
Central Valley Regional Water Quality Control Board

30 April 2018

Mr. Ed Sills, President
PNSSNS Subwatershed
P.O Box 1235
Lincoln, CA 95648

**PLACER-NEVADA-SOUTH SUTTER-NORTH SACRAMENTO SUBWATERSHED
APPLICATION TO SERVE AS A THIRD-PARTY REPRESENTING MEMBERS UNDER
GENERAL ORDER R5-2014-0030**

Dear Mr. Sills,

Thank you for submitting an application for a Notice of Applicability (NOA) to the Central Valley Regional Water Quality Control Board (Central Valley Water Board) on 30 October 2017. The Placer-Nevada-South Sutter-North Sacramento (PNSSNS) Subwatershed Group is requesting to serve as the third-party entity representing growers in the PNSSNS subwatershed area and fulfilling the requirements and conditions of Waste Discharge Requirements General Order R5-2014-0030 (General Order), and the associated Monitoring and Reporting Program (MRP).

Based on Central Valley Water Board staff's review of the application, PNSSNS has not fully demonstrated that it meets the requirements necessary to form a new third-party group. In the attached memorandum, staff evaluates whether the application addresses all third-party obligations specified in the General Order (see sections IV.B and VIII.A). For elements that are deemed incomplete, the memorandum describes what is missing and provides recommendations on what is needed to complete the application.

If PNSSNS wishes to be further considered for third-party status, the missing elements noted in staff's memorandum must be satisfactorily addressed in an amended application, submitted by 1 August 2018.

Sincerely,

ORIGINAL SIGNED BY

Patrick Pulupa, Incoming Executive Officer for
Pamela C. Creedon, Executive Officer

cc: David A. Lancaster, State Water Resources Control Board, Office of Chief Counsel
Michael Mills, Stoel Rives LLP
David Guy, NCWA

Central Valley Regional Water Quality Control Board

TO: Sue McConnell,
Supervising Water Resources Control Engineer
Irrigated Lands Regulatory Program

FROM: Susan Fregien,
Senior Environmental Scientist
Monitoring and Implementation Unit
Irrigated Lands Regulatory Program

DATE: 30 April 2018

SUBJECT: PLACER-NEVADA-SOUTH SUTTER-NORTH SACRAMENTO
SUBWATERSHED APPLICATION TO SERVE AS A THIRD-PARTY
REPRESENTING MEMBERS UNDER GENERAL ORDER R5-2014-0030

On 30 October 2017, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) received the Placer-Nevada-South Sutter-North Sacramento (PNSSNS) Subwatershed's application to serve as a third-party entity representing growers in the PNSSNS subwatershed area, and fulfill the requirements and conditions of Waste Discharge Requirements General Order R5-2014-0030 (General Order), and associated Monitoring and Reporting Program (MPR) Order R5-2014-0030. PNSSNS is requesting issuance of a Notice of Applicability (NOA) to be a third-party group. The application is included as an attachment to this memo.

In its application, PNSSNS describes its intent to fulfill the role of the third-party entity under the Order, representing member owners and operators of irrigated lands. In reviewing their application, staff considered PNSSNS's role as a subwatershed group of the Sacramento Valley Water Quality Coalition (SVWQC). The roles and responsibilities of a third-party include more requirements than that of a subwatershed group. It is essential that the third-party is committed to ensuring timely completion of all plans and reports by fully qualified entities and should demonstrate the ability to implement all elements of the Order. The third-party should also describe its ability to fully participate in coordinated work efforts with other coalitions in the Irrigated Lands Regulatory Program (ILRP), as well as ILRP staff. PNSSNS should demonstrate that it has the necessary resources and expertise to fulfill all General Order requirements, including the new requirements that were recently adopted by the State Water Resources Control Board which are precedential in nature and will be included in an updated General Order.

Because PNSSNS has not previously managed all third-party responsibilities, staff recommends that PNSSNS describe how it intends to meet all ILRP requirements. The PNSSNS application should provide a detailed accounting of all plans, reports, and responsibilities, and fully document how it will be able to meet all existing and new ILRP requirements (further discussion provided below).

Review of PNSSNS's Application to serve as a Third-Party

Under the General Order, "any group wishing to serve as a third-party must submit a letter to the Executive Officer requesting to serve as a third-party representing Members to carry out the third-party responsibilities." (General Order, § VIII.A.)

The General Order establishes a series of primary factors to be considered by the Executive Officer in determining whether to approve the application of a prospective third-party group (§ VIII.A). These primary factors are as follows.

- A. Ability to carry out third party responsibilities (see § VIII.A.1);
- B. Clear identification of covered geographic area and reasonableness of proposed boundaries (unless coincident with General Order coverage) (see § VIII.A.1);
- C. Legal status of entity (i.e., non-profit corporation; local or state government; Joint Powers Authority), organizational structure and mechanisms in place to ensure accountability to its Members (see § VIII.A.2);
- D. Whether the third-party has binding agreements with any subsidiary group. If reliant on subsidiaries for performance of third party responsibilities, disclosure of subsidiaries and assurances of performance, payment, transparency and accountability (§ VIII.A.3);
- E. Whether the third-party has a governance structure that includes a governing board of directors composed in whole or in part of Members, or otherwise provides Members with a mechanism to direct or influence the governance of the third-party through appropriate by-laws (see § VIII.A.4).
- F. A new third party may form to represent growers in an existing third-party area, or part of that area, after a NOA has been issued to the existing third party. Prior to acting on the NOA, the Executive Officer will provide the existing third-party with an opportunity to comment on the application by the [proposed] new third-party group (see § VIII.A.6).
- G. The new third-party and its Members must take all actions and submit subsequent reports required by the General Order on the timeline originally established by the issuance of the NOA to the original third-party group for the area. The proposed new third party must demonstrate that it can comply with the original time schedule as part of its application to serve as a third-party representing Members (see § VIII.A.6).
- H. Any required report not submitted by the existing third-party, and due prior to application of the new third-party, must be submitted as part of the application package of the new third-party (see § VIII.A.6).

Staff evaluated PNSSNS's third-party group application to determine if it meets the requirements established in the General Order. For each factor or element identified in the General Order, staff describes the General Order requirement(s), summarizes how PNSSNS addressed the requirement, identifies what is missing if it is incomplete, and provides recommendations on what is needed to complete the application.

A. Ability to Carry Out Third-Party Responsibilities (*Incomplete*)

In evaluating an application to serve as a third-party representing individual growers, the Executive Officer determines whether the applicant organization can fulfill all of its responsibilities under the General Order. If an organization is not competent to serve as a third-party coalition, the Executive Officer cannot issue a NOA.

Ordinarily, the Executive Officer's assessment of an organization's ability to serve as a third party is based not only on prior interactions with the organization and its leadership, but also a substantive discussion provided as part of the application itself. In any case, the Central Valley Water Board's approval of a new third party cannot be based on unsupported assertions. Rather, the record needs to be sufficiently developed to allow for a reasoned and objective evaluation.

Naturally, the amount of necessary information in the application will vary from requirement to requirement. Some responsibilities involve execution of relatively straightforward "administrative" tasks. Examples of "administrative" tasks generally include disclosure, notification and outreach functions. Although they may present their own unique challenges, "administrative" tasks usually do not involve specialized experience, analytical ability or technical skill. Central Valley Water Board staff expect that competent organizational leadership will be able to ensure that such tasks are carried out. Accordingly, a prospective third party need not devote a substantial portion of its application to discussing its ability to perform general administrative functions.

By contrast, other responsibilities require a great deal of specialized experience, analytical ability and technical skill, which cannot simply be learned or obtained without significant advance planning. In the absence of substantive experience directly relating to a function or task, the prospective third-party should be able to identify and discuss specific, concrete steps that have been (or will be) taken in preparation to carry out the function in question; broad generalizations are not sufficient. For example, if a prospective third-party intends to engage outside professionals to prepare technical reports, the application should discuss efforts to solicit proposals from qualified professionals.

Although it provides only a broad overview of a third-party's responsibilities under the General Order, section IV.C provides a basic framework for discussing an organization's readiness. The obligations specified under General Order section IV.C are discussed in further detail below.

1. Disclosure of Organizational Structure and Designation of Responsible Persons (*Incomplete*)

Per section IV.C.1 of the General Order (p. 22), prospective third-party groups must provide documentation: (a) describing their organizational or management structures; and (b) designating specific individuals responsible for fulfilling program requirements. This same information must be made readily available to all members of the coalition.

In its application, PNSSNS indicates that it is an organization governed by seven elected directors, which meet as a board approximately 10-12 times per year. The PNSSNS directors in turn appoint various corporate officers, including the Executive Director tasked with providing technical and management assistance. The directors are also designated as the persons ultimately responsible for performance of obligations. PNSSNS also conducts annual meetings

for members, has a website and publishes an annual newsletter. A copy of the bylaws is included in the application as well.

Staff determined that PNSSNS did not provide complete documentation of the persons responsible for ensuring that program requirements are fulfilled, nor the organizational and management structure of those persons. Staff expects the application to document both the administrative and technical entities that will be responsible for fulfilling third-party requirements. Therefore, PNSSNS should describe the technical qualifications of those entities responsible for developing and implementing the numerous plans and reports required in the General Order. See discussion of required plans and reports in subsection I, items 5 and 6, and subsection VIII below. To meet this requirement, PNSSNS should identify the entities that are responsible for each type of program requirement and describe their technical qualifications. PNSSNS should also provide a detailed organization chart and describe the roles, responsibilities, and qualifications of each entity.

Finally, where information and/or materials must be made readily available to individual members, the Central Valley Water Board staff expect the application to include a short discussion as to how this will be done. If information and materials will be posted to the group's website, the application should indicate as much. If information and materials are already posted to a website, a link should be provided as well. Accordingly, PNSSNS should include a discussion as to how the information and materials specified in General Order section IV.C will be made available to its members.

2. Preparation of Annual Expenditure Summaries (*Complete*)

General Order section IV.C.2 (p. 22) requires the third-party group to prepare annual summaries of fees and revenue expended in order to comply with the General Order. These summaries are also to be provided or made available to individual members.

In its application, PNSSNS states that its board of directors reviews and approves annual budgets. Additionally, financial documents are prepared for and approved by the PNSSNS board of directors at monthly meetings; these documents are made available at each meeting. However, PNSSNS' application does not indicate how annual expenditure summaries will be made available to individual members. Central Valley Water Board staff expect PNSSNS to provide a short supplemental discussion as to how summaries will be distributed or made available to its members. If annual expenditure summaries will be posted online, PNSSNS should so state. In all other respects, the obligations set forth in section IV.C.2 are administrative and non-technical in nature. No further discussion is warranted.

3. Notification of Members regarding Notices of Violation (*Complete*)

Per section IV.C.3 of the General Order (p. 22), "[i]f the third-party group receives a notice of violation (NOV) from the Central Valley Water Board, the third-party must provide to Members in the area addressed by the NOV appropriate information regarding the reason(s) for the violation ... within thirty (30) days of receiving the NOV..." and "provide confirmation to the board of each notification." Additionally, written or electronic summaries of all NOV's must be provided to all members on an annual basis.

In its application, PNSSNS generally affirms its intent to comply with the obligations set forth above, which are largely administrative and non-technical in nature. No further discussion is warranted at this time.

4. Track and Evaluate the Effectiveness of Water Quality Management Practices (*Incomplete*)

Per section IV.C.4 of the General Order (p. 22), the third-party will be required to “[d]evelop and implement plans to track and evaluate the effectiveness of water quality management practices, pursuant to approved Surface Water Quality Management Plans and Groundwater Quality Management Plans.”

In its application, PNSSNS references prior experience in “implement[ing] management plans...,” and emphasizes its readiness to perform general investigation and outreach functions in the event of a water quality issue. PNSSNS further asserts that “[m]anagement practices will be documented and tracked in a manner that is consistent to the current approach, and utilizing the Farm Evaluation [Plan] process detailed in the General Order.” (Letter, p. 2.) Finally, PNSSNS indicates that it “has its own membership and [Farm Evaluation Plan] reporting database and has completed these reports on time....” (Letter, p. 3.)

Central Valley Water Board staff acknowledge that PNSSNS has previously worked with growers to implement surface water management plans. It is also undisputed that PNSSNS maintains its own database for Farm Evaluation Plan and NMP Summary reporting. However, PNSSNS’ application fails to consider the technical expertise needed to properly evaluate whether growers’ management practices are effective. Third parties are required to not only implement management plans, but develop them as well. Moreover, the evaluation process involves compiling and analyzing large amounts of data. In short, there is a significant difference between the work PNSSNS has previously performed and what PNSSNS will be required to do as a third-party.

Based on the foregoing concerns, Central Valley Water Board staff recommends that PNSSNS be required to submit a supplemental discussion regarding: (a) its readiness to develop new water quality management plans; (b) its experience and/or involvement in evaluating management practices; (c) its preparations to compile and evaluate management practices; and (d) to the extent that any work will be done by retained professionals, all steps to retain such individuals.

Staff recommends that PNSSNS identify the technical qualifications of all entities they anticipate will develop and implement surface water quality and groundwater quality management plans, track management practice implementation, perform data analysis, and evaluate the effectiveness of management practices.

5. Timely Submittal of Complete Plans and Reports (*Incomplete*)

Per section IV.C.5 of the General Order (p. 22), the third-party must “[p]rovide timely and complete submittal of any plans or reports....” This benchmark looks to PNSSNS’ ability to satisfactorily comply with the many reporting requirements under the General Order, and whether PNSSNS will be able to submit each required report in a timely manner. However, the PNSSNS application does not demonstrate a full understanding of third-party responsibilities and technical expertise needed to adequately implement the program.

In its application, PNSSNS asserts that it “has a team of technical consultants ... consist[ing] of NRCS, soil and wildlife biologists, county Agricultural Commissioners, [University of California] Cooperative Extension experts, CCAs, water quality experts and other independent

consultants.” (Letter, pp. 1-2.) However, these “technical consultants” are not identified and it remains unclear how they will participate in the performance of third party responsibilities.

PNSSNS also intends to “... seek assistance of appropriate technical expertise and report writing when needed” and “... will hire technical contractors to assist with submittals of future required reports, as needed.” However, it is unclear whether PNSSNS recognizes the types of technical expertise needed to properly develop the required plans and reports and analyze the data obtained during program implementation. Examples of some key plans and reports include Surface Water and Groundwater Management Plans, Annual Monitoring Reports, Quarterly Electronic Data Deliverables, Monitoring Plan Updates (including implementing the Pesticide Evaluation Protocol), Quality Assurance Project Plan, Annual Management Plan Progress Reports, Nitrogen Management Plan (NMP) Summary Reports, and Management Practices Summary Reports.

As a third-party group, PNSSNS would also be responsible for any new ILRP requirements added to the General Order. The State Water Board adopted revisions to the East San Joaquin Water Quality Coalition’s General Order on 7 February 2018 and required new provisions be incorporated in all the ILRP General Orders. Staff recommends that PNSSNS’ application include additional discussion to demonstrate its capacity for adapting to program changes and providing necessary outreach and education to members regarding new requirements.

Staff expects that a third-party group can identify and coordinate with a variety of reliable and technically proficient entities and effectively manage multiple overlapping projects. To fully address this element, staff recommends that PNSSNS provide more specific and detailed documentation of the resources they intend to utilize. PNSSNS should identify the responsible persons and technical qualifications of all entities anticipated to assist them with meeting the ILRP requirements, and specify which plan(s) or report(s) each entity will handle. It is essential for PNSSNS to identify technical consultants that can handle each of the types of reports and plans that are currently required by the program. PNSSNS should also demonstrate knowledge of new ILRP requirements that will be required by the adopted State Water Board Order and identify how those requirements will be met.

6. Water Quality Monitoring Quality Assurance/Quality Control (*Incomplete*)

Per section IV.C.6 of the General Order (p. 22), the third-party is required to conduct required water quality monitoring and assessments in conformance with quality assurance/quality control requirements.

In its application, PNSSNS indicates it hired its own monitoring person to comply with the Quality Assurance Program Plan, water and sediment sample collection, coordination of sample delivery and lab testing, and evaluation of the results for the past nine years. Furthermore, PNSSNS intends to continue to follow the protocols outlined in the QAPP that is already on file from SWWQC. However, the tasks performed by PNSSNS are a portion of the responsibilities associated with water quality monitoring and assessment. While PNSSNS has implemented a monitoring and quality assurance/quality control program, they have not produced the prerequisite plans.

Staff’s experience working with PNSSNS related to their surface water monitoring program brings into question its ability to adequately perform all necessary functions of a third-party group. Three specific concerns are discussed below.

First, the third-party is responsible for development and submittal of the annual Monitoring Plan Update, per the MRP Order. This includes implementation of the Pesticide Evaluation Protocol (November 2016), which involves download and analysis of three years of pesticide use data from DPR's online Pesticide Use Portal. The Pesticide Evaluation Protocol is a complex and lengthy process that requires advanced Excel spreadsheet experience. The Pesticide Evaluation Protocol also requires expertise in developing the rationale for monitoring decisions. Staff expects PNSSNS to demonstrate that it has the specific technical expertise needed to perform this work and prepare the annual Monitoring Plan Update in the appropriate Excel format by describing the qualifications of the entity(s) it expects to utilize. Staff also recommends that PNSSNS document that it will retain qualified analytical laboratories to perform all required analyses, and the expertise to compile and submit quarterly electronic data deliverables, as required by the MRP Order.

Second, PNSSNS states it is relying on the SVWQC QAPP. However, staff believes that PNSSNS may need to develop a QAPP that is unique to the third-party because some QAPP elements would necessarily change. Staff recommends that PNSSNS be required to submit a new QAPP to specifically address quality assurance protocols for their area within one year of receiving an NOA. Per the Order, PNSSNS will also need to submit an electronic QAPP.

Third, staff considers PNSSNS' current surface water monitoring program to be inadequate. Staff worked with PNSSNS during 2015-2017 regarding its Reduced Monitoring Proposal and the adequacy of its Representative Monitoring site. During this process, staff participated in a subwatershed tour and requested supplemental information and data from PNSSNS to justify their reduced monitoring request. Staff communicated the purpose of the requested information directly to PNSSNS representatives, both verbally and in writing. An analysis and comparison of pesticide use data between two distinct geographic areas was requested. However, the information provided by PNSSNS was insufficient to demonstrate that the Coon Creek at Brewer Road monitoring site is representative of the entire subwatershed area. Staff conducted its own comprehensive evaluation of pesticide use data within the PNSSNS areas and determined that an additional monitoring site is needed to fully comply with monitoring requirements. To date, PNSSNS has not addressed this gap in surface water monitoring. Staff recommends that an adequate surface water monitoring program be required as part of the application.

7. Notice of Confirmation (*Incomplete*)

Section IV.C.7 of the General Order (p. 22) requires that within 45 days of receiving a Notice of Applicability (NOA) from the Central Valley Water Board, the third-party must inform its Members of the General Order's requirements by providing a notice of the deadline and process required to complete the Notice of Confirmation (NOC) and Farm Evaluation template.

PNSSNS Members currently have a NOC on file with the PNSSNS Subwatershed Group. However, the current NOCs are for coverage through the SVWQC, not with PNSSNS, which is not currently a recognized third-party group. If PNSSNS becomes an approved third-party, staff expects it to inform its members of the change in third-party coverage and request an updated Notice of Confirmation from all members. Or, PNSSNS could propose another method which demonstrates the members are made aware of the change in third-party.

Currently, it is unclear whether all member growers are aware of PNSSNS' intent to form a separate third-party group in their area. Furthermore, no evidence has been provided to support

PNSSNS' position that it can administer the program at a cost that is comparable to current fees charged to the members. Staff strongly recommends that the costs for full program compliance with PNSSNS as the third-party and the resulting member fees be calculated and available to the members as part of the application process.

The currently adopted Farm Evaluation template would not need to be re-noticed, although a new template will ultimately be required, as prescribed by the State Board Order.

8. Education and Outreach Activities (Complete)

Section VIII.C.8 of the General Order (p. 23) requires that the third-party conduct education and outreach activities to inform Members of program requirements and irrigated agricultural water quality problems, including exceedances of water quality objectives or degradation of water quality, identified by the third party or Central Valley Water Board. The third party shall:

- i. Maintain attendance lists for third-party outreach events, provide Members with information on water quality management practices that will address water quality problems and minimize the discharge of wastes from irrigated lands, and provide informational materials on potential environmental impacts of water quality management practices to the extent known by the third-party group.

Staff determined that the requirements of this element are partially met. In the application, PNSSNS addressed these requirements as follows:

Attendance Lists – PNSSNS has developed attendance reports and will continue to submit the summary report annually. This item is complete.

Management Practices Education for Water Quality Problems – the Annual Meeting provides information and education to the member growers, including water quality results, new best management practices, ILRP requirements, due dates, etc. Workshops and seminars are coordinated or co-hosted by PNSSNS, providing education and guidance to members on topics related to ILRP requirements.

The PNSSNS application states that if any water quality exceedance is observed, PNSSNS will discuss it at the Annual Meeting along with specific, targeted areas and information quickly thereafter receiving the lab result. This item is complete.

Potential Environmental Impacts of Practices Information Outreach – this item is not addressed in the PNSSNS application. Staff expects the application to indicate how PNSSNS will provide informational materials on potential environmental impacts of water quality management practices to the extent known by the third-party group.

- ii. Provide an annual summary of education and outreach activities to the Central Valley Water Board, along with copies of the educational and management practice information provided to the growers. The annual summary must report the total number of growers who attended the outreach events. The annual summary will also include the numbers of newsletters received by growers with information on irrigated agricultural water quality exceedances and appropriate management practices to address the exceedances that Members can implement. The summary will describe how growers could obtain copies of the materials presented at these events.

In its application, PNSSNS affirms that education and outreach summary reports will continue to be submitted annually by PNSSNS to fulfill the ILRP requirement. The Annual Monitoring Report submitted by SVWQC includes a table of PNSSNS outreach events and information provided during the year. This item is complete.

9. Work Cooperatively with the Central Valley Water Board (*Complete*)

Per section VIII.C.9 of the General Order (p. 23), the third party is required to work cooperatively with the Central Valley Water Board to ensure all Members are providing required information and taking necessary steps to address exceedances or degradation identified by the third-party or board. Additionally, the General Order requires (§ IV.C.9) Membership lists be submitted that identify growers known by the third-party who have failed to implement practices, failed to respond to information requests, failed to participate in studies, or failed to provide confirmation of participation in outreach.

In its application, PNSSNS states that it will provide the names of uncompliant members who have failed to pay fees or failed to submit appropriate information. The application also states that PNSSNS will work effectively with the Central Valley Water Board to ensure that all members are providing the required information and taking the steps to identify exceedances as outlined in the General Order. Staff recommends the application be revised to read “steps to address exceedances.” In 2014, the PNSSNS Board of Directors approved that if any member fails to pay the appropriate fees or fails to submit the appropriate and required documentation, they will be dropped as members and those names shall be submitted to the Central Valley Water Board.

The current membership list for PNSSNS does not identify any members who are out of compliance. Apart from the minor edit noted above, this element of the PNSSNS application is complete.

10. Third Party Responsibility (*Complete*)

Section VIII.C.10 of the General Order requires that the third-party ensure that any activities conducted on its behalf by other groups meet the requirements of the Order. The third-party is responsible for any activities conducted on its behalf. The application states that PNSSNS will be responsible for all reports submitted by technical experts on behalf of PNSSNS. It also states that the Board of Directors is responsible that all requirements are met. Staff concluded that this item is complete.

11. State Water Board Fees (*Complete*)

Per section VIII.C.11 of the General Order (p. 23), the third party must collect and submit any fees from Members required by the State Water Board pursuant to the fee schedule contained in Title 23 CCR. The fees invoiced by the State Water Board will be based on the Membership List submitted by the third-party group. The third-party group is responsible for management of fee collection and payment of the State Water Board fees. The application states that PNSSNS will continue to collect fees from its members to pay the State Water Board per acreage fee as it has done since its inception. Currently, PNSSNS collects the fees and pays SVWQC, who pays the State Water Board. Staff concluded that this item is complete.

B. Proposed Geographic Area of Coverage (*Incomplete*)

In deciding whether to issue an NOA, the Executive Officer determines whether the applicant organization has clearly identified the geographic area proposed to be covered by a third-party and, should the applicant request to serve as a third-party group for only a portion of the General Order's coverage area, the reasonableness of the proposed boundaries (§ VIII.A.1).

In its application, PNSSNS states it shall be the third-party entity on behalf of the owners and operators of irrigated lands enrolled in the Nevada, Placer, south Sutter County, and northern Sacramento County of the Sacramento River Watershed. The application also says that the PNSSNS watershed map is on file with Central Valley Water Board.

The information provided by PNSSNS is not sufficient to clearly identify the geographic area proposed to be covered by the applicant. Staff expects that the application will include a detailed map from the applicant at a scale that clearly identifies the boundary of the proposed geographic area, as well as the GIS shapefiles used to create the map. The application should also describe the reasonableness of the proposed boundaries. Therefore, staff recommends that the PNSSNS application be amended to add the missing information.

C. Third Party's Legal Designation (*Complete*)

In determining whether to issue an NOA, the General Order (§ VIII.A.2) specifies that the Executive Officer will consider whether the third-party is a legally defined entity (i.e., non-profit corporation; local or state government; Joint Powers Authority) or has a binding agreement among multiple entities that clearly describes the mechanisms in place to ensure accountability to its members. PNSSNS is a non-profit 501(c)(3) corporation registered with the CA Secretary of State. PNSSNS has a set of by-laws (included with application) to guide the process of the corporate structure. Staff concluded that this item is complete.

D. Subsidiary Group Agreements (*Incomplete*)

In determining whether to issue an NOA, the General Order (§ VIII.A.3) specifies that the Executive Officer will consider whether the third-party has binding agreements with any subsidiary group (e.g., subwatershed group) to ensure any third-party responsibilities carried out by the subsidiary group, including the collection of fees, are done so transparently and with accountability to the third party.

The application does not indicate whether PNSSNS will have binding agreements with any subsidiary group. If PNSSNS will not rely on any subsidiary group to carry out any of its responsibilities, PNSSNS should state so in its application letter. Therefore, staff recommends that the PNSSNS application be amended to add the missing information.

E. Governance Structure Allows Member Influence (*Complete*)

In determining whether to issue an NOA, the General Order (§ VIII.A.4) specifies that the Executive Officer will consider whether the third-party has a governance structure that includes a governing board of directors composed in whole or in part of Members, or otherwise provides

Members with a mechanism to direct or influence the governance of the third-party through appropriate by-laws.

By-laws have been provided with the application, which indicates that PNSSNS has a governing board of directors composed of Members. Members are invited to all meetings. The application states that by-laws guide the process of the corporate structure. Members are able to contact PNSSNS through emails, letters, phone and meetings conducted or coordinated by PNSSNS. PNSSNS has a website and provides an Annual Newsletter to its members. Staff concluded that this item is complete.

F. Provide Existing Third-Party Opportunity to Comment

Under the General Order (§ VIII.A.6), a new third-party may form to represent growers in an existing third-party area, or part of that area, after an NOA has been issued to the existing third party. Prior to acting on the NOA, the Executive Officer will provide the existing third-party with an opportunity to comment on the application by the [proposed] new third-party group. Staff will ensure that the existing third-party is provided an opportunity to comment on a completed application by the proposed new third-party group.

G. Compliance with Original Time Schedule (*Incomplete*)

Per the General Order (§ VIII.A.6), the new third-party and its Members must take all actions and submit subsequent reports required by the Order on the timeline originally established by the issuance of the NOA to the original third-party group for the area. The proposed new third-party must demonstrate that it can comply with the original time schedule as part of its application to serve as a third-party representing Members.

In its application, PNSSNS maintains that all future reports will be submitted directly by PNSSNS on behalf of members in their jurisdictional area and technical contractors will be hired to assist with submittals of some of the reports. Additionally, PNSSNS explains that it will provide members with the appropriate templates to complete for Farm Evaluations, SECPs, NMPs, and summary nitrogen reports for high vulnerability areas, and will prepare reports specified in the MRP. However, staff interprets this element to mean more than just timely submission of reports, but an assurance that the applicant recognizes the types of resources and time needed to properly fulfill the Order's conditions (i.e., "take all actions").

To satisfactorily complete this item, staff expects PNSSNS to demonstrate that it understands the full extent of plans and reports that are the responsibility of the third-party. As previously indicated in sections A.1, A.5, and A.6 above, PNSSNS should provide documentation that all necessary technical resources have been identified to ensure proper development and implementation of required plans and reports. Therefore, staff recommends PNSSNS should amend the application to specify all required plans and reports, identify necessary technical resources, and include timelines for submission for any plans and reports due prior to 2019. This should include the expertise needed to create and update maps using Geographic Information System (GIS) software. GIS-based maps are required in many coalition plans and reports and the third-party is required to provide GIS shapefiles with some deliverables to the Central Valley Water Board.

The following are a few examples of plans and reports that are the responsibility of the third party. This is not a complete list. PNSSNS should identify and address all plans and reports (including the entities with appropriate technical expertise that will assist PNSSNS) in its application for third-party status.

Groundwater Quality Management Plan (GQMP) – the third-party is responsible for all next steps that have been identified in the GQMP developed by SVWQC.

Groundwater Trend Monitoring Plan (GTMP) – the third-party is responsible for all elements required in the GTMP, as identified in the General Order. This includes uploading groundwater monitoring data to the Geotracker database. PNSSNS should note that SVWQC is not participating in the Central Valley Groundwater Monitoring Collaborative (CVGMC). Although not required by the General Order, staff encourages coalition groups to participate in the CVGMC.

Management Practices Evaluation Program (MPEP) – the third party is responsible for full participation in the joint MPEP process that is underway by coalitions in the Central Valley Water Board's ILRP. Staff recommends that PNSSNS demonstrate that they understand the process of joining the MPEP group, what their responsibilities would be in the MPEP group, and can fully participate.

Nitrogen Management Plan (NMP) Summary Analysis Report and Management Practice Information Summary Report – the third party is responsible for preparing summary analysis reports for NMP summary reports and farm evaluation reports received from the members. The required analysis and content of these summary reports is substantial.

H. Reports Due Prior to Application (*Incomplete*)

Under the General Order (§ VIII.A.6), any required report not submitted by the existing third-party, and due prior to application of the new third-party, must be submitted as part of the application package of the new third-party. The application states that most reports required under the WDRs have been submitted by SVWQC. Staff determined that this element is complete.

Staff notes there are some reports that have been submitted by the existing third-party, but may not yet be approved as complete. Furthermore, many SVWQC plans or reports identify additional tasks and timelines that need to be implemented. Staff recommends that PNSSNS identify all plans and reports that will require the third-party to conduct additional tasks and reporting and describe how it will accomplish the work in the original timeframes.