

TENTATIVE
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2005-____

INDIVIDUAL DISCHARGER
CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR
DISCHARGES FROM IRRIGATED LANDS

The California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds that:

1. The Central Valley Region has more than seven million acres of cropland under irrigation and thousands of individuals and operations generating wastewater that fall into the category of “discharges from irrigated lands,” as defined in Attachment A of Order No. R5-2005-____ (Order).
2. The Central Valley Region has thousands of miles of surface waters that are, or may be, affected by discharges of waste from irrigated lands. These discharges may adversely affect the quality of the “waters of the State,” as defined in Attachment A of this Order.
3. Irrigated lands are lands where water is applied to produce crops including, but not limited to, land planted to row, vineyard, pasture, field and tree crops, ~~as well as~~ commercial nurseries, nursery stock production, managed wetlands, rice production, and greenhouse operations with permeable floors that do not currently discharge under waste discharge requirements (WDRs), National Pollutant Discharge Elimination System (NPDES) permits, ~~or~~ Municipal Separate Storm Sewer System, or other ~~National Pollutant Discharge Elimination System (NPDES)~~ permits.
4. Regional water quality data from the Surface Water Ambient Monitoring Program, the Stormwater Monitoring Program, NPDES Receiving Water Monitoring Reports, and other monitoring programs identify waters of the State with water quality impairments that appear attributable to or influenced by agriculture in areas of irrigated lands.
5. Some water bodies within the Central Valley Region have been listed as impaired pursuant to Clean Water Act Section 303(d). The 303(d) list of impaired water bodies identifies agriculture as a potential source of constituents that impair beneficial uses of some waters within the Central Valley Region and threaten the quality of waters of the State.

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LEGAL AND REGULATORY CONSIDERATIONS

6. California Water Code (Water Code) Section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Regional Board a report of waste discharge (RWD) containing such information and data as may be required by the Central Valley Water Board, unless the Central Valley Water Board waives such requirement.
7. Whether an individual discharge of waste from irrigated lands may affect the quality of the waters of the State depends on the quantity of the discharge, quantity of the waste, the quality of the waste, the extent of treatment, soil characteristics, distance to surface water, depth to groundwater, crop type, management practices and other site-specific factors. These individual discharges may also have a cumulative effect on waters of the State. Waste discharges from some irrigated lands have impaired and will likely continue to impair the quality of the waters of the State within the Central Valley Region if not subject to regulation pursuant to the Porter-Cologne Water Quality Control Act (codified in Water Code Division 7).
8. Water Code Section 13263 requires the Central Valley Water Board to prescribe WDRs, or waive WDRs, for the discharge. The WDRs must implement relevant water quality control plans and the Water Code.
9. The Central Valley Water Board has a statutory obligation to prescribe WDRs except where the Central Valley Water Board waives WDRs pursuant to Water Code Section 13269.
10. Water Code Section 13269(a) provides that the Central Valley Water Board may waive the requirements to submit a RWD and to obtain WDRs for a specific discharge or specific type of discharge, if the Central Valley Water Board determines that the waiver is consistent with any applicable water quality control plan and such waiver is in the public interest. Water Code Section 13269 further provides that any such waiver of WDRs shall be conditional, must include monitoring requirements unless waived, may not exceed five years in duration, and may be terminated at any time by the Central Valley Water Board.
11. As authorized by Water Code Section 13269, this Order adopts the *Individual Discharger Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands* (Individual Discharger Conditional Waiver). All owners and/or operators of irrigated lands who discharge or threatens to discharge irrigation return flows, tailwater, operational spills, drainage water, subsurface drainage generated by irrigating crop land or by installing drainage systems to lower the water table below irrigated lands (tile drains) and/or stormwater runoff flowing from irrigated lands to waters of the State that seek coverage under a Conditional

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~~Waiver are referred to as Dischargers~~, as defined in Attachment A of this Order. Some Dischargers will seek coverage under the Individual Discharger Conditional Waiver, and some Dischargers will seek coverage under the Coalition Group Conditional Waiver by joining a Coalition Group.

12. Attachment A to this Order ~~identifies regulatory requirements~~sets forth receiving water limitations that implement water quality objectives contained in the Central Valley Water Board's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition* and the *Water Quality Control Plan for the Tulare Lake Basin, Second Edition* (Basin Plans) that apply to the discharge of waste from irrigated lands. Attachment A also provides definitions of terms for purposes of this Order and the Individual Discharger Conditional Waiver ~~and a list of receiving water limitations~~. The Individual Discharger Conditional Waiver is Attachment B.
13. With this Order, the Central Valley Water Board adopts the Individual Discharger Conditional Waiver. The Individual Discharger Conditional Waiver is for Dischargers who enroll as individuals to comply with the Water Code and the Central Valley Water Board's plans and policies.
14. The Individual Discharger Conditional Waiver requires Dischargers who obtain coverage under the Individual Discharger Conditional Waiver to prepare and implement technical reports to monitor surface water; evaluate, monitor and implement management practices that result in attainment of receiving water limitations based on water quality objectives; and, if directed by the Central Valley Water Board, implement additional measures to protect the quality of waters of the State within the Central Valley Region.
15. Water Code Sections 13269(a)(2) and (3) state:
 - (2) *The conditions of the waiver shall include, but need not be limited to, the performance of individual, group, or watershed-based monitoring, except as provided in paragraph (3). Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the regional board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors. Monitoring results shall be made available to the public.*

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(3) *The state board or a regional board may waive the monitoring requirements described in this subdivision for discharges that it determines do not pose a significant threat to water quality.*

16. This Order requires the implementation of a monitoring and reporting program as set forth in Individual Discharger Monitoring and Reporting Program Order No. R5-2003-08275-____ and the Water District Monitoring and Reporting Program Order No. R5-2005-____ that is intended to support the development and implementation of the Individual Discharger Conditional Waiver, to verify the adequacy and effectiveness of the Individual Discharger Conditional Waiver's conditions, and to evaluate each Discharger's and Water District's compliance with the terms and conditions of the Individual Discharger Conditional Waiver.
17. Water Code Section 13267(b)(1) states: *In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.*
18. Technical reports are necessary to evaluate each Discharger's compliance with the terms and conditions of the Individual Discharger Conditional Waiver and to assure protection of waters of the State.
19. Water Code Section 13269(a)(4)(A) authorizes the Central Valley Water Board to include as a condition of a conditional waiver the payment of an annual fee established by the State Water Resources Control Board (State Water Board). On 16 June 2005, the State Water Board adopted Order No. 2005-0049 *Adopting Emergency Regulation Revisions to the Fee Schedules Contained in Title 23, Division 3, Chapter 9, Article 1, Section 2200.3 of the CCR*, approving a fee schedule for agricultural waivers. This Order requires Dischargers to pay an annual fee in compliance with the State Water Board fee regulations.
20. The Basin Plans designate beneficial uses, establish water quality objectives, contain programs of implementation needed to achieve water quality objectives, and reference the plans and policies adopted by the State Water Board. The water quality objectives are developed to protect the beneficial uses of waters of the State.

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Conditions contained in this Order implement these water quality objectives. Compliance with water quality objectives will protect the beneficial uses listed in the Finding below.

21. Pursuant to the Basin Plans and State Water Board plans and policies, including State Water Board Resolution No. 88-63, and consistent with the federal Clean Water Act, the existing and potential beneficial uses of waters in the Central Valley Region include:

- a. Municipal and Domestic Supply
- b. Agricultural Supply
- c. Industrial Service Supply
- d. Hydropower Generation
- e. Water Contact Recreation
- f. Non-Contact Water Recreation
- g. Warm Freshwater Habitat
- h. Cold Freshwater Habitat
- i. Migration of Aquatic Organisms
- j. Spawning, Reproduction and Development
- k. Wildlife Habitat
- l. Estuarine Habitat
- m. Preservation of Biological Habitats of Special Significance
- n. Shellfish Harvesting
- o. Navigation
- p. Rare, Threatened, and Endangered Species
- q. Freshwater Replenishment
- r. Groundwater Recharge
- s. [Industrial Process Supply](#)
- t. [Aquaculture](#)
- u. [Commercial and Sportfishing](#)

22. In May 2004, the State Water Board adopted the *Non Point Source (NPS) Implementation and Enforcement Policy* (NPS Policy). The purpose of the NPS Policy is to improve the State's ability to effectively manage NPS pollution and conform to the requirements of the Federal Clean Water Act and the Federal Coastal Zone Act Reauthorization Amendments of 1990. The NPS Policy provides a bridge between the State Water Board's January 2000 *NPS Program Plan* and its 2002 *Water Quality Enforcement Policy*. NPS Policy requires, among other key elements, that an NPS control implementation program's ultimate purpose shall be explicitly stated, and that the implementation program must, at a minimum, address NPS pollution in a manner that achieves and maintains water quality objectives and beneficial uses, including any applicable antidegradation requirements. The Conditional Waiver is consistent with the NPS Policy.

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23. State Water Board Resolution No. 68-16 *Statement of Policy with Respect to Maintaining High Quality of Waters in California* (Resolution No. 68-16) requires Regional Water Boards, in regulating the discharge of waste, to maintain high quality waters of the State until it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the State, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in a Regional Water Board's policies (e.g., quality that exceeds water quality objectives). Resolution No. 68-16 also states, in part:

Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in best practicable treatment and control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.

This Order and Attachments are consistent with Resolution No. 68-16. The Order requires persons who obtain coverage under the Individual Discharger Conditional Waiver to comply with applicable water quality objectives, protect beneficial uses, and prevent nuisance by implementing monitoring and reporting programs, evaluating the effectiveness of management practices, and where water quality exceeds water quality objectives, by identifying and implementing additional management practices to comply with water quality objectives. The Individual Discharger Conditional Waiver requires management practices to be implemented to achieve receiving water limitations that are based on water quality objectives in the Basin Plans (i.e., to prevent pollution and nuisance). These conditions are enforceable and the Individual Discharger Conditional Waiver may be terminated at any time.

24. The Individual Discharger Conditional Waiver sets forth a time schedule to achieve compliance with water quality objectives and protect beneficial uses. The Individual Discharger Conditional Waiver establishes an iterative process that requires the Dischargers to evaluate and then implement and/or improve management practices where it is determined that discharges from irrigated lands have caused or contributed to exceedances of applicable receiving water limitations. Management practices shall be evaluated to assure that they constitute the best practicable treatment or control of the discharges of waste to assure that pollution or nuisance will not occur and that the highest water quality is achieved. Changes in water quality that may occur as a result of the Individual Discharger Conditional Waiver will be to improve, over time, the quality of the waters, not to cause further degradation. Thus, any change in water quality will be consistent with maximum benefit to the people of the State and will not unreasonably affect beneficial uses.
25. The United States Environmental Protection Agency adopted the National Toxics Rule (NTR) on 5 February 1993 and the California Toxics Rule (CTR) on

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18 May 2000, which was modified on 13 February 2001. The NTR and CTR contain water quality criteria which, when combined with beneficial use designations in the Basin Plans, constitute enforceable water quality standards for priority toxic pollutants in California surface waters. In March 2000, the State Water Board adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (known as the State Implementation Plan or SIP), which contains guidance on implementation of the NTR and the CTR. The SIP, which was amended on 12 August 2005, states that implementation of the NTR and the CTR for agricultural nonpoint sources of pollution shall be consistent with the State's NPS [Program Plan Policy](#).

**RATIONALE FOR INDIVIDUAL DISCHARGER CONDITIONAL WAIVER
OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM
IRRIGATED LANDS**

26. In 1982, the Central Valley Water Board adopted Resolution No. 82-036 that conditionally waived WDRs for 23 categories of discharges, including irrigation return water and storm water runoff (1982 Waiver). Pursuant to Water Code Section 13269, these waivers terminated on 1 January 2003. On 5 December 2002, prior to the termination of the 1982 Waiver, the Central Valley Water Board adopted Resolution No. R5-2002-0201 establishing a new *Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands Within the Central Valley Region* (2002 Conditional Waiver). On 11 July 2003, the Central Valley Water Board adopted Resolution No. R5-2003-0105 replacing the 2002 Conditional Waiver and establishing a new *Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands Within the Central Valley Region* (2003 Conditional Waiver).
27. The Central Valley Water Board has reviewed the 2003 Conditional Waiver, adopted on 11 July 2003, and has determined that additional conditions are required to protect water quality.
28. The purpose of the Individual Discharger Conditional Waiver is to provide an interim program until a long-term water quality regulatory program can be developed for Dischargers covered by this Order.
29. The Individual Discharger Conditional Waiver sets forth conditions that will require Dischargers who enroll in the Individual Discharger Conditional Waiver to conduct activities required by Monitoring and Reporting Programs [No. R5-2003-0827 and revisions thereto](#) to determine effects on water quality and to implement and evaluate management practices implemented by growers that will result in achieving compliance with receiving water limitations in the waters of the State, and to conduct activities in a manner to prevent nuisance.

30. This Order conditionally waives the requirement to file RWDs and to obtain WDRs for discharges from irrigated lands, which includes surface discharges (also known as tailwater), operational spills, subsurface drainage generated by irrigating crop land or by installing drainage systems to lower the water table below irrigated lands (tile drains), and storm water runoff flowing from irrigated lands.
31. At this time, it is appropriate to adopt a waiver of RWDs and WDRs for this category of discharges because: 1) the discharges have the same or similar waste from the same or similar operations and use the same or similar treatment methods and management practices (i.e., source control, reduced chemical use, holding times, cover crops, etc.); 2) the Central Valley Water Board has limited facility-specific information and limited water quality data on facility-specific discharges; and 3) during the past three years, the Individual Dischargers, Coalition Groups, and agencies have been collecting water quality and management practice data in the region, and additional assessment information continues to be collected.
32. In addition, it is appropriate to regulate discharges of waste from irrigated lands under a Conditional Waiver rather than individual WDRs in order to simplify and streamline the regulatory process. During this process, additional activity and water quality information will be collected during the term of the Order and Individual Discharger Conditional Waiver. An Environmental Impact Report (EIR) is being prepared pursuant to the California Environmental Quality Act (CEQA) to assess alternatives for a long-term [water quality](#) regulatory program to ensure the protection of water quality ~~caused by~~[from](#) discharges of waste from irrigated lands.
33. It is not appropriate at this time to adopt individual WDRs to regulate discharges of waste from irrigated lands because there are estimated to be more than 50,000 individual owners and/or operators of irrigated lands who discharge waste from irrigated lands and it is neither feasible nor practicable due to limitations of Central Valley Water Board resources to adopt individual WDRs within a reasonable time.
34. It is not appropriate at this time to adopt individual WDRs because although there is information that discharges of waste from irrigated lands have impaired waters of the State, information is not generally available concerning the specific locations of impairments, specific causes, specific types of waste, and specific management practices that could mitigate impairments and improve and protect water quality. The conditions of the Individual Discharger Conditional Waiver will result in the development of new and additional information on which to base the adoption of individual or general WDRs, if appropriate. The conditions of the Individual Discharger Conditional Waiver require actions to protect and improve the quality of the waters of the State within the Central Valley Region. The conditions of the Individual Discharger Conditional Waiver may be enforced in a manner similar to enforcement of WDRs. Coverage under the Individual Discharger Conditional Waiver may be terminated at any time and the Executive Officer may require any

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person to submit a RWD and comply with the Water Code pursuant to individual or general WDRs.

35. The adoption of this Order and Individual Discharger Conditional Waiver is in the public interest because (1) it was adopted in compliance with Water Code Sections 13260, 13263, and 13269 and other applicable law, (2) it includes conditions that are intended to reduce and prevent pollution and nuisance and protect the beneficial uses of the waters of the State, (3) it contains more specific and more stringent conditions for protection of water quality compared to either the 1982 Waiver or the 2003 Conditional Waiver, and contains conditions that are similar to the conditions of municipal stormwater NPDES permits, including evaluation and implementation of management practices to meet water quality objectives and a more specific monitoring and reporting program, (4) given the magnitude of the discharges and number of persons who discharge waste from irrigated lands, it provides for an efficient and effective use of limited Central Valley Water Board resources, and (5) it provides reasonable flexibility for the Dischargers who seek coverage under the Individual Discharger Conditional Waiver by providing them with the option of complying with the Water Code.
36. The Individual Discharger Conditional Waiver is consistent with applicable Basin Plans because it requires compliance with applicable water quality objectives and receiving water limitations based on the water quality objectives and requires the prevention of nuisance. It requires implementation of a monitoring and reporting program to determine [effects on](#)~~impacts to~~ water quality and implementation of management practices to comply with applicable water quality objectives.
37. This action to waive the requirement to submit RWDs and to obtain WDRs for discharges from irrigated lands: (a) is conditional, (b) may be terminated at any time, (c) does not permit any illegal activity, and (d) does not preclude the need for permits that may be required by other State or local government agencies.
38. As part of the Central Valley Water Board's irrigated lands program strategy, the Central Valley Water Board has directed staff to prepare an EIR to develop a long-term water quality regulatory program to regulate discharges from irrigated lands. This program will enable the Central Valley Water Board to track progress in reducing the amount of waste discharged to waters of the State and measure the effectiveness of management practices implemented in order to meet the goal of compliance with water quality objectives. The preparation of an EIR to evaluate currently available and new information will identify and assess alternatives to achieve compliance with water quality objectives. The Central Valley Water Board has hired a contractor to prepare the EIR.
39. Resolution No. R5-2003-0105 implemented conditional waivers, which are provided for as the regulatory process under California's NPS [PolicyProgram Plan](#) to meet the requirements of the Water Code. WDRs, including individual WDR

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Orders or General WDR Orders, may be adopted in the future for one or more types of discharges of waste from irrigated lands covered by the Individual Discharger Conditional Waiver, if for example, it is determined that the Individual Discharger Conditional Waiver is not effective at ensuring that water quality is protected.

40. As time and resources allow, the Central Valley Water Board will further evaluate discharges [of waste](#) from irrigated lands to determine if the Individual Discharger Conditional Waiver is adequate to improve and/or protect water quality and the beneficial uses of waters of the State. This evaluation will characterize these discharges, evaluate the effects of these discharges on waters of the State, and

assess the effectiveness of management practices implemented to address impairments of waters of the State.

41. Where other State agencies have a regulatory role for activities or pollution addressed by the conditions of the Individual Discharger Conditional Waiver, the Central Valley Water Board will work cooperatively with other State agencies in order to effectively regulate discharges from irrigated lands.

SCOPE AND DESCRIPTION OF INDIVIDUAL DISCHARGER CONDITIONAL WAIVER

42. The Individual Discharger Conditional Waiver applies to discharges [of waste](#) from irrigated lands to surface waters, which are waters of the State. [The Coalition Group Conditional Waiver is not intended to regulate water in agricultural fields, including, but not limited to, furrows, beds, and checks, contained on private lands associated with agricultural operations, but is intended to regulate the discharges of waste from agricultural fields.](#)
43. The Individual Discharger Conditional Waiver is not intended to directly address the application of soil amendments or fertilizers to land, but to regulate the discharges of waste from irrigated lands to surface waters of the state, including discharges from stormwater.
44. [Discharges of waste from](#) irrigated lands that receive liquid waste from sources such as dairy operations and food processors are not covered by the Individual Discharger Conditional Waiver. Confined animal feeding operations and food processors are not eligible for coverage under the Individual Discharger Conditional Waiver. Owners or operators of such confined animal facilities must obtain waste discharge requirements as directed by the Central Valley Water Board.
45. [Discharges of waste](#) irrigated lands containing gardens, vineyards, ~~and~~ small orchards, [and small pastures](#) that are used for the purpose of producing crops [and/or animals](#) for personal consumption and are not sold [commercially](#) are not covered by the Individual Discharger Conditional Waiver.

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46. Discharges of waste from irrigated lands that constitute agricultural return flows as defined in the Clean Water Act and regulations are exempt from regulation under the NPDES permit program. Discharges that are subject to the NPDES permit program under the Clean Water Act are not eligible for coverage under the Individual Discharger Conditional Waiver.
47. The Individual Discharger Conditional Waiver does not apply to discharges of waste that are regulated under another Conditional Waiver, individual WDRs or general WDRs. This Order and Individual Discharger Conditional Waiver does not supercede the Central Valley Water Board's Basin plans and policies, including prohibitions (e.g., pesticides) and implementation plans (e.g., Total Maximum Daily Loads), or the State Water Board's plans and policies.
48. The Individual Discharger Conditional Waiver provides an alternative regulatory option to WDRs. Individual Dischargers may seek coverage under the Individual Discharger Conditional Waiver. The Individual Discharger Conditional Waiver includes receiving water limitations based upon existing water quality objectives contained in the Regional Board's Basin Plans, the NTR, and the CTR.
49. Owners and/or operators of irrigated lands that discharge waste to waters of the state are required to comply with the Water Code. Such Dischargers are not required to join a Coalition Group. Owners and/or operators of irrigated lands may comply with the Water Code by joining a Coalition Group, by filing for coverage under the Individual Discharger Conditional Waiver or by filing a RWD to obtain individual or general WDRs.
50. The conditions of the Individual Discharger Conditional Waiver require actions to achieve water quality objectives as follows: To satisfy the conditions of the Individual Discharger Conditional Waiver, Dischargers and/or Water Districts must submit technical reports, conduct monitoring of surface waters, implement management practices, evaluate the effectiveness of management practices [in comparison to receiving water limitations](#), refine management practices to improve their effectiveness where necessary, protect against pollution and nuisance, and protect the quality of waters of the State. Monitoring and reporting programs must be submitted to the Central Valley Water Board as required by Water Code Section 13269. Technical reports must be submitted to the Central Valley Water Board in accordance with Water Code Section 13267. The technical reports must document the results of water quality and management practice monitoring, describe actions taken to correct water quality impairments and nuisance conditions, and identify future actions necessary to improve and protect water quality. The management practices must be designed and implemented to achieve improvements in water quality, [achieve compliance with receiving water limitations](#), and ~~show~~ [demonstrate](#) compliance with the conditions in the Individual Discharger Conditional Waiver and with State and Regional Water Board plans and policies.

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51. This Order, Individual Discharger Conditional Waiver, and associated Monitoring and Reporting Program require water quality monitoring of discharges of waste from irrigated lands and surface water to assess the sources and effects of discharges of waste from irrigated lands and to verify the adequacy and effectiveness of the ~~waiver's~~ conditions of the Individual Discharger Conditional Waiver.
52. An Individual Discharger may apply for coverage under the Individual Discharger Conditional Waiver. The Individual Discharger must submit a complete Notice of Intent (NOI) to comply with the conditions of the Individual Discharger Conditional Waiver as approved by the Executive Officer. Upon submittal of a complete NOI, the Executive Officer may issue a Notice of Applicability (NOA), after which the Individual Discharger will be considered covered under the Individual Discharger Conditional Waiver.
53. Attached to this Order in **Attachment B** is the Individual Discharger Conditional Waiver. The Individual Discharger Conditional Waiver describes the terms and conditions that apply to Individual Dischargers.
54. Pursuant to Water Code Section 13263(g), discharges of waste to waters of the State is a privilege, not a right, and adoption of this Order and Individual Discharger Conditional Waiver, and the receipt of a NOA from the Executive Officer, does not create a vested right to continue the discharge.
55. This Order and its Individual Discharger Conditional Waiver may be terminated at any time by the Central Valley Water Board and may be revised by the Central Valley Water Board after a public hearing. The Executive Officer may terminate the applicability of the Individual Discharger Conditional Waiver with respect to a specific Discharger or Water District upon notice to the Discharger or Water District.
56. Interested persons were notified that the Central Valley Water Board will consider the adoption of Orders and Conditional Waivers, which conditionally waive WDRs for discharges of waste from irrigated lands to surfaces waters, including irrigation ~~wastewater~~ return flows (tailwater) and/or stormwater as described in this Order, and were provided an opportunity for a public hearing and an opportunity to submit written comments.
57. In a public hearing, all comments pertaining to this Order and Individual Discharger Conditional Waiver were heard and considered.
58. The administrative record for this matter includes the administrative record for the 2003 Conditional Waivers and the Central Valley Water Board files for this renewal matter, which includes the workshops regarding the renewal, comments received, and the agenda package for the 28 and 29 November 2005 Board meeting.

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CALIFORNIA ENVIRONMENTAL QUALITY ACT

58.59. For purposes of adoption of this [Order](#), the Central Valley Water Board is the lead agency pursuant to the CEQA (Public Resources Code Sections 21100 et seq.). On 5 December 2002, the Central Valley Water Board approved an Initial Study and Negative Declaration in Resolution No. R5-2002-0201. Resolution No. R5-2003-0105 modified the Conditional Waivers contained in Resolution No. R5-2002-0201, but did not substantially change the project considered in the Initial Study and Negative Declaration. Additional documents that clarify the basis for the Conditional Waivers are attached to Resolution No. R5-2003-0103, which approved the Initial Study and adopted a Negative Declaration with the clarifications.

60. Title 14 California Code of Regulations section 15162 (CEQA Guidelines) specifies that when the lead agency has adopted a negative declaration for a project, the agency is not required to prepare a subsequent environmental document unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, that, in summary, (1) substantial changes are proposed in the project that involve new significant environmental impacts; (2) substantial changes occur with respect to the circumstances of the project; or (3) new information of substantial importance which was not previously known shows that the project will have significant effects. None of the circumstances requiring preparation of subsequent environmental document have occurred.
61. Substantial changes have not occurred in the project or with respect to the circumstances of the project that would involve new significant environmental effects or a substantial increase in environmental effects. This Order requires similar actions to protect water quality as compared to Resolution No. R5-2003-0105 for individual dischargers.
62. Since the adoption of Resolution No. R5-2003-0105 and the Negative Declaration, new information has become available to the lead agency. Central Valley Water Board staff have compiled two years of water quality monitoring data from Central Valley Water Board sources, Coalition Groups, Water Districts and others within the Sacramento River, San Joaquin River, and Tulare Lake Basins. Water quality monitoring data from Coalition Groups and Individual Dischargers identified some exceedances of receiving water limitations. Coalition Groups have characterized many water bodies since 2003; most sample results showed no toxicity but some sample results showed toxicity. Some water quality parameters and chemicals were tested for the first time in these water bodies.

62.63. The new data and information were considered in this Order and its associated Individual Discharger Conditional Waiver and Monitoring and Reporting Programs. The new data and information confirm the effects of discharges of waste from

irrigated lands on water quality that were previously discussed in the Initial Study and Negative Declaration. The new data and information do not show that there are any new effects of discharges of waste from irrigated [lands](#) on water quality that were not discussed in the Initial Study and Negative Declaration, nor do they show that the effects discussed would be more severe than discussed in the Initial Study and Negative Declaration. Therefore, no subsequent environmental document is required for this Order.

IT IS HEREBY ORDERED that:

1. The goal of this Order and its Individual Discharger Conditional Waiver is to improve and protect water quality by providing an interim program to regulate discharges of waste from irrigated lands that cause or contribute to conditions of pollution or nuisance as defined in Water Code Section 13050 or that cause or contribute to exceedances of receiving water limitations that implement any numeric or narrative water quality objectives, and by reducing discharges of waste.
2. Pursuant to Water Code Sections 13263, 13267, and 13269, Dischargers of waste described in this Order, who file for coverage under the Individual Discharger Conditional Waiver, in order to meet the provisions contained in Water Code Division 7 and regulations and plans and policies adopted thereunder, shall comply with the terms and conditions contained in Individual Discharger Conditional Waiver, **Attachment B**.
3. A Discharger may not discharge any waste not specifically regulated by the Individual Discharger Conditional Waiver except in compliance with the Water Code.
4. [Pursuant to Water Code Section 13269](#), ~~The~~ the Central Valley Water Board waives the requirement [for Dischargers](#) to submit a RWD, and to obtain WDRs for discharges of waste from irrigated lands if the Discharger complies with the Individual Discharger Conditional Waiver, attached to this Order and its associated Monitoring and Reporting Program, [which may be revised from time to time](#). s.
5. Individual Dischargers shall ~~take action to~~ comply with the terms and conditions of the Individual Discharger Conditional Waiver adopted by this Order and [take action](#) to improve and protect waters of the State.
6. For the reasons set forth in this Order, the Central Valley Water Board concludes that it is in the public interest to establish a Conditional Waiver for discharges [of waste](#) from irrigated lands. Without appropriate management practices, discharges [of waste](#) from irrigated lands could pose a significant threat to water quality. The conditions established in this Order will help ensure that discharges [of waste](#) from irrigated lands do not impair beneficial uses of waters of the State within the Central Valley Region.

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7. The Individual Discharger Conditional Waiver shall not create a vested right, and all such discharges of waste shall be considered a privilege, as provided for in Water Code Section 13263.
8. Pursuant to Water Code Section 13269, this action waiving the issuance of WDRs for certain specific types of discharges: (a) is conditional, (b) may be terminated at any time, (c) does not permit any illegal activity, and (d) does not preclude the need for permits which may be required by other local or governmental agencies.
9. A waiver of WDRs for a type of discharge may be superceded by the adoption by the State Water Board or Central Valley Water Board of specific WDRs or general WDRs for this type of discharge.
10. The Central Valley Water Board may review this Order and the Individual Discharger Conditional Waiver at any time and may modify or terminate the Individual Discharger Conditional Waiver in its entirety, as is appropriate.
11. The Central Valley Water Board directs the Executive Officer to provide regular updates to the Central Valley Water Board regarding the effectiveness of the Individual Discharger Conditional Waiver to regulate these types of discharges. These updates may include Executive Officer Reports, memoranda, staff reports, workshops, and agenda items.
12. This Order and Individual Discharger Conditional Waiver shall become effective on 1 January 2006 ~~as of the date of this Order~~ and expire **31 December 2008** unless rescinded, renewed or extended by the Central Valley Water Board.

I, THOMAS R. PINKOS, 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, Central Valley Region, on _____.

THOMAS R. PINKOS, Executive Officer

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