

Westlands Water Quality Coalition

Attachment to Notice of Confirmation:

Pertinent Sections of the General Order that Apply to the
Growers in the Western Tulare Lake Basin Area

Please Note the Following: The numbering schemes of the following sections are identical to the entire General Order and are not sequential so as to allow easy comparison to the entire General Order if necessary.

GENERAL FINDINGS

- 57 This Order does not authorize violation of any federal, state, or local law or regulation.
- 58 This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any action authorized under this Order, the Member shall obtain authorization for an incidental take prior to construction or operation of the project. The Member shall be responsible for meeting all requirements of the applicable Endangered Species Act.
- 59 This Order does not supersede the Central Valley Water Board's Basin Plans and policies, or the State Water Board's plans and policies.
- 60 As stated in California Water Code section 13263(g), the discharge of waste into waters of the state is a privilege, not a right, and regulatory coverage under this Order does not create a vested right to continue the discharge of waste. Failure to prevent conditions that create or threaten to create pollution or nuisance will be sufficient reason to modify, revoke, or enforce this Order, as well as prohibit further discharge.
- 61 This Order requires Members to provide the third-party with contact information of the person(s) authorized to provide access to the enrolled property for inspections. This requirement provides a procedure to enable board staff to contact grower representatives so that it may more efficiently monitor compliance with the provisions of this Order.
- 62 Any instance of noncompliance with this Order constitutes a violation of the California Water Code and its regulations. Such noncompliance is grounds for enforcement action, and/or termination of coverage for waste discharges under this Order, subjecting the discharger to enforcement under the California Water Code for further discharges of waste to surface or groundwater.
- 63 All discharges from the irrigated agricultural operation are expected to comply with the lawful requirements of municipalities, counties, drainage districts, and other local agencies regarding discharges to storm drain systems or to other courses under their jurisdiction.
- 64 The fact that it would have been necessary to halt or reduce the discharge in order to maintain compliance with this Order shall not be a defense for violations of the Order by the Member.
- 65 This Order is not a National Pollutant Discharge Elimination System Permit issued pursuant to the Federal Clean Water Act. Coverage under this Order does not exempt a facility from the Clean Water Act. Any facility required to obtain such a permit must notify the Central Valley Water Board.
- 66 California Water Code section 13260(d)(1)(A) requires persons subject to waste discharge requirements to pay an annual fee established by the State Water Board.

- 67 The Findings of this Order, supplemental information and details in the attached Information Sheet (Attachment A), and the administrative record of the Central Valley Water Board relevant to the Irrigated Lands Regulatory Program, were considered in establishing these waste discharge requirements.
- 68 The Central Valley Water Board has notified interested agencies and persons of its intent to adopt this Order for discharges of waste from irrigated lands within the Western Tulare Lake Basin Area, and has provided them with an opportunity for a public hearing and an opportunity to submit comments.
- 69 The Central Valley Water Board, in a public meeting, heard and considered all comments pertaining to this Order.
- 70 Any person affected by this action of the Central Valley Water Board may petition the State Water Board to review this action. The State Water Board must receive the petition within 30 days of the date on which the Central Valley Water Board adopted this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

IT IS HEREBY ORDERED that, pursuant to California Water Code sections 13260, 13263, and 13267 and in order to meet the provisions contained in Division 7 of the California Water Code and regulations and policies adopted there under; all Members of a third-party group, their agents, successors, and assigns shall comply with the following:

I. Coverage

1. Order R5-2006-0053, Coalition Group Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Coalition Group Conditional Waiver}, is hereby rescinded as it applied to Members of the Westlands Stormwater Coalition in the Western Tulare Lake Basin Area.
2. The area to be covered by a third-party group will be identified in its Notice of Applicability (NOA). A third-party group receiving an NOA under this Order is responsible for all third-party group requirements within the geographic area identified in its NOA.

II. Prohibitions

1. The discharge of waste to waters of the state, from irrigated agricultural operations other than those defined in the Findings of this Order, is prohibited.
2. The discharge of hazardous waste, as defined in California Water Code section 13173 and Title 23 CCR section 2521(a), respectively, is prohibited.
3. The discharge of wastes (e.g., fertilizers, fumigants, pesticides) into groundwater via backflow through a water supply well is prohibited.

4. The discharge of any wastes (e.g., fertilizers, fumigants, pesticides) down a groundwater well casing is prohibited.

III. Receiving Water Limitations

A. Surface Water Limitations

1. Wastes discharged from Member operations shall not cause or contribute to an exceedance of applicable water quality objectives in surface water, unreasonably affect applicable beneficial uses, or cause or contribute to a condition of pollution or nuisance.

B. Groundwater Limitations

1. Wastes discharged from Member operations shall not cause or contribute to an exceedance of applicable water quality objectives in the underlying groundwater, unreasonably affect applicable beneficial uses, or cause or contribute to a condition of pollution or nuisance.

IV. Provisions

A. General Specifications

1. The third-party will assist its Members in complying with the relevant terms and provisions of this Order, including required monitoring and reporting as described in MRP Order RS-2014- 0001. However, individual Members of the third-party group continue to bear ultimate responsibility for complying with this Order.
2. Irrigated lands owners or operators with waste discharges to state waters (or "Dischargers") that are not Members of the third-party group, or whose property is not enrolled by a Member of the third-party group, shall not be subject to coverage provided by the terms of this Order. Such Dischargers shall be required to obtain coverage for their waste discharge under individual waste discharge requirements or any applicable general waste discharge requirements that apply to individuals that are not represented by a third-party.
3. Members who are subject to this Order shall implement water quality management practices, as necessary, to protect water quality and to achieve compliance with applicable water quality objectives. Where applicable, the implementation of practices must be in accordance with the time schedule contained in an approved Groundwater Quality Management Plan or Surface Water Quality Management Plan
4. Installation of groundwater monitoring wells or implementation of management practices to meet the conditions of this Order at a location or in a manner that could cause an adverse environmental impact as identified in the *Irrigated Lands Regulatory Program, Final Program Environmental Impact Report* (PEIR) shall be mitigated in accordance with the mitigation measures provided in Attachment C of this Order.
5. The provisions of this Order are severable. If any provision of the Order is held invalid, the remainder of the Order shall not be affected.

B. Requirements for Members of the Third-Party Group

1. Members shall comply with all applicable provisions of the California Water Code, the *Water Quality Control Plan for the Tulare Lake Basin*, and State Water Board plans and policies.
2. All Members shall comply with the attached Monitoring and Reporting Program (MRP) RS-2014-0001, and future revisions thereto.
3. Members who are covered under this Order shall comply with the terms and conditions contained in this Order.
4. Each Member shall participate in third-party outreach events, at least annually, if any of the Member's parcels are in a designated "high vulnerability" area or governed by a SQMP/GQMP. The Member shall review outreach materials to become informed of any water quality problems to address and the management practices that are available to address those issues. The Member shall provide annual confirmation to the third-party that the Member has attended an outreach event during the previous year and reviewed the applicable outreach materials.
5. All Members shall provide the third-party with information requested for compliance with this Order.
6. All Members shall implement water quality management practices in accordance with any water quality management plans approved by the Central Valley Water Board Executive Officer, and/or as necessary to protect water quality and to achieve compliance with surface and groundwater receiving water limitations of this Order (sections III.A and B). Water quality management practices can be instituted on an individual basis, or implemented to serve multiple growers discharging to a single location.
7. All Members shall implement effective sediment discharge and erosion prevention practices to minimize or eliminate the discharge of sediment above background levels. Members with the potential to cause erosion and discharge sediment that may degrade surface waters, as identified by the Member in their Farm Evaluation, by the third-party in the Sediment Discharge and Erosion Assessment Report, or by the Executive Officer shall prepare and implement a Sediment and Erosion Control Plan as specified in section VII.C below.
8. All Members shall implement practices that minimize excess nutrient application relative to crop consumption. Members shall prepare and implement a farm-specific nitrogen management plan as required by section VII.D of this Order.
9. In addition to the reports identified in section VII of this Order, the Executive Officer may require the Member to submit additional technical reports pursuant to California Water Code section 13267.
10. The requirements prescribed in this Order do not authorize the commission of any act causing injury to the property of another, or protect the Member from liabilities under other

federal, state, county, or local laws. However, enrollment under this Order does protect the Member from liability alleged for failing to comply with California Water Code section 13260.

11. This Order does not convey any property rights or exclusive privileges.
12. This Order shall not create a vested right, and all such discharges of waste shall be considered a privilege, as provided for in California Water Code section 13263.
13. The Member understands that the Central Valley Water Board or its authorized representatives, may, at reasonable hours, inspect the facilities and irrigated lands of persons subject to this Order to ascertain whether the purposes of the Porter-Cologne Act are being met and whether the Member is complying with the conditions of this Order. To the extent required by California Water Code section 13267(c) or other applicable law, the inspection shall be made with the consent of the Member, owner or authorized representative, or if consent is withheld, with a duly issued warrant pursuant to the procedure set forth in Title 13 Code of Civil Procedure Part 3 (commencing with section 1822.50). In the event of an emergency affecting the public health and safety, an inspection may be performed without the consent or the issuance of a warrant.
14. The Member shall provide the third-party with the phone number(s) of the individual(s) with authority to provide consent to access its facilities as described in provision IV.B.13 above.
15. The Member shall properly operate and maintain in good working order any facility, unit, system, or monitoring device installed to achieve compliance with the Order.
16. Settling ponds, basins, and tailwater recovery systems shall be constructed, maintained, and operated to prevent groundwater degradation, erosion, slope failure; and minimize the discharge of sediment. The construction and operation must be consistent with the applicable Natural Resources Conservation Service (NRCS) conservation practice standard, an NRCS or University of California Cooperative Extension recommendation or an equivalent alternative standard.
17. Where applicable, the Member shall follow state, county or local agency standards with respect to water wells and groundwater quality when constructing new wells, modifying existing wells, or destroying wells. Absent such standards, at a minimum, the Member shall follow the standards and guidelines described in the California Department of Water Resources' Water Well Standards (Bulletins 74-81 & 74-90 combined).
18. The Member shall maintain a copy of this Order, either in hard copy or electronic format, at the primary place of business, or the Member's farming operations headquarters. The Member shall also maintain excerpts of the Order's Member requirements that have been provided by the Executive Officer so as to be available at all times to operations personnel. The Member and his/her designee shall be familiar with the content of this Order.
19. The Member, or the third-party on its Member's behalf as applicable, shall submit all required documents in accordance with section IX of this Order.

20. Members shall, at a minimum, implement water quality management practices that meet the following farm management performance standards:
 - a. Minimize waste discharge offsite in surface water,
 - b. Minimize percolation of waste to groundwater,
 - c. Protect wellheads from surface water intrusion.

21. Members shall implement the applicable management practices, or equivalent practices, identified as protective of groundwater in the Management Practices Evaluation Report.

VII. Required Reports and Notices – Member

The Central Valley Water Board or the Executive Officer may require any of the following reports and notices to be submitted electronically as long as the electronic format is reasonably available to the Member, and only to the extent that the Member has access to the equipment that allows for them to submit the information electronically. If the Member does not have such access, reports and notices must be submitted by mail. Reports and notices shall be submitted in accordance with section IX, Reporting Provisions, as well as MRP Order R5-2014-0001. Due dates for Member required reports are summarized in Table 1 at the end of this Order. Members must prepare and maintain the following reports as instructed below, and shall submit or make available such reports to the third-party or the Central Valley Water Board as identified below.

A. Notice of Confirmation I Notice of Intent I Membership Application

1. To confirm coverage under this Order, growers that are enrolled under Order RS-2006-0053 as Members of the Westlands Stormwater Coalition must submit a completed notice of confirmation (NOC) to the third-party within 120 days of Executive Officer approval of the third-party (as provided by issuance of an NOA to the third-party, see section VIII.A of this Order). The third-party will provide a NOC form to Members within 30 days of receiving an NOA (see section VIII.A) from the Central Valley Water Board. As part of the NOC, Members must provide certification that they have provided written notice to any responsible non-Member parties of the Member's enrollment under this Order and of the requirements of this Order (a responsible non-Member is a landowner whose parcel has been enrolled by an operator-Member under this Order or an operator who farms a parcel that has been enrolled by a landowner-Member). If the Member is a landowner that leases their land, the Member must provide the name and contact information of the lessee and provide updated information to the third-party should the lessee change. If the Member is the lessee, the Member must provide the name and contact information of the landowner and provide updated information to the third-party should the landowner change.

2. Within 120 days of Executive Officer issuance of an NOA to the third-party, all other growers within this Order's boundaries must become Members of the third-party to avoid additional fees and administrative requirements (see section VII.A.3 below). To obtain membership, a grower must submit a completed third-party Membership application to the third-party group. As part of the membership application, growers must provide certification that they have provided written notice to any responsible non-Member parties of the Member's

enrollment under this Order and of the requirements of this Order. Upon submittal of a complete application, the third-party group may confirm membership, after which the Member will be considered covered under this Order.

3. Beginning 121 days after Executive Officer issuance of an NOA to the third-party, any growers within this Order's boundaries that are not Members of a third-party or another irrigated lands third-party group governed by other WDRs or waiver of WDRs must submit (1) a completed Notice of Intent (NOI) to the Central Valley Water Board to comply with the conditions of this Order, (2) any required State Water Board administrative processing fee for the NOI, and (3) a Membership application to the third-party group. Upon submittal of a complete NOI, and after receiving confirmation from the third-party group that the grower is now a Member, the Central Valley Water Board Executive Officer may then issue a Notice of Applicability (NOA), after which the Member will be considered covered under this Order. In lieu of issuing an NOA, the Executive Officer may deny the NOI and require the submittal of a report of waste discharge or issue an NOA for regulatory coverage under any applicable general waste discharge requirements for individual dischargers not represented by a third-party.
4. As an alternative to receiving regulatory coverage under this Order, a discharger may submit a report of waste discharge in accordance with the California Water Code section 13260 or a Notice of Intent for regulatory coverage under any applicable general waste discharge requirements for individual dischargers not represented by a third-party.

B. Farm Evaluation

Members shall complete a Farm Evaluation and submit a copy of the completed Farm Evaluation to the third-party group according to the schedule below. The Member must use the Farm Evaluation Template approved by the Executive Officer (see section VIII.C below). A copy of the Farm Evaluation shall be maintained at the Member's farming headquarters or primary place of business, and must be produced upon request by Central Valley Water Board staff. In addition, Members shall comply with the following requirements where applicable:

1. Members in Low Vulnerability Areas (Surface/Groundwater)

a. Members with Small Farming Operations

By 1 March 2018, Members with Small Farming Operations (for definition, see Attachment E) must prepare their Farm Evaluation and submit it to the third-party. An updated Farm Evaluation must be prepared and submitted to the third-party every five years thereafter.

b. All Other Members

By 1 March 2016, all other Members must prepare their Farm Evaluation and submit it to the third-party. An updated Farm Evaluation must be prepared and submitted to the third-party every five years thereafter.

2. All Members in High Vulnerability Areas (Surface/Groundwater)

By 1 March 2015, all Members within a high vulnerability area must prepare their Farm Evaluation and submit it to the third-party. An updated Farm Evaluation must be prepared

and submitted to the third-party by 1 March annually thereafter. As part of the Farm Evaluation, the Member shall provide information on any outreach events attended in accordance with section IV.B.4 of this Order. After 1 March 2018, the Executive Officer may approve reduction in the frequency of updates and submission of Farm Evaluations, if the third-party demonstrates that year to year changes in Farm Evaluation updates are minimal and the Executive Officer concurs that the practices identified in the Farm Evaluations are consistent with practices that, when properly implemented, will achieve receiving water limitations and, where applicable, achieve best practicable treatment or control.

C. Sediment and Erosion Control Plan

The requirements and deadlines of this section apply as specified to Members that are required to develop a Sediment and Erosion Control Plan per section IV.B.7 of this Order. The Member must use the Sediment and Erosion Control Plan Template provided by the Executive Officer (see section VIII.C below), or equivalent. The Sediment and Erosion Control Plan must be prepared in one of the following ways:

- i. The Sediment and Erosion Control Plan must adhere to the site-specific recommendation from the Natural Resources Conservation Service (NRCS), NRCS technical service provider, the University of California Cooperative Extension, the local Resource Conservation District; or conform to a local county ordinance applicable to erosion and sediment control on agricultural lands. The Member must retain written documentation of the recommendation provided and certify that they are implementing the recommendation; or
- ii. The Sediment and Erosion Control Plan must be prepared and self-certified by the Member, who has completed a training program that the Executive Officer concurs provides necessary training for sediment and erosion control plan development; or
- iii. The Sediment and Erosion Control Plan must be written, amended, and certified by a Qualified Sediment and Erosion Control Plan Developer possessing one of the following registrations or certifications, and appropriate experience with erosion issues on irrigated agricultural lands: California registered professional civil engineer, geologist, engineering geologist, landscape architect; NRCS Certified Conservation Planner; professional hydrologist registered through the American Institute of Hydrology; certified soil scientist registered through the American Society of Agronomy; Certified Professional in Erosion and Sediment Control (CPSEC)[™]/Certified Professional in Storm Water Quality (CPSWQ)[™] registered through EnviroCert International, Inc.; professional in erosion and sediment control registered through the National Institute for Certification in Engineering Technologies (NICET); or
- iv. The Sediment and Erosion Control Plan must be prepared and certified in an alternative manner approved by the Executive Officer. Such approval will be provided based on the Executive Officer's determination that the alternative method for preparing the Sediment and Erosion Control Plan meets the objectives and requirements of this Order.

The plan shall be maintained and updated as conditions change. A copy of the Sediment and Erosion Control Plan shall be maintained at the farming operations headquarters or primary place of business; and must be produced by the Member, if requested, should Central Valley Water Board

staff, or an authorized representative, conduct an inspection of the Member's irrigated lands operation.

1. Deadline for Members with Small Farming Operations

Within one (1) year of the Executive Officer approving the third party's Sediment Discharge and Erosion Assessment Report, Members with Small Farming Operations must complete and implement a Sediment and Erosion Control Plan.

2. Deadline for all Other Members

Within 180 days of the Executive Officer approving the third party's Sediment Discharge and Erosion Assessment Report, all other Members must complete and implement a Sediment and Erosion Control Plan.

D. Nitrogen Management Plan

Members must prepare and implement a Nitrogen Management Plan and submit the Nitrogen Management Plan Summary Report for the previous crop year as described below. The Member must use the Nitrogen Management Plan Template provided by the Executive Officer (see section VIII.C below). The Nitrogen Management Plan and Nitrogen Management Plan Summary Report shall be maintained at the Member's farming operations headquarters or primary place of business. The Member must provide the Nitrogen Management Plan and Summary Report to board staff, if requested or, should board staff or an authorized representative conduct an inspection of the Member's irrigated agricultural operation. In addition, Members shall comply with the following requirements where applicable:

1. All Members within a High Vulnerability Groundwater Area

For Members located within a high vulnerability groundwater area, for which nitrate is identified as a constituent of concern, the Member must prepare and implement a certified Nitrogen Management Plan. The plan must be certified in one of the following ways:

- i. Self-certified by the Member who attends a California Department of Food and Agriculture or other Executive Officer approved training program for nitrogen plan certification. The Member must retain written documentation of their attendance in the training program; or
- ii. Self-certified by the Member that the plan adheres to a site-specific recommendation from the Natural Resources Conservation Service (NRCS) or the University of California Cooperative Extension. The Member must retain written documentation of the recommendation provided; or
- iii. Certified by a nitrogen management plan specialist as defined in Attachment E of this Order. Such specialists include Professional Soil Scientists, Professional Agronomists, Crop Advisors certified by the American Society of Agronomy, or Technical Service Providers certified in nutrient management in California by the NRCS; or
- iv. Certified in an alternative manner approved by the Executive Officer. Such approval will be provided based on the Executive Officer's determination that the alternative method

for preparing the Nitrogen Management Plan meets the objectives and requirements of this Order.

a. Deadlines for Members with Small Farming Operations

By 1 March 2017, Members with Small Farming Operations shall prepare, and update by 1 March annually thereafter, a Nitrogen Management Plan. By 1 March 2018, and by 1 March annually, thereafter, Members with Small Farming Operations shall submit to the third-party the Nitrogen Management Plan Summary Report for the previous year.

b. Deadlines for all other Members

By 1 March 2015, all other Members shall prepare, and update by 1 March annually thereafter, a Nitrogen Management Plan. By 1 March 2016, and by 1 March annually, thereafter, all other Members shall submit to the third-party the Nitrogen Management Plan Summary Report for the previous year.

c. Deadlines for Members re-designated from Low Vulnerability to High Vulnerability Groundwater Areas

Members with parcel(s) re-designated from low vulnerability to high vulnerability groundwater areas must prepare a Nitrogen Management Plan in compliance with this section (VII.D.1). The schedule for certifying the Nitrogen Management Plan and submitting the initial Nitrogen Management Plan Summary Report will be established by the Executive Officer.

After 1 March 2018, the Executive Officer may approve reduction in the frequency of submission of Nitrogen Management Plan Summary Reports, if the third-party demonstrates that year to year Nitrogen Management Plan Summary Reports, if the third-party demonstrates that year to year changes in Nitrogen Management Summary Reports are minimal and the Executive Officer concurs that the implemented practices are achieving the performance standard (see section IV.B.8).

2. Members within a Low Vulnerability Groundwater Area

By 1 March 2017, all Members within low vulnerability areas shall prepare, and update by 1 March annually thereafter, a Nitrogen Management Plan. The Member must use the Nitrogen Management Plan Template approved by the Executive Officer (see section VIII.C below), or equivalent. Certification of the Nitrogen Management Plan and submittal of a Nitrogen Management Plan Summary Report are not required.

E. Mitigation Monitoring

As specified in this Order, certain Members are required to implement the mitigation measures included in Attachment C. Such Members shall submit mitigation monitoring by 1 March of each year to the third-party. Mitigation monitoring shall include information on the implementation of CEQA mitigation measures, including the mitigation measure implemented, potential environmental impact the mitigation measure addressed, location of the mitigation measure [parcel number, county], and any steps taken to monitor the ongoing success of the measure.

F. Notice of Termination

If the Member wishes to terminate coverage under this Order and withdraw its membership from the third-party, the Member shall submit a complete notice of termination (NOT) to the Central Valley Water Board and the third-party. Termination of regulatory coverage will occur on the date specified in the NOT, unless the Central Valley Water Board specifies otherwise. All discharges of waste to surface water and groundwater shall cease before the date of termination, and any discharges on or after this date shall be considered in violation of the California Water Code, unless other WDRs or waivers of WDRs regulate the discharge.