

AMENDED ATTACHMENT C

RESOLUTION NO. R5-2003-0105
CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES FROM IRRIGATED LANDS
FOR INDIVIDUAL DISCHARGERS
PURSUANT TO
CALIFORNIA WATER CODE SECTION 13269

Attachment C to Resolution No. R5-2003-0105 constitutes a “Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands for Individual Dischargers” (Waiver). This Waiver conditionally waives waste discharge requirements and reports of waste discharge for discharges (e.g. irrigation return flow, tailwater, operational spill(s), storm water runoff and subsurface drainage) from irrigated lands to surface waters within the Central Valley Region. This Waiver establishes conditions that individual Dischargers must implement to obtain coverage under and to be considered in compliance with the Waiver.

Individual Dischargers may be required to undertake additional actions to mitigate identified water quality impacts to improve and protect water quality. The Water Board will work closely with those individual Dischargers to resolve water quality impairments.

A. Conditions - General

1. Dischargers shall comply with all conditions of this Waiver, including timely submittal of all technical reports specified in **Part B. Technical Reports**. Violations may result in enforcement action under the California Water Code (CWC), including Water Board orders, the imposition of civil liability, cessation of coverage under this Waiver, or referral to the Attorney General.
2. The Reports submitted to comply with this Waiver shall be signed by a representative authorized by the Discharger.
3. Any person signing a Report submitted as required by this Waiver makes the following certification, whether written or implied:

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

4. Dischargers shall comply with Individual Discharger Monitoring and Reporting Program No. R5-2003-0827, which is part of this Waiver, or as revised by the Executive Officer.
5. Dischargers shall implement management practices to improve and protect water quality and to achieve compliance with applicable water quality objectives identified in **Attachment A**.

6. Dischargers shall not discharge any waste not specifically regulated by this Waiver. Waste specifically qualifying for conditional discharge under this Waiver includes: earthen materials, including soil, silt, sand, clay, rock; inorganic materials, (such as metals, salts, boron, selenium, potassium, nitrogen, etc.); organic materials, (such as organic pesticides) that enter or threaten to enter into waters of the state. Examples of waste not qualifying for conditional discharge under this Waiver include hazardous waste and human waste.
7. Dischargers shall allow Regional Board staff, upon reasonable notification, access onto the affected property to determine compliance with conditions of this Waiver, subject to CWC section 13267(c)¹.
8. Dischargers shall not cause new discharges of wastes from irrigated lands that impair surface water quality. Dischargers shall not increase discharges of waste or add new wastes that impair surface waters not previously discharged.
9. Dischargers shall take all reasonable steps to prevent any discharge in violation of this Waiver.
10. Dischargers shall maintain in good working order and operate as efficiently as possible any facility, control system, including management practices and monitoring devices installed or used to achieve compliance with this Waiver.
11. The discharge of any waste not specifically regulated by this Waiver described herein is prohibited unless the Discharger complies with CWC section 13260(a) and the Water Board either issues waste discharge requirements 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.

B. Technical Reports

1. A Discharger, seeking to discharge under the conditions of this Waiver, shall submit a completed Notice of Intent (NOI), **Attachment D.2** on or before **1 November 2003**.
 - a. The NOI shall contain all of the information requested in **Attachment D.2** in a format as approved by the Executive Officer.

¹ CWC Section 13267(c) states: "In conducting an investigation pursuant to subdivision (a), the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) or Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant."

- b. If the Discharger will not be signing the reports, the NOI shall identify the representative authorized to sign reports submitted on behalf of the Discharger.
2. A Discharger that submits an NOI shall, concurrently, submit a General Report.
 - a. The General Report shall identify the owner/operator, farm location, the key contact(s), a description of nearby surface waters as required in this Waiver and **Attachment D.2**, and a commitment to satisfy the conditions of the Waiver.
 - b. The General Report shall provide a detailed map of the farm area. The General Report and map(s) shall identify the discharge points which discharge wastes as described in this Waiver from irrigated lands to surface waters and are to be covered under the conditions of the individual Discharger Waiver.
 - c. The General Report shall also identify and discuss the following: crops commonly grown; chemicals (pesticides, fertilizers, etc.) commonly applied in a manner that may result in the material coming in contact with irrigation water or stormwater; management practices utilized to reduce or eliminating the discharges of wastes to surface water which may impair water quality; names of water bodies receiving the discharge(s); details of any subsurface drainage collection system, and other information as requested by the Executive Officer.
3. Upon submittal of a complete and approved NOI, coverage under this Waiver will be extended to the Discharger and the Executive Officer will issue a Notice of Applicability (NOA).
4. Each Discharger that receives an NOA shall submit and implement a Monitoring and Reporting Program Plan as specified in Individual Discharger Monitoring and Reporting Program Order No. R5-2003-0827. The purpose of the Monitoring and Reporting Program Plan is: to determine whether the discharge of waste from irrigated lands within the area included within the Watershed Group causes or contributes to exceedances of receiving water limitations or causes nuisance; to monitor the implementation of existing management practices to determine which are effective in meeting receiving water limitations; and to determine which management practices are most effective in reducing wastes discharged to surface waters from irrigated lands.
5. Each Discharger that receives an NOA shall submit an Annual Monitoring and Reporting Program Report as specified in Individual Discharger Monitoring and Reporting Program Order No. R5-2003-0827.
6. Upon a determination by the Discharger that a discharge is causing or contributing to an exceedance of receiving water limitations specified in **Part C. Receiving Water Limitations** of this Waiver, the Discharger shall promptly notify the Water Board in writing. Based on this information or other information available to the Water Board, the Discharger shall, upon

written notice by the Water Board Executive Officer, submit a technical report called a Management Plan to the Water Board as follows:

- a. The Management Plan shall evaluate the effectiveness of existing management practices in achieving water quality objectives and identify additional actions, including different or additional management practice implementation, etc., the Discharger proposes to implement to achieve water quality objectives.
 - b. The Management Plan shall include a waste specific monitoring plan and an implementation schedule to address the exceedance.
 - c. The Dischargers shall submit any modifications to the Management Plan required by the Water Board and address the Water Board's comments within 30 days of written notification unless otherwise directed by the Executive Officer.
 - d. The Dischargers shall make the Management Plan available to the public upon written request. The Water Board may provide the public an opportunity to review and comment on submitted Management Plans.
 - e. The Management Plan may be incorporated into the annual Monitoring and Reporting Program report unless the Water Board directs an earlier submittal.
7. Each Discharger that receives an NOA shall submit a Farm Evaluation Report as provided in Individual Discharger Monitoring and Reporting Program No. R5-2003-0827.
 8. If the Discharger wishes to terminate coverage under this Waiver, the Discharger shall submit a complete Notice of Termination (NOT), **Attachment E**. Termination from coverage will occur on the date specified in the NOT, unless specified otherwise. All discharges shall cease before the date of termination, and any discharges on or after this date shall be considered in violation of this Waiver, unless other Waiver of WDRs, General WDRs or individual WDRs cover the discharge.
 9. All materials submitted pursuant to this Waiver shall be available for public inspection at the Regional Board offices, except for Reports, or portions of such Reports, subject to an exemption in accordance with California law and regulations, including CWC section 13267(b)(2) and the Public Records Act. NOIs shall not be considered confidential. If the Discharger asserts that such Reports, or portions of such Reports, are subject to an exemption, the Discharger must provide information to the Regional Board describing how those portions of the Reports contain trade secrets or secret processes or are otherwise exempt from public disclosure. Any Discharger that is claiming that all or a portion of a Report is exempt from public disclosure shall submit two copies of the Report. The first copy shall be a complete, unredacted Report; the second copy shall be a complete Report with only the portion(s) claimed to be exempt redacted. Both copies of such Reports shall clearly indicate on each page's header "Discharger Asserts that Portions of this Report are Exempt from Public Disclosure." The

Water Board staff shall determine whether any such Report qualifies for an exemption from public disclosure, and shall treat those Reports accordingly.

10. All Reports submitted pursuant to this Waiver are required pursuant to CWC section 13267. Failure to submit reports in accordance with schedules established by this Waiver, the attachments of this Waiver, or failure to submit a complete report (e.g., of sufficient technical quality to be acceptable to the Executive Officer), may subject the Discharger to enforcement action pursuant to CWC section 13268.

C. Receiving Water Limitations

1. The following receiving water limitations are based upon water quality objectives contained in **Attachment A**. As such, the following limitations are a required part of this Waiver. The Dischargers shall not cause:
 - a. Concentrations of dissolved oxygen to fall below 7.0 mg/l, 6.0 mg/L or 5.0 mg/l as specified in the Basin Plans.
 - b. Oils, greases, waxes, or other materials to form a visible film or coating on the water, surface or on the stream bottom.
 - c. The normal ambient pH to fall below 6.5, exceed 8.5, or change by more than 0.5 units.
 - d. Oils, greases, waxes, floating material (liquids, solids, foams, and scums) or suspended material to create a nuisance or adversely affect beneficial uses.
 - e. Aesthetically undesirable discoloration.
 - f. Fungi, slimes, or other objectionable growths.
 - g. The turbidity to increase as follows:
 1. More than 1 Nephelometric Turbidity Units (NTUs) where natural turbidity is between 0 and 5 NTUs.
 2. More than 20 percent where natural turbidity is between 5 and 50 NTUs.
 3. More than 10 NTUs where natural turbidity is between 50 and 100 NTUs.
 4. More than 10 percent where natural turbidity is greater than 100 NTUs.
 - h. Deposition of material that causes nuisance or adversely affects beneficial uses.
 - i. The normal ambient temperature to be altered more than 5°F.
 - j. Taste or odor-producing substances to impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin or to cause nuisance or adversely affect beneficial uses.
 - k. Radionuclides to be present in concentrations that exceed maximum contaminant levels specified in the California Code of Regulations, Title 22; that harm human, plant, animal or aquatic life; or that result in the accumulation of radionuclides in the food web to an extent that presents a hazard to human, plant, animal, or aquatic life.
 - l. Aquatic communities and populations, including vertebrate, invertebrate, and plant species, to be degraded.
 - m. Toxic pollutants to be present in the water column, sediments, or biota in concentrations that adversely affect beneficial uses; that produce detrimental response in human, plant, animal,

- or aquatic life; or that bioaccumulate in aquatic resources at levels which are harmful to human health.
- n. Violation of any applicable water quality objective in the Water Board's Basin Plans or any water quality standard for receiving waters adopted by the Water Board or the State Water Resources Control Board pursuant to the Clean Water Act and regulations adopted thereunder.
2. Dischargers shall comply with receiving water limitations. Dischargers shall, through timely implementation of management practices, reduce wastes in the discharges in accordance with the conditions of this Waiver, including any modifications. Management practices shall be designed to improve and achieve compliance with receiving water limitations, to protect water quality, and prevent nuisance. If exceedance(s) of receiving water limitations persist notwithstanding implementation of management practices and other requirements of this Waiver, the Discharger shall submit a Management Plan as specified in Part B. Technical Reports of this Waiver.

D. Time Schedule

Pursuant to CWC Section 13267, the following reports are required to be submitted to the Water Board on or before the dates in the time schedule below as a condition of the Waiver:

<u>Task</u>	<u>Compliance Date</u>
NOI, General Report ¹	1 November 2003
Watershed Evaluation Report ¹	1 April 2004
Monitoring and Reporting Program Plan	1 April 2004
Water quality or sediment sample collection shall begin by	1 July 2004
First Annual Monitoring and Reporting Program Report as required by the Individual Discharger Monitoring and Reporting Program Order No. R5-2003-0827 ¹	1 April 2005
Management Plan	As required by the Executive Officer

¹ NOI and the General Report submittal requirements are provided in the Waiver. The Watershed Evaluation and Monitoring and Reporting report requirements are provided in Individual Discharger Monitoring and Reporting Program No. R5-2003-0827