

**COMMENT SUMMARY AND RESPONSES**  
**CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS**  
**FOR DISCHARGES FROM IRRIGATED AGRICULTURAL LANDS WITHIN THE LOS ANGELES REGION**  
**Comment Deadline: March 21, 2016**

<b>List of Public Review Comment Letters</b>
1. Friends of the Santa Clara River
2. Ventura County Agricultural Irrigated Lands Group (VCAILG)
3. Wishtoyo Foundation, Ventura Coastkeeper, Santa Barbara Channelkeeper, Los Angeles Waterkeeper, Center for Food Safety, Central Coast Alliance United for a Sustainable Economy (CAUSE), and Surfrider Foundation – Ventura Chapter
4. Nursery Growers Association, Los Angeles Irrigated Lands Group (NGA - LAILG)

<b>Number</b>	<b>Comment</b>	<b>Response</b>
1.1	<p>Friends of the Santa Clara River have reviewed the Initial Study, Monitoring and Reporting Requirements, and Staff Report for the subject action. Friends of the Santa Clara River are pleased that the Regional Board has adequately analyzed the need for water quality improvement based on results from the two previous regulations under the Conditional Waiver Program. The Regional Board has established a Conditional Waiver renewal process that includes a time-certain schedule for implementation of additional or upgraded management practices with a goal of attaining Water Quality Benchmarks within ten years. Friends of the Santa Clara River consider it vital that this schedule be honored and enforced.</p>	<p>Comment noted.</p>

1.2	<p>Friends of the Santa Clara River are encouraged that the Ventura County Agricultural Irrigated Lands Group has recently employed the Bren School of Environmental Science at the University of California Santa Barbara to evaluate the effectiveness of monitoring under the Conditional Waiver Program and to recommend additional actions needed to achieve Water Quality Benchmarks. This report lays out a solid set of recommendations that address problems in establishing the effectiveness of Best Management Practices (BMPs) due to inconsistent and infrequent water quality monitoring data as well as too little data on BMP adoption rates. The report also addresses the need for better data on irrigation and nitrogen application rates and the need to collect and report water usage on a farm level.</p>	<p>Regional Water Board staff provided information to the Bren School students as they developed their thesis group project. Board staff also reviewed the final report and agreed with many of its findings regarding evaluating the effectiveness of management practices.</p> <p>Note that the terms “Best Management Practice” (“BMP”) and “Management Practice” (“MP”) are used interchangeably in these responses to comments. In the “Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program” (Nonpoint Source Policy), adopted in 2004, the term MP replaced the formerly used term BMP when referencing practices that have not been formally adopted by the SWRCB as part of the continuous planning process. However, generally, both terms refer to any type of practice for NPS pollution control, whether formally approved or not and are often used interchangeably.</p>
2.1	<p>The Farm Bureau of Ventura County (FBVC) is thankful for the opportunity to comment on the proposed renewal of the Conditional Waiver. FBVC is a private, nonprofit education and advocacy organization representing the interests of the county’s agricultural industry. It also manages the Ventura County Agricultural Irrigated Lands Group (VCAILG), a discharger group formed to facilitate grower/landowner compliance with the Conditional Waiver and related water-quality regulations. About 1,300 property owners, representing 90 percent of the irrigated agricultural acreage in Ventura County, are enrolled in VCAILG.</p>	<p>Comment noted.</p>
2.2	<p>This high level of grower participation in VCAILG is just one of many indicators of the success Ventura County’s irrigated lands program has achieved during its decade of operation. It also demonstrates the seriousness with which the local agricultural community takes its responsibility to protect water quality. Those growers</p>	<p>Comment noted.</p>

	<p>have collectively spent more than \$13 million over the past decade to participate in VCAILG and comply with the waiver’s monitoring, reporting and education requirements. They have invested millions more implementing best management practices — installing high-efficiency irrigation systems, filter strips, detention basins and other measures —to address specific impairments.</p>	
2.3	<p>Members also have demonstrated a keen interest in learning more about how their activities affect water quality, and learning how they can improve their operations to reduce those impacts. Between 2010 and 2015, VCAILG and its partners hosted more than 50 workshops, totaling 169.5 hours of water-quality instruction, to help growers satisfy the waiver’s 8-hour educational requirement. Sixty-six percent of VCAILG’s members fulfilled the 8- hour requirement, with 41 percent completing more than 8 hours, for a total of 12,782 hours of water quality education.</p>	<p>Comment noted.</p>
2.4	<p>All these efforts have paid off in quantifiable water-quality improvements across much of the county:</p> <ul style="list-style-type: none"> <li>• Legacy pesticides: Statistical analysis of monitoring results collected from June 2007 to May 2015 shows improvement for pesticides – levels that meet Total Maximum Daily Load objectives at many of our monitoring sites and multiple pesticides that have rarely or never been detected. <ul style="list-style-type: none"> <li>○ After a total of 25 monitoring events, rarely detected or never detected organochlorine pesticides include aldrin, alpha-BHC, beta-BHC, gamma-BHC, dieldrin, endosulfan I, endosulfan II, endosulfan sulfate, endrin, and endrin aldehyde.</li> <li>○ In the last annual monitoring report, statistically significant downward trends were demonstrated for pesticides (one or more of 4,4'-DDD, 4,4'-DDE, and 2 chlorpyrifos at five sites), nitrate (at one site), and</li> </ul> </li> </ul>	<p>The Regional Water Board acknowledges the significant strides toward improving water quality in Ventura County. The information provided in the comment letter, which was included in VCAILG’s annual reports, is summarized in the Staff Report supporting the Tentative Order.</p> <p>Staff conducted an independent analysis of the data collected over the previous two terms of the waiver (section 5.2 and 5.3 of the Staff Report) and also found decreasing trends in waste concentrations at many sites, and several instances of specific monitoring sites attaining Water Quality Benchmarks. However, there are also many instances where there has been little change in water quality and waste concentrations are still well above Water Quality Benchmarks. In some rare cases, trends in waste concentrations appear to be increasing.</p>

<p>one or more salts (at two sites).</p> <ul style="list-style-type: none"> <li>○ Though DDT and its breakdown products are often detected during wet weather, dry weather exceedances have greatly decreased and it is the breakdown products that are most commonly detected. This demonstrates the degradation of DDT in the environment and the minimization of transport during the irrigation season, when farmers have some control over runoff.</li> <li>● Current-use pesticides: According to the Water Quality Index (WQI) analysis reported in VCAILG's most recent Annual Monitoring Report and Water Quality Management Plan, grades for current-use pesticides at receiving water and agricultural land use monitoring sites are "very good" to "excellent" throughout most of the county during dry weather. Additionally, marked improvement in WQI scores for current-use pesticides occurred during the implementation period of the current Waiver. Almost every monitoring site that received an average grade of "poor" for the previous Waiver for wet weather received a "fair" or "marginal" grade during the current Waiver. In the few exceptions where improvements were not sufficient to change the "letter" grade at a monitoring site, the absolute WQI scores still improved.</li> <li>● Reduced runoff: Improvements in irrigation management and efficiency have been driven not just by regulatory compliance efforts but also by drought, cost considerations, availability of improved and more affordable technology, and constrained groundwater supplies. The result over the past 10 years has been a widespread reduction or elimination of irrigation runoff — the principle [sic] avenue by which potential contaminants leave cropland during dry weather. Ten of 16 VCAILG monitoring sites are dry much if not</li> </ul>	<p>Thus, the proposed waiver includes additional requirements, including a requirement that if a monitoring site does not show a decreasing trend in waste concentrations, then the Discharger Group shall investigate the sources of the waste concentrations, including some individual discharge monitoring. This source investigation is intended to inform future updates to the water quality management plan by identifying the source(s) of the exceedances more specifically so that implementation of MPs can be targeted to address the source(s).</p> <p>Regarding current use pesticides, staff's analysis demonstrates that chlorpyrifos exceedances are decreasing and diazinon has not been detected above the water quality benchmark in dry weather since 2008 or in wet weather since January 2012. However, results also show increasing trends and high concentrations of bifenthrin, which is another current use pesticide. In addition, while the WQI analysis can identify broad patterns, it is not specific enough to evaluate MP effectiveness, or provide a mechanism for ensuring that members will implement additional and upgraded MPs if water quality is not improving. Therefore, the proposed waiver includes additional requirements, including a newly added Water Quality Benchmark for bifenthrin. In addition, the proposed waiver includes more specific requirements detailing how Discharger Groups shall track trends in water quality and evaluate correlations between grower participation, MP implementation, and water quality.</p> <p>The Regional Water Board agrees that improvements in irrigation management have resulted in a reduction in dry-weather discharges and improvements in dry-weather water quality. However, the current MP reporting makes it difficult to demonstrate success where water quality is improving or identify the need for additional MPs where water quality is not improving. Therefore, the proposed Waiver renewal includes</p>
---	---

	<p>most of the time, at frequencies ranging from 40 percent to 88 percent of the monitoring events conducted under both the 2005 and 2010 Conditional Waivers. This indicates that agricultural operations are not causing or contributing to Conditional Waiver or TMDL benchmark exceedances in these drainages under sampling conditions.</p>	<p>more specific and detailed Water Quality Management Plan (WQMP) requirements when Water Quality Benchmarks are exceeded that clarify what type of MP information needs to be collected, how the MP information must be reported, and the process for ensuring that growers implement additional MPs if needed to attain Water Quality Benchmarks.</p>
2.5	<p>Despite this progress, VCAILG program participants and partners are aware that more must be done to address persistent water-quality challenges in Ventura County, notably those involving nutrients applied to fields under intensive crop rotation cycles. Difficulties remain, as well, in controlling sediment transport from cropland during heavy runoff from winter storms — a very difficult physical challenge, and one that may require regional rather than individual solutions. Addressing these and other remaining water-quality problems will be the work of the 2016-2021 Waiver program. Farm Bureau, VCAILG and their partners remain committed to working with the Los Angeles Regional Water Quality Control Board (LARWQCB) to develop and implement a regulatory program that is efficient, equitable and effective. To that end, we greatly appreciate the willingness of LARWQCB staff over the past month to engage in productive, substantive discussions with us and our technical consultants to refine the proposed Waiver and address our concerns.</p>	<p>Comment noted.</p>
2.6	<p>Notwithstanding this display of collaborative spirit, we remain dismayed by the fact that, despite having sought and obtained a six-month extension of the 2010-2015 waiver, LARWQCB staff were unable to provide us meaningful details on the changes being contemplated for the 2016- 2021 version until just days before the draft was released for public comment. In fact, for more of 2015, we were led to believe the new Waiver would look very much</p>	<p>The proposed waiver process has not been in haste. Regional Water Board staff met with VCAILG on March 23, 2015 and April 27, 2015 to begin discussions about the proposed waiver. At those meetings, staff verbally presented a proposed approach for revising the WQMP requirements to include MP reporting by monitoring site drainage area and to include more information about the degree of MP implementation.</p>

	<p>like its predecessor. All significant review, discussion and revision of this critical document — one with multimillion dollar implications for Ventura County farmers and ranchers —thus has been compressed into the past few weeks, necessitating nearly daily meetings and conference calls involving various combinations of our staff, our members, our consultants and multiple LARWQCB staff members.</p> <p>This complex, highly technical and dramatically altered regulatory program should not be drafted, analyzed or revised in such haste. It is unclear why the renewal process this time has been so much more hurried than in 2010, but if the reason is internal resource and staffing constraints, we urge the LARWCQB to address them so future regulatory renewals can be executed more deliberately.</p>	<p>After the Regional Water Board adopted a short-term waiver on October 8, 2015, staff met with VCAILG on November 23, 2015 and reiterated the proposed WQMP/MP reporting approach, as well as new proposed requirements for individual discharge monitoring and the inclusion of final compliance deadlines. Staff met with VCAILG along with other stakeholders on January 12, 2016 and presented a written summary of the draft proposal. Staff then distributed a pre-public notice draft of the proposed waiver on January 25, 2016. The proposed waiver was publicly noticed on February 18, 2016. Board staff has 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.</p> <p>The proposed waiver process has not been more hurried than the 2010 waiver adoption process. The 2010 Waiver adoption process began in March 2010, six months prior to its adoption. Thus, given the extension provided by the 2015 short-term waiver, the currently proposed waiver process has been six months longer than the 2010 waiver process.</p>
2.7	Despite the compressed time frame, many of our technical questions and concerns have been addressed.	Comment noted.
2.8	Nevertheless, several significant issues remain of concern to us, and we believe they must be resolved before the Waiver is adopted. We also wish to highlight the implications of several Waiver elements that, although not themselves unacceptable, together risk destabilizing the VCAILG program and complicating Waiver compliance and enforcement. Finally, we have a number of technical modifications we would like to see made in the Waiver, which are detailed in the Appendix to this letter.	Comment noted. Please see responses to specific comments.

<p>2.9</p>	<p>Cost: The expansion of VCAILG’s reporting and recordkeeping requirements contemplated in the proposed Waiver — coupled with mandated and potentially extremely expensive BMP implementation in some drainages — will significantly increase member costs. Although there are still many unknowns, our consultants estimate that the base annual program assessments for VCAILG activities will increase by roughly 20-30 percent, adding \$2 million or more to member costs over the life of the Waiver. The costs of increased BMP implementation are difficult to calculate, but actions specified for just three TMDLS — Ventura River Algae, McGrath Lake OC Pesticides and PCBs, Santa Clara River Estuary Toxaphene — would by themselves add an additional \$47 million over five years, based on the per-acre cost estimates provided in the LARWQCB staff report accompanying the proposed Waiver. These costs increases are significant for several reasons.</p>	<p>The Regional Water Board considered the costs of complying with the proposed waiver and included them in the Staff Report supporting the Tentative Order. The Regional Water Board recognizes the additional reporting and recordkeeping costs, but finds that the additional reporting and recordkeeping is necessary to ensure that Water Quality Benchmarks are ultimately attained and to comply with State policy and California Water Code section 13269.</p> <p>The costs of MP implementation for the TMDLs provided in this comment are overestimated. They appear to assume that every type of MP is implemented in 100% of the watershed areas. If, instead, the per-acre costs for only those MPs applicable to the TMDL pollutants were assumed, and only for agricultural areas in the watershed, then the costs would be approximately \$15 million over five years for the three TMDLs listed in this comment. For example, for the Ventura River Algae TMDL, nutrient and irrigation management MPs are most likely to be implemented and primarily lemons and avocados are grown in this watershed. Thus, for the 4997 agricultural acres in the watershed (both enrolled and not enrolled in VCAILG):</p> <p>4997*\$76 (nutrient management MP for lemons and avocados, per acre-year)= \$379,772  4997*\$331(irrigation management MP for lemons and avocados, per acre-year) = \$1,654,007  Over 5 years this would equal \$10,168,895.</p> <p>This analysis is still an overestimate because it assumes that all irrigate acreage in these watersheds would have to implement new MPs, when many dischargers are already implementing these MPs as a result of the previous waivers. According to the survey information presented in the VCAILG WQMPs, 77% to 95% of growers enrolled in VCAILG are already implementing these MPs in the mentioned watersheds.</p>
------------	--	---

2.10	<p>Growers have limited capacity to absorb increased costs. Although the staff report accompanying the proposed Waiver attempts to analyze BMP implementation costs (Table 13), it oddly compares them to gross crop values, a wholly inappropriate metric. Growers' ability to absorb increased production costs is not limited by gross revenue; it is limited by after-tax net returns, which for most tree, vegetable and berry crops range from 3 to 5 percent. If BMP implementation costs for avocados truly were to equal 7.2 percent, as the table indicates, it would turn a profitable operation into a money-losing operation. Regulatory staff must consider this when directing growers to implement specific types of BPMs rather than allowing them to choose lower-cost options as long as they still address documented water-quality impairments.</p>	<p>The cost estimates for the proposed waiver are the same as the cost estimates for the 2010 Waiver renewal, but with updated material and labor costs. The purpose of the cost estimates as compared to gross crop values is not to demonstrate that growers could absorb costs, but rather to aid in understanding the magnitude of the costs. In addition, the proposed waiver does not direct growers to implement specific types of MPs, but rather specifies the MP category types that a Discharger Group must set forth in their WQMPs based on the Water Quality Benchmark exceedance type.</p> <p>The Regional Water Board recognizes the costs associated with the program. There is financial assistance available, including NRCS EQUIP funding and State and federal funding, which the Regional Water Board staff works diligently to secure on behalf of growers in the Los Angeles region. The Staff Report summarizes some of the funding that has already been awarded under previous waiver terms.</p>
2.11	<p>The significant increase in VCAILG assessments required by the growth in the group's workload likely will prompt an increasing number of growers to reassess their commitment to the program. There already is considerable indignation among our members over the fact that 340 land owners, representing nearly 9,000 irrigated acres, have never complied with the waiver, never joined VCAILG, contribute an unknown share of the contaminants responsible for benchmark exceedances, and yet have never been subject to enforcement action or penalties. The more expensive it becomes to remain enrolled in VCAILG, the more likely it is that an increasing number of our members will opt to join this large pool of noncompliant landowners. This risk is exacerbated by the proposed Waiver's requirement that VCAILG track numerous additional compliance obligations and report members to the LARWQCB if they fail to complete any of</p>	<p>The statement that dischargers, who have not enrolled in the waiver, have never been subject to enforcement is not correct. The Regional Water Board has issued notices of violation (NOVs) to over 400 non-enrolled dischargers in Ventura County and has followed up with progressive enforcement actions, including Administrative Civil Liabilities (ACLs) for nine non-enrolled dischargers. If current VCAILG members drop out of VCAILG and become noncompliant with the proposed waiver, then they would be subject to enforcement as well. The Regional Water Board and VCAILG have been working cooperatively over the previous two waiver terms to encourage growers that have dropped out to re-enroll and avoid enforcement and/or individual enrollment. This effort has been successful at maintaining consistently high enrollment in Ventura County and the Regional Water Board hopes to continue this collaborative approach.</p>

	<p>them, which members will perceive as punishment for trying to do the right thing. We recommend that LARWQCB staff develop an enforcement action plan, possibly added to the Waiver as an appendix, detailing and providing a timetable 4 for their effort to penalize those violators or secure their compliance.</p>	<p>The Regional Water Board's Irrigated Lands Regulatory Program already has a programmatic enforcement action plan. This plan is outlined in the Nonpoint Source Six-Year Implementation Plan and annual work plans. The Six-Year Implementation Plan is available here: <a href="http://www.waterboards.ca.gov/water_issues/programs/nps/plans_policies.shtml">http://www.waterboards.ca.gov/water_issues/programs/nps/plans_policies.shtml</a>. The plan includes a commitment to identify and take progressive enforcement actions against non-enrolled growers, in accordance with the State Enforcement Policy, and to work with Discharger Groups to ensure that Discharge Group members are implementing management practices according to their WQMPs. Under the proposed waiver, it has been clarified that the Regional Water Board can take enforcement action against Discharge Group members for failing to implement their WQMPs. The Regional Water Board expects that, by clarifying the reporting requirements for Discharger Groups, staff will have additional time to focus on enforcement of waiver conditions.</p>
2.12	<p>Workload: The proposed waiver requires a significant number of deliverables from VCAILG within the first six months after adoption, and introduces a new requirement — a public comment period — into the submittal process for documents requiring Executive Officer approval. It is unclear how public comments will be collected, analyzed, responded to and addressed in these documents, making our ability to comply with deadlines uncertain. We recommend that this public comment process be clarified before the Waiver is adopted.</p> <p>We are also concerned about the amount of additional data to be collected, reports to be compiled and analyses to be conducted, most of them simply documenting member and group activities.</p>	<p>Based on discussions with VCAILG prior to and during the public comment period, the Regional Water Board adjusted the schedule in the proposed waiver to revise interim deadlines and reflect the public review process required for certain deliverables. Additional changes were made to the schedule in response to written comments as well.</p> <p>The monitoring and reporting requirements are necessary to meet the conditions of Water Code section 13269 to allow for a waiver of waste discharge requirements and to comply with the Nonpoint Source Policy, which requires the Regional Water Board to determine that there is a high likelihood that the implementation program (i.e., proposed waiver) will attain water quality objectives. Specifically, the monitoring and reporting requirements satisfy Key Elements 2 and 4 of the Five Key Elements required for a nonpoint source</p>

	<p>We believe growers' limited resources are better spent implementing practices to address the known water quality problems identified through 10 years of monitoring data, and that future monitoring results should be the test of whether those efforts are succeeding or failing.</p> <p>If LARWQCB staff wish to conduct further analysis, we encourage them to do it themselves, as is common in other regions with irrigated lands programs.</p>	<p>implementation program by the Nonpoint Source Policy. Key Element 2 requires a description of the MPs and other program elements that are expected to be implemented to ensure attainment of the implementation program's stated purpose(s), the process to be used to select or develop MPs, and the process to be used to ensure and verify proper MP implementation. Key Element 4 requires sufficient feedback mechanisms so that the Regional Water Board, dischargers, and the public can determine whether the program is achieving its stated purpose(s), or whether additional or different MPs or other actions are required.</p> <p>Discharger Groups are required to conduct the monitoring and reporting to satisfy the Key Elements in order to be approved Discharger Groups. This level of analysis is the same as was required by the existing waiver, except that the expression of some of the conditions of the existing waiver was unclear. To eliminate ambiguity with regard to the conditions of the waiver in the future, the proposed waiver has more specificity than previous waivers.</p> <p>The last part of the comment appears to refer to the irrigated lands program in the Central Coast Region, which requires some reporting directly to the Central Coast Water Board, and thus Central Coast Water Board evaluation of the data. The Los Angeles Region's program is more similar to the Central Valley Region's program, in that it allows for a discharger group approach, and relies on the cooperation and collaboration of discharger groups to compile and report data on behalf of their members.</p>
2.13	<p>Groundwater monitoring requirements: Although we understand the LARWQCB's interest in groundwater conditions, these are already thoroughly documented by numerous monitoring programs conducted by various agencies in Ventura County, including the Watershed</p>	<p>The groundwater monitoring requirements in Appendix 3, 1.b.ii and 1.b.ii, have been revised to clarify the intent and approach of the groundwater trend monitoring and the MP effectiveness evaluation, as follows:</p>

Protection District and United Water Conservation District. Every major groundwater basin in the county also falls under the requirements of the Sustainable Groundwater Management Act (SGMA), and the process of establishing SGMA-required Groundwater Sustainability Agencies and Groundwater Sustainability Plans for those basins is well under way. Each of those plans, which must be completed by 2020 or 2022 depending on the basin, must include a groundwater-quality element. Additionally, the Salt and Nutrient Management Plans being prepared for several watersheds to facilitate use of recycled water also require that groundwater conditions be evaluated. The proposed Waiver's requirement that VCAILG conduct yet another groundwater study and report the results strikes us as an attempt to shift an analysis burden to VCAILG that more properly belongs to LARWQCB staff, at enormous expense to growers. Our consultants estimate that complying with the groundwater reporting requirement alone — absent any additional monitoring — will cost more than \$500,000. More specific comments and requests are included in the Technical Comments Appendix below (Items No. 6 and7).

- i. In order to assess ~~existing groundwater quality and ongoing~~ trends in groundwater quality, Discharger Groups shall analyze existing monitoring data from groundwater basins below irrigated agricultural lands and propose wells that will be used to compare historical and future data to evaluate long-term groundwater trends.
- ii. In order to assess the effectiveness of management practices ~~in protecting groundwater quality-effectiveness,~~ Discharger Groups shall submit a work plan to monitor areas where irrigated agricultural lands have the potential to impact groundwater basins, exceedances of nitrate have been confirmed, and groundwater is a significant drinking water source, to determine if ~~conduct a study to correlate~~ management practices implemented on the land surface ~~with the effect of those activities~~ are protective of underlying groundwater quality. ~~The study shall be designed to establish baseline conditions and to differentiate between ongoing impacts, residual impacts (vadose zone) and legacy pollution. The study may use a variety of tools, such as vadose zone monitoring, modeling, and groundwater monitoring. Existing~~The same monitoring wells in 1.b.i and previous studies can be used where available and appropriate for the study monitoring objectives. ~~Well locations and screening levels shall be considered in order to ensure that the study wells will respond to changes in management practices in a timeframe expected given site specific conditions that would affect water and pollutant movement through the soil and groundwater. The location of the study shall consider agricultural areas where high exceedances of nitrate have been confirmed in underlying groundwater basins and where groundwater is a significant drinking water source.~~

		<p>The Regional Water Board agrees that there are numerous groundwater monitoring programs conducted by various agencies in Ventura County. The staff report includes a summary of these programs as well as a discussion of SGMA and Salt and Nutrient Management Plans (sections 9 and 10). Existing monitoring wells and previous studies can be used where available and appropriate for MP effectiveness evaluation objectives. However, it cannot be determined at this time whether the existing monitoring in these programs is adequate to verify the effectiveness of MPs at controlling the discharge of nutrients to groundwater. For example, the monitoring that will be conducted through the SNMP process, based on the SNMP for the Lower Santa Clara River Basins, focuses on deeper wells. The SGMA regulations have not been finalized, and the scope of water quality monitoring under SGMA might not be adequate to meet the objectives of the waiver program. It is necessary to evaluate groundwater monitoring data collected at varied depths to evaluate impacts of agricultural activities on groundwater and verify MP effectiveness relative to groundwater protection within the proposed Waiver renewal.</p> <p>The Regional Water Board encourages the Discharger Groups to work with agencies implementing SNMPs or SGMA to coordinate their monitoring programs and avoid duplication. Revisions to the groundwater monitoring programs can be considered once SGMA or other monitoring programs are in place.</p> <p>The proposed groundwater trend monitoring and MP effectiveness evaluation work plan requirements are consistent with other irrigated lands regulatory programs throughout the state, including the Central Valley Region's WDRs for East San Joaquin Valley.</p>
--	--	---

2.14	<p>Individual monitoring: We agree with LARWQCB staff that it will be more effective to respond to instances of continuing benchmark exceedences with source evaluation studies, rather than moving directly to edge-of-field monitoring and effluent limitations, in order to prioritize efforts and invest resources most effectively. Because of the compressed time frame, we have not yet been able to properly calculate the likely number, complexity or cost of these studies, based on existing data and trends. If and when numeric limitations are enforced through individual monitoring, however, VCAILG has neither the capacity nor the intention to conduct or coordinate the sample collection, analysis and reporting work as described in the proposed Waiver. The LARWQCB will have to assume responsibility for managing the reporting and compliance effort directly with individual landowners and growers, although it is unclear how it intends to do this. We request that the Waiver more explicitly describe the process by which this individual compliance program will be implemented, and clarify the relative roles and responsibilities of VCAILG and the LARWQCB in the event that individual monitoring and compliance is triggered. More specific comments may be found in the Technical Comments Appendix below (Item No. 5).</p>	<p>Individual monitoring at Discharger Group member sites is more appropriately conducted by the Discharger Group, which has the local knowledge and established relationships with its members to coordinate the individual monitoring. If the Regional Water Board were to require Discharger Group members to submit individual monitoring and reporting plans, quality assurance project plans, and monitoring reports to the Regional Water Board for review, approval, and analysis, then it may become more appropriate to regulate these Discharger Group members individually. Using this approach, the requested change would not be necessary because if individual discharger monitoring were ever triggered by a missed TMDL deadline, then the affected Discharger Group members could be enrolled through the individual discharger compliance option allowed for under the proposed waiver.</p>
2.15	<p>VCAILG requests that the LARWQCB also address the following issues [Comment number 2.16 to 2.28] and requests before adopting the Conditional Waiver.</p>	<p>Comment noted. Please see responses to specific comments.</p>
2.16	<p><b>Revise the schedule for Calleguas Creek and the Oxnard Drain #3 Organochlorine Pesticides TMDLs.</b></p> <p>Per the Tentative Order, Draft MRP, and Staff Report, the schedules presented in Table 2 of the Tentative Order and Table 3 of the Draft Monitoring and Reporting Program (MRP) take into account the relative difficulty in</p>	<p>The proposed schedule of 2036 for the Calleguas Creek and the Oxnard Drain #3 Organochlorine Pesticides TMDLs seems unreasonably long and does not correspond with the assumptions of these TMDLs. The schedule proposed by the commenter relies on the assumption that TMDL compliance could potentially be attained through natural attenuation alone, given the range of time for natural attenuation to occur.</p>

achieving Water Quality Benchmarks and are based on TMDL compliance dates. According to the Staff Report,

“Some of the earlier adopted TMDLs have load allocation compliance dates that are sooner than the compliance dates proposed in Table 14. The TMDL compliance dates are presented in Appendix 5 to the proposed Conditional Waiver. However, in these earlier TMDLs, the implementation language and the supporting staff reports indicated that the load allocations would be achieved through the iterative management practices (MP) process under the Conditional Waiver program. Because water quality standards must ultimately be attained, the deadlines in Table 14 represent the time when the iterative MP process should end. Additional time beyond the TMDL load allocation compliance dates is proposed for these earlier TMDLs.”

Currently the Calleguas Creek Organochlorine Pesticides and PCBs TMDL schedule is set equal to the TMDL schedule and the Oxnard Drain #3 Pesticides, PCBs and Sediment Toxicity TMDL has been given approximately the same schedule. In accordance with the justification provided in the Staff Report, we feel that these two TMDLs can be given a longer schedule for the following reasons:

- The Calleguas Creek Organochlorine Pesticide and PCBs TMDL is also an early adopted TMDL that included language about an iterative MP implementation with an end date for final compliance with load allocations, but not the targets and water quality objectives. As a result, additional time can be provided for this TMDL.
- The Oxnard Drain #3 Pesticides, PCBs and Sediment

The comment states that the schedule assumes a combination of natural attenuation and management practices to control sediment, but the cited study estimates natural attenuation would occur between 2038 and 2084. The proposal schedule is just two years earlier than the lower end of the estimate for natural attenuation alone, and thus would not encourage the implementation of management practices to control sediment nor would it ensure a high likelihood that water quality objectives will be attained.

It is not certain that high-cost structural management practices will be necessary to address legacy pesticides. It is not yet known if non-structural management practices to control sediment would be sufficient because, based on a review of WQMPs prepared under the previous waivers, it is not possible to correlate MP implementation with water quality data. However, if structural treatment devices are needed to supplement non-structural MPs, then they should be considered to ensure that water quality objectives are attained within a reasonable timeframe.

It is clear that the intent of the Calleguas Creek Organochlorine Pesticides TMDL was for load allocations to be attained by 2026, although the TMDL includes a reconsideration to revise the schedule based on the results of special studies, including the study cited in this comment. Thus, if it is determined that the TMDL schedule should be reconsidered based on a special study, it should be done through the TMDL Basin Plan amendment process.

The cited language in the staff report regarding justification for longer schedules than included in TMDLs was primarily focused on earlier adopted TMDLs that have load allocation compliance dates that have already passed or that will pass within the term of the proposed waiver.

<p>Toxicity TMDL is an EPA TMDL without an implementation schedule that was not previously included in the Conditional Waiver. As a result, additional time can be provided for this TMDL.</p> <ul style="list-style-type: none"><li>• The primary mechanism to address organochlorine pesticides is through sediment management. Sediment management during storm events is challenging and may require structural BMPs that may not be required to address any other constituents. Structural sediment management measures take longer to implement, particularly if developed to more cost-effectively address the issue on a regional basis, and additional time is needed if implementation of these measures is required.</li><li>• Organochlorine pesticides and PCBs are legacy pesticides that were applied historically and will naturally attenuate over time. As a result, the schedule should also consider the time necessary for a combination of management practices and natural attenuation to meet the benchmarks. This would avoid unnecessary installation of high-cost structural management practices that are only needed for addressing legacy pesticides that will eventually decrease over time while still encouraging non-structural and multi-benefit structural management practices to control sediment.</li></ul> <p>Additionally, the Calleguas Creek Organochlorine Pesticides and PCBs TMDL included Special Study #3 to "Evaluate natural attenuation rates and evaluate methods to accelerate organochlorine pesticides and polychlorinated biphenyl attenuation and examine the attainability of wasteload and load allocations in the Calleguas Creek Watershed." A draft of this study has recently been completed and will be submitted to the Regional Water Board on March 24, 2016. The results of</p>	<p>Further, the results of the cited study indicate that natural attenuation combined with MPs is likely to achieve the benchmarks for all constituents for the majority of the Calleguas Creek watershed, except Revolon Slough, within four years of 2026. Given this, it is not clear why a final deadline of 2036 is proposed for the entire Calleguas Creek watershed and also the Oxnard Drain #3 watershed, and not just for the Revolon Slough subwatershed.</p> <p>The study results cited by the commenter are preliminary, and the final study report was submitted on March 24, 2016 and has not yet been considered by the Regional Water Board. It would be premature to make revisions to the TMDL schedules in the proposed waiver based on these preliminary results.</p>
---	--

this study indicate that natural attenuation combined with best management practices is likely to achieve the benchmarks for all constituents in the TMDL for the majority of the Calleguas Creek watershed within 4 years of 2026. This indicates that implementation of management measures combined with natural attenuation will potentially meet the benchmarks in the time frame provided. However, in Revolon Slough, achieving the benchmarks for 4,4-DDE, chlordane, and toxaphene is anticipated to take significantly longer based on the current rate of reduction in fish tissue and sediment. The study predicts that these targets will be achieved somewhere between 2038 and 2084. While implementation of more management practices may result in achieving the benchmarks earlier than these estimated time frames, it is unlikely that they will result in achieving the benchmarks by 2026. While a similar study is not available for Oxnard Drain #3, the concentrations of these constituents measured by the VCAILG monitoring program are similar to those found at sites draining to Revolon Slough. As a result, a longer schedule is requested for these two TMDLs to allow for a combination of natural attenuation and management practices to bring the watershed into compliance with the benchmarks.

*Requested Actions: Modify the schedule in Table 2 of the Tentative Order and Table 3 of the Draft MRP for the Calleguas Creek Organochlorine and PCBs TMDL and the Oxnard Drain #3 Pesticides, PCBs, and Sediment Toxicity TMDL to 2036.*

<p>2.17</p>	<p><b>Include clarifying language for the schedule for Revolon Slough and Ventura River Estuary Trash TMDLs.</b></p> <p>The Ventura River Estuary and Revolon Slough and Beardsley Wash Trash TMDLs include load allocations that include a defined compliance pathway that should be acknowledged in the Conditional Waiver. The TMDLs state that the load allocations are set equal to zero with the definition of zero as follows:</p> <p>“Zero is defined as (1) for nonpoint sources, no trash immediately following each assessment and collection event consistent with an established Minimum Frequency of Assessment and Collection Program (MFAC Program). The MFAC Program is established at an interval that prevents trash from accumulating in deleterious amounts that cause nuisance or adversely affect beneficial uses between collections.”</p> <p>The Conditional Waiver should clearly acknowledge that compliance with the Trash TMDL allocations is through implementation of a MFAC program and is not subject to the same trend analysis and source identification requirements as other constituents.</p> <p><i>Requested Actions: Please include the following language as a footnote to Table 2 in the Tentative Order and Table 3 in the Draft MRP Requirements for the Ventura River Estuary Trash TMDL and Revolon Slough and Beardsley Wash Trash TMDL.</i></p> <p><i>“Compliance with the water quality benchmarks for trash is determined per the TMDL as: no trash immediately following each assessment and collection event consistent with an approved Minimum Frequency of</i></p>	<p>Appendix 5 to the Tentative Order already contains compliance language for TMDL-related benchmarks, including the Revolon Slough/Beardsley Wash and Ventura River Estuary Trash TMDLs.</p> <p>Note that implementation of the Revolon Slough/Beardsley Wash and Ventura River Estuary Trash TMDLs contains two components: the MFAC portion and the BMP portion; thus, the implementation program is called the MFAC/BMP Program. This comment focuses on the MFAC portion only. The TMDLs require an initial suite of BMPs, an evaluation of effectiveness of the BMPs to prevent trash from accumulating between collection events, and proposals to enhance BMPs and a revised MFAC program if needed.</p> <p>Further, the TMDLs state that the Executive Officer may require a revised MFAC if the amount of trash collected does not show a decreasing trend.</p> <p>The trend analysis and source identification requirements in the conditional waiver reflect the requirements of the MFAC/BMP program.</p> <p>The TMDLs state that for agricultural dischargers, the Conditional Waiver for Irrigated Lands will be revised to include a MFAC/BMP program. It also states that Responsible Jurisdictions may coordinate their TMRP activities. Agricultural dischargers in the Revolon Slough/Beardsley Wash and Ventura River Estuary watersheds chose to comply with other Responsible Jurisdictions in the TMDLs. The Executive Officer approved the trash monitoring and reporting plans and MFAC/BMP programs for those TMDLs and they can be used to demonstrate compliance with the waiver requirements. If the monitoring under these trash monitoring and reporting plans shows that trash is accumulating between collection events</p>
-------------	---	---

	<p><i>Assessment and Collection Program (MFAC Program). Implementation of an approved MFAC Program, including any modifications deemed necessary by the Executive Officer to ensure trash is not accumulating in deleterious amounts that cause nuisance or adversely affect beneficial uses between collections, is deemed to be attaining the water quality benchmark for trash.</i></p> <p><i>Additionally, the trash benchmarks are not subject to the trend analysis and source identification requirements in the Conditional Waiver.”</i></p>	<p>or is not decreasing, then additional BMPs or a revised MFAC is required, which is the same as the trend analysis and source identification requirements of the proposed waiver.</p>
<p>2.18</p>	<p><b>Include clarifying language for the schedule for Calleguas Creek Watershed and Mugu Lagoon Siltation TMDL.</b></p> <p>In March 2014, the stakeholders implementing TMDLs in the Calleguas Creek watershed submitted required Special Study #1 to:</p> <p>“(Q)uantify sedimentation in Mugu Lagoon and sediment transport throughout the Calleguas Creek Watershed. Evaluate management methods to control siltation and contaminated sediment transport to Calleguas Creek, identify appropriate BMPs to reduce sediment loadings, evaluate numeric targets and wasteload and load allocations for siltation/sedimentation to support habitat related beneficial uses in Mugu Lagoon, evaluate the effect of sediment on habitat preservation in Mugu Lagoon, and evaluate appropriate habitat baseline, effectiveness of sediment and siltation load allocations on a subwatershed basis, and methods to restore habitat”.</p> <p>The study found that Mugu Lagoon was no longer impaired due to sediment and siltation and no additional</p>	<p>A footnote that allows for additional time should the TMDL reconsideration result in different findings from the submitted study has been added to Table 2 of the Tentative Order and Table 3 of the Draft MRP.</p>

	<p>load reductions were necessary. According to the TMDL implementation plan:</p> <p>“At the conclusion of the special study, the Regional Board will reconsider the TMDL to establish sustainable wasteload and load allocations recommended by the Special Study to support aquatic life and wetland habitat beneficial uses.”</p> <p>The TMDL has not yet been reconsidered as a result of the study. Based on the study, VCAILG feels that its members are in compliance with the benchmark and no additional time is necessary to achieve the benchmark. However, should the Regional Water Board strictly interpret the existing allocations or targets in the TMDL or modify the TMDL in a way that differs from the study recommendations, additional time would be needed to achieve the revised TMDL. Therefore, VCAILG requests that clarifications be provided in the schedule to account for this potential situation.</p> <p><i>Requested Action: In Table 2 of the Tentative Order and Table 3 of the Draft MRP, either modify the schedule for the Calleguas Creek Watershed and Mugu Lagoon Siltation TMDL to allow time for the TMDL reconsideration in response to the study results or include a footnote that allows for additional time should the TMDL reconsideration result in different findings from the submitted study.</i></p>	
2.19	<p><b>Modify schedule for the Ventura River Algae TMDL for new monitoring locations.</b></p> <p>Monitoring data collected at the existing VCAILG monitoring stations in the Ventura River demonstrate that VCAILG members are currently in compliance with the</p>	<p>The TMDL and its supporting documents clearly establish that all agricultural dischargers in the Ventura River Algae TMDL must attain load allocations within six years of the effective date of the TMDL, which is June 2019. The requested action is not possible without a Basin Plan Amendment to revise the TMDL. While not all irrigated</p>

	<p>Ventura River Algae TMDL benchmarks. However, the Draft MRP requires a new monitoring location to be added to the lower Ventura River Watershed as part of the new waiver. For the new monitoring location, should exceedances of the benchmark be observed, the current schedule of 2019 is insufficient time to get the new monitoring results, incorporate management practices into the water quality management plan, notify growers of the requirement to implement more management practices, implement management practices and observe reductions in the monitoring results. As this is the first time the TMDL and new monitoring requirements have been included in the Conditional Waiver, additional time should be provided for implementing management practices if needed to address benchmark exceedances. It should also be noted that additional significant sources of nutrient loading in the watershed — livestock operations and septic systems — are not currently being regulated. Until they are, grower implementation of BMPs is unlikely to achieve the desired effect of addressing algae growth in the lower river.</p> <p><i>Requested Action: Modify Table 2 of the Tentative Order and Table 3 of the Draft MRP to include an additional 5 years for the Ventura River Algae TMDL for exceedances of the benchmark at new monitoring locations.</i></p>	<p>agricultural lands in the Ventura River watershed are currently reflected in the existing Discharger Group monitoring sites, these irrigated agricultural lands have been subject to the waiver for the past two terms and should already be implementing management practices in compliance with the waiver. The challenges of representative monitoring were considered in the development of the Ventura River Algae TMDL and its implementation schedule. The TMDL states that the waiver’s monitoring program shall be revised to add representative sites in the lower watershed and to relocate monitoring sites in the upper watershed. Unfortunately, the monitoring and reporting program under the existing waiver was not revised in time to begin monitoring at new sites. However, new monitoring sites can be added as soon as possible and monitoring can begin so that there is time to obtain monitoring results and implement additional/upgraded management practices if necessary prior to June 2019.</p> <p>The TMDL provides 10 years for livestock operations and grazing operations to attain load allocations because these sources have not been previously regulated. This implementation period is necessary both for the Regional Water Board to develop new regulatory programs and for livestock operations and grazing operations to implement the requirements of these new regulatory programs. For septic systems, the TMDL included a 10-year schedule to allow time for detailed studies to determine which systems needed to be upgraded to meet the load allocations.</p>
2.20	<p><b>Remove individual discharge monitoring requirements as a responsibility of the Discharger Group.</b></p> <p>An Agricultural Expert Panel was convened by the State Water Resources Control Board in fulfillment of SBX 2 1</p>	<p>The Regional Water Board considered the recommendations of the SBX 2 1 Exert Panel and the draft State Board order in response to the East San Joaquin Valley WDR petitions when developing the proposed Waiver and concluded that individual discharge monitoring is necessary in some instances. These instances are: (1) as part of a Discharger</p>

of the California Legislature. Following a review of materials from agricultural discharger groups or coalitions, regional boards, agricultural groups, environmental groups and input received through public meetings, the Expert Panel produced a final report of recommendations on September 9, 2014. Section 4.9 of the report discusses surface water discharges and monitoring the water quality. The panel specifically notes that monitoring of individual field/farm surface discharges has the following problems:

1. "Water quality tests are quite expensive, even with individual samples.
2. Periodic sampling of water runoff as opposed to extensive sampling has serious challenges with being able to identify events that might cause pollution of streams because:
  - a. The timing of individual sample collection might not coincide with pesticide applications, or with events of high sediment runoff.
  - b. It is difficult to identify, in advance, exactly when (time of day and day) there might be surface runoff. This is because irrigation schedules constantly change as field crew shift operations.
  - c. Typical labor schedules for samplers require that samples be collected during daylight hours, from M-F. Other times/days may be more important.
  - d. The schedule of lab operations, and constraints of sample hold times, may not coincide with irregular timing of surface discharges.
3. Continuous water sampling equipment (to collect samples and in some cases to also analyze samples) is available for some constituents, but it is very expensive, complicated, and subject to vandalism."

Group source investigation when water quality is not improving despite the implementation of best MPs by its members and/or (2) when TMDL-based deadlines have passed and TMDL load allocations are not attained.

The monitoring and reporting requirements (Appendices 1-3 of the Tentative Order), including the sampling frequency for group monitoring equal to four events per year and the requirement for individual monitoring only as necessary to allow for meaningful feedback on the program and to achieve TMDL load allocations (as described above), take into consideration the costs of conducting monitoring and the challenges associated with periodic sampling.

The challenges associated with periodic sampling are addressed through the specific monitoring and reporting requirements in Appendices 1-3 of the Tentative Order, including timing of sampling to coincide with irrigation and fertilizer application and consideration of practical constraints on sampling events such as lab closures, holding times, and the safety of the monitoring team.

Continuous water sampling is not required under the proposed waiver, but it is required under other numerous TMDL watershed-level monitoring programs. Thus, the Regional Water Board can assess water quality at several spatial scales and temporal frequencies in an efficient and practical manner.

In the draft Conditional Waiver (Appendix 3, Monitoring and Reporting Requirements, section 1.c.), individual monitoring is required where TMDL-associated water quality benchmarks are not attained by their specified deadlines. However, rather than there being a solution to the logistical challenges cited by the Expert Panel, they are passed along as an additional burden assigned to the Discharger Group to sort out through a revision of the group monitoring plan. It is an infeasible task in regard to resources and management for the Discharger Group to not only plan for, but also to execute and report on the results of an individual discharge monitoring program.

Later in the Final Report, the Expert Panel proceeds to discuss the appeal and rationale for a coalition monitoring effort of receiving waters, which is also the Panel's recommendation. Utilizing information obtained by a group receiving water effort, "when/if problems are identified, sampling should move upstream to locate the source of the problem." Therefore, the strategy in the draft Conditional Waiver to address water quality benchmark exceedances without decreasing trends (Appendix 3, section 2.d.) then performing a source investigation, which will include an evaluation of management practices as well as some individual or upstream monitoring, is an appropriate process that even goes beyond the procedures put forth by the Expert Panel. In the draft Conditional Waiver, the source investigation process may only be used up until the time when TMDL compliance dates have passed. However, the source investigation process is a new requirement in this draft Conditional Waiver and it is unknown what the findings will be and how the results may be leveraged to guide meaningful improvements to water quality.

In addition to the opinions of the Expert Panel, the State

Individual monitoring at Discharger Group member sites is more appropriately conducted by the Discharger Group, which has the local knowledge and established relationships with its members to coordinate the individual monitoring. See also response to comment 2.14.

The Regional Water Board agrees that the source investigation required by the proposed waiver is consistent with the Expert Panel recommendations for moving sampling upstream to locate the source of the problem if receiving water monitoring identifies a problem. The proposed waiver explains, in section 2.d of Appendix 3, how the findings of the source investigation will be used to improve water quality. The investigation will identify the source(s) of a Water Quality Benchmark exceedance and evaluate management practice effectiveness on member sites draining to the Discharger Group monitoring site. The investigation shall include some individual discharge monitoring of member sites that drain to the Discharger Group monitoring site based on an evaluation of relative locations, existing management practice implementation, pesticide application, and fertilizer application and irrigation practices of member sites. The specific investigation may include monitoring upstream of member sites to demonstrate that member sites that drain to the Discharger Group monitoring site are not causing or contributing to a Water Quality Benchmark exceedance at the Discharger Group monitoring site. The schedule for submittal of revised WQMPs reflects the time needed for Discharger Groups to apply the results of the investigation.

Water Resources Control Board (State Board) has reviewed the existing Waste Discharge Requirements General Order for Growers within the Eastern San Joaquin River Watershed (East San Joaquin WDR) and recently issued a revised WDR currently undergoing public review and comment. The East San Joaquin WDR expressly states that many of the revisions included are to implement the findings of the Expert Panel. In addition to the determinations of the Expert Panel regarding individual monitoring, the State Board also notes that such monitoring is not mandated by the Nonpoint Source Policy. And while landscape-based receiving water monitoring does not pinpoint which dischargers are contributing to a water quality benchmark exceedance, “the Nonpoint Source Policy provides that, although management practice implementation is not a substitute for actual compliance with water quality requirements, a schedule of management practice implementation, assessment, and adaptive management may act as a proxy for assessing regulatory program progress.”

The State Board also offers criticism to the approach taken in the Central Coast Agricultural Order (WQ 2013-0101); relating that a, “better approach may be to rely on receiving water monitoring data and to require the third party monitoring groups administering receiving water monitoring to pursue exceedances with increasingly focused monitoring in upstream channels designed to narrow down and identify the sources of the exceedances.” This “better approach” follows the methodology in the draft Conditional Waiver, except for the individual monitoring requirements.

Finally, as quoted below, in compliance with the Nonpoint Source Policy and consistent with the recommendations of the Expert Panel, the State Board’s stance on

However, the requested change in this comment does not refer to the source investigation requirements, but to the individual discharge monitoring requirements that are triggered if TMDL-based Water Quality Benchmarks are not attained by TMDL deadlines. The Regional Water Board finds that individual discharge monitoring is necessary in these instances, because if the iterative management practice process has not succeeded in attaining TMDLs by their deadlines, in some cases after 20 years of implementation, then the irrigated lands regulatory program must evolve and adapt. See also response to comment 2.14.

Most of the TMDLs included in the proposed waiver are for water quality impairments that have been on the Federal Clean Water Act section 303(d) list of impaired waterbodies since 1996. All of the TMDLs identify discharges from irrigated agricultural lands as significant sources, and in some cases as the primary source, of the water quality impairments. The TMDLs address highly valued waterbodies with sensitive aquatic life and human health beneficial uses. The TMDLs already contain lengthy implementation schedules that consider the difficulty in addressing sources. The proposed waiver includes additional time beyond the TMDL implementation schedules in some cases in order to continue the iterative management practice process. Further, the proposed waiver is structured to prevent the triggering of individual monitoring by containing interim requirements to ensure that there are decreasing trends in waste concentrations at Discharger Group sites (i.e., the source investigation) so that Water Quality Benchmarks will be attained by TMDL deadlines. Given these considerations, the application of individual discharge monitoring in cases where the iterative management practice process has not succeeded in attaining TMDLs by their deadlines, is a reasonable and necessary approach.

individual monitoring is in direct opposition to the requirements included in the draft Conditional Waiver.

“We continue to support receiving water monitoring over surface water discharge monitoring in irrigated lands regulatory programs for the reasons articulated by us in Order WQ-2013-0101 and by the Agricultural Expert Panel. When an exceedance is detected through receiving water monitoring, the source or sources causing or contributing to the exceedance at the monitoring site will not necessarily be apparent in the absence of further investigation, but as long as sampling subsequently moves upstream to locate the source of the problem, receiving water monitoring is a more reliable and effective methodology for identifying water quality issues than costly, variable, and inexact end-of-field measurements. We thus continue to endorse surface receiving water quality monitoring generally as appropriate for an agricultural monitoring program.”

*Requested Action: Delete the individual discharge monitoring requirements in Appendix 3 Monitoring and Reporting Requirements section 1.c and in the last paragraph of section 2.d., delete the last sentence of the final paragraph and replace as follows:*

~~“Discharger Groups shall submit a revised MRP with individual discharge monitoring according to the requirements in Section 1.c. Individual monitoring may be required by the Executive Officer for comparison to discharge limitations. The Executive Officer will notify individual dischargers of the need to conduct individual site monitoring.”~~

The Regional Water Board finds it preferable for Discharger Groups to take the lead in coordinating individual discharge monitoring for its members for the reasons described above. However, if individual discharger monitoring were to be triggered by a missed TMDL deadline, and the Discharger Group was not able to coordinate the monitoring, then the affected Discharger Group members could be enrolled through the individual discharger compliance option allowed for under the proposed waiver. Therefore, the requested change is unnecessary.

<p>2.21</p>	<p><b>The groundwater monitoring requirements overlap with the requirements of other agencies, and as currently written, do not guarantee the development of a scientifically sound approach. Monitoring should be tailored to the requirements of the Sustainable Groundwater Management Act.</b></p> <p>Both the Sustainable Groundwater Management Act and the East San Joaquin WDR suggest a similar approach to characterizing and documenting changes in groundwater quality:</p> <p>1) Assessment of all existing data: Regarding the analysis of groundwater elevation and groundwater quality trend monitoring, existing reports are available to provide the basic information for selecting the targeted monitoring network. For example, the Fox Canyon Groundwater Management Agency, the Ventura Watershed Protection District and the Lower Santa Clara SNMP all collect, analyze and report groundwater elevation and groundwater quality trends yearly.</p> <p>2) Targeted monitoring: the above mentioned reports are not specifically designed to respond to the impact and assessment of agricultural discharges on groundwater quality. Therefore, critical areas where agricultural practices have the potential to impact groundwater quality will be selected for trend analysis to examine the effectiveness of best management practices over time. Critical areas are areas where high exceedances of nitrate have been confirmed in the underlying groundwater basins, and where groundwater is a significant drinking water source. Considering the potentially slow response in groundwater quality to changes in management practices on the land surface, it is recommended that additional monitoring be required in these locations where the effectiveness of new management practices can be quantified. As pointed out</p>	<p>The groundwater monitoring requirements in Appendix 3 have been revised to clarify the intent and approach of the groundwater trend monitoring and the management practice effectiveness evaluation. See response to Comment No. 2.13 for revised language.</p> <p>Discharger Groups will have significant input into the approaches to trend monitoring and evaluation of management practice effectiveness on groundwater quality as they submit work plans for the groundwater quality trend analysis and MP effectiveness evaluation.</p> <p>The Regional Water Board examined the requirements of SGMA to determine if SGMA and other groundwater monitoring would be adequate to evaluate the effectiveness of management practices at reducing nitrate loading to groundwater from MPs. The staff report includes a summary of these programs (sections 9 and 10). Existing monitoring wells and previous studies can be used where available and appropriate for MP effectiveness evaluation objectives. However, it cannot be determined at this time whether the existing monitoring is adequate to verify the effectiveness of MPs at controlling the discharge of nutrients to groundwater. For example, the monitoring that will be conducted through the SNMP process, based on the SNMP for the Lower Santa Clara River Basins, focuses on deeper wells. Therefore, it is necessary to evaluate groundwater monitoring data collected at varied depths to better evaluate impacts of agricultural activities on groundwater and verify MP effectiveness relative to groundwater protection within the proposed Waiver renewal.</p> <p>The proposed groundwater trend monitoring and MP effectiveness evaluation are consistent with other irrigated lands regulatory programs throughout the state, including the Central Valley Region’s WDRs for East San Joaquin Valley.</p>
-------------	---	---

	<p>by the Ag Expert Panel, “collecting data on changing nitrate levels in groundwater, to indicate the success or failure of overlying surface N management practices on individual fields and farms directly above the data collection point, is typically problematic at best.”</p> <p>Therefore, it is important to select locations where there are documented exceedances of high nitrate with the potential to impact drinking water. This type of approach based on targeted monitoring follows not only the requirements of the SGMA draft regulation, but also is strongly recommended by the Ag Expert Panel.</p> <p>3) Long term monitoring analysis of the target areas will allow for the final evaluation of the best management practices developed during the Waiver term and will provide a foundation for future changes and adjustments at an appropriate pace. The long term monitoring can also be included into the SGMA Groundwater Sustainability Plan.</p> <p><i>Requested Action: Revise Appendix 3 Section 1.b.i and 1.b.ii to reflect the concept of targeted monitoring network and SGMA compliance. [See proposed language in Comment Letter]</i></p>	
2.22	<p><b>The required reporting of groundwater monitoring is excessive.</b></p> <p>The report requirement can be restructured based on the above suggestions regarding monitoring. The first report is important because it provides basic information on groundwater conditions and sets forth the foundation for the targeted trend monitoring evaluation. This report also overlaps with what is required by SGMA and therefore, based on what is stated in SGMA (§354.34) it can be, in the future, incorporated in the SGMA implementation plan</p>	<p>The groundwater monitoring requirements in Appendix 3 have been revised to clarify the intent and approach of the groundwater trend monitoring and the evaluation of management practice effectiveness on groundwater quality, as follows:</p> <p><b>Groundwater Quality <del>Assessment and</del> Trend Monitoring Plan</b>  <b>Due: six months from the adoption of Order 2016-XXX</b></p> <p>The Groundwater Quality <del>Assessment and</del> Trend</p>

to avoid a duplication of efforts. The second report sets the basis for targeted monitoring of critical locations specifically impacted by agricultural practices in high risk areas as specified in the draft Conditional Waiver (high exceedances of nitrate, underlying agricultural areas, where groundwater is a significant drinking water source).

We suggest consolidating the groundwater reporting requirements into two submittals: a groundwater quality assessment and trend monitoring evaluation (submitted as part of the annual monitoring report in 2018) to fulfill the requirements of section 1.b.i, and a groundwater management practice evaluation (submitted as part of the 2020 annual monitoring report) to meet the objectives of section 1.b.ii. Impacts of land surface practices on groundwater may not happen in a short timeframe based on the specific characteristic of the topsoil and of the aquifer, and therefore results are not likely to be detected in the first year following the implementation of additional or improved management practices. Our recommendation would be to provide either database access (as suggested by SGMA) or report cards as a replacement for the annual reporting proposed in the draft Conditional Waiver and a full assessment report on groundwater management practice as part of the Annual Report Monitoring Submittal in 2020. The SGMA requirements move toward a similar approach and suggest that collected data should be made available yearly and the full evaluation should be developed on a five-year basis.

*Requested Action: Revise Appendix 3 Section 3 to reduce the amount of required reporting. [See proposed language in Comment Letter]*

Monitoring Plan shall be completed according to the requirements of Section 1.b.i. Trend monitoring shall begin upon Executive Officer approval of the plan. The results of the Groundwater Quality Trend Monitoring Plan shall be reported with annual monitoring reports beginning December 15, 2017.

**Groundwater ~~Quality Assessment Report and~~ Groundwater Management Practice ~~Assessment~~ Evaluation Plan**

**Due: April 14, ~~2017~~ 2018**

The Groundwater Management Practice Assessment Evaluation Plan shall be developed according to the requirements of Section 1.b.ii ~~and will be informed by the results of the Groundwater Quality Assessment Plan developed in accordance with Section 1.b.i. Thus the Groundwater Quality Assessment and the Groundwater Management Practice Assessment Plan shall be submitted at the same time.~~

**Groundwater Management Practice ~~Assessment~~ Evaluation Report**

**Due: Annually, beginning December 15, ~~2018~~ 2020**

The results of the Management Practice Assessment Evaluation Plan shall be reported, including a determination regarding the effect of correlation between management practices implemented on the land surface with the effect of those activities on underlying groundwater quality.

<p>2.23</p>	<p><b>The specified pesticide use evaluation assessment, as prescribed in the Appendix 3 Monitoring and Reporting Requirements section 2.a.iv., is a legacy requirement from past Conditional Waivers that has not provided useful or guiding information while increasing the reporting burden on the discharger group.</b></p> <p>This exact pesticide use evaluation assessment was a requirement of both the 2005 and 2010 Conditional Waivers, and VCAILG has submitted the results of this evaluation as a part of each Water Quality Management Plan. To perform the necessary assessment, pesticide use reporting data are obtained from the County Agricultural Commissioner's office in both spatial and tabular formats. The data are then evaluated using GIS to determine which pesticide applications took place within each VCAILG monitoring site drainage area. Pesticide application data are then compared to the corresponding monitoring site data to evaluate whether any relationships exist between the pesticide application timing, amounts, or locations. To date, no correlations have been observed that would inform management practice implementation or other actions to improve water quality. Under the proposed 2016 Conditional Waiver, a comparison of existing management practice implementation to long-term monitoring data is what drives the requirement for additional or upgraded management practices (Appendix 3, Section 2.a.v.). Therefore, this additional pesticide use evaluation, which has proven to be uninformative, is no longer necessary within the structure of the 2016 Conditional Waiver. Furthermore, if this information is desired by the Regional Board, with the new requirement to submit maps in GIS format, LARWQCB staff will have available all necessary information to complete this analysis themselves.</p>	<p>The pesticide use evaluation assessment has provided useful information and since it relies on reporting required by other regulations of the Department of Pesticide Regulations, the Board finds that it is not burdensome.</p> <p>The Regional Water Board has found correlations between pesticide application and Water Quality Benchmark exceedances. For example, in the 2014-2015 Annual Monitoring Report and Water Quality Management Plan, Table 96 shows that chlorpyrifos was applied at all drainage areas in September, October, and/or November of 2014. In December 2014 there were two wet-weather sampling events. Monitoring results show that chlorpyrifos concentrations in samples exceeded water quality benchmarks at five out of eight sampling locations/drainage areas during these two events.</p> <p>Discharger Groups can use the pesticide use application data along with management practice information and water quality data by drainage area to inform additional or upgraded management practices, as well as to select potential individual discharge monitoring sites as part of a source investigation.</p> <p>While the Regional Water Board can complete this analysis, it is more appropriate for the Discharger Group to complete the analysis in order to prepare useful WQMPs that will guide the members' iterative management practice approach to attain Water Quality Benchmarks.</p>
-------------	---	--

	<p><i>Requested Action: Delete the pesticide use evaluation assessment requirement from Appendix 3, Section 2.a.iv.</i></p>	
<p>2.24</p>	<p><b>The specific direction given in regards to the timing of dry weather sampling will lead to inefficiency within the monitoring program, with no added benefit, and eliminate the comparability of the samples collected.</b></p> <p>The monitoring and reporting requirements provided in Appendix 3 under Section 1.a. Monitoring Frequency and Seasonality, instruct that, “dry season samples shall be collected after the majority of growers in the area draining to the monitoring site have applied pesticides or fertilizers and during the period where irrigation is required”. The VCAILG monitoring program has developed and been modified over the years to comply with the Conditional Waiver as well as TMDL monitoring requirements. VCAILG also coordinates its sampling efforts with the Calleguas Creek Watershed TMDL Monitoring Program, to the extent practicable; this maximizes comparability of the collected data, as the TMDL monitoring program includes receiving water sites as well as additional agricultural land use sites. Any attempts to differentiate the timing of sampling across monitoring sites unnecessarily eliminates the comparability of the samples that are collected and adds undue cost (multiple shipments and/or sample pickups, additional equipment calibrations and rentals, additional personnel time for prep and cleanup due to multiple events as compared to single region-wide efforts). The dry season is already defined as between May 15 and October 15. In coordination with TMDL monitoring efforts, dry weather monitoring occurs in May and August, annually. In looking at application trends for two currently used pesticides with water quality benchmarks, chlorpyrifos is typically applied in summer</p>	<p>The proposed monitoring and reporting requirements have been revised to remove the words “pesticides or” based on discussions with VCAILG. May and August are two months when irrigation is ongoing. May sampling also reflects spring fertilizer applications. Pesticide application occurs variably throughout the year, and the May and August dry-weather sampling events, as well as the wet-weather sampling events, should capture times when pesticides are applied.</p>

	<p>and winter. Diazinon applications are much fewer and occur at various times throughout the year. Fertilizer applications occur multiple times throughout the year for all crop types. Therefore, the current VCAILG strategy of dry weather monitoring in May and August not only achieves coordination with other monitoring programs, but the May event captures end of the rainy season impacts and spring applications of fertilizers and pesticides, whereas the August event represents summer inputs. The local climate necessitates irrigation throughout this entire period. It is therefore more appropriate to specify dry season sample timing in relation to the weather. The following recommended language corresponds to dry weather sampling requirements in the Calleguas Creek Watershed TMDLs and the QAPP for that program.</p> <p><i>Requested Action: Monitoring and Reporting Requirements Appendix 3, section 1.a, Monitoring Frequency and Seasonality, last sentence of the second paragraph, should be changed to the following:</i></p> <p><i>The dry season samples shall not be collected if there has been measurable precipitation in the sampling area during the previous 24 hours and shall not commence until stream gauge data has been reviewed to determine that flow rates have returned to pre-storm levels.</i></p>	
2.25	<p><b>Appendix 5, Water Quality Benchmarks Based Upon TMDL Load Allocations, incorrectly lists the McGrath Lake PCBs, Pesticides and Sediment Toxicity TMDL water column load allocation for total PCBs as 0.00007 µg/L.</b></p> <p>The final Basin Plan Amendment incorporating the TMDL for PCBs, Pesticides and Sediment Toxicity in McGrath Lake lists the total PCBs water column load allocation as 0.00017 µg/L.</p>	The requested change has been made.

	<p><i>Requested Action: Please revise Appendix 5 of the Conditional Agricultural Waiver to list the total PCBs water column load allocation as 0.00017 µg/L for the McGrath Lake TMDL, as it appears in the final Basin Plan Amendment.</i></p>	
2.26	<p><b>The certified nutrient management plan requirement for farmers in the Ventura River Watershed, as prescribed in Appendix 3 Monitoring and Reporting Requirements Section 2.b.ii., is inconsistent with the recommended implementation described in the Ventura River Algae TMDL.</b></p> <p>The Ventura River Algae TMDL specifies that, “all growers in the Ventura River watershed shall implement nutrient-related source control BMPs.” These best management practices (BMPs) will be required in the VCAILG Water Quality Management Plan (WQMP) and documented through the farm evaluation/survey, as required by the Conditional Waiver. Monitoring will then confirm whether the TMDL load allocations are being achieved or direct additional BMP implementation, if necessary. Additionally, the groundwater quality assessment will determine which areas within the watershed have nitrate issues. The added cost and burden for all growers in the watershed to have “certified nutrient management plans” before an assessment of whether the TMDL is being achieved and existing BMPs are effectively protecting surface and groundwater, is inappropriate. Rather, it is proposed that nutrient management plans only be required if the monitoring results and assessment of farm evaluation/survey results submitted in the first WQMP demonstrate they are needed to meet the TMDL by the compliance deadline or in areas where it is necessary to protect groundwater</p>	<p>The proposed waiver correctly interprets the Ventura River Algae TMDL implementation requirements by requiring certified nutrient management plans in the Ventura River watershed. Based on a review of the TMDL record, this was the intent of the implementation requirements. There are several options for meeting the requirements of a certified nutrient management plan in the proposed monitoring and reporting requirements, which provide flexibility and ease the burden on growers. Of note, the Staff Report presents the estimate of the cost of a nutrient management plan (NRCS Code 590) as \$76 per acre-year. And, as explained in response to comment No. 2.9, the Regional Water Board will continue to work with its partners to make funding assistance available to growers.</p> <p>In addition, the nutrient management plan requirements for the Ventura River watershed will protect surface water and groundwater as well as benefit the growers in the watershed. Nutrient management plans consider the nitrogen already available in soil and irrigation water, which allows a grower to plan for the appropriate amount of fertilizer to be applied to meet crop requirements. Such planning helps avoid over-application of nitrogen fertilizer that may lead to excess loss of nitrogen to groundwater and ultimately surface water, as well as avoid unnecessary fertilizer and irrigation costs for growers. The SBX2 1 Agricultural Expert Panel Report therefore recommended that all farmers engage in nutrient management planning to protect groundwater from nitrate impacts. The panel recommended that nutrient management</p>

	<p>quality per the groundwater quality assessment report.</p> <p><i>Requested Action: Modify the first bullet of Appendix 3 Monitoring and Reporting Requirements Section 2.b.ii. to state ,“For the Ventura River Algae TMDL, certified nutrient management plans may be required as part of the first VCAILG WQMP, if it is demonstrated they are necessary to meet the TMDL by the compliance deadline and where needed to protect groundwater.”</i></p>	<p>plans must be developed by a qualified consultant, employee or farmer with training in irrigation and nitrogen management. (Report, §4.3.1, 4.3.2.ii.)</p>
<p>2.27</p>	<p><b>The requirement to propose a representative site from existing sites to assess compliance with the Malibu Creek Nutrients and Sedimentation TMDL, as prescribed in Appendix 3 Monitoring and Reporting Requirements section 1.a., is unnecessary and inappropriate, and therefore should not be included.</b></p> <p>VCAILG membership includes only two landowners, farming under 100 acres of orchards, and approximately half a mile from the nearest waterbody (Hidden Valley Creek) in the Malibu Creek Watershed. The impacts of this agricultural acreage within the watershed are negligible. VCAILG monitoring sites were selected to capture and maximize agricultural drainage representation. Results from these sites will not be representative of the impacts from less than 100 acres of farmland and any additional monitoring specifically for these two operations would increase their membership costs substantially (accounting for site selection, sample collection, lab fees, data compilation and reporting, etc.). The Malibu Creek and Lagoon TMDL (July 2013) land use analysis shown below lists the agricultural acreage in the watershed in 2008 as 932 acres or 1.3% (this acreage has been declining). Therefore, VCAILG’s members within the Malibu Creek Watershed makes up 10.5% of the 1.3% agricultural acreage, or 0.14% of the watershed. It is important to note that the agriculture land use</p>	<p>The 2013 Malibu Creek TMDL assigns a load allocation to agriculture. Nonetheless, at the request of VCAILG, the Regional Water Board staff removed the requirement for a monitoring location in the Malibu Creek watershed prior to releasing the proposed waiver for public comment. Instead, the proposed waiver allows for compliance with the Malibu Creek TMDL to be based on an existing representative site selected by the Discharger Group subject to Executive Officer approval.</p> <p>The requested change to assess management practice effectiveness and attainment of load allocations solely based on survey responses will not ensure implementation of effective management practices and is not sufficient for compliance with this TMDL or the Nonpoint Source Policy.</p>

	<p>provided in the TMDL is not specific to irrigated agriculture, which is the only type covered by this Conditional Waiver program. Therefore, it is the recommendation of VCAILG that a review of the management practice survey/farm evaluation for those operations within the Malibu Creek Watershed to ensure implementation of nutrient management and sediment control BMPs is sufficient for compliance with this TMDL.</p> <p><i>Requested Action: Delete the requirement to propose representative sites from existing sites to assess compliance with the Malibu Creek Nutrients and Sedimentation TMDL from Appendix 3, section 1.a.</i></p>	
3.1	<p>The Tentative Order, as currently drafted, continues to be non compliant and inconsistent with State policy. The Tentative Order violates both the State Water Resources Control Board Policy for Implementation and Enforcement of Non-Point Source Pollution Control Program Source Policy (“Non Point Source Policy”) and California Water Code section 13269 as it fails to ensure that discharges of waste from agricultural lands are protective of beneficial uses of receiving waters and comply with Basin Plan Water Quality objectives within a time certain.</p>	<p>The proposed waiver is compliant with State policy as laid out in the Nonpoint Source Policy, including the requirements for waivers of waste discharge requirements and the key elements of a nonpoint source pollution control implementation program. The proposed waiver is also compliant with California Water Code section 13269 as it ensures that discharges of waste from agricultural lands are protective of beneficial uses of receiving waters and comply with water quality objectives within a time certain. It ensures this by including the following conditions: (1) a requirement to attain water quality benchmarks (WQBs), which are based on Basin Plan water quality objectives and TMDL load allocations; (2) time-certain deadlines for attaining WQBs; (3) management practice (MP) implementation requirements; (4) surface and groundwater monitoring to verify the effectiveness of MP implementation; and (5) processes for identifying and addressing situations where pollutant levels in discharges are not improving or meeting WQBs.</p>
3.2	<p>Generally, we disagree with the Regional Board’s finding (Page 11, paragraph 49 of the Tentative) that “continuation of similar activities and requirements under this Order [is] an appropriate approach for regulation of</p>	<p>Finding 49 of the Tentative Order follows other findings (e.g., Findings 11 and 47) detailing how the conditions of the proposed waiver expand on previous waivers, including more specific monitoring and reporting requirements for the</p>

	<p>discharges of waste from irrigated agriculture lands.” Our groups have outlined, below, many concerns regarding the adequacy of the Tentative Order in complying with State policy and in addressing the serious water quality impairments within the Region that continue to be caused by or contributed to by agricultural pollution. However, we also believe that to provide context, it is also important to list here at the forefront several key reasons in which the Region’s existing approach over the last 10 years has been critically flawed.</p>	<p>preparation of water quality management plans (WQMPs), requirements to verify the effectiveness of MPs in protecting groundwater quality, and the application of discharge limitations to discharges in watersheds where final deadlines for achieving TMDL-based WQBs have passed.</p> <p>Finding 49 of the Tentative Order will be revised to reflect the language in the staff report as follows, “At this time, the Regional Water Board finds the continuation of similar activities and requirements under this Order, <u>with some enhancements and additions to provide assurance that discharges from irrigated agricultural lands will be adequately managed to attain water quality objectives in receiving waters</u>, an appropriate approach for regulation of discharges of waste from irrigated agriculture lands.”</p> <p>In Finding 49, the Regional Water Board states that a conditional waiver is the appropriate vehicle for regulating discharges from irrigated agricultural lands. Numerous other findings in the Tentative Order (e.g., Findings 31, 33, and 36) speak to the conclusion that using a conditional waiver is appropriate and consistent with State policy.</p> <p>Please see responses to specific comments, which outline how the proposed waiver is consistent with the Basin Plan, other State policies, including the Nonpoint Source Policy, and the California Water Code.</p>
3.3	<p>Water Quality Remains Impaired – Despite 10 years of implementation of the Region’s Agricultural Waiver, water quality throughout the region remains significantly impaired by agricultural contaminants. Statistical trends are difficult to establish based on existing monitoring data. Existing data does show that water quality impairments</p>	<p>Implementation of the Conditional Waiver program over the last ten years has resulted in extensive water quality monitoring, ongoing grower education and outreach, and implementation of new and improved MPs, as documented in the Staff Report supporting the proposed waiver.</p>

	<p>continue broadly and may be worsening in some areas. Generally speaking, there is little evidence that the existing program has made meaningful progress in improving water quality or attaining water quality standards throughout the Region.</p>	<p>Many areas show improvements in water quality, and in some cases the improvements are statistically significant. However, the Regional Water Board agrees that water quality impairments continue and may be worsening in some areas (see sections 5.2 and 5.3 of the Staff Report).</p> <p>Therefore, the proposed waiver contains additional MP requirements and more specific monitoring and reporting requirements not included in previous waivers so that the Regional Water Board will be able to better assess the progress of the waiver. For example, the enhanced WQMP requirements in the proposed monitoring and reporting requirements (Appendices 1-3 of the Tentative Order) specify that MP data be organized by monitoring site, and that the data include, in addition to adoption rates, the degree of MP implementation (e.g., size of area treated), for each type of MP.</p> <p>The proposed waiver also includes a requirement that if a monitoring site does not show a decreasing trend in waste concentrations that exceed WQBs, then the Discharger Group shall investigate the sources of the waste concentrations that exceed WQBs, including some individual discharge monitoring.</p>
3.4	<p>Inability to Verify Management Practice [MP] Effectiveness – Despite having 10 years to collect data, Ventura County growers have been completely unable to verify the effectiveness of their management practices. A technical thesis sponsored by VCAILG itself analyzed 7 years of its cooperative monitoring program data and concluded, “Water quality and BMP implementation data collected and organized by VCAILG is currently insufficient in quantity to associate any potential reduction in total pollutant loading with grower action.” (Jorge et al., 2015.) In its most recent annual report, after 10-years of</p>	<p>The Regional Water Board agrees that the current WQMP approach, which is based on MP adoption rate data, is not adequate to verify MP effectiveness. Therefore, the proposed waiver contains more specific and detailed WQMP requirements that clarify what type of MP information needs to be collected, how the MP information must be reported, and the process for ensuring that growers implement additional MPs as necessary in order to attain WQBs within a reasonable timeframe.</p>

	<p>implementation, VCAILG could not identify predictive relationships between its BMP adoption rate data (the only BMP data gathered) and water quality data. (VCAILG, 2015.) The failure of VCAILG to provide any adequate verification monitoring or feedback mechanisms to ensure any meaningful progress toward achieving quantifiable reductions in pollutant discharges equates to non-compliance with state policy.</p>	
3.5	<p>Inability to Identify Pollution Sources – The existing Agricultural Waiver has relied heavily on the collection of receiving water data to characterize water quality and identify pollution sources. While receiving water data can be extremely helpful as a tool to prioritize follow-up monitoring, and though follow-up monitoring as needed is indeed a requirement of the existing Agricultural Waiver, follow-up monitoring has never been reported by VCAILG and presumably never been conducted. As a result, neither the Board, nor the cooperative monitoring group, nor (in many cases) the grower, can identify with any specificity where the pollution is coming from or whether the grower’s management practices are effectively reducing pollution and degradation.</p>	<p>This comment refers to the approach for Ventura County and the response will focus on the approach for Ventura County as well.</p> <p>The requirements for follow-up monitoring in the existing waiver were not specific enough to compel VCAILG to conduct follow-up monitoring. Therefore, the proposed waiver contains more explicit requirements that if a monitoring site does not show a decreasing trend in waste concentrations that exceed WQBs, then the Discharger Group must investigate the sources of the waste concentrations that exceed WQBs. The investigation must include some individual discharge monitoring of member sites that drain to the Discharger Group monitoring site based on an evaluation of relative locations, crop type, existing management practice implementation, pesticide application, fertilizer application, and irrigation practices of member sites.</p>
3.6	<p>Lack of Compliance – The Regional Board draws findings in this report with regard to compliance history based on enrollment status. After 10 years of implementation, enrollment has risen but remains somewhat lackluster with roughly 89% and 55% irrigated acreage coverage in Ventura and Los Angeles Counties respectively.</p> <p>However, compliance status cannot be measured through simple enrollment statistics alone. Rather compliance should also be assessed based on the degree of</p>	<p>The Regional Water Board agrees in part with much of the analysis in Appendix A to this comment letter regarding the degree of implementation of existing waiver requirements, but does not agree that the compliance with existing waiver requirements has been a complete failure.</p> <p>a. Regarding the requirement for an identification of likely waste sources, the VCAILG WQMPs provide a discussion of expected waste sources and an analysis of possible correlations, such as seasonality. However, the analysis</p>

<p>implementation of the Agricultural Waiver's actual requirements, including its monitoring and reporting requirements. A careful analysis (Appendix A) of VCAILG implementation and reporting indicates that growers have in fact been woefully non-compliant with existing Waiver requirements. Failures to meaningfully comply with existing requirements include:</p> <ul style="list-style-type: none"> <li>a. Failure to identify waste sources with any specificity whatsoever;</li> <li>b. Failure to conduct follow-up monitoring;</li> <li>c. Failure to describe, with any specificity whatsoever, updated management practices to be implemented;</li> <li>d. Failure to propose management practices based on a quantitative assessment of practice performance and expected attainment of Water Quality Benchmarks;</li> <li>e. Failure to address groundwater quality in implementation plan;</li> <li>f. Failure to provide a time-certain schedule and strategy for implementation of new management practices; and</li> <li>g. Failure to track effectiveness of management practices.</li> </ul>	<p>of correlations between growing activities and water quality results lacks sufficient detail.</p> <ul style="list-style-type: none"> <li>b. Regarding the requirement for follow-up monitoring, the previous waiver required this at the discretion of the Discharger.</li> <li>c. Regarding the requirement for a description of updated management practices to be implemented, the VCAILG WQMPs provide a general description and location of MPs to be implemented.</li> <li>d. Regarding the requirement to propose MPs based on a quantitative assessment of practice performance and expected attainment of WQBs, the VCAILG WQMPs include a description of some MPs, outreach efforts, and ongoing research into the effectiveness of MPs. However, a quantitative assessment of MP performance and expected attainment of benchmarks is not provided.</li> <li>e. Regarding groundwater quality requirements, the previous waiver required proposed MPs to consider the protection of both surface and groundwater quality. The VCAILG WQMPs include education and outreach regarding fertilizer and irrigation management MPs.</li> <li>f. Regarding the requirement to provide a time-certain schedule and strategy for the implementation of new and/or revised management practices, the VCAILG WQMPs include a timeline and a clear strategy that applies an iterative process to assess impairments, implement MPs, assess MP effectiveness, and then reassess impairments again. However, the WQMPs lack detail on how the strategy will be implemented.</li> <li>g. Regarding the requirement to track MP effectiveness, The VCAILG WQMPs demonstrated that growers are implementing MPs, actively participating in education events, and taking advantage of funding opportunities to assist with MP implementation. However, under the current MP reporting approach, it is not possible to correlate MP implementation with water quality data.</li> </ul>
--	---

		<p>The expression of some of the conditions of the previous waiver resulted in flexibility in interpretation of the requirements. To eliminate ambiguity with regard to the conditions of the waiver in the future, the proposed waiver has more specific, enforceable requirements than in previous waivers.</p> <p>To clarify the enrollment status in the Los Angeles Region, enrollment is not lackluster and is consistent with the enrollment status in other regions in the state with established irrigated lands regulatory programs. According to the Irrigated Lands Regulatory Program 2014-15 Performance Report, in the Central Valley Region, 85% of the eligible operations and 89% of the eligible acreage is enrolled, while in the Central Coast Region, 59% of the eligible operations and 96% of the eligible acreage is enrolled. In comparison, in the Los Angeles Region, 72% of the eligible operations and 84% of the eligible acreage is enrolled (Los Angeles and Ventura County combined)</p>
3.7	<p>The Agricultural Waiver does not adhere to Water Code section 13269 and the Nonpoint Source Policy because it is inconsistent with the Basin Plan and does not address nonpoint source pollution in a manner that achieves and maintains water quality objectives and beneficial uses within a specific time schedule.</p> <p>While the Tentative Agricultural Waiver does properly and appropriately require compliance with TMDLs within a time certain, it fails to require grower compliance in Ventura County with the Basin Plan water quality objectives for non-TMDL constituents in receiving waters impaired by agricultural discharges, and fails to include a specific time schedule for such compliance. As a result, the Tentative Agricultural Waiver impermissibly and</p>	<p>The Nonpoint Source Policy requires that, before approving or endorsing a specific nonpoint source pollution control implementation program, a regional board must determine that there is a high likelihood the implementation program will attain the regional board's water quality objectives. Specifically, the Nonpoint Source Policy requires that, where a regional board determines it is necessary to allow time to achieve water quality requirements, the nonpoint source control implementation program shall include a specific time schedule, and corresponding quantifiable milestones designed to measure progress toward reaching the specified requirements (Nonpoint Source Policy Key Element 3).</p> <p>The proposed waiver meets this specific requirement by requiring Discharger Groups in Ventura County, for group</p>

illegally leaves the following waterways and receiving waters in Ventura County subject to continuing impairments caused by agricultural discharges without assurance that agricultural dischargers will be required to cease causing or contributing to their impaired condition within a time certain:

- 1) Clean Water Act 303(d) impaired waterways for which a TMDL has not been promulgated;
- 2) Waterways the State Board and Regional Board are currently considering for 303(d) listings based on data submitted by Ventura Coastkeeper, Santa Barbara Channelkeeper, and others;
- 3) Waterways/receiving waters that demonstrate exceedances of Basin Plan Water quality objectives and impairments due to discharges of wastes from agricultural fields as demonstrated by 10 years of grower data submitted to the Regional Board via Agricultural Waiver reporting requirements.

Our public interest coalition thus requests, *for all non-TMDL-associated benchmark exceedances detected at representative monitoring sites without a significantly declining trend, that growers shall be subject to discharge limitations at the point of discharge for their individual irrigated land equal to Water Quality Benchmarks from one year from the detection of the Water Quality Benchmark. In addition, once a discharge from the individual irrigated agricultural land is subject to a discharge limitation, the Agricultural Waiver should require that individual monitoring be equivalent to the requirements set forth in Appendix 3, Section 1.c.*

monitoring sites that show exceedances of Water Quality Benchmarks, to prepare a time-certain schedule for implementation of additional/upgraded management practices to attain Water Quality Benchmarks in ten years. In addition, the proposed waiver requires milestones to measure progress towards this goal by requiring Discharger Groups to conduct a source investigation, including individual discharge monitoring, for group monitoring sites that do not show decreasing trends in the concentrations of constituents that exceed Water Quality Benchmarks.

These requirements apply for all Water Quality Benchmarks and all waterbodies.

In addition, in watersheds subject to TMDLs, the proposed waiver requires discharge limitations for individual dischargers if TMDL-associated Water Quality Benchmarks are not attained at the Discharger Group monitoring sites by the deadlines contained in the Tentative Order.

This proposed approach addresses Key Element 3 of the Nonpoint Source Policy by (1) requiring Discharger Groups to propose a specific time schedule with a goal of ten years to attain all Water Quality Benchmarks in all waterbodies, (2) specifying the approach for Discharger Groups to measure progress toward reaching that goal, and (3) prioritizing TMDL watersheds by including numeric discharge limitations applicable to individual dischargers where WQBs have not been achieved by the TMDL final deadline.

This request is also supported by the Tentative Order Appendix 2 section 2.d. providing that for Los Angeles County.

For Discharger Group representative monitoring sites with Water Quality Benchmark exceedances that do not show decreasing trends in concentrations [of the constituent for which there was a Water Quality Benchmark exceedance], or for which a deadline in Table 3 has passed, the representative monitoring sites shall be subject to discharge limitations equal to Water Quality Benchmarks at the points of discharge from the deadline forward... If individual irrigated agricultural lands represented by the Discharger Group monitoring sites are not attaining Water Quality Benchmarks based on one year of sampling (one wet-weather event and one dry-weather event), then these individual sites shall have an additional year before they are subject to discharge limitations equal to Water Quality Benchmarks at the points of discharge.

We see no reason, and the Regional Board provides no justification, as to why waterways in Los Angeles County would be provided with this necessary protection from polluted agricultural discharges, while Ventura County waterways would not.

Accordingly and in addition, the Water Quality Management Plan requirements in Appendix 3 Section 2.b.iii. must also be modified to provide that each monitoring site from individual irrigated agricultural lands shall provide a time-certain schedule for implementation of additional or upgraded management practices designed to attain Water Quality Benchmarks within one

In Los Angeles County, where agriculture is dispersed and interspersed with other land uses, the proposed monitoring program is different from Ventura County. While in Ventura County the Discharger Group employs group monitoring sites in receiving waters collecting runoff from multiple farms, this is not possible for the scattered farms and nurseries in Los Angeles County. Instead, the Discharger Group in Los Angeles County employs edge-of-field monitoring at representative sites. The discharge quality measured at a representative monitoring site is assumed to be the same as the discharge quality at other sites with the same size, crop type, and location.

The process for measuring progress toward achieving Water Quality Benchmarks reflects the different monitoring approaches in Los Angeles and Ventura Counties. In Ventura County, if there are no decreasing trends at a group monitoring site, then the Discharger Group must conduct an investigation, including some edge-of-field individual monitoring to determine the source(s) of the waste. In Los Angeles County, if there is no decreasing trend at a representative monitoring site, which is already an edge-of-field site, then there is no need for a follow up investigation - discharge limitations immediately apply at the representative site, and the sites that are represented by the representative site have one year before they are subject to discharge limitations. The Tentative Order and Staff Report for the proposed waiver provide the justification for the different approaches for monitoring and reporting in Ventura County and Los Angeles County.

The commenters' proposal to require that individual dischargers provide individual schedules for implementation of their additional/upgraded management practices is more suited to the individual discharger alternative for complying

	<p>year from the date of the Water Quality Benchmark exceedance, or by the TMDL Associated Water Quality Benchmark Compliance Deadline, if such deadline is in place. The Water Quality Management Plan in Appendix 2 Section 2.b.ii. should also similarly be updated to help provide assurances that Water Quality Benchmarks will be met by Los Angeles County growers.</p>	<p>with the waiver. Under the Discharger Group compliance alternative, Discharger Groups must prepare a time-certain schedule for represented members to implement additional/upgraded management practices for each monitoring site that exceeds WQBs.</p>
<p>3.8</p>	<p>The Agricultural Waiver does not adhere to Water Code section 13269 and the Nonpoint Source Policy because it fails to require the implementation of BMPs that are designed to ensure achievement of Water Quality Benchmarks and Basin Plan water quality objectives. The Nonpoint Source Policy provides that the Agricultural Waiver “must address nonpoint source pollution in a manner that achieves and maintains water quality objectives and beneficial uses,” and “must describe the practices to be implemented and processes to be used to select and verify proper implementation of practices.”</p> <p>While the Nonpoint Source Policy provides that the Agricultural Waiver must require the Discharger or Discharger Group to identify and implement effective management practices to attain Basin Plan water quality objectives and to resolve water quality impairments, the Tentative Agricultural Waiver and its Water Quality Management Plan entirely omit requirements to ensure adoption of management practices at individual farms actually designed and engineered to attain Basin Plan Water Quality Objectives. This does not support a conclusion that the Waiver will ensure discharges from agricultural lands will comply with Basin Plan Water Quality Objectives to arrest the continued degradation of water in Ventura and Los Angeles counties.</p>	<p>Key Element 1 of the Nonpoint Source Policy states, “Implementation programs 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.”</p> <p>Key Element 2 of the Nonpoint Source Policy states, “An NPS control implementation program shall include a description of the MPs and other program elements that are expected to be implemented to ensure attainment of the implementation program’s stated purpose(s), the process to be used to select or develop MPs, and the process to be used to ensure and verify proper MP implementation.”</p> <p>The proposed waiver addresses Key Element 1 and 2 through a schedule of management practice implementation, assessment, and adaptive management. For the Discharger Group compliance alternative, this is achieved by having specific requirements for both the Discharger Group and members of the Discharger Group to ensure that management practices are selected and implemented to achieve water quality objectives.</p> <p>The proposed waiver contains more specific WQMP requirements than in previous waivers for the selection of management practices based on the type of Water Quality Benchmark exceedance. For example, for exceedances of Water Quality Benchmarks for nutrients, the WQMP must</p>

	<p>Accordingly, the WQMP requirements in Appendix 2 and 3 Section 2.b. must provide that if Water Quality Benchmarks have not been attained, then management practices addressing polluted discharges from agricultural lands <i>must be designed and engineered to attain Basin Plan water quality objectives, and that such design must be supported by an accompanying reasonable assurance analysis</i> as evidence that Basin Plan water quality objectives will in fact be attained. Furthermore, the WQMP requirements in Appendix 2 and 3 Section 2.b. must specify that when exceedances Water Quality Benchmarks are detected at the point of discharge from individual agricultural lands, that a WQMP must be prepared for the individual agricultural site and submitted with the VCALIG annual report.</p>	<p>specify the following types of management practices:</p> <ul style="list-style-type: none"> <li>• Improved irrigation efficiency to reduce runoff</li> <li>• Certified nutrient management plans</li> <li>• Treatment systems or control systems to remove nitrogen from discharges</li> </ul> <p>The proposed waiver also contains specific requirements for the Discharger Group to communicate to growers the need to implement additional or upgraded management practices, and enforceable requirements for members of the Discharger Group to implement the management practices as set forth in the WQMP.</p> <p>Reasonable assurance plans at individual farms are not needed at this time to ensure that management practices are selected and implemented to achieve water quality objectives. Instead, the proposed waiver specifies the MP category types that must be implemented for a given Water Quality Benchmark exceedance type. In including these specifications, the Regional Water Board is relying on extensive technical/scientific investigations demonstrating the effectiveness of the various MP categories at addressing WQBs exceedance type.</p>
3.9	<p>The requirements are inadequate to ensure protection of groundwater. The Tentative contains certain provisions designed to protect groundwater from contamination. The primary relevant provisions include the requirement to analyze existing groundwater monitoring data and the requirement to conduct a study to correlate management practices implemented on the land surface with the effect of those activities on underlying groundwater quality. An additional provision requires the development of a “certified” nutrient management plan for growers in watersheds that exceed [surface] Water Quality Benchmarks for nitrate.</p>	<p>The proposed waiver requirements are adequate to ensure protection of groundwater. The proposed waiver requires that all dischargers, regardless of location or groundwater quality in basins below, must implement MPs that minimize excess nutrient application relative to crop need in order to protect designated beneficial uses of waters of the state within the Los Angeles Region, which include groundwaters. The Tentative Order has been revised to clarify that crop-specific applied/removed ratios for nitrogen shall be considered as part of these MPs.</p>

	<p>We support the requirement for growers to develop certified nutrient management plans. However, we note that surface water exceedances may not always completely align with areas or occurrences of excessive loading to groundwater. Additionally, the existing monitoring site network is not adequate to thoroughly characterize groundwater loading due both to lack of adequate distribution of monitoring sites as well as lack of samples due to ephemeral stream flows. We encourage the Regional Board to <i>additionally require certified nutrient management plans for all growers overlying ground water basins with known monitoring wells that exceed drinking water standards</i>. This additional requirement would ensure that adequate nutrient management planning is occurring in all areas where it is most needed.</p> <p>For obvious reasons, we strongly recommend that all requirements for development of certified nutrient management plans be <i>amended to clarify that both development and “implementation” of such plans is required</i>.</p>	<p>Additionally, certified nutrient management plans are required in areas with WQB exceedances in surface waters and in the entire Ventura River watershed. Collectively, these areas cover large portions of Ventura County. And, while surface water exceedances may not always completely align with areas or occurrences of excessive loading to groundwater, they are a good indicator, as irrigation and fertilizer practices that would result in WQB exceedances in surface water would also likely result in impacts to groundwater.</p> <p>The Tentative Order already contains a requirement that certified nutrient management plans be implemented. Specific Provisions for Discharger Groups No. 13 states, “Members of the Discharger Group shall implement the management practices as set forth in the WQMP according to the time schedule in the WQMP in order to attain Water Quality Benchmarks.”</p>
3.10	<p>To help verify that growers are in fact implementing adequate BMPs with regard to nutrient management, we ask the Regional Board to <i>additionally require nitrogen application reporting</i> for growers, which should include an assessment of nitrogen content in the soil, nitrogen concentrations of irrigation water, nitrogen applied, and a valid estimation of nitrogen removed. Similar reporting is already required in other Regions to varying degrees including Region 3 and in the East San Joaquin portion of Region 5 where all growers must report both applied and removed nitrogen. Such reporting requirements are among the most cost effective methods to help growers verify their nutrient management practices. We note that</p>	<p>A certified nutrient management plan would by nature include the applied/removed ratio for nitrogen applicable to the site-specific conditions and crop type for the farm where the plan is required. Clarification has been added to the Tentative Order’s Appendices that the certified nutrient management plan include crop-specific applied/removed ratios for nitrogen.</p> <p>The Regional Water Board may require reporting of nitrogen application or nitrogen applied/removed ratios, if needed, pursuant to its authority under Water Code section 13267 once the State Water Board issues its final order on the petition of the Central Valley Region’s East San Joaquin WDRs.</p>

	<p>where these measures have been applied, alarming patterns of over-application have been revealed (CCRWQCB, 2016).</p>	
<p>3.11</p>	<p>AB685 requires state agencies to consider the human right to water when “revising, adopting, or establishing policies, regulations, and grant criteria” that impact water used for domestic purposes. To fully protect public health, including the health of farm workers and families, we also request that the Regional Board <i>require sampling of all wells operated by farmers in basins with known wells that exceed drinking water standards, where such wells are used to supply drinking water for farm workers or private domestic households.</i> This sampling should be initiated within one year of adoption of the Tentative Waiver, and is needed to ensure programmatic consistency with the State’s adoption of Assembly Bill 685, which recognizes that “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.” From details provided by the County of Ventura to our public interest coalition and the Regional Board, it is our understanding that water quality testing to allow the permitting of new wells was not conducted in contaminated groundwater basins prior to 1992 and thus that Ventura County only has record of well inspections for domestic well applications permitted since 1992; that even for the wells permitted during or after 1992, if a groundwater basin since became contaminated for nitrate or other constituents, that well water quality monitoring was not required or provided to the County; and that some farms could be operating wells and providing drinking water to farm workers from wells without having tested the well water for contaminants.</p>	<p>Water Code section 106.3 does not apply to waivers or WDRs. The State Water Board recently adopted the human right to water as a core value and encouraged the regional boards to consider this fundamental right in all activities that could affect sources of drinking water. (Resolution 2016-0010.) Finding 45 of the Tentative Order states, “In adopting this order, the Regional Water Board has considered Water Code Section 106.3, which states that that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order requires dischargers to implement management practices to meet surface water and groundwater water quality objectives intended to protect water for municipal and domestic uses.”</p> <p>According to information provided by Ventura County Environmental Health Division and the Division of Drinking Water, there are three types of drinking water systems in Ventura County: public systems (greater than 14 connections), state small systems (5 to 14 connections), and individual systems (1-4 connections). Public systems and state small systems are regularly monitored by the State and Ventura County. For individual wells, Ventura County requires monitoring before well installation and, if monitoring data show exceedances of drinking water standards, then the County does not certify the wells. However, certified wells are not required to be monitored again after installation. It is the Regional Water Board’s understanding that this pre-installation monitoring began prior to the 1990s, but that the County only has records of wells installed since the 1990s. There are 266 records. The Regional Water Board will</p>

		<p>continue to work with Ventura County to protect drinking water in individual supply wells.</p> <p>A provision has been added to the proposed Conditional Waiver stating that the Executive Officer will issue Water Code section 13267 orders within two years to Individual Dischargers that will require direct sampling of all supply wells on the Discharger's irrigated agricultural lands that provide drinking water; and will require the Discharger to notify the well users of any exceedances of drinking water standards, or report the information to Ventura County so that the County can notify the well users.</p>
3.12	<p><i>Finally, we do not support the allowance of self-certification of nutrient management plans by Members who attend a California Department of Food and Agriculture or other Executive Officer approved training program for nutrient plan certification. Unless the Regional Board plans to review such plans as they are submitted, mere attendance of a training program does not provide adequate assurance that generated plans adhere to approved nutrient management protocols.</i></p>	<p>The option for self-certification of nutrient management plans has been removed.</p>
3.13	<p>The requirements for individual enrollees must mirror or be more stringent than requirements for Discharger Groups.</p> <p>The Tentative provides less stringent monitoring and reporting, best management practice planning and implementation, and compliance requirements for Individual enrollees. Not only does this run afoul of Water Code section 13269 and the Nonpoint Source Policy for failing to be consistent with any applicable water quality control plans and failing to address nonpoint source pollution in a manner that achieves and maintains water</p>	<p>The requested changes and clarifications have been made.</p>

quality objectives and beneficial uses, but it provides incentives for individual growers to not participate in or to be intentionally kicked out of discharger groups. Such incentives could thus undermine the entire Waiver and its ability to ensure compliance with the Nonpoint Source Policy and Water Code Section 13269. Therefore, the mechanisms for Agricultural Waiver compliance for individual discharges must be just as stringent as the requirements in Appendix 2, which would require:

For Water Quality Benchmark exceedances from individual irrigated lands that do not show decreasing trends in concentrations of the constituent for which there was a Water Quality Benchmark exceedance, or for which a deadline in Table 3 has passed, the monitoring sites from the individual irrigated lands shall be subject to discharge limitations equal to Water Quality Benchmarks at the points of discharge from the deadline forward. If individual irrigated agricultural lands are not attaining Water Quality Benchmarks based on one year of sampling (two wet-weather events and two dry-weather events, then these individual sites shall have an additional year before they are subject to discharge limitations equal to Water Quality Benchmarks at the points of discharge.

Furthermore, Appendix 1 must be modified to clarify that all individual enrollees must conduct monitoring and sampling directly from the dry and wet weather discharges from their individual irrigated agricultural lands.

To ensure group enrollment and the lowest cost for group implementation is achieved, to ensure the Agricultural

	<p>Waiver functions in a manner consistent with the Basin Plan, to achieve and determine compliance with Water Quality Objectives, and to best ensure the Agricultural Waiver is enforceable, the Regional Board must make these modifications.</p>	
<p>3.14</p>	<p>The Agricultural Waiver’s Findings Must Discuss, Disclose, and Document the Lack of Improvement in Water Quality Discharged from Agricultural Lands under previous Orders No. R4-2005-0080 and R4-2010-0186.</p> <p>Finding 49 of the Tentative Order (page 11) fails to discuss, disclose, and document the Lack of Improvement in Water Quality Discharged from Agricultural Lands under previous Orders No. R4-2005-0080 and R4-2010-0186 as documented by Discharger Group data submitted to the Regional Board over the last 10 years, a VCAILG sponsored study through the Bren School of Environmental Science and Management (Jorge et al. 2015), and the Staff Report for the Tentative.</p> <p>For instance, the Staff Report to this Tentative provides this finding, which is not reflected or mentioned in findings within the text of the Waiver:</p> <p style="padding-left: 40px;">In the Calleguas Creek and Santa Clara River Watersheds, Water Quality Benchmark exceedances are reported consistently for organochlorine pesticides<sup>4</sup>, organophosphate pesticides (chlorpyrifos and diazinon), and nitrogen.</p> <p>Incorporating these and similar findings into the Tentative Order is necessary to reflect the actual effectiveness and shortcomings of previous Agricultural Waivers, and to support the requirements in the Tentative Agricultural</p>	<p>Finding No. 6 in the Tentative Order already summarizes the analysis of the water quality data collected under the first two terms of the conditional waiver. Finding No. 6 states, “Annual monitoring reports, submitted during the first and second term of the conditional waiver of waste discharge requirements adopted by Order No. R4-2005-0080 and Order No. 2010-0186, have documented water quality that exceeds Water Quality Benchmarks in receiving waters (agriculture drains and tributaries) and edge-of-field monitoring sites. Water Quality Benchmark exceedances have been documented in every monitored watershed within the Los Angeles Region. Two categories of wastes frequently reported in agricultural discharges that impair waters of the state in the Los Angeles Region are pesticides and biostimulatory substances (e.g., nitrogen).”</p> <p>In response to this comment, additional language has been added to the end of Finding No. 6 in the Tentative Order as follows, “Analysis of the data demonstrates some decreasing trends in waste concentrations, and several instances of specific monitoring sites attaining Water Quality Benchmarks. However, there are also many instances where there has been little change in water quality and waste concentrations are still well above Water Quality Benchmarks. In some rare cases, trends in waste concentrations appear to be increasing.”</p> <p>Further a new finding has been added after Finding No. 5 as follows, “The Regional Water Board has established this Conditional Waiver, including the specific requirements</p>

	<p>Waiver.</p>	<p>herein, based on data and information submitted through the Dischargers' past annual monitoring reports, water quality management plans, and other available information. A Staff Report has been prepared to explain the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing this Order. The Regional Water Board has considered the Staff Report in setting the requirements of this Order.”</p>
<p>3.15</p>	<p>Declaration of Non-Dry Weather Discharges</p> <p>Appendix 3 Section 1.a.) Individual Discharge Monitoring Requirements provides:</p> <p style="padding-left: 40px;">Dry-weather monitoring must be conducted during an irrigation event on the portion of the site draining to the monitoring point. If there is no runoff at the monitoring point, then the observation of no runoff shall be documented in the field data sheet.</p> <p>If no runoff occurs at the monitoring point during the sampling event, but the grower believes that the operation does at times discharge during dry weather, then arrangements should be made to reschedule sampling for another time at which runoff is expected to occur. It is not adequate to merely document observation of no runoff, as conditions can clearly be manipulated to produce the desired results during sampling. If no runoff is observed at the monitoring point during sampling, and the grower believes that the operation does not in fact ever produce runoff, then the grower should sign a “Declaration of Non-Dry Weather Discharge”, for certification and submittal to the Regional Board. Such a declaration could be used by the Regional Board and verified during inspections for compliance purposes.</p>	<p>Section 3 of the monitoring and reporting requirements in Appendix 3 requires that a perjury statement accompany each monitoring report. This applies to both Discharger Group monitoring and individual discharge monitoring reports.</p>

3.16	<p>The Agricultural Waiver must ensure that Discharger Groups and individual enrollees report changes in operators. The Tentative provides that Discharger Groups eligible for coverage under this Order shall:</p> <p style="padding-left: 40px;">File an NOI within six months after this Order is adopted by the Regional Water Board. The NOI shall include a participant list that identifies the Dischargers participating in the group. The participant list shall include: (1) assessor parcel number, 2) parcel owner and operator name, (3) parcel size, (4) parcel watershed, and (5) parcel owner and operator mailing address. The NOI shall also include the billing address for the Group; general site information for group participants; and descriptions of water supplies used by group participants, types of discharges, types of crops, types of pesticides and application practices, irrigation practices, and other management practices.</p> <p>However, the Tentative fails to require that Dischargers Groups or Individual Enrollees update the Regional Board with an amended participant list when new operators commence farming on agricultural land. Without such accountability, it appears that the procedures and mechanisms in the Agricultural Waiver will not operate as intended and needed in order to ensure the Waiver is consistent with and adheres to Water Code section 13269 and the Nonpoint Source Policy. Thus, <i>the Agricultural Wavier must require that Dischargers Groups or Individual Enrollees update the Regional Board with an amended participant list both before new operators commence farming on agricultural land and in their Annual Reports.</i></p>	<p>The Discharger Group monitoring and reporting requirements in Appendices 2 and 3 require an updated membership list as part of the annual report.</p>
------	--	--

3.17	<p>The Agricultural Waiver must enhance its monitoring requirements.</p> <p>The Monitoring requirements in the Tentative provide that lab closures on weekends and holidays could excuse a discharger or discharger group from sampling during the wet season. This “practical constraint” should be removed, as it could frustrate implementation and compliance with the Agricultural Waiver and many Los Angeles/Ventura region labs are open, or make themselves open, to receive samples on weekends such as Weck Laboratories in the City of Industry.</p>	<p>The practical constraints outlined in the monitoring and reporting requirements in Appendices 1-3 are fairly standard and they have not precluded wet-weather sampling over the previous two waiver terms.</p>
3.18	<p>Prohibition on Clearing Riparian Buffer Vegetation.</p> <p>Vegetated buffers between receiving waters and agricultural fields have been demonstrated to provide essential water quality and habitat protections for rivers and streams. They can also provide essential habitat needed to support ecologically related riparian beneficial uses. This public interest coalition thus requests that the Agricultural Waiver include a prohibition on clearing existing vegetated buffer and riparian vegetation. Such a best management practice and prohibition is needed to ensure compliance with the Basin Plan and its Water Quality Objectives.</p>	<p>The proposed waiver does not prescribe vegetated buffers but does specify categories of MPs that shall be implemented to address Water Quality Benchmark exceedances, including practices to reduce sediment in runoff and stormwater runoff filtration and/or infiltration. These categories of MPs include vegetated buffers or other MPs that provide equivalent water quality protection.</p>
3.19	<p>Necessary Monitoring for Los Angeles County</p> <p>Appendix 2, page 2, section 1.) Monitoring Frequency and Seasonality, provides that:  The frequency of monitoring shall be twice yearly: once during the dry season and once during the wet season.</p> <p>This omits requirement to monitoring samples twice during the wet season and twice during the dry season as</p>	<p>Water Code section 13269 and the Nonpoint Source Policy do not specify a monitoring frequency.</p> <p>Monitoring in Los Angeles County is less frequent than in Ventura County because of the different monitoring approaches, as discussed in response to comment No. 3.6. With the edge-of-field monitoring in Los Angeles County, there is less variability that needs to be addressed with more frequent monitoring. The monitoring approach and frequency in Los Angeles County is consistent with the NPS Policy Key</p>

	<p>required in Appendix 3 and as necessary to determine whether the monitoring sites are meeting Water Quality Benchmarks. The sentence should thus be amended as follows to adhere to Water Code section 13269 and the Nonpoint Source Policy: The frequency of monitoring shall be four times yearly: twice during the dry season and twice during the wet season.</p> <p>TMDLs for Los Angeles County waterways subject to this exceptionally limited and insufficient monitoring regime include portions of the Santa Clara River in Los Angeles County and Malibu Creek. The Santa Clara River is home to over 17 native and endangered species, is Southern California's last relatively undisturbed free flowing river, and both the Santa Clara and its Estuary are impaired for nitrate / nitrogen and experience oxygen starved conditions that create unsuitable habitat for aquatic life and the endangered Southern California Steelhead. In addition, the Malibu Creek watershed is also ecologically significant, and sufficient monitoring for Total Nitrate and Total Phosphorous discharged from agricultural land is needed to ensure the survival and recovery of the endangered Southern California Steelhead in the watershed. Furthermore, equivalent monitoring as set forth in Appendix 3 is needed for the Santa Clara River monitoring locations, as there is no rational basis for the monitoring from agricultural fields discharging to the Santa Clara River in Los Angeles County to be less frequent and thorough than the monitoring from agricultural fields discharging to the Santa Clara River Estuary.</p>	<p>Element 4 that the program includes appropriate monitoring to determine whether the program is on track in achieving its goals. Monitoring data in Los Angeles County demonstrate that Water Quality Benchmarks are not being attained. Therefore, Discharger Groups in Los Angeles County must focus resources on management practice implementation in order to achieve the program goals.</p> <p>Monitoring data collected from irrigated agricultural lands in the Malibu Creek watershed show no water quality benchmark exceedances in dry weather and two toxicity exceedances in 2007 and 2008 in wet weather. There is currently no monitoring conducted in the Los Angeles County portion of the Santa Clara River watershed, but there are only a few locations of irrigated agriculture in those areas. The Los Angeles County Discharger Group will need to add Santa Clara River watershed sampling sites to account for new Los Angeles County growers in the Santa Clara River Watershed.</p>
3.20	<p>Additional Suggested Clarifications</p> <p>Appendix 2 MRP Section 2.a.), Water Quality Management Plan, Proposed Additional or Upgraded Management Practices provides that:</p>	<p>The suggested clarification is appreciated, but the reference to section 2.a.v. in this clause should make it clear that additional or upgraded management practices are only needed if the analysis shows Water Quality Benchmarks are not attained.</p>

	<p>“Based on the analysis completed under section 2.a.v., for each monitoring site provide:”</p> <p>This clause should be clarified to provide:</p> <p>“Based on the analysis completed under section 2.a.v., “if Water Quality Benchmarks have not been attained” for each monitoring site provide:”</p>	
3.21	<p>Necessary Correction of Inadvertent Errors</p> <p>Section F. Paragraph 3 of the Tentative provides:</p> <p>If TMDL-associated Water Quality Benchmarks are not attained by the deadlines in Table 2, then the Regional Water Board may impose additional requirements on discharges, which may include requiring Dischargers to comply with discharge limitations. Thereafter, Dischargers would be required to demonstrate compliance with discharge limitations, using individual discharge monitoring as described in Section 2.d of Appendix 2 or 3.</p> <p>As consistent with the requirements in Appendix 2 and 3, and the intent of the Tentative as expressed in the Tentative Order’s purpose, paragraph 31 in the Legal and Regulatory Considerations section of the Tentative Order, paragraph 47 and 48 in the Rational for Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands section of the Tentative Order, and by Regional Board Staff to this Public Interest Coalition, Section F. Paragraph 3 should be modified as follows to ensure the Agricultural Waiver is consistent with and adheres to Water Code section 13269 and the Nonpoint Source Policy:</p>	<p>The paragraph of the Tentative Order has been revised to read, “If TMDL-associated Water Quality Benchmarks are not attained by the deadlines in Table 2, then <del>the Regional Water Board may impose additional requirements on discharges, which may include requiring Dischargers shall to</del> comply with discharge limitations. <del>Thereafter, Dischargers would be required to demonstrate compliance with discharge limitations,</del> using individual discharge monitoring as described in Section 2.d of Appendix 2 or 3.”</p>

	<p>If TMDL-associated Water Quality Benchmarks are not attained by the deadlines in Table 2, then the Regional Water Board will impose additional requirements on discharges, which will include requiring Dischargers to comply with discharge limitations. Thereafter, Dischargers would be required to demonstrate compliance with discharge limitations, using individual discharge monitoring as described in Section 2.d of Appendix 2 or 3.</p>	
4.1	<p>The Nursery Growers Association (NGA), Los Angeles Irrigated Lands Group (LAILG) appreciates the opportunity to review and comment on the proposed renewal of Order No. R4-2015-0202 (Conditional Waiver). The NGA is a non-profit association chartered in the late 1950s to foster and encourage the growth and development of quality nursery stock and to promote all matters that pertain to the best interests of wholesale nursery growers. NGA developed the LAILG for compliance with the original Conditional Waiver in 2005, primarily for growers located in and around Los Angeles. Since that time LAILG has been actively monitoring runoff at nurseries, reporting, and implementing Water Quality Management Plans (WQMPs) to address reported exceedances. LAILG currently represents approximately 274 growing operations covering an estimated 4,558 total acres (1,942 irrigated acres) within or around Los Angeles County, including urban growers within the city.</p> <p>NGA is generally supportive of the contents and structure of the Conditional Waiver as currently written.</p>	<p>Comment noted.</p>
4.2	<p>General Order, D.15, page 20</p> <p>Please make clear that digital documents and/or access to a web based database of document is acceptable.</p>	<p>The requested change regarding documents to be maintained for inspection by Discharger Group members will be added to No. 15 on page 20 of the Tentative Order.</p>

<p>4.3</p>	<p>Appendix 2, 1) Monitoring Sites, throughout</p> <p>LAILG would like to include a section in the Monitoring and Reporting Requirements that indicates that if a selected representative monitoring site proves, after sampling, to not adequately represent Discharger group member sites, it may be replaced. An example statement is:</p> <p>“Selected representative monitoring sites may be changed with the approval of the Executive Officer if, over time, they prove to no longer accurately represent Discharger Group members. Sites that are removed from representing other Discharger Group members will still require sampling and reporting until Water Quality Benchmarks are met.”</p>	<p>The proposed text was added to Appendix 2, 1) Monitoring Sites.</p>
<p>4.4</p>	<p>Appendix 2, 1) Monitoring Constituents, page 3</p> <p>LAILG requests to remove Toxicity Identification Evaluation (TIE) investigations as part of the Conditional Waiver requirements. To date, a lot of money has been spent on TIE investigations, with very little useful data from these investigations. Results from a Phase 1 TIE, which reports results such as “non-polar organic compounds or particulate bound toxicants” is not useful for either determining the toxicant itself or as information to assist in implementation of Best Management Practices (BMPs). Approximately half of samples collected that went through the TIE process did not show any effect during the study, and provided little, if no, data. LAILG performs edge of field sampling, and is not collecting sampling data from any waters of the state that would contain any of the test species. Flows of the sites are often very low volumes, and comingle with entire sub-watersheds in storm drain systems prior to release into</p>	<p>LAILG’s annual monitoring reports conclude based on the TIEs conducted under the previous waivers that, where toxicity has been observed, the cause of the toxicity is related to non-polar organic compounds, most likely pyrethroids. The Board understands that LAILG is already focusing its MP implementation on addressing pyrethroids when there is a toxicity exceedance. The types of MPs to address pyrethroids and other non-polar organic compounds will be effective at addressing toxicity exceedances.</p> <p>Thus, continuing the requirement for the TIE step to determine the exact cause of the toxicity is unnecessary. Under the proposed waiver, a toxicity exceedance automatically triggers the WQMP process for all sites represented by the site with the toxicity exceedance. At these sites, dischargers will be required to implement MPs, as they have been, to address the toxicity exceedance. Additionally, due to the specific edge-of-field monitoring requirements for Los Angeles County, dischargers will ultimately be subject to</p>

receiving waters. TIE sampling is not generally meant for low volume, concentrated storm water flows, and is more useful for aquatic systems that have sustained life. The analytical results from the list of monitoring constituents already provides enough information to determine the quality of water leaving the monitoring sites.

discharge limitations if toxicity Water Quality Benchmarks are not attained.

For these reasons, Toxicity Identification Evaluation (TIE) investigations will be removed from the Conditional Waiver requirements.

The monitoring and reporting requirements have been revised to specify MP categories to be included in the WQMP for toxicity water quality benchmark exceedances, as follows:

- For exceedances of Water Quality Benchmarks for copper and current use pesticides, such as chlorpyrifos, diazinon, and pyrethroids, and toxicity, the WQMP must specify the following types of management practices:
  - Pesticide management plans
  - Improved irrigation efficiency to reduce runoff
  - Erosion and runoff control measures
  - Stormwater runoff filtration and/or infiltration

In addition, for Discharger Group representative monitoring sites that do not show decreasing trends in concentrations, the representative monitoring sites shall be subject to discharge limitations equal to Water Quality Benchmarks at the points of discharge from the deadline forward. In addition, monitoring sites shall be added at the discharges from the individual irrigated agricultural lands represented by the Discharger Group monitoring sites to determine if the individual sites are attaining Water Quality Benchmarks. If individual irrigated agricultural lands represented by the Discharger Group monitoring sites are not attaining Water Quality Benchmarks based on one year of sampling (one

		wet-weather event and one dry-weather event), then these individual sites shall have an additional year before they are subject to discharge limitations equal to Water Quality Benchmarks at the points of discharge.
4.5	<p>Appendix 2, 1) Methods and Quality Assurance Project Plan, page 4</p> <p>LAILG proposes to collect one set of field based quality assurance samples per every ten collected samples, independent of the number of actual sampling events.</p>	The Board agrees with the requested approach.
4.6	<p>Appendix 2, 1) Methods and Quality Assurance Project Plan, page 5</p> <p>Please verify when CEDEN reporting will be active for the project, and who will be responsible for uploading the data.</p>	The Board does not know at this time when CEDEN reporting will be active, but will work with Discharger Groups to assist them in uploading data to CEDEN when it is active.
4.7	<p>Appendix 2, 2) WATER QUALITY MANGEMENT PLAN, a) Summary of Existing Conditions, page 6-7</p> <p>The information that is required in this section will take additional efforts to collect. The Monitoring and Reporting Plan (MRP) will also be utilizing data collected from the WQMP to properly set representative sampling locations for various members in the group. Please extend the deadline for the WQMP and the MRP to 12 months to insure adequate and quality data is collected. If necessary, sampling for the next calendar year can be collected according to the current MRP. LAILG will submit the WQMP questionnaire to the water board for review within forty five (45) days of the approval of the Conditional Waiver.</p>	<p>The requested change has been made. The WQMP submittal deadlines will be the same as for the Ventura County Discharge Group to allow for two updated WQMPs during the term of the waiver, as follows:</p> <p>Submit first WQMP: April 14, 2017  Submit second WQMP: December 15, 2018  Submit final report for 2016 Waiver: October 31, 2020</p>
4.8	Appendix 2, 2) WATER QUALITY MANGEMENT PLAN, a) Proposed Additional or Upgraded Management Practices, page 8 Members located under a utility easement are generally not permitted to construct	The Board agrees that this limitation supersedes the requirements for structural treatment management practices and has revised the monitoring and reporting requirements as follows:

	<p>structural or treatment management practices. Please clarify that this limitation supersedes the requirements for structural/treatment requirements listed in this section. LAILG would also like some language regarding the size of the storm that any required structural practice is expected to contain or treat. A five year storm event seems adequate. This may be discussed in the Waiver or in the WQMP.</p>	<p>For member sites located under a utility easement, <u>any structural MPs that would conflict with lease agreements between utilities and growers may be replaced with</u> additional or upgraded management practices <del>may be</del> based on “Best Management Practices: A Water Quality Field Guide for Nurseries, Southern California Edition” prepared by the University of California Division of Agriculture and Natural Resources.</p> <p>This does not eliminate the responsibility of the growers to implement MPs that have a high likelihood of achieving the WQBs. Studies of nurseries located under utility easements demonstrate that there are non-structural MPs that can be used to achieve the requirements of the waiver in these areas.</p> <p>The requested change for language regarding the size of the storm that any required structural practice is expected to contain or treat is not needed because structural MPs can be used in combination with non-structural MPs to achieve WQBs. Therefore, a storm size is not specified to allow flexibility in MP selection, design and implementation.</p>
4.9	<p>Appendix 2, 2) WATER QUALITY MANGEMENT PLAN, d) WQMP Process</p> <p>LAILG believes this section should be re-written for clarification. The small number of sampling events required by the waiver makes the use of “decreasing trends” using an undefined statistical method problematic at best. Since growers in the LAILG are already collecting edge of field sampling, small variations in site conditions can cause large swings in monitoring data. There is no comingling of other waters to assist in normalizing</p>	<p>The WQMP requirements already specify that the Discharger group shall propose a method for trend analysis in the WQMP. The Discharger Group is best suited to determine the method for assessing trends based on site-specific information. To clarify this intent, footnote 11 has been revised to state,</p> <p>According to <del>statistical</del> method specified in 2.a.ii</p>

	<p>conditions, and each site is unique in the way it would respond to both BMPs and varying sizes of storms. Using such a broad definition to trigger additional sampling and discharge limitations across a wider group of members, with a timeline of one year, is not a fair approach to attaining Water Quality Benchmarks. LAILG requests that this process becomes more iterative, with intermediate steps and a way to treat cases on a site-by-site basis. LAILG also requests a chance to review this section again after it has been revised.</p>	
4.10	<p>Appendix 2, 3) REPORTING REQUIREMENTS, Monitoring and Reporting Plan, page 10</p> <p>As discussed previously, please change to 12-months from the adoption of the Conditional Waiver. For 6., please clarify that maps will only be required from the members that serve as sampling locations. For 7., please state that self-reported information in the form of the WQMP questionnaire will be adequate. This is anticipated to occur on an annual basis.</p>	The requested changes have been made.
4.11	<p>Appendix 2, 3) REPORTING REQUIREMENTS, Water Quality Management Plan, page 10</p> <p>As discussed previously, please change to 12-months from the adoption of the Conditional Waiver.</p>	The proposed time schedule was added to Appendix 2, 3) REPORTING REQUIREMENTS, Water Quality Management Plan.