California Regional Water Quality Control Board
Santa Ana Region

ORDER NO. R8-2016-0003

CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM AGRICULTURAL OPERATIONS IN THE WATERSHEDS OF THE SAN JACINTO RIVER AND ITS TRIBUTARIES, AND CANYON LAKE AND LAKE ELSINORE AND THEIR TRIBUTARIES, COLLECTIVELY, "THE SAN JACINTO RIVER WATERSHED" RIVERSIDE COUNTY

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), finds that:

WATERSHED CHARACTERISTICS

1. The San Jacinto River Watershed covers approximately 487,900 acres or about 762.3 square miles of the Santa Ana River Basin. It includes the San Jacinto River, Canyon Lake and Lake Elsinore and their tributaries.

2. Based on 2014 aerial mapping, the San Jacinto River Watershed includes approximately 59,192 acres of land zoned for agriculture. About 35,000 acres are in active agricultural use on parcels greater than 20 acres. Agricultural activities include dairy and other types of livestock operations and irrigated and dry-land farming. Currently, there are an estimated 184 agricultural operators who are responsible for hundreds of active agricultural operations at different sites within this watershed.

3. Discharges of waste from irrigated lands, livestock operations, dry-land farming and fallow land, (collectively, "agricultural operations"; see **DEFINITIONS**) within the San Jacinto River Watershed enter or threaten to enter into surface and/or ground waters of the state, and may cause or contribute to conditions of pollution or nuisance and/or to violations of applicable water quality standards.

4. Discharges from agriculture operations may result primarily from tail water (see DEFINITIONS, below) releases, irrigation water leakage, irrigation system malfunction, over- application of irrigation water, infiltration into underlying groundwater, and stormwater runoff. Discharges may contain waste substances such as soil, silt, sand, clay, and rock; inorganic chemicals and compounds, such as boron, selenium, potassium, nitrogen, phosphorus, salts of metallic elements, etc.; and, organic chemicals and materials, such as those that contribute to total organic carbon, including organic pesticides, organic fertilizers, etc.

5. The Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) identifies ground and surface waters within the Santa Ana Region (Region), including the San Jacinto River Watershed, designates beneficial uses for those waters, establishes water quality objectives for the reasonable protection of those uses, prescribes implementation plans for achieving the objectives, and establishes monitoring and surveillance programs.

6. Beneficial uses, surface water quality objectives and the antidegradation policy constitute federal water quality standards. California's antidegradation policy (State Water Resources Control Board [State Board, or SWRCB] Resolution No. 68-16) is incorporated in the Basin Plan by reference.

7. An updated Basin Plan was adopted by the Regional Board on March 11, 1994, updated February 2008 and subsequently approved by the State Board, Office of Administrative Law and United States Environmental Protection Agency (U.S. EPA). Subsequent amendments to the Basin Plan include a revised Total Dissolved Solids (TDS) and nitrogen management plan that includes the San Jacinto River Watershed, Total Maximum Daily Loads (TMDLs) for impaired surface waters in the San Jacinto River Watershed, and implementation plans associated with those TMDLs.

8. The Basin Plan specifies the following beneficial uses for Lake Elsinore, Canyon Lake and the San Jacinto River:

Water Body	Beneficial Uses
Lake Elsinore	*All beneficial uses are existing or potential:* • Municipal and domestic water supply (MUN)* • Warm freshwater aquatic habitat (WARM) • Body Contact (REC1) • Non-body contact recreational (REC2) • Wildlife habitat (WILD)
Canyon Lake	*All beneficial uses are existing or potential:* • Warm freshwater aquatic habitat (WARM) • Body Contact (REC1) • Non-body contact recreational (REC2) • Wildlife habitat (WILD) • Municipal and domestic water supply (MUN) • Agriculture water supply (AGR) • Groundwater recharge (GWR)
San Jacinto River Reach 1- Lake Elsinore to Canyon Lake	*All beneficial uses are intermittent:* • Municipal and domestic water supply (MUN)* • Agriculture water supply (AGR) • Groundwater recharge (GWR) • Body contact recreation (REC1) • Non-body contact recreation (REC2) • Warm freshwater aquatic habitat (WARM) • Wildlife habitat (WILD)
San Jacinto River Reach 2- Canyon Lake	*See Canyon Lake, above.*
San Jacinto River Reach 3- Canyon Lake to Nuevo Road	*All beneficial uses are intermittent:* • Municipal and domestic water supply (MUN)* • Agriculture water supply (AGR) • Groundwater recharge (GWR) • Body contact recreation (REC1) • Non-body contact recreation (REC2) • Warm freshwater aquatic habitat (WARM)

Water Body	Beneficial Uses
	• Wildlife habitat (WILD)
San Jacinto River Reach 4- Nuevo Road to North-South Mid-Section Line, T4S/R1W-S8	*All beneficial uses are intermittent:* • Municipal and domestic water supply (MUN)* • Agriculture water supply (AGR) • Groundwater recharge (GWR) • Body contact recreation (REC1) • Non-body contact recreation (REC2) • Warm freshwater aquatic habitat (WARM) • Wildlife habitat (WILD)
San Jacinto River Reach 5- North-South Mid-Section Line, T4S/R1W-S8, to Confluence with Poppet Creek	*All beneficial uses are intermittent:* • Municipal and domestic water supply (MUN)* • Agriculture water supply (AGR) • Groundwater recharge (GWR) • Body contact recreation (REC1) • Non-body contact recreation (REC2) • Warm freshwater aquatic habitat (WARM) • Wildlife habitat (WILD)
San Jacinto River Reach 6- Poppet Creek to Cranston Bridge	*All beneficial uses are intermittent:* • Municipal and domestic water supply (MUN)* • Agriculture water supply (AGR) • Groundwater recharge (GWR) • Body contact recreation (REC1) • Non-body contact recreation (REC2) • Warm freshwater aquatic habitat (WARM) • Wildlife habitat (WILD)
San Jacinto River Reach 7- Cranston Bridge to Lake Hemet	*All beneficial uses are existing or potential:* • Municipal and domestic water supply (MUN) • Agriculture water supply (AGR) • Groundwater recharge (GWR) • Body contact recreation (REC1) • Non-body contact recreation (REC2) • Warm freshwater aquatic habitat (WARM) • Wildlife habitat (WILD)

**Excepted from MUN beneficial use*

9. Point and nonpoint source waste discharges in the San Jacinto River Watershed have contributed to exceedances of some water quality objectives and impairment of some beneficial uses in both Canyon Lake and Lake Elsinore. Accordingly, both lakes are included on the federal Clean Water Act section 303(d) list of impaired waters[1]. Canyon Lake is listed as impaired due to elevated levels of nutrients and pathogens. Lake Elsinore is listed as impaired due to elevated levels of nutrients, organic enrichment and low dissolved oxygen, elevated polychlorinated biphenyls (PCBs), and toxicity. To address nutrient (nitrogen and phosphorus) impairment in the lakes, on December 20, 2004, the Regional Board adopted TMDLs for Canyon Lake and Lake Elsinore

[1] SWRCB, 2010 Integrated Report
http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtm

(Resolution No. 2004-0037). These Nutrient TMDLs established load allocations and waste load allocations for nitrogen and phosphorus inputs from specified sources, including agricultural activities. These TMDLs were approved by the State Board on May 19, 2005 (Resolution No. 2005-0038), by the Office of Administrative Law on July 26, 2005, and by the U.S. EPA on September 30, 2005, and are now being implemented.

DEFINITIONS

10. "Agricultural discharges" are releases of waste to waters of the state, as defined in the California Water Code, from agricultural operations. Agricultural discharges include irrigation return or tailwater flows, runoff of irrigation water from the site of application resulting from over-application or malfunction, and wet weather and flood flow runoff. Agricultural discharges may include infiltration of excess irrigation water into underlying groundwater basins. Agricultural discharges may contain or transport waste materials such as earth (including humus, soil, sand, and rock, and suspensions of silt and clay), dissolved inorganic chemical materials (including "salts" and other compounds of metals, sulfur, boron, selenium, potassium, nitrogen, phosphorus, etc.), and organic chemicals and materials (including oxygen-demanding substances, organic chemicals such as pesticides, etc.).

11. "Agricultural lands" are lands or locations that are being used for agricultural operations.

12. "Agricultural material" means material of plant or animal origin, which results directly from the conduct of agricultural, animal husbandry, horticultural, aquacultural, silvicultural, vermicultural, viticultural and similar activities undertaken for the production of food or fiber for human or animal consumption or use which is separated at the point of generation, and which contains no other solid waste. Agricultural material includes, but is not limited to, manure, orchard and vineyard prunings, and crop residues as defined under California Code of Regulations, Title 14 (14 CCR) section 17852(a)(5).

13. "Agricultural operations" include all of the following:

    a. The irrigation and plowing, fertilization, tilling or fallowing of the land for the purpose of cultivating an agricultural commodity, crop, or pasture;

    b. The planting, seeding, cultivation, growing and harvesting of agricultural commodities or crops;

    c. Growing and cultivating plants in containers (e.g., production nurseries);

    d. Stockpiling of agricultural material, mulch or compost for use as a fertilizer or soil amendment, and composting of agricultural material;

    e. Applying manure, mulch or compost to irrigated, dry-farmed, or fallow land whether or not the land is zoned for agriculture;

    f. The breeding, rearing, raising, feeding, housing or pasturing of domesticated animals including but not limited to horses, animals raised for milk or meat, fur-bearing animals, domestic pets, and poultry for the purpose of acquiring products or

commodities produced by the animals, or for distribution of animals, alive or dead, for any purpose;

g. The operation, management, conservation, improvement or maintenance of a farm or ranch and its buildings, tools and equipment;

h. The construction, operation and maintenance of ditches, canals, reservoirs, tanks, wells, holding ponds, waste containment ponds and/or waterways used for farming or ranching purposes;

i. All procedures conducted as a normal part of any of these activities.

Agricultural operations, as defined above, do not include point of sale nurseries that are not engaged primarily in production and are regulated pursuant to requirements in the Regional Board's Municipal Separate Storm Sewer System (MS4) permit for Riverside County (Order No. R8-2010-0033, National Pollutant Discharge Elimination System [NPDES] No. CAS 6180333, Riverside County Flood Control and Water Conservation District, County of Riverside and the Incorporated Cities of Riverside County within the Santa Ana Region - Area-Wide Urban Runoff Management Program, and its subsequent iterations), and dairies that are covered under the General Waste Discharge Requirements (WDRs) for Concentrated Animal Feeding Operations (CAFO) (Dairies and Related Facilities) within the Santa Ana Region, Order No. R8–2013-0001, NPDES No. CAG018001 and its subsequent iterations.

14. "Animal unit" is the number of a specific animal type that is approximately equivalent, or produces a volume or mass of manure approximately equivalent, to 1,000 pounds of live weight. For purposes of this Order, animal units are calculated consistent with the animal number thresholds in the federal permit requirements for CAFOs. These thresholds generally represent 1,000 animal units. Animal unit conversions are included in Attachment A.

15. "Coalition Group" means any group of dischargers and/or organization(s) that forms to facilitate compliance with this Conditional Waiver. A Coalition Group can be formed on a geographical basis or formed with other factors in common, such as cultivating commodities. A Coalition Group consists of the discharger membership who form, apply and are accepted into a Group. Discharger members remain responsible for compliance with this Conditional Waiver.

16. "Compost" means a fully decomposed, stabilized, organic product which has met the maximum metal concentrations, as described in California Code of Regulations, Title 14 (14 CCR) section 17868.2, the pathogen reduction requirements, as described in 14 CCR section 17868.3, and the physical contaminant limits, as described in 14 CCR section 17868.3.1. Compost shall not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters; no more than 20% dry weight of this 0.5% shall be film plastic greater than 4 millimeters as described in 14 CCR section 17868.3.1.

17. "Compostable materials" means any organic material that when accumulated is capable of rapid decomposition and generating temperatures of at least 122 degrees Fahrenheit as defined in 14 CCR section 17852.

18. "Cumulative acres" means the total number of acres (rented or owned) under the control of a single discharger within the San Jacinto River Watershed. Cumulative acres account for multiple parcels or locations that are under a single discharger's control that may or may not be contiguous or adjacent to one another.

19. "Discharger" means the owner, owner-operator, or operator of agricultural operations, as defined above. A "discharger" discharges, proposes to discharge, or has the potential to discharge wastes that could directly or indirectly affect the quality of the waters of the state. A "discharger" may be an individual, a trust, corporation, partnership, or other enterprise formed by a binding agreement. The term "agricultural operator" is synonymous with "discharger".

20. "Dry-Land Farming" entails management practices used by farmers in arid regions to adapt to the presence or lack of moisture available within the soil column. This technique relies on the efficient storage and use of soil moisture, rather than using irrigation or rain water, to maximize crop yield. Moisture control during crop growing consists largely of destruction of weeds and prevention of runoff. The nature of dry land farming makes it susceptible to wind erosion.

21. "Fallow Land" is land that has undergone plowing and harrowing, but has been left unseeded for one or more growing seasons. The land may be cultivated or chemically treated for control of weeds and other pests or may be left unaltered.

22. "Farm" is a parcel or parcels of land on which crops, commodities or animals are raised or stored; also, "farm" is the business or practice of operating a farm.

23. "Irrigated lands" means lands or locations where water is applied for the purpose of producing crops. Irrigated land(s) include, but is not limited to, farm land used for growing row and field crops, feed and fodder crops, and tree crops, without limitation, and production plant nurseries and greenhouse operations with permeable floors that are not subject to WDRs or NPDES permits, including MS4 permits.

24. "Irrigation return flow" means surface water that leaves the field following application of irrigation water. Irrigation return flow may be captured and reused or it may be discharged to a drainage channel or natural water body. "Tailwater" and "irrigation return flow" may be used synonymously.

25. "Livestock operations" means an agricultural operation primarily involved in the breeding, rearing, raising, feeding, housing or pasturing of domesticated animals including but not limited to horses, animals raised for milk or meat, fur-bearing animals, domestic pets, and poultry for the purpose of acquiring products or commodities produced by the animals, or for distribution of animals, alive or dead, for any purpose.

26. "Manure" means accumulated excrement (e.g. milk cow, dry cow, heifer, calf, cattle, poultry, pig, horse), which include feces and urine, bedding materials, spilled feed, or soil that mixed with feces or urine that does not exceed its moisture holding capacity.

27. "Mulch" means untreated or raw landscape waste and crop production byproducts consisting of leaves, grass clippings, weeds, yard trimmings, wood waste, branches and stumps, and whole plants/trees that have been chipped and ground to a reduced particle

size. The final deposition of chipped and ground compostable material and/or digestate spread on any land, including land zoned only for agricultural uses, must not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters (no more than 20% by dry weight of this 0.5% shall be film plastic greater than 4 millimeters, as specified in the California Code of Regulations, Title 14 (14 CCR) section 17852(a)(24.5)(A)(1). Any chipped and ground material that will be land applied must meet the maximum metal concentrations and pathogen reduction requirements of 14 CCR section 17852(a)(24.5)(A)(2) and (3).

28. "Municipal solid waste (MSW)" means all solid wastes generated by residential, commercial, and industrial sources, and all solid waste generated at construction and demolition sites, at food-processing facilities, and at treatment works for water and waste water, which are collected and transported under the authorization of a jurisdiction or are self-hauled as described in 14 CCR section 18720(a)(40). Municipal solid waste does not include agricultural crop residues (SIC Codes 071 through 0724, 0751), animal manures (SIC Code 0751), mining waste and fuel extraction waste (SIC Codes 101 through 1499), forestry wastes (SIC Codes 081 through 0851, 2411 and 2421), and ash from industrial boilers, furnaces and incinerators.

29. "Physical contaminants" means human-made material contained within compostable materials that include, but are not limited to plastics, glasses, and metals.

30. "Tail water" means surface runoff resulting from crop irrigation. Irrigation practices such as flood irrigation and sprinkler irrigation can result in applied water in excess of the infiltration rate of the soil. Sloped fields can allow for the excess water to run off the field and discharge to a drainage channel or natural water body.

31. "Tile drains" are drainage systems that remove excess subsurface water from agricultural operations. Traditionally, these sub-surface networks were constructed of cylindrical clay tiles with unsealed joints; flexible plastic "tiles" are now in common use. Excess water collected in and flowing through tile drain lines is discharged into surface water at a lower elevation than the outlets of the tile drainage system.

32. "Trash" is the improperly disposed junk or rubbish generated by human activity, as defined in the Trash Amendments[2] adopted by the State Water Resources Control Board, which frequently winds up in waterways. Trash can include cigarette butts, paper, fast food containers, plastic grocery bags, cans and bottles, used diapers, construction site debris, industrial plastic pellets, old tires and appliances.

33. "Waste" is defined by Water Code section 13050(d) as including, "... sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal." This Conditional Waiver applies only to waste from agricultural operations, as defined above, and not to human sanitary waste, hazardous waste, or wastes from other producing, manufacturing or processing operations, including trash.

[2] State Water Resources Control Board Resolution No. 2015-0019, Fact Sheet, and Staff Report.

34. "Water quality standards" is the federal term for beneficial uses, water quality objectives, and an antidegradation policy.

35. "Water Quality Trading Program" (WQTP) is a program designed to reduce pollutant loads, especially nutrients (nitrogen and phosphorus), to receiving waters in a cost-effective manner. Trading can allow one source or sources in an appropriately delineated watershed to meet their regulatory discharge obligations by using pollutant reductions generated by another source(s).

36. "Waters of the state" is defined by Water Code section 13050(e), as any surface water or groundwater, including saline waters, within boundaries of the state.

REGULATORY CONSIDERATIONS

37. Water Code section 13260 requires any person discharging waste or proposing to discharge waste that could affect the quality of the waters of the State, other than into a community sewer system, to file with the Regional Board a report of waste discharge (ROWD) containing such information and data as may be required by the Regional Board, unless the Regional Board waives such requirement under Water Code section 13269.

38. Water Code section 13263 authorizes the Regional Board to prescribe waste discharge requirements (WDRs) for any proposed discharge, existing discharge, or material change to an existing discharge. The WDRs must implement relevant water quality control plans and take into consideration, among other things, the beneficial uses of water to be protected, the water quality objectives reasonably required for that purpose, and the need to prevent nuisance.

39. Water Code section 13269 authorizes the Regional Board to waive the requirement to file ROWDs and to obtain WDRs for a specific discharge or type of discharge if the Regional Board determines, after a hearing, that the waiver is consistent with the applicable water quality control plan and is in the public interest. A waiver is conditional and may be terminated at any time by the Regional Board. The Regional Board must require compliance with the conditions pursuant to which a waiver is granted. The conditions must include the performance of an individual, group, or watershed-based monitoring, except where the Regional Board determines that discharges addressed by the waiver do not pose a significant threat to water quality. A conditional waiver shall not exceed five years in duration, but may be renewed by the Regional Board as required.

40. As authorized by Water Code section 13269, this Order (also referred to as "Conditional Waiver" or "CWAD") conditionally waives the requirement to file ROWDs and to obtain WDRs pursuant to Water Code sections 13260 and 13263 for discharges of waste from agricultural operations (see DEFINITIONS) enrolled in this Order and for which a Notice of Authorization (NOA) authorizing discharges subject to the conditions of this waiver has been issued by the Executive Officer. The waiver is conditional upon meeting the requirements of this Order.

41. Enrollees in this Conditional Waiver may form a Coalition Group to coordinate and collaborate on compliance with this Order. The Coalition Group must select a third party representative (individual, company, or organization) not directly enrolled to act as their

agent for the purpose of enrollment in and compliance with the monitoring and reporting requirements of this Order. The third party representative may also collect annual fees required by the SWRCB, TMDL implementation costs, and apportioned costs to implement the requirements of this Waiver. The choice of the third party representative must be approved by the Regional Board Executive Officer, based on the demonstration that the representative has the technical and financial capability to fulfill the duties described above.

42. The formation, operation, management and funding of a Coalition Group is the responsibility of the individual dischargers who are represented by and participate in the Coalition Group.

43. This Conditional Waiver does not preempt or supersede the authority of municipalities, flood control agencies, agricultural commissioners, special districts or other public agencies to prohibit, restrict, or control discharges of waste subject to their jurisdiction.

44. Where other Federal, State, and local agencies have a regulatory role with respect to agricultural operations, the Regional Board will work cooperatively with these other Agencies in order to regulate agricultural discharges effectively and in a manner consistent with other applicable regulations.

45. The Regional Board may consider adoption of general or individual WDRs to regulate discharges from agricultural operations that do not meet the requirements for participation in the Conditional Waiver as described herein.

46. The Regional Board may review this Conditional Waiver at any time and may modify or terminate the Waiver for Individual Dischargers, members of a Coalition Group, or in its entirety, as appropriate.

47. Pursuant to Water Code section 13263(g), to discharge is a privilege, not a right. Adoption of this Order establishing a Conditional Waiver, and the receipt of a Notice of Authorization (NOA) from the Executive Officer authorizing discharges subject to the conditions of this Waiver, does not create a vested right to continue the discharge.

APPLICABILITY OF THIS ORDER

48. The intent of this Conditional Waiver is to regulate discharges from agricultural operations within the San Jacinto River Watershed to ensure that such discharges are not causing or contributing to conditions of pollution or nuisance; exceedances of applicable water quality objectives for surface and ground waters; failure to achieve TMDLs; or, the impairment of beneficial uses of receiving waters, including surface and ground waters.

49. All owners, owner/operators and/or operators of irrigated agricultural operations that have 20 or more cumulative acres in area are considered dischargers for the purposes of this Order and must file a Notice of Intent (NOI) to comply with the conditions of this Waiver for enrollment of their agricultural operations in this Conditional Waiver. The 20 or more cumulative acres may include lands that are all irrigated or a portion of which is dry farmed and/or fallow, on a permanent or periodic basis, and upon which pesticides, fertilizers and/or manure, mulch or compost is applied.

50. All owners, owner/operators and/or operators of livestock operations that are 20 or more cumulative acres in area[3] and owner/operators or operators of livestock operations that are less than 20 cumulative acres and maintain an animal density of more than three (3) animal units per acre (see Attachment A), except CAFOs regulated under Regional Board WDRs, are dischargers and must file an NOI for enrollment in this Conditional Waiver.

51. Owners and/or operators of agricultural operations, other than irrigated agriculture and livestock operations of 20 or more cumulative acres or livestock operations of less than 20 cumulative acres with an animal density of more than three (3) animal units per acre (see Attachment A) that Regional Board staff finds to be a high risk[4] for discharging animal wastes or other wastes that could affect water quality are considered to be dischargers for the purpose of this Order and are required to file an NOI to be enrolled in this Conditional Waiver, or to submit a Report of Waste Discharge (Water Code section 13260) when notified to do so by Regional Board staff.

52. This Conditional Waiver does not apply to discharges that are subject to the NPDES permit program under the federal Clean Water Act section 402.

53. This Conditional Waiver does not apply to discharges already regulated under another waiver or by individual or general WDRs previously adopted by the Regional Board or SWRCB.

54. This Conditional Waiver does not apply to parks, golf-courses, cemeteries, play grounds, recreational fields and similar facilities as such operations are subject to regulation pursuant to requirements in Regional Board Order No. R8-2010-0033 (NPDES No. CAS 618033), "Waste Discharge Requirements for the Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Incorporated Cities of Riverside County within the Santa Ana Region / Area-Wide Urban Runoff Management Program," (Urban MS4 Permit), and its subsequent iterations.

55. Only waste resulting from agricultural operations, i.e., agricultural discharges, as defined herein, may qualify for discharge under this Conditional Waiver. These discharges include irrigation tailwater and stormwater runoff that may be directed to surface waters or to land. This Waiver does not apply to discharges of sanitary human waste or to hazardous waste as defined by California law.

---

[3] United States Forest Service (USFS) grazing allotments with low animal density (greater than or equal to 50 acres per Animal Unit per year), and where no pesticides, herbicides, nutrients, or irrigation are applied to the land, are not subject to the terms of this Order.

[4] An agricultural operation, other than irrigated agriculture or livestock operations on 20 or more cumulative acres, will be considered high-risk if dry-weather runoff discharges are observed, or if topographic features, location, existing management practices or materials applied as part of the agricultural operations (e.g., pesticides or herbicides) represent a significant potential for waste discharges that could adversely affect water quality standards of receiving waters.

SCOPE AND REQUIREMENTS OF THIS ORDER

56. This Order requires dischargers to:

    a. Implement applicable tasks identified in the Lake Elsinore and Canyon Lake Nutrient TMDLs, including the development and implementation of approved nutrient management plans, monitoring plans, and, as appropriate, Pollutant Trading Plans (may also be referred to herein as Water Quality Trading Plans)(WQTPs);
    b. Evaluate and implement management practices to reduce or eliminate adverse impacts to water quality objectives and beneficial uses that result from agricultural waste discharges;
    c. Employ adaptive management strategies as necessary to improve water quality management practices;
    d. Implement other steps as necessary to prevent pollution and nuisance.

57. This Conditional Waiver requires the enrolled dischargers to submit a proposed water quality monitoring program plan (WQMPP) and to implement that plan upon approval by the Executive Officer. The proposed monitoring programs must be designed to characterize waste discharges and their effects on the receiving waters and to determine the efficacy of management practices. Agricultural operators who are enrolled in the Coalition Group may prepare a group WQMPP.

58. This Conditional Waiver prohibits the land application of compostable materials, other than mulch, compost, and manure, as these are defined above (see DEFINITIONS) at agricultural operations within the San Jacinto River Watershed. This Waiver also specifies conditions under which mulch, compost and manure may be stockpiled and applied at agricultural operations in the San Jacinto River Watershed.

Implementation of Total Maximum Daily Loads (TMDLs)

59. On December 20, 2004, the Regional Board adopted Resolution No. R8-2004-0037, amending the Basin Plan to incorporate Nutrient TMDLs for Lake Elsinore and Canyon Lake. The Nutrient TMDLs were thereafter approved by the SWRCB, Office of Administrative Law and the U.S. EPA and are now being implemented.

60. The Lake Elsinore and Canyon Lake Nutrient TMDLs require all dischargers in the San Jacinto River Watershed to limit their discharges of nitrogen and phosphorus to surface waters. The Nutrient TMDLs identify the allowable discharges of nitrogen and phosphorus by source, as expressed in wasteload and load allocations for these pollutants. These include load allocations for agricultural operations. Compliance with the Nutrient TMDLs and the wasteload and load allocations is to be achieved as soon as possible but no later than December 31, 2020.

61. The Nutrient TMDLs include an implementation plan that identifies a series of requisite actions by the dischargers, including agricultural owners/operators, to achieve the TMDLs and allocations. Timely and effective implementation of the applicable TMDL implementation tasks is a condition of this Conditional Waiver.

62. A considerable body of data and evidence has been collected since the Nutrient TMDLs were established. In light of this, the Regional Board is committed to timely review of these TMDLs. Based on review of the new data and evidence to date, substantive

revisions to the TMDLs, including wasteload and load allocations and obligations for contributions to internal nutrient loading reductions in the lakes, are likely to be necessary. Modification of the implementation tasks and compliance schedules may also be appropriate. This Order will be revised as appropriate based on approved revised Nutrient TMDLs.

63. One of the tasks included in the implementation plan for the Nutrient TMDLs is the development, and implementation upon Regional Board approval, of one or more Pollutant Trading Plans by identified parties, including agricultural operators. The inclusion of this task was requested by the local stakeholders during the development of the TMDLs, based on understanding of the special characteristics of the lakes, e.g., that internal loading of nutrients from sediments deposited in the lakes over time is the most significant nutrient source to the lakes, that reductions in external nutrient loading alone would not suffice to achieve the TMDLs, and that stabilization of lake levels, particularly in Lake Elsinore, is crucial to the restoration and maintenance of beneficial uses. In short, the stakeholders recognized, and the Regional Board agreed, that a conventional technology/treatment approach would not suffice to achieve the TMDLs and restore beneficial uses. Rather, it was recognized that multiple alternative strategies could be identified and implemented to achieve the needed internal nutrient loading reductions and to offset external loads (and thereby comply with wasteload and load allocations). An important goal of a Pollutant Trading Plan would be to identify and implement strategies designed to assure that each responsible party's nutrient discharges to the lakes are offset on at least a 1:1 basis. Collaboration on the development and implementation of such strategies/plans is encouraged to provide the needed nutrient load reductions in an efficient and effective manner. As described in #69, below, these strategies were assumed by the TMDLs to include an aeration and mixing system in Lake Elsinore. The strategies could also include such things as fisheries management to reduce sediment disturbance and the release of nutrients.

    The TMDLs assumed that the use of such strategies to address both internal and external loads would require the development of a formalized, Regional Board-approved plan (Pollutant Trading Plan) whereby the costs and nutrient reduction credits would be allocated among the parties responsible for implementing the strategies. Thus, the specific Pollutant Trading Plan task was incorporated in the TMDL implementation plan. However, practical experience with the aeration and mixing system in Lake Elsinore since it was built in 2006-7 and commenced operation in 2008 has demonstrated that cost and credit sharing responsibilities can be implemented effectively through Regional Board-approved operation and maintenance agreements and/or approved comprehensive nutrient management plans prepared by the responsible parties. This alternative approach obviates the need for a formalized Pollutant Trading Plan(s), which, in turn, offers plan preparation cost savings to the stakeholders that can be, and have been, better applied to the implementation of nutrient control strategies, including monitoring. While this Order does not require that a formalized Pollutant Trading Plan be prepared, reliance on a pollutant trading program, or Water Quality Trading Program, is likely to be necessary to achieve the TMDLs, given the lake/nutrient characteristics identified above. Accordingly, this Order accommodates the implementation of WQTPs.

64. A key task included in the implementation plan for the Nutrient TMDLs is the development of one or more agricultural nutrient management plans (AgNMPs), either by individual agricultural operators or by agricultural operators coordinating as a Coalition Group. These plans are to include proposed plans and schedules for the implementation of

nutrient reduction BMPs, including in-lake nutrient reduction measures, and monitoring to assess BMP efficacy and the effects of the proposed BMPs on receiving water quality. The plan(s) are to be implemented upon approval by the Regional Board. In light of new data and evidence concerning nutrient inputs to receiving waters and the anticipated need for substantive modifications of the Nutrient TMDLs, this Order requires that enrollees: submit, by July 28, 2017 and annually by September 15 thereafter, a BMP reporting program that identifies the BMPs that have been and will be implemented, in accordance with a proposed schedule, to control and reduce nutrient and other pollutant discharges from agricultural operations; and, (2) submit the proposed AgNMP within 6 months of the submittal (by the Nutrient TMDL Task Force; see Finding 66) of draft recommendations for the revisions of the TMDLs.

65. Compliance with the agricultural load allocation assigned in the TMDLs may be achieved by full and timely implementation of the approved AgNMP(s), provided that it is documented to the Board's satisfaction that the plan(s) are designed to achieve the TMDL load allocation. Compliance with the requirement to assure that agricultural discharges do not cause or contribute to violations of applicable groundwater quality objectives may also be achieved by full and timely implementation of the approved AgNMP(s), provided that it is documented to the Board's satisfaction that the plan(s) are designed appropriately to provide this assurance.

66. In order to implement the existing Nutrient TMDL requirements and to develop effective solutions for improving water quality in Lake Elsinore and Canyon Lake, responsible agencies and stakeholders formed the Lake Elsinore and Canyon Lake TMDL Task Force (TMDL Task Force)[5]. The Lake Elsinore and San Jacinto Watershed Authority (LESJWA) currently serves as the Task Force administrator. To encourage timely action to achieve the TMDLs, and to foster anticipated resource expenditure efficiencies, the TMDL implementation plan encourages responsible agencies/parties, including agricultural owner/operators, to participate in TMDL implementation through the TMDL Task Force. TMDL implementation costs are apportioned among the TMDL Task Force members. However, pursuant to the TMDLs, individual agencies/parties, including agricultural owners/operators not enrolled in a Coalition Group, can elect to implement each applicable implementation task independently. The costs of such independent compliance are borne by the individual discharger(s).

67. The Western Riverside County Agriculture Coalition (WRCAC) represents the interests of its member agricultural operators and dairy operators on the TMDL Task Force. WRCAC has been given responsibility by its membership to administer the coordination of responses with respect to the TMDL implementation tasks on behalf of its members and to collect from those members their apportioned share of TMDL implementation costs. WRCAC provides the funds collected to the TMDL Task Force administrator (LESJWA) to support TMDL implementation.

---

[5] As of June 1, 2015, Task Force members include: US Air Force (March Air Reserve Base), March Joint Powers Authority, California Dept. of Transportation (Caltrans), California Dept. of Fish and Wildlife, County of Riverside, Riverside County Flood Control and Water and Water Conservation District, the cities of Lake Elsinore, Canyon Lake, Hemet, San Jacinto, Perris Moreno Valley, Murrieta, Riverside, Menifee, Wildomar, Beaumont, Eastern Municipal Water District, Elsinore Valley Municipal Water District, and WRCAC (on behalf of most concentrated animal feeding operators and irrigated/dry lands agricultural operators within the San Jacinto watershed).

68. Participation in the TMDL Task Force through WRCAC enables WRCAC members to fulfill TMDL implementation tasks in an efficient manner. The TMDL Task Force , including WRCAC, is implementing a Regional Board approved San Jacinto River Watershed-wide nutrient monitoring program, as required by the Nutrient TMDLs. WRCAC has submitted a proposed final AgNMP for the San Jacinto Watershed (April 30, 2013) to the Regional Board, and is developing a nonpoint source to nonpoint source (agricultural operator to agricultural operator) WQTP that is expected to be used to enhance and optimize external nutrient load reductions to the Lakes using targeted BMPs. Revisions to this proposed AgNMP will be made in response to this Order and to the development of the proposed WQTP. The revised Plan will be presented to the Regional Board for approval. WRCAC members are therefore in compliance with these TMDL requirements.

69. Agricultural operators who are not members of WRCAC are individually responsible to fulfill the watershed-wide monitoring, AgNMP, and other Nutrient TMDL implementation tasks. Water Code section 13267 orders were issued to agricultural operators in 2009, 2012 and 2015 to require the submittal of proposed agricultural nutrient management and watershed-wide monitoring plans, and the implementation of these plans upon Regional Board approval. Enrollment in this Conditional Waiver by an agricultural operator will supersede any existing Water Code section 13267 order(s) issued to that operator. Agricultural operators who are not enrolled in this Conditional Waiver will continue to be subject to existing Water Code section 13267 orders.

70. The final total phosphorus and total nitrogen TMDLs established in the Nutrient TMDLs are shown in the table below. The TMDLs are the total loads of phosphorus and nitrogen that can be allowed to enter Lake Elsinore and Canyon Lake but still restore and maintain the water quality standards of the lakes. The TMDLs are expressed as 10-year running averages.

Water Body	Phosphorus	Nitrogen
Lake Elsinore	28,584 kg/yr	239,025 kg/yr
Canyon Lake	8,691 kg/yr	37,735 kg/yr

71. As described previously, the total allowable phosphorus and nitrogen loads (TMDLs) for Lake Elsinore and Canyon Lake are allocated among the sources of these constituents to the lakes. Wasteload allocations are specified in the Nutrient TMDLs for point source inputs, including recycled water and urban runoff. Load allocations are specified in the Nutrient TMDLs for nonpoint source inputs of phosphorus and nitrogen to the lakes. Load allocations are specified for: internal releases of these nutrients from sediments in the bottom of the lakes; atmospheric deposition; agriculture; forest and open space; and, septic systems. For Lake Elsinore, phosphorus and nitrogen load allocations were also established for inputs from Canyon Lake.

72. The phosphorus allocations established in the Nutrient TMDLs for Lake Elsinore were calculated based on the assumption that an aeration and mixing system was installed and would be operated, and that this system would result in a thirty-five percent (35%) reduction in the internal loading of phosphorus from sediment in Lake Elsinore[6]. Without

[6] California Regional Water Quality Control Board, Santa Ana Region. "Lake Elsinore and Canyon Lake Nutrient Total Maximum Daily Loads." March 26, 2004; revised April 21, 2004. p. 60ff. "Phosphorus Load Capacity for Lake Elsinore Based on Proposed Interim Target."

this assumption of the reduction of internal loading of phosphorus from sediment, Lake Elsinore has no assimilative capacity for inputs of phosphorus from other sources. This means that absent the successful operation of the aeration system (and/or an acceptable alternative internal nutrient loading reduction strategy), the allocations assigned to other sources of phosphorus input to the lake, including agriculture, would need to be set to zero, i.e., no discharges of phosphorus from external sources, such as from agriculture, could be allowed.

While the Lake Elsinore TMDLs assumed that an aeration system would be implemented, the TMDLs did not assign the responsibility for doing so to any specific parties. Rather, it was assumed that appropriate cost sharing agreements and commitments to construct, operate and maintain an aeration system by and among the responsible parties, including agricultural dischargers, would be developed and approved, likely under the auspices of the Lake Elsinore and Canyon Lake TMDL Task Force. It was also assumed that one or more responsible parties might propose an alternative to the aeration/mixing system to achieve the equivalent, requisite internal nutrient loading reductions to allow for their ongoing external load inputs to the lakes, as part of their required Pollutant Trading Plans, e.g., implementation of a fisheries management program. (As described in Finding 63, above, while this Order does not require the submittal of a formal Pollutant Trading Plan, WRCAC, on behalf of its agricultural operator members, is developing a WQTP to assure nutrient reductions in an effective and efficient manner. The expected effect of the WQTP is to achieve TMDL water quality goals at substantial economic savings.)

73. The LEAMS has been implemented and is operating as designed to reduce the internal loading of phosphorus (and nitrogen) from sediment in Lake Elsinore. To date, funding for the implementation, operation and maintenance of this system has been provided by the City of Lake Elsinore and Elsinore Valley Municipal Water District (EVMWD). Funding commitments for the LEAMS system were made by the City and EVMWD to: a) offset phosphorus and nitrogen in recycled water discharges by EVMWD to the Lake to maintain a stable lake level; and, b) to allow the implementation of the aeration and mixing system as soon as possible and thereby facilitate water quality and beneficial use improvements in Lake Elsinore.

Other dischargers with allocations assigned in the TMDLs are expected to participate in the operation and maintenance of this system over the long term, or to implement an alternative program strategy identified in an approved Pollutant Trading Plan/WQTP or comprehensive nutrient management program. Participation in the TMDL Task Force implementation strategies such as LEAMS (or an alternative, approved internal nutrient reduction strategy) is necessary to offset all external discharges of phosphorus to Lake Elsinore. Without this system or an alternative approved nutrient reduction strategy, there would be no assimilative capacity for phosphorus inputs to the Lake and therefore no external inputs of nutrients to Lake Elsinore would be allowed. This Conditional Waiver requires the development and implementation of an approved AgNMP(s) and/or WQTPs to address these circumstances and, in part, identify appropriate internal nutrient reduction strategies. Review and revision of the approved AgNMP and/or WQTP plan(s) will be required as part of an adaptive management process.

The Regional Board encourages agricultural dischargers to collaborate with the TMDL Task Force and other responsible parties to formulate and implement a comprehensive plan to assure fairly-apportioned, long-term funding for the operation and maintenance of LEAMS and/or other proposed strategies designed to reduce internal nutrient loading and

thereby offset external discharges of nutrients to the Lake. As described in Finding 68, WRCAC has submitted an AgNMP for the San Jacinto Watershed on behalf of WRCAC members. This AgNMP will be updated as specified in the Order. Agricultural operators enrolled in this Order who are not members of WRCAC or a Coalition Group will be required to develop and implement, upon Regional Board approval, an individual AgNMP.

74. The Lake Elsinore and Canyon Lake Nutrient TMDLs assign total phosphorus and total nitrogen load allocations to agriculture, as shown in the table below. As described in the preceding Findings, the application of these allocations is contingent on the participation by agricultural dischargers in the operation and maintenance of LEAMS, or an alternative internal nutrient loading reduction strategy in a manner to be established by a Regional Board-approved AgNMP, Pollutant Trading Plan/WQTP, or operation/maintenance agreement(s). The allocations are expressed as 10-year running averages.

Water Body	Phosphorus	Nitrogen
Lake Elsinore	60 kg/yr.	213 kg/yr.
Canyon Lake	1,183 kg/yr.	7,583 kg/yr.

Implementation of Total Dissolved Solids/Nitrogen (TDS/N) Plan

75. On January 22, 2004, the Regional Board adopted Resolution No. R8-2004-0001, amending the Basin Plan to incorporate an updated TDS and Nitrogen Management Plan for the Santa Ana Region. The amendments included establishing revised boundaries for groundwater subbasins, revised nomenclature to identify groundwater subbasins as GMZs, revised TDS and nitrate-nitrogen water quality objectives for the GMZs, and updated findings of TDS and nitrate-nitrogen assimilative capacity in the GMZs. These amendments were approved by the SWRCB on October 1, 2004 and by the Office of Administrative Law on December 23, 2004. The surface water standards provisions of the amendments were approved by the U.S. EPA on January 20, 2007.

76. The TDS and Nitrogen Management Plan in the Basin Plan has been amended to: incorporate "maximum benefit" TDS and nitrate-nitrogen objectives for the San Jacinto Upper Pressure GMZ and enable implementation of a comprehensive Hemet/San Jacinto Water Management Plan (Resolution No. R8-2010-0039); incorporate a revised nitrogen loss coefficient for the GMZs in the San Jacinto River Watershed (Resolution No. R8-2014-0005); and, to reflect updated findings of TDS and nitrate-nitrogen assimilative capacity (Resolution No. R8-2014-0005).

77. With the exception of the San Jacinto Upper Pressure GMZ, for which maximum benefit objectives and a maximum benefit implementation plan have been established, all GMZs in the San Jacinto Watershed lack assimilative capacity for both TDS and nitrate-nitrogen, i.e., ambient TDS and nitrate-nitrogen quality conditions exceed the applicable water quality objectives. The Regional Board will consider the allocation of assimilative capacity created in the San Jacinto Upper Pressure GMZ by the implementation of the maximum benefit objectives and associated implementation plan only to waste discharges by those agencies/parties responsible for the maximum benefit implementation plan. Discretion regarding the allocation of this assimilative capacity, if any, remains with the Regional Board.

78. Absent assimilative capacity for TDS and/or nitrate-nitrogen in GMZs, waste discharges to these management zones must be held to the applicable TDS and/or nitrate-nitrogen objectives established for each GMZ. This requirement is included as a condition of this Order. However, the Order also provides an opportunity to offset TDS and nitrate-nitrogen discharges by participating in a Regional Board approved offset program(s). In addition, the Order specifies that compliance with the requirement to assure that agricultural discharges do not cause or contribute to violations of TDS and nitrate-nitrogen GMZ water quality objectives can be achieved through timely implementation of properly designed, Board-approved individual or group AgNMPs. These individual and/or group AgNMPs may incorporate offset programs or other water quality trading programs. This regulatory approach recognizes the inherent difficulties of specifying and complying with TDS and nitrate-nitrogen waste discharge limits for agricultural discharges. This regulatory approach is comparable to that employed by the Regional Board in regulating dairies and related facilities (Order No. R8-2013-0001, NPDES No. CAG018001).

79. Manure is a significant source of TDS and nitrogen. When applied to land for use as a fertilizer it may contribute to water quality degradation in underlying groundwater. Consistent with the approach in Order No. R8-2013-0001, this Conditional Waiver prohibits the application of manure to lands within the San Jacinto River Watershed that overlie GMZs without assimilative capacity for TDS and/or nitrate-nitrogen, unless a nutrient management plan, acceptable to the Executive Officer, is implemented offsetting the effects of that application on the underlying GMZ. These manure application requirements apply also to the San Jacinto Upper Pressure GMZ, unless it is demonstrated that the agricultural operator is at least in part responsible for and contributing to the maximum benefit implementation plan for that GMZ and may therefore be entitled to some allocation of TDS/nitrate-nitrogen assimilative capacity by the Regional Board. Notwithstanding any such demonstration, the Regional Board retains discretion to determine whether any assimilative capacity will be allocated, and, if so, how much.

80. Agricultural owners/operators who enroll in this Conditional Waiver must also: (1) collect data on the nitrogen and TDS quality of their discharges to ground (and surface) waters; (2) evaluate the effects of ongoing agricultural operations on ground (and surface) waters; (3) implement approved AgNMPs and other BMPs to minimize nitrate and TDS discharges; and, (4) evaluate the efficacy of the BMPs implemented and use the results to revise and adapt the AgNMP(s) and BMPs, including in-lake nutrient reductions strategies, appropriately. This is a complex challenge for the agricultural community with 8 GMZs, multiple cropping systems, site to site variability, various irrigation source water suppliers and soil classifications and, in many cases, limited available groundwater monitoring data. Agricultural owners/operators may meet these requirements individually or as a member of a Coalition Group that develops and implements a Compliance Program approved by the Regional Board that addresses the requirements of this Conditional Waiver, including the development and implementation of AgNMP(s), WQMPPs, BMP implementation and assessment and monitoring programs or the use of data from existing programs that are sufficient to meet the Conditional Waiver requirements.

81. Effective, efficient and least costly implementation of this Conditional Waiver is likely best achieved by actions by agricultural dischargers as members of a Coalition Group(s). This Order encourages the formation of a Coalition Group(s) by providing time for individual discharger enrollment (no later than 9 months from the date of adoption of this Order, or

no later than April 28, 2017) so that Group formation and membership enrollment processes can proceed. The Group is required to identify a third party, not regulated by the Regional Board, to administer and facilitate Group activities. The Group Administrator must be approved by the Executive Officer. Responsibility for compliance with this Waiver remains with the individual dischargers who are members of the Group. No later than six months from the date of the approval of the Administrator, the Group is required to submit for Regional Board approval a proposed Compliance Program that identifies plans and schedules for compliance with the requirements of this Waiver. That Program must be implemented upon approval. Should no Coalition Group be formed, or should any individual discharger elect not to join an established Coalition Group, then, upon enrollment in this Conditional Waiver, each individual discharger must fulfill Waiver requirements independently.

CONSISTENCY

82. As required by Water Code Section 13269, this Conditional Waiver of the requirements to file a Report of Waste Discharge (ROWD) and obtain WDRs for discharges of waste from agricultural operations to waters of the state is consistent with established water quality control plans and policies, including: the Basin Plan, which incorporates established TMDLs; the State Water Board's 1999 *"Plan for California's Nonpoint Source Pollution Control Program"* (Nonpoint Source Plan) and 2004 "*Policy for Implementation and Enforcement of the Nonpoint Source Control Program"* (Nonpoint Source I&E Policy); the State Water Board's "*Statement of Policy with Respect to Maintenance of High Quality Waters in California"* (Resolution No. 68-16 (California's antidegradation policy)); and other applicable regulations.

83. This Order specifies requirements that implement the Basin Plan, including requirements to assure that agricultural discharges do not cause or contribute to violations of water quality standards established in the Plan. This Order requires enrolled dischargers to implement applicable tasks identified in established TMDLs and to meet requirements based on the updated TDS/N Management Plan.

84. This Order is consistent with the Nonpoint Source I&E Policy, which recognizes conditional waivers as one regulatory option to address nonpoint source waste discharges, including discharges from agricultural operations.

85. It is expected that significant improvements in the quality of waste discharges from agricultural operations can be attained by owners/operators through the implementation and adaptive management of the best available and most appropriate management measures and management practices (collectively, Best Management Practices, or BMPs). Implementation of the requirements of this Conditional Waiver by enrolled dischargers is therefore expected to improve the quality of affected receiving waters. Therefore, this Order is consistent with the requirements of California's antidegradation policy (State Board Resolution No. 68-16).

86. The adoption of this Conditional Waiver is consistent with the public interest because it: includes conditions that are intended to reduce and prevent pollution and nuisance, improve water quality and protect beneficial uses of the waters of the State; provides an effective and efficient approach to regulate waste discharges from agricultural operations; provides for efficient use of discharger resources, as well as Regional Board staff

resources. Collaboration on BMP implementation, including the assessment of BMP efficacy, and the dissemination of relevant information among agricultural owners/operators, as provided for in this Order, is expected to facilitate water quality and beneficial use improvements.

FEES AND COSTS

87. California Code of Regulations Title 23 (23 CCR) section 2200.6 "Annual Agricultural and Irrigated Lands Fee Schedule" requires an annual fee for WDRs and for waivers of WDRs for discharges from agricultural lands.

88. 23 CCR section 2200.6 establishes a tiered structure consisting of three fee levels. Under this structure, the lowest fees are paid by dischargers who are members of a group approved by the State Board, where the group manages fee collection and payment. Next are fees paid by members of a State Board approved group that does not manage fee collection and payment. The highest fees are paid by dischargers who do not participate in a State Board approved group.

    Persons participating in this Conditional Waiver as a member of a group, whether or not that group has been approved by the State Board, will be expected to pay their shared, proportionate cost for the services provided by the group, including the cost of administering the group.

89. Agricultural land owners or operators participating in this Waiver are not exempted from paying their proportional share of fees for TMDL implementation activities carried out by the TMDL Task Force, unless an agricultural owner or operator elects to conduct TMDL implementation activities on their own. In that case, each agricultural owner/operator is individually responsible for the costs associated with TMDL implementation.

CEQA

90. In conformance with the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000-21178), an Initial Study of the potential, significant adverse environmental impacts of the issuance and implementation of this Conditional Waiver was conducted. Based on that evaluation, this Conditional Waiver could not have a significant adverse effect on the environment. A Mitigated Negative Declaration is therefore appropriate. Public and agency notification requirements pertaining to the Regional Board's intent to adopt a Mitigated Negative Declaration have been met.

PUBLIC PARTICIPATION

91. The Regional Board has notified interested agencies and persons of its intent to adopt this Conditional Waiver and has provided them with an opportunity to submit written comments and recommendations regarding the tentative requirements. This notice complied with the requirements of Government Code section 11125.

92. The Regional Board, at a public hearing, heard and considered all comments pertaining to the proposed Conditional Waiver.

IT IS HEREBY ORDERED THAT:

Consistent with Division 7 of the California Water Code (Water Code) and regulations adopted thereunder, the Regional Board hereby conditionally waives WDRs for discharges of waste from agricultural operations, as defined herein, within the San Jacinto River Watershed provided that enrolled dischargers comply with all of the following conditions, provisions, and other requirements of this Conditional Waiver (Order, or Waiver):

1. The Regional Board approves the Mitigated Negative Declaration prepared for the adoption and implementation of this Order and directs the Executive Officer to file a notice of determination with the Office of Planning and Research that contains the information and statements specified in the CEQA Guidelines (14 CCR, Chapter 2, section 15075).

A. ELIGIBLE DISCHARGERS

1. Dischargers who conduct or propose to conduct irrigated agricultural or livestock operations, as defined above, on 20 or more acres, or who conduct livestock operations on less than 20 acres with an animal density of more than three (3) animal units per acre (see Attachment A) within the San Jacinto River Watershed, shall complete an electronic NOI form (see Part B, below) to enroll in this Conditional Waiver[7]. Dischargers who conduct agricultural operations on multiple parcels of less than 20 acres each, but whose agricultural operations taken together ("cumulative acreage") equals or exceeds 20 acres in area shall also complete an electronic NOI form to enroll in this Conditional Waiver. The 20 or more cumulative acres may include lands that are all irrigated or a portion of which is dry farmed and/or fallow, on a permanent or periodic basis, and upon which pesticides, fertilizers and/or manure, mulch or compost is applied.

2. Owners and/or operators of agricultural operations, other than irrigated agricultural or livestock operations of 20 or more cumulative acres or livestock operations of less than 20 acres that maintain an animal density of more than three (3) animal units per acre (see Attachment A), that Regional Board staff finds to be a high risk[8] for discharging animal wastes or other wastes that could affect water quality are considered to be dischargers for the purpose of this Order and are required to complete an electronic NOI form to be

[7] United States Forest Service (USFS) grazing allotments with low animal density (greater than or equal to 50 acres per Animal Unit per year), and where no pesticides, herbicides, nutrients, or irrigation are applied to the land, are not subject to the terms of this Order.

[8] An agricultural operation, other than irrigated agriculture or livestock operations on 20 or more cumulative acres, or livestock operations less than 20 acres with more than three (3) animal units per acre, will be considered high-risk if dry-weather runoff discharges are observed, or if topographic features, location, existing management practices or materials applied as part of the agricultural operations (e.g., pesticides or herbicides) represent a significant potential for waste discharges that could adversely affect water quality standards of receiving waters.

enrolled in this Conditional Waiver, or to submit an ROWD (Water Code section 13260) when notified to do so by Board staff.

B. ENROLLMENT, AUTHORIZATION TO DISCHARGE, AND TERMINATION OF ENROLLMENT

1. To obtain coverage under this Conditional Waiver, each discharger shall, no later than April 28, 2017, complete an electronic NOI form available on the Regional Board's website to be enrolled in the Waiver. Each discharger who elects to become part of a Coalition Group accepted by the Regional Board Executive Officer to carry out specified activities for enrolled dischargers shall indicate the name of the Coalition Group and the name of the Coalition Group administrator within the eNOI form.

2. Individual dischargers are not required to submit the information required in B.3, g through t, below on the eNOI form to initiate enrollment in this Order provided that:

    a. The individual discharger is a member in good standing of a Coalition Group; and,
    b. The Coalition Group of which the discharger is a member develops an acceptable Compliance Program (see C. 3., below) that requires the submittal to the Group of the information identified in B.3. g through t; and,
    c. The Coalition Group aggregates the data in B.3 g through t on behalf of its members in a manner identified in the approved Compliance Program and provides to the Regional Board a summary of the data in accordance with the method and schedule identified in the approved Compliance Program.

An individual discharger who is a member of a Coalition Group but who fails to provide to the Group the information required in B.3. g through t in a timely manner in accordance with an approved Compliance Program shall provide this information to the Regional Board upon notification by the Executive Officer of the need to do so. Similarly, individual dischargers within a Coalition Group that fails to fulfill these information submittal obligations pursuant to the approved Compliance Program shall provide the information required in B.3. g through t upon notification by the Executive Officer of the need to do so.

3. The eNOI requires the submittal of the following information:

    a. The name and physical address of the operator of the agricultural operation;
    b. Name of the agricultural operation, if any;
    c. The operator's/responsible party's business mailing address, phone number, fax number and email address;
    d. If applicable, the name of the Coalition Group with whom the discharger is affiliated;
    e. If applicable, the name and contact information for the Coalition Group Administrator;
    f. Total irrigated, dry-farmed and fallow acres; source water(s) by volume;
    g. If applicable, the number and location of drinking water wells and/or agricultural wells on the agricultural site;

h. Agricultural site location(s)[9];
i. Acreage of agricultural site(s);
j. For the agricultural site location(s), assessor's parcel number(s) (APNs) and name and contact information of landowner(s);
k. Total tailwater volume (cubic feet), if any; if available, data on the chemical nature of irrigation discharge(s) (total Kjeldahl nitrogen[1], nitrate nitrogen, total phosphorus, orthophosphate, electrical conductivity, TDS and total suspended solids, and pH). If data are not available at the time the eNOI is completed, discharges shall be characterized in accordance with the requirements specified in Part E, below;
l. Type(s) of irrigation system used;
m. Type(s) of crops grown;
n. Type of agriculture operation;
o. Specific chemical use;
p. Backflow prevention devices and presence of abandoned well(s) on site;
q. BMPs (including farming practices) in use, to prevent, minimize and/or mitigate the discharge of pollutants from the operator's agricultural operation(s);
r. If applicable, name of waterbody adjacent to agricultural site or within the premises of the agricultural site;
s. If applicable, pesticide use permit information;
t. Location and nature of discharge(s) from the site(s) (e.g., irrigation tailwater, stormwater runoff, dry-well, French drain, etc.), shown on a Site Location map; the names (if available) and locations of immediate receiving surface waters for these discharges (also shown on a Site Location map, if the receiving surface water(s) (i.e., San Jacinto River), is on or adjacent to the agricultural operation(s).

4. Once the eNOI has been submitted electronically, each discharger is responsible to pay the appropriate waste discharge fee, as determined from the latest revision of 23 CCR section 2200.6. The latest revision of 23 CCR section 2200.6 is available at http://www.waterboards.ca.gov/resources/fees/docs/fy1415_wqfees_agenda_item.pdf

5. Upon receipt of a completed eNOI form, the Executive Officer shall:

   a. Determine the applicability of this Order to the individual discharger;
   b. Notify the individual discharger and the administrator of a Coalition Group, if applicable, that the discharge is or is not authorized under the terms and conditions of this Order. A Notice of Authorization (NOA) will be issued if appropriate.
   c. A NOA constitutes a waiver, pursuant to Water Code Section 13269, for the discharger and agricultural operation identified in the NOI.

6. Each agricultural operation for which an NOA is issued will receive a unique waste discharge identification (WDID) number. The discharger shall include this number on all reports and other correspondence to the Regional Board concerning this Conditional Waiver.

---

[9] Site location information can be supplied by providing a pdf file containing a map of appropriate scale and detail (preferred), a kmz file showing the site (preferred), a paper map of appropriate scale and detail, narrative of the location, GPS coordinates (latitude and longitude of corners, angle points and centroid), or other method acceptable to Board staff.

The Coalition Group shall compile and maintain a list of the WDID numbers for the dischargers within the Coalition Group.

7. A copy of the NOA and NOI shall be kept at the agricultural operations identified in the eNOI and/or with the agricultural operator and shall be made available to Regional Board staff for inspection, upon request.

8. If an eNOI is submitted for an existing or proposed discharge that does not meet the criteria for enrollment in this Conditional Waiver, the discharger will be notified by the Regional Board that the discharge will not be regulated under this Waiver and that: (a) that the discharger must submit a Report of Waste Discharge (ROWD) (Water Code section 13260) so that individual WDRs for the discharge can be developed for consideration by the Regional Board; or, (b) that an alternative approach to regulating the discharge will be employed (e.g., separate conditional waiver); or, c) that the discharge will not be permitted and if the discharge is existing, that it must cease.

9. When a discharger ceases an agricultural operation, to withdraw from this Conditional Waiver, the discharger must sign into their online eNOI user account and complete the necessary information pertaining to a notice of termination. If the discharger is a member of a Coalition Group, it is the discharger's responsibility to notify Coalition Group Administrator that his/her operation has been terminated.

10. Upon verification of the information provided, the Executive Officer will notify the Individual Discharger and the administrator of a Coalition Group, if applicable, that the subject agricultural operation is withdrawn from enrollment in the Waiver, unless site conditions warrant continued regulation under the Waiver or other regulatory alternative.

C. RESPONSIBILITIES OF ENROLLED DISCHARGERS

1. All dischargers shall comply with the terms of this Conditional Waiver upon receipt of an NOA. For new discharges, the discharge shall not commence until receipt of the Executive Officer's NOA to discharge under the terms of this Conditional Waiver, or the issuance of appropriate WDRs.

2. Compliance with this Order shall be achieved individually or, where allowed by this Order, may be achieved through actions by a Coalition Group (see Part F, below) of which the discharger is a member. Individual discharger compliance with the requirements of this Waiver as a member of a Coalition Group is contingent on the payment of apportioned TMDL fees and Coalition Group administrative fees to the approved Coalition Group Administrator.

3. No later than six months from the date of formation of a Coalition Group and approval of the Coalition Administrator by the Executive Officer, the Coalition Group shall submit for approval a proposed Compliance Program, including plans and schedules for actions by the discharger members of the Group to achieve compliance with the requirements of this Order. Upon approval, the Compliance Program shall be implemented.

4. Each discharger, whether or not a member of a Coalition Group, shall implement reliable and effective Management Measures and Management Practices, collectively termed, "Best

Management Practices," or BMPs[10], to control, minimize or eliminate pollutant discharges from their agricultural operations to surface and ground waters of the State. The BMPs shall be designed, evaluated and modified as necessary over time to assure that waste discharges do not cause or contribute to violations of applicable water quality objectives, do not unreasonably affect beneficial uses, and do not cause or contribute to conditions of pollution or nuisance. BMP implementation, evaluation and modification shall address irrigation practices, if any, and their management. BMPs for waste management practices, such as composting and land application of manure, mulch, and compost, shall be appropriately designed and implemented. Recommended BMPs for waste management include waste and wastewater containment and surface drainage control. Evaluation of BMPs intended, in whole or in part, to minimize or eliminate nutrient discharges in agricultural discharges to receiving waters shall include collection and analysis of nutrient application and removal data or an equivalent demonstration of proper nutrient application rates and removal efficiencies.

5. Upon approval by the Regional Board, agricultural operators may participate in a WQTP(s) among agricultural operators or between agricultural operators and urban dischargers that is designed to optimize the efficacy and efficiency (including costs) of BMPs and, thereby, optimize collective pollutant reductions. Regional Board approval of a WQTP will require the demonstration that each participating operator will implement, at a minimum, reasonable and practicable BMPs to prevent direct adverse water quality and beneficial use impacts in the receiving waters, e.g., toxicity, reduced dissolved oxygen, excessive algal blooms.

6. As provided in Part E. "WATER QUALITY MONITORING PROGRAM PLAN AND REPORTING", below, dischargers shall evaluate the efficacy of BMPs in reducing discharges of pollutants to waters of the state. In addition, dischargers shall perform individual monitoring or participate in group or collaborative monitoring as part of a Coalition Group to assess the water quality of discharges from agricultural operations and the effects of those discharges on receiving waters of the State.

7. When required by the Regional Board Executive Officer to do so, each discharger, whether or not a member of a Coalition Group, shall develop a proposed Water Quality Improvement Plan (WQIP), designed to address BMP deficiencies and to improve the quality of waste discharges from their agricultural operation. Where Regional Board staff, in consultation with other appropriate agencies, identifies potential impacts on biological resources as the result of proposed or existing BMPs, the WQIP shall be modified to incorporate necessary and reasonably feasible measures, including avoidance, to prevent adverse impacts. When required, the proposed WQIP shall include a proposed schedule(s) for the implementation of its recommendations. The WQIP shall be implemented upon approval by the Executive Officer.

8. Agricultural operators who assume ownership of manure shall maintain a system of documentation to track and monitor the amount of manure received from the named hauler, and the rate and amount of manure application within their individual operation. This manure tracking and monitoring system will be used by the Regional Board to collect data needed to assess the effect(s) that manure management practices have on groundwater and surface

[10] Reliable and effective BMPs are those that have been recommended or identified in an approved nutrient management plan, by a local resource conservation district, by staff of USDA's NRCS, by a University of California Cooperative Extension advisor, by a Technical Advisory Committee, or other recognized technical resource.

water nutrient and salt loadings. A Coalition Group may operate this program for its enrolled members as part of an approved Compliance Program. See also I. DISCHARGE PROHIBITIONS, #9 and 10.

9. Dischargers shall implement tasks that are identified in approved TMDL implementation plans and that are assigned, in whole or in part, to agricultural operators. Implementation shall be conducted in accordance with the schedule(s) specified in the TMDLs, unless the Regional Board or the Executive Officer determines that case-specific circumstances warrant a modified schedule. Dischargers are encouraged to fulfill these obligations as part of a Discharger or Coalition Group, but may also fulfill these obligations individually. Discharger compliance with TMDL requirements as part of a Discharger/Coalition Group is contingent on the payment of apportioned TMDL Task Force fees to the approved group administrator.

10. Consistent with the tasks specified in the implementation plan for the Lake Elsinore/Canyon Lake Nutrient TMDLs, dischargers shall, no later than July 31, 2017, propose an AgNMP(s) that includes plans and schedules to provide the evaluations and data specified in the TMDLs, taking into account recommended TMDL revisions, including nutrient control BMPs, evaluations of BMP efficacy, monitoring and special studies. The Executive Officer may extend the date for submittal of the AgNMP(s) if the following conditions are met: (1) the request is made in writing and received by the Executive Officer more than 30 days prior to the existing AgNMP(s) submittal date; (2) the request includes specific and adequate justification of the technical inability to complete the AgNMP(s) and/or of economic hardships; (3) the request includes an alternative submittal date which reflects the shortest practicable time to complete the proposed AgNMP(s). Consistent with the TDS/N Management Plan in the Basin Plan, the proposed AgNMP(s) shall include a plan to assure that agricultural waste discharges do not cause or contribute to violations of established TDS and nitrogen objectives for ground and surface waters. BMP implementation, evaluation and modification as part of the AgNMP(s) shall address irrigation practices, if any, and their management. Evaluation of BMPs intended, in whole or in part, to minimize or eliminate nutrient discharges in agricultural discharges to receiving waters shall include collection and analysis of nutrient application and removal data or an equivalent demonstration of proper nutrient application rates and removal efficiencies. The AgNMP may include a WQTP (C. 5, above) and, where necessary, must include a proposed TDS and nitrogen offset program(s). Dischargers may fulfill the AgNMP requirement individually or as part of an approved Compliance Program submitted by a Coalition Group. The AgNMP(s) shall be implemented upon Regional Board approval. Approved agricultural nutrient management plans shall be reviewed and revised as needed as part of an adaptive management process. Documentation shall be included to demonstrate that implementation of the individual plans or plans developed by the Coalition Group will result in compliance with the load allocation assigned to agriculture in the TMDLs, and will not cause or contribute to violations of applicable TDS and nitrogen quality objectives. Where the final schedules for action(s) to assure compliance with the load allocation and with the applicable TDS and nitrogen objectives exceeds one year, the proposed plans shall include interim, measurable milestones and schedules for their attainment.

11. Compliance with the load allocation for agriculture specified in the Nutrient TMDLs may be achieved by: (1) demonstration using monitoring data and approved modeling procedures, that the external loads comply with the numeric load allocation; (2) demonstration that the numeric targets specified in the Nutrient TMDLs are attained consistently; or, (3) complete

and timely implementation of an approved agricultural nutrient management plan, updated as necessary to assure that the agricultural load allocation will be achieved.

12. Compliance with the requirement to assure that agricultural waste discharges do not cause or contribute to violations of groundwater quality objectives for TDS and nitrate-nitrogen may be achieved by: (1) demonstration using monitoring data and approved modeling procedures, that agricultural waste discharges to land or surface waters will not cause or contribute to violations of the objectives; (2) demonstration that the applicable groundwater quality objectives are and will be attained consistently; or, (3) complete and timely implementation of a WQTP or TDS and nitrogen management/offset plan, included in an approved AgNMP, which may be included in an approved Coalition Group Compliance Program.

13. Individual dischargers or discharger members of a Coalition Group are responsible for meeting the conditions of this Conditional Waiver. Failure by an individual discharger or a discharger member of a Coalition Group to maintain compliance with the Waiver may result in administrative enforcement actions, including imposition of civil liability, and/or withdrawal of the Conditional Waiver and issuance of WDRs by the Regional Board (Water Code sections 13261, 13262, 13265, 13268, 13300, 13301, 13304, 13308, 13350).

14. Both owners and operators of agricultural operations have responsibility for compliance with the conditions of the Waiver.

15. If an Individual Discharger or discharger member of a Coalition Group fails to meet the requirements and conditions of this Waiver, the Executive Officer may terminate coverage under the Waiver and issue WDRs for that Discharger. The Discharger has the opportunity to appeal this decision to the Regional Board.

D. BEST MANAGEMENT PRACTICE (BMP) REPORTING PROGRAM

1. By July 28, 2017 and annually, by September 15 of each year, thereafter, dischargers shall report on the BMPs used at their agricultural operations. Dischargers may submit this report individually or the report may be submitted by the Coalition Group administrator on behalf of the Group members.

2. The following shall be reported in the BMP annual report:

    a. The name and physical address of the reporting discharger;
    b. The location(s) and WDID number(s) of the agricultural operation(s) to which the report applies;
    c. Crop(s) or product(s) produced;
    d. Intended purpose and type of each BMP;
    e. When each BMP was installed or implemented (month, year);
    f. Size of each BMP and estimated volume of flows treated prior to discharge, if any;
    g. The overall adequacy and condition of each BMP and the type and schedule of expected maintenance or replacement needed to assure proper function of each BMP; and,

h. Based on site-specific data[11], assessment of the efficacy of each BMP in reducing pollutants in discharges from the site(s), including load reductions. Where one or more BMPs are in common use by multiple members of a Coalition Group, representative assessments of the efficacy of the BMPs may be conducted by the Coalition Group and reported by the Coalition Group.

3. The BMP annual report may be combined and submitted with the Water Quality Monitoring Program Plan annual report (see Part E, below).

E. DISCHARGE CHARACTERIZATION AND WATER QUALITY MONITORING PROGRAM PLAN AND REPORTING

1. Within 180 days of receipt of a Notice of Authorization (NOA), dischargers shall submit a site-specific characterization of their discharges. If there are no discharges within 180 days of receipt of the NOA, then the site-specific characterization shall be submitted within 60 days of the occurrence of the discharge. This characterization shall identify:

    a. The type of the discharges (e.g., irrigation tail-water, stormwater runoff, etc.).
    b. Estimated volume (expected flow and duration) of each type of discharge, and the months the discharges occur.
    c. Chemical and physical analysis of each type of discharge, including: nutrients (Total Kjeldahl Nitrogen, nitrate nitrogen, nitrite nitrogen, total phosphorus, orthophosphate), electrical conductivity, total suspended solids, pH, and total dissolved solids (TDS). These analyses shall be conducted for each discrete discharge at every parcel or, if the discharger is a member of a Coalition Group, for representative discharge locations, based on similarities in crop type and management practices (e.g., tilling practices, fertilizer and pesticide application). Where site-characterization for a Coalition Group is requested, the Coalition Group shall submit a proposed site-characterization plan and implement that plan upon approval. The schedule for this submittal may be modified by the Executive Officer upon demonstration that additional time is necessary to formulate a group characterization proposal.

2. Within 180 days of receipt of the NOA, dischargers shall submit a proposed groundwater and surface water WQMPP for approval by the Executive Officer. For discharger members of a Coalition Group, this requirement may be satisfied by the submittal of a proposed Group WQMPP as part of a proposed Compliance Program. The WQMPP shall be implemented upon approval. (Also, see Part E.9, below.)

3. The proposed WQMPP shall be designed to:

    a. Assess the effects of the waste discharges on the surface and ground waters of the state;
    b. Evaluate the efficacy of and inform adaptive management of farm best management practices in reducing or eliminating discharges of pollutants to waters of the state;

[11] To conduct BMP efficacy assessments, site-specific discharge flow or volume (measured or estimated) and pollutant concentration data shall be used where possible based on the type of BMP and site conditions.

c. Determine compliance with applicable load allocations established in TMDLs;
d. In a representative manner, monitor the quality of waste discharges from agricultural operations that occur during dry weather and as a result of stormwater or flood flow runoff;
e. Evaluate TDS and nitrogen discharges and the need for and magnitude of offset measures to assure that waste discharges do not cause or contribute to violations of groundwater TDS and nitrate-nitrogen objectives;
f. Inform source investigations of waste discharges with pollutant concentration/loads that exceed applicable narrative or numeric objectives or that cause or contribute to adverse impacts on beneficial uses;
g. Monitor temporal trends in the types and amounts of pollutants discharge and in the condition of the receiving waters.

4. The rationale for the proposed monitoring must be described in the proposed WQMPP. Constituents and parameters selected for monitoring must reflect pollutants that are known to be or are potentially contained in the waste discharges. The proposed WQMPP shall include:

    a. A proposed receiving water monitoring program that identifies: locations to be monitored; rationale for selection of monitoring parameters, locations, and frequencies; monitoring methods; and constituents or parameters to be monitored.
    b. Quality Assurance Project Plan (QAPP) that conforms to the guidance for QAPPs developed by the SWRCB's Surface Water Ambient Monitoring Program (SWAMP) http://www.waterboards.ca.gov/water_issues/programs/swamp/tools.shtml#qa.
    c. A map(s) of appropriate scale showing the location(s) of all agricultural operations covered by the discharger's NOI(s), drainage patterns of the agricultural operation sites, and proposed sampling locations. Selection of monitoring locations must be spatially and statistically representative. Compliance with this requirement can be achieved by the Coalition Group's development of regional monitoring programs approved by the Executive Officer.

5. Surface water and groundwater monitoring requirements shall be coordinated with the San Jacinto Watermaster, Eastern Municipal Water District (EMWD) Groundwater Management database, Lake Elsinore/Canyon Lake TMDL Task Force and other appropriate entities. The plan shall be developed taking into consideration the data currently available and mechanisms to collect the additional data needed.

6. The proposed monitoring program should be integrated where feasible with Nutrient TMDL monitoring identified in agricultural nutrient management plans.

7. When an abandoned well[12] is identified on agricultural operator property, the agricultural operator or Coalition Group will notify EMWD to request that the abandoned well be addressed through EMWD's cap and seal program. Abandoned wells will be capped and sealed in such a manner that they will not produce water or act as a conduit for mixing or otherwise transfer groundwater or waste constituents between permeable zones or aquifers.

[12] DWR defines an "abandoned well" or permanently inactive well as one that "has not been used for one year, unless the owner demonstrates intention to use the well again." *(DWR Bulletin 74-81, Part III, Section 21)*

Proper well abandonment must be consistent with any applicable California Department of Water Resources (DWR) requirements or local ordinances. Abandoned wells shall be discussed in the WQMPP.

8. Dischargers who apply manure to cropland shall include procedures in their WQMPP for monitoring the TDS and nitrate load of these fertilizer applications to groundwater. Dischargers who apply manure to croplands overlying GMZs that lack assimilative capacity for TDS and nitrogen shall propose a suitable offset mechanism in their proposed AgNMPs, documenting that sufficient offset credits are and will be available.

9. Dischargers within a watershed or discrete sub-watershed are encouraged to collaborate on the development and implementation of a proposed WQMPP that is representative of discharges from agricultural operations in that watershed/sub-watershed. In addition, the evaluation of the efficacy of BMPs that are in common use by multiple dischargers may be conducted and reported in collaborative fashion. Agricultural operators who wish to participate in a collaborative WQMPP shall do so as part of a Coalition Group (see Section F, below). Where different types of agricultural operations are represented within a Coalition Group, multiple WQMPPs may be necessary to assure representative data collection and analyses. Dischargers who participate in a collaborative WQMPP satisfy the requirements for the submittal of an individual WQMPP.

   Collaborative WQMPP(s) by Coalition Group(s) shall include a justification that the monitoring proposed is sufficient to represent the discharges from the Coalition Group members' enrolled sites.

10. The Coalition Group shall be responsible for the submittal of the proposed Compliance Program, including collaborative WQMPP(s), within 180 days of the formation of the Coalition.

11. A proposed draft collaborative WQMPP shall conform to the requirements specified in this section. In addition, the proposed draft collaborative WQMPP shall include the following information for each agricultural operation represented by the Coalition Group:

    a. The name and mailing address of each owner represented;
    b. The name and address of each operator, owner or lessee, and indicate whether each is an owner or lessee;
    c. The WDID number of each agricultural operation represented;
    d. Map or maps showing the locations of all agricultural operations represented, by agricultural activity type (Attachment F); and,
    e. Name and mailing address of the administrator of the proposed collaborative WQMPP.

12. The WQMPP(s) shall be implemented upon Regional Board approval.

13. Individual and collaborative WQMPP annual reports shall be prepared and submitted by September 15 of each year. The reports shall include:

    a. Tabulated water quality monitoring results, in printed and in SWAMP-compatible electronic format;
    b. Data interpretation, discussion and analysis of water quality monitoring results;

c. Laboratory analytical reports and quality assurance/quality control (QA/QC) documentation;
d. Graphics showing the watershed context of the WQMPP, monitoring locations, relevant landmarks, and locations of all agricultural operations represented and their land use classifications[13];
e. QAPP compliance report as required;
f. Conclusions and recommendations;
g. Participation in approved training programs (see G.2), including the name and date of the training program and the number of hours; and,
h. For Coalition Group(s), the name and mailing address of the group administrator, list of all participants registered in the group (discharger WDIDs, owner's name, operator's name, and location and acreage of covered site(s)), and membership status (active, withdrawn, fee delinquent, etc.) in the group. Changes in the membership of the Coalition Group from the prior annual report submittal shall be identified explicitly.

14. During the term of this Order, and with appropriate notice, the Executive Officer may modify or revise a discharger's or Coalition Group's WQMPP to reduce or increase the number of constituents or parameters to be monitored, the frequency of the monitoring, or the number and size of samples collected; to change the location(s) at which monitoring is conducted; or to alter other aspects of the WQMPP necessary to accurately characterize discharges from agricultural operations. A discharger may request a hearing concerning any changes to a WQMPP identified by the Executive Officer.

15. During the term of this Order, dischargers or the Coalition Group shall periodically review their QAPP, and revise the QAPP as necessary to assure accurate implementation of their WQMPP. Documentation of the QAPP review and revisions of the QAPP shall be submitted with the appropriate WQMPP annual report.

16. Dischargers may request that the Executive Officer approve revisions of their WQMPP to reduce the number of parameters to be monitored, the frequency of the monitoring, or the number and size of samples collected; to revise the location(s) at which monitoring is conducted; or to change other aspects of the WQMPP necessary to accurately characterize discharges from their agricultural operations.

F. DISCHARGER/COALITION GROUPS

1. To qualify as a Discharger Group or Coalition Group ("Group"), within nine (9) months after this Conditional Waiver is adopted by the Regional Board, the Group shall file a Group notification with the Regional Board that identifies the dischargers participating in the Group and the Group's mailing address.

2. Members of a Discharger Group or Coalition Group shall identify a third party administrator who is not a discharger under this Conditional Waiver. The third party administrator must be approved by the Regional Board Executive Officer based on a satisfactory demonstration that the administrator possesses sufficient resources to coordinate enrollment in and implementation of the Group-applicable requirements of this Waiver.

[13] After Anderson J.R, et al., 1976, USGS Professional Paper 964

3. Each discharger may commit to achieve compliance with this Waiver as a member of a Discharger Group or Coalition Group by checking the box on the NOI to join the Group. Being a member in good standing with the Group is contingent on the timely payment of group membership fees, as determined by the approved Group administrator. Fees necessary to support the program management and compliance activities of the Group are in addition to the required State fees pursuant to 23 CCR section 2200.6.

4. Individual dischargers who have been issued an NOA may join a Group by remitting the applicable Group membership fee and providing a copy of their eNOI and NOA to the Group Administrator and notifying the Regional Board in writing of their membership in the Group.

5. The administrator of a Group shall compile and maintain the following:

    a. Copies of completed eNOIs received from discharger members of the Group;
    b. A list of the Group dischargers for whom NOAs have been issued and the WDID numbers for those dischargers;
    c. A list of the location(s) and APN(s) of each site where the participating Group discharger is conducting agricultural operations, and the types of agricultural operations conducted at each site within a specified time period.

    These lists shall be updated as necessary to assure that they remain current. The lists shall be made available to Regional Board staff upon request.

6. No Group shall be recognized until a Group Administrator has been identified by the Group and approved by the Executive Officer.

7. The Group Administrator may submit individual draft WQMPPs on behalf of the Group discharger participants for Executive Officer approval. Conditions that apply to WQMPPs are contained in Part E, above. Although dischargers who are participating in a Group may choose to have their data submitted collectively as members of the Group, individual dischargers remain responsible for timely submittal of monitoring and reporting information for the agricultural operations under their control.

8. The Group Administrator will not be responsible or liable for an individual agricultural operator's compliance with the terms of the Conditional Waiver or the Water Code.

9. The Group Administrator shall report to the Regional Board any change(s) in the membership of the Group of the known occurrence of the change(s) (e.g., NOI, NOT). If a new agricultural owner/operator who has not submitted an individual eNOI to the Regional Board for enrollment in this Order is added to the Group, the submittal of the completed eNOI to the Regional Board with indication of the discharger's membership in the Group shall suffice for this notification. If a discharger in a Group elects to discontinue participation in the Group, or if the Group determines that a discharger is not fulfilling its obligations and the discharger is removed from the Group, and that discharger continues to conduct agricultural operations, then the discharger shall seek individual enrollment in this Order. A discharger's failure to seek enrollment in this Waiver within 30 days of when the Board is notified that the discharger's participation in the Group has been discontinued is grounds for enforcement action (see J.3).

G. GENERAL CONDITIONS AND OTHER REPORTING

1. Dischargers have the option to participate in a WQTP when and if such a program is developed and is approved by the Regional Board. Each Discharger's participation in an approved WQTP is subject to Executive Officer approval.

2. Education Requirements:

    a. Annually for the first 3 years of each discharger's enrollment in this Order, dischargers shall participate in not less than six (6) hours of educational training on nonpoint source pollution control, development and use of BMPs and water quality management on agricultural operations. This may include sediment transport management, irrigation practices, fertilizer and pesticide management, nutrient and manure management, and other pertinent topics. Thereafter, the annual educational requirement shall be four (4) hours.
    b. Educational programs are subject to approval by Regional Board staff. Individual Dischargers or the Coalition Group shall submit proposed educational programs to the Regional Board for approval, providing the name, date, and topic of the program. If possible, proposed educational programs will be submitted a minimum of 30 days before the date of the training. The Regional Board shall provide written notification to the Individual Discharger or Coalition Group administrator of its approval decision for each proposed educational program in a timely manner to allow agricultural operators to enroll in approved programs.
    c. Individual Dischargers and the Coalition Group(s) shall keep records of attendance at approved education programs and shall report participation in approved training programs to the Regional Board in the annual WQMPP reports.

3. Dischargers must comply with all applicable instructions regarding the management and use of registered pesticides, including requisite applicator training, use of application rates specified on product labels and proper disposal methods for pesticide containers.

4. Dischargers shall be current on payment of apportioned TMDL implementation fees to WRCAC acting on behalf of the TMDL Task Force. These fees are collected in cycles, typically 3 year periods, and not on an annual basis.

    a. The Coalition Group shall report on individual group member's payment, or non-payment, of apportioned TMDL implementation fees to WRCAC.
    b. The list of dischargers who have paid their apportioned TMDL implementation fees shall be submitted by WRCAC within 30 days after the payment deadline.

5. The discharger shall furnish, within a reasonable time, not to exceed 30 days from the date of a request, any information the Regional Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the discharger's coverage under this Order. The discharger shall also furnish to the Regional Board, upon request, copies of records required to be kept under this Order.

6. All dischargers shall maintain for inspection by Regional Board staff a copy of their eNOI(s), NOA(s), NOT(s), WQMPP, pesticide and fertilizer application information as may be required by other regulatory programs, and all other reports, records or plans required by this Conditional Waiver. Each enrolled discharger participating in a Coalition Group shall

maintain all of the above as it relates to their agricultural operations, as well as proof of participation in good standing in a Coalition Group, and contact information for the Coalition Group administrator, for inspection by Board staff.

7. All hazardous wastes must be managed in a manner acceptable to agency(s) with jurisdiction over such wastes.

H. LAND APPLICATION OF MULCH, COMPOST, AND MANURE

1. Land application of mulch and compost is allowable for soil amendment at agricultural operations enrolled in this Order, provided that the following minimum requirements are met:

    a. Mulch and compost application rates shall be consistent with CalRecycle's regulation for land application of mulch and compost (14 CCR Division 7, Chapter 3.1)

    b. Land application of mulch and/or compost shall be limited to 12 inches total accumulated application depth in a 12-month period. This limit is subject to site-specific conditions. For example, a reduced application depth may be necessary to protect beneficial uses of a receiving water body, or a greater application depth may be allowed where justified by agronomic circumstances; and,

2. Any land application of manure at agricultural operations enrolled in this Order shall meet the following minimum requirements:

    a. The land application shall be conducted in accordance with a farm-specific nutrient management plan (NMP).
    b. For dry-solid manure, application rate shall not exceed 12 dry tons/acre, or 17.5 tons/acre @ 33% moisture in a 12-month period; For any application of manure to these croplands in excess of 12 dry tons per acre per year (or 17.5 tons per acre per year @ 33% moisture), an explanation of the type of crop and the number of times it is harvested per year shall also be included in the Annual Report."
    c. The manure shall be incorporated into the soil after application. Incorporation is not required where it is inconsistent with a BMP that has been recommended or identified in an approved nutrient management plan.
    d. At a minimum, one crop must be grown on the lands on which the manure is applied during the 12-month period following the land application of manure;
    e. If and when an AgNMP or farm-specific NMP is approved by the Regional Board that specifies an alternative acceptable manure application rate and number of crops, the application rate and number of crops in the approved AgNMP shall apply;
    f. Any manure application must comply with I. DISCHARGE PROHIBITIONS, #9.

3. Stockpiling of mulch, compost or manure shall not exceed 60 days prior to the land application of the stockpiled material[14].

---

[14] This requirement does not apply to the normal operations of commercial nurseries and onsite waste management practices, such as composting, which may include greenwaste stockpiling longer than 60 days.

I. DISCHARGE PROHIBITIONS

1. The discharge of wastes to land or to surface waters shall not cause a condition of contamination, pollution or nuisance, as defined in Water Code Section 13050.

2. The discharge of wastes from the agricultural operations addressed in this Order (see A. ELIGIBLE DISCHARGERS) that are not enrolled in this Conditional Waiver or other Order or Waiver adopted by the Regional Board is prohibited. Only discharges of wastes from eligible agricultural operations are authorized by this Conditional Waiver.

3. The discharge of wastes containing any substance in concentrations toxic to human, animal, plant or aquatic life is prohibited.

4. The discharge of waste from agricultural operations onto lands which are not owned or controlled by the discharger, or onto lands for which the discharger has not obtained authorization to discharge, is prohibited. This prohibition does not apply to the discharge of stormwater runoff, provided that BMPs are implemented to reduce pollutants in the stormwater runoff to the maximum extent practicable.

5. The disposal of manure to land is prohibited. Disposal of manure is defined as final deposition of manure that does not comply with the minimum requirements specified in H. 2.

6. The discharge of visible oil and grease is prohibited.

7. If the National Weather Service predicts a 40% or greater chance of rainfall in the forecast within 72 hours, application of chemical fertilizers (including nitrogen carriers of herbicides for foliar application), manure, and herbicides and other pesticides to agricultural operations is prohibited.

8. The discharge of municipal solid waste and trash, as defined in this Conditional Waiver, onto land zoned for agricultural uses or onto land zoned for other uses that is being used for agricultural operations including dry-farming or land that is fallow, for any purpose, is prohibited.

9. The discharge of waste containing TDS and/or nitrate-nitrogen concentrations in excess of water quality objectives is prohibited, unless a plan, acceptable to the Executive Officer, is implemented to offset the excess TDS and nitrate-nitrogen discharges to these GMZs.

10. The application of manure to lands within the San Jacinto River Watershed that overlie GMZs without assimilative capacity for TDS and/or nitrate-nitrogen is prohibited, unless a plan, acceptable to the Executive Officer, is implemented that offsets the effects of that application on the underlying GMZ. These manure application requirements apply to the San Jacinto Upper Pressure GMZ, unless it is demonstrated that the agricultural operator is at least in part responsible for and contributing to the maximum benefit implementation plan for that GMZ and may therefore be entitled to some allocation of TDS/nitrate-nitrogen assimilative capacity by the Regional Board. Notwithstanding any such demonstration, the Regional Board retains discretion to determine whether any assimilative capacity will be allocated, and, if so, how much.

J. PROVISIONS

1. BMPs implemented to comply with conditions of this Waiver shall at all times be operated and maintained in a manner that enables the measure or practice to perform its intended function in an optimal manner.

2. An individually enrolled agricultural operator may request that their operation(s) be classified as Low Risk. Requests for reclassification shall be made to the Regional Board Executive Officer and shall include:

    a. A copy of the operator's original eNOI to enroll in the Conditional Waiver and WDID;
    b. Information documenting consistent use, maintenance and performance of water quality management measures or practices that warrant "low-risk" status;
    c. Exhibits showing site location and topography;
    d. History of compliance with Regional Board and Agricultural Commissioner regulatory programs;
    e. Other pertinent information that Board staff requests.

    The Executive Officer may grant this request by finding that the agricultural operator has practices and policies in place that prevent wastes from their agricultural operation(s) from being discharged to surface and ground waters of the State in a manner that poses a significant threat to water quality. A "low-risk" discharger is eligible for reduced individual monitoring and reporting. Water Code section 13269(a)(3) authorizes the Regional Board to waive monitoring requirements for discharges operating under a waiver that do not pose a significant threat to water quality. Low-risk dischargers shall comply with all conditions of eligibility, application, authorization, discharge prohibitions, provisions, general conditions, and applicable reduced monitoring and reporting requirements that are reflected in the approved WQMPP.

3. Individual dischargers who voluntarily discontinue participation in a Coalition Group or who are removed from the Coalition Group, and who continue to conduct agricultural operations that are subject to this Conditional Waiver shall submit a complete NOT for the previous enrollment and submit a new eNOI for individual participation in this Waiver within 30 days of the discontinuance with the Coalition Group participation. Failure to submit an eNOI may result in the Regional Board pursuing appropriate administrative enforcement action pursuant to Water Code section 13261, which provides for the assessment of administrative civil liability.

4. Termination from coverage will occur on the date the Executive Officer determines the accuracy of the information submitted online, once the discharger(s) completes the necessary information pertaining to a notice of termination, using their online user account. All discharges shall cease before the date of termination, and any discharges on or after that date shall be considered in violation of this Conditional Waiver, unless another waiver or WDRs regulates the discharge.

5. In the event that the Regional Board issues an individual permit with more specific requirements to a discharger, the applicability of this Order to that discharger is automatically terminated, except for enforcement purposes, on the effective date of the individual permit.

6. Failure to submit a report in accordance with schedules established by an approved individual or Coalition Group Compliance Program, or failure to submit a report of sufficient technical quality to be acceptable to the Executive Officer, may subject a Discharger to enforcement action pursuant to Water Code section 13268, which provides for the assessment of administrative civil liability.

7. The Regional Board is authorized to conduct an inspection of agricultural operations to ascertain whether the purposes of the Porter Cologne Water Quality Control Act and the terms of this Order are being met. The inspection(s) shall be conducted with the consent of the discharger, or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set for the in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. In the event of an emergency affecting the public health or safety, an inspection may be performed without consent of the issuance of a warrant. Subject to these requirements, the Regional Board or an authorized representative shall be allowed to:

    a. Upon reasonable notice, enter upon the discharger's premises where a regulatory facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
    b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
    c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order, or as otherwise authorized by the Water Code; and,
    d. To photograph, sample or monitor at reasonable times, for the purposes of assuring compliance with this Order, or as otherwise authorized by the Water Code, any substance or condition at any location under the discharger's control.

8. This Order does not relieve the discharger from responsibility to obtain other necessary local, State, and Federal permits to construct facilities necessary for compliance with this Order, nor does this Order prevent imposition of additional standards, requirements, or conditions by any other regulatory agency.

9. After notice and opportunity for hearing, coverage of an individual discharger or participant of a Coalition Group under this Order may be terminated or modified for cause by the Executive Officer, for, but not limited to, any of the following:

    a. Violation of any term or condition of this Order;
    b. Obtaining this Order by misrepresentation or failure to disclose all relevant facts; or,
    c. A change in any condition that requires a temporary or permanent reduction or elimination of the authorized discharge.

10. The filing of a request by the discharger for an Order modification, revocation and issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

11. This Order does not convey any property rights or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, do not protect the discharger from liability under Federal, State, or local

laws, nor do they create a vested right for the discharger to continue the waste discharge (Water Code section 13263(g)).

12. Owners (or operators) of agricultural operations who are enrolled in this Order but who fail to implement, operate and maintain appropriate BMPs may no longer be eligible to participate in this Conditional Waiver and may be required to submit an ROWD (Water Code section 13260) and obtain individual WDRs from the Regional Board.

13. This Conditional Waiver shall become effective on July 29, 2016 and expire on July 29, 2021, except for enforcement purposes, unless reopened, rescinded, renewed, or extended by the Regional Board.

14. Regional Board staff shall provide periodic reports to the Regional Board regarding the effectiveness of this Conditional Waiver for regulating agricultural operations.

K. RECEIVING WATER LIMITATIONS

1. The discharge of wastes from the regulated facilities to surface waters shall not cause or contribute to an exceedance of any applicable water quality objectives in the receiving waters, to unreasonable adverse impacts on surface water beneficial uses, or to conditions of pollution or nuisance. If the discharge(s) fail to meet this limitation, then the discharger must implement additional BMPs or other control measures in order to attain compliance. This is expected to be achieved through the BMP adaptive management process identified in this Order and/or through development and implementation of a Water Quality Improvement Plan, as directed by the Executive Officer.

2. The discharge of wastes to surface waters shall not cause receiving waters to contain floating materials, foam or scum in concentrations or quantities that cause nuisance or adversely affect beneficial uses.

3. The discharge of wastes to surface waters shall not cause bottom deposits in the receiving waters to the extent that such deposits cause nuisance or adversely affect beneficial uses.

4. The discharge of wastes to surface waters shall not cause receiving waters to contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses of receiving waters.

5. The discharge of wastes shall not cause an individual pesticide or combination of pesticides to be present in concentrations that adversely affect beneficial uses of receiving waters.

6. The discharge of wastes shall not cause bioaccumulation of pesticides, fungicides or other toxic pollutants in bottom sediments or in aquatic life to levels that are harmful to human health or aquatic organisms.

7. The discharge of wastes to the ground shall not cause or contribute to an exceedance of any applicable water quality objectives specified in the Basin Plan, to unreasonable adverse impacts on beneficial uses, or to conditions of pollution or nuisance.

I, Kurt V. Berchtold, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region on July 29, 2016.

Kurt V. Berchtold
Executive Officer

ATTACHMENT A

This Order applies to irrigated agriculture and livestock operations more than 20 cumulative acres, and livestock operations less than 20 acres with an animal density of more than 3 animal units per acre. The table below shows the number of animals (rounded up to the nearest whole animal) of various livestock types that equal three animal units. The animal unit equivalents are based on the animal number thresholds in the federal permit requirements for concentrated animal feeding operations, which generally represent 1,000 animal units. The second column shows the number of animal units represented by a single animal. The third column shows the number of animals, rounded up to the nearest whole animal, in three animal units. Operations less than 20 acres with an animal density greater than the number of animals in the third column per acre are regulated under this Order.

Animal Type	Animal Unit Equivalent	Number of Animals in 3 Animal Units
Mature dairy cow	1.4	3
Veal calves	1	3
Other cattle	1	3
Swine (55 lb. or more)	0.4	8
Swine (less than 55 lb.)	0.1	30
Horses	2	2
Sheep or lambs	0.1	30
Goats	0.1	30
Turkeys	0.02	165
Laying hens	0.01	246
Broilers	0.03	90
Ducks	0.03	90