

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
COLORADO RIVER BASIN REGION**

**ORDER R7-2014-0046**

**CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR  
AGRICULTURAL WASTEWATER DISCHARGES AND DISCHARGES OF WASTE  
FROM DRAIN OPERATION AND MAINTENANCE ACTIVITIES ORIGINATING  
WITHIN  
THE COACHELLA VALLEY  
Riverside County**

The California Regional Water Quality Control Board, Colorado River Basin Region (Colorado River Basin Water Board) finds that:

**Purpose of this Order**

1. The purpose of this Order is to establish a Conditional Waiver of Waste Discharge Requirements (WDRs) to effectively regulate: (a) the quality of agricultural wastewater discharges from irrigated agricultural lands in the Coachella Valley into waters of the State; and (b) the potential water quality impacts from operation and maintenance (O&M) of Coachella Valley drains to ensure that such discharges and O&M practices are not causing or contributing to exceedances of the Water Quality Control Plan for the Colorado River Basin Water Board (Basin Plan) numeric or narrative water quality standards of the Coachella Valley Drains and the Coachella Valley Storm Water Channel (CVSWC) which are tributary to the Salton Sea.

**Definitions, Responsible Parties, and Applicability**

2. California Water Code (CWC) section 13050(d) defines "waste" as including "sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with the human habitation, or of human or animal origin, or from producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal."
3. CWC section 13050(e) defines "waters of the state" as "any surface water or groundwater, including saline waters, within the boundaries of the state."
4. As used in this Order, "agricultural wastewater" is a waste and is defined as including: 1) stormwater runoff from irrigated lands, and 2) irrigation return water, which includes surface discharges (also known as "tailwater"), and subsurface discharges (known as "tile water" in tiled areas, or "seepage" in areas not tiled).

This waste can contain constituents at concentrations that may adversely impact water quality and the beneficial uses of the waters of the state.

5. "Agricultural Discharger" means the owner, renter/lessee, and operator/grower of irrigated agricultural land in the Coachella Valley who discharges, has the potential to discharge, or proposes to discharge, waste which could directly or indirectly affect the quality of waters of the state.
6. "Drain Maintenance Discharger" means any individual or entity that conducts drain operation and maintenance activities in the Coachella Valley which discharges, or has the potential to discharge, wastes that could directly or indirectly affect the quality of waters of the state.
7. "Agricultural and Drain Maintenance Dischargers" are dischargers of waste and thus, are parties responsible for complying with this Conditional Waiver (collectively, Responsible Parties).
8. "Coalition Group" means any group of dischargers and/or organizations that is developed to comply with this Conditional Waiver. Coalition Groups can be, but are not limited to, organizations developed on a geographical or other basis, such as growing similar types of crops.
9. "Compliance Program" means a nonpoint source pollution control program, as defined in the State Water Resources Control Board's (State Water Board's) "State Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program," which specifies Management Practices and monitoring and reporting requirements to ensure compliance with this Conditional Waiver. A Compliance Program may be a Coalition Group Compliance Program or an Individual Compliance Program. A Coalition Group Compliance Program is one that has been formed by Responsible Parties who have developed their own compliance group for self-management or have joined the Coachella Valley Irrigated Lands Coalition (CVILC) group. An Individual Compliance Program is one that has been formed by an individual Responsible Party who chooses not to join a Coalition Group.
10. Unless otherwise specified, all terms used in this Conditional Waiver shall have the same definitions as those set forth in Division 7 of the CWC.
11. This Conditional Waiver does not apply to discharges from irrigated lands equal to or less than five (5) acres that are used for gardens, vineyards, orchards, pastures or greenhouses to produce crops and/or animals for personal consumption. This exemption, but without any acreage limitation, includes irrigated lands used as golf courses or polo fields. Owners and operators of irrigated lands meeting these criteria are not required to apply for coverage under this Conditional Waiver, provided that the owner/operator (a) does not hold a

current Operator Identification Number/Permit Number for pesticide use reporting and/or (b) does not use the federal Department of Treasury Internal Revenue Service Form 1040 Schedule F Profit or Loss from Farming to file federal taxes.

### **Basin Plan and Beneficial Uses to be Protected**

12. The Basin Plan, as amended to date, designates the beneficial uses of ground and surface waters in this Region.
13. The Basin Plan specifies the following beneficial uses for the CVSWC and Coachella Valley Drains:
  - a. Fresh Water Replenishment (FRSH)
  - b. Water Contact Recreation (REC I)
  - c. Water Non-Contact Recreation (REC II)
  - d. Warm Freshwater Habitat (WARM)
  - e. Wildlife Habitat (WILD)
  - f. Preservation of Rare, Threatened, or Endangered Species (RARE)
14. The Basin Plan specifies the following beneficial uses for the Salton Sea:
  - a. Aquaculture (AQUA)
  - b. Industrial Service Supply (IND)
  - c. Water Contact Recreation (REC I)
  - d. Non-Contact Water Recreation (REC II)
  - e. Warm Freshwater Habitat (WARM)
  - f. Wildlife Habitat (WILD)
  - g. Preservation of Rare, Threatened, or Endangered Species (RARE)
15. The Coachella Valley is located in the Whitewater Hydrologic Unit. The Basin Plan establishes municipal, agricultural, and industrial supply as the beneficial uses for groundwater in this Unit.
16. This Conditional Waiver is consistent with and implements the Basin Plan. Implementation of the Conditional Waiver results in the Responsible Parties being in compliance with the Basin Plan water quality standards established for the waters identified in Findings 13, 14, and 15 above.

### **Coachella Valley Irrigation and Drainage Systems**

17. Agricultural lands in the Coachella Valley in central Riverside County are irrigated by the Coachella Valley Water District's (CVWD) distribution system, which consists of the 123-mile long Coachella Canal and an underground lateral distribution network that delivers water to the highest point of every 80-acre parcel of eligible land within the CVWD's service area. Flows of up to 1,300

cubic feet per second travel from the Colorado River by gravity through the canal and into about 500 miles of underground piping.

18. CVWD's distribution system provides water to about 53,850 harvested acres of agricultural land located in the eastern Coachella Valley. Approximately 16,425 of those acres do not have any subsurface drainage improvements and are not serviced by any drainwater conveyance system. Over 60 percent of Coachella Valley farms use drip irrigation systems or other forms of micro-irrigation.
19. Construction of the Coachella Valley subsurface drainage system began during the 1940's as a way to reclaim land that was too saline to use beneficially. Approximately 37,425 acres of land in the Coachella Valley is served by the subsurface drainage system. About 28,440 acres (76 percent) of this land drains to the CVSWC with the remaining acreage discharging into open drains that flow into the CVSWC or directly to the Salton Sea.
20. The constructed downstream extension of the Whitewater River Channel, known as the CVSWC, serves as a drainage way for irrigation return flows, treated community wastewater, flows from rising groundwater, and storm water runoff. The Salton Sea acts as an agricultural sump for the Coachella Valley and the Imperial Valley. Lands west and south of the CVSWC drain from west to east to the CVSWC, whereas lands north and east of the CVSWC drain from east to west to the CVSWC. The Coachella Valley drainage system also consists of about 21 miles of open drainage channels which are owned and operated by CVWD.
21. CVWD owns, operates, and maintains about 166 miles of subsurface drain collectors which collect and convey water to the CVSWC. The subsurface drains are typically composed of concrete, clay or polyethylene pipe segments ranging from 8 to 30 inches in diameter and constructed by butting the pipe segments together at about 7 to 15 feet below the ground surface. The unsealed gap between the pipe segments allows groundwater to flow in and out as needed in response to changes in groundwater elevation.
22. On-farm subsurface drainage systems are owned, operated and maintained by each farm property owner and consist of 4 to 8 inch diameter perforated pipe buried 4 to 7 feet below ground surface. These pipes intercept, collect and convey groundwater, either percolating down from the surface or rising up from below, to the CVWD subsurface drainage collectors.
23. CVWD subsurface drainage collectors are designed to connect to the low point of each on-farm subsurface drainage system for every 80-acre parcel. The CVWD subsurface drainage system is not designed to receive any surface flows and land owners are prohibited from allowing surface water to enter the subsurface drainage system. The water service agreement between CVWD and the farm

property owner requires that all delivered water is used beneficially on their property, which prohibits the discharge of surface water into the drains. Only water that percolates through the ground to leach salts from the soil before it enters subsurface drainage system is considered by the CVWD to be used beneficially.

24. Because areas of the eastern Coachella Valley contain naturally saline perched groundwater and saline soils, subsurface drains exist to intercept and remove rising groundwater and irrigation return water from the water applied to crops in amounts needed to flush salts from sediments found in the root zone as well as supply water for crop growth. This additional water is called the 'leaching requirement.' Water needed to flush salts varies with soil type and the crop's stage of growth, but generally averages 15% of the amount required for crop evapotranspiration. Leaching salts from the root zone is necessary to maintain soils for cultivation. The excess irrigation water (i.e., 'leaching requirement') carries the soluble salts to groundwater which eventually flows into the drains and/or the Salton Sea.
25. Although there are some private drains maintained by landowners in the Coachella Valley, CVWD owns and maintains an agriculture drainage system that includes both open channel drains and closed pipe drains. CVWD restores and maintain flow in the open channel drains as needed using long-reach excavators to remove vegetation and accumulated silt. The excavated material is paced on drain banks as the equipment moves downstream.
26. CVWD's drain maintenance activities are authorized by the Coachella Valley Multi-Species Habitat Conservation Plan (CVMSHCP) and its related environmental documents.

### **Hydrogeological Conditions**

27. The Coachella Valley Planning Area contains the Whitewater Hydrologic Unit and the East Salton Sea Hydrologic Unit. It lies almost entirely in Riverside County and covers 1,920 square miles in the west central portion of the Region. The San Bernardino Mountains and the Little San Bernardino Mountains form the northern boundary. The San Jacinto and Santa Rosa Mountains and the Salton Sea shoreline form the western and southern boundaries, respectively. Elevations range from over 10,000 feet in the San Bernardino and San Jacinto Mountains to 230 feet below sea level at the Salton Sea shoreline.
28. The higher elevations of the San Bernardino and San Jacinto Mountains have evergreen forests with perennial streams. A contrasting scene is presented on the Coachella Valley floor where the land contains desert vegetation, except where the land has been irrigated with pumped ground water or with imported Colorado River water.

29. Average annual precipitation ranges from less than three inches in the valleys to 40 inches in the San Bernardino Mountains. Seasonal snows fall on the higher elevations in the San Bernardino and San Jacinto Mountains. In the valleys, precipitation from summer thunderstorms often exceeds that of winter.
30. Runoff resulting from rains and snowmelt at the higher elevations is a major source of ground water replenishment. Perennial streams include the upper reaches of the San Gorgonio and Whitewater Rivers, and Palm Canyon, Tahquitz, Snow, Deep Canyon, Chino, and Andreas Creeks.
31. The Whitewater River is the major drainage course in the Planning Area. There is perennial flow in the mountains, but because of diversions and percolation into the basin, the Whitewater River becomes dry further downstream. The constructed downstream extension of the Whitewater River channel, known as the Coachella Valley Storm Water Channel (CVSWC), serves as a drainage way for irrigation return flows, treated community wastewater, flows from rising groundwater and storm runoff.
32. There is one relatively large surface water impoundment: Lake Cahuilla, located at the terminus of the Coachella Canal, serves as a storage reservoir to regulate irrigation water demands, and is also used for recreational purposes.
33. Ground water is stored principally in the unconsolidated Pleistocene sediments. Wells yield up to 4,000 gpm. Maximum thickness of the water-bearing sediments is not known; however, it exceeds 1,000 feet in the Coachella Valley.
34. Ground water is generally unconfined except in the lower areas of the Coachella Valley. A clay aquitard, a result of past sedimentation in the old lake bed, extends from the Salton Sea to some distance west of Indio, overlying the domestic-use aquifers. The clay layer underlies lenses of permeable sediments and perched ground waters, which are replenished by percolating irrigation water and rising artesian groundwater.
35. The planning area is faulted extensively, altering ground water movement. The Mission Creek, Banning, and San Andreas Faults form effective barriers to ground water movement. The Indio Hills, Garnet Hills, and Mecca Faults form partial barriers.
36. The Indio and Mecca Hills have been uplifted along the northwest-trending San Andreas Fault system. The alignment of oases on the flanks of those hills results from faults that impede the movement of ground water. The most prominent of these oases is the Thousand Palms Oasis on the Mission Creek Fault.

## Water Body Impairments

37. The CVSWC is listed as "impaired" on the 2010 Clean Water Act (CWA) Section 303(d) List because Dichloro-Diphenyl-Trichloroethane (DDT), Dieldrin, Polychlorinated biphenyls (PCBs), pathogens, and toxaphene violate water quality objectives (WQOs) that protect the beneficial uses below. The listings for DDT, Dieldrin, PCBs, and Toxaphene only apply to a 2-mile area of the CVSWC from Lincoln Street to the Salton Sea. The listing for pathogens applies to a 17-mile area of the CVSWC from Dillon Road to the Salton Sea.
- a. contact and non-contact water recreation (REC I and REC II);
  - b. warm freshwater habitat (WARM);
38. On March 20, 2014, the Colorado River Basin Water Board proposed the following updates to the 2010 CWA Section 303(d) list for the CVSWC:
- a. The addition of nitrogen ammonia (total ammonia) and toxicity to the list of pollutants/stressors.
  - b. Changing the name of the pollutant "pathogens" to "fecal indicator bacteria."
39. Information regarding the listed impairments and proposed updates to the Section 303(d) List for the CVSWC is contained in the Colorado River Basin Water Board's document entitled, "Staff Report in Support of Proposed Updates to the Clean Water Act Section 303(d) List and Preparation of the 2012 Integrated Report" and its attachments. The document and attachments are available on the Colorado River Basin Water Board website at: [2012 Section 303\(d\) Staff Report](#) .
40. The Salton Sea is listed as "impaired" on the 2010 Clean Water Act (CWA) Section 303(d) List because arsenic, chlorpyrifos, DDT, enterococcus, nutrients, salinity and selenium violate WQOs that protect the following beneficial uses:
- a. aquaculture (AQUA);
  - b. contact and non-contact water recreation (REC I and REC II); and
  - c. warm freshwater habitat (WARM)
41. On March 20, 2014, the Colorado River Basin Water Board proposed the following updates to the 2010 CWA Section 303(d) list for the Salton Sea:
- a. The addition of chloride, low dissolved oxygen, nitrogen, total ammonia and toxicity to the list of pollutants/stressors;
  - b. The removal of selenium from the list of pollutants/stressors.

42. DDT has been banned from use in California since 1972. It has not been used in the Coachella Valley since the ban took effect. It is a residual/legacy pesticide that is slowly degrading over time in the environment.
43. The Colorado River Basin Water Board intends to amend the Basin Plan to reduce pathogen WQOs for surface waters from three indicators to one indicator for fresh waters (*E. coli*), and one indicator for saline waters (enterococci).
44. The 2009 – 2011 pesticide use data compiled by the California Department of Pesticide Regulation (CDPR) for the Coachella Valley indicate that more than 19,000 pesticide applications occurred in the Coachella Valley per year during that period. The data indicates that more than 150 distinct pesticide active ingredients were applied to Coachella Valley agricultural fields during those years. When compared to the list of chemicals identified in the Basin Plan, the California Toxics Rule, and the CDPR list of potential groundwater contaminants, 43 of the 150 pesticide active ingredients applied have the potential to contaminate groundwater.
45. The California Surface Water Ambient Monitoring Program (SWAMP) has collected water and sediment samples from two stations, one near the intersection of Avenue 52 and the other near the intersection of Lincoln Street, along the CVSWC. Sixteen pesticide active ingredients were detected in water samples from both stations and seven pesticide active ingredients were found in sediment samples from both stations. Toxicity was also found in SWAMP samples collected from the Avenue 52 site in October 2005 and May 2006. Ammonia was considered to be the probable cause of the toxicity.

### **Legal and Additional Regulatory Considerations**

46. Pursuant to CWC section 13369, the State Water Board adopted the Nonpoint Source Implementation and Enforcement Policy (NPS Policy) on May 20, 2004, subsequently approved by OAL on August 26, 2004. The policy requires all of the nine regional water boards to regulate all nonpoint sources of pollution using the administrative permitting authorities in the Water Code, including, but not limited to: (1) Basin Plan prohibitions, (2) conditional Waivers of WDRs, or (3) WDRs. Pursuant to directive by the State Water Board, all regional water quality control boards are to regulate agricultural discharges through waivers or WDRs. The State Water Board is presently revising the NPS Policy to reflect that directive.
47. The NPS Policy provides for Agricultural Dischargers to comply with this Conditional Waiver by participating in the development and implementation of NPS Pollution Control Programs (Compliance Programs), either individually or collectively as participants in discharger coalitions (a.k.a. "Coalition Groups"). Compliance Programs may also be developed by a regional board or a discharger coalition in cooperation with a third-party representative, organization, or government agency. Regardless of who develops the program, the NPS

Policy identifies five (5) key elements required for all Compliance Programs; 1) Statement of Goals/Purpose; 2) Identification of Management Practices (MPs); 3) Time schedule for Compliance; 4) Surveillance Program; 5) Consequences for failure. This Conditional Waiver is consistent with the requirements of the NPS Policy.

48. CWC section 13260(a)(1) requires that any person discharging waste or proposing to discharge waste within a regional board's jurisdiction, in a manner that could affect the quality of waters of the state, file a Report of Waste Discharge (ROWD) with that board. A regional board may, in its discretion, issue WDRs pursuant to Water Code section 13263(a).
49. CWC section 13269 allows the regional boards to waive submission of Reports of Waste Discharge (ROWDs) and/or issuance of WDRs if it is in the public interest to do so.
50. On October 10, 1999, Senate Bill 390 amended CWC section 13269. The amendments extended all Waivers in effect on January 1, 2000, for three years to January 1, 2003, unless terminated earlier, and required all existing Waivers to expire on January 1, 2003, unless renewed.
51. As amended, CWC section 13269 authorizes a regional board to waive WDRs for a specific discharge or specific types of discharges if the following conditions are met: (1) the Waiver is in the public interest, (2) the Waiver is conditional, (3) Waiver conditions include performance of individual, group, or watershed-based monitoring, except for discharges that the regional board determines do not pose a significant threat to water quality, (4) compliance with Waiver conditions is required, and (5) a public hearing has been held. The term of a Waiver cannot exceed five years, but the regional board can renew a Waiver after holding a public hearing. The regional board may terminate a Waiver at any time.
52. Prior to January 15, 2003, the Colorado River Basin Water Board had a region-wide Waiver for specific discharges of wastes in the Region, which also waived WDRs for agricultural return flows (i.e., agricultural wastewater discharges). On January 15, 2003, the Colorado River Basin Water Board allowed the Waiver for agricultural wastewater discharges in the Region to expire.
53. Relevant factors in determining whether a Waiver is in the public interest include the following: whether the discharge is already regulated by a local governmental entity which must continue to play a major role in regulating that type of discharge; whether the Discharger is observing reasonable practices to minimize the deleterious effects of the discharge; whether a feasible treatment method exists to control the pollutants in the discharge; and whether conditionally waiving ROWDs and/or WDRs will adequately protect beneficial uses while allowing the regional board to utilize more of its resources to conduct field oversight, public outreach and, where necessary, enforcement. Although local government

entities do not regulate water quality impacts of agricultural operations, these operations are subject to pesticide regulation and reporting. In addition, various public and private entities provide education and field assistance to growers so they implement management practices to prevent and address water quality impacts. These entities include various Resource Conservation Districts and the University of California Cooperative Extension.

54. The agricultural wastewater discharges and dredging activities in the Coachella Valley are not currently regulated by any government agency. This Conditional Waiver requires implementation of management practices to minimize water quality impacts. Reasonable management practices exist and are being implemented in Coachella Valley that would enable Responsible Parties to comply with this Waiver. These management practices reduce the amount of wastes discharged, minimize runoff, and are more feasible and more effective than treatment methods. Attachment A, incorporated herein and made a part of this Conditional Waiver by reference, lists and describes available MPs. This list is neither all inclusive nor prescriptive. Responsible Parties may select from the list or choose a combination of MPs for their farm operations, regardless of whether the MP is listed.
55. The adoption of the Conditional Waiver is also in the public interest because: (1) it includes conditions that are intended to reduce and prevent pollution and nuisance and protect the beneficial uses of the waters of the state; (2) it establishes a comprehensive control program for protection of water quality in the Coachella Valley; (3) given the number of persons who discharge waste from irrigated lands and the magnitude of acreage involved, it provides for an efficient and effective use of limited Colorado River Basin Water Board resources; (4) it provides flexibility for the Agricultural Dischargers who seek coverage under the Conditional Waiver by providing them with the option of complying with monitoring requirements through participation in cooperative monitoring programs or individually; (5) requires Responsible Parties to comply with Basin Plan; and (6) promotes statewide consistency in dealing with agricultural runoff.
56. CWC section 13269(a)(4)(A) authorizes a regional board to include as a condition of a Waiver the payment of an annual fee established by the State Water Board. The State Water Board has adopted regulations in Title 23, Division 3, Chapter 9, Article 1 (commencing with Section 2200), which establish a fee schedule for agricultural Waivers. This Conditional Waiver requires each Agricultural Discharger who participates in a Coalition Group, or the Coalition Group itself on behalf of its participants, to pay an annual fee to the State Water Board in accordance with the fee schedule specified in Title 23, Section 2200.6.
57. Technical reports are necessary to evaluate each Coalition Group's compliance with the terms and conditions of the Conditional Waiver and to assure protection of waters of the state.

58. To obtain coverage under this Conditional Waiver, Responsible Parties must choose one of the two following options: (1) submit a Notice of Intent (NOI) to comply with this Conditional Waiver; or (2) participate in a Coalition Group that submits a letter of intent to develop and implement a Compliance Program to comply with this Conditional Waiver. Under option 1, above, the Responsible Parties must also: (a) prepare a Water Quality Management Plan (WQMP) and, if applicable, a Drain Water Quality Improvement Plan (DWQIP) for review and approval by the Colorado River Basin Water Board; (b) conduct periodic water quality monitoring of the discharge and its receiving water(s); (c) prepare a Quality Assurance Project Plan for the proposed monitoring; and (d) submit annual monitoring reports to the Colorado River Basin Water Board.
59. The CVILC has agreed to organize and manage a Coalition Group and develop and implement a Compliance Program to comply with this Conditional Waiver. The scope of this management includes: developing program elements, outreach programs, and mechanisms to encourage and foster an effective self-determined approach to attain WQOs. To implement this program, CVILC has committed to provide every Agricultural Discharger enrolled in its Coalition Group the information necessary to comply with this Compliance Program. Specific goals of the Compliance Program to be managed by CVILC include:
- a. Coordinating an educational program to educate farmers on how to reduce pollutants leaving their fields,
  - b. Coordinating workshops with local technical assistance agencies, and
  - c. Cooperating with Colorado River Basin Water Board staff to track and report Management Practice (MP) effectiveness.
  - d. CVILC is also obtaining approval from the State Water Board to manage fee collection and payment for its Coalition Group.
60. CVWD, CVILC and the Colorado River Basin Water Board staff have developed a Monitoring and Reporting Program (MRP) entitled, "Coachella Valley Irrigated Lands Coalition Water Quality Monitoring Plan," which was updated on May 20, 2014, to assist coalition group participants in complying with this Conditional Waiver. Attachment E, incorporated herein and made a part of this Order by reference, contains the updated MRP.
61. State Water Board Resolution 68-16, *Policy with Respect to Maintaining High Quality Waters of the State* (Resolution 68-16), requires a regional water board, when regulating a discharge of waste, to maintain high quality waters of the state (i.e., background water quality) until it is demonstrated that a change in quality is consistent with:
- i. the maximum benefit to the people of the state,
  - ii. will not unreasonably affect present and anticipated beneficial uses of waters, and

- iii. will not result in water quality less than that prescribed in policies (e.g., violation of any WQO).

62. This Conditional Waiver requires Responsible Parties to implement management practices that achieve compliance with WQOs, and therefore protect beneficial uses for the CVSWC, Coachella Valley Drains, and the Salton Sea. As such, the Colorado River Basin Water Board finds the Conditional Waiver consistent with Resolution No. 68-16 in that any change in water quality is consistent with paragraphs i. – iii. set forth in Finding 61, above.

63. It is the intent of the Colorado River Basin Water Board to hold public hearings at least once every two years to review the effectiveness of this Conditional Waiver, Coalition Groups and Individual Compliance Programs, and management practices; and evaluate compliance with applicable WQOs. The first public hearing is tentatively scheduled to be held within three (3) years from the date of adoption of this Conditional Waiver.

### **California Environmental Quality Act and Public Participation**

64. For purposes of adoption of this Conditional Waiver, the Colorado River Basin Water Board is the lead agency pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The action to adopt this Conditional Waiver is intended to protect and improve water quality. Accordingly, the Conditional Waiver sets forth conditions that will require Responsible Parties to implement Management Practices to protect water quality and to conduct monitoring to ensure that such practices are effective and are protecting and improving water quality. Because the Colorado River Basin Water Board has not regulated the discharges subject to this Conditional Waiver to this extent in the past, it expects that adoption of the Conditional Waiver will result in the enhanced protection, maintenance, and improvement of water quality.

65. Colorado River Basin Water Board staff held a CEQA scoping meeting on April 29, 2013, to receive comments on the drafting of the Conditional Waiver and to identify significant issues to consider and address. It also prepared an Initial Study, dated March 2014, in support of a proposed Negative Declaration for this Waiver.

66. On April 25, 2014, the Colorado River Basin Water Board notified interested agencies and persons of its Intent to Adopt a Negative Declaration for this Conditional Waiver, and provided them with an opportunity to submit comments during a comment period that ended May 27, 2014, regarding the proposed Negative Declaration and Initial Study prepared in support of the Negative Declaration. The Colorado River Basin Water Board, in a public hearing, considered all comments received during the public comment period and at the hearing regarding the proposed Negative Declaration and Initial Study.

67. On May 21, 2014, Colorado River Basin Water Board staff held a public workshop regarding this proposed Conditional Waiver to provide affected stakeholders and Responsible Agencies with an additional opportunity to comment on the proposed Conditional Waiver.
68. On June 26, 2014, the Colorado River Basin Water Board adopted the proposed Negative Declaration in Resolution R7-2014-0046 after finding on the basis of the whole record before it (including the Initial Study and all comments received) that there was no substantial evidence that the Conditional Waiver will have a significant effect on the environment and that the Negative Declaration reflects its independent judgment and analysis.
69. The Colorado River Basin Water Board has notified the Responsible Parties and all known interested agencies and persons of its intent to draft this Conditional Waiver of WDRs for this discharge, and has provided them with an opportunity for a public meeting and an opportunity to submit comments.
70. The Colorado River Basin Water Board, in a public meeting, heard and considered all comments pertaining to this Conditional Waiver.

**IT IS HEREBY ORDERED** that, pursuant to CWC sections 13263, 13267, and 13269, Agricultural Dischargers and Drain Maintenance Dischargers (collectively, Responsible Parties), who file for coverage under this Conditional Waiver in order to meet the provisions contained in Division 7 of the CWC and regulations and plans and policies adopted thereunder, and who request a Waiver of WDRs, shall comply with the following terms and conditions:

**A. Eligibility**

1. Existing and future Responsible Parties are potentially eligible for coverage under this Conditional Waiver.
2. Responsible Parties seeking coverage under this Order shall submit to the Colorado River Basin Water Board a Notice of Intent (NOI) as specified below.
3. Responsible Parties eligible under this Order bear the responsibility of complying with this Conditional Waiver.
4. Responsible Parties seeking coverage as a member of a Coalition Group Compliance Program must be in good standing with the membership requirement of the program, as approved by the Colorado River Basin Water Board.

## **B. General Waiver Conditions**

1. The Colorado River Basin Water Board waives the submittal of a Report of Waste Discharge (ROWD) and WDRs for Agricultural Dischargers and Drain Maintenance Dischargers in the Coachella Valley if these dischargers of wastes comply with the conditions established by this Conditional Waiver.
2. Agricultural Dischargers and Drain Maintenance Dischargers shall take action to comply with this Conditional Waiver and to protect the quality of the waters of the state.
3. Agricultural Dischargers, both those seeking coverage and those who obtain coverage under this Conditional Waiver, shall pay to the State Water Board the fee(s) it has established under Title 23, California Code of Regulations (CCR), Division 3, Chapter 9 for Waivers of WDRs for irrigated lands.
4. This Waiver shall not create a vested right and all such discharges shall be considered a privilege, as provided for in CWC section 13263.
5. Pursuant to CWC section 13269, this action to waive the issuance of WDRs for certain specific types of discharges: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Colorado River Basin Water Board from taking enforcement actions (including civil liability) pursuant to the CWC.
6. This Conditional Waiver becomes effective upon adoption by the Colorado River Basin Water Board and expires on **June 26, 2019**.
7. Technical and monitoring reports specified in this Order, including Compliance Programs, Water Quality Management Plans, and Drain Water Quality Plans, are requested pursuant to CWC section 13267 and shall comply with Attachment B, which is incorporated herein and made part of this Order by reference, and shall be approved by the Executive Officer prior to implementation. Failure to furnish complete reports by the specified deadlines or falsification of any information in the reports is a misdemeanor that may result in the assessment of civil liability against the Responsible Party.
8. Based on monitoring results, the Executive Officer may modify MRPs as appropriate, pursuant to CWC section 13267.
9. All documents and reports requested herein shall be signed and dated by a duly authorized representative and contain a statement regarding the accuracy of the

documented/reported information and include the following: "Conditional Waiver for Coachella Valley Ag Dischargers."

10. The discharge of any wastes not specifically regulated by this Conditional Waiver is prohibited unless the Responsible Party complies with CWC section 13260(a) by filing a Report of Waste Discharge and the Colorado River Basin Water Board issues either WDRs pursuant to CWC section 13263 or an individual Waiver pursuant to CWC section 13269, or the time frames specified in CWC section 13264(a) have elapsed.
11. The discharge of wastes authorized by this Conditional Waiver shall not cause a condition of pollution or nuisance as defined in CWC sections 13050(l) and (m).
12. The Colorado River Basin Water Board may review this Conditional Waiver at any time and may modify the Conditional Waiver, or terminate it in its entirety. The Executive Officer may terminate applicability of the Conditional Waiver with respect to a Coalition Group or an individual Responsible Party who is a participant in a Coalition Group upon notice to the Coalition Group or Responsible Party, as applicable.
13. **By October 31, 2014**, CVWD shall submit to the Colorado River Basin Water Board a list with the names, address, and contact information for all CVWD current customers who receive water for irrigated land; and the location and Assessor's Parcel Number (APN) of the irrigated land. To the extent that a particular customer has multiple water accounts with CVWD for parcels with unique APNs, the list shall reflect so. The list shall be submitted in electronic format. In lieu of the APN, and subject to the approval of the Executive Officer, CVWD may submit an alternative identification number system to track every parcel of irrigated land so long as the alternative identification system allows for identifying the physical location of the parcel, its acreage, and its Responsible Parties.

### **C. Waiver Conditions for Individual Compliance Programs**

Any Responsible Party who elects to develop an Individual Compliance Program shall comply with the following:

1. **Within 90 days** following adoption of this Conditional Waiver, file with the Colorado River Basin Water Board a complete NOI using Attachment C, incorporated herein and a part of this Order by reference. Following review of the NOI, if the Executive Officer determines that coverage under this Conditional Waiver is appropriate for the Agricultural Discharger, the Executive Officer shall issue a Notice of Applicability (NOA) to the Agricultural Discharger. If coverage is not appropriate, the Executive Officer shall inform the Agricultural Discharger in writing that coverage is not appropriate and request instead that the

Agricultural Discharger file a ROWD for the proposed or actual discharge of waste.

2. **Within 180 days** following adoption of this Conditional Waiver, submit to the Colorado River Basin Water Board the proposed items below. Following approval, these documents shall become components of the Individual Compliance Program.
  - a. Individual Water Quality Management Plan (WQMP) and Monitoring and Reporting Program (MRP). In this case, the MRP shall also include proposed monitoring to determine the quality and quantity of the wastes discharged; and, if applicable—
  - b. Individual Drain Water Quality Plan (DWQP) and Drain Monitoring and Reporting Program (DMRP).
3. **Within 120 days** following approval of the Individual Compliance Program Plan(s), prepare and submit a Quality Assurance Project Plan (QAPP).
4. **Within 90 days** following QAPP approval, begin implementing the MRP and, if applicable, the DMRP.
5. **By March 1<sup>st</sup> of every year**, submit to the Colorado River Basin Water Board an Annual Monitoring Report. The Annual Monitoring Report is for the previous calendar year (January 1 through December 31).

**D. Waiver Conditions for the Coachella Valley Irrigated Lands Coalition (CVILC) Group:**

In order for the CVILC to manage its Group Compliance Program in full compliance with the Nonpoint Source Policy, the CVILC shall comply with the following items below. Once approved, these documents and CVWD's DWQP and DMRP shall become components of the CVILC Compliance Program.

1. **By September 30, 2014**, file with the Colorado River Basin Water Board a letter of intent to develop and implement a complete Coalition Group Compliance Program and obtain coverage under this Conditional Waiver for its group's Agricultural Dischargers, their drain O&M activities (if any), and for the Coachella Valley Water District's (CVWD) drain O&M activities.
2. **By February 28, 2015**, file with the Colorado River Basin Water Board the Coalition Group's proposed Compliance Program. The Compliance Program shall include, but need not be limited to:

- a. Suggested format(s) to prepare Individual WQMPs and DWQPs, including deadlines for submittal;
  - b. A proposal to establish and maintain membership requirements, including forms and requirements to enroll group member applicants into the Program; and
  - c. Outreach and education activities, and scheduled workshops to coordinate with technical assistance agencies; and
  - d. A map (scale 2" = 1-mile or better) showing the Coalition Group's boundaries, CVWD's main irrigation canals, and CVWD's main drains.
3. **By March 31, 2015**, begin implementing the approved Compliance Program and issue letters to all potential group members within the Coalition Group's boundaries within the Coachella Valley that provide instructions on how to enroll into the Approved CVILC Compliance Program
4. **By April 30, 2015**, submit: (a) a letter to the Colorado River Basin Water Board certifying the Coalition Group has begun implementing the approved Compliance Program, and (b) a QAPP that includes a baseline upstream monitoring location for approval. CVILC shall submit to the Colorado River Basin Water Board a list with the names, addresses, and contact information for all Coalition Group members; and the location and Assessor's Parcel Number (APN) of the irrigated land for those members. To the extent that a particular customer has multiple water accounts with CVWD for parcels with unique APNs, the list shall reflect so. The list shall be submitted in electronic format. In lieu of the APN, and subject to the approval of the Executive Officer, CVILC may submit an alternative identification number system to track every parcel of irrigated land covered under the Coalition Group's Compliance Program so long as the alternative identification system allows for identifying the physical location of the parcel, its acreage, and its Responsible Parties.
5. **By May 31, 2015**, begin implementing the approved QAPP, which becomes part of this Order by reference, the Coalition Group's MRP, its DWQP, and DMRP; and submit to the Colorado River Basin Water Board monitoring results within fourteen (14) days of receipt from the laboratory.
6. **By May 31, 2015**, submit to the Colorado River Basin Water Board the Coalition Group's WQMP/DWQP in electronic and tabular format. The submittal shall also include copies of all individual WQMPs/DWQPs.
7. **By March 1<sup>st</sup> of every year**, submit to the Colorado River Basin Water Board an Annual Monitoring Report for the Coalition Group. The Annual Monitoring Report is for the previous calendar year (January 1 through December 31).

#### **E. Waiver Conditions for Other Coalition Groups**

Dischargers of waste electing to either form and/or join other Coalition Groups shall comply with the following:

1. **Within 90 days** following adoption of this Conditional Waiver, file with the Colorado River Basin Water Board a complete NOI using Attachment D, incorporated herein and made a part of this Order by reference, to obtain coverage under this Conditional Waiver for the Coalition Group's Agricultural and Drain Maintenance Dischargers.
2. **180 days** following adoption of this Conditional Waiver, submit the proposed Coalition Group's Compliance Program. The Compliance program shall include the items below. Once approved, these documents shall become components of the Coalition Group's Compliance Program.
  - a. Name of the Coalition Group Compliance Program;
  - b. Names and business addresses of the Coalition Group participants;
  - c. Names, addresses, and phone numbers of group's primary contact(s) or representative(s);
  - d. Suggested format(s) to prepare Individual WQMPs and DWQPs, including deadlines for submittal (if deadlines not prescribed by this Conditional Waiver);
  - e. A proposal to establish and maintain group membership requirements, including protocols to enlist;
  - f. Outreach and education activities;
  - g. Scheduled workshops to coordinate with technical assistance agencies; and
  - h. The Coalition Group's proposed MRP (including DMRP if applicable).
3. **Within 90 days** following approval of the Coalition Group's Compliance Program, begin implementing the approved Compliance Program and submit a letter to the Colorado River Basin Water Board certifying that it began implementing the program.
4. **Within 120 days** following approval of the Compliance Program, prepare and submit to the Colorado River Basin Water Board a QAPP.
5. **Within 90 days** following approval of the QAPP, begin implementing the Coalition Group's MRP, and submit and submit all monitoring results to the Colorado River Basin Water Board within fourteen (14) days of receipt from the laboratory.
6. **Within 240 days** following approval of the Compliance Program, submit to the Colorado River Basin Water Board the Coalition Group's WQMP/DWQP in electronic and tabular format. The submittal shall also include copies of all Individual WQMPs/DWQPs.

7. **By March 1st of every year**, submit to the Colorado River Basin Water Board, an Annual Monitoring Report. The Annual Monitoring Report is for the previous calendar year (January 1 through December 31).

#### **F. Enforcement**

1. The Executive Officer shall use any combination of the following actions, as the circumstances warrant, to address violations of this Conditional Waiver and ensure water quality impacts identified by Compliance Programs or by the Colorado River Basin Water Board are promptly and effectively corrected:
  - a. Terminate coverage under this Conditional Waiver to any Individual or Coalition Group. Coverage termination shall be in writing, specify the effective date of coverage termination, describe the reason(s) for the termination, and specify additional potential enforcement actions that the Colorado River Basin Water Board may take once coverage termination becomes effective.
  - b. Require technical reports to correct violations or for additional water quality investigations pursuant to CWC section 13267.
  - c. Require submission of a ROWD pursuant to CWC section 13260, so that the Colorado River Basin Water Board may consider prescribing WDRs, pursuant to CWC section 13263, to Responsible Parties failing to comply with the requirements of an Individual or Coalition Group Compliance Program.
  - d. Issue Administrative Civil Liability Complaints (ACLs), pursuant to CWC sections 13226, against violators of CWC sections 13261, 13264, or 13267; or violators of other Board directives.
  - e. Issue cleanup and abatement enforcement orders pursuant to CWC section 13304 to Responsible Parties who threaten or are causing water quality pollution or nuisance conditions.
  - f. Refer recalcitrant violators of this Order to the District Attorney or Attorney General for criminal prosecution or civil enforcement.

I, Robert Perdue, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on June 26, 2014.

*Original signed by*

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ROBERT PERDUE  
Executive Officer