

Comment Summary and Responses

Extension of the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region Comment Due Date: March 21, 2022

No.	Author	Date Received
1	Ventura County Agricultural Irrigated Lands Group (VCAILG)	March 21, 2022
2	Richard E. Gatling	March 13, 2022
3	Kevin Cannon	March 21, 2022

No.	Author	Comment	Response
1.1	VCAILG	Since the first conditional waiver in 2005, VCAILG and FBVC have been committed to not only implementing the various iterations of the waiver, but to also refining the strategies growers use to improve water quality in Ventura County and incorporate sustainable farming practices. In anticipation of the upcoming April 14, 2022, expiration and subsequent renewal of the 2021 Conditional Waiver, our management team put significant thought into identifying what was needed during a next waiver term to effectively address remaining water-quality concerns related to agricultural discharges.	Comment noted. The Los Angeles Water Board looks forward to continuing our collaborative work with VCAILG and FBVC.
1.2	VCAILG	During this past year, which was already an extension of the previous 2016 Conditional Waiver's original 5-year term, VCAILG representatives met consistently (approximately monthly) with Regional Board staff and provided detailed recommendations for comprehensive changes to the conditional waiver, including the	Comment noted. Los Angeles Water Board staff plan to continue the ongoing regular meetings with VCAILG representatives.

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		incorporation of the State Water Resources Control Board’s East San Joaquin Precedential Order (WQ 2018-0002) (Precedential Order).	
1.3	VCAILG	VCAILG’s understanding of the relationships between regulatory requirements and grower incentives, as demonstrated by our proactive development of a program to address the Precedential Order requirements, should be considered in developing the upcoming WDRs.	Los Angeles Water Board staff value VCAILG’s understanding of grower incentives and the relationship to regulatory requirements and will continue to work with VCAILG to leverage this knowledge in the development of the waste discharge requirements (WDRs).
1.4	VCAILG	In the leadup to the April 14, 2021, expiration of the 2016 Conditional Waiver, and with the expectation that the precedential requirements would be incorporated during a subsequent full-term conditional waiver renewal, VCAILG proactively developed a project application for CDFA FREP funding to support three years of nitrogen training sessions. This project was approved for funding in late 2020 with an implementation period of January 2021 through December 2023. Additional objectives of the project were to update the curriculum to align with the Precedential Order requirements, an expansion of the existing training program to reach growers in all watersheds throughout the county, and the translation of the training program and all supplemental materials for Spanish speaking audiences. The latter two objectives of the county-wide program expansion and translation for Spanish speaking audiences require that the curriculum first be updated to align with the requirements of the	<p>While we regret to see time-limited grant funds not being fully used, through the continuous communication between VCAILG and the Los Angeles Water Board over the last couple of years, VCAILG was made aware of the 1-year extension of Order R4-2016-0145 adopted by the Board in 2021 and the proposed nine-month extension of Order R4-2021-0045 as far in advance as possible.</p> <p>The purpose of the proposed extension is to allow for ongoing discussions regarding the Precedential Order requirements and specific monitoring and reporting requirements between the Los Angeles Water Board and discharger</p>

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		<p>Precedential Order. Due to the delay in the development of a conditional waiver or WDR that incorporates the precedential requirements, it has been impossible to update the curriculum. As a result, these time-limited grant funds have not been put to use, and there is a risk that further delay in Regional Board action will cause them to be lost altogether.</p>	<p>groups, including VCAILG, as well as tribes, environmental groups, and other stakeholders. The Los Angeles Water Board does not believe that a delay in the development of WDRs will preclude the update of the nitrogen training curriculum and commits to working with VCAILG and our fellow state agency, CDFA, to prevent funds from being wasted.</p>
1.5	VCAILG, R. Gatling and K. Cannon	<p><u>The WDR development process should include opportunities for effective stakeholder engagement on alternatives to some provisions of the Conditional Waiver.</u></p> <p>As previously mentioned, VCAILG provided Regional Board staff with a comprehensive proposal for incorporation of all requirements into the conditional waiver. We would like to note that based on recent conversations with Regional Board staff, we are mostly in agreement regarding the approach and thank staff for their consideration of our ideas. Agreement in the implementation approach and role of the precedential requirements in the Los Angeles Region’s overall Irrigated Lands Regulatory Program is a significant accomplishment, but we’d be remiss in not acknowledging that there are elements of the existing conditional waiver program that require review to better align with the SWRCB’s non-point source objectives and expert</p>	<p>We agree that effective stakeholder engagement is a key component in the transparent and inclusive public process for developing WDRs for irrigated agricultural lands in the Los Angeles Region.</p> <p>As VCAILG stated, Los Angeles Board staff and VCAILG have reached agreement on most aspects of the approach for comprehensively incorporating all Precedential Order requirements into the upcoming WDRs. Los Angeles Water Board staff will continue our dialog with VCAILG to review and perhaps refine elements of the WDRs in consideration of how they</p>

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		<p>recommendations related to agricultural water quality assessment programs.</p> <p>The transition from a conditional waiver to a WDR magnifies the importance of addressing those program elements and makes urgent the need for a transparent and inclusive stakeholder process, ensuring a level of understanding on all sides while a long-term program is developed.</p> <p>The conditional waiver program has not been comprehensively reviewed since 2016, and even during that program renewal, the opportunities for inclusive stakeholder engagement and participation were limited. Representatives from VCAILG met with Regional Board staff less than three months before the scheduled adoption of a new conditional waiver, and during that meeting were informed of a proposal to establish TMDL compliance deadlines and extensive new requirements for characterizing and addressing surface and groundwater. A public draft of the tentative order was released shortly after this meeting with a 30-day public comment period and subsequently adopted in April 2016. This timeline didn't allow for meaningful stakeholder engagement from experts, farm advisors, researchers, or the regulated community of growers, particularly those in underrepresented or Spanish speaking communities.</p>	<p>align with the SWRCB's non-point source objectives.</p> <p>We disagree that the opportunities for inclusive stakeholder engagement and participation were limited in the 2016 Waiver renewal. Los Angeles Water Board staff met with VCAILG a year in advance, in March and April 2015, to begin discussions about the proposed 2016 Waiver, and again in November 2015 to specifically discuss the requirements for individual discharge monitoring and final compliance deadlines. Staff met with VCAILG along with other stakeholders in January 2016 and presented a written summary of the draft proposal, then distributed a pre-public notice draft prior to publicly noticing the proposed waiver on February 18, 2016. Staff continued to meet with VCAILG, the Nursery Growers Association – Los Angeles County Irrigated Lands Group (NGA-LAILG), and other stakeholders frequently throughout the public comment period before Board adoption on April 14, 2016.</p>

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		<p>In an effort to avoid this counterproductive haste in development and adoption of a new regulatory order, VCAILG requests that:</p> <ol style="list-style-type: none"> 1. Convene a public workshop to evaluate alternatives to the existing conditional waiver water quality assessment approaches and requirements. 2. Convene farmer specific workshops that present an overview of the program requirements that are being proposed and solicit questions and comments from the regulated community outside of a Regional Board hearing setting. 	<p>Nonetheless, we agree that a robust public process and outreach plan is needed for the development of a new regulatory order.</p> <p>Per Response 1.4, Los Angeles Water Board has been having ongoing meetings with discharger groups and non-profit environmental groups to solicit feedback and recommendations regarding the incorporation of Precedential Order requirements and specific monitoring requirements. Staff will continue to ensure outreach to the regulated community by holding a workshop in early summer for all stakeholders to provide input before releasing draft WDRs for public comment.</p>
1.6	VCAILG	<p>In addition to our requests regarding the process and use of time during this extension, VCAILG has one request for modifying the Tentative Order before adoption in April 2022 - Revise the due date of the Groundwater Management Practice Evaluation Report (GMPER) from “annually” to “December 15, 2020 and December 15, 2021”, to acknowledge completion of this requirement through the two previous submittals.</p>	<p>The Los Angeles Water Board disagrees that the due date of the Groundwater Management Practice Evaluation Report (GMPER) should be changed from annually to only on two specific dates which have passed, December 15, 2020, and December 15, 2021.</p> <p>The proposed change would effectively eliminate the requirement for a GMPER.</p>

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		<p>This report was repeated twice and did not produce any new actionable information different from what VCAILG already recommends as appropriate best management practices to protect groundwater and surface water quality in its Water Quality Management Plan. Completing the monitoring and analysis a third time is not an efficient use of time or funds that could otherwise be focused on the ongoing implementation of Nutrient Management Planning efforts, continuing education, or BMP implementation and assessment. The Groundwater Management Practice Evaluation Report, required as stated above, is an attempt to use groundwater monitoring results and indirectly correlate those with farm practices. At this point in implementation of the 2016/2021 conditional waiver, we know the limited areas where there are groundwater concerns and are tracking groundwater quality county-wide through the Groundwater Quality Trend Monitoring. VCAILG has now offered four years of Nitrogen Management Self-Certification courses and has initiated and been expanding requirements for certified nitrogen management plans since 2019, adding additional areas each year. It is unnecessary at this time to repeat a costly monitoring and reporting effort that will provide no new actionable information or guidance to growers.</p>	<p>The GMEPR is needed to ensure ongoing assessment of the correlation between groundwater quality beneath irrigated agricultural lands and the implementation of groundwater management practices on irrigated agricultural lands. A two-time submittal under the existing Conditional Waiver is not sufficient to establish this correlation, which is needed to assess the effectiveness of groundwater management practices.</p> <p>Therefore, no change is proposed at this time.</p>