11. "Agricultural lands" are lands or locations that are being used for agricultural operations.
12. "Agricultural operations" include all of the following:
 - a. The irrigation and plowing, fertilization, tilling or fallowing of the land for the purpose of cultivating an agricultural commodity, crop, or pasture;
 - b. The planting, seeding, cultivation, growing and harvesting of agricultural commodities or crops;
 - c. Growing and cultivating plants in containers (e.g., production nurseries);
 - d. Stockpiling of manure, mulch or compost (see DEFINITIONS below) for use as a fertilizer or soil amendment;
 - e. Applying manure, mulch or compost to irrigated, dry-farmed, or fallow land whether or not the land is zoned for agriculture;
 - f. The breeding, rearing, raising, feeding, housing or pasturing of domesticated animals including but not limited to horses, animals raised for milk or meat, fur-bearing animals, domestic pets, and poultry for the purpose of acquiring products or commodities produced by the animals, or for distribution of animals, alive or dead, for any purpose;
 - g. The operation, management, conservation, improvement or maintenance of a farm or ranch and its buildings, tools and equipment;
 - h. The construction, operation and maintenance of ditches, canals, reservoirs, tanks, wells, holding ponds, waste containment ponds and/or waterways used for farming or ranching purposes;

- i. All procedures conducted as a normal part of any of these activities.

Agricultural operations, as defined above, do not include point of sale nurseries that are not engaged primarily in production and are regulated pursuant to requirements in the Regional Board's Municipal Separate Storm Sewer System (MS4) permit for Riverside County (Order No. R8-2010-0033, National Pollutant Discharge Elimination System [NPDES] No. CAS 6180333, Riverside County Flood Control and Water Conservation District, County of Riverside and the Incorporated Cities of Riverside County within the Santa Ana Region - Area-Wide Urban Runoff Management Program, and its subsequent iterations), and dairies that are covered under the General Waste Discharge Requirements (WDRs) for Concentrated Animal Feeding Operations (CAFO) (Dairies and Related Facilities) within the Santa Ana Region, Order No. R8-2013-0001, NPDES No. CAG018001 and its subsequent iterations.

13. "Animal unit" is the number of a specific animal type that is approximately equivalent, or produces a volume or mass of manure approximately equivalent, to 1,000 pounds of live weight. For purposes of this Order, animal units are calculated consistent with the animal number thresholds in the federal permit requirements for CAFOs. These thresholds generally represent 1,000 animal units. Animal unit conversions are included in Attachment A.
14. "Coalition Group" means any group of dischargers and/or organization(s) that forms to facilitate compliance with this Conditional Waiver. A Coalition Group can be, but is not limited to, organizations formed on a geographical basis or formed with other factors in common, such as cultivating commodities.
15. "Compost" means a fully decomposed, stabilized, organic product which has undergone the "Process to Further Reduce Pathogens (PFRP)", as described in California Code of Regulations, Title 14 (14 CCR) section 17868.3, and that has reached a stage of reduced biological activity as indicated by reduced temperatures and rate of respiration below that of active compost.
16. "Compostable materials" means any organic material that when accumulated is capable of rapid decomposition and generating temperatures of at least 122 degrees Fahrenheit as defined in 14 CCR section 17852.
17. "Cumulative acres" means the total number of acres (rented or owned) under the control of a single discharger within the San Jacinto River Watershed. Cumulative acres account for multiple parcels or locations that are under a single discharger's control that may or may not be contiguous or adjacent to one another.
18. "Discharger" means the owner, owner-operator, or operator of agricultural operations, as defined above. A "discharger" discharges, proposes to discharge, or has the potential to discharge wastes that could directly or indirectly affect the quality of the waters of the state. A "discharger" may be an individual, a trust, corporation, partnership, or other enterprise formed by a binding agreement. The term "agricultural operator" is synonymous with "discharger".

19. "Dry-Land Farming" entails management practices used by farmers in arid regions to adapt to the presence or lack of moisture available within the soil column. This technique relies on the efficient storage and use of soil moisture, rather than using irrigation or rain water, to maximize crop yield. Moisture control during crop growing consists largely of destruction of weeds and prevention of runoff. The nature of dry land farming makes it susceptible to wind erosion.
20. "Fallow Land" is land that has undergone plowing and harrowing, but has been left unseeded for one or more growing seasons. The land may be cultivated or chemically treated for control of weeds and other pests or may be left unaltered.
21. "Farm" is a parcel or parcels of land on which crops, commodities or animals are raised or stored; also, "farm" is the business or practice of operating a farm.
22. "Irrigated lands" means lands or locations where water is applied for the purpose of producing crops. Irrigated land(s) include, but is not limited to, farm land used for growing row and field crops, feed and fodder crops, and tree crops, without limitation, and production plant nurseries and greenhouse operations with permeable floors that are not subject to WDRs or NPDES permits, including MS4 permits.
23. "Irrigation return flow" means surface water that leaves the field following application of irrigation water. Irrigation return flow may be captured and reused or it may be discharged to a drainage channel or natural water body. "Tailwater" and "irrigation return flow" may be used synonymously.
24. "Livestock operations" means an agricultural operation primarily involved in the breeding, rearing, raising, feeding, housing or pasturing of domesticated animals including but not limited to horses, animals raised for milk or meat, fur-bearing animals, domestic pets, and poultry for the purpose of acquiring products or commodities produced by the animals, or for distribution of animals, alive or dead, for any purpose.
25. "Manure" means accumulated excrement (e.g. milk cow, dry cow, heifer, calf, cattle, poultry, pig, horse), which include feces and urine, bedding materials, spilled feed, or soil that mixed with feces or urine that does not exceed its moisture holding capacity.
26. "Mulch" means untreated or raw landscape waste and crop production byproducts consisting of leaves, grass clippings, weeds, yard trimmings, wood waste, branches and stumps, and whole plants/trees that have been chipped and ground to a reduced particle size.
27. "Physical contaminants" means human-made material contained within compostable materials that include, but are not limited to plastics, glasses, and metals.
28. "Tail water" means surface runoff resulting from crop irrigation. Irrigation practices such as flood irrigation and sprinkler irrigation can result in applied water in excess of the infiltration rate of the soil. Sloped fields can allow for the excess water to run off the field and discharge to a drainage channel or natural water body.
29. "Tile drains" are drainage systems that remove excess subsurface water from agricultural operations. Traditionally, these sub-surface networks were constructed of cylindrical clay

tiles with unsealed joints; flexible plastic “tiles” are now in common use. Excess water collected in and flowing through tile drain lines is discharged into surface water at a lower elevation than the outlets of the tile drainage system.

30. “Waste” is defined by Water Code section 13050(d) as including, “... 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.” This Conditional Waiver applies only to waste from agricultural operations, as defined above, and not to human sanitary waste, hazardous waste, or wastes from other producing, manufacturing or processing operations.
31. “Water quality standards” is the federal term for beneficial uses, water quality objectives, and an antidegradation policy.
32. “Water Quality Trading Program” (WQTP) is a program designed to reduce pollutant loads, especially nutrients (nitrogen and phosphorus), to receiving waters in a cost-effective manner. Trading can allow one source or sources in an appropriately delineated watershed to meet their regulatory discharge obligations by using pollutant reductions generated by another source(s).
33. “Waters of the state” is defined by Water Code section 13050(e), as any surface water or groundwater, including saline waters, within boundaries of the state.

REGULATORY CONSIDERATIONS

34. Water Code section 13260 requires any person discharging waste or proposing to discharge waste that could affect the quality of the waters of the State, other than into a community sewer system, to file with the Regional Board a report of waste discharge (ROWD) containing such information and data as may be required by the Regional Board, unless the Regional Board waives such requirement under Water Code section 13269.
35. Water Code section 13263 authorizes the Regional Board to prescribe waste discharge requirements (WDRs) for any proposed discharge, existing discharge, or material change to an existing discharge. The WDRs must implement relevant water quality control plans and take into consideration, among other things, the beneficial uses of water to be protected, the water quality objectives reasonably required for that purpose, and the need to prevent nuisance.
36. Water Code section 13269 authorizes the Regional Board to waive the requirement to file ROWDs and to obtain WDRs for a specific discharge or type of discharge if the Regional Board determines, after a hearing, that the waiver is consistent with the applicable water quality control plan and is in the public interest. A waiver is conditional and may be terminated at any time by the Regional Board. The Regional Board must require compliance with the conditions pursuant to which a waiver is granted. The conditions must include the performance of an individual, group, or watershed-based monitoring, except where the Regional Board determines that discharges addressed by the waiver do not pose a significant threat to water quality. A conditional waiver shall not exceed five years in duration, but may be renewed by the Regional Board as required.

37. As authorized by Water Code section 13269, this Order (also referred to as “Conditional Waiver” or “CWAD”) conditionally waives the requirement to file ROWDs and to obtain WDRs pursuant to Water Code sections 13260 and 13263 for discharges of waste from agricultural operations (see DEFINITIONS) enrolled in this Order and for which a Notice of Authorization (NOA) authorizing discharges subject to the conditions of this waiver has been issued by the Executive Officer. The waiver is conditional upon meeting the requirements of this Order.
38. Enrollees in this Conditional Waiver may form a Coalition Group to coordinate and collaborate on compliance with this Order. The Coalition Group must select a third party representative (individual, company, or organization) not directly enrolled to act as their agent for the purpose of enrollment in and compliance with the monitoring and reporting requirements of this Order. The third party representative may also collect annual fees required by the SWRCB, TMDL implementation costs, and apportioned costs to implement the requirements of this Waiver. The choice of the third party representative must be approved by the Regional Board Executive Officer, based on the demonstration that the representative has the technical and financial capability to fulfill the duties described above.
39. The formation, operation, management and funding of a Coalition Group is the responsibility of the individual dischargers who are represented by and participate in the Coalition Group.
40. This Conditional Waiver does not preempt or supersede the authority of municipalities, flood control agencies, agricultural commissioners, special districts or other public agencies to prohibit, restrict, or control discharges of waste subject to their jurisdiction.
41. Where other Federal, State, and local agencies have a regulatory role with respect to agricultural operations, the Regional Board will work cooperatively with these other Agencies in order to regulate agricultural discharges effectively and in a manner consistent with other applicable regulations.
42. The Regional Board may consider adoption of general or individual WDRs to regulate discharges from agricultural operations that do not meet the requirements for participation in the Conditional Waiver as described herein.
43. The Regional Board may review this Conditional Waiver at any time and may modify or terminate the Waiver for Individual Dischargers, members of a Coalition Group, or in its entirety, as appropriate.
44. Pursuant to Water Code section 13263(g), to discharge is a privilege, not a right. Adoption of this Order establishing a Conditional Waiver, and the receipt of a Notice of Authorization (NOA) from the Executive Officer authorizing discharges subject to the conditions of this waiver, does not create a vested right to continue the discharge.

APPLICABILITY OF THIS ORDER

45. The intent of this Conditional Waiver is to regulate discharges from agricultural operations within the San Jacinto River Watershed to ensure that such discharges are not causing or

contributing to conditions of pollution or nuisance; exceedances of applicable water quality objectives for surface and ground waters; failure to achieve TMDLs; or, the impairment of beneficial uses of receiving waters, including surface and ground waters.

46. All owners, owner/operators and/or operators of irrigated agricultural operations that have 20 or more cumulative acres in area are considered dischargers for the purposes of this Order and must file a Notice of Intent (NOI) to comply with the conditions of this Waiver for enrollment of their agricultural operations in this Conditional Waiver. The 20 or more cumulative acres may include lands that are all irrigated or a portion of which is dry farmed and/or fallow, on a permanent or periodic basis, and upon which pesticides, fertilizers and/or manure, mulch or compost is applied.
47. All owners, owner/operators and/or operators of livestock operations that are 20 or more cumulative acres in area and owner/operators or operators of livestock operations that are less than 20 cumulative acres and maintain an animal density of more than three (3) animal units per acre (see Attachment A), except CAFOs regulated under Regional Board WDRs, are dischargers and must file an NOI for enrollment in this Conditional Waiver.
48. Owners and/or operators of agricultural operations, other than irrigated agriculture and livestock operations of 20 or more cumulative acres or livestock operations of less than 20 cumulative acres with an animal density of more than three (3) animal units per acre (see Attachment A) that Regional Board staff finds to be a high risk² for discharging animal wastes or other wastes that could affect water quality are considered to be dischargers for the purpose of this Order and are required to file an NOI to be enrolled in this Conditional Waiver, or to submit a Report of Waste Discharge (Water Code section 13260) when notified to do so by Regional Board staff.
49. This Conditional Waiver does not apply to discharges that are subject to the NPDES permit program under the federal Clean Water Act section 402.
50. This Conditional Waiver does not apply to discharges already regulated under another waiver or by individual or general WDRs previously adopted by the Regional Board or SWRCB.
51. This Conditional Waiver does not apply to parks, golf-courses, cemeteries, play grounds, recreational fields and similar facilities as such operations are subject to regulation pursuant to requirements in Regional Board Order No. R8-2010-0033 (NPDES No. CAS 618033), "Waste Discharge Requirements for the Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Incorporated Cities of Riverside County within the Santa Ana Region / Area-Wide Urban Runoff Management Program," (Urban MS4 Permit), and its subsequent iterations.
52. Only waste resulting from agricultural operations, i.e., agricultural discharges, as defined herein, may qualify for discharge under this Conditional Waiver. These discharges include irrigation tailwater and stormwater runoff that may be directed to surface waters

² An agricultural operation, other than irrigated agriculture or livestock operations on 20 or more cumulative acres, will be considered high-risk if dry-weather runoff discharges are observed, or if topographic features, location, existing management practices or materials applied as part of the agricultural operations (e.g., pesticides or herbicides) represent a significant potential for waste discharges that could adversely affect water quality standards of receiving waters.

or to land. This waiver does not apply to discharges of sanitary human waste or to hazardous waste as defined by California law.

SCOPE AND REQUIREMENTS OF THIS ORDER

53. This Order requires dischargers to:

- a. Implement applicable tasks identified in the Lake Elsinore and Canyon Lake Nutrient TMDLs, including the development and implementation of approved nutrient management plans, monitoring plans, and, as appropriate, Pollutant Trading Plans (may also be referred to herein as Water Quality Trading Plans)(WQTPs);
- b. Evaluate and implement management practices to reduce or eliminate adverse impacts to water quality objectives and beneficial uses that result from agricultural waste discharges;
- c. Employ adaptive management strategies as necessary to improve water quality management practices;
- d. Implement other steps as necessary to prevent pollution and nuisance.

54. This Conditional Waiver requires the enrolled dischargers to submit a proposed water quality monitoring program plan (WQMPP) and to implement that plan upon approval by the Executive Officer. The proposed monitoring programs must be designed to characterize waste discharges and their effects on the receiving waters and to determine the efficacy of management practices. Agricultural operators who are enrolled in the Coalition Group may prepare a group WQMPP.

55. This Conditional Waiver prohibits the land application of compostable materials, other than mulch, compost, and manure, as these are defined above (see DEFINITIONS) at agricultural operations within the San Jacinto River Watershed. This Waiver also specifies conditions under which mulch, compost and manure may be stockpiled and applied at agricultural operations in the San Jacinto River Watershed.

Implementation of Total Maximum Daily Loads (TMDLs)

56. On December 20, 2004, the Regional Board adopted Resolution No. R8-2004-0037, amending the Basin Plan to incorporate Nutrient TMDLs for Lake Elsinore and Canyon Lake. The Nutrient TMDLs were thereafter approved by the SWRCB, Office of Administrative Law and the U.S. EPA and are now being implemented.

57. The Lake Elsinore and Canyon Lake Nutrient TMDLs require all dischargers in the San Jacinto River Watershed to limit their discharges of nitrogen and phosphorus to surface waters. The Nutrient TMDLs identify the allowable discharges of nitrogen and phosphorus by source, as expressed in waste load and load allocations for these pollutants. These include load allocations for agricultural operations. Compliance with the Nutrient TMDLs and the waste load and load allocations is to be achieved as soon as possible but no later than December 31, 2020.

58. The Nutrient TMDLs include an implementation plan that identifies a series of requisite actions by the dischargers, including agricultural owners/operators, to achieve the TMDLs and allocations. Timely and effective implementation of the applicable TMDL implementation tasks is a condition of this Conditional Waiver.

59. A considerable body of data and evidence has been collected since the Nutrient TMDLs were established. In light of this, the Regional Board is committed to timely review of these TMDLs. Based on review of the new data and evidence to date, substantive revisions to the TMDLs, including wasteload and load allocations and obligations for contributions to internal nutrient loading reductions in the lakes, are likely to be necessary. Modification of the implementation tasks and compliance schedules may also be appropriate. This Order will be revised as appropriate based on approved revised Nutrient TMDLs.
60. One of the tasks included in the implementation plan for the Nutrient TMDLs is the development, and implementation upon Regional Board approval, of one or more Pollutant Trading Plans by identified parties, including agricultural operators. The inclusion of this task was requested by the local stakeholders during the development of the TMDLs, based on understanding of the special characteristics of the lakes, e.g., that internal loading of nutrients from sediments deposited in the lakes over time is the most significant nutrient source to the lakes, that reductions in external nutrient loading alone would not suffice to achieve the TMDLs, and that stabilization of lake levels, particularly in Lake Elsinore, is crucial to the restoration and maintenance of beneficial uses. In short, the stakeholders recognized, and the Regional Board agreed, that a conventional technology/treatment approach would not suffice to achieve the TMDLs and restore beneficial uses. Rather, it was recognized that multiple alternative strategies could be identified and implemented to achieve the needed internal nutrient loading reductions and to offset external loads (and thereby comply with wasteload and load allocations). An important goal of a Pollutant Trading Plan would be to identify and implement strategies designed to assure that each responsible party's nutrient discharges to the lakes are offset on at least a 1:1 basis. Collaboration on the development and implementation of such strategies/plans is encouraged to provide the needed nutrient load reductions in an efficient and effective manner. As described in #69, below, these strategies were assumed by the TMDLs to include an aeration and mixing system in Lake Elsinore. The strategies could also include such things as fisheries management to reduce sediment disturbance and the release of nutrients.

The TMDLs assumed that the use of such strategies to address both internal and external loads would require the development of a formalized, Regional Board-approved plan (Pollutant Trading Plan) whereby the costs and nutrient reduction credits would be allocated among the parties responsible for implementing the strategies. Thus, the specific Pollutant Trading Plan task was incorporated in the TMDL implementation plan. However, practical experience with the aeration and mixing system in Lake Elsinore since it was built in 2006-7 and commenced operation in 2008 has demonstrated that cost and credit sharing responsibilities can be implemented effectively through Regional Board-approved operation and maintenance agreements and/or approved comprehensive nutrient management plans prepared by the responsible parties. This alternative approach obviates the need for a formalized Pollutant Trading Plan(s), which, in turn, offers plan preparation cost savings to the stakeholders that can be, and have been, better applied to the implementation of nutrient control strategies, including monitoring. While this Order does not require that a formalized Pollutant Trading Plan be prepared, reliance on a pollutant trading program, or Water Quality Trading Program, is likely to be necessary to achieve the TMDLs, given the lake/nutrient characteristics identified above. Accordingly, this Order accommodates the implementation of WQTPs.

61. A key task included in the implementation plan for the Nutrient TMDLs is the development of one or more agricultural nutrient management plans (AgNMPs), either by individual agricultural operators or by agricultural operators coordinating as a Coalition Group. These plans are to include proposed plans and schedules for the implementation of nutrient reduction BMPs, including in-lake nutrient reduction measures, and monitoring to assess BMP efficacy and the effects of the proposed BMPs on receiving water quality. The plan(s) are to be implemented upon approval by the Regional Board. In light of new data and evidence concerning nutrient inputs to receiving waters and the anticipated need for substantive modifications of the Nutrient TMDLs, this Order requires that enrollees: submit, by September 15, 2016 and annually thereafter, a BMP reporting program that identifies the BMPs that have been and will be implemented, in accordance with a proposed schedule, to control and reduce nutrient and other pollutant discharges from agricultural operations; and, (2) submit the proposed AgNMP within 6 months of the submittal (by the Nutrient TMDL Task Force; see Finding 65) of draft recommendations for the revisions of the TMDLs.
62. Compliance with the agricultural load allocation assigned in the TMDLs may be achieved by full and timely implementation of the approved AgNMP(s), provided that it is documented to the Board's satisfaction that the plan(s) are designed to achieve the TMDL load allocation. Compliance with the requirement to assure that agricultural discharges do not cause or contribute to violations of applicable groundwater quality objectives may also be achieved by full and timely implementation of the approved AgNMP(s), provided that it is documented to the Board's satisfaction that the plan(s) are designed appropriately to provide this assurance.
63. In order to implement the existing Nutrient TMDL requirements and to develop effective solutions for improving water quality in Lake Elsinore and Canyon Lake, responsible agencies and stakeholders formed the Lake Elsinore and Canyon Lake TMDL Task Force (TMDL Task Force)³. The Lake Elsinore and San Jacinto Watershed Authority (LESJWA) currently serves as the Task Force administrator. To encourage timely action to achieve the TMDLs, and to foster anticipated resource expenditure efficiencies, the TMDL implementation plan encourages responsible agencies/parties, including agricultural owner/operators, to participate in TMDL implementation through the TMDL Task Force. TMDL implementation costs are apportioned among the TMDL Task Force members. However, pursuant to the TMDLs, individual agencies/parties, including agricultural owners/operators not enrolled in a Coalition Group, can elect to implement each applicable implementation task independently. The costs of such independent compliance are borne by the individual discharger(s).
64. WRCAC represents the interests of its member agricultural operators and dairy operators on the TMDL Task Force. WRCAC has been given responsibility by its membership to

³ As of June 1, 2015, Task Force members include: US Air Force (March Air Reserve Base), March Joint Powers Authority, California Dept. of Transportation (Caltrans), California Dept. of Fish and Wildlife, County of Riverside, Riverside County Flood Control and Water and Water Conservation District, the cities of Lake Elsinore, Canyon Lake, Hemet, San Jacinto, Perris Moreno Valley, Murrieta, Riverside, Menifee, Wildomar, Beaumont, Eastern Municipal Water District, Elsinore Valley Municipal Water District, and WRCAC (on behalf of most concentrated animal feeding operators and irrigated/dry lands agricultural operators within the San Jacinto watershed).

administer the coordination of responses with respect to the TMDL implementation tasks on behalf of its members and to collect from those members their apportioned share of TMDL implementation costs. WRCAC provides the funds collected to the TMDL Task Force administrator (LESJWA) to support TMDL implementation.

65. Participation in the TMDL Task Force through WRCAC enables WRCAC members to fulfill TMDL implementation tasks in an efficient manner. The TMDL Task Force, including WRCAC, is implementing a Regional Board approved San Jacinto River Watershed-wide nutrient monitoring program, as required by the Nutrient TMDLs. WRCAC has submitted a proposed final AgNMP for the San Jacinto Watershed (April 30, 2013) to the Regional Board, and is developing a nonpoint source to nonpoint source (agricultural operator to agricultural operator) WQTP that is expected to be used to enhance and optimize external nutrient load reductions to the Lakes using targeted BMPs. Revisions to this proposed AgNMP will be made in response to this Order and to the development of the proposed WQTP. The revised Plan will be presented to the Regional Board for approval. WRCAC members are therefore in compliance with these TMDL requirements.
66. Agricultural operators who are not members of WRCAC are individually responsible to fulfill the watershed-wide monitoring, AgNMP, and other Nutrient TMDL implementation tasks. Water Code section 13267 orders were issued to agricultural operators in 2009, 2012 and 2015 to require the submittal of proposed agricultural nutrient management and watershed-wide monitoring plans, and the implementation of these plans upon Regional Board approval. Enrollment in this Conditional Waiver by an agricultural operator will supersede any existing Water Code section 13267 order(s) issued to that operator. Agricultural operators who are not enrolled in this Conditional Waiver will continue to be subject to existing Water Code section 13267 orders.
67. The final total phosphorus and total nitrogen TMDLs established in the Nutrient TMDLs are shown in the table below. The TMDLs are the total loads of phosphorus and nitrogen that can be allowed to enter Lake Elsinore and Canyon Lake but still restore and maintain the water quality standards of the lakes. The TMDLs are expressed as 10-year running averages.

Water Body	Phosphorus	Nitrogen
Lake Elsinore	28,584 kg/yr	239,025 kg/yr
Canyon Lake	8,691 kg/yr	37,735 kg/yr

68. As described previously, the total allowable phosphorus and nitrogen loads (TMDLs) for Lake Elsinore and Canyon Lake are allocated among the sources of these constituents to the lakes. Wasteload allocations are specified in the Nutrient TMDLs for point source inputs, including recycled water and urban runoff. Load allocations are specified in the Nutrient TMDLs for nonpoint source inputs of phosphorus and nitrogen to the lakes. Load allocations are specified for: internal releases of these nutrients from sediments in the bottom of the lakes; atmospheric deposition; agriculture; forest and open space; and, septic systems. For Lake Elsinore, phosphorus and nitrogen load allocations were also established for inputs from Canyon Lake.
69. The phosphorus allocations established in the Nutrient TMDLs for Lake Elsinore were calculated based on the assumption that an aeration and mixing system was installed and would be operated, and that this system would result in a thirty-five percent (35%)

reduction in the internal loading of phosphorus from sediment in Lake Elsinore⁴. Without this assumption of the reduction of internal loading of phosphorus from sediment, Lake Elsinore has no assimilative capacity for inputs of phosphorus from other sources. This means that absent the successful operation of the aeration system (and/or an acceptable alternative internal nutrient loading reduction strategy), the allocations assigned to other sources of phosphorus input to the lake, including agriculture, would need to be set to zero, i.e., no discharges of phosphorus from external sources, such as from agriculture, could be allowed.

While the Lake Elsinore TMDLs assumed that an aeration system would be implemented, the TMDLs did not assign the responsibility for doing so to any specific parties. Rather, it was assumed that appropriate cost sharing agreements and commitments to construct, operate and maintain an aeration system by and among the responsible parties, including agricultural dischargers, would be developed and approved, likely under the auspices of the Lake Elsinore and Canyon Lake TMDL Task Force. It was also assumed that one or more responsible parties might propose an alternative to the aeration/mixing system to achieve the equivalent, requisite internal nutrient loading reductions to allow for their ongoing external load inputs to the lakes, as part of their required Pollutant Trading Plans, e.g., implementation of a fisheries management program. (As described in Finding 60, above, while this Order does not require the submittal of a formal Pollutant Trading Plan, WRCAC, on behalf of its agricultural operator members, is developing a WQTP to assure nutrient reductions in an effective and efficient manner. The expected effect of the WQTP is to achieve TMDL water quality goals at substantial economic savings.)

70. The LEAMS has been implemented and is operating as designed to reduce the internal loading of phosphorus (and nitrogen) from sediment in Lake Elsinore. To date, funding for the implementation, operation and maintenance of this system has been provided by the City of Lake Elsinore and Elsinore Valley Municipal Water District (EVMWD). Funding commitments for the LEAMS system were made by the City and EVMWD to: a) offset phosphorus and nitrogen in recycled water discharges by EVMWD to the Lake to maintain a stable lake level; and, b) to allow the implementation of the aeration and mixing system as soon as possible and thereby facilitate water quality and beneficial use improvements in Lake Elsinore.

Other dischargers with allocations assigned in the TMDLs are expected to participate in the operation and maintenance of this system over the long term, or to implement an alternative program strategy identified in an approved Pollutant Trading Plan/WQTP or comprehensive nutrient management program. Participation in the TMDL Task Force implementation strategies such as LEAMS (or an alternative, approved internal nutrient reduction strategy) is necessary to offset all external discharges of phosphorus to Lake Elsinore. Without this system or an alternative approved nutrient reduction strategy, there would be no assimilative capacity for phosphorus inputs to the Lake and therefore no external inputs of nutrients to Lake Elsinore would be allowed. This Conditional Waiver requires the development and implementation of an approved AgNMP(s) and/or WQTPs to address these circumstances and, in part, identify appropriate internal nutrient reduction strategies. Review and revision of the approved AgNMP and/or WQTP plan(s) will be required as part of an adaptive management process.

⁴ California Regional Water Quality Control Board, Santa Ana Region. "Lake Elsinore and Canyon Lake Nutrient Total Maximum Daily Loads." March 26, 2004; revised April 21, 2004. p. 60ff. "Phosphorus Load Capacity for Lake Elsinore Based on Proposed Interim Target."

The Regional Board encourages agricultural dischargers to collaborate with the TMDL Task Force and other responsible parties to formulate and implement a comprehensive plan to assure fairly-apportioned, long-term funding for the operation and maintenance of LEAMS and/or other proposed strategies designed to reduce internal nutrient loading and thereby offset external discharges of nutrients to the Lake. As described in Finding 65, WRCAC has submitted an AgNMP for the San Jacinto Watershed on behalf of WRCAC members. This AgNMP will be updated as specified in the order. Agricultural operators enrolled in this Order who are not members of WRCAC will be required to develop and implement, upon Regional Board approval, an individual AgNMP.

71. The Lake Elsinore and Canyon Lake Nutrient TMDLs assign total phosphorus and total nitrogen load allocations to agriculture, as shown in the table below. As described in the preceding Findings, the application of these allocations is contingent on the participation by agricultural dischargers in the operation and maintenance of LEAMS, or an alternative internal nutrient loading reduction strategy in a manner to be established by a Regional Board-approved AgNMP, Pollutant Trading Plan/WQTP, or operation/maintenance agreement(s). The allocations are expressed as 10-year running averages.

Water Body	Phosphorus	Nitrogen
Lake Elsinore	60 kg/yr.	213 kg/yr.
Canyon Lake	1,183 kg/yr.	7,583 kg/yr.

Implementation of Total Dissolved Solids/Nitrogen (TDS/N) Plan

72. On January 22, 2004, the Regional Board adopted Resolution No. R8-2004-0001, amending the Basin Plan to incorporate an updated TDS and Nitrogen Management Plan for the Santa Ana Region. The amendments included establishing revised boundaries for groundwater subbasins, revised nomenclature to identify groundwater subbasins as GMZs, revised TDS and nitrate-nitrogen water quality objectives for the GMZs, and updated findings of TDS and nitrate-nitrogen assimilative capacity in the GMZs. These amendments were approved by the SWRCB on October 1, 2004 and by the Office of Administrative Law on December 23, 2004. The surface water standards provisions of the amendments were approved by the U.S. EPA on January 20, 2007.
73. The TDS and Nitrogen Management Plan in the Basin Plan has been amended to: incorporate "maximum benefit" TDS and nitrate-nitrogen objectives for the San Jacinto Upper Pressure GMZ and enable implementation of a comprehensive Hemet/San Jacinto Water Management Plan (Resolution No. R8-2010-0039); incorporate a revised nitrogen loss coefficient for the GMZs in the San Jacinto River Watershed (Resolution No. R8-2014-0005); and, to reflect updated findings of TDS and nitrate-nitrogen assimilative capacity (Resolution No. R8-2014-0005).
74. With the exception of the San Jacinto Upper Pressure GMZ, for which maximum benefit objectives and a maximum benefit implementation plan have been established, all GMZs in the San Jacinto Watershed lack assimilative capacity for both TDS and nitrate-nitrogen, i.e., ambient TDS and nitrate-nitrogen quality conditions exceed the applicable water quality objectives. The Regional Board will consider the allocation of assimilative capacity created in the San Jacinto Upper Pressure GMZ by the implementation of the maximum benefit objectives and associated implementation plan only to waste

discharges by those agencies/parties responsible for the maximum benefit implementation plan. Discretion regarding the allocation of this assimilative capacity, if any, remains with the Regional Board.

75. Absent assimilative capacity for TDS and/or nitrate-nitrogen in GMZs, waste discharges to these management zones must be held to the applicable TDS and/or nitrate-nitrogen objectives established for each GMZ. This requirement is included as a condition of this Order. However, the Order also provides an opportunity to offset TDS and nitrate-nitrogen discharges by participating in a Regional Board approved offset program(s). In addition, the Order specifies that compliance with the requirement to assure that agricultural discharges do not cause or contribute to violations of TDS and nitrate-nitrogen GMZ water quality objectives can be achieved through timely implementation of properly designed, Board-approved individual or group AgNMPs. These individual and/or group AgNMPs may incorporate offset programs or other water quality trading programs. This regulatory approach recognizes the inherent difficulties of specifying and complying with TDS and nitrate-nitrogen waste discharge limits for agricultural discharges. This regulatory approach is comparable to that employed by the Regional Board in regulating dairies and related facilities (Order No. R8-2013-0001, NPDES No. CAG018001).
76. Manure is a significant source of TDS and nitrogen. When applied to land for use as a fertilizer it may contribute to water quality degradation in underlying groundwater. Consistent with the approach in Order No. R8-2013-0001, this Conditional Waiver prohibits the application of manure to lands within the San Jacinto River Watershed that overlie GMZs without assimilative capacity for TDS and/or nitrate-nitrogen, unless a nutrient management plan, acceptable to the Executive Officer, is implemented offsetting the effects of that application on the underlying GMZ. These manure application requirements apply also to the San Jacinto Upper Pressure GMZ, unless it is demonstrated that the agricultural operator is at least in part responsible for and contributing to the maximum benefit implementation plan for that GMZ and may therefore be entitled to some allocation of TDS/nitrate-nitrogen assimilative capacity by the Regional Board. Notwithstanding any such demonstration, the Regional Board retains discretion to determine whether any assimilative capacity will be allocated, and, if so, how much.
77. Agricultural owners/operators who enroll in this Conditional Waiver must also: (1) collect data on the nitrogen and TDS quality of their discharges to ground (and surface) waters; (2) evaluate the effects of ongoing agricultural operations on ground (and surface) waters; (3) implement approved AgNMPs and other BMPs to minimize nitrate and TDS discharges; and, (4) evaluate the efficacy of the BMPs implemented and use the results to revise and adapt the AgNMP(s) and BMPs, including in-lake nutrient reductions strategies, appropriately. This is a complex challenge for the agricultural community with 8 GMZs, multiple cropping systems, site to site variability, various irrigation source water suppliers and soil classifications and, in many cases, limited available groundwater monitoring data. Agricultural owners/operators may meet these requirements individually or as a member of a Coalition Group that develops and implements a Compliance Program approved by the Regional Board that addresses the requirements of this Conditional Waiver, including the development and implementation of AgNMP(s), WQMPPs, BMP implementation and assessment and monitoring programs or the use of data from existing programs that are sufficient to meet the Conditional Waiver requirements.

78. Effective, efficient and least costly implementation of this Conditional Waiver is likely best achieved by actions by agricultural dischargers as members of a Coalition Group(s). This Order encourages the formation of a Coalition Group(s) by providing time for individual discharger enrollment (no later than 6 months from the date of adoption of this Order, or no later than July 29, 2016) so that Group formation and membership enrollment processes can proceed. The Group is required to identify a third party, not regulated by the Regional Board, to administer and facilitate Group activities. The Group Administrator must be approved by the Executive Officer. No later than six months from the date of the approval of the Administrator, the Group is required to submit for Regional Board approval a proposed Compliance Program that identifies plans and schedules for compliance with the requirements of this Waiver. That Program must be implemented upon approval. Should no Coalition Group be formed, or should any individual discharger elect not to join an established Coalition Group, then, upon enrollment in this Conditional Waiver, each individual discharger must fulfill Waiver requirements independently.

CONSISTENCY

79. As required by Water Code Section 13269, this Conditional Waiver of the requirements to file a Report of Waste Discharge (ROWD) and obtain WDRs for discharges of waste from agricultural operations to waters of the state is consistent with established water quality control plans and policies, including: the Basin Plan, which incorporates established TMDLs; the State Water Board's 1999 "*Plan for California's Nonpoint Source Pollution Control Program*" (Nonpoint Source Plan) and 2004 "*Policy for Implementation and Enforcement of the Nonpoint Source Control Program*" (Nonpoint Source I&E Policy); the State Water Board's "*Statement of Policy with Respect to Maintenance of High Quality Waters in California*" (Resolution No. 68-16 (California's antidegradation policy)); and other applicable regulations.
80. This Order specifies requirements that implement the Basin Plan, including requirements to assure that agricultural discharges do not cause or contribute to violations of water quality standards established in the Plan. This Order requires enrolled dischargers to implement applicable tasks identified in established TMDLs and to meet requirements based on the updated TDS/N Management Plan.
81. This Order is consistent with the Nonpoint Source I&E Policy, which recognizes conditional waivers as one regulatory option to address nonpoint source waste discharges, including discharges from agricultural operations.
82. It is expected that significant improvements in the quality of waste discharges from agricultural operations can be attained by owners/operators through the implementation and adaptive management of the best available and most appropriate management measures and management practices (collectively, Best Management Practices, or BMPs). Implementation of the requirements of this Conditional Waiver by enrolled dischargers is therefore expected to improve the quality of affected receiving waters. Therefore, this Order is consistent with the requirements of California's antidegradation policy (State Board Resolution No. 68-16).
83. The adoption of this Conditional Waiver is consistent with the public interest because it: includes conditions that are intended to reduce and prevent pollution and nuisance, improve water quality and protect beneficial uses of the waters of the State; provides an

effective and efficient approach to regulate waste discharges from agricultural operations; provides for efficient use of discharger resources, as well as Regional Board staff resources. Collaboration on BMP implementation, including the assessment of BMP efficacy, and the dissemination of relevant information among agricultural owners/operators, as provided for in this Order, is expected to facilitate water quality and beneficial use improvements.

FEES AND COSTS

84. California Code of Regulations Title 23 (23 CCR) section 2200.6 “Annual Agricultural and Irrigated Lands Fee Schedule” requires an annual fee for WDRs and for waivers of WDRs for discharges from agricultural lands.
85. 23 CCR section 2200.6 establishes a tiered structure consisting of three fee levels. Under this structure, the lowest fees are paid by dischargers who are members of a group approved by the State Board, where the group manages fee collection and payment. Next are fees paid by members of a State Board approved group that does not manage fee collection and payment. The highest fees are paid by dischargers who do not participate in a State Board approved group.
86. Persons participating in this Conditional Waiver as a member of a group, whether or not that group has been approved by the State Board, will be expected to pay their shared, proportionate cost for the services provided by the group, including the cost of administering the group.
87. Agricultural land owners or operators participating in this Waiver are not exempted from paying their proportional share of fees for TMDL implementation activities carried out by the TMDL Task Force, unless an agricultural owner or operator elects to conduct TMDL implementation activities on their own. In that case, each agricultural owner/operator is individually responsible for the costs associated with TMDL implementation.
88. The costs for dischargers to comply with this Conditional Waiver were estimated and potential sources of funding to offset those costs were identified.

CEQA

89. In conformance with the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000-21178), an Initial Study of the potential, significant adverse environmental impacts of the issuance and implementation of this Conditional Waiver was conducted. Based on that evaluation, this Conditional Waiver could not have a significant adverse effect on the environment. A Mitigated Negative Declaration is therefore appropriate. Public and agency notification requirements pertaining to the Regional Board’s intent to adopt a Mitigated Negative Declaration have been met.

PUBLIC PARTICIPATION

90. The Regional Board has notified interested agencies and persons of its intent to adopt this Conditional Waiver and has provided them with an opportunity to submit written comments and recommendations regarding the tentative requirements. This notice complied with the requirements of Government Code section 11125.

91. The Regional Board, at a public hearing, heard and considered all comments pertaining to the proposed Conditional Waiver.

IT IS HEREBY ORDERED THAT:

Consistent with Division 7 of the California Water Code (Water Code) and regulations adopted thereunder, the Regional Board hereby conditionally waives WDRs for discharges of waste from agricultural operations, as defined herein, within the San Jacinto River Watershed provided that enrolled dischargers comply with all of the following conditions, provisions, and other requirements of this Conditional Waiver (Order, or Waiver):

1. The Regional Board approves the Mitigated Negative Declaration prepared for the adoption and implementation of this Order and directs the Executive Officer to file a notice of determination with the Office of Planning and Research that contains the information and statements specified in the CEQA Guidelines (14 CCR, Chapter 2, section 15075).

A. ELIGIBLE DISCHARGERS

1. Dischargers who conduct or propose to conduct irrigated agricultural or livestock operations, as defined above, on 20 or more acres, or who conduct livestock operations on less than 20 acres with an animal density of more than three (3) animal units per acre (see Attachment A) within the San Jacinto River Watershed, shall complete an electronic NOI form (see Part B, below) to enroll in this Conditional Waiver. Dischargers who conduct agricultural operations on multiple parcels of less than 20 acres each, but whose agricultural operations taken together ("cumulative acreage") equals or exceeds 20 acres in area shall also complete an electronic NOI form to enroll in this Conditional Waiver.
2. Owners and/or operators of agricultural operations, other than irrigated agricultural or livestock operations of 20 or more cumulative acres or livestock operations of less than 20 acres that maintain an animal density of more than three (3) animal units per acre (see Attachment A), that Regional Board staff finds to be a high risk⁵ for discharging animal wastes or other wastes that could affect water quality are considered to be dischargers for the purpose of this Order and are required to complete an electronic NOI form to be enrolled in this Conditional Waiver, or to submit an ROWD (Water Code section 13260) when notified to do so by Board staff.

⁵ An agricultural operation, other than irrigated agriculture or livestock operations on 20 or more cumulative acres, or livestock operations less than 20 acres with more than three (3) animal units per acre, will be considered high-risk if dry-weather runoff discharges are observed, or if topographic features, location, existing management practices or materials applied as part of the agricultural operations (e.g., pesticides or herbicides) represent a significant potential for waste discharges that could adversely affect water quality standards of receiving waters.

B. ENROLLMENT, AUTHORIZATION TO DISCHARGE, AND TERMINATION OF ENROLLMENT

1. To obtain coverage under this Conditional Waiver, each discharger shall, no later than July 29, 2016, complete an electronic NOI form available on the Regional Board's website (see Attachment B) to be enrolled in the Waiver. Each discharger who elects to become part of a Coalition Group accepted by the Regional Board Executive Officer to carry out specified activities for enrolled dischargers shall indicate the name of the Coalition Group and the name of the Coalition Group administrator within the eNOI form.
2. The eNOI requires the submittal of the following information:
 - a. The name and physical address of the operator of the agricultural operation;
 - b. Name of the agricultural operation, if any;
 - c. The operator's/responsible party's business mailing address, phone number, fax number and email address;
 - d. If applicable, the name of the Coalition Group with whom the discharger is affiliated;
 - e. If applicable, the name and contact information for the Coalition Group Administrator;
 - f. If applicable, the number of drinking water wells and/or agricultural wells on the agricultural site;
 - g. Agricultural site location(s)⁶;
 - h. Acreage of agricultural site(s);
 - i. For the agricultural site location(s), assessor's parcel number(s) (APNs) and name and contact information of landowner(s);
 - j. Total irrigated acres; total tailwater volume (cubic feet), if any; if available, data on the chemical nature of irrigation discharge(s) (total Kjeldahl nitrogen^[1], nitrate nitrogen, total phosphorus, orthophosphate, electrical conductivity, TDS and total suspended solids, and pH). If data are not available at the time the eNOI is completed, discharges shall be characterized in accordance with the requirements specified in Part E, below;
 - k. Type(s) of irrigation system used;
 - l. Type(s) of crops grown;
 - m. Type of agriculture operation;
 - n. Specific chemical use;
 - o. Backflow prevention devices and presence of abandoned well(s) on site;
 - p. BMPs (including farming practices) in use, to prevent, minimize and/or mitigate the discharge of pollutants from the operator's agricultural operation(s);
 - q. If applicable, name of waterbody adjacent to agricultural site or within the premises of the agricultural site;
 - r. If applicable, pesticide use permit information;
 - s. Location and nature of discharge(s) from the site(s) (e.g., irrigation tailwater, stormwater runoff, dry-well, French drain, etc.), shown on a Site Location map; the names (if available) and locations of immediate receiving surface waters for

⁶ Site location information can be supplied by providing a pdf file containing a map of appropriate scale and detail (preferred), a kmz file showing the site (preferred), a paper map of appropriate scale and detail, narrative of the location, GPS coordinates (latitude and longitude of corners, angle points and centroid), or other method acceptable to Board staff.

these discharges (also shown on a Site Location map, if the receiving surface water(s) (i.e., San Jacinto River), is on or adjacent to the agricultural operation(s).

3. Once the eNOI has been submitted electronically, each discharger is responsible to pay the appropriate waste discharge fee, as determined from the latest revision of 23 CCR section 2200.6. The latest revision of 23 CCR section 2200.6 is available at http://www.waterboards.ca.gov/resources/fees/docs/fy1415_wqfees_agenda_item.pdf
4. Upon receipt of a completed eNOI form, the Executive Officer shall:
 - a. Determine the applicability of this Order to the individual discharger;
 - b. Notify the individual discharger and the administrator of a Coalition Group, if applicable, that the discharge is or is not authorized under the terms and conditions of this Order. A Notice of Authorization (NOA) will be issued if appropriate.
 - c. A NOA constitutes a waiver, pursuant to Water Code Section 13269, for the discharger and agricultural operation identified in the NOI.
5. Each agricultural operation for which an NOA is issued will receive a unique waste discharge identification (WDID) number. The discharger shall include this number on all reports and other correspondence to the Regional Board concerning this Conditional Waiver. The administrator of a Coalition Group shall compile and maintain a list of the WDID numbers for the dischargers within the Coalition Group.
6. A copy of the NOA and NOI shall be kept at the agricultural operations identified in the eNOI and/or with the agricultural operator and shall be made available to Regional Board staff for inspection, upon request.
7. If an eNOI is submitted for an existing or proposed discharge that does not meet the criteria for enrollment in this Conditional Waiver, the discharger will be notified by the Regional Board that the discharge will not be regulated under this Waiver and that: (a) that the discharger must submit a Report of Waste Discharge (ROWD) (Water Code section 13260) so that individual WDRs for the discharge can be developed for consideration by the Regional Board; or, (b) that an alternative approach to regulating the discharge will be employed (e.g., separate conditional waiver); or, c) that the discharge will not be permitted and if the discharge is existing, that it must cease.
8. When a discharger ceases an agricultural operation, to withdraw from this Conditional Waiver, the discharger must sign into their online eNOI user account and complete the necessary information pertaining to a notice of termination. If the discharger is a member of a Coalition Group, it is the discharger's responsibility to notify Coalition Group Administrator that his/her operation has been terminated.
9. Upon verification of the information provided, the Executive Officer will notify the Individual Discharger and the administrator of a Coalition Group, if applicable, that the subject agricultural operation is withdrawn from enrollment in the waiver, unless site conditions warrant continued regulation under the waiver or other regulatory alternative.

C. RESPONSIBILITIES OF ENROLLED DISCHARGERS

1. All dischargers shall comply with the terms of this Conditional Waiver upon receipt of an NOA. For new discharges, the discharge shall not commence until receipt of the Executive

Officer's NOA to discharge under the terms of this Conditional Waiver, or the issuance of appropriate WDRs.

2. Compliance with this Order shall be achieved individually or, where allowed by this Order, may be achieved through actions by a Coalition Group (see Part F, below) of which the discharger is a member. Individual discharger compliance with the requirements of this Waiver as a member of a Coalition Group is contingent on the payment of apportioned TMDL fees and Coalition Group administrative fees to the approved Coalition Group Administrator.
3. No later than six months from the date of formation of a Coalition Group and approval of the Coalition Administrator by the Executive Officer, the Coalition Group shall submit for approval a proposed Compliance Program, including plans and schedules for actions by the discharger members of the Group to achieve compliance with the requirements of this Order.
4. Each discharger, whether or not a member of a Coalition Group, shall implement reliable and effective Management Measures and Management Practices, collectively termed, "Best Management Practices," or BMPs⁷, to control, minimize or eliminate pollutant discharges from their agricultural operations to surface and ground waters of the State. The BMPs shall be designed, evaluated and modified as necessary over time to assure that waste discharges do not cause or contribute to violations of applicable water quality objectives or to adverse impacts on beneficial uses.
5. Upon approval by the Regional Board, agricultural operators may participate in a WQTP(s) among agricultural operators or between agricultural operators and urban dischargers that is designed to optimize the efficacy and efficiency (including costs) of BMPs and, thereby, optimize collective pollutant reductions. Regional Board approval of a WQTP will require the demonstration that each participating operator will implement, at a minimum, reasonable and practicable BMPs to prevent direct adverse water quality and beneficial use impacts in the receiving waters, e.g., toxicity, reduced dissolved oxygen, excessive algal blooms.
6. As provided in Part E. "WATER QUALITY MONITORING PROGRAM PLAN AND REPORTING", below, dischargers shall evaluate the efficacy of BMPs in reducing discharges of pollutants to waters of the state. In addition, dischargers shall perform individual monitoring or participate in group or collaborative monitoring as part of a Coalition Group to assess the water quality of discharges from agricultural operations and the effects of those discharges on receiving waters of the State.
7. When required by the Regional Board Executive Officer to do so, each discharger, whether or not a member of a Coalition Group, shall develop a proposed Water Quality Improvement Plan (WQIP) (see Attachment E), designed to address BMP deficiencies and to improve the quality of waste discharges from their agricultural operation. Where Regional Board staff, in consultation with other appropriate agencies, identifies potential impacts on biological resources as the result of proposed or existing BMPs, the WQIP shall be modified to incorporate necessary and reasonably feasible measures, including avoidance, to prevent

⁷ Reliable and effective BMPs are those that have been recommended or identified in an approved nutrient management plan, by a local resource conservation district, by staff of USDA's NRCS, by a University of California Cooperative Extension advisor, by a Technical Advisory Committee, or other recognized technical resource.

adverse impacts. When required, the proposed WQIP shall include a proposed schedule(s) for the implementation of its recommendations. The WQIP shall be implemented upon approval by the Executive Officer.

8. Agricultural operators who assume ownership of manure shall maintain a system of documentation to track and monitor the amount of manure received from the named hauler, and the rate and amount of manure application within their individual operation. This manure tracking and monitoring system will be used by the Regional Board to collect data needed to assess the effect(s) that manure management practices have on groundwater and surface water nutrient and salt loadings. A Coalition Group may operate this program for its enrolled members as part of an approved Compliance Program. See also H. DISCHARGE PROHIBITIONS, #9 and 10.
9. Dischargers shall implement tasks that are identified in approved TMDL implementation plans and that are assigned, in whole or in part, to agricultural operators. Implementation shall be conducted in accordance with the schedule(s) specified in the TMDLs, unless the Regional Board or the Executive Officer determines that case-specific circumstances warrant a modified schedule. Dischargers are encouraged to fulfill these obligations as part of a Discharger or Coalition Group, but may also fulfill these obligations individually. Discharger compliance with TMDL requirements as part of a Discharger/Coalition Group is contingent on the payment of apportioned TMDL Task Force fees to the approved group administrator.
10. Consistent with the tasks specified in the implementation plan for the Lake Elsinore/Canyon Lake Nutrient TMDLs, dischargers shall, within six months of the submittal of draft recommendations for revisions to the Nutrient TMDLs or no later than April 30, 2017, whichever comes first, propose an AgNMP(s) that includes plans and schedules to provide the evaluations and data specified in the TMDLs, taking into account recommended TMDL revisions, including nutrient control BMPs, evaluations of BMP efficacy, monitoring and special studies. The Executive Officer may extend the date for submittal of the AgNMP(s) if the following conditions are met: (1) the request is made in writing and received by the Executive Officer more than 30 days prior to the existing AgNMP(s) submittal date; (2) the request includes specific and adequate justification of the technical inability to complete the AgNMP(s) and/or of economic hardships; (3) the request includes an alternative submittal date which reflects the shortest practicable time to complete the proposed AgNMP(s). Consistent with the TDS/N Management Plan in the Basin Plan, the proposed AgNMP(s) shall include a plan to assure that agricultural waste discharges do not cause or contribute to violations of established TDS and nitrogen objectives for ground and surface waters. The AgNMP may include a WQTP (C. 3, above) and, where necessary, must include a proposed TDS and nitrogen offset program(s). Dischargers may fulfill the AgNMP requirement individually or as part of an approved Compliance Program submitted by a Coalition Group. Approved agricultural nutrient management plans shall be reviewed and revised as needed as part of an adaptive management process. Documentation shall be included to demonstrate that implementation of the individual plans or plans developed by the Coalition Group will result in compliance with the load allocation assigned to agriculture in the TMDLs, and will not cause or contribute to violations of applicable TDS and nitrogen quality objectives.
11. Compliance with the load allocation for agriculture specified in the Nutrient TMDLs may be achieved by: (1) demonstration using monitoring data and approved modeling procedures, that the external loads comply with the numeric load allocation; (2) demonstration that the

numeric targets specified in the Nutrient TMDLs are attained consistently; or, (3) complete and timely implementation of an approved agricultural nutrient management plan, updated as necessary to assure that the agricultural load allocation will be achieved.

12. Compliance with the requirement to assure that agricultural waste discharges do not cause or contribute to violations of groundwater quality objectives for TDS and nitrate-nitrogen may be achieved by: (1) demonstration using monitoring data and approved modeling procedures, that agricultural waste discharges to land or surface waters will not cause or contribute to violations of the objectives; (2) demonstration that the applicable groundwater quality objectives are and will be attained consistently; or, (3) complete and timely implementation of a WQTP or TDS and nitrogen management/offset plan, included in an approved AgNMP, which may be included in an approved Coalition Group Compliance Program.
13. Individual dischargers or discharger members of a Coalition Group are responsible for meeting the conditions of this Conditional Waiver. Failure by an individual discharger or a discharger member of a Coalition Group to maintain compliance with the Waiver may result in administrative enforcement actions, including imposition of civil liability, and/or withdrawal of the conditional waiver and issuance of WDRs by the Regional Board (Water Code sections 13261, 13262, 13265, 13268, 13300, 13301, 13304, 13308, 13350).
14. Both owners and operators of agricultural operations have responsibility for compliance with the conditions of the Waiver.
15. If an Individual Discharger or discharger member of a Coalition Group fails to meet the requirements and conditions of this Waiver, the Executive Officer may terminate coverage under the Waiver and issue WDRs for that Discharger. The Discharger has the opportunity to appeal this decision to the Regional Board.

D. BEST MANAGEMENT PRACTICE (BMP) REPORTING PROGRAM

1. By December 15, 2016 and annually, by September 15 of each year, thereafter, dischargers shall report on the BMPs used at their agricultural operations. Dischargers may submit this report individually or the report may be submitted by the Coalition Group administrator on behalf of the Group members. For Coalition Groups approved by the State Water Board and thereby paying reduced permit fees, the report shall be submitted by the Coalition Group Administrator.
2. The following shall be reported in the BMP annual report:
 - a. The name and physical address of the reporting discharger;
 - b. The location(s) and WDID number(s) of the agricultural operation(s) to which the report applies;
 - c. Crop(s) or product(s) produced;
 - d. Intended purpose and type of each BMP;
 - e. When each BMP was installed or implemented (month, year);
 - f. Size of each BMP and estimated volume of flows treated prior to discharge, if any;

- g. The overall adequacy and condition of each BMP and the type and schedule of expected maintenance or replacement needed to assure proper function of each BMP; and,
 - h. Based on site-specific data⁸, assessment of the efficacy of each BMP in reducing pollutants in discharges from the site(s), including load reductions. Where one or more BMPs are in common use by multiple members of a Coalition Group, representative assessments of the efficacy of the BMPs may be conducted by the Coalition Group and reported by the Coalition Group administrator.
3. The BMP annual report may be combined and submitted with the Water Quality Monitoring Program Plan annual report (see Part E, below).

E. DISCHARGE CHARACTERIZATION AND WATER QUALITY MONITORING PROGRAM PLAN AND REPORTING

1. Within 180 days of receipt of a Notice of Authorization (NOA), dischargers shall submit a site-specific characterization of their discharges. If there are no discharges within 180 days of receipt of the NOA, then the site-specific characterization shall be submitted within 60 days of the occurrence of the discharge. This characterization shall identify:
 - a. The type of the discharges (e.g., irrigation tail-water, stormwater runoff, etc.).
 - b. Estimated volume (expected flow and duration) of each type of discharge, and the months the discharges occur.
 - c. Chemical and physical analysis of each type of discharge, including: nutrients (Total Kjeldahl Nitrogen, nitrate nitrogen, nitrite nitrogen, total phosphorus, orthophosphate), electrical conductivity, total suspended solids, pH, and total dissolved solids (TDS). These analyses shall be conducted for each discrete discharge at every parcel or, if the discharger is a member of a Coalition Group, for representative discharge locations, based on similarities in crop type and management practices (e.g., tilling practices, fertilizer and pesticide application). Where site-characterization for a Coalition Group is requested, the Coalition shall submit a proposed site-characterization plan and implement that plan upon approval. The schedule for this submittal may be modified by the Executive Officer upon demonstration that additional time is necessary to formulate a group characterization proposal.
2. Within 180 days of receipt of the NOA, dischargers shall submit a proposed groundwater and surface water WQMPP for approval by the Executive Officer. For discharger members of a Coalition Group, this requirement may be satisfied by the submittal of a proposed Group WQMPP as part of a proposed Compliance Program. The WQMPP shall be implemented upon approval. (Also, see Part E.9, below.)
3. The proposed WQMPP shall be designed to:
 - a. Assess the effects of the waste discharges on the surface and ground waters of the state;

⁸ To conduct BMP efficacy assessments, site-specific discharge flow or volume (measured or estimated) and pollutant concentration data shall be used where possible based on the type of BMP and site conditions.

- b. Evaluate the efficacy of and inform adaptive management of farm best management practices in reducing or eliminating discharges of pollutants to waters of the state;
 - c. Determine compliance with applicable load allocations established in TMDLs;
 - d. In a representative manner, monitor the quality of waste discharges from agricultural operations that occur during dry weather and as a result of stormwater or flood flow runoff;
 - e. Evaluate TDS and nitrogen discharges and the need for and magnitude of offset measures to assure that waste discharges do not cause or contribute to violations of groundwater TDS and nitrate-nitrogen objectives;
 - f. Inform source investigations of waste discharges with pollutant concentration/loads that exceed applicable narrative or numeric objectives or that cause or contribute to adverse impacts on beneficial uses;
 - g. Monitor temporal trends in the types and amounts of pollutants discharge and in the condition of the receiving waters.
4. The rationale for the proposed monitoring must be described in the proposed WQMPP. Constituents and parameters selected for monitoring must reflect pollutants that are known to be or are potentially contained in the waste discharges. The proposed WQMPP shall include:
 - a. A proposed receiving water monitoring program that identifies: locations to be monitored; rationale for selection of monitoring parameters, locations, and frequencies; monitoring methods; and constituents or parameters to be monitored.
 - b. Quality Assurance Project Plan (QAPP) that conforms to the guidance for QAPPs developed by the SWRCB's Surface Water Ambient Monitoring Program (SWAMP)
http://www.waterboards.ca.gov/water_issues/programs/swamp/tools.shtml#qa.
 - c. A map(s) of appropriate scale showing the location(s) of all agricultural operations covered by the discharger's NOI(s), drainage patterns of the agricultural operation sites, and proposed sampling locations. Selection of monitoring locations must be spatially and statistically representative. Compliance with this requirement can be achieved by the Coalition Group's development of regional monitoring programs approved by the Executive Officer.
5. Surface water and groundwater monitoring requirements shall be coordinated with the San Jacinto Watermaster, Eastern Municipal Water District (EMWD) Groundwater Management database, Lake Elsinore/Canyon Lake TMDL Task Force and other appropriate entities. The plan shall be developed taking into consideration the data currently available and mechanisms to collect the additional data needed.
6. The proposed monitoring program should be integrated where feasible with Nutrient TMDL monitoring identified in agricultural nutrient management plans.
7. When an abandoned well⁹ is identified on agricultural operator property, the agricultural operator or Coalition Group Administrator will notify EMWD to request that the abandoned

⁹ DWR defines an "abandoned well" or permanently inactive well as one that "has not been used for one year, unless the owner demonstrates intention to use the well again." (DWR Bulletin 74-81, Part III, Section 21)

well be addressed through EMWD's cap and seal program. Abandoned wells will be capped and sealed in such a manner that they will not produce water or act as a conduit for mixing or otherwise transfer groundwater or waste constituents between permeable zones or aquifers. Proper well abandonment must be consistent with any applicable California Department of Water Resources (DWR) requirements or local ordinances. Abandoned wells shall be discussed in the WQMPP.

8. Dischargers who apply manure to cropland shall include procedures in their WQMPP for monitoring the TDS and nitrate load of these fertilizer applications to groundwater. Dischargers who apply manure to croplands overlying GMZs that lack assimilative capacity for TDS and nitrogen shall propose a suitable offset mechanism in their proposed AgNMPs, documenting that sufficient offset credits are and will be available.
9. Dischargers within a watershed or discrete sub-watershed are encouraged to collaborate on the development and implementation of a proposed WQMPP that is representative of discharges from agricultural operations in that watershed/sub-watershed. In addition, the evaluation of the efficacy of BMPs that are in common use by multiple dischargers may be conducted and reported in collaborative fashion. Agricultural operators who wish to participate in a collaborative WQMPP shall do so as part of a Coalition Group (see Section F, below). Where different types of agricultural operations are represented within a Coalition Group, multiple WQMPPs may be necessary to assure representative data collection and analyses. Dischargers who participate in a collaborative WQMPP satisfy the requirements for the submittal of an individual WQMPP.

Collaborative WQMPP(s) by Coalition Group(s) shall include a justification that the monitoring proposed is sufficient to represent the discharges from the Coalition Group members' enrolled sites.

10. The approved administrator of the Coalition Group shall be responsible for the submittal of the proposed Compliance Program, including collaborative WQMPP(s), within 180 days of the formation of the Coalition and Executive Officer approval of the Coalition Group administrator.
11. A proposed draft collaborative WQMPP shall conform to the requirements specified in this section. In addition, the proposed draft collaborative WQMPP shall include the following information for each agricultural operation represented by the Coalition Group:
 - a. The name and mailing address of each owner represented;
 - b. The name and address of each operator, owner or leasee, and indicate whether each is an owner or lessee;
 - c. The WDID number of each agricultural operation represented;
 - d. Map or maps showing the locations of all agricultural operations represented, by agricultural activity type (Attachment F); and,
 - e. Name and mailing address of the administrator of the proposed collaborative WQMPP.

12. The WQMPP(s) shall be implemented upon Regional Board approval.

13. All WQMPP annual reports shall be submitted by September 15 of each year. Collaborative WQMPP reports prepared by or on behalf of a Coalition Group shall be submitted by the Coalition Group administrator. The reports shall include:

- a. Tabulated water quality monitoring results, in printed and in SWAMP-compatible electronic format;
 - b. Data interpretation, discussion and analysis of water quality monitoring results;
 - c. Laboratory analytical reports and quality assurance/quality control (QA/QC) documentation;
 - d. Graphics showing the watershed context of the WQMPP, monitoring locations, relevant landmarks, and locations of all agricultural operations represented and their land use classifications¹⁰;
 - e. QAPP compliance report as required;
 - f. Conclusions and recommendations;
 - g. Participation in approved training programs (see G.2), including the name and date of the training program and the number of hours; and,
 - h. For Coalition Group(s), the name and mailing address of the group administrator, list of all participants registered in the group (discharger WDIDs, owner's name, operator's name, and location and acreage of covered site(s)), and membership status (active, withdrawn, fee delinquent, etc.) in the group. Changes in the membership of the Coalition Group from the prior annual report submittal shall be identified explicitly.
14. During the term of this Order, and with appropriate notice, the Executive Officer may modify or revise a discharger's or Coalition Group's WQMPP to reduce or increase the number of constituents or parameters to be monitored, the frequency of the monitoring, or the number and size of samples collected; to change the location(s) at which monitoring is conducted; or to alter other aspects of the WQMPP necessary to accurately characterize discharges from agricultural operations. A discharger may request a hearing concerning any changes to a WQMPP identified by the Executive Officer.
15. During the term of this waiver, dischargers or the Coalition Group shall periodically review their QAPP, and revise the QAPP as necessary to assure accurate implementation of their WQMPP. Documentation of the QAPP review and revisions of the QAPP shall be submitted with the appropriate WQMPP annual report.
16. Dischargers may request that the Executive Officer approve revisions of their WQMPP to reduce the number of parameters to be monitored, the frequency of the monitoring, or the number and size of samples collected; to revise the location(s) at which monitoring is conducted; or to change other aspects of the WQMPP necessary to accurately characterize discharges from their agricultural operations.

F. DISCHARGER/COALITION GROUPS

1. To qualify as a Discharger Group or Coalition Group ("Group"), within six (6) months after this Conditional Waiver is adopted by the Regional Board, the Group shall file a Group notification with the Regional Board that identifies the dischargers participating in the Group and the Group's mailing address.
2. Members of a Discharger Group or Coalition Group shall identify a third party administrator who is not a discharger under this Conditional Waiver. The third party administrator must be

¹⁰ After Anderson J.R., et al., 1976, USGS Professional Paper 964

approved by the Regional Board Executive Officer based on a satisfactory demonstration that the administrator possesses sufficient resources to coordinate enrollment in and compliance with the Group-applicable requirements of this Waiver.

3. Each discharger may commit to achieve compliance with this Waiver as a member of a Discharger Group or Coalition Group by checking the box on the NOI to join the Group. Being a member in good standing with the Group is contingent on the timely payment of group membership fees, as determined by the approved Group administrator. Fees necessary to support the program management and compliance activities of the Group are in addition to the required State fees pursuant to 23 CCR section 2200.6.
4. Individual dischargers who have been issued an NOA may join a Group by remitting the applicable Group membership fee and providing a copy of their eNOI and NOA to the Group Administrator and notifying the Regional Board in writing of their membership in the Group.
5. The administrator of a Group shall compile and maintain the following:
 - a. Copies of completed eNOIs received from discharger members of the Group;
 - b. A list of the Group dischargers for whom NOAs have been issued and the WDID numbers for those dischargers;
 - c. A list of the location(s) and APN(s) of each site where the participating Group discharger is conducting agricultural operations, and the types of agricultural operations conducted at each site within a specified time period.

These lists shall be updated as necessary to assure that they remain current. The lists shall be made available to Regional Board staff upon request.

6. No Group shall be recognized until a Group Administrator has been identified by the Group and approved by the Executive Officer.
7. The Group Administrator may submit individual draft WQMPPs on behalf of the Group discharger participants for Executive Officer approval. Conditions that apply to WQMPPs are contained in Part E, above. Although dischargers who are participating in a Group may choose to have their data submitted collectively as members of the Group, individual dischargers remain responsible for timely submittal of monitoring and reporting information for the agricultural operations under their control.
8. The Group Administrator will not be responsible or liable for an individual agricultural operator's compliance with the terms of the Conditional Waiver or the Water Code.
9. The Group Administrator shall report to the Regional Board any change(s) in the membership of the Group or the known occurrence of the change(s) (e.g., NOI, NOT). If a new agricultural owner/operator who has not submitted an individual eNOI to the Regional Board for enrollment in this Order is added to the Group, the submittal of the completed eNOI to the Regional Board with indication of the discharger's membership in the Group shall suffice for this notification. If a discharger in a Group elects to discontinue participation in the Group, or if the Group determines that a discharger is not fulfilling its obligations and the discharger is removed from the Group, and that discharger continues to conduct agricultural operations, then the discharger shall seek individual enrollment in this Order. A discharger's failure to seek enrollment in this Waiver within 30 days of when the Board is

notified that the discharger's participation in the Group has been discontinued is grounds for enforcement action (see J.3).

G. GENERAL CONDITIONS AND OTHER REPORTING

1. Dischargers have the option to participate in a WQTP when and if such a program is developed and is approved by the Regional Board. Each Discharger's participation in an approved WQTP is subject to Executive Officer approval.
2. Education Requirements:
 - a. Annually for the first 3 years of each discharger's enrollment in this Order, dischargers shall participate in not less than six (6) hours of educational training on nonpoint source pollution control, development and use of BMPs and water quality management on agricultural operations. This may include sediment transport management, irrigation practices, fertilizer and pesticide management, nutrient and manure management, and other pertinent topics. Thereafter, the annual educational requirement shall be four (4) hours.
 - b. Educational programs are subject to approval by Regional Board staff. Individual Dischargers or the Coalition Group administrator shall submit proposed educational programs to the Regional Board for approval, providing the name, date, and topic of the program. If possible, proposed educational programs will be submitted a minimum of 30 days before the date of the training. The Regional Board shall provide written notification to the Individual Discharger or Coalition Group administrator of its approval decision for each proposed educational program in a timely manner to allow agricultural operators to enroll in approved programs.
 - c. Individual Dischargers and the Coalition Group(s) administrator shall keep records of attendance at approved education programs and shall report participation in approved training programs to the Regional Board in the annual WQMPP reports.
3. Dischargers must comply with all applicable instructions regarding the management and use of registered pesticides, including requisite applicator training, use of application rates specified on product labels and proper disposal methods for pesticide containers.
4. Dischargers shall be current on payment of apportioned TMDL implementation fees to WRCAC acting on behalf of the TMDL Task Force. These fees are collected in cycles, typically 3 year periods, and not on an annual basis.
 - a. For the Coalition Group, the Group Administrator shall report on individual group member's payment, or non-payment, of apportioned TMDL implementation fees to WRCAC.
 - b. The list of dischargers who have paid their apportioned TMDL implementation fees shall be submitted with annual BMP and WQMPP reports.
5. The discharger shall furnish, within a reasonable time, not to exceed 30 days from the date of a request, any information the Regional Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the discharger's coverage under this Order. The discharger shall also furnish to the Regional Board, upon request, copies of records required to be kept under this Order.

6. All dischargers shall maintain for inspection by Regional Board staff a copy of their eNOI(s), NOA(s), NOT(s), WQMPP, pesticide and fertilizer application information as may be required by other regulatory programs, and all other reports, records or plans required by this Conditional Waiver. Each enrolled discharger participating in a Coalition Group shall maintain all of the above as it relates to their agricultural operations, as well as proof of participation in good standing in a Coalition Group, and contact information for the Coalition Group administrator, for inspection by Board staff.
7. All hazardous wastes must be managed in a manner acceptable to agency(s) with jurisdiction over such wastes.

H. LAND APPLICATION OF MULCH, COMPOST, AND MANURE

1. Land application of mulch and compost is allowable for soil amendment at agricultural operations enrolled in this Order, provided that the following minimum requirements are met:
 - a. Mulch and compost application rates shall be consistent with CalRecycle's regulation for land application of mulch and compost (14 CCR Division 7, Chapter 3.1)
 - b. Land application, of mulch and/or compost shall be limited to 12 inches total accumulated application depth in a 12-month period. This limit is subject to site-specific conditions. For example, a reduced application depth may be necessary to protect beneficial uses of a receiving water body, or a greater application depth may be allowed where justified by agronomic circumstances; and,
2. Any land application of manure at agricultural operations enrolled in this Order shall meet the following minimum requirements:
 - a. The land application shall be conducted in accordance with a farm-specific nutrient management plan (NMP).
 - b. For dry-solid manure, application rate shall not exceed 12 dry tons/acre, or 17.5 tons/acre @ 33% moisture in a 12-month period; For any application of manure to these croplands in excess of 12 dry tons per acre per year (or 17.5 tons per acre per year @ 33% moisture), an explanation of the type of crop and the number of times it is harvested per year shall also be included in the Annual Report."
 - c. The manure shall be incorporated into the soil after application. Incorporation is not required where it is inconsistent with a BMP that has been recommended or identified in an approved nutrient management plan.
 - d. At a minimum, one crops must be grown on the lands on which the manure is applied during the 12-month period following the land application of manure;
 - e. If and when an AgNMP or farm-specific NMP is approved by the Regional Board that specifies an alternative acceptable manure application rate and number of crops, the application rate and number of crops in the approved AgNMP shall apply;
 - f. Any manure application must comply with I. Discharge Prohibitions, #9.

3. Stockpiling of mulch, compost or manure shall not exceed 60 days prior to the land application of the stockpiled material¹¹.

I. DISCHARGE PROHIBITIONS

1. The discharge of wastes to land or to surface waters shall not cause a condition of contamination, pollution or nuisance, as defined in Water Code Section 13050.
2. The discharge of wastes from the agricultural operations addressed in this Order (see A. Eligible Dischargers) that are not enrolled in this Conditional Waiver or other Order or Waiver adopted by the Regional Board is prohibited. Only discharges of wastes from eligible agricultural operations are authorized by this Conditional Waiver.
3. The discharge of wastes containing any substance in concentrations toxic to human, animal, plant or aquatic life is prohibited.
4. The discharge of waste from agricultural operations onto lands which are not owned or controlled by the discharger, or onto lands for which the discharger has not obtained authorization to discharge, is prohibited. This prohibition does not apply to the discharge of stormwater runoff, provided that BMPs are implemented to reduce pollutants in the stormwater runoff to the maximum extent practicable.
5. The disposal of manure to land is prohibited. Disposal of manure is defined as final deposition of manure that does not comply with the minimum requirements specified in H. 2.
6. The discharge of visible oil and grease is prohibited.
7. If the National Weather Service predicts a 40% or greater chance of rainfall in the forecast within 72 hours, application of chemical fertilizers (including nitrogen carriers of herbicides for foliar application), manure, and herbicides and other pesticides to agricultural operations is prohibited.
8. Discharge of municipal solid waste, as defined in 14 CCR 18720 (a) (40)¹², onto land zoned for agricultural uses or onto land zoned for other uses that is being used for agricultural operations including dry-farming or land that is fallow, for any purpose, is prohibited.
9. The discharge of waste containing TDS and/or nitrate-nitrogen concentrations in excess of water quality objectives is prohibited, unless a plan, acceptable to the Executive Officer, is implemented to offset the excess TDS and nitrate-nitrogen discharges to these GMZs.

¹¹ This requirement does not apply to the normal operations of commercial nurseries, which may include greenwaste stockpiling longer than 60 days.

¹² 14 CCR 18720 (a)(40) "Municipal solid waste" or "MSW" means all solid wastes generated by residential, commercial, and industrial sources, and all solid waste generated at construction and demolition sites, at food-processing facilities, and at treatment works for water and waste water, which are collected and transported under the authorization of a jurisdiction or are self-hauled. Municipal solid waste does not include agricultural crop residues (SIC Codes 071 through 0724, 0751), animal manures (SIC Code 0751), mining waste and fuel extraction waste (SIC Codes 101 through 1499), forestry wastes (SIC Codes 081 through 0851, 2411 and 2421), and ash from industrial boilers, furnaces and incinerators.

10. The application of manure to lands within the San Jacinto River Watershed that overlies GMZs without assimilative capacity for TDS and/or nitrate-nitrogen is prohibited, unless a plan, acceptable to the Executive Officer, is implemented that offsets the effects of that application on the underlying GMZ. These manure application requirements apply to the San Jacinto Upper Pressure GMZ, unless it is demonstrated that the agricultural operator is at least in part responsible for and contributing to the maximum benefit implementation plan for that GMZ and may therefore be entitled to some allocation of TDS/nitrate-nitrogen assimilative capacity by the Regional Board. Notwithstanding any such demonstration, the Regional Board retains discretion to determine whether any assimilative capacity will be allocated, and, if so, how much.

J. PROVISIONS

1. BMPs implemented to comply with conditions of this waiver shall at all times be operated and maintained in a manner that enables the measure or practice to perform its intended function in an optimal manner.
2. An individually enrolled agricultural operator may request that their operation(s) be classified as Low Risk. Requests for reclassification shall be made to the Regional Board Executive Officer and shall include:
 - a. A copy of the operator's original eNOI to enroll in the Conditional Waiver and WDID;
 - b. Information documenting consistent use, maintenance and performance of water quality management measures or practices that warrant "low-risk" status;
 - c. Exhibits showing site location and topography;
 - d. History of compliance with Regional Board and Agricultural Commissioner regulatory programs;
 - e. Other pertinent information that Board staff requests.

The Executive Officer may grant this request by finding that the agricultural operator has practices and policies in place that prevent wastes from their agricultural operation(s) from being discharged to surface and ground waters of the State in a manner that poses a significant threat to water quality. A "low-risk" discharger is eligible for reduced individual monitoring and reporting. Water Code section 13269(a)(3) authorizes the Regional Board to waive monitoring requirements for discharges operating under a waiver that do not pose a significant threat to water quality. Low-risk dischargers shall comply with all conditions of eligibility, application, authorization, discharge prohibitions, provisions, general conditions, and applicable reduced monitoring and reporting requirements that are reflected in the approved WQMPP.

3. Individual dischargers who voluntarily discontinue participation in a Coalition Group or who are removed from the Coalition Group, and who continue to conduct agricultural operations that are subject to this Conditional Waiver shall submit a complete NOT for the previous enrollment and submit a new eNOI for individual participation in this waiver within 30 days of the discontinuance with the Coalition Group participation. Failure to submit an eNOI may result in the Regional Board pursuing appropriate administrative enforcement action pursuant to Water Code section 13261, which provides for the assessment of administrative civil liability.

4. Termination from coverage will occur on the date the Executive Officer determines the accuracy of the information submitted online, once the discharger(s) completes the necessary information pertaining to a notice of termination, using their online user account. All discharges shall cease before the date of termination, and any discharges on or after that date shall be considered in violation of this Conditional Waiver, unless another waiver or WDRs regulates the discharge.
5. In the event that the Regional Board issues an individual permit with more specific requirements to a discharger, the applicability of this Order to that discharger is automatically terminated, except for enforcement purposes, on the effective date of the individual permit.
6. Failure to submit a report in accordance with schedules established by an approved individual or Coalition Group Compliance Program, or failure to submit a report of sufficient technical quality to be acceptable to the Executive Officer, may subject a Discharger to enforcement action pursuant to Water Code section 13268, which provides for the assessment of administrative civil liability.
7. To the extent required by Water Code section 13267, the discharger shall allow the Regional Board, or an authorized representative upon the presentation of credentials and other documents as may be required by law to:
 - a. Upon reasonable notice, enter upon the discharger's premises where a regulatory facility or activity is located or conducted, or where records must be kept under the conditions of this Order. Consistent with Water Code section 13267(c), advance notice is not required in the event of an emergency affecting public health or safety;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
 - c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order, or as otherwise authorized by the Water Code; and,
 - d. To photograph, sample or monitor at reasonable times, for the purposes of assuring compliance with this Order, or as otherwise authorized by the Water Code, any substance or condition at any location under the discharger's control.
8. This Order does not relieve the discharger from responsibility to obtain other necessary local, State, and Federal permits to construct facilities necessary for compliance with this Order, nor does this Order prevent imposition of additional standards, requirements, or conditions by any other regulatory agency.
9. After notice and opportunity for hearing, coverage of an individual discharger or participant of a Coalition Group under this Order may be terminated or modified for cause by the Executive Officer, for, but not limited to, any of the following:
 - a. Violation of any term or condition of this Order;
 - b. Obtaining this Order by misrepresentation or failure to disclose all relevant facts; or,
 - c. A change in any condition that requires a temporary or permanent reduction or elimination of the authorized discharge.

10. The filing of a request by the discharger for an Order modification, revocation and issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.
11. This Order does not convey any property rights or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, do not protect the discharger from liability under Federal, State, or local laws, nor do they create a vested right for the discharger to continue the waste discharge (Water Code section 13263(g)).
12. Owners (or operators) of agricultural operations who are enrolled in this Order but who fail to implement, operate and maintain appropriate BMPs may no longer be eligible to participate in this Conditional Waiver and may be required to submit an ROWD (Water Code section 13260) and obtain individual WDRs from the Regional Board.
13. This Conditional Waiver shall become effective on January 29, 2016 and expire on January 29, 2021, except for enforcement purposes, unless reopened, rescinded, renewed, or extended by the Regional Board.
14. Regional Board staff shall provide periodic reports to the Regional Board regarding the effectiveness of this Conditional Waiver for regulating agricultural operations.

K. RECEIVING WATER LIMITATIONS

1. The discharge of wastes from the regulated facilities to surface waters shall not cause or contribute to an exceedance of any applicable water quality objectives in the receiving waters.
2. The discharge of wastes to surface waters shall not cause receiving waters to contain floating materials, foam or scum in concentrations or quantities that cause nuisance or adversely affect beneficial uses.
3. The discharge of wastes to surface waters shall not cause bottom deposits in the receiving waters to the extent that such deposits cause nuisance or adversely affect beneficial uses.
4. The discharge of wastes to surface waters shall not cause receiving waters to contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses of receiving waters.
5. The discharge of wastes shall not cause an individual pesticide or combination of pesticides to be present in concentrations that adversely affect beneficial uses of receiving waters.
6. The discharge of wastes shall not cause bioaccumulation of pesticides, fungicides or other toxic pollutants in bottom sediments or in aquatic life to levels that are harmful to human health or aquatic organisms.
7. The discharge of wastes to the ground shall not cause or contribute to an exceedance of any applicable water quality objectives specified in the Basin Plan.

I, Kurt V. Berchtold, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region on January 29, 2016.

Kurt V. Berchtold
Executive Officer

Attachment A. Animal Unit Conversions and Animal Density Thresholds for CWAD Eligibility

This Order applies to irrigated agriculture and livestock operations more than 20 cumulative acres, and livestock operations less than 20 acres with an animal density of more than 3 animal units per acre. The table below shows the number of animals (rounded up to the nearest whole animal) of various livestock types that equal three animal units. The animal unit equivalents are based on the animal number thresholds in the federal permit requirements for concentrated animal feeding operations, which generally represent 1,000 animal units. The second column shows the number of animal units represented by a single animal. The third column shows the number of animals, rounded up to the nearest whole animal, in three animal units. Operations having more than the number of animals in the third column per acre are regulated under this Order.

Animal Type	Animal Unit Equivalent	Number of Animals in 3 Animal Units
Mature dairy cow	1.4	3
Veal calves	1	3
Other cattle	1	3
Swine (55 lb. or more)	0.4	8
Swine (less than 55 lb.)	0.1	30
Horses	2	2
Sheep or lambs	0.1	30
Goats	0.1	30
Turkeys	0.02	165
Laying hens	0.01	246
Broilers	0.03	90
Ducks	0.03	90