

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2011-\_\_\_\_\_

SHORT-TERM RENEWAL OF THE COALITION GROUP  
CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR DISCHARGES FROM IRRIGATED LANDS

The Central Valley Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds that:

1. On 22 June 2006, the Central Valley Water Board adopted Order No. R5-2006-0053, which is a Coalition Group Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Conditional Waiver). This Order became effective on 1 July 2006 and expires on 30 June 2011 unless rescinded or renewed.
2. The Conditional Waiver, which is included as Attachment A, has been amended by Resolutions No. R5-2006-0077 and R5-2008-0052. Resolution No. R5-2006-0077 established a deadline for irrigated lands operations to join water quality coalition groups and required submittal of a management plan when more than one exceedance of a water quality objective occurs. R5-2008-0052 rescinded the deadline established by Resolution No. R5-2006-0077 to join water quality coalitions, however, Executive Officer approval was required and the application required submittal of fees established by the State Water Resources Control Board.
3. California Water Code Section 13269 states that waivers of waste discharge requirements adopted by Regional Board may not exceed five years in duration, but may be renewed.
4. The Central Valley Water Board has been working with stakeholders to develop a long-term program for addressing discharges from irrigated lands. As part of this process, on ~~date~~ the Board adopted Resolution No. R5-2011-\_\_\_\_\_ certifying the *Irrigated Lands Regulatory Program Program Environmental Impact Report* (Final Program EIR) and Resolution No. R5-2011-\_\_\_\_\_, which provides a Framework regarding the establishment of the long-term irrigated lands regulatory program (long-term program) Orders. It is anticipated that staff will need up to 12 months to develop orders for Board consideration establishing the long-term program.
5. Renewal of the Conditional Waiver beyond 30 June 2011 would allow the existing water quality efforts to continue while the Board develops the details of the long-term program elements. This would minimize disruption

6. When considering whether to renew the waiver, the Board must determine that the waiver is consistent with applicable water quality control plans and is in the public interest. The waiver must be conditional and must include monitoring except where it is determined that the discharge does not pose a significant threat to water quality. Prior to renewing any waiver for a specific type of discharge the Board must review the terms of the waiver at a public hearing and determine whether the discharge for which the waiver policy was established should be subject to general or individual waste discharge requirements. On ~~date~~, the Board held a public hearing and considered public comments on the proposed renewal of the Conditional Waiver. The conditions of the waiver must include the performance of individual, group, or watershed-based monitoring, unless waived.
7. At this time, it is appropriate to renew the Conditional Waiver for discharges from agricultural lands because: 1) the discharges have the same or similar waste from the same or similar operations and use the same or similar treatment methods and management practices (e.g., source control, reduced chemical use, holding times, cover crops, etc.); 2) the Coalition Groups and agencies have been collecting water quality and management practice data in the region; and additional assessment information continues to be collected; and 3) staff will require up to twelve months beyond the expiration date to develop new orders consistent with the long-term irrigated lands regulatory program Framework.
8. In addition, it is appropriate to regulate discharges of waste from irrigated lands under a Conditional Waiver rather than individual waste discharge requirements (WDRs) in order to simplify and streamline the regulatory process. It is not appropriate at this time to adopt individual WDRs to regulate discharges of waste from irrigated lands because there are estimated to be more than 25,000 individual owners and/or operators of irrigated lands who discharge waste from irrigated lands and it is neither feasible nor practicable due to limitations of Central Valley Water Board resources to adopt WDRs within a reasonable time. It is not appropriate on this date to adopt general WDRs because staff has been directed, according to the Framework, to develop draft orders and other regulatory actions for the Board's consideration during the next twelve months.
9. The conditions of the Conditional Waiver require actions to protect and improve the quality of the waters of the State within the Central Valley Region. The Conditional Waiver sets forth conditions that will require Coalition Groups and/or Dischargers to 1) conduct activities required by monitoring and reporting programs issued by the Board or the Executive

Officer; 2) implement and evaluate management practices that will result in achieving compliance with applicable water quality standards in surface waters of the State; 3) at the request of the Executive Officer or after more than one exceedance of a water quality objective in three years, develop and implement Management Plans when discharges are causing or contributing to exceedances of applicable water quality standards; and 4) conduct activities in a manner to prevent nuisance. The conditions of the Conditional Waiver may be enforced in a manner similar to enforcement of WDRs. Coverage under the Conditional Waiver may be terminated at any time and the Executive Officer may require any person to submit a Report of Waste Discharge and comply with the Water Code pursuant to individual or general WDRs.

10. The Water Board finds that a twelve month renewal of the Conditional Waiver for dischargers of waste from irrigated lands is in the public interest because it would allow the existing water quality efforts to continue while the Board develops the details of the long-term program elements. This would minimize disruption of the ongoing regulatory effort and allow the Board to devote the maximum staff effort toward implementing the new program. The renewal of the Conditional Waiver is also in the public interest because: 1) it was adopted in compliance with Water Code Section 13269 and other applicable law; 2) it requires compliance with water quality standards, 3) it includes conditions that are intended to reduce and prevent pollution and nuisance and protect the beneficial uses of the waters of the State; 4) it contains conditions that include evaluation and implementation of management practices to meet applicable water quality standards; 5) Coalitions are evaluating water quality conditions in accordance with Board issued monitoring and reporting program orders; 6) given the magnitude of the discharges and number of persons who discharge waste from irrigated lands, it provides for an efficient and effective use of limited Central Valley Water Board resources; and 7) it provides reasonable flexibility for the Dischargers who seek coverage under the Conditional Waiver by providing them with the option of complying with the Water Code through participation in Coalition Groups.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

11. For purposes of adoption of this Resolution, the Central Valley Water Board is the lead agency pursuant to CEQA (Public Resources Code sections 21100 et seq.). The Final Program EIR adopted by the Board lists potential environmental impacts associated with implementation of a long-term irrigated lands regulatory program.

12. One of the alternatives analyzed in the Final Program EIR is the long-term continuation of the existing regulatory program for irrigated lands. The existing regulatory program consists primarily of Resolution R5-2006-0053, which is a conditional waiver applicable to Coalition Groups, and Resolution R5-2006-0054, conditional waiver applicable to discharges from individual operators of irrigated lands.
  
13. The Final Program EIR concludes that the long-term continuation of the existing regulatory program for irrigated lands has the potential to cause significant adverse environmental impacts. According to the Final Program EIR, the following potential adverse impacts can be reduced to a less than significant level with mitigation measures: Impact CUL-1; Impact CUL-2; Impact BIO-1, Impact BIO-2, Impact BIO-3, Impact BIO-4, Impact BIO-5, Impact BIO-6, Impact BIO-7, Impact FISH-2, Impact FISH-3, FISH-4, Impact FISH-6, Impact FISH-7, cumulative cultural resource impacts, and cumulative fish impacts. With respect to those impacts, the Board hereby finds, pursuant to CEQA Guideline 15091(a)(1), that implementation of the following mitigation measures, which have been incorporated into this project, will, collectively, reduce those potential impacts to a less than significant level:
  - a. Limiting the continuation of the program to a fixed 12-month timeframe, as opposed to a long-term continuation of the existing program; and
  - b. Directing staff, pursuant to Resolution No. R5-2011-\_\_\_\_\_  
[Resolution approving ILRP Framework], to implement a long-term ILRP Framework. Within that Resolution, the Board has directed staff to incorporate specifically identified mitigation measures into orders and other regulatory actions proposed to implement the long-term ILRP Framework. The Resolution directs staff to develop the proposed orders within the next twelve months.

To the extent the mitigation measures in (a) and (b) do not reduce the impacts to less than significant, the Board finds, pursuant to Public Resources Code Section 21081(b) and CEQA Guideline 15093 and as laid out in paragraph 17 below, that specific overriding economic, legal social, technological, or other benefits outweigh the potential adverse environmental impacts.

14. Pursuant to §§ 15091(d) and 15097 of the CEQA Guidelines, which require a Mitigation Monitoring and Reporting Program, staff will report back to the Board periodically to detail its progress on implementing the long-term ILRP Framework.
  
15. According to the Final Program EIR, the following potential adverse impacts can be reduced to a less than significant level with mitigation

measures: Impact NOI-1, Impact NOI-2, Impact AQ-1, Impact AQ-2, and Impact AQ-3. With respect to those impacts, and as described in more detail in Resolution No. R5-2011-\_\_\_\_ [ILRP Framework Resolution], the Board hereby finds, pursuant to CEQA Guideline 15091(a) (2), that mitigation measures that reduce the potential adverse impacts to a less than significant level are within the responsibility and jurisdiction of other public agencies. Those mitigation measures can and should be adopted by those public agencies.

16. According to the Final Program EIR, the following adverse impacts are significant and unavoidable: Impact AG-1, cumulative climate change, cumulative vegetation and wildlife impacts, and cumulative agriculture resources. With respect to those impacts, the Board hereby finds, pursuant to CEQA Guideline 15091(a)(1), that limiting the continuation of the existing coalition group waiver to a fixed 12-month timeframe, as opposed to a long-term continuation of the coalition group waiver, will substantially lessen the significant environmental impacts as identified in the Final Program EIR. This mitigation measure has been incorporated into this project. To the extent that the mitigation measure does not reduce the cumulative impacts to a less than significant level, the Board hereby finds, pursuant to CEQA Guideline 15091(a)(3), that specific economic, legal, social, technological, or other considerations make infeasible any other mitigation measures or project alternatives while the staff is implementing the ILRP Framework. No other project alternative can be feasibly implemented within the next twelve months, which is the timeframe for this project.

17. In light of the potentially significant and unavoidable environmental impacts identified in findings 13 and 16, the Board hereby finds, pursuant to Public Resources Code Section 21081(b) and CEQA Guideline 15093, that specific overriding economic, legal social, technological, or other benefits outweigh the potential adverse environmental impacts. The specific reasons to support this approval, are based on the following:

- a. Environmental Benefits: As described in finding 10, a twelve month renewal of the Conditional Waiver for dischargers of waste from irrigated lands is in the public interest because it would allow the existing water quality efforts to continue while the Board develops the details of the long-term program elements.
- b. Administrative Benefits: As described in finding 10, a twelve month renewal of the Conditional Waiver for discharges of waste from irrigated lands is in the public interest because it would minimize disruption of the ongoing regulatory effort and allow the Board to devote the maximum staff effort toward implementing the new program.

- c. Social Benefits: A twelve month renewal of the Conditional Waiver for discharges of waste from irrigated lands provides social benefits in that the operators of irrigated lands within the Central Valley Region will continue efforts to comply with the Conditional Waiver while conserving financial resources that will be necessary to transition to operation under the long-term irrigated lands regulatory program.

**THEREFORE, BE IT RESOLVED that:**

1. The Coalition Group Conditional Waiver (Resolution No. R5-2006-0053), as amended by Resolutions No. R5-2006-0077 and R5-2008-0052, is renewed for 12 months beyond its current expiration date and expires on 30 June 2012 unless rescinded or renewed by the Central Valley Water Board.
2. Coalition Groups and the Dischargers who are participants in Coalition Groups shall comply with the terms and conditions of the Conditional Waiver and take action to improve and protect waters of the State until such time that this waiver is renewed or superseded by WDRs or a conditional waiver of WDRs.
3. The Executive Officer shall ensure that the Coalition Groups, the Dischargers who are participants in Coalition Groups and other interested parties are informed of the renewal of the Conditional Waiver.
4. Staff is directed to report back to the Central Valley Water Board in six months to detail its progress on implementing the long-term ILRP Framework.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region on X April 2011.

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PAMELA C. CREEDON, Executive Officer