

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

ORDER NO. R5-2016-0095

**AMENDING WASTE DISCHARGE REQUIREMENTS GENERAL ORDERS
FOR GROWERS WITHIN THE TULARE LAKE BASIN AREA AND WESTERN TULARE
LAKE BASIN AREA THAT ARE MEMBERS OF A THIRD-PARTY GROUP**

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

1. The Central Valley Water Board issued Waste Discharge Requirements General Orders for growers within the Central Valley that are members of a third-party group for discharges from irrigated lands to surface water and to groundwater (Irrigated Lands Regulatory Program (ILRP) General Orders).
2. "Irrigated lands" in the ILRP General Orders is defined as "Land irrigated to produce crops or pasture for commercial purposes; nurseries; and privately and publicly managed wetlands."
3. As stated in Resolution R5-2016-0064, managed wetlands are defined as publicly or privately owned wetlands that receive artificial seasonal, semi-seasonal, or permanent flooding to stimulate the development of wetland habitat, primarily for the benefit of migratory and resident wildlife species.
4. Managed wetland operations and their potential water quality impacts differ significantly from those associated with irrigated agriculture operations.
5. Prior to the adoption of the Tulare Lake Basin WDRs in September 2013, managed wetlands were not required to obtain coverage in the ILRP because they do not discharge to surface water. Water applied to wetlands in the Tulare Lake Basin generally evaporates and/or percolates into the subsurface.
6. During the development of the ILRP Orders, concerns were raised regarding the applicability of some reporting requirements, such as templates for Farm Evaluation, Nitrogen Management Plan and Nitrogen Management Summary Report, and Sediment and Erosion Control Plan to wetland areas. Wetland managers provided comments that fertilizers and pesticides (except minimal herbicide use) are not a part of the practices on wetlands, and that wetlands typically have elements associated with practices to prevent and minimize sediment discharge and erosion, such as holding ponds, vegetative buffers, and minimum tillage.
7. Managed wetlands in the Tulare Lake Basin are not subject to the methyl mercury or salt and boron TMDLs required of wetlands in the Sacramento and San Joaquin River Basins.
8. This Order amends the following ILRP General Orders to bring consistency in approach and clarify requirements that apply to managed wetlands:

AMENDING WASTE DISCHARGE REQUIREMENTS GENERAL ORDERS
FOR GROWERS WITHIN THE TULARE LAKE BASIN AREA AND WESTERN TULARE LAKE BASIN
AREA THAT ARE MEMBERS OF A THIRD-PARTY GROUP

- Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area that are Members of a Third-Party Group R5-2013-0120 (adopted on 19 September 2013, and revised on 4 December 2014 and 10 December 2015),
 - Waste Discharge Requirements General Order for Growers within the Western Tulare Lake Basin Area that are Members of a Third-Party Group R5-2014-0001 (adopted on 9 January 2014)
9. Because fertilizers are not applied to managed wetlands, and wetlands generally act as a sedimentation basin and do not contribute to excess sediment, the aforementioned ILRP reporting requirements (i.e. Farm Evaluation, Nitrogen Management Plan and Sediment Discharge and Erosion Control Plan) are unnecessary.
 10. As stated in Resolution R5-2016-0064, it is the Central Valley Water Board's intent to develop a long-term strategy for regulating managed wetlands throughout the Central Valley. Managed wetlands of the Tulare Lake Basin do not require immediate regulatory coverage until a long-term strategy for wetlands regulation is developed and implemented.
 11. Given their unique environmental conditions, managed wetlands are not required to obtain coverage under the Irrigated Lands Regulatory Program.
 12. The Central Valley Water Board, acting as a lead agency pursuant to CEQA (Pub. Resources Code, § 21000 et seq.), certified a Program Environmental Impact Report (PEIR) for the Irrigated Lands Regulatory Program on 7 April 2011. This Order relies on the environmental impact analysis contained in the PEIR to satisfy the requirements of CEQA. Pursuant to this Order, the removal of the requirements for managed wetlands to obtain coverage under the ILRP is within the range of options identified and analyzed in the PEIR. Therefore, the PEIR identified, disclosed, and analyzed all potentially significant environmental impacts of this Order.
 13. The Central Valley Water Board has notified interested agencies and persons of its intent to adopt this Order for discharges of waste from irrigated lands within the Central Valley, and has provided them with an opportunity for a public hearing and an opportunity to submit comments.
 14. The Central Valley Water Board, in a public meeting, heard and considered all comments pertaining to this Order.

An underline/strikeout document that indicates the alterations that this Order will make to the ILRP General Orders is attached hereto as Attachment 1 and incorporated herein by reference.

IT IS HEREBY ORDERED that Waste Discharge Requirements ILRP General Orders No. R5-2013-0120 and R5-2014-0001 are amended by making the modifications identified in Attachment 1 of this Order.

AMENDING WASTE DISCHARGE REQUIREMENTS GENERAL ORDERS
FOR GROWERS WITHIN THE TULARE LAKE BASIN AREA AND WESTERN TULARE LAKE BASIN
AREA THAT ARE MEMBERS OF A THIRD-PARTY GROUP

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filling petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality/

or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 6 December 2016.

Original signed by

PAMELA C. CREEDON, Executive Officer

6 December 2016

Date

Attachment 1: Amendments to Waste Discharge Requirements R5-2013-0120 and R5-2014-0001.

ATTACHMENT 1

ORDER R5-2016-0095

AMENDING WASTE DISCHARGE REQUIREMENTS GENERAL ORDERS
FOR GROWERS WITHIN THE TULARE LAKE BASIN AREA AND WESTERN TULARE LAKE
BASIN AREA THAT ARE MEMBERS OF A THIRD-PARTY GROUP

**TULARE LAKE BASIN AREA R5-2013-0120-R1
WESTERN TULARE LAKE BASIN AREA R5-2014-0001**

Finding 4, revise as follows:

“Irrigated lands” means land irrigated to produce crops or pasture used for commercial purposes. This includes lands that are planted to commercial crops that are not yet marketable (e.g., vineyards and tree crops) and nurseries.

Attachment D, section *Impact Findings, Vegetation and Wildlife, Impact BIO-3, Rationale for Finding*, revise first sentence of the second paragraph as follows:

In general, management practices would be implemented on existing agricultural lands, which are unlikely to support native vegetation or special-status plants.

Attachment D, section *Impact Findings, Vegetation and Wildlife, Impact BIO-6, Rationale for Finding*, revise first and third sentences of the second paragraph as follows:

In general, management practices would be implemented on existing agricultural lands, resulting in a less-than-significant impact.

However, if construction related to installation of groundwater monitoring wells required changes to natural vegetation communities that are adjacent to existing irrigated lands, there would be a potential for loss of vegetation in sensitive wetland communities or loss of special-status plants growing in the uncultivated or unmanaged areas.

Attachment D, section *Impact Findings, Vegetation and Wildlife, Impact BIO-7, Rationale for Finding*, revise first and third sentences of the second paragraph as follows:

In general, management practices would be implemented on existing agricultural lands, resulting in a less-than-significant impact.

However, construction of groundwater monitoring wells that requires changes to natural vegetation communities adjacent to existing irrigated lands could result in a loss of special-status wildlife species occurring in the uncultivated or unmanaged areas.

AMENDING WASTE DISCHARGE REQUIREMENTS GENERAL ORDERS
FOR GROWERS WITHIN THE TULARE LAKE BASIN AREA AND WESTERN TULARE LAKE BASIN
AREA THAT ARE MEMBERS OF A THIRD-PARTY GROUP

Attachment D, section *Feasibility of Alternatives Considered in the EIR, Alternative 1*, revise first sentence of the second paragraph as follows:

Third-party groups would continue to function as lead entities representing growers (owners of irrigated lands, nursery owners, and water districts).

Attachment E, revise Item 19 as follows (item 20 in R5-2014-0001):

Irrigated lands – Land irrigated to produce crops or pasture for commercial purposes and nurseries.