

LATE REVISIONS – 19 September 2013

- ITEM 4.** Consideration of Adoption of Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area that are Members of a Third-Party Group

WASTE DISCHARGE REQUIREMENTS

Revision to the footer on the first page of Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area that are Members of a Third-Party Group

Page 1:

~~March-August~~ 2013 – TENTATIVE

Revisions to Finding 41 are shown below in underline/strikeout.

Page 11:

California Water Code section 13141 states that “prior to implementation of any agricultural water quality control program, an estimate of the total cost of such a program, together with an identification of potential sources of financing, shall be indicated in any regional water quality control plan.” Section 13141 concerns approvals or revisions to a water quality control plan and does not necessarily apply in a context where an agricultural water quality control program is being developed through waivers and waste discharge requirements rather than basin planning. However, the Basin Plan includes an estimate of potential costs and sources of financing for the long-term irrigated lands program. The estimated costs were derived by analyzing the six alternatives evaluated in the PEIR. This Order, which implements the long-term ILRP within the Tulare Lake Basin Area, is based on Alternatives 2-6 of the PEIR; therefore, estimated costs of this Order fall within the Basin Plan cost range.¹² The total average annual cost of compliance with this Order, e.g., summation of costs for administration, monitoring, reporting, tracking, implementation of management practices, is expected to be approximately ~~\$8.95~~ 8.90 per acre greater than the current surface water only protection program under the Coalition Group Conditional Waiver. The total estimated average cost of compliance of continuation of the previous Coalition Group Conditional Waiver within the Tulare Lake Basin Area is expected to be approximately ~~50.751.0~~ million dollars per year (~~\$17.55~~ 17.65 per acre annually). The total estimated average cost of compliance with this Order is expected to be approximately ~~76.676.7~~ million dollars per year (~~\$26.50~~ 26.55 per acre annually).

Approximately \$20.21 of the estimated ~~\$26.50~~ 26.55 per acre average annual cost of the Order is associated with implementation of management practices. This Order does not require that Members implement specific water quality management practices.¹³ Many of the management practices that have water quality benefits can have other economic and environmental benefits (e.g., improved irrigation can reduce water and energy consumption, as well as reduce runoff). Management practice selection will be based on decisions by individual Members in consideration of the unique conditions of their irrigated agricultural lands; water quality concerns; and other benefits expected from implementation of the practice. As such, the cost estimate is an estimate of potential, not required costs of implementing specific practices. Any costs for water quality management practices will be based on a market transaction between Members and those vendors or individuals providing services or equipment and not based on an estimate of those costs provided by the board. The cost estimates include estimated fees the third-party may charge to prepare the required reports and conduct the

required monitoring, as well as annual permit fees that are charged to permitted dischargers for permit coverage. In accordance with the State Water Board's Fee Regulations, the current annual permit fee charged to Members covered by this Order is \$0.56/acre. The combined total estimated average administrative costs that include third-party and state fees are estimated to be \$~~4,624.63~~/acre annually. These costs have been estimated using the same study used to develop the Basin Plan cost estimate, which applies to the whole ILRP being overseen by the Central Valley Water Board. The basis for these estimates is provided in the *Draft Technical Memorandum Concerning the Economic Analysis of the Irrigated Lands Regulatory Program*.¹⁴ Attachment A includes further discussion regarding the cost estimate for this Order.

Revisions to Provision VIII.A.6 “Application to Serve as a Third-Party Representing Members are shown below in underline/strikeout.

Page 30:

A new third party may form to represent growers in an existing third party area, or part of that area, after a NOA has been issued to the existing third-party. The Executive Officer will consider the factors in VIII.A.1-4 above in determining whether to approve the request by issuing an NOA to the new third-party. In addition, the Executive Officer will provide ~~the existing third-party stakeholders~~ at least 30-days to submit any comments regarding the application by the new third-party group. The new third-party and its Members must take all actions and submit subsequent reports required by the Order on the timeline originally established by the issuance of the NOA to the original third-party group for the area. The proposed new third party must demonstrate that it can comply with the original time schedule as part of its application to serve as a third-party representing Members. Any required report not submitted by the existing third-party, and due prior to application of the new third-party, must be submitted as part of the application package of the new third-party.

ATTACHMENT A – INFORMATION SHEET

Revisions to the second paragraph under section “Spatial Resolution of Nitrogen Management Plan and Farm Evaluation Information” are shown below in underline/strikeout.

Page 23:

The nitrogen management data collected by the third-party from individual Members will be aggregated by the township where the enrolled parcel is located and will not be associated with the Member or their enrolled parcel. For example, the third-party may have information submitted for 180 different parcels in a given township. At a minimum, the board would receive a statistical summary of those 180 data records describing the range, percentiles (10th, 25th, 50th, 75th, 90th), and any outliers for similar soil conditions and similar crops in that township. A box and whisker plot or equivalent tabular or graphical presentation of the data approved by the Executive Officer may be used. Based on this analysis, the Central Valley Water Board intends to work with the third-party to ensure that those Members who are not meeting the nitrogen management performance standards identified in the Order improve their practices. ~~After allowing a sufficient time to~~ As part of its annual review of the monitoring report submitted by the third-party, the board will evaluate the effectiveness of third-party outreach efforts, ~~the~~

~~board and trends associated with nitrogen management. The board~~ intends to request information from the third-party for those Members who ~~are not, based on the board's evaluation of available information, do not appear to be~~ meeting nitrogen management performance standards. The reporting of nitrogen management data may be adjusted based on the outcomes of the efforts of the State Water Resources Control Board's Expert Panel and the California Department of Food and Agriculture's Nitrogen Tracking and Reporting System Task Force (see Finding 51 and the State Water Board's Report to the Legislature).

Revisions to the first and second paragraphs under section "California Water Code Sections 13141 and 13261" are shown below in underline/strikeout.

Page 45:

The total estimated average annual cost of compliance with this Order, e.g., summation of costs for administration, monitoring, reporting, tracking, implementation of management practices, is expected to be approximately ~~\$8-958.90~~ per acre greater than the cost associated with the protection of surface water only under the Coalition Group Conditional Waiver. The total estimated average cost of compliance associated with continuation of the previous Coalition Group Conditional Waiver within the Tulare Lake Basin Area is expected to be approximately ~~50-751.0~~ million dollars per year (~~\$17-5517.65~~ per acre annually). The total estimated cost of this Order is expected to be approximately ~~76-676.7~~ million dollars per year (~~\$26-5026.55~~ per acre annually).

Approximately \$20.21 of the estimated ~~\$26-5026.55~~ per acre annual cost of the Order is associated with implementation of water quality management practices (see discussion below for a breakdown of estimated costs). This Order does not require that Members implement specific water quality management practices. Many of the management practices that have water quality benefits can have other economic and environmental benefits (e.g., improved irrigation can reduce water and energy consumption, as well as reduce runoff). Management practice selection will be based on decisions by individual Members in consideration of the unique conditions of their irrigated agricultural lands; water quality concerns; and other benefits expected from implementation of the practice. As such, the cost estimate is an estimate of potential, not required costs of implementing specific practices. Any costs for water quality management practices will be based on a market transaction between Members and those vendors or individuals providing services or equipment and not based on an estimate of those costs provided by the Central Valley Water Board. The cost estimates include estimated fees the third-party may charge to prepare the required reports and conduct the required monitoring, as well as annual permit fees that are charged to permitted dischargers for permit coverage. In accordance with the State Water Board's Fee Regulations, the current annual permit fee charged to Members covered by this Order is \$0.56/acre. There are a number of funding programs that may be available to assist growers in the implementation of water quality management practices through grants and loans (e.g., Environmental Quality Incentives Program, State Water Board Agricultural Drainage Management Loan Program). Following is a discussion regarding derivation of the cost estimate for the Order.

Revisions to the fourth paragraph under section “California Water Code Sections 13141 and 13261” are shown below in underline/strikeout.

Page 46:

The administrative costs of the Order are estimated to be similar to the costs shown for Alternative 2 in Table 2-19 of the Economics Report. Additional costs have been included for third-party preparation of: notice of applicability, sediment and erosion assessment report, monitoring report. Farm evaluation, sediment and erosion control plan and nitrogen management planning (farm plans) costs are estimated using costs and methodology provided by the Kern River Watershed.²⁹ Total surface water monitoring and reporting costs are estimated to be similar to the costs shown for Alternative 2 –essentially a continuation of the current surface water monitoring approach. Total trend groundwater monitoring and reporting costs are estimated using groundwater monitoring costs and planning costs given on page 2-20 and in Table 2-14 of the Economics Report respectively. Additional cost estimates have been included for the groundwater assessment report³⁰ and management evaluation program. Costs for installation of groundwater monitoring wells are estimated using the costs shown- in Table 2-15 of the Economics Report. Tracking costs of management practices and nitrogen management plan information are estimated to be similar to the costs shown for Alternative 4 in Table 2-21 of the economics report –under “tracking.” Additional costs are estimated for Member application requirements (e.g., notice of certification/intent) and potential Member CEQA mitigation monitoring.³¹ Management practices costs have been estimated for the South Valley Floor and Coast Range watersheds (pages 3-124 to 3-133 and 3-137 to 3-140, Existing Conditions Report) generally using the methodology outlined in pages 2-6 to 2-16 of the Economics Report. Estimated average annualized costs per acre of the Order relative to full implementation of the current waiver program in the Tulare Lake Basin Area are summarized below in Table 3³².

Revisions to Table 3. Estimated annual average per acre cost* of the Order relative to full implementation of the current program (PEIR Alternative 1) in the Tulare Lake Basin Area are shown below in underline/strikeout.

Page 47:

Table 3 - Estimated annual average per acre cost* of the Order relative to full implementation of the current program (PEIR Alternative 1) in the Tulare Lake Basin Area

	Order	Current program	Change
Administration	1.29	0.91	0.38
Farm planning	1.671.71	--	1.671.71
Monitoring/reporting/tracking	3.323.33	.79	2.522.54
Management practices	20.21	15.8415.95	4.374.26
Total	26.5026.55	17.5517.65	8.958.90

*Costs are an estimate of potential, not required costs of implementing specific practices.

Revisions to the fourth paragraph under section “California Water Code Sections 13141 and 13261” are shown below in underline/strikeout.

Page 47:

The Tulare Lake Basin Plan includes an estimate of potential costs and sources of financing for the long-term irrigated lands program. The estimated costs were derived by analyzing the alternatives evaluated in the PEIR using the cost figures provided in the Economics Report. The Basin Plan cost estimate is provided as a range applicable to implementation of the program throughout the Central Valley. The Basin Plan’s estimated total annualized cost of the irrigated lands program is \$216 million to \$1.3 billion, or \$27 to \$168 per acre³³. The estimated total annual average cost of this Order of ~~\$76.676.7~~ million dollars (~~\$26.5026.55~~ per acre) does not exceed the estimated cost range for the irrigated lands program as described in the Basin Plan when considering per acre costs (\$27-\$168 per acre).

ATTACHMENT B - MONITORING AND REPORTING PROGRAM

Revision to section V.C. “Monitoring Report” are shown below in underline/strikeout.

Page 26:

Report Component (18) – Summary of Reported Nitrogen Data

The third-party shall aggregate information from Members’ Nitrogen Management Plan Summary Reports to characterize the input, uptake, and loss of nitrogen fertilizer applications by specific crops in the Tulare Lake Basin Area. The third-party’s assessment of Nitrogen Management Plan information must include, at a minimum, comparisons of farms with the same crops, similar soil conditions, and similar practices (e.g., irrigation management). At a minimum, the statistical summary of nitrogen consumption ratios by crop or other equivalent reporting units and the estimated crop nitrogen consumed for the different crop types. The nitrogen consumption ratio is the ratio of total nitrogen available for crop uptake (from sources including, but not limited to, fertilizers, manures, composts, nitrates in irrigation supply water and soil) to the estimated crop consumption of nitrogen. At a minimum, the annual report shall contain a statistical summary of the nitrogen consumption ratios by describing the range, percentiles (10th, 25th, 50th, 75th, 90th), and any outliers for similar soil conditions and similar crops on a township basis. A box and whisker plot or equivalent tabular or graphical presentation of the data approved by the Executive Officer may be used. The summary of nitrogen management data must include a quality assessment of the collected information by township (e.g. missing data, potentially incorrect/inaccurate reporting), and a description of corrective actions to be taken regarding any deficiencies in the quality of data submitted, if such deficiencies were identified, if necessary. The third-party will also provide an aggregate of the data submitted by their Members in an electronic format, compatible with ArcGIS, identified to at least the township level.

Report Component (19) – Summary of Management Practice Information

Page 27:

The third-party will aggregate and summarize information collected from Farm Evaluations. The summary of management practice data must include a quality assessment of the collected information by township (e.g. missing data, potentially incorrect/inaccurate reporting), and a description of corrective actions to be taken regarding any deficiencies in the quality of data submitted, if such deficiencies were identified, if necessary. In addition to summarizing and aggregating the information collected, the third party will provide the individual data records used to develop this summary in an electronic format, compatible with ArcGIS, identified to at least the township level.

APPENDIX MRP-1 – MANAGEMENT PLAN REQUIREMENTS

Revision to the fourth paragraph in under section I. Management Plan Development and Required Components are shown below in underline/strikeout.

Page 2:

If a number of management plans are triggered, the third-party shall submit a SQMP/GQMP prioritization list to the Central Valley Water Board Executive Officer. This list may prioritize the order of SQMP/GQMP development based on, for example, 1) the potential to harm public health; 2) the beneficial use affected; and/or 3) the likelihood of meeting water quality objectives by implementing management practices. Prioritization schedules shall be consistent with requirements described in section XII of this Order, Time Schedule for Compliance. The third-party may continue to utilize the surface water quality prioritization process described in the Tule River Sub-Watershed and Main Drain Management Plans,¹ as approved by the Executive Officer. The Executive Officer may approve or require changes be made to the SQMP/GQMP priority list. The third-party shall implement the prioritization schedule approved by the Executive Officer.