

## Central Valley Regional Water Quality Control Board

01/08/2019

Sacramento Valley Water Quality Coalition  
Attn: Bruce Houdesheldt  
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Sacramento, CA 95814  
[bruceh@norcalwater.org](mailto:bruceh@norcalwater.org)

**CERTIFIED MAIL**

7017 2620 0001 1359 1342

Lake County Farm Bureau  
Attn: Brenna Sullivan  
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[lcfarmbureau@sbcglobal.net](mailto:lcfarmbureau@sbcglobal.net)

**CERTIFIED MAIL**

7017 2620 0001 1359 1359

### ORDER PURSUANT TO WATER CODE SECTION 13267

**You are legally obligated to respond to this Order. Please read this Order carefully.**

The Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) issues this Order pursuant to California Water Code section 13267, which requires you submit a written technical report to the Board by **31 May 2019** that assesses all management practices and agricultural operations that have been implemented to reduce phosphorus loads to Clear Lake in response to the Clear Lake Nutrient Total Maximum Daily Load (TMDL). Applicable monitoring data that has not previously been submitted to the Board shall also be included with the technical report.

This information is to be submitted to:

**Attention: Taran Sahota**  
**California Regional Water Quality Control Board,**  
**Central Valley Region**  
**11020 Sun Center Dr., Suite 200**  
**Rancho Cordova, CA 95670**  
[taranjot.sahota@waterboards.ca.gov](mailto:taranjot.sahota@waterboards.ca.gov)

Central Valley Water Board staff is requesting information to assess whether Irrigated Agriculture is in compliance with the assigned load allocation under the Clear Lake Nutrient TMDL, as required by the 2006 Amendment to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for the Control of Nutrients in Clear Lake (Basin Plan Amendment).

This Order, which requires the submittal of technical information describing the management practices implemented to reduce phosphorus loads to Clear Lake, is being issued because Irrigated Agriculture is one of the responsible parties identified and assigned a load allocation in the 2006 Clear Lake Nutrient TMDL. The Clear Lake Nutrient TMDL Control Program was

adopted in 2006. The waste load allocations were based on modeling studies that predicted a 40% reduction in average phosphorus loading would significantly reduce the frequency of algae blooms. The load allocation for nonpoint source dischargers is 85,000 kg/year average annual phosphorus load (five year rolling average). The U.S. Bureau of Land Management (USBLM), U.S. Forest Service (USFS), Lake County (County), and Irrigated Agriculture are responsible for controlling phosphorus discharges from those portions of the watershed within their respective authority. The compliance date for the TMDL was 19 June 2017.

According to the [2018 Clear Lake Nutrient TMDL Technical Memorandum](#), which summarizes and evaluates previously available data and implementation efforts, staff cannot verify that the Irrigated Agricultural waste load allocation is being met. Although management practices have been implemented extensively to reduce agricultural contributions of phosphorus loads to Clear Lake, and historical and current monitoring data indicate sediment and nutrient loading reductions, there is insufficient data to quantify the phosphorus loading reductions into Clear Lake from agricultural sources. For example, while monitored phosphorus concentrations specifically in Middle Creek indicate it is likely that phosphorous loading into Clear Lake has been reduced, a 40% phosphorus loading reduction into Clear Lake cannot be calculated with the available data.

Therefore, Central Valley Water Board is requesting the following information:

- 1) By **31 May 2019**, submit written technical information that describes management practices implemented to reduce phosphorus loads to Clear Lake. This assessment must include:
  - A comparison of pre- and post-TMDL management practices,
  - An evaluation of the effectiveness of management practices implemented by Irrigated Agriculture,
  - Applicable monitoring data that has not previously been submitted to the Board,
  - A total number of acres implementing current management practices,
  - Summary of total acres associated with each current management practice, and
  - An estimate of the load reduction from Irrigated Agriculture based on the implementation of management practices compared to the TMDL load allocation.
- 2) Board staff will review the findings of the technical report once submitted. Based on the assessment, if Board staff conclude that the load allocation for Irrigated Agriculture is not being met, the Executive Officer will notify you and require you to submit a Work Plan. The Work Plan to reduce discharges of phosphorus and comply with the designated allocation is due to the Board within **six months of the date of Executive Officer notification** that a Plan is required. This Work Plan shall include:
  - A detailed timeline outlining when Irrigated Agriculture will be in compliance with the specified load allocation,
  - Additional management practices that will be implemented,
  - The potential locations of future management practices, and
  - A quantitative estimate of the load reduction based on the methods outlined in the Work Plan.
- 3) All submittals pursuant to this Order must be accompanied by a signature statement whereby the person submitting the report represents:

“I certify under penalty of law that to the best of my knowledge and belief, this document and any attachments submitted is true, accurate, and complete and was prepared by me

or under my direction or supervision. I am aware that there are significant penalties for knowingly submitting false information.”

Section VIII.J of General Order R5-2014-0030-R1 provides: “*Where monitoring required by this Order is not effective in allowing the board to determine the effects of irrigated agricultural waste discharge on state waters or the effectiveness of water quality management practices being implemented, the Executive Officer may require technical reports be provided to determine the effects of irrigated agricultural operations or implemented management practices on surface water or groundwater quality.*” Section VIII.L of the General Order requires implementation of all applicable Basin Plan TMDLs, including monitoring. As described above in this letter, the current monitoring and reporting under the General Order is not determining the effects of irrigated agriculture discharges to state waters with respect to nutrient reductions and implementing the Basin Plan’s Clear Lake Nutrient TMDL. Pursuant to sections VIII.J and L of the General Order, you, on behalf of the Irrigated Agriculture responsible party, are required to submit this technical report. The Central Valley Water Board has identified you as the third party who is responsible for assisting the dischargers who are members of your Coalition to meet the requirements of the Central Valley Water Board’s Waste Discharge Requirements General Order for Growers within the Sacramento River Watershed that are Members of the Third Party Group (Order R5-2014-0030-R1) (Agricultural General Order). The burdens, including costs, of this report bears a reasonable relationship to the need for the report and the benefits to be obtained therefrom. The Central Valley Water Board needs this report to determine whether Irrigated Agricultural waste load allocation from the Clear Lake Nutrient TMDL is being met.

If, in the opinion of the Assistant Executive Officer, there is failure in complying with this Order, the Assistant Executive Officer may issue a complaint for administrative civil liability. Failure to timely submit the required information may result in the imposition of administrative civil liability (monetary penalty) of up to \$1,000 per day under Water Code section 13268. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law, including, but not limited to, issuance of Orders under Water Code section 13304 to mandate implementation of the TMDL waste load allocation and submission of a technical report.<sup>1</sup>

If you require more time than allowed by this Order to submit the information, please submit a written request for a time extension to the Executive Officer. The Executive Officer will review and approve requests for time extensions on a case-by-case basis.

If you have any questions regarding this Order, please contact Taran Sahota at (916) 464-4716 or via email at [taranjot.sahota@waterboards.ca.gov](mailto:taranjot.sahota@waterboards.ca.gov).

Patrick Pulupa  
Executive Officer

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<sup>1</sup> You have the right to appeal the Central Valley Water Board’s issuance of this order by submitting a petition for review to the State Water Board. The State Water Board must receive the petition by 5 p.m., 30 days after the date this Order is issued, unless the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, in which case the petition must be received by 5 p.m. on the next business day. The regulations applicable to filing petitions may be found 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.