

California Regional Water Quality Control Board
Santa Ana Region

July 22, 2016

ITEM: 11

SUBJECT: Supplemental Staff Report: Conditional Waiver of Waste Discharge Requirements for Agricultural Operations in the Watersheds of the San Jacinto River and its Tributaries, Canyon Lake and Lake Elsinore and their Tributaries, Collectively, "The San Jacinto River Watershed", Riverside County, Order No. R8-2016-0003, and Draft Mitigated Negative Declaration

DISCUSSION:

Consideration of this proposed Conditional Waiver ("CWAD") and the draft Mitigated Negative Declaration was scheduled for the Regional Board's April 22, 2016 meeting but was postponed to allow the submittal and consideration of additional comments from interested and affected parties. The comments received to-date and Board staff's responses are attached to this report.

Board staff reviewed comments received from the Western Riverside County Agriculture Coalition (WRCAC) (item A in the attached Response to Comments document) and the Riverside County Farm Bureau (Farm Bureau)(item B) prior to the April 22, 2016 meeting. Comments were received from the Inland Empire Disposal Association on May 10, 2016 (item C). Based on that review and discussion of the comments and staff responses with WRCAC, Farm Bureau and Inland Empire Disposal Association representatives, Board staff has made changes to the draft CWAD, as reflected in the draft attached hereto.

Overarching Concern

The concern has been expressed by WRCAC and other interested parties that the proposed requirements of the CWAD are complicated and costly to implement, and that it would be infeasible for individual agricultural operators, in particular, to comply. It has been asserted that the adoption and implementation of the CWAD would result in the loss of agriculture in the San Jacinto watershed.

Board staff acknowledges that the CWAD would impose regulatory obligations on agricultural operators (other than dairies) in the Santa Ana Region for the first time. Agricultural operators would be required to engage in new monitoring, reporting, and BMP planning and implementation activities not hitherto required. Effective implementation of these tasks will likely require significant education and technical assistance over time. Available technical resources to provide such assistance (e.g., University of California Extension Farm Advisors and other agricultural management experts) are limited.

Recognizing these circumstances, the draft Order employs a flexible, adaptive management approach that, in Board staff's judgment, will fulfill the Board's obligations to implement the Basin Plan and protect water quality standards while allowing agricultural operators to propose actions to address water quality issues and to modify those actions over time, if and as needed.

The adaptive management approach entails requirements for the submittal by the enrolled dischargers, *individually or as members of a Coalition Group*, of proposed plans and schedules, including those for discharge and receiving water monitoring, BMP implementation and evaluation and nutrient management. These proposed plans are to be implemented upon Regional Board approval. It is expected that as implementation proceeds, these plans/schedules will be reviewed and likely revised based on efficacy evaluations, monitoring results and other information.

The draft Order provides incentives for the formation of and discharger participation in one or more Coalition Groups by providing for representative, rather than individual, monitoring, collective evaluation of BMPs in common use, and the like. In short, participation in a Coalition Group is expected to provide significant economic and resource efficiency. While the draft Order provides for Coalition Group opportunities, the Order does not and cannot dictate participation in such a Group by an individual discharger.

The draft Order also recognizes that no Coalition Group has as yet been formed in the San Jacinto watershed to assist dischargers to comply with the CWAD requirements. To allow time for the formation of one or more Groups, the draft Order requires that dischargers file a Notice of Intent (NOI) to enroll in the CWAD no later than six months from the date of adoption of the CWAD. The NOI would take note of the discharger's participation in any Group that may be formed to assist dischargers to address CWAD requirements.

Board staff acknowledges that in addition to changes over time to the approved plans and schedules that would be implemented by the dischargers in response to the CWAD, the CWAD itself is almost certainly going to need to be revised. Board staff does not assert that the proposed Order is "perfect". However, staff believes that it is a reasonable and appropriate first step to regulate agricultural operations in the San Jacinto River watershed so as protect water quality standards and implement the Basin Plan.

Specific Comments

The most significant, specific change to the draft Order distributed previously for the anticipated April 22, 2016 hearing is the removal of reference to the draft State Water Board Order concerning waste discharge requirements issued by the Central Valley Regional Board for irrigated agricultural operations in the East San Joaquin River Watershed. Reference to this draft State Board Order was contained in Finding 91 of

the draft CWAD submitted for Board and public review for the April 22, 2016 meeting. The Supplemental Staff Report prepared for the April 22, 2016 meeting provides a succinct overview of that draft Order. The inclusion of this reference was intended to provide information of potential use and interest to the State Board regarding the requirements of the CWAD should the CWAD be adopted by the Regional Board but subsequently petitioned to the State Board.

However, WRCAC and the Farm Bureau objected to the inclusion of reference to the East San Joaquin order since it is in draft form only. These organizations pointed out that the reference would like result in further objections from other parties. Because the recommended Finding does not substantively affect the proposed requirements in the draft CWAD, there is no pressing need to burden the draft CWAD with a potential source of objection. Therefore, staff has removed this reference from the draft Order. Board staff will respond if and as needed to State Board inquiries concerning the requirements in the Order.

In their comments (item B), the Riverside County Farm Bureau cited concerns about requirements in the draft CWAD to submit farm-specific information, such as information concerning pesticide application, irrigation practices, etc., to the Regional Board. The Farm Bureau asserts that such information constitutes intellectual property, trade secrets and proprietary information that must remain confidential. Board staff notes that this issue has arisen in the context of other agricultural regulatory programs by Regional Boards in the state.

The Farm Bureau recommends that the information remain on the farm available for Regional Board inspection and states that Regional Boards throughout the state have adopted this approach. The Farm Bureau points to the approach employed in the Central Valley whereby farm-specific information/evaluations are submitted to established coalitions, which then prepare a summary, compatible with ArcGIS, that is submitted to the Regional Board. The Farm Bureau indicates that this approach has proven effective in providing the Central Valley Board with adequate information to protect water quality while protecting intellectual property, trade secrets, and proprietary information.

Board staff agrees with the merits of this approach. However, unlike the Central Valley, where discharger Coalitions are well established, the Santa Ana Region does not yet have any such coalitions. Should one or more coalitions be formed, the proposed Order requires that the coalition submit a proposed Compliance Program to meet the requirements of this order. That Compliance Program can identify a suitable methodology, such as that described above, to maintain farm-specific information in order to address the confidentiality issue. Provided that it is acceptable to the Regional Board, the proposed methodology would be implemented upon approval of the Compliance Program. Individual dischargers who elect not to participate in a Coalition would need to submit the information and provide suitable documentation and legal justification for the Board to maintain farm-specific information in a confidential manner.

Paul Ryan of the Inland Empire Disposal Association (item C) recommended modifications to specific language in the draft Order pertaining to physical contaminants

and trash to include references to the requirements of Title 14 and the Trash Policy adopted by the State Water Resource Control Board. Board staff has incorporated appropriate changes based on these recommendations.

Included in this item are:

1. Attachment A: Comments/Response to Comments document
2. Attachment B: Comments Received
3. Staff Report: Conditional Waiver of Waste Discharge Requirements for Discharges from Agricultural Operations in the San Jacinto River Watershed, Riverside County, Tentative Order No. R8-2016-0003 – January 2016
4. Supplemental Staff Report - April 22, 2016
5. Tentative Order No. R8-2016-0003
6. Draft Mitigated Negative Declaration for the Conditional Waiver of Waste Discharge Requirements for Discharges from Agricultural Operations in the San Jacinto River Watershed – May 5, 2015

RECOMMENDATION

Board staff recommends:

1. Adoption of Order No. R8-2016-0003, as presented.
2. Approval of the Mitigated Negative Declaration prepared for the adoption and implementation of Order No. R8-2016-0003.
3. That the Board direct 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).

COMMENTS/RESPONSE TO COMMENTS

**Draft Conditional Waiver of Waste Discharge Requirements
("CWAD", or "Order") for Agricultural Operations in the
Watersheds of the San Jacinto River and its Tributaries, Canyon
Lake and Lake Elsinore and their Tributaries, Collectively, "The
San Jacinto River Watershed", Riverside County, Order No. R8-
2016-0003 and Draft Mitigated Negative Declaration**

Responses to Comments re Tentative Order No. R8-2016-0003/Draft Mitigated Negative Declaration – June 9, 2016

As of the date this document was distributed (June 8, 2016), written comments had been received from:

- A. Western Riverside County Agriculture Coalition (WRCAC)**
- B. Riverside County Farm Bureau**
- C. Inland Empire Disposal Association**
- D. California Farm Bureau Association**

The comments are attached to this document. The comments are summarized below, followed by Board staff's responses.

A. Western Riverside County Agricultural Coalition (WRCAC)

(Note: WRCAC provided comments on the April 22, 2016 draft Order; the comments were inserted on the draft Order itself. (The page references below are based on the WRCAC annotated draft Order.) No comments on the draft Mitigated Negative Declaration (MND) were submitted. Board staff and WRCAC had an extensive discussion about the comments on the draft Order; revisions to the draft Order were made based on that discussion and consideration of the written comments.)

1. **WRCAC GENERAL COMMENT m1 and K2, Page 1:** Reference to the East San Joaquin draft Order by the State Water Resources Control Board should be deleted. The CWAD should address the recommendations in comment K2, specifically, that the draft CWAD should include information concerning the value of the agriculture industry in the San Jacinto watershed, the dedication of the industry to the protection of natural resources, the complexity of agricultural water quality impacts and a commitment to preserve the economic viability of agriculture.

WRCAC questions agricultural operators' ability to comply with the requirements of the draft CWAD without a completed, revised TMDL [*the presumed reference is to the Lake Elsinore and Canyon Lake Nutrient TMDLs, which WRCAC has helped and continues to help implement*] or an approved compliance metric. The Board has not provided a means to evaluate what reasonable actions could be made to bring agricultural operations into compliance.

WRCAC also questions the ability of individual agricultural operators to comply with the CWAD requirements, given their complexity.

The existing San Joaquin groundwater nitrate concentrations are at higher levels and therefore pose a more imminent threat than the San Jacinto conditions.

Response:

While Board staff believes that WRCAC mistakes the nature and purpose of the proposed CWAD finding re the East San Joaquin Order (Finding No. 91), we believe that the finding is not necessary and would needlessly burden the CWAD with a contentious issue. Therefore, the proposed Finding No. 91 has been removed from the revised draft Order.

Regarding the request to include information in the CWAD regarding the value of agriculture and the commitment of the agricultural community to the protection of natural resources, Board staff believes that such information is not necessary to support the CWAD. An informational item will be presented by WRCAC and WRCAC technical consultants at the June 10, 2016 Regional Board meeting to present this type of information to the Board and the public.

As described further below, the CWAD was drafted with both the novelty (to most of the agricultural community) and complexity of its requirements in mind. While the economic importance of agriculture in the San Jacinto watershed is acknowledged, the CWAD must specify the requirements necessary to implement the Basin Plan. Economic considerations are taken into account in the CWAD to the extent feasible and appropriate by means of the flexible, adaptive management approach it employs.

The draft CWAD identifies the requirements that must be met to implement the Basin Plan, but does not, and cannot, prescribe the method or manner of compliance. Rather, as discussed at length with WRCAC representatives, including the authors of the WRCAC comments, the draft CWAD employs a flexible, adaptive management approach whereby the enrolled dischargers, *individually or as a member of a Coalition Group*, are to propose plans and schedules to achieve compliance. Those proposed plans and schedules, which may need to be modified based on discussion with Regional Board staff, would be implemented upon Regional Board approval.

In drafting the CWAD, Board staff recognized that the CWAD would impose regulatory requirements on agricultural operations (other than dairies) in the Santa Ana Region for the first time. Accordingly, the draft CWAD takes a flexible, adaptive management approach. It is expected that as implementation of approved plans and schedules proceeds, these plans/schedules will be reviewed and likely revised based on efficacy evaluations, monitoring results and other information. Board staff believes that this is a practicable and reasonable approach to improve water quality and achieve compliance with the Basin Plan and the CWAD.

The draft CWAD recognizes that the Lake Elsinore and Canyon Lake Nutrient TMDLs, which include load allocations and other requirements applicable to agricultural operators in the San Jacinto watershed, need to be reconsidered based on the data and information that has accrued since the TMDLs were adopted by the Regional Board in 2004. The draft CWAD provides for the submittal of agricultural nutrient management plans within a time certain of the submittal of draft TMDL revisions recommendations, but no later than April, 2017.

As noted above, the draft CWAD enables agricultural dischargers to comply with the CWAD either individually or as a member of a Coalition Group. The cost and other resource efficiencies of collective action through a Coalition Group are well recognized. However, no Coalition Group has as yet been formed in the San Jacinto watershed. While the draft CWAD provides clear incentive for the formation of one or more coalition groups, the Board cannot dictate that any individual discharger must participate in such a group, if and when formed. Therefore, it is necessary to include requirements for individual dischargers, as well as requirements that pertain to Coalition Groups. Again, Board staff recognizes the complexity of the new requirements that would be imposed by the CWAD; the CWAD has been drafted to provide a flexible, adaptive management approach that is reasonable and effective.

Board staff acknowledges the significant issue of high groundwater nitrate concentrations in the San Joaquin Valley. However, this is not a basis for establishing appropriate requirements in the

CWAD to address the groundwater impacts of agricultural discharges in the San Jacinto watershed. According to the Basin Plan, only one Ground water Management Zone (GMZ), the San Jacinto Upper Pressure Zone, has assimilative capacity for TDS and nitrates. (This assimilative capacity is provided as the result of the implementation of "maximum benefit" objectives and a maximum benefit nitrogen and TDS program by certain parties; the assimilative capacity is to be allocated, if at all, only to those responsible parties.) This means that the TDS and nitrogen objectives for all other GMZs in the watershed are being exceeded. The draft CWAD includes requirements to address these circumstances, in accordance with the Basin Plan.

- 2. WRCAC Comments a3, m4, FJ5 and K6, re Finding No. 14, Page 5:** These four comments provide recommendations regarding the definition of a Coalition Group. The intent of the comments is to assure that it is clear that liability for compliance with the CWAD rests with individual dischargers and not the Coalition Group or Coalition Group administrator, should the individual discharger become a member of such a group.

Response: Based on consideration of the comments and discussion with WRCAC, the language in this Finding has been revised accordingly in the revised draft CWAD.

- 3. WRCAC Comment m7, re Finding No. 78, Page 17:** Notes that the date for discharger enrollment needs to be modified to reflect the delay in consideration of adoption of the CWAD

Response: This and other dates specified in the Order that are contingent on the date of adoption of the CWAD have been modified in light of the delays in consideration of the Order.

- 4. WRCAC Comment FJ8, re Finding No. 78, Page 17:** Refers to a prior comment (#2, above) concerning the definition of a Coalition Group.

Response: See response to comment #2, above.

- 5. WRCAC Comment m9, re Finding No. 87, Page 18:** WRCAC believes that Finding No. 87, regarding the consideration of costs to comply with the CWAD, should be expanded to include potential funding sources available to offset costs and to identify the economic impacts of the CWAD.

Response: In adopting waste discharge requirements or a conditional waiver thereof, the Regional Board is not required to conduct an economic analysis. Based on discussion of this matter with WRCAC, this Finding has been deleted from the revised draft CWAD.

- 6. WRCAC Comments K10, m11, a12, K13, FJ14, a15, m16, FJ17, FJ18, a19, a20, and m21, re Finding No. 91, Pages 19 - 21:** These comments relate to the proposed inclusion of Finding No. 91, regarding the State Board's draft East San Joaquin order on waste discharge requirements adopted by the Central Valley Regional Board. The conclusory

recommendations is that the Finding should be deleted, given that it speaks to a draft Order. See also Comment #1.

Response: See response to comment #1. The draft Finding has been removed.

7. **WRCAC Comment FJ14, re antidegradation groundwater quality objectives (included as part of comment on Finding No. 91), p. 20:** "The antidegradation objectives in the Santa Ana Basin Plan are based on historic long-term averages. So by definition, half of the observations were above the established objective. Furthermore, the averages consider all sectors contributing to groundwater TDS and nitrate levels (some at higher levels and some at lower levels), but the objectives expect all sectors to discharge at what presumably half of them never met in the first place. In other words, agricultural land is held to the same standard as forested land. This might be a fair approach if the objective were not based on an average of the long-term observations across each GMZ. But the current approach simply sets up the land uses that discharge at higher levels to fail".

Response: The CWAD does not establish groundwater quality objectives but, rather, must implement them. With one exception, all groundwater management zones (GMZs) in the San Jacinto watershed lack assimilative capacity for nitrogen and Total Dissolved Solids, i.e., the nitrogen and TDS quality in these GMZs are being exceeded. This means that ALL discharges to these GMZs must be held to the GMZ objectives, unless acceptable offset plans approved by the Regional Board are implemented. The draft CWAD properly implements the Basin Plan objectives.

8. **WRCAC Comment a22, re B. ENROLLMENT, AUTHORIZATION TO DISCHARGE, AND TERMINATION OF ENROLLMENT , #2, Page 22:** Requests information about how Regional Board staff will rectify agricultural operators who move to different parcels every year, and how the NOI Form will address these moves.

Response: A discharger will be required to file an NOI for every parcel they farm. If this changes on an annual basis, then a new NOI will need to be submitted for a new parcel, and a NOT submitted to terminate the coverage on previous parcels.

9. **WRCAC Comment a23, re B. ENROLLMENT, AUTHORIZATION TO DISCHARGE, AND TERMINATION OF ENROLLMENT, # 2.d., Page 22:** Recommends the inclusion of a box in the NOI for indicating enrollment in a coalition group.

Response: Noted and agreed.

10. **WRCAC Comments FJ24 and a25, re B. ENROLLMENT, AUTHORIZATION TO DISCHARGE, AND TERMINATION OF ENROLLMENT, #2.e., Page 22:** Comments note that NOI requirement 2.e on Page 22 is not necessary, because the Board would already have this information when the Coalition Administrator is approved.

Response: Comment noted. No changes recommended. Including the submittal of this information on the NOI confirms that the enrollee is aware of the Administrator and the Administrator's contact information.

11. WRCAC Comment a26, re B. ENROLLMENT, AUTHORIZATION TO DISCHARGE, AND TERMINATION OF ENROLLMENT, #2.f., Page 22: Recommends that recycled water (as a source of water) be added to the list in NOI Item 2.f.

Response: Information regarding source(s) of water has been added to Item 2, j. This provides for the submittal of information regarding recycled water use.

12. WRCAC Comment a27, re B. ENROLLMENT, AUTHORIZATION TO DISCHARGE, AND TERMINATION OF ENROLLMENT, #2.o., Page 23: This comment is unclear. Appears to state that this item should specify whether or not backflow prevention devices and presence of abandoned wells should be reported.

Response: Abandoned wells and the use of backflow prevention devices need to be reported, as specified in this item. The intent is to assure that appropriate measures are in place to prevent reclaimed water and agricultural waste discharges from migrating via an abandoned well or inadequate backflow prevention. No change in the language is necessary.

13. WRCAC Comment a28, re C. RESPONSIBILITIES OF ENROLLED DISCHARGERS, #4, Page 24: Suggests an editorial change to include the phrase "management of". we add "management of" to the second to the last sentence, before "irrigation practices"

Response: The subject sentence now reads: "BMP implementation, evaluation and modification shall address irrigation practices, if any, *and their management*" (italics added). Since the management of irrigation practices is already addressed by this language, no revision to the language is necessary or proposed. .

14. WRCAC Comment a29, re C. RESPONSIBILITIES OF ENROLLED DISCHARGERS, #4, Page 25: Recommends that the language in the last sentence of this Provision be modified to add "be in compliance with the Basin Plan objectives established for the parcel location for the enrolled owner/operator", and to delete the remainder of the sentence because "as the permit matures the implementation of monitoring data such as described here will be worked out."

Response: Board staff does not believe that the language changes proposed are meaningful or appropriate. The intent of this language is to identify information necessary to evaluate the efficacy of nutrient-related BMPs, not to require that BMPs comply with water quality objectives. BMPs are intended to control pollutants in waste discharges so as to assure that the discharges do not cause or contribute to violations of water quality objectives, not to meet water quality

objectives themselves. Water quality objectives are not established for a specific parcel location or for a specific enrolled operator, as the recommended language appears to suggest. Board staff recognizes that as the CWAD is implemented, both BMPs and evaluation monitoring will likely be modified. The current language allows this possibility. However, it is appropriate to cite now the expectations for evaluation of nutrient BMP efficacy evaluations.

15. WRCAC Comment m30 and K31, re C. RESPONSIBILITIES OF ENROLLED DISCHARGERS, #4, Page 25: These comments reiterate prior comments (see comment #1)

Response: Please see response to comment #1.

16. WRCAC Comment a32, re C. RESPONSIBILITIES OF ENROLLED DISCHARGERS, #10, Page 26: Recommends that the following sentence below be deleted because it is redundant: "The AgNMP may include a WQTP (C.3 above) and where necessary, must include a proposed TDS and nitrogen offset program(s)".

Response: Comment noted. The provision referenced has been corrected to C. 5., rather than c.3. Board staff respectfully disagrees that there is redundancy. Provision C.5. allows dischargers to participate in a Water Quality Trading Program (WQTP); Provision C. 10 provides, in pertinent part, that a WQTP may be included in a proposed Agricultural Nutrient Management Plan (AgNMP). No changes are necessary or proposed.

17. WRCAC Comment m33, re E.DISCHARGE CHARACTERIZATION AND WATER QUALITY MONITORING PROGRAM, #2, Page 28: Comment asks where the money to do the WQMPP is coming from. States it will take a year to set up funding source through any coalition to do anything.

Response: Comment noted. It is not the Board's responsibility to identify sources of funding to meet the requirements of the CWAD. That said, Board staff proposes to extend the date for enrollment in the CWAD to no later than six months from the date of adoption of the CWAD. The intent is to provide time for the formation of a coalition before requisite submittals are due.

18. WRCAC Comment m34 and FJ35, re G. GENERAL CONDITIONS AND OTHER REPORTING, #4.b., Page 33: Comment states that: "WRCAC would still need to provide list of WRCAC TMDL stakeholders in compliance for each cycle - but this is not annual it is per cycle. Comment fj35 questions to whom this requirement applies.

Response: Comments noted: Based on discussion with WRCAC, this text has been modified to read as follows: "b. The list of dischargers who have paid their apportioned TMDL implementation fees shall be submitted by WRCAC within 30 days after the payment deadline".

19. WRCAC Comment FJ36, re I. DISCHARGE PROHIBITIONS, #9, Page 35: This comment refers to prior comments regarding antidegradation groundwater quality objectives. See #7, above.

Response: See response to #7, above.

20. WRCAC Comment a37, re K. RECEIVING WATER LIMITATIONS, #1, Page 38: Requests that the last phrase "to unreasonable adverse impacts on surface waters beneficial uses, or to conditions of pollution or nuisance" be deleted.

Response: Comment noted. No rationale for this recommendation was provided. This limitation, as written is appropriate to assure that the Basin Plan and applicable provisions of the California Water Code are met. No changes recommended. .

21. WRCAC Comment a38, Page 38: Need to change the adoption date for the CWAD.

Response: Comment noted. The date will be changed appropriately.

B. COMMENTS FROM THE RIVERSIDE COUNTY FARM BUREAU (RCFB)

(Note: RCFB provided (undated) comments on the April 22, 2016 draft CWAD. Board staff discussed these comments with RCFB staff and requested additional information concerning the legal basis for the assertion that the information that would be required to be submitted by the CWAD is and should be maintained as confidential/proprietary (see **General Comments, below**).

In an e-mail message to Joanne Schneider on June 6, 2016, Kari Fisher, Associate Counsel for the California Farm Bureau Federation, provided additional comments and recommendations. Specifically, Ms. Fisher questioned whether certain components of the eNOI submittal could be made confidential for members of a Coalition Group. Ms. Fisher provided the specific example of the Central Valley RWQCB's irrigated regulatory program.)

Specific Comments:

1. RCFB COMMENT, re "Provision" 54, Page 10: "What will be considered appropriate characterization of waste discharges as well as appropriate efficacy?"

Response: First, here and in subsequent comments below (2, 3, 4 and 5), RCBF refers to provisions of the WDR. In fact, these are Findings in the draft Conditional Waiver of Waste Discharge Requirements (CWAD). Board staff has added quotations to the term "Provision" in describing these comments to note this distinction.

The draft CWAD requires the submittal of specific information as part of the Notice of Intent (NOI) that must be completed by eligible dischargers to enroll in the CWAD. See B.

ENROLLMENT, AUTHORIZATION TO DISCHARGE, AND TERMINATION OF ENROLLMENT, #3. The list shown here is designed, in part, to elicit information about the nature and quality of waste discharges. Further, E. DISCHARGE CHARACTERIZATION AND WATER QUALITY MONITORING PROGRAM PLAN AND REPORTING, #1 includes a list of information to be submitted as part of the site-specific characterization of agricultural discharges.

The draft CWAD requires that dischargers submit a proposed water quality monitoring program plan (WQMPP) that is designed, in part, to assess the effects of discharges on receiving waters and the efficacy of BMPs. (See E. DISCHARGE CHARACTERIZATION AND WATER QUALITY MONITORING PROGRAM PLAN AND REPORTING, #3). Board staff will review the proposed WQMPP to determine its adequacy and to identify the need for modification. Once approved by the Regional Board, the WQMPP is to be implemented.

- 2. RCFB COMMENT, re "Provisions" 61 and 62, Page 12:** "With regard to AgNMPs, is there a template AgNMP or are there specific parameters the Regional Board will require within these plans?"

Response: The Board does not have a template AgNMP. WRCAC has prepared a draft AgNMP that addresses compliance with the Lake Elsinore and Canyon Lake Nutrient TMDLs. Implementation of TMDL-related tasks is a requirement of the draft CWAD. Scott Brothers Dairies has also prepared an AgNMP that staff believes is a good example that addresses some of the requirements of the CWAD. Each farm parcel, or group of similar operations, may have similar discharges and BMPs, so a group effort could be used to meet this AgNMP requirement, provided that the dischargers are members of an established Coalition Group.

- 3. RCFB COMMENT, Page 12, "Provision" 61:** "Is there a template BMP reporting program or are there specific parameters the Regional Board will require within these plans? Or is the BMP reporting program report just a subset of the AGNMP?"

Response: The Board does not have a template BMP reporting program. However, other dischargers are also required to report on their BMPs, including Confined Animal Feeding Operations (CAFOs, mostly dairies) and their reports may serve as a template. The reporting program for BMPs can be a subset of the AgNMP.

- 4. RCFB COMMENT, Page Nos. 14-15, "Provision" 70:** "Provision 61 requires AgNMPs to be developed by individuals or a Coalition Group. However, "Provision" 70 concludes that if "Agricultural operators...who are not members of WRCAC will be required to develop and implement an individual AgNMP." These two "provisions" seem to be in conflict regarding a Coalition Group's ability to develop and AgNMP for its members within the San Jacinto Watershed.

Response: The last sentence in Finding 70 has been modified to state that "Agricultural operators enrolled in this Order who are not members of WRCAC *or a Coalition Group*" (italics added) will be required to develop and implement...an individual AgNMP." This is intended to resolve any conflict.

5. **RCFB COMMENT, Page No. 19, "Provision" 91:** "This "Provision" was added in response to the State Water Board's release of the draft East San Joaquin WDR Order which is precedential on all Regional Boards. However, the Draft ESJ Order is... a draft order. ... Thus, it is premature to rely upon any component within the Draft Order as nothing is precedential until it has been adopted by the State Water Board.... Revisions to provisions C.4 (Pages 24-25) and C.10 (page 26) were likely added in response to the ESJ Order".

Response: Finding 91 has been deleted in the revised draft Order. See also response to A.1., above. Revisions to the draft Order, C. RESPONSIBILITIES OF ENROLLED DISCHARGERS, # 4 and 10, were made based on Board staff's recognition that it would be appropriate to require explicitly the submittal of information concerning nutrient-related BMPs and their efficacy, and the implementation and management of BMP practices.

6. **RCFB COMMENT, Page 37, Provision 57 (sic) [correct reference to is Provision J.7]:** "Under the Inspection and Entry provision, it states that Water Code section 13267© mandates that a Discharger must allow the Regional Board to conduct certain activities. Water Code section 13267(c) does not mandate a landowner to allow entry. Rather, if a landowner does not give consent, the Regional Board must obtain a warrant. ... In light of the actual requirements in the statute, Provision 7 should be revised to correctly reflect the law." RCFB provides example language.

Response: While Board staff believes that the RCFB mis-reads the language in the Provision, which begins with the caveat, "To the extent required by Water Code section 13267", Board staff has modified the proposed language in the revised draft Order to address this concern.

General Comments:

7. **Public Notice and Comment:** The first General Comment states that there was not sufficient public notice for this latest draft of the CWAD and that the Lyris list procedure typically employed was not utilized in this case.

Response: Consideration of adoption of the CWAD (and draft Mitigated Negative Declaration) was postponed from the April 22, 2016 Regional Board meeting to ensure adequate public notification using the Lyris lists pertinent both to the CWAD and Board meetings, an extensive list of potentially affected dischargers, and publication of the public hearing notice for the July 22, 2016 hearing in a paper of wide circulation in the project area.

8. **Reliance on other Region's Irrigated Lands Programs:** "Documents on the Regional Board's website have been pulled directly from the Central Coast Regional Board's Ag Order, such as the NOI form. This Ag Order is currently in active litigation.... Given that the CWAD includes adopted TMDLs, it may be beneficial for the Regional Board to look at a similar Ag Waiver program that includes TMLDs (sic), such as the Colorado River Regional Board's Conditional Waiver..."

Response: In drafting the proposed CWAD, Regional Board staff reviewed and considered the agricultural regulatory programs, established by conditional waivers of waste discharge requirements or waste discharge requirements. This includes consideration of the NOI form employed by the Central Coast Regional Board. The eNOI form proposed for use to enroll dischargers in the proposed CWAD was tailored to Santa Ana Regional Board needs.

9. Manner of Compliance: "A provision should be added to clearly acknowledge that the Regional Board cannot prescribe the specific management practices or dictate the manner of compliance (Water Code section 13360)." RCFB provides examples of such language used in other agricultural lands orders.

Response: The draft CWAD sets out the requirements to be met by enrolled dischargers but does not specify the method or manner of compliance with those requirements. Board staff are fully aware of the Water Code proscription, and this is reflected in the adaptive management approach utilized in the draft Order (see also Response to Comment A.1.) Pursuant to this approach, the dischargers are required to propose plans and schedules whereby the requirements of the CWAD will be met. The proposed plans and schedules are to be implemented upon approval and refined over time based on the water quality results of implementation. Since recognition of the Water Code proscription of dictating method and manner of compliance is inherent in the structure of the draft Order, Board staff does not believe that an explicit reference to this Water Code provision is necessary or appropriate.

10. The Conditional Waiver's Use of Coalitions is Appropriate and Beneficial. "The inclusion of a third-party group structure with coalitions as the intermediary is a vital component for increasing participation and efficiency in reach water quality objectives".

Response: Comment noted.

11. Submittal of Individual Information for Members Participating in a Coalition Group: "The WDR requires that various reports be submitted for approval or annually to the Regional Board. CFBF [California Farm Bureau Federation] highly recommends that these plans be kept on farm, available for inspection or submitted to the Coalition Group who can aggregate the information and then send it to the Regional Board." Relevant sections of comment drafted by CFBF to the Colorado and North Coast Regional Boards are cited. These comments assert, in part, that farm specific information, including pesticide application, irrigation practices, crop rotations, etc. are intellectual property, trade secrets, and proprietary information that must remain confidential. Water Code Section 13267(b)(2) is cited.

Response: As noted at the outset of these responses to the RCFB comments, Board staff discussed this matter with RCFB and CFBF representatives and we requested that additional information regarding the legal basis for maintaining farm specific information confidential be provided.

In response to this request, Kari Fisher (CFBF legal counsel) provided an example of language employed to address this matter in Central Valley Regional Board WDRs (see e-mail message from Ms. Fisher to Joanne Schneider dated June 6, 2016). (No additional information was provided regarding the legal basis for the confidentiality assertion.) Ms. Fisher questioned whether the CWAD could be revised to include confidentiality protections for members of a coalition group or to specify the difference in reporting requirements for individuals versus members who join a third party group. Joanne Schneider provided a preliminary e-mail reply on June 6, 2016 to Ms. Fisher's message; this reply is attached to this response to comments document.

In short, Ms. Schneider's reply was that unlike the Central Valley, no Coalition Groups have as yet been formed in the San Jacinto watershed. However, Board staff is conceptually in agreement with the Coalition Group approach of collecting and summarizing data for presentation to the Regional Board, provided that individual discharger data can be provided directly to the Board if and as the need arises.

Accordingly, the draft CWAD has been modified to provide that individual dischargers must complete the information required in the eNOI, unless: a) they are a member of an established Coalition Group that has prepared an acceptable Compliance Program; b) that Compliance Program requires the submittal to the Group of the pertinent information required by the eNOI; and, c) the Coalition Group aggregates the pertinent data, summarizes the data and submits the data to the Regional Board in accordance with the method and schedule specified in the approved Compliance Program. Individual dischargers who fail to submit these data in a timely manner would be required to provide the data upon Executive Officer notification of the need to do so. Please see **B. ENROLLMENT, AUTHORIZATION TO DISCHARGE, AND TERMINATION OF ENROLLMENT, 2.**

C. INLAND EMPIRE DISPOSAL ASSOCIATION

- 1. Re Finding 10; Discharge Prohibition 1:** Modify the definition of "Agricultural dischargers" to include reference to physical contaminants and trash (including plastics, glasses and metals, etc.)

Response: Trash and municipal solid waste are prohibited from discharge under Discharge Prohibition 8 in the Conditional Waiver. Therefore, no change to the draft Order to incorporate this recommendation is necessary.

- 2. Re Findings 15 and 26:** The definitions of "Compost" and "Mulch" should be expanded to include the physical contaminant limits and treatment standards specified in California Code of Regulations, Title 14, sections 17868.3.1 and 17852(a)(24.5)(A).

Response: The definitions of "Compost" and "Mulch" have been revised accordingly in the revised draft Order.

3. Re Finding 30 and Discharge Prohibition 8: The term "Trash" should be excluded in the definition of "Waste" allowed for discharge, consistent with the State Water Board's Trash Amendments (Resolution No. 2015-0019).

Response: Trash has been included as a prohibited waste under the definition of "Waste" and under Discharge Prohibition 8 of the Conditional Waiver.

4. Re DEFINITIONS: The definition of "Trash", as defined in the Trash Policy, should be included.

Response: The definition of "Trash", as defined in the Trash Amendments, has been included in the Definitions.

From: [Schneider, Joanne@Waterboards](mailto:Schneider,Joanne@Waterboards)
To: [Kari Fisher; Riverside County Farm Bureau](mailto:Kari.Fisher@RiversideCountyFarmBureau)
Cc: [Cross, Wanda@Waterboards](mailto:Cross,Wanda@Waterboards); [Theisen, Ken@Waterboards](mailto:Theisen,Ken@Waterboards); [Rice, David@Waterboards](mailto:Rice,David@Waterboards); [Berchtold, Kurt@Waterboards](mailto:Berchtold,Kurt@Waterboards)
Subject: RE: WORKING DRAFT CWAD
Date: Monday, June 06, 2016 3:22:15 PM

Good afternoon, Kari. While we had hoped for a succinct explanation of the legal basis for maintaining farm-specific information confidential, we thank you for your review and recommendations re the CWAD. Here is a preliminary response.

Generally speaking, I believe that we agree in concept with the aggregation of data of the type required by the eNOI by a third party representing a "coalition group" (the term employed in the draft CWAD), provided that the data remain "obtainable" by the Regional Board, should the need arise. However, as you know, the circumstances in Region 8 differ significantly from those in Region 5, where coalition groups have been formed and are operating. The CWAD allows and provides incentives for the formation of one or more such groups in the San Jacinto watershed, but if group formation does not occur, then the CWAD must be tailored accordingly to set requirements that would apply to all enrollees. With this said, the CWAD provides for the submittal of a Compliance Program by a coalition group, if formed. That Compliance Program could propose an approach whereby aggregation of data would occur in lieu of individual submittals. To proceed with this approach, we will need to review the e-NOI text of the CWAD again to assure that the CWAD, as written, does not preclude this possibility.

fyi - we expect to post/distribute the revised draft CWAD and draft Mitigated Negative Declaration in the very near future, hopefully by the end of this week. Of course, this allows for additional review and comment before the Regional Board is asked to consider adoption of the CWAD/approval of the MND.

Thank you again for your thoughts.

Joanne

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From: Kari Fisher [kfisher@CFBF.com]
Sent: Monday, June 06, 2016 11:58 AM
To: [Schneider, Joanne@Waterboards](mailto:Schneider,Joanne@Waterboards); [Riverside County Farm Bureau](mailto:RiversideCountyFarmBureau)
Cc: [Cross, Wanda@Waterboards](mailto:Cross,Wanda@Waterboards); [Theisen, Ken@Waterboards](mailto:Theisen,Ken@Waterboards)
Subject: RE: WORKING DRAFT CWAD

Good morning Joanne,

Thank you for providing us with the opportunity to review the latest draft of the CAWD. With regard to the components to the eNOI, we briefly talked about the possibility to making certain components confidential if a coalition exists. Can the CAWD be revised to include references to such protections or specify the difference in reporting requirements for individuals versus members who join a third party group?

For example, the Central Valley Regional Water Board's irrigated lands regulatory program WDRs for

coalition groups provide the following requirements which provide the Regional Board with ample information:

Under the coalition WDRs, the coalition submits the following membership list to the Regional Board:

The third-party shall submit a list of its Members to the Central Valley Water Board within 180-days of receiving an NOA from the board and then annually by 31 July of each year (beginning the year following initial submission of the list). The membership list shall identify Members. The list shall also identify growers that have had their membership revoked and Members that are pending revocation. The membership list shall contain, at a minimum, the following information for each member: all parcel numbers covered under the membership, the county of each parcel, the section, township, and range associated with each parcel, the number of irrigated acres for each parcel, the Member's name, mailing address, the contact name and phone number of the individuals authorized to provide access to the enrolled parcels, the name of the farm operator for each parcel, if different from the Member, and identification of each parcel that is part of a Small Farming Operation, if applicable. In lieu of providing Members' phone numbers as part of the membership list, the third-party may provide the office contact name(s) and phone number(s) of a representative of the third-party.

Each member also completes a Farm Evaluation which has information requested in the CAWD eNOI, such as name, APN, crop, irrigation practices, etc. The Farm Evaluation is submitted to the coalition (as well as a copy stays on farm) who aggregates the information at a township level and submits an aggregated summary to the Regional Board. The Regional Board receives individual data at the township level and also maintains the authority to inspect the Farm Evaluation.

Central Valley Coalition WDR requirements:

Report Component (18) – Summary of Management Practice Information

The third-party will aggregate and summarize information collected from Farm Evaluations. The summary of management practice data must include a quality assessment of the collected information by township (e.g. missing data, potentially incorrect/inaccurate reporting), and a description of corrective actions to be taken regarding any deficiencies in the quality of data submitted, if such deficiencies were identified. In addition to summarizing and aggregating the information collected, the third party will provide the individual data records used to develop this summary in an electronic format, compatible with ArcGIS, identified to at least the township level.

Farm Evaluation components:

The link below is the template that all coalition members must fill out. At a minimum, the template was required to contain:

- Identification of the crops grown and acreage of each crop.
- Location of the farm.
- Identification of on-farm management practices implemented to achieve the Order's farm management performance standards. Specifically track which management practices recommended in management plans have been implemented at the farm.
- Identification of whether or not there is movement of soil during storm events and/or during irrigation drainage events (sediment and erosion risk areas) and a description of where this

occurs.

- Identification of whether or not water leaves the property and is conveyed downstream and a description of where this occurs.
- Location of in-service wells and abandoned wells. Identification of whether wellhead protection and backflow prevention practices have been implemented

I am happy to discuss this with you further at your convenience.

Thank you,

Kari

Kari E. Fisher
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From: Schneider, Joanne@Waterboards [mailto:Joanne.Schneider@waterboards.ca.gov]
Sent: Friday, May 27, 2016 9:53 AM
To: Riverside County Farm Bureau <pastor@riversidecfb.com>; Kari Fisher <kfisher@CFBF.com>
Cc: Cross, Wanda@Waterboards <Wanda.Cross@waterboards.ca.gov>; Theisen, Ken@Waterboards <Ken.Theisen@waterboards.ca.gov>
Subject: RE: WORKING DRAFT CWAD

I have attached another version of the draft CWAD that should be used for your review, rather than the version I sent yesterday. I apologize for any inconvenience.

Joanne

From: Schneider, Joanne@Waterboards
Sent: Thursday, May 26, 2016 3:32 PM
To: Pastor@RiversideCFB.com; kfisher@CFBF.com
Cc: Cross, Wanda@Waterboards; Theisen, Ken@Waterboards
Subject: WORKING DRAFT CWAD

Good afternoon. Thank you for your time this afternoon. Attached, as promised, is the latest working draft of the CWAD. Please bear in mind that additional changes are likely to be made before this is released to wider distribution.

Your specific comments, and specific recommendations for changes (e.g., to address confidentiality via Coalition Group) would be welcomed.

Joanne

Joanne E. Schneider
Environmental Program Manager

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**Draft Conditional Waiver of Waste Discharge Requirements
("CWAD", or "Order") for Agricultural Operations in the
Watersheds of the San Jacinto River and its Tributaries, Canyon
Lake and Lake Elsinore and their Tributaries, Collectively, "The
San Jacinto River Watershed", Riverside County, Order No. R8-
2016-0003 and Draft Mitigated Negative Declaration**

COMMENTS RECEIVED

1. Comments from Western Riverside County Agricultural Coalition
representatives/consultants: Bruce Scott, Pat Boldt, Jennifer
Ferrando, Jim Klang, Roger Turner
2. Comments Received from Riverside County Farm Bureau, Inc.
3. Ag Waiver Notes from Inland Empire Disposal Association: Paul
Ryan
4. Comments Received from California Farm Bureau Association: Kari
Fisher

Comments from Western Riverside County Agricultural Coalition –
Excerpted from April 22, 2016 version of the draft Conditional Waiver

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.

Comment [m1]: Request that Jim's comments below be addressed as stated. The San Joaquin order is still in draft comment period and should not be referenced in this permit. It is a WDR not a CWV...and San Joaquin has 7 million acres of ag- we have less than 35,000. You can't treat them as if they are the same!
Jim Klang mentions this later but I think as background it is important that it be stated up front page one. Below Jim's comment below.

Understanding if agriculture can achieve these strong directives without having a completed revised TMDL or an approved compliance metric places the agricultural producers in an untenable circumstance. How can they agree to such stringent language which without these three mechanisms remains an elusive goal. Without providing a means for Ag producers to compare their current performance against the final and interim goals the uncertainty and liability is difficult to manage. And, if necessary to change an operation to comply, the Board has not yet provided a means to evaluate what reasonable actions could be made to bring their operation into compliance.

Too complex for individual ag operators to meet compliance. Too complex to implement.

Comment [K2]: In contrast to the San Joaquin proposed order WQ 2016- this CWAD and supplemental staff report does not discuss the value the agricultural industry, their dedication to protection of natural resource, the complexities of agriculture' water quality impacts or commitment to preserve the economic viability of agriculture. In addition, the existing San Joaquin groundwater nitrate concentrations are at higher levels and therefore pose a more imminent threat that the San Jacinto conditions.

From the San Joaquin Background section:

"Because the vast majority of growers plan for the long term, they are naturally motivated to protect natural resources, through stewardship of the land. Over the last few decades, as the impacts of agricultural discharges on water quality have been further studied and understood, growers have collaborated with the regional water quality control boards and the State Water Board (collectively, "water boards"), most commonly through the mechanism of grower coalitions, to find shared solutions to address existing and potential water quality issues. ...

The issues are especially complicated because the same activities that are essential to producing a crucial, reliable food supply – e.g. pesticide use to control pests, nitrogen to fertilize crops, irrigation to water crops – also underlie many of the critical impacts. ...

- 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. A Coalition Group consists of the discharger membership who form, apply and are accepted into a Group. Discharger members remain responsible for compliance with this Conditional Waiver, except in situations (if any) where separate agreements entered into by the membership with a Group administrator create the separate, binding legal responsibility of the administrator for compliance with one or more requirements of this Waiver.
- 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

Comment [a3]: Recommend using a previous definition as this "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. In no other definition is there legal liability statements. This is the issue.

Comment [m4]: Agree with Jennifer's added sentence needed. I believe this language was added at WRCAC's suggestion in case WRCAC can support portions of requirement without being the group administrator. I think the new language adequately addresses the concern nicely. Maintain language as suggested.

Comment [FJ5]: Agreed. However, I recommend either deleting this portion, or adding another sentence after, "Such agreements are to be adjudicated between individual dischargers and the Group Administrator; the Regional Board holds individual dischargers, whether or not members of a Coalition group, solely responsible for compliance with the requirements of this Conditional Waiver."

Comment [K6]: Thank you for recognizing the concerns regarding administrator's liability and defining where the liability lies.

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. Responsibility for compliance with this Waiver remains with the individual dischargers who are members of the Group, unless the discharger membership enters into separate, legally binding agreements with the Administrator that impose compliance responsibility upon the Administrator. 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.

Comment [m7]: Change date appropriately once adopted

Comment [FJ8]: See comment above.

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.
- 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.
86. 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.
87. The costs for dischargers to comply with this Conditional Waiver were estimated and potential sources of funding to offset those costs were identified.

Comment [m9]: We do not feel this was adequately addressed. WRCAC would like to know potential funding sources available to offset costs. Additionally, WRCAC has no money set up to address ANY of the CWAD specific stakeholder requirements in this permit and to do so would take more than the 6 months. You are requiring plans, monitoring and other things in place in a short period of time. It took the Central Valley group one year just to get the Admin portion set up and collect money to start! Impossible to do as stated on many prior versions. Additionally economic impact to the area not adequately addressed.

CEQA

88. 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

89. 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.

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

CONSISTENCY WITH STATE BOARD DIRECTION RE REGULATION OF AGRICULTURAL OPERATIONS IN THE STATE

91. This Order takes notice as follows of a draft Order issued by the State Board on February 8, 2016 in the matter of Waste Discharge Requirements General Order No. R5-2012-0116 for Growers Within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group. The State Board's draft Order, if adopted, is expected to provide precedential direction to regional boards regarding the requisite elements of waste discharge requirements issued to regulate agricultural operations in the state. The Regional Board finds that Tentative Order No. R8-2016-0003 includes requirements consistent with and sufficient to implement the purpose of the State Board's draft precedential decision, in particular to assure that the potential nitrate impacts of agricultural discharges on receiving waters are properly identified and controlled.

- The Central Valley Regional Water Quality Control Board (Central Valley Regional Board) adopted Waste Discharge Requirements in 2012 and 2013 that regulate irrigated agricultural operations in the East San Joaquin River Watershed. These requirements (Orders No. R5-2012-0116 and R5-2013-01000) reflect the evolution of the Central Valley Regional Board's agricultural regulatory program, which began in 1982 and was structured initially (and thereafter in 2003 and 2006 regulatory updates) as a waiver of waste discharge requirements under Water Code Section 13269. Order No. R5-2012-0116 was issued to growers within the East San Joaquin River Watershed that are members of a specific third-party group (East San Joaquin Water Quality Coalition); Order No. R5-2013-0100 was issued to irrigated lands dischargers within that watershed that are not participating in a third-party group. These Orders establish a number of requirements for monitoring and planning, for implementation and evaluation of management practices, and for participation in education and outreach activities. In the case of Order No. R5-2012-0116, certain requirements are assigned to the Members of

Comment [K10]: There is a concern when referencing a draft document that there is a chance that due process and comment revisions used in the process to produce the final document will reverse these elements. (Albeit, it very well may be a small chance.) As such this language which refers to both Board decisions and follow up drafts may provide more defensible support if it limited the CWAD language to be based on what was decided, and placed the text on the follow up draft items in this CWAD's supporting documents instead of the CWAD itself.

Comment [m11]: The WDR general order is not a CW. It is currently in draft form out for comment and is expected to be litigated. To propose this language... expected to provide precedential direction to regional boards regarding... is out of line IMO. All of this #91 needs to be removed and go back to the old permit language. After the permit is adopted and can be revised with known facts-add in appropriately on the next version! Again we are no San Joaquin valley. We don't have 7 million acres we have less than 35,000, we don't have groundwater nitrate issues the same as up north. There has to be common sense for individual operator implementation.

This entire section that was added as minor changes are not minor. If you are going to leave these in you need to public notice for comments so we may garner San Joaquin ag attorney comments for this permit.

Comment [a12]: This comment is fine if this permit reverts to the language in the late November version of the CWAD document.

the Third-Party Group, while other requirements are to be implemented by the Third-Party Group.

- The State Board reviewed Order No. R5-2012-0116 on its own motion and on February 8, 2016 issued a draft Order that generally upholds the structure and requirements of Order No. R5-2012-0116 but directs a number of revisions to add: greater specificity and transparency in reporting of management practice implementation; reporting of nitrogen application and removal data needed to assess and manage nitrogen application and potential impacts to groundwater; and, to expand the surface and groundwater monitoring programs. Many of the revisions implement the conclusions and recommendations of an agricultural expert panel convened in response to a legislative effort to address nitrate in groundwater.
- Tentative Order No. R8-2016-0003 includes requirements for BMP implementation and evaluation, nutrient management planning, monitoring and education/outreach that are generally comparable to and are intended to achieve the same level of water quality and beneficial use protection as those requirements established in Order No. R5-2012-0116 and as directed in the State Board's draft precedential order. Key differences and the rationale for those differences include:
 - While Order No. R5-2012-0116 (San Joaquin) was issued explicitly for agricultural operators who are members of a specific third-party group, Tentative Order No. R8-2016-0003 (San Jacinto) specifies requirements that can be met by each individual agricultural operator or by individual agricultural operators as members of a coalition or group. This difference reflects the long history of regulation of agricultural activities by the Central Valley Regional Board and the long-term, established nature of the identified third-party group. No such third-party group has as yet been identified in the San Jacinto River Watershed. Tentative Order R8-2016-0003 encourages the formation of one or more such groups by providing for the efficiencies of representative, rather than individual, monitoring, BMPs assessments, etc. for those agricultural operators who seek to comply as members of a third-party group or coalition.
 - Tentative Order No. R8-2016-0003, if adopted and implemented, would regulate agricultural operations (other than CAFOs) in the Santa Ana Region for the first time. The Tentative Order thus emphasizes initially the collection and reporting of baseline data on the nature of the agricultural operations and discharges therefrom, BMPs that have been implemented and/or are proposed, and monitoring to assess discharge water quality. Consistent with these circumstances, and given that enrollees may elect to achieve compliance either individually or as a member of a coalition (if one is formed), Tentative Order No. R8-2016-0003 does not specify a formal Monitoring and Reporting Program at this time, unlike Order No. R5-2012-0116. Rather, enrollees are required to prepare proposed monitoring and reporting programs, including monitoring of discharges, receiving waters and BMP effectiveness, for approval by the Regional Board. The programs are to be implemented upon approval. The programs may be proposed and implemented on an individual basis, or representative programs may be proposed and implemented by members of a coalition. Based on review of the data accrued through the early implementation of the Order, a formal Monitoring and Reporting Program may be formulated and included in the Order at a later date.
 - Tentative Order No. R8-2016-0003 requires monitoring and reporting of BMP efficacy so that the need for and nature of adaptive management and improvement of such BMPs can occur. This includes the requirement for the submittal of nutrient application and removal data, or an equivalent demonstration of proper nutrient

Comment [K13]: Basing CWAD decisions on the findings of the Agricultural Expert Panel is a sound and logical approach. The findings of the expert panel strike a great balance of acknowledging the impacts and the complexities involved when addressing those impacts with a secondary goal of keeping the agricultural industry economically viable.

Comment [FJ14]: This isn't exactly true with regard to groundwater protection. For groundwater quality objectives, the Central Valley Basin Plan incorporates by reference the drinking water standards (MCLs) specified in Title 22 of the CCR – the goal being protection of human health. For nitrate, the MCL is 10 mg/L. For TDS the regs provide a recommended "consumer acceptance contaminant level range" of 500 mg/L with an upper limit of 1,000 mg/L or 1,500 mg/L as a short term upper limit.

The Santa Ana Basin Plan establishes "antidegradation objectives" for TDS and nitrate for most of the San Jacinto GMZs, which are based on historical average concentration ("maximum benefit" objectives are also provided for the Upper Pressure zone). Those objectives are, in most cases for TDS and in all cases for nitrogen, much lower than the human health-based objectives established for Central Valley groundwaters.

The antidegradation objectives in the Santa Ana Basin Plan are based on historic long-term averages. So by definition, half of the observations were above the established objective. Furthermore, the averages consider all sectors contributing to groundwater TDS and nitrate levels (some at higher levels and some at lower levels), but the objectives expect all sectors to discharge at what presumably half of them never met in the first place. In other words, agricultural land is held to the same standard as forested land. This might be a fair approach if the objective were not based on an average of the long-term observations across each GMZ. But the current approach simply sets up the land uses that discharge at higher levels to fail.

Comment [a15]: Also of concern is most of the source water used for crop irrigation comes from EMWD recycled water. This source water has a high nitrogen level and tds level. The Farmers should not be held accountable for this impact issue. Not discussed in the Order. I agree with Jim & Jennifer's comments.

Comment [m16]: Agree with all comments!

application rates and removal efficiencies. This requirement is consistent with the State Board's draft precedential order.

- The State Board's draft precedential order also anticipates that nitrogen application and removal data will be used as a surrogate for groundwater monitoring and as a measure of potential groundwater quality impacts that may result from agricultural discharges. Groundwater quality monitoring and modeling in the Santa Ana Region is well and long-established, and the Basin Plan identifies nitrate-nitrogen objectives for groundwater management zones, including those in the San Jacinto River Watershed. Accordingly, the collection and reporting nitrogen application/removal data, or an equivalent demonstration of proper application rate/removal BMP efficiency, is appropriate as an indicator of BMP effectiveness rather than as a surrogate for groundwater monitoring. Tentative Order No. R8-2016-0003 requires that agricultural discharges not cause or contribute to violations of groundwater management zone objectives for nitrate-nitrogen (and TDS) and provides for offset programs and water quality trading programs where strict compliance with this receiving water limitation is infeasible.
- It is expected that Order No. R8-2016-0003 will be modified in the future, based on the results and findings of implementation of the Order and the data and experience thereby gained. The Regional Board may elect in future to issue separate orders regulating agricultural dischargers who are members of a coalition and those dischargers who are not members of a coalition, per the Central Valley Regional Board approach.

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.

Comment [FJ17]: This, I believe, refers to crop nutrient removal, whereas this bullet point is about BMP efficacy. Is this limited to crop/rotation changes as a BMP? Or is this a requirement for all crops? (If the latter, then it is not clear how this is related to BMP efficacy). A couple of problems with this requirement:
1. Should clarify what nutrients you are referring to (N and P? Specific forms of N? Something else?)
2. Surprisingly, nutrient removal rates have not been established for many of the crops grown. What is the expectation where farmers are growing a crop where there is no California data on N or P removal? This could be perceived as a round-about way to require tissue testing. If that is intention, it should be clearly stated so that stakeholders can respond appropriately.

For nitrate, has the Regional Board considered the utility of post-harvest soil nitrate testing? Would an approach like that be accepted in lieu of documented removal rates for crops for which removal rates haven't been established?

Comment [FJ18]: This refers only to nitrogen application and removal data – above (and two instances below) is more broadly applicable to nutrients. Please clarify the expectation.

Comment [a19]: This whole section can be struck from this permit. The narrative stated here is not appropriate in the Permit itself. It is better if this language is used in a staff report to provide background support for the permit language or in a Fact Sheet that goes with the permit. I would keep the comments from Jennifer and Jim for use in other documents that may be used. In general, this Permit should provide the policy language for each area subject matter, i.e. "greater specificity and transparency in reporting of management practice implementation; reporting of nitrogen application and removal data needed to assess and manage nitrogen application and potential impacts to groundwater; and, to expand the surface and groundwater monitoring programs, but it should not give the details how this is to be done. The details will be developed as the permit is implemented. (this is the regulatory approach as the TMDL has taken in its implementation.

Comment [a20]: Staff notes there that it is expected that this Order will be modified in future based on experience (results and findings) as the Order is implemented.

Comment [m21]: Concur with Roger, this should be struck from the permit. Should have policy language not specific narrative.

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.

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

Comment [a22]: The NOI is the formal document for enrolling an operator. The issue comes in when there is multiple parcels involved and the operator moves each year to new parcels, leaving the old parcel fallow or for some other use. How will the RB rectify the issue. It will be resolved with time and experience in managing the program.

Comment [a23]: The NOI Form should have a box for enrollment or not in a Coalition Group

Comment [FJ24]: This is not a concern with regard to liability, but seems unnecessary for each discharger to report. If the Regional Board has to approve the Administrator of each Coalition Group, wouldn't they already have this information?

Comment [a25]: I agree. Only the name of the Coalition Group needs to be listed. The Administrator can come and go.

Comment [a26]: Add and recycled water (as a source of water)

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.

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.

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 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

Comment [a27]: If required or not state so

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, do not unreasonably affect or to adverse impacts on beneficial uses, and do not cause or contribute to conditions of pollution or nuisance. BMP implementation, evaluation and modification shall address irrigation practices. Evaluation of BMPs intended, in whole or in part, to minimize or eliminate nutrient discharges in agricultural discharges to receiving

Comment [a28]: Management of

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.

waters shall include collection and analysis of nutrient application and removal data or an equivalent demonstration of proper nutrient application rates and removal efficiencies.

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 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.

Comment [a29]: Recommend to add, "be in compliance with the Basin Plan Objectives established for the parcel location for the enrolled operator. Recommend striking the rest of the language because as the permit matures the implementation of monitoring data such as described here will be worked out. BTW I agree with Jim's comment below.

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Comment [m30]: I think Jim sums up problems with this permit nicely in this paragraph. Unmanageable, complex, unknown targets and not much success for meaningful implementation

Comment [K31]: Understanding if agriculture can achieve these strong directives without having a completed revised TMDL or an approved compliance metric places the agricultural producers in an untenable circumstance. How can they agree to such stringent language which without these three mechanisms remains an elusive goal. Without providing a means for Ag producers to compare their current performance against the final and interim goals the uncertainty and liability is difficult to manage. And, if necessary to change an operation to comply, the Board has not yet provided a means to evaluate what reasonable actions could be made to bring their operation into compliance.

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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. BMP implementation, evaluation and modification as part of the AgNMP(s) shall address irrigation practices, if any, and their management. Evaluation of BMPs intended, in whole or in part, to minimize or eliminate nutrient discharges in agricultural discharges to receiving waters shall include collection and analysis of nutrient application and removal data or an equivalent demonstration of proper nutrient application rates and removal efficiencies. 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

Comment [a32]: This does not need to be said because it is listed in #4 above and actually inferred in the AgNMP when it is fully developed. Stating this here is redundant, not necessary.

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 Group 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;
 - 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.

Comment [m33]: Where is there money to do this? It will take a year to set up funding source through any coalition to do anything IMO

- 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. ~~The 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.

Comment [m34]: WRCAC would still need to provide list of WRCAC TMDL stakeholders in compliance for each cycle- but this is not annual it is per cycle.

Comment [FJ35]: Not clear who this applies to. The requirement above is for a coalition group. There is no reporting requirement for individuals who are not part of a group. Who is required here to submit the list of dischargers?

H. LAND APPLICATION OF MULCH, COMPOST, AND MANURE

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.
10. The application of manure to lands within the San Jacinto River Watershed that overlie 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.

Comment [FJ36]: See the comments above with regard to the groundwater quality antidegradation objectives.

J. PROVISIONS

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.

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, to unreasonable adverse impacts on surface water beneficial uses, or to conditions of pollution or nuisance.
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, to unreasonable adverse impacts on beneficial uses, or to conditions of pollution or nuisance.

Comment [a37]: The paragraph can stop here. Agree, delete

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 ~~April 22, January 29, 2016.~~

Comment [a38]: Date needs to change to current date

Kurt V. Berchtold
Executive Officer



Riverside County Farm Bureau, Inc.

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Comments on the Conditional Waiver of Waste Discharge Requirements for Agricultural Operations in the Watersheds of the San Jacinto River and its Tributaries, Canyon Lake and Lake Elsinore and their Tributaries, Collectively, "The San Jacinto River Watershed", Riverside County, Order No. R8-2016-0003

Specific Comments/Question

WDR, p. 10, Provision 54—What will be considered appropriate characterization of waste discharges as well as appropriate efficacy?

WDR, p. 12, Provisions 61 and 62—With regard to AgNMPs, is there a template AgNMP or are there specific parameters the Regional Board will require within these plans?

WDR, p. 12, Provision 61—The Order requires the submittal by September 15, 2016 and annually thereafter, a BMP reporting program. Is there a template BMP reporting program report or are there specific parameters the Regional Board will require within these plans? Or is the BMP reporting program report just a subset of the AgNMP?

WDR pp. 14-15, Provision 70—Provision 61 requires AgNMPs to be developed by individuals or a Coalition Group. However, Provision 70 concludes that if "Agricultural operators... who are not members of WRCAC will be required to develop and implement...an individual AgNMP." These two provisions seem to be in conflict regarding a Coalition Group's ability to develop an AgNMP for its members within the San Jacinto Watershed.

WDR, pp. 19-20—Provision 91—This Provision was added in response to the State Water Board's release of the draft East San Joaquin WDR Order which is precedential on all Regional Boards. However, the Draft ESJ Order is just that, a draft order. No workshops have been held to date, the written public comment period does not end until May 18, 2016, and Board members have not heard any public comments on this issue. Additionally, State Board staff have publicly stated that this Draft Order will likely be revised once public comments have been received. Thus, it is premature to rely upon any component within the Draft Order as nothing is precedential until it has been adopted by the State Water Board. (Examples of components that are not set in stone yet are the nutrient application rates and removal efficiencies data.)

- Revisions to provisions C. 4 (pages 24-25) and C. 10 (page 26) were likely added in response to the Draft ESJ Order.

WDR, p. 37, Provision 57—Under the Inspection and Entry provision, it states that Water Code section 13267(c) mandates that a Discharger must allow the Regional Board to conduct certain activities. Water Code section 13267(c) does not mandate a landowner to allow entry. Rather, if a landowner does not give consent, the Regional Board must obtain a warrant. Water Code section 13267(c) states:

"In conducting an investigation pursuant to subdivision (a), the regional board may inspect the facilities of any person to ascertain whether the purposes of



this division are being met and waste discharge requirements are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant.”

In light of the actual requirements in the statute, Provision 7 should be revised to correctly reflect the law. Below is an example of the language used in the Central Valley Regional Board’s current WDR:

“The Member understands that the Central Valley Water Board or its authorized representatives, may, at reasonable hours, inspect the facilities and irrigated lands of persons subject to this Order to ascertain whether the purposes of the Porter-Cologne Act are being met and whether the Member is complying with the conditions of this Order. To the extent required by Water Code section 13267(c) or other applicable law, the inspection shall be made with the consent of the Member, owner or authorized representative, or if consent is withheld, with a duly issued warrant pursuant to the procedure set forth in Title 13 Code of Civil Procedure Part 3 (commencing with section 1822.50). In the event of an emergency affecting the public health and safety, an inspection may be performed without the consent or the issuance of a warrant.”

General Comments

Public Notice and Comment

- Although the Regional Board utilized an Advisory Committee during the development of the CWAD, the public at large was not made aware of the changes in the latest draft CWAD and the public hearing date unless they went to the Regional Board website.
 - o The Regional Board’s actions shift the burden to the public and go against the Water Board’s own guidance on public opportunities to participate
 - o See:
http://www.waterboards.ca.gov/northcoast/publications_and_forms/available_documents/citizen_guide/pdf/03_public_involvement_guide.pdf
- There was no formal written comment period for the Regional Board to receive comments on the latest draft of the CWAD
- The information was not distributed by the Regional Board’s “Agricultural Waiver Program” email subscription created just for such purposes (aka “Lyris list serve”)
- Advisory committees are beneficial and useful but do not replace notice to all (the public at large)
- Other Regional Boards as well as the State Board send out notices via their Lyris email subscription list serve upon each action (i.e.: postponement of a board hearing due to lack of a quorum; subsequent revisions to draft orders; each time the item is to come before the board at a public hearing; all opportunities for public comment; etc)

Reliance on other Region’s Irrigated Lands Programs

- Documents on the Regional Board’s website have been pulled directly from the Central Coast Regional Board’s Ag Order, such as the NOI form. This Ag Order is currently in active litigation.



- Given that the CWAD includes adopted TMDLs, it may be beneficial for the Regional Board to look at a similar Ag Waiver program that includes TMDLs, such as the Colorado River Regional Board's Conditional Waiver of Waste Discharge Requirements for Agricultural Wastewater Discharges and Discharges of Waste from Drain Operation and Maintenance Activities within the Imperial Valley.

Manner of Compliance

A provision should be added to clearly acknowledge that the Regional Board cannot prescribe specific management practices or dictate the manner of compliance (Wat. Code, § 13360.)

Examples of language used in other irrigated lands orders acknowledging this point include:

“The board is prevented by Water Code section 13360 from prescribing specific management practices to be implemented. However, it may set forth performance standards and require dischargers to report on what practices they have or will implement to meet those standards.”

or

“This Order establishes on farm standards for implementation of management practices that all Members must achieve. The selection of appropriate management practices must include analysis of site-specific conditions, waste types, discharge mechanisms, and crop types. Considering this, as well as the Water Code 13360 mandate that the Regional Water Board not specify the manner of compliance with its requirements, selection must be done at the farm level.”

or

“The Regional Water Board may not “specify the design, location, type of construction, or particular manner in which compliance may be had with [a] requirement, order, or decree” (Water Code 13360). However, the Regional Water Board still must require the discharger to demonstrate that the proposed manner of compliance constitutes BPTC (SWRCB Order WQ 2000-7).”

Note that the above are examples used in current WDRs. In comments to the Santa Ana Regional Board, portions of the above language can be recommended rather than the entire provision.

The Conditional Waiver's Use of Coalitions is Appropriate and Beneficial

The inclusion of a third-party group structure with coalitions as the intermediary is a vital component for increasing participation and efficiency in reaching water quality objectives. As seen in many other regions, such as the Central Valley, this structure builds trust and strengthens relationships with the grower, as well as with the Regional Board, and is successful in improving water quality, increasing participation, providing water quality education, and fulfilling regional requirements.

Submittal of Individual Information for Members Participating in a Coalition Group

The WDR requires that various reports be submitted for approval or annually to the Regional Board. CFBF highly recommends that these plans be kept on farm, available for inspection or submitted to the Coalition Group who can aggregate the information and then send it to the Regional Board. Below, please find a section of the comment letter CFBF drafted regarding the Imperial Valley Conditional Waiver (Colorado Regional Water Quality Control Board) followed by a section from a comment letter to the North Coast Regional Board regarding the same issue:



Farm Bureau Has Potential Concerns Regarding Submittals of WQMPs (Imperial Valley Conditional Waiver)

Notwithstanding the Conditional Waiver's use of coalitions and the mandate to submit Annual Reports for the Coalition Group, QAPP, SWMPR, and quarterly monitoring results, the Conditional Waiver requires the submittal of all individual Water Quality Management Plans ("WQMPs"). (See Provision D. 9, p. 21.) If WQMPs are revised in the future to require the reporting of more detailed and specific information,¹ Farm Bureau requests that this information remain on farm available for Regional Board inspection (see Wat. Code, § 13267(a) for the Regional Board's authority for inspections) rather than being sent to the Regional Board.

The protection of intellectual property, trade secrets, and proprietary information is a vital issue seen in agricultural regulatory programs throughout the state. Farm Bureau believes that for an agricultural regulatory program to be successful, proprietary farm-specific information should be kept on farm and reported only to the Coalition if necessary. Reporting directly to the Regional Board or to any other entity will diminish the Coalition group's effectiveness and purpose. Distortion of this information by others, whether purposeful or unintended, could greatly harm growers in a section, and make them targets for threats, or potentially, environmental terrorism. Moreover, inaccurate characterizations of data and information by others would undermine the program in its entirety by sending a signal to participants that the reporting of information to the third-parties provides no assurance that the information is protected from public disclosure, and in fact, will result in the public reporting of such information at a level that will allow members of the public to, in some cases, readily match the information to a grower directly. This public disclosure defeats the purpose of having the information reported to the third-party versus the Regional Board directly. Rather, the third-party is no more than the Regional Board's "data-gatherer," and there is little benefit provided to the growers in having the third-party play this role.

Keeping information within WQMPs on farm rather than submitting them to the Regional Board does not hinder the Regional Board's ability to regulate water quality nor will it prevent the Regional Board from obtaining information it deems necessary. Water Code section 13267 specifically provides the Regional Board with the authority to "investigate the quality of any waters of the state within its region." (Wat. Code, § 13267(a).) In doing so, the statute further provides the Regional Board with the authority to require "any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge . . . [to] furnish, . . . technical or monitoring program reports which the regional board requires."

Regional Boards throughout the state have adopted this approach. Within the Central Valley, instead of requiring the coalitions to submit each farm evaluation (similar to a WQMP) to the Regional Board, the coalitions use the data from the farm evaluations submitted by their members (each member must submit a farm evaluation to its respective coalition) and develop a summary, compatible with ArcGIS, identified to at least the township level. The Central Valley Regional Board found that this manner of reporting not only gives them an adequate amount of information to protect water quality (with the ability to inspect individual farm evaluations if necessary), but also protects intellectual property, trade secrets, and proprietary information.

¹ Farm specific information, including pesticide application, irrigation practices, crop rotations, etc., are intellectual property, trade secrets, and proprietary information that must remain confidential. (See Wat. Code, § 13267(b)(2).)



*Intellectual Property, Trade Secrets, and Proprietary Information Must Remain Confidential
(North Coast Regional Water Quality Control Board)*

Farm Bureau is concerned about the requirement that Farm Plans must be sent to the Regional Board. Information within Farm Plans contains intellectual property, trade secrets, and proprietary information, much of which has no correlation or nexus to the Regional Board's authority to regulate water quality. Prior to any request for the entire Farm Plan, the Regional Board should make a finding showing the necessity of the data and information required to be submitted and how such data is related to water quality. Such information must remain confidential. The Porter-Cologne Act explicitly provides protection to growers for intellectual property, trade secrets, and proprietary information that may be within a Farm Plan, monitoring report, or technical submittal:

When requested by the person furnishing a report, **the portions of a report that might disclose trade secrets or secret processes may not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies.** However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report.

(Wat. Code, § 13267(b)(2).) Thus, the Regional Board must acknowledge that farm specific information, including pesticide application, irrigation practices, crop rotations, best management practices, etc. are intellectual property, trade secrets, and proprietary information that must remain confidential.

From: [Paul Ryan](#)
To: [Cross, Wanda@Waterboards](#); [Lee, Joanne@Waterboards](#); [Li, Cindy@Waterboards](#); [Schneider, Joanne@Waterboards](#)
Cc: [Kathryn Lynch](#)
Subject: Order No. R8-2016-0003
Date: Tuesday, May 10, 2016 2:28:27 PM
Attachments: [T-14FinalReg.pdf](#)
[Ag Waiver Notes.docx](#)

Joanne Schneider,

Per our telephone conversation on/or about April 22, 2016, regarding the agenda item on the Conditional Waiver of Waste Discharge Requirements for Discharges from Agriculture Operations, I am forwarding my comments for consideration at your request. As we discussed I proposed that the language of the order covering physical contaminants and Trash be expanded to include references to the requirements of Title 14 and the Trash Policy adopted by the State Water Resource Control Board.

I have attached my notes and suggested additional language in red (Ag Waiver Notes Docx), referencing various provisions of T-14 that may strengthen the language in the Waiver. In addition, I included the "Trash" definition found in the final documentation of the Amendment to the Water Quality Control Plan for the Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California. I have also attached a copy of Title 14 for your review and analysis.

As you review my notes, you may have additional matter to discuss or seek clarification as part of the public process. Please feel free to contact me for additional comments or suggested language changes to include as part of the public record.

Your careful consideration of my comments would be greatly appreciated.

Sincerely,

Paul Ryan
951/288-5049

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

January 2016



CALIFORNIA

Water Boards

STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

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Conditional Waiver of Waste Discharge Requirements
Order No. R8-2016-0003

ATTACHMENTS

1. San Jacinto River Watershed Map
2. San Jacinto River Watershed Land Use Map
3. Cost Estimate Study

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 a 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

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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, individual dischargers would be required to complete an electronic NOI form. 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 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

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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.

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

³ Findings of the proposed Conditional Waiver include tables summarizing these load allocations.

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also be appropriate. This Order includes provisions that recognize these circumstances. This Order will be revised as appropriate based on approved revised Nutrient TMDLs.

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 their 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 individual dischargers, or the Group Administrator, must submit draft WQMPPs to Board staff for approval within 180 days of receipt of a Notice of Authorization. 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;

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- 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

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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.

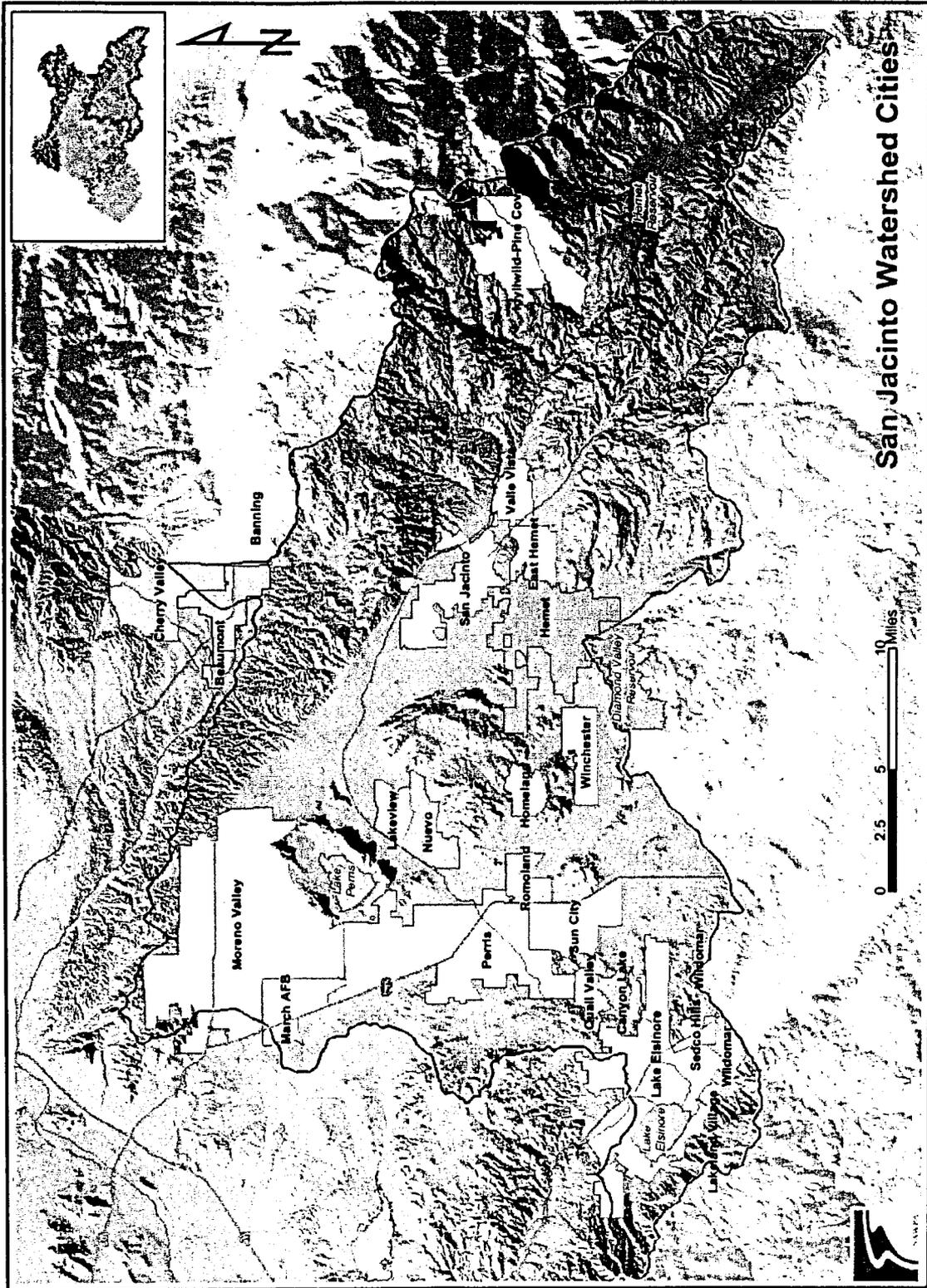
Staff recommends: (1) the adoption of the draft Mitigated Negative Declaration attached to this staff report/tentative order; and, (2) the adoption of Order No. R8-2016-0003, Conditional Waiver of Waste Discharge Requirements for Discharges from Agricultural Operations in the San Jacinto Watershed, Riverside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

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

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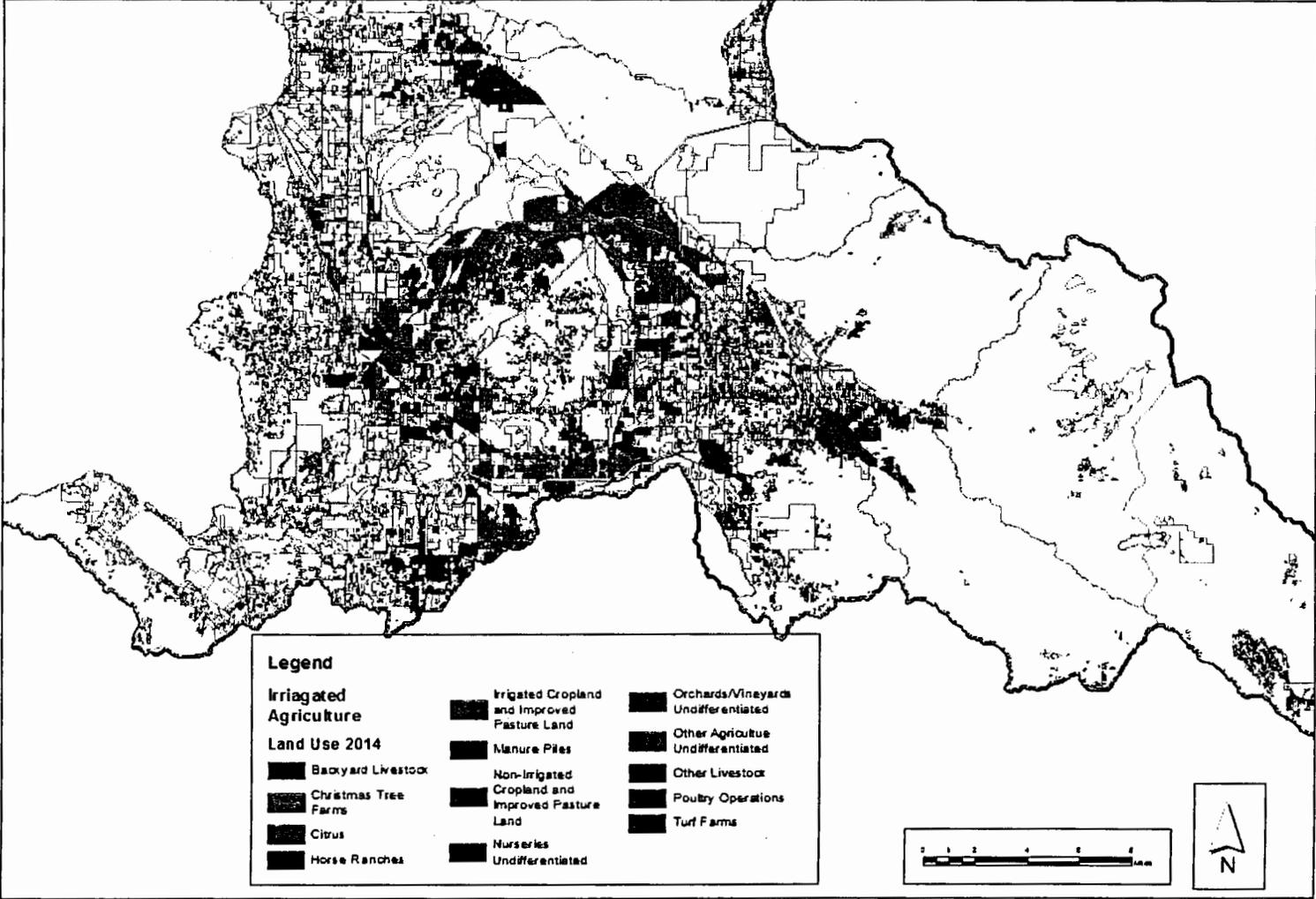
Pursuant to Water Code section 13320, any aggrieved party may seek review of this Order, if adopted by the Regional Board, by filing a petition with the State Board. A petition must be sent to the State Water Resources Control Board, P.O. Box 100, Sacramento, California 95812-0100, or delivered to the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



Attachment 2. San Jacinto River Watershed Land Use Map

WRCAC - Agriculture Land Use 2014



ATTACHMENT 3

COST ESTIMATE STUDY FOR THE CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FROM AGRICULTURAL OPERATIONS IN THE 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 I. Constituents of Concern

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

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.

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| 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 |
| | • Terrace | \$0.81/Ft. |
| Livestock | • 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

April 22, 2016

ITEM: 6

SUBJECT: Supplemental Staff Report: Conditional Waiver of Waste Discharge Requirements for Agricultural Operations in the Watersheds of the San Jacinto River and its Tributaries, Canyon Lake and Lake Elsinore and their Tributaries, Collectively, "The San Jacinto River Watershed", Riverside County, Order No. R8-2016-0003, and Draft Mitigated Negative Declaration

DISCUSSION:

Consideration of this proposed Conditional Waiver ("CWAD") and the draft Mitigated Negative Declaration was scheduled for the Regional Board's January 29, 2016 meeting but was postponed due to the lack of a quorum.

Since that time, as described briefly below, the State Water Resources Control Board has issued a draft order that is expected to provide precedential direction to the regional boards regarding the requirements that should be imposed to regulate agricultural activities in California. Regional Board staff have reviewed the State Board's draft order and considered whether and what changes to the CWAD are necessary to assure conformity with that draft order. On the basis of that review, staff now recommends generally minor modifications to the draft CWAD, which are included in the tentative Order attached hereto. Of more significance is staff's recommendation to include a new finding (#91) that speaks to the conformity of the CWAD with the State Board's proposed direction. In addition, the tentative CWAD now includes minor changes to address informal comments received regarding the potential liability of a Coalition Group administrator, if a Group is formed and an administrator identified, for compliance with the CWAD.

The following provides a succinct overview of the State Board's draft order and the rationale for and nature of the changes recommended to waste discharge requirements issued to certain agricultural operators in the Central Valley Region. Again, this order is expected to be precedential.

The Central Valley Regional Water Quality Control Board (Central Valley Regional Board) adopted Waste Discharge Requirements in 2012 and 2013 that regulate irrigated agricultural operations in the East San Joaquin River Watershed. These requirements (Orders No. R5-2012-0116 and R5-2013-01000) reflect the evolution of the Central Valley Regional Board's agricultural regulatory program, which began in 1982 and was structured initially (and thereafter in 2003 and 2006 regulatory updates) as a waiver of waste discharge requirements under Water Code Section 13269. Order No. R5-2012-0116 was issued to growers within the East San Joaquin River Watershed that are members of a specific third-party group (East San Joaquin Water Quality Coalition); Order No. R5-2013-0100 was issued to irrigated lands dischargers within that watershed that are not participating in a third-party group. These Orders establish a number of requirements for monitoring and planning, for implementation and evaluation of management practices, and for participation in education and outreach activities. In the case of

Order No. R5-2012-0116, certain requirements are assigned to the Members of the Third-Party Group, while other requirements are to be implemented by the Third-Party Group.

The State Board reviewed Order No. R5-2012-0116 on its own motion and on February 8, 2016 issued a draft Order that generally upholds the structure and requirements of Order No. R5-2012-0116 but directs a number of revisions to add: greater specificity and transparency in reporting of management practice implementation; reporting of nitrogen application and removal data needed to assess and manage nitrogen application and potential impacts to groundwater; and, to expand the surface and groundwater monitoring programs. Many of the revisions implement the conclusions and recommendations of an agricultural expert panel convened in response to a legislative effort to address nitrate in groundwater.

Tentative Order No. R8-2016-0003 includes requirements for BMP implementation and evaluation, nutrient management planning, monitoring and education/outreach that are generally comparable to and are intended to achieve the same level of water quality and beneficial use protection as those requirements established in Order No. R5-2012-0116 and as directed in the State Board's draft precedential order. Key differences and the rationale for those differences include:

- While Order No. R5-2012-0116 was issued explicitly for agricultural operators who are members of a specific third-party group, Tentative Order No. R8-2016-0003 specifies requirements that can be met by each individual agricultural operator or by individual agricultural operators as members of a coalition or group. This difference reflects the long history of regulation of agricultural activities by the Central Valley Regional Board and the long-term, established nature of the identified third-party group. No such third-party group has as yet been identified in the San Jacinto River Watershed. Tentative Order R8-2016-0003 encourages the formation of one or more such groups by providing for the efficiencies of representative, rather than individual, monitoring, BMPs assessments, etc. for those agricultural operators who seek to comply as members of a third-party group or coalition.
- Tentative Order No. R8-2016-0003, if adopted and implemented, would regulate agricultural operations (other than CAFOs) in the Santa Ana Region for the first time. The Tentative Order thus emphasizes initially the collection and reporting of baseline data on the nature of the agricultural operations and discharges therefrom, BMPs that have been implemented and/or are proposed, and monitoring to assess discharge quality. Consistent with these circumstances, and given that enrollees may elect to achieve compliance either individually or as a member of a coalition (if one is formed), Tentative Order No. R8-2016-0003 does not specify a formal Monitoring and Reporting Program at this time, unlike Order No. R5-2012-0116. Rather, enrollees are required to prepare proposed monitoring and reporting programs, including monitoring of discharges, receiving waters and BMP effectiveness, for approval by the Regional Board. The programs are to be implemented upon approval. The programs may be proposed and implemented on an individual basis, or representative programs may be proposed and implemented by members of a coalition. Based on review of the data accrued through the early implementation of the Order, a formal Monitoring and Reporting Program may be formulated and included in the Order at a later date.
- Tentative Order No. R8-2016-0003 requires monitoring and reporting of BMP efficacy so that the need for and nature of adaptive management and improvement of such BMPs can occur. With the addition of changes in response to the State Board's draft order, this includes the requirement for the submittal of nutrient

application and removal data, or an equivalent demonstration of proper nutrient application rates and removal efficiencies. This requirement is consistent with the State Board's draft precedential order.

- The State Board's draft precedential order also anticipates that nitrogen application and removal data will be used as a surrogate for groundwater monitoring and as a measure of potential groundwater quality impacts that may result from agricultural discharges. Groundwater quality monitoring and modeling in the Santa Ana Region is well and long-established, and the Basin Plan identifies nitrate-nitrogen objectives for groundwater management zones, including those in the San Jacinto River Watershed. Accordingly, the collection and reporting nitrogen application/removal data, or an equivalent demonstration of proper application rate/removal BMP efficiency, is appropriate as an indicator of BMP effectiveness rather than as a surrogate for groundwater monitoring. Tentative Order No. R8-2016-0003 requires that agricultural discharges not cause or contribute to violations of groundwater management zone objectives for nitrate-nitrogen (and TDS) and provides for offset programs and water quality trading programs where strict compliance with this receiving water limitation is infeasible.
- It is expected that Order No. R8-2016-0003 will be modified in the future, based on the results and findings of implementation of the Order and the data and experience thereby gained. The Regional Board may elect in future to issue separate orders regulating agricultural dischargers who are members of a coalition and those dischargers who are not members of a coalition, per the Central Valley Regional Board approach.

Included in this item are:

1. Staff Report: Conditional Waiver of Waste Discharge Requirements for Discharges from Agricultural Operations in the San Jacinto River Watershed, Riverside County, Tentative Order No. R8-2016-0003
2. Tentative Order No. R8-2016-0003
3. Draft Mitigated Negative Declaration for the Conditional Waiver of Waste Discharge Requirements for Discharges from Agricultural Operations in the San Jacinto River Watershed

RECOMMENDATION

Board staff recommends:

1. Adoption of Order No. R8-2016-0003, as presented.
2. Approval of the Mitigated Negative Declaration prepared for the adoption and implementation of Order No. R8-2016-0003.
3. That the Board direct 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).

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 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 [State Board, or 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 |
|--|---|
| Lake Elsinore | <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) |
| Canyon Lake | <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) |
| San Jacinto River Reach 1- Lake Elsinore to Canyon Lake | <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) |
| San Jacinto River Reach 2- Canyon Lake | <p><i>See Canyon Lake, above.</i></p> |
| San Jacinto River Reach 3- Canyon Lake to Nuevo Road | <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) |

*Excepted 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 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 material" means material of plant or animal origin, which results directly from the conduct of agricultural, animal husbandry, horticultural, aquacultural, silvicultural, vermicultural, viticultural and similar activities undertaken for the production of food or fiber for human or animal consumption or use which is separated at the point of generation, and which contains no other solid waste. Agricultural material includes, but is not limited to, manure, orchard and vineyard prunings, and crop residues as defined under California Code of Regulations, Title 14 (14 CCR) section 17852(a)(5).
13. "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 agricultural material, mulch or compost for use as a fertilizer or soil amendment, and composting of agricultural material;
 - 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

Conditional Waiver for Agricultural Operations in the San Jacinto River Watershed

- 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.

- 14. "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.
- 15. "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 formed on a geographical basis or formed with other factors in common, such as cultivating commodities. A Coalition Group consists of the discharger membership who form, apply and are accepted into a Group. Discharger members remain responsible for compliance with this Conditional Waiver.
- 16. "Compost" means a fully decomposed, stabilized, organic product which has met the maximum metal concentrations, as described in California Code of Regulations, Title 14 (14 CCR) section 17868.2, the pathogen reduction requirements, as described in 14 CCR section 17868.3, and the physical contaminant limits, as described in 14 CCR section 17868.3.1. Compost shall not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters; no more than 20% dry weight of this 0.5% shall be film plastic greater than 4 millimeters as described in 14 CCR section 17868.3.1.
- 17. "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.

Conditional Waiver for Agricultural Operations in the San Jacinto River Watershed

18. "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.
19. "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".
20. "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.
21. "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.
22. "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.
23. "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.
24. "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.
25. "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.
26. "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.
27. "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. The final deposition of chipped and ground compostable material and/or digestate spread on any land, including land zoned only for agricultural uses, must not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters (no more than 20% by dry weight of this 0.5% shall be film plastic greater than 4 millimeters, as specified in the California Code of Regulations, Title 14 (14 CCR) section 17852(a)(24.5)(A)(1). Any chipped and ground material that will be land applied must meet the maximum metal concentrations and pathogen reduction requirements of 14 CCR section 17852(a)(24.5)(A)(2) and (3).

28. "Municipal solid waste (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 as described in 14 CCR section 18720(a)(40). 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.
29. "Physical contaminants" means human-made material contained within compostable materials that include, but are not limited to plastics, glasses, and metals.
30. "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.
31. "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.
32. "Trash" is the improperly disposed junk or rubbish generated by human activity, as defined in the Trash Amendments² adopted by the State Water Resources Control Board, which frequently winds up in waterways. Trash can include cigarette butts, paper, fast food containers, plastic grocery bags, cans and bottles, used diapers, construction site debris, industrial plastic pellets, old tires and appliances.
33. "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, including trash.

² State Water Resources Control Board Resolution No. 2015-0019, Fact Sheet, and Staff Report.

34. "Water quality standards" is the federal term for beneficial uses, water quality objectives, and an antidegradation policy.
35. "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).
36. "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

37. 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.
38. 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.
39. 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.
40. 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.
41. 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

Conditional Waiver for Agricultural Operations in the San Jacinto River Watershed

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.

42. 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.
43. 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.
44. 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.
45. 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.
46. 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.
47. 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

48. 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.
49. 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.

50. All owners, owner/operators and/or operators of livestock operations that are 20 or more cumulative acres in area³ 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.
51. 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 risk⁴ 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.
52. This Conditional Waiver does not apply to discharges that are subject to the NPDES permit program under the federal Clean Water Act section 402.
53. 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.
54. 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.
55. 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 or to land. This waiver does not apply to discharges of sanitary human waste or to hazardous waste as defined by California law.

³ United States Forest Service (USFS) grazing allotments, which are typically more than 10,000 acres and are permitted a small number of grazing animals (typically under 180), resulting in extremely low animal density, and where no pesticides, herbicides or nutrients are applied, are exempt from coverage under this Order.

⁴ 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.

SCOPE AND REQUIREMENTS OF THIS ORDER

56. 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.

57. 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.

58. 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)

59. 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.

60. 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.

61. 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.

62. 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.

63. 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.

64. 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 March 22, 2017 and annually by September 15 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 66) of draft recommendations for the revisions of the TMDLs.

65. 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.
66. 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)⁵. 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).
67. The Western Riverside County Agriculture Coalition (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 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.

⁵ 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).

68. 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.
69. 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.
70. 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 |

71. 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.
72. 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 Elsinore⁶. Without

⁶ 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."

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 63, 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.)

73. 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.

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 68, 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 or a Coalition Group will be required to develop and implement, upon Regional Board approval, an individual AgNMP.

74. 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

75. 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.
76. 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).
77. 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.

78. 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).
79. 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.
80. 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.
81. 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 December 22, 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. Responsibility for compliance with this Waiver remains with the individual dischargers who are members of the Group. 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

82. 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.
83. 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.
84. 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.
85. 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).
86. 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

87. 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.
88. 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.

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.

89. 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.

CEQA

90. 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

91. 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.

92. 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 Waiver⁷. 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. 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.
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 risk⁸ for discharging animal

⁷ USFS grazing allotments with low animal density (180 or less animals on 10,000 acres or more), and where no pesticides, herbicides or nutrients are applied, are not subject to the terms of this Order.

⁸ 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.

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.

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

1. To obtain coverage under this Conditional Waiver, each discharger shall, no later than December 22, 2016, complete an electronic NOI form available on the Regional Board's website 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. Individual dischargers are not required to submit the information required in B. 3, g through t, below on the eNOI form to initiate enrollment in this Order provided that:
 - a. The individual discharger is a member in good standing of a Coalition Group; and,
 - b. The Coalition Group of which the discharger is a member develops an acceptable Compliance Program (see C. 3., below) that requires the submittal to the Group of the information identified in B.3. g through t; and,
 - c. The Coalition Group aggregates the data in B.3 g through t on behalf of its members in a manner identified in the approved Compliance Program and provides to the Regional Board a summary of the data in accordance with the method and schedule identified in the approved Compliance Program.

An individual discharger who is a member of a Coalition Group but who fails to provide to the Group the information required in B.3. g through t in a timely manner in accordance with an approved Compliance Program shall provide this information to the Regional Board upon notification by the Executive Officer of the need to do so. Similarly, individual dischargers within a Coalition Group that fails to fulfill these information submittal obligations pursuant to the approved Compliance Program shall provide the information required in B.3. g through t upon notification by the Executive Officer of the need to do so.

3. 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. Total irrigated, dry-farmed and fallow acres; source water(s) by volume;
 - g. If applicable, the number and location of drinking water wells and/or agricultural wells on the agricultural site;

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- h. Agricultural site location(s)⁹;
 - i. Acreage of agricultural site(s);
 - j. For the agricultural site location(s), assessor's parcel number(s) (APNs) and name and contact information of landowner(s);
 - k. 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;
 - l. Type(s) of irrigation system used;
 - m. Type(s) of crops grown;
 - n. Type of agriculture operation;
 - o. Specific chemical use;
 - p. Backflow prevention devices and presence of abandoned well(s) on site;
 - q. BMPs (including farming practices) in use, to prevent, minimize and/or mitigate the discharge of pollutants from the operator's agricultural operation(s);
 - r. If applicable, name of waterbody adjacent to agricultural site or within the premises of the agricultural site;
 - s. If applicable, pesticide use permit information;
 - t. 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 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).
4. 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
5. 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.
6. 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.

⁹ 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.

The Coalition Group shall compile and maintain a list of the WDID numbers for the dischargers within the Coalition Group.

7. 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.
8. 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.
9. 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.
10. 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. Upon approval, the Compliance Program shall be implemented.
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 BMPs¹⁰, 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, do not unreasonably affect beneficial uses, and do not cause or contribute to conditions of pollution or nuisance. BMP implementation, evaluation and modification shall address irrigation practices, if any, and their management. BMPs for waste management practices, such as composting and land application of manure, mulch, and compost, shall be appropriately designed and implemented. Recommended BMPs for waste management include waste and wastewater containment and surface drainage control. Evaluation of BMPs intended, in whole or in part, to minimize or eliminate nutrient discharges in agricultural discharges to receiving waters shall include collection and analysis of nutrient application and removal data or an equivalent demonstration of proper nutrient application rates and removal efficiencies.

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), 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 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

¹⁰ 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.

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. BMP implementation, evaluation and modification as part of the AgNMP(s) shall address irrigation practices, if any, and their management. Evaluation of BMPs intended, in whole or in part, to minimize or eliminate nutrient discharges in agricultural discharges to receiving waters shall include collection and analysis of nutrient application and removal data or an equivalent demonstration of proper nutrient application rates and removal efficiencies. 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. The AgNMP(s) shall be implemented upon Regional Board approval. 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. Where the final schedules for action(s) to assure compliance with the load allocation and with the applicable TDS and nitrogen objectives exceeds one year, the proposed plans shall include interim, measurable milestones and schedules for their attainment.

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 July 22, 2017 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.
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 data¹¹, 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.
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 Group 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;
 - 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;

¹¹ 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.

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- 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#aa.
 - 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 well¹² is identified on agricultural operator property, the agricultural operator or Coalition Group will notify EMWD to request that the abandoned 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.

¹² 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)

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 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.
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. Individual and collaborative WQMPP annual reports shall be prepared and submitted by September 15 of each year. 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 classifications¹³;
 - 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 WIDs, 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 Order, 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 approved by the Regional Board Executive Officer based on a satisfactory demonstration that the administrator possesses sufficient resources to coordinate enrollment in and implementation of the Group-applicable requirements of this Waiver.

¹³ After Anderson J.R, et al., 1976, USGS Professional Paper 964

Conditional Waiver for Agricultural Operations in the San Jacinto River Watershed

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 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) 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. The Coalition Group 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 by WRCAC within 30 days after the payment deadline.
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 material¹⁴.

¹⁴ This requirement does not apply to the normal operations of commercial nurseries and onsite waste management practices, such as composting, which may include greenwaste stockpiling longer than 60 days.

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. The discharge of municipal solid waste and trash, as defined in this Conditional Waiver, 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.
10. The application of manure to lands within the San Jacinto River Watershed that overlie 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.

Conditional Waiver for Agricultural Operations in the San Jacinto River Watershed

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. The Regional Board is authorized to conduct an inspection of agricultural operations to ascertain whether the purposes of the Porter Cologne Water Quality Control Act and the terms of this Order are being met. The inspection(s) shall be conducted with the consent of the discharger, or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set for the in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. In the event of an emergency affecting the public health or safety, an inspection may be performed without consent of the issuance of a warrant. Subject to these requirements, the Regional Board or an authorized representative shall be allowed 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;
 - 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 July 22, 2016 and expire on July 22, 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, to unreasonable adverse impacts on surface water beneficial uses, or to conditions of pollution or nuisance. If the discharge(s) fail to meet this limitation, then the discharger must implement additional BMPs or other control measures in order to attain compliance. This is expected to be achieved through the BMP adaptive management process identified in this Order and/or through development and implementation of a Water Quality Improvement Plan, as directed by the Executive Officer.
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, to unreasonable adverse impacts on beneficial uses, or to conditions of pollution or nuisance.

Conditional Waiver for Agricultural Operations in the San Jacinto River Watershed

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 July 22, 2016.

Kurt V. Berchtold
Executive Officer

ATTACHMENT A

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 less than 20 acres with an animal density greater 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 |



***California Environmental Quality Act
(CEQA)***

**INITIAL STUDY
AND MITIGATED NEGATIVE DECLARATION**

for

**CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR
DISCHARGES FROM AGRICULTURAL OPERATIONS (CWAD)**

IN THE SAN JACINTO RIVER WATERSHED

May 5, 2015

California Regional Water Quality Control Board, Santa Ana Region
3737 Main Street, Suite 500
Riverside, CA 92501

Prepared By:

California Regional Water Quality Control Board, Santa Ana

Contact:

Wanda Cross (951) 782-4468

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A. Project Description

1. *Project Title:*

Conditional Waiver of Waste Discharge Requirements for Discharges from Agriculture Operations in the San Jacinto River Watershed ("CWAD"); tentative Order No. R8-2015-0019)

2. *Lead Agency Name and Address:*

California Regional Water Quality Control Board, Santa Ana Region
3737 Main Street, Suite 500,
Riverside, CA 92501

3. *Contact Person Name and Phone Number:*

Imtiaz-Ali Kalyan 951-782-3219

4. *Project Location:*

San Jacinto River Watershed, Riverside County

5. *Project Sponsor's name and address*

California Regional Water Quality Control Board, Santa Ana Region
3737 Main Street, Suite 500,
Riverside, CA 92501

6. *General Plan designation:* not applicable.

7. *Zoning:* not applicable

8. *Description of Project:*

The project is the adoption and implementation of a conditional waiver of waste discharge requirements (CWAD (pronounced "quad")) for waste discharges from existing farming, livestock and other agricultural operations within the San Jacinto River Watershed in Riverside County ("Project Area") to waters of the state. 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. The project will establish conditions for the discharge of wastes from agricultural operations in the Project Area to groundwater and surface waters.

The San Jacinto River Watershed includes approximately 80,000 acres of land that are used for agriculture, including irrigated agriculture and livestock operations. At this time, in the Project Area, it is estimated that there are fewer

than 100 agricultural operations of at least 20 acres that discharge waste, or that have the potential to discharge waste, to waters of the state. The number and acreage of agricultural operations is decreasing as land in agriculture gives way to urban land uses.

For the purposes of this CWAD, agricultural operations include irrigated agriculture and otherwise unregulated livestock operations on 20 or more cumulative acres within the Watershed, and other agricultural operations, irrespective of size, that Regional Board staff finds to be a high risk for impacting the water quality and beneficial uses of the waters of the state.

The purpose of the CWAD program is to control the discharge of pollutants in agricultural waste discharges so that the water quality standards of the receiving waters are protected. To meet that purpose, the proposed CWAD (tentative Order No. R8-2015-0019) requires enrollees to: implement Best Management Practices to 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 specific BMPs that are and will be employed at each agricultural operation that would be regulated under the CWAD are not known at this time, since it is expected that the BMPs selected for each site will be tailored to meet site-specific needs. However, it is expected that one or more of the following BMPs will be employed at the regulated agricultural operations:

- Filter strips/buffer strips
- Smart Irrigation/Micro-irrigation (drip)
- Sprinklers
- Cover crops
- Conservation crop rotation
- Conservation Cover; Mulching/Residue Management/Till Practices
- Pest management/Weed control
- Polyacrylamide (PAM) application
- Nutrients management
- Sediment ponds
- Tail water recovery
- Outreach and education

A detailed description and discussion of the proposed CWAD is provided in the staff report accompanying tentative Order No. R8-2015-0019. The staff report and tentative Order can be found at:

[http://www.waterboards.ca.gov/santaana/water_issues/programs/planning/ag_waiver.shtml]

The CWAD represents a more stringent level of regulatory oversight than is currently in place.

9. *Surrounding Land Uses and Setting:*

The Project Area is the watersheds of the San Jacinto River and Canyon Lake, and Lake Elsinore, which rise in the San Jacinto Mountains and the Santa Ana Mountains, respectively, both parts of the system of southern California's Transverse Ranges associated with the San Andreas Fault zone. The Project Area is seismically active: the San Jacinto Fault is prominent along the northerly side of the Jacinto River Valley, while the Elsinore Fault marks the southern side of valley where Lake Elsinore is located. This San Jacinto Fault has produced destructive earthquakes during the last 125 years. The area is subject to a Mediterranean climate.

The Project Area includes residential, commercial and industrial land uses of varying densities, agricultural land uses, and dedicated open space under the control of several public agencies including the U.S. Forest Service, the California Department of Fish and Wildlife, and the Riverside Conservation Authority. Much of the land that is currently used for agriculture is slated for development with zoning for residential, public use buildings, schools and parks, and commercial and industrial uses. The Project Area is crossed by right of ways controlled by Metropolitan Water District of Southern California, Southern California Edison, Sempra Energy, California Department of Transportation, and the Riverside County Flood Control and Water Conservation District, among others.

The Project Area covers some 780 square miles. The principal waters of the Project Area include the approximately 60 mile long San Jacinto River that empties into Lake Elsinore, and Lake Hemet and Canyon Lake, both reservoirs on the San Jacinto River. Because of water diversions and storage, and generally dry climatic conditions, the San Jacinto River's main valley reaches (between elevations 1800' and 1450') have intermittent flow; other reaches and tributaries include both perennial and intermittent sections. Beneficial uses of these waters, as designated in the Basin Plan, include: groundwater recharge; contact and non-contact water recreation; warm water habitat; cold water habitat; wildlife habitat; and spawning. Groundwater management zones recharged by these waters have the following beneficial uses: municipal, agricultural, industrial and process supply. Not all these waters support all these uses. Lake Perris, the terminal reservoir of the State Water Project, is also in the Project Area.

10. *Other Public Agencies whose approval is required:*

No other public agency approvals are required.

B. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Less than Significant with Mitigation Incorporated", as indicated by the checklist on the following pages.

| | |
|-----------------------------|--------------------------------------|
| Aesthetics | Agriculture and Forestry Resources |
| Air Quality | X Biological Resources |
| Cultural Resources | Geology /Soils |
| Greenhouse Gas Emissions | Hazards & Hazardous Materials |
| Hydrology / Water Quality | X Land Use / Planning |
| Mineral Resources | Noise |
| Population / Housing | Public Services |
| Recreation | Transportation/Traffic |
| Utilities / Service Systems | X Mandatory Findings of Significance |

C. LEAD AGENCY DETERMINATION:

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

- X I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENT IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or

NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Kurt V. Berchtold, Executive Officer

Date

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D. EVALUATION AND DISCUSSION OF ENVIRONMENTAL EFFECTS

The Environmental Checklist and discussion that follows is based on sample questions provided in the CEQA Guidelines¹ (Appendix G) which focus on various individual concerns within 17 different broad environmental categories, arranged in alphabetical order. The Guidelines also provide specific direction and guidance for preparing responses to the Environmental Checklist. Each question in the Checklist requires a "yes" or "no" reply as to whether or not the project will have a potentially significant environmental impact of a certain type, and, following a Checklist table with all of the questions in each major environmental heading, citations, information and/or discussion that supports that determination. The Checklist table provides, in addition to a clear "yes" reply and a clear "no" reply, two possible "in-between" replies, including one that is equivalent to "yes, but with changes to the project that the proponent and the Lead Agency have agreed to," and another equivalent to "no" that requires a greater degree of discussion, supported by citations and analysis of existing conditions, threshold(s) of significance used and project effects than required for a simple "no" reply. Each possible answer to the questions in the Checklist, and the different type of discussion required, is discussed below:

Potentially Significant Impact. Checked if a discussion of the existing setting (including relevant regulations or policies pertaining to the subject) and project characteristics with regards to the environmental topic demonstrates, based on substantial evidence, supporting information, previously prepared and adopted environmental documents, and specific criteria or thresholds used to assess significance, that the project will have a potentially significant impact of the type described in the question.

Less Than Significant With Mitigation. Checked if the discussion of project characteristics, also adequately supported with citations of relevant research or documents, determine that the project clearly will or is likely to have particular physical impacts the given threshold or criteria by which significance is determined, but that with the incorporation of clearly defined mitigation measures into the project, that the project applicant or proponent has agreed to, such impacts will be avoided or reduced to less-than-significant levels.

Less Than Significant Impact. Checked if a more detailed discussion of existing conditions and specific project features, also citing relevant information, reports or studies, demonstrates that while some effects may be discernible with regard to the individual environmental topic, the effect would not exceed a threshold of significance which has been established by the Lead or Responsible Agency. The discussion may note that due to the evidence that a given impact would not occur or would be less than significant, no mitigation measures are required.

No Impact. Checked if brief statements (one or two sentences) or cited reference materials (maps, reports or studies) clearly show that the impact type could not be reasonably expected to occur due to the specific characteristics of the project or its

location (e.g., the projects falls outside an area subject to tsunami, and relevant citations are provided). The referenced sources may also show that the impact simply does not apply to projects like the one involved. A response to the question may also be "No Impact" with a brief explanation that the basis is adequately supported by project specific factors or general standards.

1. Aesthetics

| Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|---|------------------------------|-----------|
| a) Have a substantial adverse effect on a scenic vista? | | | X | |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | | | X | |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | | | X | |
| d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area? | | | X | |

Discussion: Would the project have any of the effects identified in parts a) through d):

a) – d). *Less than significant Impact.* None of the reasonably foreseeable measures that may be needed to implement and comply with the CWAD would substantially alter any scenic vistas, damage scenic resources, degrade the existing visual character of any site, or result in a new source of substantial light or glare that would adversely affect day or nighttime views. Implementation of the CWAD is likely to require the construction, operation, and periodic maintenance of certain BMPs that may have the potential to affect the environment (e.g., buffer/filter strips, sediment ponds, installation of drip-irrigation systems). However, these activities would result in very minor and, in most cases, short-term, land disturbances that would not substantially affect the character of the agricultural land in the Project Area or its scenic characteristics. There are no scenic highways in the area of agricultural lands addressed by the CWAD. None of the reasonably foreseeable BMPs would require or constitute a new, substantial source of light or glare.

2. Agricultural Resources

| In determining whether impacts to agriculture resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|---|------------------------------|-----------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to a non-agricultural use? | | | | X |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | | | | X |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined by Public Resources Code section 4526)? | | | | X |
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | | | | X |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use? | | | | X |

Background: The central San Jacinto River Valley of the Project Area has supported agricultural operations for over 100 years. Adoption and implementation of the CWAD is intended to assure that existing and new agricultural operations in the Project Area protect water quality through the use of the most appropriate management practices. The CWAD would not result in zoning or land use changes.

Discussion: Would the project:

- a) *Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to a non-agricultural use?*

No Impact. The project will not result in converting Prime or Unique Farmland of Farmland of Statewide Importance to non-agricultural use. Small amounts of agricultural land within the Project area may be dedicated to management practices needed to support the agricultural operations by complying with the CWAD Program

rather than being directly farmed or used for livestock operations. These implemented BMPs are considered an integral part of the agricultural operations since they allow for continued agricultural operations while ensuring the protection of affected receiving waters.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No Impact. Implementation of the CWAD will entail the implementation of management practices at existing and future agricultural operations and will not require or result in a change in zoning or affect a Williamson Act contract.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined by Public Resources Code section 4526)?

No impact. There will be no effect with respect to zoning of forest or timber lands. The proposed CWAD is directed to regulation of waste discharges from agricultural lands, not to zoning or land use changes, including on forest or timber lands.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

No impact. The project will have no effect on forest land, but will regulate agricultural operations on land that has for a long period been designated for agricultural use.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to non-agricultural use?

No Impact. Implementation of the Project will not result in conversion of farmland to non-agricultural uses. As stated, in (a), above, there may be minor alterations of farmlands to support BMP implementation, but the extent of such modifications would not be significant. These potential modifications would be intended to protect water quality while supporting the agricultural operation by providing a method of compliance with the CWAD.

3. Air Quality

| Where available, the significance criteria established by the applicable air quality management or air pollution control district might be relied upon to make the following determinations. Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|---|------------------------------|-----------|
| a) Conflict with or obstruct implementation of the applicable air quality plan. | | | | X |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation. | | | X | |
| c) Result in a cumulatively net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors). | | | X | |
| d) Expose sensitive receptors to substantial pollutant concentrations? | | | | X |
| e) Create objectionable odors affecting a substantial number of people? | | | | X |

Background: The Project Area is within the jurisdiction of the South Coast Air Quality Management District (SCAQMD), which develops and adopts an Air Quality Management Plan for attainment of federal and state clean air standards. The South Coast area is a nonattainment area for particulate matter and ozone. Controls on NOx, SOx, volatile organic compounds, and other air-borne pollutants that are or may be particulate matter and ozone precursors are required. The Air Quality Management Plan is implemented via rules that apply to various sources, including confined animal facilities and internal combustion engines used in the production of crops or raising of fowl or other animals. These rules may require written permits issued to various sources.

Approval of the CWAD is expected to necessitate the implementation of new/revised BMPs at agricultural operations in the project area. Some of these BMPs (e.g., buffer /filter strips, sediment ponds, drip irrigation systems) may require initial construction and subsequent periodic maintenance, which could result in short-term, small scale releases of dust and vehicle tailpipe releases. However, these BMPs would not be expected to have continual potential for air quality impact during their operational lifetime. Other BMPs such as education and outreach, for example, would have no direct air quality

environmental impact. BMPs such as crop rotation and mulching/tilling practices may entail new practices or, more likely, may result in modification of existing practices. Such modifications may reduce or increase land and crop manipulation and thus reduce or increase the use of requisite agricultural equipment/engines that may be direct and indirect sources of air emissions (dust/tailpipe emissions). In sum, the construction and operation of some BMPs may result in or necessitate dust and air emissions associated with machinery/vehicle-tailpipe emissions. These effects would be largely short-term in nature during construction; any ongoing emissions are expected to be an insignificant part of and comparable to those associated with normal, existing agricultural operations. BMPs implemented at livestock operations may result in the reduction of air emissions as these operations, and wastes associated with them, are managed to prevent water quality impacts and reduce nuisance conditions, including odors.

Discussion: Would the project:

a) *Conflict with or obstruct implementation of the applicable air quality plan.*

No impact. A project would conflict with or obstruct implementation of a regional air quality management plan if it would be inconsistent with the growth assumptions of the plan in terms of population, employment or regional growth in vehicle miles traveled. The growth assumptions are based on the assumptions provided in local general plans.

Here, the project would not be growth inducing because it would not cause an increase in vehicle miles traveled or somehow cause growth patterns inconsistent with local general plans. Rather, at most, the project might cause a slight increase in emissions from existing agricultural operations as the agricultural operators implement and maintain the BMPs required by the CWAD. This would not conflict with, or cause obstruction of, the implementation of a regional air quality management plan.

b) *Violate any air quality standard or contribute substantially to an existing or projected air quality violation*

Less than significant impact.

Construction and maintenance of BMPs at agricultural operations could result in small-scale earth moving that could generate dust. In addition, engines of equipment used for such earth moving will generate emissions typical for that equipment. These construction and periodic maintenance-related activities could result in short term, localized impacts. Ongoing operation of some BMPs (e.g., crop rotation, mulching/tilling and residue management, tail water recovery and re-use operations) may result in dust/particulate matter or other types of emissions (e.g, equipment tailpipe emissions). However, it is likely that the nature of these BMPs will be modification of existing, similar or equivalent management practices at agricultural operations in order to enhance their efficacy and reduce potential water quality related impacts. Thus, there would be little if any additional impact associated with these revised practices. Implementation of new BMPs of this type would be expected to have less than significant impacts, , given their periodic and short-term nature.

c) Result in a cumulatively net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors).

Less than significant impact.

See response 3.b). Particulate and ozone precursors may be released as the result of the implementation/ongoing operation of BMPs at agricultural operations. However, these releases are generally expected to be short-term and periodic in nature and therefore may result in only minor modifications of releases associated with ongoing management practices.

d) Expose sensitive receptors to substantial pollutant concentrations?

No impact. Implementation of the CWAD would not result in changes in exposure of sensitive receptors to substantial pollutant concentrations. Facilities regulated by the CWAD are in rural areas zoned for agriculture, and away from schools, hospitals, and other sensitive land uses, and residential uses that are in areas zoned for agriculture are low density and widely dispersed. Minor construction and periodic maintenance activities to implement the program could result in temporary, short-term increases of dust and other air emissions in the vicinity of the construction. However, since construction will be taking place at agricultural operations that are located far from any sensitive receptors, the receptors would not be exposed to substantial pollutant concentrations from these activities. Furthermore, it is likely that the nature of these BMPs will be modification of existing, similar or equivalent management practices at agricultural operations in order to enhance their efficacy and reduce potential water quality related impacts. Thus, there would be little if any additional impact associated with these revised practices.

e) Create objectionable odors affecting a substantial number of people?

No impact. No objectionable odors that could affect a substantial number of people would be created as the result of the reasonably foreseeable compliance measures. The CWAD would be implemented in rural, agricultural areas, with a widely dispersed, low density population. Implementation would not result in odors significantly different than those that are typical in the Project Area. BMPs implemented to comply with the CWAD at enrolled livestock operations are likely to result in reduced odors in order to prevent nuisance conditions, as the proposed CWAD requires. Additionally, it is likely that the nature of these BMPs will be modification of existing, similar or equivalent management practices at agricultural operations in order to enhance their efficacy and reduce potential water quality related impacts. Thus, there would be little if any additional impact associated with these revised practices.

4. Biological Resources

| Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|---|------------------------------|-----------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | | X | | |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | | X | | |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | | X | | |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | | | | X |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | | | | X |
| f) Conflict with provision of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | | X | | |

Background: The CWAD would regulate operations on agricultural lands within the San Jacinto River Watershed in western Riverside County. Enrolled agricultural operations would be required, in part, to implement BMPs to control waste discharges and prevent adverse impacts to surface and groundwater resources and the beneficial uses of these resources, including the support of animals and their habitats.

The San Jacinto River Watershed is part of the ~1.26 million acre area covered by the Multiple Species Habitat Conservation Plan (MSHCP), which was adopted to protect 146 native species of plants and animals² and to preserve a half million acres of their habitat³. The MSHCP constitutes a highly ambitious environmental protection endeavor and resulted from a comprehensive effort (Riverside County Integrated Project (RCIP)) to shape the future of Riverside County, recognizing the challenges of rapid population growth, increased traffic/traffic congestion and the listing of species as threatened or endangered by development. The intent of the RCIP/MSHCP is to provide guidance on development that would accommodate economic growth while protecting the environment and planning for future transportation needs.

The MSHCP was adopted by Riverside County and the cities of Banning, Beaumont, Canyon Lake, Corona, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrietta, Norco, Perris, Riverside, San Jacinto, Temecula and Wildomar. The Riverside County Flood Control and Water Conservation District, Riverside County Parks and Open Space District, Riverside County Waste Management Department, Riverside County Transportation Commission, California Department of Transportation and the California Department of Parks and Recreation also participated. All of these entities are considered to be parties to the implementing agreement for the MSHCP. The cities and Riverside County signed a joint powers agreement that formed the Western Riverside County Regional Conservation Authority (RCA) in 2004. RCA's responsibility is to help the local cities and the County implement the MSHCP. RCA's operations are governed by the cities and the County.

The role of agriculture in western Riverside County was thoroughly considered during the development of the MSHCP. The Riverside County Farm Bureau and County of Riverside entered into an agreement to insure that the MSHCP would not adversely impact agriculture and to allow for an agreed amount of new agricultural land to be able to enter production with coverage under the MSHCP.

Long-term permits were issued in 2004 by the U.S. Fish and Wildlife Service (Federal Fish and Wildlife Permit #TE088609-0) and the California Department of Fish and Wildlife (Natural Community Conservation Plan permit) to authorize the acquisition and management of reserves within the MSHCP, including conditions for the incidental take of threatened and endangered species.

Of the 1.26 million acres covered by the MSHCP, 500,000 acres (40%) is designated for preservation. Of that half million acres, 347,000 acres (69%) is already conserved as public or quasi-public land. The acquisition of the remaining acreage is one of the most important activities of the RCA. RCA also monitors development/habitat loss within the MSHCP, conducts the joint review process for applications for infrastructure or development projects, monitors protected species, and manages the lands it acquires.

² The species addressed by the MSHCP are identified in the Federal Fish and Wildlife Permit (#TE088609-0) issued by US. Fish and Wildlife Service on June 22, 2004.

³ Detailed information concerning the MSHCP and RCA can be found at and through the RCA website: www.wrc-rca.org.

Any individual, business, or public agency wishing to construct a project (residential, commercial and industrial developments), within certain areas ("criteria cells") covered by the MSHCP must complete a reserve assembly and consistency review process done by the local agency responsible. That review is submitted to the RCA for concurrence. RCA staff completes a checklist of actions necessary for each project, including requirements for the protection of habitats and requirements for biological surveys. Comments prepared by RCA staff based on this review are forwarded to the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW). Discussions are held among RCA, the local agency, the project proponent and the wildlife agencies to resolve concerns and to develop any conditions of approval. If a mutually agreeable solution cannot be reached, the USFWS and CDFW can suspend the parts of their permits that allow the projects to proceed.

Agricultural operations within the San Jacinto River watershed lie within the MSHCP but are largely exempt from its requirements. Nevertheless, these operations may include or lie adjacent to waters of the United States and waters of the state, including vernal pools, that are subject to the regulatory authorities of the Regional Board, the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service. These waters support, or have the potential to support biological resources, including endangered species and their habitats, at least some of which have been identified in the MSHCP.

Discussion: Would the project:

- a) *Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*
- b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

Less than significant with mitigation. Approval of the CWAD is expected to necessitate the implementation of new/revised BMPs at agricultural operations in the Project Area. Minor, small scale grading and construction and periodic maintenance activities may be needed for some of these BMPs. Because of their limited anticipated scope, and because in most cases the BMPs would be implemented at already existing agricultural operations, these projects are not expected to have a substantial, if any, adverse effect on plant or animal species of concern, either directly or indirectly through habitat modification/loss. Nor are these activities expected to substantially affect riparian or other sensitive natural habitat communities. However, there remains the potential that BMPs could be proposed for sensitive areas at agricultural operations, and that BMP implementation in these areas could adversely affect plant and animal species and their habitats, including riparian and other sensitive natural communities. This would be contrary to the protection of wildlife-related beneficial uses, and to the extraordinary effort of the MSHCP to preserve biological resources.

Therefore, it is appropriate to review proposed BMPs, in coordination with appropriate agencies as needed to assure that the BMPs would not result in significant adverse impacts. The proposed CWAD addresses this matter as follows. First, the Notice of Intent requires each agricultural operator seeking enrollment in the CWAD to indicate whether their operation includes or lies adjacent to waters of the U.S./state, including vernal pools. If so, then Regional Board staff will review the BMPs proposed to assess the likelihood of impacts to biological resources. Where there is the potential for such impacts, Board staff will coordinate with the agricultural operators and the wildlife agencies, as needed, to determine whether and what special measures, including avoidance, are necessary and reasonably feasible to prevent adverse impacts. Agricultural operators will be required to implement these special measures as a part of a Water Quality Improvement Plan that the Executive Officer is authorized to require pursuant to the CWAD. Incorporation of these provisions in the CWAD mitigates potential adverse impacts to species of concern and riparian/sensitive habitats to less than significant.

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Less than significant impact with mitigation. No substantial adverse impacts to wetlands or other federally protected waters will occur provided that the agricultural operators comply with conditions imposed by the Regional Board, USFWS, CDFW and the U.S. Army Corps of Engineers via the federal Clean Water Act Section 404/401 permitting and water quality standards certification process, under waste discharge requirements issued pursuant to the California Water Code, and any requirements imposed by CDFW pursuant to the Fish and Game Code. Compliance with these requirements is included as a provision of the proposed CWAD and this provision renders any potential impact less than significant.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

No impact. The California Department of Fish and Wildlife's San Jacinto Wildlife Area is in the Project Area. The Davis Unit of the SJWA is maintained and operated primarily for the benefit of resident and migrating avian species and sensitive plant species, while the Potrero Unit supports resident populations of a wide variety of upland avian and terrestrial wildlife species. Installation of any management measures by agricultural operators to comply with and implement the CWAD would take place on established agricultural land, some of which adjoin the SJWA. Management measures could involve minor construction or earth moving activities that would be similar to existing agricultural operations. These actions would not add to the interference of wildlife movement already caused by the existing operations, and would have no impact.

e) *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

No impact. Actions needed to comply with the CWAD would likely be similar to existing agricultural operations so that there would not be conflicts with local ordinances or policies.

f) *Conflict with provision of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?*

Less than significant with mitigation. The Project Area is covered by Western Riverside County Multi-Species Habitat Conservation Plan, 2004 (MSHCP), being implemented by the Western Riverside County Regional Conservation Agency (RCA), and the 19 local agencies who signed the joint powers agreement that governs the RCA and adopted the plan. The purpose of the MSHCP is to protect 146 native plant and animal species and preserve their habitat. Parts of some agricultural operations in the project area fall within MSHCP Criteria Areas that are scheduled to be acquired by the RCA to implement the plan. Implementation of the CWAD would not preclude acquisition of these lands by the RCA and thereby conflict with the MSHCP. No changes would result from CWAD implementation that would be in conflict with the MSHCP, or other habitat conservation plans. As discussed in the response to 4 a) and b), the draft CWAD requires review of site-specific BMP implementation to assure that there are no impacts to biological resources, including species/habitats addressed by the MSHCP.

5. Cultural Resources

| Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|---|------------------------------|-----------|
| a) Cause a substantial adverse change in the significance of a historic resource as defined in CEQA Guidelines section 15064.5? | | | | X |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines section 15064.5? | | | | X |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | | | | X |
| d) Disturb any human remains, including those interred in formal cemeteries? | | | | X |

Background: Prior to European exploration and settlement, the Project area was inhabited by bands of the indigenous Cahuilla Tribe, linguistically related to other tribes of the American southwest. Spanish explorers were in the area in the late 1700s, and farming and ranching in the area began in earnest in the last half of the 1800s. The City of San Jacinto, central in the Project area, was founded in 1870.

Discussion: Would the project:

a) *Cause a substantial adverse change in the significance of a historic resource as defined in CEQA Guidelines section 15064.5?*

No impact. Implementation of the proposed CWAD program could involve small scale, minor construction and grading at established agricultural operations that have already been disturbed by human activity, not within areas containing historic resources, as defined in CEQA Guidelines 15064.5. Therefore the project will have no impact.

b) *Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines section 15064.5?*

No impact. Implementation of the proposed CWAD program could involve small scale, minor construction and grading at established agricultural operations that have already been disturbed by human activity, and not in areas containing archeological resources, as defined in CEQA Guidelines 15064.5. Therefore the Project will have no impact on archeological resources.

c) *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

No impact. Implementation of the proposed CWAD program could involve small scale, minor construction and grading at established agricultural operations that have already been disturbed by human activity, and not in areas of known paleontological resources. None of the potential activities needed to implement the proposed CWAD program would cause change to the significance of a unique geologic feature. There would be no impact to unique paleontological or geological resources.

d) *Disturb any human remains, including those interred in formal cemeteries?*

No impact. Implementation of the CWAD could involve small scale, minor construction and grading at established agricultural operations that have already been disturbed by human activity, and not in areas of known human remains. No remains are reported to be at agricultural operations where potential CWAD implementation activities would occur, and therefore the project will have no impact.

6. Geology and Soils

| Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|---|------------------------------|-----------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | X |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | | | | X |
| ii) Strong seismic ground shaking? | | | | X |
| iii) Seismic related ground failure, including liquefaction? | | | | X |
| iv) Landslides? | | | | X |
| b) Result in substantial soil erosion or loss of topsoil? | | | | X |
| c) Be located on a geologic unit or soil that is unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | | | | X |
| d) Be located on expansive soil, as defined in table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | | | | X |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? | | | | X |

Background The Project Area includes parts of the southern California's Transverse Ranges and their intervening valleys, an active zone of tectonic deformation associated with the San Andreas Fault system and geologically highly complex. The Project Area's predominant geologic features include the San Jacinto and Santa Ana Mountains; the

roughly parallel Elsinore and San Jacinto Faults that traverse the Project Area and grabens associated with these faults that are occupied by Lake Elsinore and Mystic

Lake, respectively; structural blocks of the southern California batholith, particularly the Perris block in the central part of the area; and, the San Timoteo badlands. Both the Elsinore and San Jacinto Faults are capable of strong earth movement.

Discussion: Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area based on other substantial evidence of a known fault?

No impact. The reasonably foreseeable BMPs that might be implemented in response to the adoption of the CWAD would have no effect on the exposure of people or structures to the potential consequences of an earthquake. These BMPs would not necessitate the construction of habitable structures. Any industrial structures would be designed and constructed in accordance with applicable seismic design standards and with local building codes.

ii) Strong seismic ground shaking?

No impact. Refer to response to 6.a.i), above.

iii) Seismic related ground failure, including liquefaction?

No impact. Refer to response to 6.a.i), above.

iv) Landslides?

No impact. Refer to response to 6.a.i), above.

b) *Result in substantial soil erosion or loss of topsoil?*

No impact. Small-scale, short duration earthmoving projects to construct measures needed to comply with CWAD program are reasonably foreseeable but are not yet precisely known. Because of their scale and purpose, they would not result in substantial soil erosion or loss of topsoil. To the contrary, to support agricultural operations and to prevent adverse impacts to water quality and beneficial uses, the BMPs would be expected to be designed to prevent substantial soil erosion or loss of topsoil. Compliance projects involving construction on one acre or more would be subject to review and approval by the Regional Board, and would be required to comply with applicable parts of the State Water Board's general NPDES permit for construction

activities⁴. Compliance projects carried out as part of routine operations at established agricultural facilities are exempt from such permitting. All compliance projects would also be subject to non-discretionary requirements of the County of Riverside's grading ordinance and SCAQMD's construction dust control program.

c) Be located on a geologic unit or soil that is unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

No impact. Project implementation would not result in instability of a geologic unit or unstable soils. No foreseeable activities that would be taken to comply with the CWAD program would potentially result in landslide, lateral spreading, subsidence, liquefaction or collapse.

d) Be located on expansive soil, as defined in table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

No impact. Facilities constructed to comply with the Project would be located in areas of well-drained sandy loam soils with little or no clay content, and such soils are not expansive. There is no risk to life or property that would be created because of the absence of expansive soils in the Project Area.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

No impact. Soils in the project are capable of supporting use of septic tanks and subsurface wastewater disposal systems. Project implementation would not require construction of such facilities.

7. Greenhouse Gas Emissions

| Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|---|------------------------------|-----------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | | | X | |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | | | X | |

⁴ State Water Resources Control Board Order 2009-0009-DWQ

Background: The California Global Warming Solutions Act of 2006 requires the California Air Resources Board to design and implement emission limits, regulations, and other measures, such that feasible and cost-effective greenhouse gas (GHG)

emissions are reduced to 1990 levels by 2020 (representing an approximately 20% reduction in emissions).

Discussion: Would the project:

- a) *Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?*

Less than significant impact. See response 3.b). The construction, maintenance and operation of certain types of BMPs may result in emissions from vehicle/equipment tailpipe emissions. These impacts are expected to be short-term and localized. Dairies, which have the potential to produce significant GHG, will not be regulated under the CWAD. Other livestock operations that would be regulated under the CWAD will be required to implement BMPs designed to reduce nuisance conditions, including odor-producing GHG emissions.

- b) *Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*

Implementation of the CWAD program is not in conflict with the Draft Riverside County Climate Action Plan, 2014, which proposes a comprehensive program for managing GHG, or with known GHG reduction programs, such as SCAQMD's Rule 2702 GHG Reduction Program, 2010, to fund implementation of GHG reduction projects.

8. Hazards and Hazardous Materials

| Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|---|------------------------------|-----------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | | | | X |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | | | | X |

| | | | | |
|--|--|--|--|---|
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | | | | X |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | | | | X |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | | | | X |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | | | | X |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | | | | X |

Background: Agricultural operations that will be subject to the CWAD program may routinely use insecticides, herbicides or other classes of toxic, and therefore hazardous, materials in their pest control practices. All such products that contain these materials

are evaluated for potential hazards by the Department of Pesticide Regulation and the use of these products is subject to regulations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). DPR sets conditions necessary for the safe use of these products, and FIFRA regulations require that these conditions appear on the product label. Agricultural operators that employ these materials are required to comply with these conditions. Construction of facilities/BMPs needed to comply with the CWAD will not involve the additional use or transportation of any hazardous materials other than construction materials, fuels, and lubricants in common use.

Discussion: Would the project:

- a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

No impact. CWAD implementation would not affect the transportation or potential release or emission of hazardous materials or create any environmental hazard beyond those that already exist.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

No impact. Refer to response to 8.a), above.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

No impact. Refer to response to 8.a), above.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

No impact. Refer to response to 8.a), above.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

No impact. Hemet-Ryan Airport, a general aviation public airport, is located in the Project Area., However no agricultural operations that would be subject to the CWAD are located within the area of this airport's land use plan area. The implementation of BMPs in response to the CWAD would not result in an airport- or aircraft-related safety hazard for people in the area of the airport.

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

No impact. Refer to response to 8.e), above.

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

No impact. The project entails the implementation of BMPs at agricultural sites and would not impair or interfere with emergency response or evacuation plans.

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

No impact. CWAD Program implementation will not expose people or structures to risk resulting from wildfires.

9. Hydrology and Water Quality

| Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|---|------------------------------|-----------|
| a) Violate any water quality standards or waste discharge requirements? | | | | X |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of the pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | | | | X |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alternation of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off-site? | | | | X |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alternation of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site? | | | | X |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage system or provide substantial additional sources of polluted runoff? | | | | X |
| f) Otherwise substantially degrade water quality? | | | | X |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | | | | X |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | | | | X |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | | | | X |

| | | | | |
|---|--|--|--|---|
| j) Inundation by seiche, tsunami, or mudflow? | | | | x |
|---|--|--|--|---|

Background: The Project Area encompasses the watersheds of the San Jacinto River and Lake Elsinore, an area of some 780 square miles. Should the San Jacinto River fill Lake Elsinore to overflowing, the discharge would be carried by Temescal Creek to the Santa Ana River, which empties into the Pacific Ocean south of the city of Huntington Beach. The highest peak flow recorded on the San Jacinto River above Lake Elsinore is 16,000 cfs (1927); the long-term annual average flow rate is 16 cfs. Two reservoirs on the San Jacinto River, Lake Hemet, on one of the river's headwaters streams, and Railroad Canyon Reservoir, or Canyon Lake, several miles above Lake Elsinore on the river's main stem, impound river flow, originally for agricultural supply and later to support urban land uses. The ephemeral Mystic Lake forms in the central San Jacinto River Valley when unusually heavy snow pack in the river's headwaters melts. The melt water overfills Lake Hemet, spills over the Lake Hemet Dam into the south fork of the San Jacinto River, and eventually reaches the San Jacinto Fault graben area where Mystic Lake appears. Mystic Lake will persist for several years following one of these infrequent (every 12 years, on average) events before disappearing due to infiltration and evaporation.

Groundwater in the Project Area is extensively developed and managed for quantity and quality. Supplemental water is delivered to the Project Area by both the State Water Project⁵ and the Colorado River Aqueduct⁶ for direct use and for storage.

Discussion: Would the project:

a) *Violate any water quality standards or waste discharge requirements?*

No impact. The purpose of the CWAD program is to establish a regulatory program that will assure that water quality standards are met.

b) *Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of the pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?*

No impact. Implementation of the CWAD program would not include material changes to existing groundwater production or groundwater management practices of the area in any foreseeable manner and would have no impact on aquifer volumes or water tables. CWAD implementation would not include activities that would substantially interfere with local groundwater recharge, supply or production.

⁵ The State Water Project operated by the California Department of Water Resources.

⁶ The Colorado River Aqueduct is owned and operated by the Metropolitan Water District of Southern California.

- c) *Substantially alter the existing drainage pattern of the site or area, including through the alternation of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off-site?, and;*
- d) *Substantially alter the existing drainage pattern of the site or area, including through the alternation of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site?*

No impact. Implementation of the CWAD could result in small scale alterations of localized drainage patterns within the Project Area; any such alterations would not substantially alter drainage patterns or any watercourse. Foreseeable drainage alterations would be limited to sites of established agricultural operations, although no such alterations have been identified. The Project would not increase the area of impervious surfaces or surface runoff rates, and would not result in substantial erosion or siltation on or off the site, or flooding in the Project Area.

- e) *Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?*

No impact. By design, the CWAD is intended to reduce pollutants in runoff to receiving waters. Specific measures that may be taken by operators of agricultural facilities to implement the project would likely retain runoff, and would not result in exceeding the capacity of existing or planned drainage systems. Therefore, the project would not cause the capacity of existing flood control or drainage facilities to be exceeded or increase sources of polluted runoff.

- f) *Otherwise substantially degrade water quality?*

No impact. By design, the project would improve water quality.

- g) *Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?*

No Impact. The project would not result in the construction of housing.

- h) *Place within a 100-year flood hazard area structures which would impede or redirect flood flows?*

No impact. BMP implementation to comply with the CWAD would not result in construction of structures within a 100 year flood zone that would impede or redirect flood flows.

- i) *Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?*

No impact. BMP implementation to comply with the CWAD would not involve construction or modification of dams or levees. BMPs may entail the construction of

ponds and levees, but not at a scale sufficient to expose people or structures to significant risk due to flooding.

j) Inundation by seiche, tsunami, or mudflow?

No impact. The CWAD applies to agricultural operations far inland, where inundation by tsunamis cannot occur. Project implementation activities will not take place on, or adjacent to, lakes or other waters where seiches could affect them, and there are no known mudflow hazards in the Project area.

10. Land Use and Planning

| | | | | |
|--|--|---|--|---|
| Would the project: | | | | |
| a) Physically divide an established community? | | | | x |
| b) Conflict with any applicable land use plan, policy, or regulations of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | | | | x |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | | x | | |

Background: Project implementation would take place on lands zoned for agricultural uses; in some cases implementation would occur on lands zoned for other purposes on which agricultural operations take place. No land use changes would be triggered by the adoption or implementation of the CWAD.

As discussed in **4. Biological Resources**, the project area lies within the area covered by the Multiple Species Habitat Conservation Plan (MSHCP), which was adopted to protect 146 native species of plants and animals and to preserve a half million acres of their habitat. The MSHCP was adopted by Riverside County and the cities of Banning, Beaumont, Canyon Lake, Corona, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murietta, Norco, Perris, Riverside, San Jacinto, Temecula and Wildomar. The Riverside County Flood Control and Water Conservation District, Riverside County Parks and Open Space District, Riverside County Waste Management Department, Riverside County Transportation Commission, California Department of Transportation and the California Department of Parks and Recreation also participated.

The cities and Riverside County signed a joint powers agreement that formed the Western Riverside County Regional Conservation Authority (RCA) in 2004. RCA's responsibility is to help the local cities and the County implement the MSHCP. RCA's operations are governed by the cities and the County.

Discussion: Would the project:

a) *Physically divide an established community?*

No impact. Actions needed to implement the CWAD would be located on or adjacent to agricultural operations and in rural areas and would not change land use or alter established communities.

b) *Conflict with any applicable land use plan, policy, or regulations of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?*

No impact. Actions needed to implement the CWAD would not affect or be affected by land use designations, would not conflict with any land use plan, policy or regulation adopted for managing an environmental effect.

c) *Conflict with any applicable habitat conservation plan or natural community conservation plan?*

Less than significant with mitigation. See response 4.f. The draft CWAD takes the MSHCP into account and requires review of site-specific BMP implementation to assure that there are no impacts to biological resources, including species/habitats addressed by the MSHCP. This mitigates potential impacts to the MSHCP to less than significant.

11. Mineral Resources

| Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|---|------------------------------|-----------|
| a) Result in loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | | | | X |
| b) Result in loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | | | | X |

Background: The California Surface Mining and Reclamation Act of 1975 (SMARA) required identification of mineral resources in California. SMARA maps identify and classify mineral resources as to their relative value for extraction.

Discussion: Would the project:

a) Result in loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

No impact. Actions to implement the CWAD may include small scale earthmoving and agricultural activities in areas reported as containing known or inferred mineral occurrences of undetermined mineral resource significance⁷, however implementation actions would have no effect on the availability of these resources.

b) Result in loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

No impact. Actions to implement the CWAD program would take place outside delineated, locally important mineral resource recovery sites

12. Noise

| Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|---|------------------------------|-----------|
| a) Lead to exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | | | X | |
| b) Lead to exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels? | | | X | |
| c) Lead to a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | | | | X |
| d) Lead to a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | | | | X |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of the public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | | | | X |

⁷ Miller, Russell V., and Busch, Lawrence L., 2008

| | | | | |
|---|--|--|--|---|
| f) For a project within the vicinity of a private airship, would the project expose people residing or working in the project area to excessive noise levels? | | | | x |
|---|--|--|--|---|

Background: Agricultural operations that would be subject to the CWAD are in rural areas zoned for agriculture and are generally located away from schools, hospitals, and other noise-sensitive land uses. Residential uses in districts zoned for agricultural are typically very low density, either only a few residences on each of the agricultural operations, or no residences at all. In some cases, agricultural operations that would be subject to the CWAD may adjoin or be located close to medium density residential developments, schools or recreational sites. Minor construction undertaken to comply with the CWAD could result in temporary, minor increases in ambient noise levels in the immediate area of grading and construction sites.

Discussion: Would the project:

a) *Lead to exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?*

Less than significant impact. Actions needed to implement the CWAD could involve small scale earthmoving and construction by operators of agricultural facilities. Construction and earthmoving could temporarily generate noise. Any construction activities proposed to implement the Project would be held to local noise standards, and therefore any noise generated would have less than significant impact.

b) *Lead to exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels?*

Less than significant impact. Actions needed to implement the CWAD could involve temporary, small scale earthmoving and construction that could generate ground-borne vibration or noise. However soil conditions of the project area are such that ground vibration would not be transmitted beyond the agricultural operations where construction and earthmoving takes place. Any construction activities proposed to implement the project would comply with local noise standards and therefore any noise generated would not be excessive.

c) *Lead to a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?*

No impact. Any noise resulting from actions needed to implement the project would be short-term and, would not cause a permanent increase in ambient noise levels.

d) *Lead to a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?*

No impact. Actions needed to implement the CWAD program could involve temporary, small scale earthmoving and construction by operators of agricultural facilities. These actions could temporarily but not substantially increase ambient noise levels.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of the public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No impact. Measures to implement the CWAD program would not expose people to excessive noise levels related to airport land use.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

No impact. Measures to implement the CWAD would not expose people in the vicinity of private airstrip operations to excessive noise levels.

13. Population and Housing

| Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|---|------------------------------|-----------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | | | | X |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | | | | X |
| c) Displace substantial number of people, necessitating the construction of replacement housing elsewhere? | | | | X |

Background: The CWAD entails the implementation of BMPs to control waste discharges from agricultural operations. These BMPs have no direct or indirect effect on population growth or housing.

Discussion: Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

No impact. The implementation of BMPs to comply with the CWAD would not directly or indirectly induce population growth in the Project Area.

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

No impact. BMP actions driven by the CWAD would not displace existing housing or necessitate construction of replacement housing.

c) Displace substantial number of people, necessitating the construction of replacement housing elsewhere?

No impact. BMP actions driven by the CWAD would not displace people.

14. Public Services

| Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the construction of which could cause significance environmental impacts, in order to maintain acceptable service ratios, response time or other performance objectives for any of the public services? | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|---|------------------------------|-----------|
| <i>Fire protection?</i> | | | | X |
| <i>Police protection?</i> | | | | X |
| <i>Schools?</i> | | | | X |
| <i>Parks?</i> | | | | X |
| <i>Other public facilities?</i> | | | | X |

Background: Public services in the Project area are provided by state, county, and local agencies. Police protection is by the California Highway Patrol, Riverside County Sherriff's Department, or city police departments. California Division of Forestry and Fire Protection (CAL FIRE), Riverside County Fire Department and city fire departments provide fire protection and emergency service response, if necessary through mutual aid agreements. A number of local school districts provide K-12 education, and higher education opportunities are available through Mt. San Jacinto Community College District. Developed parks are managed by city park departments or Riverside County Parks and Open Space District. Agencies controlling open space, undeveloped park lands available for passive recreation include Riverside County Parks, Riverside Conservation Agency, U.S. Forest Service and California State Parks.

Discussion:

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the construction of which could cause significance environmental impacts, in order to maintain acceptable service ratios, response time or other performance objectives for any of the public services?

- a) Fire protection? b) Police protection? c) Schools? d) Parks? e) Other public facilities

No impact. CWAD implementation will not result in changes to delivery of police or fire services, schools or parks because the project is not growth inducing, and does not involve construction of new government facilities or the need to physically alter existing government facilities. The Project would not affect service ratios, response times or other performance objectives for any public service, and will have no impact on any public services.

15. Recreation

| | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|---|------------------------------|-----------|
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | | | | X |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | | | | X |

Background: Public agencies, their vendors, and private parties own and operate numerous park and recreational facilities in the Project area. These facilities provide a variety of outdoor recreational, educational and sporting opportunities for local residents and for visitors from surrounding communities.

Discussion:

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

No impact. Measures to implement the CWAD would have no effect on the use of existing neighborhood or regional parks or other recreational facilities.

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

No impact. The CWAD program does not include or require construction of recreational facilities.

16. Transportation/Traffic

| Would the project cause: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|---|------------------------------|-----------|
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | | | | X |
| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? | | | | X |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | | | | X |

| | | | | |
|--|--|--|--|---|
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | | | | X |
| e) Result in inadequate emergency access? | | | | |
| f) Result in inadequate parking capacity? | | | | X |
| g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? | | | | X |

Background:

The CWAD Project Area is served by the I-15, I-215 and SR-60 freeways, State Highways 74 and 79, east-west major arterials Gilman Springs Road and Ramona Expressway, networks of urban streets, and suburban and rural streets and roads.

Discussion: Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

No impact. Implementation of the CWAD program could result in short term, minor construction that would require surface transportation of earth-moving equipment over existing roadways to and from established agricultural operations in rural areas, and delivery of construction materials to these operations. Considering all modes of transportation and all transportation infrastructure, implementation of the project would not conflict with any traffic management plan or performance measure of transportation effectiveness.

b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

No impact. See response to 16a.), above. There would be no conflicts with service standards or congestion management programs.

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks?

No impact. CWAD implementation would not result in increased air travel or affect risks of air travel.

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

No impact. CWAD implementation would not result in design or engineering of new roads and would not result in a substantial increase in roadway hazards or use of roadways for incompatible purposes.

e) Result in inadequate emergency access?

No impact. CWAD implementation would not affect emergency response or result in inadequate emergency access.

f) Result in inadequate parking capacity?

No impact. Because implementation of the project would not increase population, housing, or employment, it would not affect parking supply or demand.

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

No impact. Because implementation of the project would not generate ongoing motor vehicle trips, it would not conflict with adopted policies, plans, or programs supporting alternative transportation.

17. Utilities and Service Systems

| Would the project: | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|---|------------------------------|-----------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | | | | X |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | | X |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | | X |
| d) Have sufficient water supplies available to serve the Project from existing entitlements and resources, or are new or expanded entitlements needed? | | | | X |

| | | | | |
|---|--|--|--|---|
| e) Result in a determination by the wastewater treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments? | | | | X |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs? | | | | X |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | | | | X |

Background:

Within developed parts of the Project Area, wastewater services are provided by local water districts and potable water is supplied by these districts, other special districts, or city water departments. Sources of potable water include groundwater, surface water, and water imported from the Colorado River by the Metropolitan Water District of Southern California's Colorado River Aqueduct and from the Sacramento River Delta by the Department of Water Resources' State Water Project. Recycled water is also distributed in parts of the project area for specific, regulated uses. Regional landfills that serve the project area are operated by the County of Riverside. Rural residents receive water from public supplies, where available, or from private wells. Septic tank use in rural parts of the project area is subject to oversight by the County of Riverside's environmental health program and by the Regional Board.

The CWAD entails the implementation of BMPs at agricultural operations in order to protect water quality. These BMPs are not expected to generate wastes that would be directed to wastewater treatment facilities or landfills and, therefore, to necessitate new or expanded wastewater treatment facilities/landfills. Nor would the BMPs be expected to require new/expanded water supply facilities.

Discussion: Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

No impact. The CWAD would have no effect on compliance with the requirements imposed by the Regional Board on wastewater treatment facilities.

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

No impact. Implementation of BMPs to comply with the CWAD would not require the construction of new or expanded large-scale water or wastewater treatment facilities to serve the existing communities in the Project area. BMPs that may be employed include the installation of new, on-site irrigation systems to replace other, less efficient water supply systems at agricultural operations.

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

No impact. Implementation of the CWAD would not result in construction of new or expanded large-scale stormwater drainage facilities to serve the communities in the Project area. BMPs implemented to comply with the CWAD may include minor on-site drainage modifications at the individual enrolled agricultural operations. The impacts associated with any such modifications would be minor. .

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

No impact. Project implementation would not increase population or provide employment or otherwise result in new demand for water and would not result in the needed for new or expanded water entitlements.

e) Result in a determination by the wastewater treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?

No impact. Project implementation would not affect wastewater treatment capacity and no determination of adequate capacity would be needed.

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

No impact. Measures to implement the project would not affect solid waste generation or solid waste landfill capacity.

g) Comply with federal, state, and local statutes and regulations related to solid waste?

No impact. Implementation of the project would not affect compliance with applicable statutes and regulations related to solid waste.

18. Mandatory Findings of Significance

| | Potentially Significant Impact | Less Than Significant Impact with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|---|------------------------------|-----------|
| a) Does the Project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number of restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | | X | | |
| b) Does the Project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probably future projects)? | | | | X |
| c) Does the Project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | | | X | |

Discussion:

a) Does the Project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number of restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Less than significant with mitigation: As discussed in the evaluation of potential impacts to biological resources (4. Biological Resources, above), adoption and implementation of the CWAD is expected to necessitate the implementation of new/revised BMPs at agricultural operations in the Project area. Minor, small scale grading and construction and periodic maintenance activities may be needed for some of these BMPs. Because of their limited anticipated scope, and because in most cases the BMPs would be

implemented at already existing agricultural operations, these projects are not expected to have a substantial, if any, adverse effect on plant or animal species of concern, either directly or indirectly through habitat modification/loss. Nor are these activities expected to substantially affect riparian or other sensitive natural habitat communities. However, there remains the potential that BMPs could be proposed for sensitive areas at agricultural operations, and that BMP implementation in these areas could adversely affect plant and animal species and their habitats, including riparian and other sensitive natural communities. This would be contrary to the protection of wildlife-related beneficial uses, and to the extraordinary effort of the MSHCP to preserve biological resources. The proposed CWAD incorporates provisions that mitigated such potential impacts to less than significant. Specifically, the CWAD requires review of potential BMPs by Board staff, in coordination with the agricultural operators and wildlife agencies, if necessary, to determine whether and what special measures are necessary and reasonably feasible to prevent adverse impacts. Agricultural operators will be required to implement these special measures via a Water Quality Improvement Plan that the Executive Officer is authorized to require pursuant to the CWAD.

b) Does the Project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probably future projects.)?

No impact. The impacts associated with the implementation of the CWAD will be limited to isolated areas contained on lands involved in existing agricultural operations. Most, if not all of the impacts associated with implementation of the CWAD will be similar in nature and scope to existing agricultural operations, with the ultimate result of the implementation being cumulative improvements to water quality within the larger project region. Accordingly, there will be no cumulatively considerable impacts.

c) Does the Project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

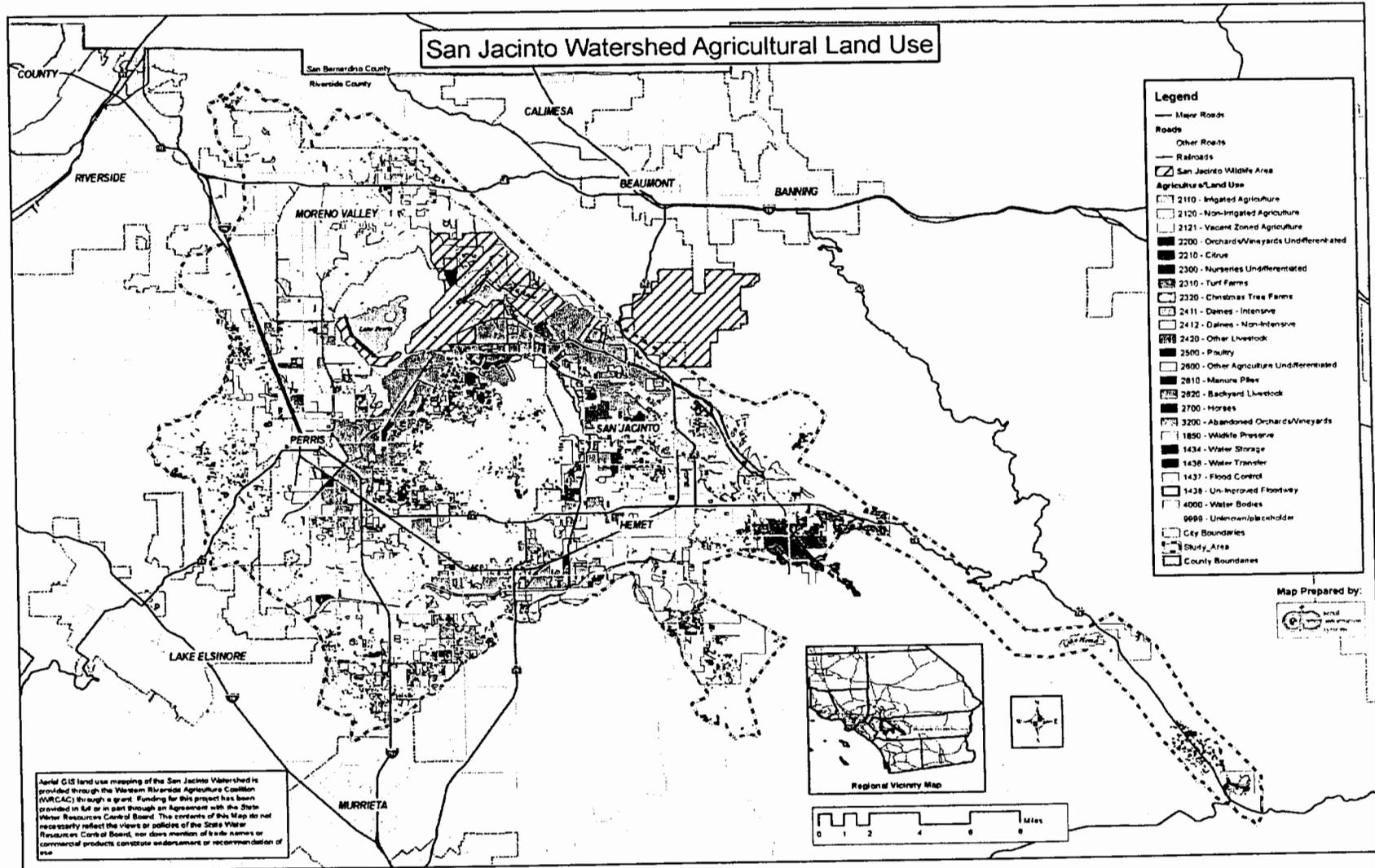
Less than significant impact. The CWAD project would not cause substantial adverse impacts to human beings, either directly or indirectly. There may be short-term, localized increases in noise, but these impacts are expected to be less than significant. The Project will improve water quality conditions in ground and surface waters, and protect the beneficial uses of those waters, including the use of waters for domestic supply. Implementation of the CWAD is intended to contribute to the restoration of nutrient impaired surface waters (Canyon Lake and Lake Elsinore), and the beneficial uses these waters provide, including recreational opportunities and sport fishing. The project is also intended to benefit humans by leading to improvements in groundwater quality, a significant source of domestic supply.

Exhibit 1. Cities in the San Jacinto River Watershed



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Exhibit 2. Agricultural Land Uses in the San Jacinto River Watershed



Earlier GIS land use mapping of the San Jacinto Watershed is provided through the Western Riverside Agriculture Coalition (WRAC) through a grant. Funding for this project has been provided in full or in part through an Agreement with the State Water Resources Control Board. The contents of this Map do not necessarily reflect the views or policies of the State Water Resources Control Board, nor does mention of trade names or commercial products constitute endorsement or recommendation of use.