

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
COLORADO RIVER BASIN REGION  
ORDER R7-2015-0008  
CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR  
AGRICULTURAL WASTEWATER DISCHARGES AND DISCHARGES OF WASTES FROM  
DRAIN OPERATION AND MAINTENANCE ACTIVITIES WITHIN THE IMPERIAL VALLEY,  
IMPERIAL COUNTY, CALIFORNIA**

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 Imperial Valley into waters of the State; and (b) the potential water quality impacts from operation and maintenance (O&M) of Imperial Valley drains to ensure that such discharges and O&M practices are not causing or contributing to exceedances of the numeric or narrative water quality standards prescribed in the water quality control plan for the Colorado River Basin Water Board (Basin Plan) specified for the Imperial Valley Drains and the Alamo and New Rivers, all of which are tributary to the Salton Sea.

**Definitions, Responsible Parties, and Applicability**

2. "Waste" is defined 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. (Wat. Code, § 13050(d).)
3. "Waters of the state" is defined as any surface water or groundwater, including saline waters, within the boundaries of the state. (Wat. Code, § 13050(e).)
4. As used in this Order, "agricultural wastewater" is a waste and is defined as including: 1) storm water 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, tenant, and operator/grower of irrigated agricultural land in the Imperial 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, including but not limited to the Alamo River, New River, Imperial Valley Drains, and Salton Sea, all of which are also waters of the United States.

6. "Drain Maintenance Discharger" means any individual or entity that conducts drain operation and maintenance activities in the Imperial 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" (collectively referred to as "Responsible Parties") are dischargers of waste and thus, are parties responsible for complying with this Conditional Waiver pursuant to the California Water Code.
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 Board's "State Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program," which specifies in relevant part, the Program's goals, 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. 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 definition as those set forth in Division 7 of the California Water Code.

### **Background on this Order**

11. On June 27, 2001, the Colorado River Basin Water Board adopted an amendment to its Water Quality Control Plan for the Colorado River Basin Region (Basin Plan) that established a Sedimentation/Siltation Total Maximum Daily Load (TMDL) for the Alamo River and the Imperial Valley drains tributary to the Alamo River. The Alamo River is a water of the United States and the main tributary to the Salton Sea, California largest inland lake. The TMDL establishes silt/sediment load allocations to control agricultural wastewater discharges and discharges from drain operation and maintenance activities within the Alamo River Subwatershed. It also requires Dischargers to develop, submit, and implement water quality improvement plans to address the impairments.
12. On June 26, 2002, the Colorado River Basin Water Board adopted an amendment to its Basin Plan that established a Sedimentation/Siltation TMDL for the New River and the Imperial Valley drains tributary to the New River. The New River is a water of the United States and the second largest tributary of the Salton Sea. The TMDL established load allocations to control agricultural wastewater discharges and discharges from drain operation and maintenance activities within the New River Subwatershed.

13. In 2001, the Imperial County Farm Bureau (ICFB) established its “TMDL Voluntary Compliance Program” to assist the Imperial Valley farming community comply with the Sedimentation/Siltation TMDLs for the Imperial Valley. Imperial Valley farmers have been complying with the Sedimentation/Siltation TMDLs and with the Conditional Prohibition through the ICFB “Voluntary TMDL Program.”
14. Section 13245 of the California Water Code (CWC) requires that any Basin Plan or Basin Plan amendment must be approved by the State Water Resources Control Board (State Water Board) before it can become effective. Federal regulations also require that amendments establishing TMDLs be approved by the U.S. Environmental Protection Agency (USEPA). The Alamo River TMDL amendment was approved by the State Water Resources Control Board (State Water Board) on February 19, 2002, approved by the Office of Administrative Law (OAL) on May 3, 2002, and approved by USEPA on June 28, 2002. The New River TMDL amendment was approved by the State Water Board on November 19, 2002, approved by the OAL on January 13, 2003, and approved by USEPA on March 31, 2003.
15. On 2004, the State Water Board adopted the Policy for the Implementation and Enforcement of the Non-Point Source Pollution Control Program (hereafter referred to as “NPS Policy”). The NPS Policy provides three alternatives to regulate controllable non-point sources of pollution, such as agricultural wastewater discharges: (1) Basin Plan Prohibitions, (2) Conditional Waivers of WDRs, and (3) WDRs.
16. On January 19, 2005, the Colorado River Basin Water Board approved an amendment to its Basin Plan that established TMDLs for the Niland 2, P, and Pumice Drains, which discharge directly into the Salton Sea. Consistent with the NPS Policy, this amendment also established a valley-wide Conditional Prohibition to regulate the quality of agricultural wastewater discharges from irrigated agricultural lands in the Imperial Valley.
17. At its meeting on January 10, 2012, and in response to a Colorado River Basin Water Board proposed Basin Plan amendment to establish a Conditional Prohibition for agricultural wastewater discharges in Palo Verde Valley and Palo Verde Mesa, the State Water Board remanded the proposed amendment to the Colorado River Basin Water Board (State Water Board Resolution No. 2012-0004). The State Water Board explained in the Resolution that while the proposed Conditional Prohibition would impose requirements comparable to other regional water boards’ conditional waivers for irrigated agriculture, it would result in a disparate fee structure for agricultural discharges from different regions. The State Water Board clarified during the meeting that as a result of state funding source changes, water board programs would need to be self-supporting. In addition, it explained that because statutory authority was provided only for Waste Discharge Requirements (WDRs) and waivers of WDRs, no fees could be assessed from the proposed Conditional Prohibition to support its implementation. Accordingly, the State Water Board directed the Colorado River Basin Water Board in the Resolution to adopt WDRs or a Waiver of WDRs in lieu of, or in addition to, the proposed Conditional Prohibition for agricultural wastewater discharges.

18. To comply with the State Water Board's directives, the Colorado River Basin Water Board elected to regulate the Agricultural and Drain Maintenance Dischargers described in Findings 4, 5, and 6, above, through this Conditional Waiver of WDRs in addition to the existing valley-wide Conditional Prohibition.
19. This Order conditionally waives WDRs for agricultural wastewater discharges and discharges of wastes from drain operation and maintenance activities.
20. 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 does not apply to irrigated land greater than 2 but less than 5 acres that is farmed commercially. Further, this exemption applies to golf courses regardless of acreage. 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; (b) is not registered under Section 46013.1 of the Food and Agriculture Code relating to Certified Organic Farming and/or (c) 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**

21. The Water Quality Control Plan for the Colorado River Basin Region (Basin Plan), as amended to date, designates the beneficial uses and establishes water quality objectives for ground and surface waters in this Region, and contains implementation programs and policies to achieve objectives.
22. The Basin Plan specifies the following beneficial uses for the Alamo River, New River, and Imperial Valley drains:
  - a. Water Contact Recreation (REC I)
  - b. Water Non-Contact Recreation (REC II)
  - c. Warm Freshwater Habitat (WARM)
  - d. Wildlife Habitat (WILD)
  - e. Preservation of Rare, Threatened, or Endangered Species
23. The Basin Plan designates the following beneficial uses for the Salton Sea:
  - a. Aquaculture (AQUA)
  - 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
24. This Conditional Waiver is consistent with and implements the Basin Plan. It requires Responsible Parties to comply with the Basin Plan water quality standards established for the waters identified in Finding 22 and 23, above.

## Hydrological Setting

25. The Imperial Valley is located in the Colorado Desert region of the Sonoran Desert. The climate is characterized by hot, dry summers, occasional thunderstorms, and gusty high winds with sandstorms. It is one of the most arid areas in the United States, with an average annual rainfall of about 3 inches and temperatures in excess of 100°F for more than 100 days per year. The average January temperature is 54°F and the average July temperature is 92°F. Summer temperatures frequently exceed 115°F. Evapotranspiration rates for the Imperial Valley can exceed 6 feet per year and, in hot summer months, can be one-third inch per day.
26. The Imperial Valley is part of the Imperial Hydrologic Unit. The Basin Plan establishes municipal, agricultural, and industrial supply as the beneficial uses for groundwater in this Unit, but generally first-encountered groundwater in the Imperial Valley is not used for domestic purposes because it typically consists of storm water and irrigation water that percolates and passes the root zone of farmland.
27. The Alamo and New Rivers and the Imperial Valley Drains are within the Salton Sea Transboundary Watershed. The main feature of the Watershed is the Salton Sea, California's largest inland lake.
28. The Alamo River Subwatershed encompasses approximately 340,000 acres within the Imperial Valley. Land uses within the watershed consist chiefly of irrigated farmland, with minor amounts of urban and industrial land uses, fish farms, solar installations, and confined animal feeding operations. The Alamo River has its headwaters about 0.6 river-miles south of the International Boundary. The Alamo River flows northward roughly 60 river-miles through the Imperial Valley, eventually emptying into the southeast corner of the Salton Sea, just southwest of the community of Niland. The flow at the International Boundary is less than two (2) cubic feet per second (cfs) [less than 1,460 acre-feet per year (AFY)]. The flow of the Alamo River rapidly increases as it travels through the Imperial Valley, where it is fed by over 900 miles of agricultural drains. In 2013, the flow of the Alamo River at its outlet into the Salton Sea ranged from approximately 605 to 978 cfs (438,000 to 708,040 AFY), and averaged about 786 cfs (569,038 AFY) (USGS, 2014). The Alamo River is the Salton Sea's largest tributary, contributing about 50% of the Sea's annual inflows, and therefore has a major influence on the water quality of the Sea. The Alamo River flows from an elevation of about 10 feet above mean sea level at the International Boundary to an elevation of about 231.8 feet below mean sea level at the Salton Sea (depending on the level of the Salton Sea, which fluctuates based on agricultural return flow discharges and seasonal evapotranspiration rates).
29. The Alamo River Subwatershed can be further divided into five "drainsheds," each of which includes a major drain (Rose, Holtville, Central, South Central and Verde drains), which in turn has many small tributary drains. There are a total of 71 minor drains in the Alamo River Subwatershed.
30. The New River watershed drains approximately 175,000 acres from Imperial Valley, and 300,000 acres from the Mexicali metropolitan area and Mexicali Valley, Mexico. Due to the

2010 Easter Earthquake, approximately 80,000 acres of farmland in the Mexicali Valley are currently out of production. The New River carries agricultural runoff, partially treated and untreated municipal and industrial wastewater, stormwater, and urban runoff from Mexicali Valley northward across the International Boundary into the United States. As the River travels through Imperial Valley, it is fed by: (a) agricultural runoff from about 400 miles of IID Ag Drains (accounting for about 2/3 of river flow), (b) treated municipal and industrial wastewater, and (c) stormwater and urban runoff. Currently, the flow of the New River at the International Border with Mexico is approximately 81,590 ac-ft/yr (USGS, 2013) and consists of urban runoff, treated municipal wastes, untreated and partially treated industrial wastes, and agricultural runoff from the Mexicali Valley. Agricultural runoff makes up approximately 50 to 55% of New River flow at the International Border. Flows in the New River at the Border with Mexico have been reduced by as much as 40% during the last 10 years due to a number of factors, including reduction of agricultural runoff and municipal wastewater discharged into the New River and its tributaries in Mexico. New River flows at the Salton Sea range from 340,000 to 522,000 AFY (USGS, 2013).

31. The New River Subwatershed in the Imperial Valley can be divided into four “drainsheds,” each of which has a major drain (Fig, Greens, Rice, and Rice 3 Drains) and 51 minor drains.
32. All of the major soils associations within the Imperial Valley are within the “wet” series of poorly drained soils due to their low permeabilities (less than 0.5 inches per hour). The Imperial Valley is dominated by three general soil associations: Imperial (nearly level, moderately well drained silty clay), Imperial-Holtville-Glenbar (nearly level, moderately well drained and well drained silty clay, silty clay loam, and clay loam), and Meloland-Vint-Indio (nearly level, well drained fine sand, loamy very fine sand, fine sandy loam, very fine sandy loam, loam and silt loam) (Zimmerman 1981).

### **Irrigation and Drain Operation and Maintenance Practices**

33. Approximately 480,000 acres within the Imperial Irrigation District are considered farmable. The major crops in the Valley, based on the amount of land in production, are alfalfa, Sudan grass, Bermuda grass, and lettuce.
34. Surface (gravity) or flood irrigation is the dominant irrigation method in the Imperial Valley. Two types of surface irrigation are practiced: furrow irrigation and border irrigation. For both furrow and border irrigation methods in the IID service area, water is delivered to an individual field’s head canal through a IID turnout control structure which regulates the amount of water ordered by the farmer. The irrigation water is first diverted by the IID at the Colorado River through the Imperial Dam. The water then flows by gravity for 80 miles through the All American Canal to the IID service area, then through one of three major IID canals (East High Line, Central Main, and Westside Main) where it is diverted to one of the numerous IID lateral canals which total over 1,400 miles in length and delivered to the farmer’s turnout. Each field’s head canal, constructed of dirt or concrete lined, contains numerous turnouts which, when opened, conveys irrigation water via gravity onto the field. Each field is leveled precisely with a main slope and side slope to distribute the water

uniformly across the field to irrigate the crops. Any excess water then flows to the field's regulated drain box where it then dumps to an IID drain ditch.

35. In furrow irrigation, plastic irrigation tubes and/or siphon tubes, 1 ½ inches to 3 inches in diameter, deliver the water to small channels called furrows from a small temporary holding basin. The furrows are spaced 20 to 60 inches apart and guide the water across the field. Furrows are necessary for crops that are planted in straight lines that require cultivating and harvesting of that crop or to keep the crop from being covered with water. The soil displaced to create the furrow creates a raised bed between each furrow. Water traveling down each furrow infiltrates the bottom and sides of the furrow plus the raised bed where the crop is planted. In many instances irrigation water can also be delivered to the furrows through a moveable aluminum or plastic pipe, either by gravity or pressurized by a pump. These "gated" pipes contain small slide gates spaced normally 40 inches apart to fit the width of the furrows and allows the water for each furrow to be regulated more evenly.
36. Border irrigation is accomplished by running water between two raised borders, which are essentially small earthen berms. The area between the two borders is called a border strip, which normally varies from 30 to 300 feet in width and from 300 to 2,600 feet in length. In many instances the side-fall slope is removed in the border strip through temporary land leveling with only the main-fall remaining. This allows the irrigation water to spread out evenly across the border strip. Irrigation water is delivered to each border strip through numerous turnouts in the field's head canal. Border irrigation is most generally used for perennial crops such as alfalfa, grass crops and grain crops that can withstand temporary flooding, and tree crops..
37. The Imperial Irrigation District is the designated drain operation and maintenance agency for the Valley, although there is a handful of farmers who maintain the drains riparian to their farmland.
38. Silt and many types of vegetation tend to clog the drains, increase erosion, and cause channels to wander, causing sloughing of the drain banks and thus, increased turbidity in the drains. Drains are typically cleaned by dredging with a tracked excavator. This results in short-term extreme increases in turbidity as the drain sidewalls and drain bottom are disturbed. Mechanical removal of unwanted vegetation in the drain channel improves the flow characteristics of the drain and results in less erosion of the drain which increases turbidity. Proper drain cleaning allows the beneficial plants such as grasses and low growing perennial broadleaf plants to grow more vigorously which holds and binds the soil on the drain banks. Total coverage of the drain banks with beneficial plants also make it more difficult for unwanted plants to become established. Selective chemical weed control of the unwanted plants is a valuable tool in maintaining a solid ground cover of beneficial plants. This reduces the amount of mechanical drain cleaning to maintain the drain which can be the major cause of turbidity in the drain.
39. On October 28, 2002, the State Water Board adopted Order WR-2002-0013 (Revised), which approved a long-term water transfer from the IID to the San Diego County Water Authority (SDCWA). Under the terms of the transfer Order as revised, up to 200,000 AFY of water from the IID will be transferred to SDCWA and 100,000 AFY can be transferred to

Coachella Valley Water District and Metropolitan Water District of Southern California. The approved transfer is projected to reduce inflows into the Salton Sea by as much as the amount transferred, lower the Salton Sea elevation significantly, and accelerate the salinity increase in the Salton Sea. The water transfer is also projected to cause increases in selenium in the drains, and the Alamo and New Rivers.

40. In recognition of the water quality impacts that the transfer could have in the Salton Sea Watershed, the State Water Board Order, in relevant part, requires that the IID mitigate habitat impacts on the Salton Sea, New River, Alamo River and Imperial Valley Drains; and design and implement a study to identify practices that affect Selenium (Se) concentrations in agricultural drains within the southern portion of the Salton Sea watershed. The Order further conditioned the water transfers on the implementation of the final Environmental Impact Report's "Salton Sea Habitat Conservation Strategy," which requires IID to supply mitigation water to the Sea for 15 years to offset reductions in agricultural return flows that would otherwise have occurred as a result of the transfers and maintain baseline salinity levels, water elevation, and surface area. Also, it required approximately 350 acres of aquatic habitat be created as a replacement for aquatic habitat in agricultural drains in the valley. This has been accomplished in accordance with the State Water Board Order. Two additional phases of aquatic habitat are planned in 2014 and 2019. The IID is also evaluating the efficacy of various dust emission control practices for use on exposed Salton Sea beach and on applicable fallowed agricultural fields.
41. Pursuant to State Water Board Order WR-2002-0013 (Revised), IID developed and conducted a Selenium Study and published the results of its study in a report titled "*Practices that Result in Selenium Discharges in the Imperial Valley of California; December 2011*," hereafter referred to as the "IID Selenium Report." Key findings, conclusions, and recommendations in the IID Selenium Report are:

Key Findings

- a. Nearly all of the Selenium occurring in the Imperial Valley is imported from the upper Colorado River Basin, where water drains from Selenium-rich shale. Selenium is mobilized with water from irrigation-related activities, from rainfall infiltration and runoff, or from point sources.
- b. Selenium imported from the Upper Colorado River Basin is not being sequestered within IID's operational facilities or soils, and IID is not generating additional Selenium from sources within the District.

Conclusions

- a. Operational spill water dilutes in-drain Selenium concentrations.
- b. Crops with high evaporative concentration rates concentrate Selenium in drained drains.
- c. High-efficiency irrigation practices, such as drip irrigation used in orchards, concentrate Selenium in drainsheds and drains.
- d. Drain cleaning practices may result in temporary increases or spikes of Selenium in drains.
- e. Field sumps may pump Selenium-rich tilewater to drains or to the Salton Sea.

- f. Management of seasonal wetlands and ponds may liberate Selenium that would otherwise be sequestered in these systems during their operational phases.
42. The IID Selenium Report makes the following recommendations to better characterize the available Selenium and land uses in the Imperial Valley:
  - a. Collect additional data from select drainsheds throughout the IID Service Area to specifically identify the temporal effect of operational spill, and to identify the amount, timing, and duration needed to provide adequate dilution to meet a desired and/or feasible in-drain Selenium concentration target.
  - b. Develop a more detailed list of crops with their associated range of Selenium concentrations and evaporative concentration rates. Once these data are available, more detailed monitoring programs could be developed. For example, a monitoring program could be developed to use U.S. Bureau of Reclamation LCRAS data (or a comparable data source) to identify crop and soil conditions in a drainshed that have a high potential for elevated Selenium concentrations in the drains.
  - c. Sample the Q-drain more frequently to more precisely identify temporal patterns of Selenium concentrations and the land use factors that influence these concentrations. At the same temporal frequency, collect additional data on soils, irrigation management, cropping patterns, and tile drainage. The resulting dataset could be used to determine the effect of orchard management on the Q-drain Selenium dynamics and, perhaps, be generalized to other similar drainsheds for Selenium management within the IID service area.
  - d. Maintain and compile detailed records for all drain cleaning events. Data could then be used to determine whether drain cleaning activities oxidize or mobilize soil Selenium, causing temporary peak Selenium concentrations within a drainshed. If data confirm that drain maintenance does affect Selenium concentrations, recommendations could be made to minimize operational disturbance of drain bottom sediments during periods of the year when wildlife are using drains for critical life-history functions.
  - e. If possible, maintain records on sump pumping and conduct grower interviews on typical sump pumping practices to determine whether this activity causes elevated Selenium concentrations in drainsheds. If it is determined that sump pumping activities affect drain water Selenium concentrations significantly, management practices (e.g., dilution of sump water prior to discharge) to minimize this effect could be developed.
  - f. To more fully understand the relationships between aquatic habitat management practices and in-drain Selenium concentrations, drainsheds dominated by aquatic habitats could be monitored to quantify specific practices leading to Selenium spikes. Alternative land use management techniques may be developed to accomplish both habitat production and Selenium reduction goals.
43. The Colorado River Basin Water Board finds that further investigation and evaluation of the recommendations cited in Finding 42, above, and subsequent implementation of practices determined to be practicable by the IID in consultation with the ICFB and Colorado River Basin Water Board staff, are essential to mitigate ongoing selenium impacts.
44. The Quantification Settlement Agreement for the Colorado River water in California was enacted in 2003. Parties to the QSA are: IID, the San Diego County Water Authority

(SDCWA), the Metropolitan Water District of Southern California, the Coachella Valley Water District, the state of California, and the U.S. Department of the Interior. The QSA provides not only for the long-term water transfer from the IID to SDCWA, but also required the State Natural Resources Agency to complete the necessary CEQA documentation to develop and submit to the state Legislature a plan to restore the Salton Sea. In 2007, the State Natural Resources Agency completed a Programmatic Environmental Impact Report (PEIR) with a \$8.9 billion preferred alternative to restore the Salton Sea and submitted the PEIR to the Legislature for its consideration. To date, the Legislature has not acted on the preferred alternative.

45. In 2011, the Natural Resources Agency prepared a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) in coordination with the U.S. Department of the Interior for the Salton Sea Species Conservation Habitat Project. The Project is intended to serve as a proof of concept for the restoration of the shallow water habitat that currently supports fish and wildlife dependent on the Salton Sea. This habitat is being threatened and lost due to salinity increases and declining Sea elevation. The Project's goals are: (1) to develop a range of aquatic habitats that will support fish and wildlife species that depend on the Sea; and (2) develop and refine data needed to successfully manage the Project's habitat through adaptive management. This Waiver complements the Natural Resources Agency's Project and overall efforts to restore the Salton Sea because it requires implementation of management practices to address water quality impairments and improve overall drain water quality.

**Water Body Impairments**

46. On October 11, 2011, the U.S. Environmental Protection Agency, Region IX (USEPA) approved listing the Alamo River, New River, Imperial Valley Drains, and Salton Sea as "impaired" surface waters pursuant to Clean Water Act (CWA) Section 303(d) because the following pollutants were determined through extensive water quality monitoring programs to violate Basin Plan water quality standards:

Colorado River Regional Water Board USEPA Approved CWA 303(d) List	
Waterbody	Pollutants of Concern
Alamo River	Sediment, Pesticides, Selenium, Bacteria, Mercury
Imperial Valley Agricultural Drains	Sediment, Pesticides, Selenium
New River	Sediment, Pesticides, Bacteria, Nutrients, DO, Trash, Toxicity, Metals (copper, mercury, selenium & zinc)
Salton Sea	Selenium, Salt, Nutrients, Pesticides, Arsenic, Bacteria

47. On March 20, 2014, following a public hearing on the matter, the Colorado River Basin Water Board updated its CWA Section 303(d) list for the Alamo River, New River, Imperial

48. Valley Drains, and Salton Sea to delist and to add certain pollutants to its CWA 303(d) List. This updated list, shown below, is pending State Water Board and USEPA approval.

Colorado River Basin Water Board Revised List CWA 303(d) List<sup>1,2</sup>

Waterbody	Pollutants of Concern
Alamo River	Sediment, Pesticides, Selenium, Bacteria, <u>Mercury, Toxicity, Chloride</u>
Imperial Valley Agricultural Drains	Sediment, Pesticides, Selenium
New River	Sediment, Pesticides, Bacteria <sup>3</sup> , Nutrients, DO <sup>3</sup> , Trash <sup>3</sup> , Toxicity, Metals ( <del>copper</del> , mercury <sup>3</sup> , selenium & zinc), <u>Chloride, Total Ammonia</u>
Salton Sea	<del>Selenium</del> , Salt, Nutrients, Pesticides, Arsenic, Bacteria, <u>Chloride, DO, Total Ammonia, Toxicity</u>

<sup>1</sup> Added pollutants shown in underlined text.

<sup>2</sup> Delisted pollutants shown in strikethrough text.

<sup>3</sup> The exceedances caused by these pollutants of concern are largely attributable to discharges of wastes from Mexico.

49. The ICFB Voluntary TMDL Program was designed and is being implemented to explicitly address sediment and insoluble legacy pesticides (e.g., DDT and toxaphene) impairments. Additionally, Program implementation has the added benefit of addressing the nutrients impairment of the Salton Sea. Further, the ICFB revised its Program in 2013 to also explicitly address water quality impacts from the use of diazinon and chlorpyrifos. The Colorado River Basin Water Board approved the revised Program on September 18, 2013. Overall, the ICFB Program has enjoyed unparalleled success in terms of farmers' participation and implementation of management practices to address the impairments.
50. IID has equipped 9 excavators with GPS-guided systems and revised its dredging procedures to more precisely maintain drains and minimize water quality impacts. During the last five years, it has also been implementing a more integrated, methodical, and comprehensive approach to operate and maintain the drains—an approach that incorporates proper selection of herbicides that leaves beneficial vegetation (e.g., certain grasses) to armor the drain banks and thus protect the drain from erosion and sloughing, which results in water quality protection as well. .
51. This Order builds upon the success of the ICFB Program and IID's efforts and recent changes to better manage its drain operation and maintenance activities. It also requires Responsible Parties to continue to implement MPs to address CWA Section 303(d) impairments that are the results of agricultural discharges, including toxicity and the impacts from organochlorine pesticides. Further, it establishes comprehensive monitoring and reporting programs to ensure compliance with this Waiver and compliance with adopted TMDLs.

## Legal and Additional Regulatory Considerations

52. 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 waste discharge requirements, or (3) waste discharge requirements (WDRs). However, as indicated in Finding Nos. 2 and 3 above, during the January 10, 2012 State Water Board meeting that led to State Water Board Resolution No. 2012-0004, the State Water Board made it clear that Basin Plan prohibitions, which are not statutorily authorized to impose fees for agricultural wastewater discharges or any other type of discharge, are no longer acceptable non-point source pollution control programs for agriculture. The State Water Board is presently revising the NPS Policy to reflect that position.
53. 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 the Regional Water 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:
- Element 1: Statement of Goals/Purpose
  - Element 2: Identification of Management Practices (MPs)
  - Element 3: Time schedule for Compliance
  - Element 4: Surveillance Program
  - Element 5: Consequences for failure

This Conditional Waiver is consistent with the requirements of the NPS Policy.

54. Water Code section 13260(a)(1) requires that any person discharging waste or proposing to discharge waste within the Regional Water Board's jurisdiction, in a manner that could affect the quality of waters of the state, shall file a Report of Waste Discharge (ROWD) with the Regional Water Board. The Regional Water Board may, in its discretion, issue Waste Discharge Requirements (WDRs) pursuant to Water Code section 13263(a).
55. California Water Code Section 13269 allows the Regional Water 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.
56. On October 10, 1999, Senate Bill 390 amended California Water Code section 13269. The amendment 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.
57. As amended, CWC Section 13269 authorizes the Colorado River Basin Water 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 Water 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 Water Board can renew a waiver after holding a public hearing. The Regional Water Board may terminate a waiver at any time.
  58. 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 Regional Water Board allowed the waiver for agricultural wastewater discharges in the Region to expire.
  59. 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 Colorado River Basin Water 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.
  60. This Conditional Waiver requires implementation of management practices to minimize water quality impacts. Reasonable management practices exist and are being implemented in the Imperial Valley that would enable Responsible Parties to comply with this waiver, including management practices being implemented to comply with TMDLs. These management practices reduce and address impairments and are more feasible and more effective than treatment methods. Attachment A, 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 chose a combination of MPs for their farm operations, regardless of whether the MP is listed.
  61. 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 Imperial 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 Regional 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.
62. Water Code Section 13269(a)(4)(A) authorizes the Colorado River Basin Water Board to include as a condition of a conditional 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, 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. The regulations also establish a fee schedule for waste discharges resulting from dredging operations.
  63. Technical reports are necessary to evaluate each individual and Coalition Group's compliance with the terms and conditions of the Conditional Waiver and to assure protection of waters of the state.
  64. To obtain coverage under this Conditional Waiver, Agricultural Dischargers 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 Agricultural Discharger 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 Regional 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 Regional Water Board.
  65. The IID and ICFB have 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 water quality objectives. To implement this program, ICFB has committed to provide every Agricultural Discharger enrolled in Coalition Group the information necessary to comply with this Compliance Program. IID has agreed to manage fee collection and payment for its Coalition Group, and it is obtaining State Water Board authorization to do so.
  66. Under the scope of the proposed IID-ICFB Coalition, the ICFB has also agreed to the following objectives:
    - a. Assist farmers to file their Water Quality Improvement Plans with the ICFB,

- b. File on behalf of its participant members their WQIP with the Colorado River Regional Water Board;
- c. Track and report to the Colorado River Regional Water Board Management Practice (MP) and their effectiveness;
- d. Coordinating with IID an educational program to educate farmers on how to reduce pollutants leaving their fields and comply with this Waiver;
- e. Hold quarterly meetings with IID staff and Colorado River Regional Water Board staff to evaluate compliance with this Waiver;

Further, the ICFB is revising its Voluntary TMDL Program to assist the farming community comply with this Waiver and carry out the above-mentioned objectives.

67. For its part, IID is developing a revised surface water Monitoring and Reporting Program (SWMRP) to assist group participants in complying with this Conditional Waiver and track compliance with TMDL requirements and address other CWA Section 303(d) impairments, including toxicity and organochlorine pesticides. It has also made substantive revisions to its overall drain operation and maintenance procedures to the extent that the Drain Water Quality Improvement Plan (DWQIP) that was filed with the Regional Water Board as part of the Siltation/Sedimentation TMDLs no longer accurately reflects field drain operation and maintenance activities.
68. Colorado River Basin Water Board staff also recommends the formation of a Technical Management Committee comprised of one representative from IID, one from the ICFB, and one from the Colorado River Basin Water Board to enhance communication with key stakeholders, assist the farming community to implement this Waiver, and make recommendations to the Colorado River Basin Water Board regarding implementation of this Waiver.
69. State Water Board Resolution No. 68-16, *Policy with Respect to Maintaining High Quality Waters of the State* (Resolution No.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).
70. This Conditional Waiver requires Responsible Parties to implement management practices that achieve compliance with WQOs, and therefore protect beneficial uses for the Imperial Valley Drains, Alamo and New Rivers, and Salton Sea. As such, the Regional 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 No. 69, above.
71. It is the intent of the Regional 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 water quality objectives. 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**

72. For purposes of adoption of this Conditional Waiver, the Regional 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. The farmers participating in the ICFB TMDL Program have done a good job in complying with existing TMDLs and reducing nutrients and pesticide impairments. This Conditional Waiver builds upon the ICFB's program success and will also result in protection, maintenance, and improvement of water quality.
73. Colorado River Basin Water Board staff held a CEQA scoping meeting on December 5, 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 December 10, 2014, in support of a proposed Negative Declaration for this Waiver.
74. Since 2012 and as part of the mandatory ICFB Drained Annual Meetings for farmers enrolled in the ICFB Program, Colorado River Basin Water Board staff has conducted presentations regarding the development of this proposed Conditional Waiver (1) to update the farming community on its status and (2) to provide affected stakeholders and Responsible Agencies with an additional opportunity to comment on the proposed Conditional Waiver. The key contents and requirements of this proposed Waiver were the focus of the 2014 Annual Drained Meetings, which were held in Brawley (5/14/2014), Holtville (5/15/2014), and El Centro (5/16/2014).
75. On December 12, 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 30-day comment period that ended on January 12, 2015, regarding the proposed Negative Declaration and Initial Study prepared in support of the Negative Declaration. The Regional 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.
76. On January 15, 2015, the Colorado River Basin Water Board adopted the proposed Negative Declaration in Resolution No. R7-2015-0014 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.
77. 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.

78. 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 California Water Code 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 California Water Code and regulations and plans and policies adopted thereunder, and who request a waiver of waste discharge requirements, shall comply with the following terms and conditions:

**A. Eligibility**

1. Existing and future Agricultural Dischargers and Drain Maintenance Dischargers in the IID Service Area are potentially eligible for coverage under this Conditional Waiver.
2. Agricultural Dischargers and Drain Maintenance Dischargers seeking coverage under this Order shall submit to the Regional Water Board a Notice of Intent (NOI) as specified below.
3. Agricultural Dischargers and Drain Maintenance Dischargers eligible under this Order bear the responsibility of complying with this Conditional Waiver.
4. Agricultural Dischargers and Drain Maintenance Dischargers seeking coverage as a member of a Coalition Group Compliance Program shall be in good standing with the membership requirement of the program as approved by the Regional 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 within the IID Service Area if these dischargers of wastes comply with the conditions established by this Conditional Waiver.
2. Agricultural Dischargers and Drain Maintenance Discharger within the IID Service Area 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 the California Code of Regulations, Title 23, Section 2200.6 for WDRs and Waivers of WDRs for discharges from agricultural lands, including irrigated lands. To the extent that the IID obtains authorization from the State Water Board to manage and collect the fees from the members enrolled in the Coalition, the Agricultural Dischargers shall pay the fee to the IID, and the IID shall remit the fees paid to the State Water Board.

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 **January 15, 2020**.
7. Technical and monitoring reports specified in this Order, including Compliance Programs, Annual Monitoring Reports, Water Quality Management Plans, and Drain Water Quality Improvement Plans, are requested pursuant to CWC section 13267 and shall comply with Attachment B, which is attached hereto 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 and falsification of any information in the reports are misdemeanors that may result in the assessment of administrative 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 the following in the title: "Conditional Waiver for Imperial 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) 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 discharges 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 or terminate the Conditional Waiver 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.

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

Any Agricultural Discharger who elects to develop an Individual Compliance Program shall comply with the following:

1. **Within 30 days** following adoption of this Conditional Waiver, file with the Colorado River Basin Water Board a complete NOI using Attachment C, attached hereto and made a part of this Order by reference.
2. 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.
3. **Within 120 days** following adoption of this Conditional Waiver, submit to the Colorado River Basin Water Board the proposed:
  - a. Individual Water Quality Management Plan (WQMP) and Monitoring and Reporting Program (MRP) as specified in Attachment B (Items V and II.D, respectively). 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), as specified in Item II.B and II.C of Attachment B, respectively.

Following approval by the Executive Officer, these documents shall become components of the Individual Compliance Program.

4. **Within 60 days** following approval of the Individual Compliance Program Plan(s), prepare and submit a Quality Assurance Project Plan (QAPP), as specified in Item IV of Attachment B, to implement the MRP and, if applicable, the DMRP.
5. **Within 30 days** following QAPP approval, begin implementing the MRP and, if applicable, the DMRP.
6. **By March 1<sup>st</sup> of every year**, submit to the Colorado River Basin Water Board an Annual Monitoring Report (AMR) as specified in Item II.A of Attachment B. The AMR is for the previous calendar year (January 1 through December 31).

### **D. Waiver Conditions for the IID-ICFB Coalition Group**

In order for the IID and ICFB to manage its Group Compliance Program in full compliance with the Nonpoint Source Policy, they shall comply with the following:

1. **Within 30 days** of adoption of this Conditional Waiver, the IID and ICFB shall file with the Colorado River Basin Water Board a joint 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 IID's drain O&M activities.

2. **Within 30 days** of adoption of this Conditional Waiver, the IID and ICFB shall each submit with the Colorado River Basin Water Board a letter identifying the person and an alternate who will represent the IID and the ICFB on the Technical Management Committee (TMC). The TMC shall meet quarterly and update the Colorado River Basin Water Board regarding the status of the implementation of the Waiver, along with its recommendations as necessary.
3. **Within 30 days** of adoption of this Conditional Waiver, the IID shall submit to the Colorado River Basin Water Board a list with the names, address, and contact information for all IID current customers who receive water for irrigated land; and the location of the irrigate land by canal gate number and Assessor's Parcel Number (APN). To the extent that a particular customer has multiple water accounts with IID for parcels with unique APNs, the list shall reflect so. It shall also submit a list with the name and address of farmers who are known to the IID that they operate and maintain their drains. Both lists shall be submitted in electronic format.
4. **Within 60 days** of adoption of this Conditional Waiver, the IID shall submit to the Colorado River Basin Water Board an updated DWQIP and an updated Valley-wide Surface Water Monitoring and Reporting Program (SWMRP) for approval by the Executive Officer. The contents of the updated DWQIP and SWMRP shall comply with Items I.B and I.C of Attachment B, respectively.
5. **Within 120 days** following adoption of this Conditional Waiver, and in coordination and consultation with the IID, the ICFB shall file with the Colorado River Basin Water Board the Coalition Group's proposed Compliance Program for approval. The Compliance Program shall include, but need not be limited to:
  - a) suggested format(s) to prepare Individual WQMPs, 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 1" = 1000' or better) showing the Coalition Group's boundaries.

Once approved, these documents and IID's updated DWQIP and SWMRP shall become components of the IID-ICFB Coalition Group Compliance Program.

6. **Within 30 days** following approval of the Coalition Group's Compliance Program, the IID and ICFB shall begin implementing the approved Compliance Program. Further, the Coalition shall issue letters to all potential group members within the Imperial Valley informing them about this Waiver and encouraging them to sign up with Coalition Group, and how to enroll into the IID-ICFB approved Compliance Program.

7. **Within 60 days** following approval of the Coalition Group's Compliance Program, the IID and ICFB shall submit: (a) a joint letter to the Colorado River Basin Water Board certifying the Coalition Group has begun implementing the approved Compliance Program. Further, the IID shall submit a QAPP for approval for implementing its SWMRP. The contents of the QAPP shall comply with Item IV of Attachment B.
8. **Within 30 days** following approval of the QAPP, the IID shall begin implementing the Coalition Group's SWMRP, and submit to the Colorado River Basin Water Board monitoring results on a quarterly basis, on March 15, June 15, September 15, and December 15 of every year.
9. **Within 270 days** following approval of the Coalition Group's Compliance Program, the ICFB shall submit to the Regional Water Board the Coalition Group's WQMPs in electronic and tabular format. The submittal shall also include copies of all individual WQMPs.
10. **By March 1<sup>st</sup> of every year**, the IID and ICFB shall submit to the Colorado River Basin Water Board an Annual Report for the Coalition Group as described in Item I of Attachment B. The annual report is for the previous calendar year (January 1 through December 31).
11. **By March 1<sup>st</sup> of every year**, the IID shall submit to the Colorado River Basin Water Board an Annual Report summarizing its drain operation and maintenance activities and MPs. The reports must specify the drains that were maintained, the means used to maintain them, the date when maintenance took place, the main issue/problem that triggered its maintenance, and MPs used to prevent and/or address water quality problems.
12. To the extent that either the IID or the ICFB wishes to terminate its role in the IID-ICFB Coalition Group, it shall notify the Colorado River Water Board in writing of its intent to cease its Lead role in the Coalition Group **sixty (60) days prior to doing so**.

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

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

1. **Within 30 days** following adoption of this Conditional Waiver, file with the Colorado River Basin Water Board a complete NOI using Attachment D to obtain coverage under this Conditional Waiver for the Coalition Group's Agricultural and Drain Maintenance Dischargers.
2. **120 days** following adoption of this Conditional Waiver, submit the proposed Coalition Group's Compliance Program. The Compliance program shall include:
  - 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, if applicable, DWQIPs, including deadlines for submittal (if deadlines not prescribed by this Conditional Waiver). The contents of the WQMPs and DWQIPs (if applicable) shall comply with Attachment B;
- 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 SWMRP (including DMRP if applicable). The contents of the SWMRP shall comply with Attachment B.

Once approved, these documents shall become components of the Coalition Group's Compliance Program.

- 3. **Within 30 days** following approval of the Coalition Group's Compliance Program, begin implementing the approved Compliance Program and submit a letter to the Regional Water Board certifying that it began implementing the program.
- 4. **Within 60 days** following approval of the Compliance Program, prepare and submit to the Colorado River Basin Water Board a QAPP. The contents of the QAPP shall comply with Item IV of Attachment B.
- 5. **Within 30 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 thirty (30) days of receipt from the laboratory.
- 6. **Within 180 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 Regional Water Board, an Annual Report. The Annual Report is for the previous calendar year (January 1 through December 31).

#### **F. Selenium Provisions**

- 1. **Within 60 days** of adoption of this Conditional Waiver, the IID shall submit to the Colorado River Basin Water Board for approval a technical report in the form of work plan with milestones and a time schedule for implementation of the recommendations contained in the IID Selenium Report.
- 2. **Within 60 days** following approval of the technical report requested in Item F.1, above, the IID shall submit a QAPP to implement the approved report.
- 3. **Within 60 days** following approval of the QAPP, the IID shall implement the QAPP and submit the results of the implementation of its QAPP, in accordance with the approved time scheduled.

**G. 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 Regional 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 Regional 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 Regional Board may consider prescribing Waste Discharge Requirements, 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 January 15, 2015.

  
ROBERT PERDUE  
Executive Officer

1/15/2015  
Date