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## Central Valley Regional Water Quality Control Board

28 June 2016

Dinesh Bajaj and Punnu Chopra  
25 Jordan Place #1  
Chico, CA 95973

**CLEAN WATER ACT § 401 TECHNICALLY CONDITIONED WATER QUALITY  
CERTIFICATION; GOOD EARTH FARMS, FIELD 402 PROJECT (WDID NO. 5A04CR00251),  
BUTTE COUNTY**

This Order responds to the 2 November 2015 application submitted by Good Earth Farms for the Water Quality Certification of a Agricultural Conversions of Use project permanently impacting 0.41 acre(s) of waters of the United States.

This Order serves as certification of the United States Army Corps of Engineers' Nationwide Permit No. 40 (SPK-2015-01054) under § 401 of the Clean Water Act, and a Waste Discharge Requirement under the Porter-Cologne Water Quality Control Act.

### **WATER QUALITY CERTIFICATION STANDARD CONDITIONS:**

1. This Order serves as a Water Quality Certification (Certification) action that is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to § 13330 of the California Water Code and § 3867 of the California Code of Regulations (CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR § 3855(b) of the California Code of Regulations, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required § 3833 of the California Code of Regulations.
4. This Certification is no longer valid if the project (as described) is modified, or coverage under § 404 of the Clean Water Act has expired.

5. All reports, notices, or other documents required by this Certification or requested by the Central Valley Water Board shall be signed by a person described below or by a duly authorized representative of that person.
  - a. For a corporation: by a responsible corporate officer such as (1) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function; (2) any other person who performs similar policy or decision-making functions for the corporation; or (3) the manager of one or more manufacturing, production, or operating facilities if *authority* to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - b. For a partnership or sole proprietorship: by a general partner or the proprietor.
  - c. For a municipality, State, federal, or other public agency: by either a principal executive officer or ranking elected official.

6. Any person signing a document under Standard Condition No. 5 shall make the following certification, whether written or implied:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### TECHNICAL CERTIFICATION CONDITIONS:

In addition to the above standard conditions, Good Earth Farms shall satisfy the following:

1. Good Earth Farms shall notify the Central Valley Regional Water Quality Control Board (Central Valley Water Board) in writing at least **seven (7) days** in advance of the start of any work within waters of the United States. The notification shall include the name of the project and the WDID number, and shall be sent to the Central Valley Water Board Contact indicated in this Certification.
2. Except for activities permitted by the U.S. Army Corps under § 404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. Good Earth Farms shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work on the proposed Project shall be adequately informed and trained regarding the conditions of this Certification.

4. Good Earth Farms shall perform surface water sampling:

- a) when performing any in-water work;
- b) in the event that project activities result in any materials reaching surface waters; or
- c) when any activities result in the creation of a visible plume in surface waters.

The monitoring requirements in Table 1 shall be conducted by taking a sample of the ambient conditions before work begins in the work area, and sampling during work in the work area. The sampling frequency may be modified for certain projects with written approval from Central Valley Water Board staff.

**Table 1:**

Parameter	Unit	Type of Sample	Minimum Sampling Frequency	Required Analytical Test Method
Turbidity	NTU	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2, 4)
Settleable Material	mL/L	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2)
Visible construction related pollutants <sup>(3)</sup>	Observations	Visual Inspections	Continuous throughout the construction period	—

<sup>(1)</sup> Grab samples shall be taken at mid-depth and be collected at the same time each day to get a complete representation of variations in the receiving water.

<sup>(2)</sup> Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant, the method shall be approved by Central Valley Water Board staff.

<sup>(3)</sup> Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.

<sup>(4)</sup> A hand-held field meter may be used, provided that the meter utilizes a USEPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring required by this Certification shall be maintained at the Project site.

As appropriate, surface water monitoring shall occur at mid-depth. A surface water monitoring report shall be submitted to the Central Valley Water Board Contact indicated in this Certification within two weeks of initiation of sampling and every two weeks thereafter. In reporting the monitoring data, Good Earth Farms shall arrange the data in tabular form so that the sampling locations, date, constituents, and concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly whether the Project complies with Certification requirements. The report shall include surface water sampling results, visual observations, and identification of the turbidity increase in the receiving water applicable to the natural turbidity conditions specified in the turbidity criteria below.

If no monitoring is conducted, Good Earth Farms shall submit a written statement to the Central Valley Water Board Contact indicated in the Certification stating, "No monitoring was required." with the Notice of Completion.

5. The Central Valley Water Board adopted a *Water Quality Control Plan for the Sacramento River Basin and San Joaquin River Basin, Fourth Edition, revised April 2016* (Basin Plan) that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. Turbidity and settleable matter limits are based on water quality objectives contained in the Basin Plan and are part of this Certification as follows:

- a) Activities shall not cause turbidity increases in surface water to exceed:
  - i. where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTU;
  - ii. where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
  - iii. where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
  - iv. where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
  - v. where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTUs over background turbidity. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be used with prior approval of the Central Valley Water Board staff.

- b) Activities shall not cause settleable matter to exceed 0.1 mL/L in surface waters as measured in surface waters within the work area
6. Good Earth Farms shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter or other water quality objectives are exceeded.
7. Work shall occur during periods of low water level (i.e., water level shall be below the construction area) and no precipitation.
8. Activities shall not cause visible oil, grease, or foam in the receiving water.
9. Refueling of equipment within the floodplain or within 300 feet of the waterway is prohibited. If critical equipment must be refueled within 300 feet of the waterway, spill prevention and countermeasures must be implemented to avoid spills. Refueling areas shall be provided with secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a waterway. Good Earth Farms must perform frequent inspections of

construction equipment prior to utilizing it near surface waters to ensure leaks from the equipment are not occurring and are not a threat to water quality.

10. Good Earth Farms shall develop and maintain onsite a project-specific Spill Prevention, Containment and Cleanup Plan outlining the practices to prevent, minimize, and/or clean up potential spills during construction of the Project. The Plan must detail the Project elements, construction equipment types and location, access and staging and construction sequence. The Plan must also address the potential of responding to a spill or prevention of spills occurring within the Project site.
11. The discharge of petroleum products, any construction materials, hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete, asphalt, paint, coating material, drilling fluids, or other construction-related potentially hazardous substances to surface water and/or soil is prohibited. In the event of a prohibited discharge, the Good Earth Farms shall notify the Central Valley Water Board Contact within 24-hours of the discharge.
12. An effective combination of erosion and sediment control Best Management Practices (BMPs) shall be implemented and adequately working during all phases of construction.
13. All areas disturbed by Project activities shall be protected from washout or erosion.
14. All temporarily affected areas shall be restored to pre-construction contours and conditions upon completion of construction activities.
15. This Certification does not allow permanent water diversion of flow from the receiving water. This Certification is invalid if any water is permanently diverted as a part of the Project.
16. The discharge of petroleum products or other excavated materials to surface water is prohibited. Activities shall not cause visible oil, grease, or foam in the receiving water. Good Earth Farms shall notify the Central Valley Water Board as soon as practicable of any spill of petroleum products or other organic or earthen materials with written follow up within 5 days.
17. The Conditions in this water quality certification are based on the information contained in the Good Earth Farms' application and in the attached "Project Information Sheet." If the Project, as described in the application and the attached Project Information Sheet, is modified or changed, this Certification is no longer valid until amended by the Central Valley Water Board.
18. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under the applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation

constitutes a limitation necessary to ensure compliance with water quality standards and other pertinent requirements incorporated into this certification.

- a) If Good Earth Farms or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Order, or falsifies any information provided in the monitoring reports, Good Earth Farms is subject to civil monetary liabilities, for each day of violation, or criminal liability.
  - b) In response to a suspected violation of any condition of this certification, Central Valley Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. (Water Code, § 1051, 13165, 13267 and 13383) In response to any violation of the conditions of this certification, the Central Valley Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
  - c) Good Earth Farms shall allow the staff of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials and other documents, as may be required by law, to enter the Project premises for inspection, including taking photographs and securing copies of Project-related records, for the purpose of assuring compliance with this Certification and determining the ecological success of the Project.
19. Prior to commencing construction, Good Earth Farms shall provide evidence of all off-site compensatory mitigation to the Central Valley Water Board. Evidence of on-site compensatory mitigation shall be provided with a Notice of Completion. At a minimum, compensatory mitigation must achieve a ratio of 1:1 for permanent impacts. Evidence of mitigation includes, but is not limited to, the purchase of mitigation credits as required by the United States Army Corps of Engineers.
- Compensatory mitigation must comply with the effective policy at the time of Certification, which ensures no overall net loss of wetlands for impacts to waters of the State.
20. Staff of the Central Valley Water Board has prepared total maximum daily load (TMDL) allocations that, once approved, would limit methylmercury in storm water discharges to the Sacramento-San Joaquin Delta. The Central Valley Water Board has scheduled these proposed allocations to be considered for adoption. When the Central Valley Water Board adopts the TMDL and once approved by the Environmental Protection Agency, the discharge of methylmercury may be limited from the proposed project. The purpose of this condition is to provide notice to Good Earth Farms that methylmercury discharge limitations and monitoring requirements may apply to this project in the future and also to provide notice of the Central Valley Water Board's TMDL process and that elements of the planned construction may be subject to a TMDL allocation.

**NOTIFICATIONS AND REPORTS:**

21. Good Earth Farms shall notify the Central Valley Water Board within 7 days of the project completion.
22. Good Earth Farms shall provide the Central Valley Water Board Contact indicated in this Certification a Notice of Completion (NOC) no later than 30 days after the Project completion. The NOC shall demonstrate that the project has been carried out in accordance with the project description in the Certification and in any amendments approved. The NOC shall include a map of the project location(s), including final boundaries of any on-site restoration area(s), if appropriate, and representative pre and post construction photographs. Each photograph shall include a descriptive title, date taken, photographic site, and photographic orientation
23. Good Earth Farms shall submit all notifications, submissions, materials, data, correspondence, and reports in a searchable Portable Document Format (PDF). Documents less than 50 MB must be emailed to: [centralvalleysacramento@waterboards.ca.gov](mailto:centralvalleysacramento@waterboards.ca.gov). In the subject line of the email, include the Central Valley Water Board Contact, Project name, and WDID number as shown in the subject line above. Documents that are 50 MB or larger must be transferred to a disk and mailed to the Central Valley Water Board Contact.

**REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:**

George Day, Senior Water Resource Control Engineer  
Central Valley Regional Water Quality Control Board  
364 Knollcrest Drive, Suite 205, Redding, California 96002  
[gday@waterboards.ca.gov](mailto:gday@waterboards.ca.gov)  
(530) 224-4859

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

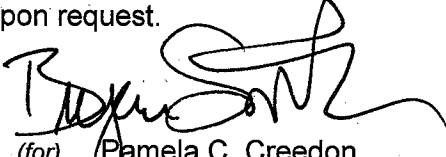
The Central Valley Water Board has determined that this project meets the Categorical Exemption, under § 15204 of the California Code of Regulations, which exempts Minor Alterations to Land.

**WATER QUALITY CERTIFICATION:**

I hereby issue an Order certifying that any discharge from Good Earth Farms, Field 402 Project (WDID No. 5A04CR00251419) will comply with the applicable provisions of § 301 ("Effluent Limitations"), § 302 ("Water Quality Related Effluent Limitations"), § 303 ("Water Quality Standards and Implementation Plans"), § 306 ("National Standards of Performance"), and § 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)."

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in compliance with conditions of this Certification, Good Earth Farms' water quality application package, and the attached "Project Information Sheet", and (b) compliance with all applicable requirements of the *Water Quality Control Plan for the Sacramento River Basin and San Joaquin River Basin, Fourth Edition, revised April 2016* (Basin Plan).

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

  
(for) Pamela C. Creedon  
Executive Officer

DLW:sjs

Enclosure: Water Quality Order No. 2003-0017 DWQ

cc w/o Mr. Zachery Fancher, U.S. Army Corp of Engineers, Sacramento  
enclosures: U.S. Fish and Wildlife Service, Sacramento  
Mr. Bill Jennings, CALSPA, Stockton  
Jody Gallaway, Gallaway Enterprises, Chico

cc w/o  
Enclosures  
by email: U.S. EPA, Region 9, San Francisco  
Mr. Bill Orme, SWRCB, Certification Unit, Sacramento



## PROJECT INFORMATION

**Application Date:** 2 November 2016

**Application Deemed Complete:** 24 June 2016

**Applicant:** Good Earth Farms  
25 Jordan Place #1  
Chico, CA 95973

**Applicant Representative:** Jody Gallaway  
Gallaway Enterprises  
117 Meyers Street, Suite 120  
Chico, CA 95928

**Project Name:** Field 402 Project

**Application Number:** WDID No. 504CR00251

**Type of Project:** Agricultural Conversions of Use.

**Timeframe of Project Implementation:** 1 April 2016 to 30 July 2016

**Project Location:** Section 23, Township 23 North, Range 1 West, MDB&M.  
Latitude: 39.840° and Longitude: -121.942°

**County:** Butte County

**Receiving Water(s) (hydrologic unit):** Unnamed tributaries to Pine Creek, Sacramento River, Tehama Hydrologic Unit No.504.20 – Red Bluff HA

**Water Body Type:** Wetland (Vernal Pool Habitat)

**Designated Beneficial Uses:** The *Water Quality Control Plan for the Sacramento River Basin and San Joaquin River Basin, Fourth Edition, revised April 2016* (Basin Plan) has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include, but are not limited to: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Hydropower Generation (POW); Groundwater Recharge (GWR); Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN); and Wildlife Habitat (WILD). A comprehensive and specific list of the beneficial uses applicable for the project area can be found at [http://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/index.shtml](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/index.shtml).

**303(d) List of Water Quality Limited Segments:** Pine Creek is the receiving water for the Field 402 Project. The Pine Creek is not listed on the 303(d) list. This project does not impact an already impaired water body.

The most recent list of approved water quality limited segments is found at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml)

**Project Description (purpose/goal):** The Field 402 Project is located on the west side of Highway 99 and on the south side of Cana Highway in unincorporated Butte County.

The project consists of the installation of orchards in the open grassland portion of the property. The orchard installation activities will include initial deep-ripping of the site, irrigation installation, and the planting of trees. The one small ephemeral drainage that occurs on the site will be avoided and maintained. All vernal pool features identified within the site, with the exception of one small vernal pool positioned on the boundary of the Project site along Highway 99, will be filled by the proposed project.

The project will permanently impact 0.41 acre(s) of waters of the United States.

**Preliminary Water Quality Concerns:** Construction activities including soil disturbance, excavation, cutting/filling, and grading activities could result in increased erosion and sedimentation and may impact surface waters with increased turbidity and settleable matter.

**Proposed Mitigation to Address Concerns:** The Good Earth Farms will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. The Good Earth Farms will conduct turbidity and settleable matter testing during in-water work, stopping work if Basin Plan criteria are exceeded or are observed.

**Fill/Excavation Area:** Approximately 0.02 cubic yards of native soil will be placed into 0.41 acres of waters of the United States.

**Dredge Volume:** N/A

**California Integrated Water Quality System Impact Data:** The Project will permanently impact 0.41 acre(s) of wetland from fill activities.

**Table 1: Impacts from Fill and/or Excavation Activities**

Aquatic Resource Type	Temporary			Permanent					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet
Vernal Pool				0.41	0.02				

Notes  
NA Not Applicable

**United States Army Corps of Engineers File Number:** SPK-2015-01054

**United States Army Corps of Engineers Permit Type:** Nationwide Permit #40, Agricultural Activities.

**California Department of Fish and Wildlife Lake or Streambed Alteration Agreement:** The Good Earth Farms did not apply for a Lake or Streambed Alteration Agreement.

**Possible Listed Species:** Federally-threatened Vernal Pool Fairy Shrimp (VPFS; *Branchinecta lynchi*), Vernal Pool Tadpole Shrimp (VPTS; *Lepidurus packardii*).

**Status of CEQA Compliance:**

The Central Valley Water Board has determined that this project meets the Categorical Exemption, under § 15304 of the California Code of Regulations, which exempts Minor Alterations to Land.

**Compensatory Mitigation:** As required by the U.S. Army Corps of Engineers, the Good Earth Farms will purchase mitigation credits of 0.41 acres of vernal pool habitat to mitigate for 0.41 acres of impacts to waters of the United States.

Evidence of this purchase shall be provided to the Central Valley Water Board prior to proceeding with the activity authorized by this Certification.

**Table 2: Compensatory Mitigation for Permanent Physical Loss of Area**

Aquatic Resource Type	Comp Mitigation Type			Units		Established	Re-established	Rehabilitated	Enhanced	Preserved	Unknown
	In-Lieu	Mit. Bank	Permittee Responsible	AC (Acres)	LF (Linear Feet)						
Vernal Pool		X		0.41						0.8	
<b>TOTAL</b>				<b>0.41</b>						<b>0.8</b>	

**Application Fee Provided:** An application fee of \$2,302.00 was submitted on 13 January 2016. A total fee of \$2,302.00 has been submitted to the Central Valley Water Board as required by § 3833(b)(3)(A) and § 2200(a)(3) of the California Code of Regulations.