

**ORDER FOR A CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES FROM IRRIGATED LANDS**

COMMENTS ON OCTOBER 14, 2005

Author	Comment Reference	Comment	Response
Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County Oct. 14	Finding 16, last sentence	Finding 16 – The last sentence of this finding includes a reference to “effluent limitations.” Effluent limitations are end of pipe permit limits that apply to NPDES permit holders under the Clean Water Act. Agricultural irrigation return flow and stormwater run-off are considered to be non-point source pollution and are exempt from the NPDES permit provisions of the Clean Water Act. Thus, references to effluent limitations in this Conditional Waiver are inappropriate and not legally applicable. Change to: Subsequent conditional waivers or other regulatory mechanisms for discharges from irrigated lands may include effluent limitations or comparable requirements <u>more restrictive requirements</u> to ensure attainment of water quality objectives.	Staff partially agree, but note that such “more restrictive requirements” must align with Porter Cologne requirements. The last sentence of the finding has been revised as follows: “Subsequent conditional waivers or other regulatory mechanisms for discharges from irrigated lands may include more restrictive requirements such as waste discharge requirements (WDRs) to ensure attainment of water quality objectives.”
Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County Oct. 14	Finding 19, add new last sentence	<u>An additional sentence must be added that clarifies that the Conditional Waiver is consistent with the State’s policy for Nonpoint Source Pollution. Adoption of the conditional waiver is consistent with the State’s Nonpoint Source Management Plan.</u>	Staff agree and the finding has been revised as commented.

<p>Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>Finding 31, delete following,</p>	<p>This finding is intended to state the Regional Board’s reasons for finding it appropriate to adopt a waiver from Report of Waste Discharge and waste discharge requirements. However, two of the reasons given are related to agricultural facilities and not water quality. The primary purpose of Conditional Waiver is to work towards meeting water quality standards in the receiving water, not regulate agricultural facilities in general. To clarify the intent and purpose of the Conditional Waiver we recommend that finding 31 be amended as follows: “And the Regional has limited facility specific information, and limited water quality data on facility specific discharges. And, delete, “...it is appropriate to regulate this category of agricultural facilities under waivers rather than under individual WDRs or general WDRs in order to simplify and streamline the regulatory process while additional facility and water quality information is collected over the term of this Waiver.””</p>	<p>Staff agree and finding has been revised as commented.</p>
<p>Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>Finding 32, amend as follows,</p>	<p>As currently worded, Finding 32 implies that agricultural is solely responsible for some water quality impairments. We do not believe that there is adequate information to determine to which degree agriculture may be responsible “Although there is information that discharges of waste from irrigated lands have <u>contributed to impairments of</u> waters of the State, information concerning the specific locations of impairments, specific causes, specific the degree of impact, types of waste and specific management practices that mitigate impairments <u>and may</u> improve and protect water quality is not <u>generally available.</u>”</p>	<p>Staff agree and finding has been revised as commented.</p>
<p>Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>Finding 35, what are we doing with groundwater</p>	<p>As currently drafted, the finding limits the scope of the Conditional Waiver to surface waters. We recommend that the finding be amended to apply to all waters of the state.</p>	<p>Staff agree that the language should be clarified and have revised finding 35 to comport with the description and provisions for groundwater monitoring in finding 25.</p>

<p>County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>for the time being?</p>		
<p>Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>Finding 42,</p>	<p>As currently drafted, the finding implies that Appendices 5 and 6 are the Notice of Intent to which groups or individuals must fill-out to comply with the Conditional Waiver. We are concerned that a strict application of these appendices will make it difficult for a group program to prepare a Notice of Intent. Delete reference to Appendices 5 or 6. Need flexibility.</p>	<p>Although staff understands difficulties with overly prescriptive NOI forms, staff do not agree that references to Appendices should be deleted. Staff have revised the finding to detail that the NOI appendices are examples that provide guidance on the level of information required in the NOI.</p>
<p>Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>Finding 46, delete finding,</p>	<p>Finding 46 is repetitive of finding 40. Thus, we recommend that Finding 46 be deleted from the Conditional Waiver.</p>	<p>Staff agree, and finding has been deleted as commented.</p>

<p>Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>Hereby Ordered language</p>	<p>Hereby Ordered language, requires satisfaction of all conditions but does not state that satisfying the conditions of the order should be deemed as meeting the basin plan, etc. In other words, could be interpreted to say that you must meet all water quality objectives now in order to be covered by the waiver. Amend as follows, ‘It is hereby ordered that: in order to meet the provisions contained in Division 7 of the Water Code and regulations adopted there under, the Regional Board hereby waives waste discharge requirements for discharges of wastes from irrigated lands provided that the discharger satisfies all of the conditions and requirements of <u>this Conditional Waiver</u>. (delete all other language)</p>	<p>Staff understand the concerns expressed in the comment, but note that the provisions of the Basin Plan also need to be satisfied. The language has been revised to state:</p> <p>It is hereby ordered that: in order to meet the provisions contained in Division 7 of the Water Code and regulations adopted thereunder, and the Regional Board Basin Plan, the Regional Board hereby waives waste discharge requirements for discharges of wastes from irrigated lands provided that the discharger satisfies all conditions and requirements of this Conditional Waiver.</p>
<p>Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>Part A, Eligibility, 4</p>	<p>The provisions identified all contain specific requirements as to what the topographic map should include that is submitted with a discharger’s monitoring and reporting plan (MRP). Some of the specific requirements are not appropriate for indication on a topographic map and not feasible to indicate for non-point sources of pollution. Amend MRP language as follows: ‘The MRP Plan shall include a topographic map showing drainage patterns, discharges, crop locations, cultivation and pesticide/fertilizer/sediment management practices which may impact the water quality, and sampling locations, <u>to the extent feasible</u>. The purpose of the MRP Plan is to assess the impacts of wastes on waters of the State from discharges from irrigated lands, and where necessary, to assess the sources of wastes and track progress in reducing the amount of waste discharged that affects the quality of the waters of the State and its beneficial uses.’</p> <p>Amendment above would also apply to individual</p>	<p>Staff agree and have revised language as commented.</p>

<p>Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>Discharger Groups, Provision 8., needs to be amended as follows:</p>	<p>discharger provisions in 6.</p> <p>“Discharger Groups shall be responsible for filing a NOI that identifies the dischargers participating in the Group, Billing Address for the Group, <u>general Site Information for Group participants, and general descriptions of Water Supplies used by for</u> Group participants, types of discharges, <u>Facility Information for Group Participants, types of crops, types of pesticides and application practices, irrigation practices, and other management practices. (Including type and volume of crops, type, quantity and frequency of pesticide applications, irrigation schedule and management practices in place to mitigate waste loadings).</u> (If a Discharger Group or some its members intend to <u>including information to</u> allow the Executive Officer to classify the Discharger Group or its participants as <u>Typical or Low-Risk, then additional information necessary for the Executive Officer to make that determination shall also be provided.</u>)”</p> <p>Discharger Groups, Provision 9., needs to amend consistent with Eligibility 4. Suggested above.</p>	<p>Staff agree and have revised language as commented.</p>
<p>Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>Discharger Groups, Provision 10</p>	<p>The provisions identified would require that the first annual report be submitted within one year after submittal of the NOI. However, the submittal of the NOI does not guarantee that the Regional Board will approve the NOI, the MRP or the QAPP for the collection of water quality data. We are concerned that as written groups will be required to start collecting monitoring data without any assurance that it will be acceptable to the Regional Board when submitted with the annual report. Thus, we recommend that the submittal the annual report be required one year after the Regional Board has issued a Notice of Applicability (NOA), or at the</p>	<p>Staff understands commenter’s concerns, however the resolution proposed would have the effect of delaying monitoring under the Conditional Waiver. Staff has revised the waiver such that the NOI, MRP, and QAPPs are due nine months after adoption of the waiver. This will provide staff time to review applications and prepare Notices of Acceptance for issuance by the Executive Officer. The objective of this revision is to provide four full years of monitoring under this Order.</p>

		very least approved the QAPP and the MRP for the collection of monitoring data. Amend first sentence as follows: “One year after submittal of the <u>receipt of the NOA</u> NOI the Discharger Group shall submit an annual monitoring report ...and will submit a WQMP within six months of the submittal of the NOI <u>annual monitoring report</u> , if necessary.” (Same change would apply to provision 7 for individual.)	
Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County Oct. 14	Table 1	, amend due date for Annual Monitoring Report to “12 months after <u>receipt of the NOA submittal of</u> NOI and annually thereafter.” (Same for low risk dischargers.)	Staff has revised Table 1 as to comport with the response above.
Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County Oct. 14	Part B. Application,	The provisions identified refer to appendices 5 and 6 as the required NOI to be completed in order for individuals or discharger groups to receive coverage under the Conditional Waiver. As we indicated previously, we are concerned that as currently drafted the NOIs require unnecessary information, and for discharger groups are not feasible. Thus, we recommend that appendices 5 and 6 be modified to allow for the submittal of more generalized information that is consistent with our comments for provisions Part A.8 etc. that have been identified above. Remove references to Appendices 5 and 6, remove requirements for identification of discharge points and their GPS coordinates. General topo map and general description of the watershed should be sufficient,	The NOI appendices are provided as examples of the information required for a complete NOI.

		especially for Discharger Groups. Amend 2.a. to be consistent with language above.	
Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County Oct. 14	Part C.1., amend as follows	“To be authorized to discharge under this Order, an Individual Discharger or Discharger Group must complete an application in accordance with the requirements of Appendices 5 or 6 of this Order and as described above.”	Staff agree and have revised the paragraph as commented.
Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County Oct. 14	Part D. Discharge Prohibitions:	The discharge prohibitions as currently drafted stand alone as a condition of the waiver and therefore must be complied with to be eligible for coverage under the waiver. However, if dischargers were required to comply with all of the prohibitions in order to receive waiver coverage, the purpose of the waiver would be unnecessary. In other words, immediate compliance would be required for water quality objectives therefore negating the need for a waiver that allows for management practices overtime for meeting water quality objectives. Needs prefatory language to clarify that the discharge of wastes pursuant to the conditional waiver is not prohibited. As currently drafted, the prohibitions could be interpreted to undo the ability to exceed water quality standards by preparing WQMP .	Staff partially agree with this comment, but find that prohibitions relating to toxicity and waste discharges to land not owned or controlled by the discharger. Rather than deleting all of the prohibitions as proposed, staff has revised the language of Prohibitions D2 and D3.
Ventura Farm Bureau, Ventura County	E.1	As drafted, provision E.1 could be interpreted to undermine intent of waiver by requiring immediate compliance with basin plan provisions and water quality objectives. This provision must be deleted or amended to clarify that compliance with this	Staff agree and have revised language of this paragraph as commented.

<p>Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>		<p>order constitutes compliance with the applicable Basin Plan provisions and water quality objectives. We recommend that E.1 be amended as follows: Compliance with this Order constitutes compliance Dischargers covered under this Order shall comply with all applicable Basin Plan provisions, including any prohibitions and water quality objectives governing protection of receiving waters from nonpoint source discharges.</p>	
<p>Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>G.2, G.3, G.4, and G5</p>	<p>As currently drafted, these provisions are repetitive and unnecessary for G.1 places all basin plan provisions into context for compliance with the waiver. In addition, as stand alone provisions, they could be interpreted to negate the waiver provisions that allow for the preparation of a WQMP when exceedances have been identified. Thus, we recommend that these provisions be deleted. Appear to undermine the ability to prepare a WQMP for exceedences. As drafted these are not benchmarks and could be interpreted to be stand alone requirements. In addition, all of these are part of the basin plan therefore why it is necessary to spell out again. They are covered as a benchmark in G.1.</p> <p>The use of the 1 TU as a trigger for further monitoring should go into part H and the MRP resolution and not here.</p>	<p>Staff agree and have revised paragraphs as commented.</p>
<p>Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water</p>	<p>H.5 H6</p>	<p>“Within six months after submittal of the <u>annual</u> monitoring report, a WQMP.”</p> <p>H.6.b., delete last sentence. Not information on the effectiveness of management practices to do this. Sets up WQMP for failure. We should be using more of a maximum extent practical standard than confidence of attaining objectives.</p>	<p>Staff agree and have revised paragraphs as commented.</p>

Agencies of Ventura County			
Oct. 14			
Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County	Table 1	Amend due date of annual monitoring report to "12 months after receipt of the NOA and annually thereafter.	Staff agree and have revised table as commented.
Oct. 14			
Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County	B.3, B.4	Amend language to be consistent with Provision 8 above. Amend language to be consistent with Provision 4 above.	Staff agree and have revised paragraphs as commented.
Oct. 14			
Ventura Farm Bureau, Ventura County Agricultural	B.7	Amend first sentence as follows: "One year after submittal of the NOI receipt of the NOA the Discharger Group shall submit an annual monitoring report showing the results of the monitoring,"	Agree, change made

Association, Association of Water Agencies of Ventura County Oct. 14			
Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County Oct. 14	MRP Plan,	Amend the second sentence as follows: “The constituents to be monitored are listed in Appendix 1, 2 and 3.”	Staff note that constituents to be monitored are contained in Table 3 and have revised the MRP plan as commented.
Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County Oct. 14	Seasonality	Requires monitoring after the first storm of the year with greater than 0.1 inches. This amount of rainfall will not generate runoff. The usual amount for first flush is at least 0.25 inches. Ventura County Storm water permit is 0.5 inches. Amend language as follows: “The first wet season sample (October 15 – May 15) should be collected within 24-hours of the first storm of the year with at least 0.25 inches of rain as measured....”	Staff agree and have revised paragraphs as commented.
Ventura Farm Bureau, Oct. 14	Parameters, amend as	: “The MRP shall identify <u>in general</u> the types of chemicals applied to irrigated lands for participants	Staff agree and have revised paragraphs as commented.

<p>Ventura County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>follow</p>	<p><u>in the Discharger Group.</u>” Perhaps here is where the follow-up toxicity testing requirements should be identified.</p>	
<p>Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County</p> <p>Oct. 14</p>	<p>III., page 9, amend:</p>	<p>“Follow-up monitoring of discharges <u>receiving waters</u> that do not meet the listed benchmarks....” We are not monitoring discharges but the receiving waters.</p>	<p>Staff agree and have revised paragraphs as commented.</p>
<p>Ventura Farm Bureau</p> <p>Oct 6</p>	<p>III.A.4., C</p>	<p>Delete last sentence consistent with recommendation for Waiver language.</p> <p>Last paragraph, We are not sure that this is something that labs typically report and how hard it will be to implement and report.</p>	<p>Staff note that tentatively identified compounds are useful in review of monitoring results. Staff recommends that this issue is addressed in the QAPP for Executive Officer approval.</p>
<p>Ventura Farm Bureau, Ventura County Agricultural Association,</p>	<p>Appendix 1</p>	<p>There is no explanation as to what (a) means. Compliance for all of the parameters should not be as daily or instantaneous maximums. Determinations of compliance should be consistent with TMDLs and basin plans. Many should be annual averages, others monthly averages.</p>	<p>Table reference was revised to clarify that some benchmarks(e.g. nitrates) are site specific based on Basin Plan.</p>

Association of Water Agencies of Ventura County Oct. 14			
Ventura Farm Bureau, Ventura County Agricultural Association, Association of Water Agencies of Ventura County Oct. 14	Appendix 3	<p>Table not consistent with MRP. MRP says that samples should be collected within 24 hours of a storm, not 1 hour. 1 hour is not feasible. Table needs to be amended accordingly.</p> <p>Table requires collection of dry season samples for pesticides and toxicity immediately following pesticide application. This is written to apply to banned pesticides as well as currently used pesticides. In either case, this is not a practical requirement, especially for a Discharge Group where the participants apply pesticides at different times. The requirement specific of when to take the dry season samples should be deleted.</p>	Staff partially agree and have revised table as commented. However, staff note a requirement for specificity in dry season sampling, Discharger can provide schedule in the MRP for Executive Officer approval.
Ventura Farm Bureau Oct 6	Appendices 5 and 6	State they are examples, like WQMP. Simplify forms, make consistent with amendments above for more generalized information	Staff agree and have revised Appendices as commented.
California Avocado Commission Oct 13	1	The monitoring approach adopted by the Regional Water Board differs considerably from that adopted by the Central Coast Regional Water Board. That Board has established a program that allows baseline data to be collected which is then subject to follow-up monitoring to refine the source of water quality exceedances. The follow-up monitoring plans are submitted to and reviewed by Regional Board staff to ensure that a plan has been developed that will meet the needs of the Regional Board in identifying the source of the exceedance. This approach allows a collaborative approach	<p>The Water Quality Management Plan is designed to be adaptive, providing more time for investigations which will provide more accurate results.</p> <p>We anticipate that consultation with Regional Board staff during review of WQMP submittals will provide for collaboration.</p>

		<p>between the Regional Water Board and the established Cooperative monitoring Program in determining the appropriate level of follow-up necessary. As proposed in the M&RP, follow-up monitoring is automatically triggered under certain circumstances (e.g., repeat toxicity values). Allowing for a more considered approach in monitoring design may offer a better approach. This is especially borne out by the results of subsequent toxicity monitoring conducted in the Central Valley conditional waiver. There, Coalition Groups have reported mixed results from the immediate follow-up requirement. This suggests that a more deliberate and thought-through follow-on monitoring program will yield more useful data.</p>	
	2	<p>The Central Valley Regional Water Board recently released an Information Sheet designed to explain the applicability of the Tributary Rule to constructed AG drains. This information sheet, although having no regulatory effect, is useful in explaining the Regional Board's approach to interpretation of this policy. The Los Angeles Regional Board should consider developing (or adopting) a similar position since it would provide useful guidance to growers.</p>	<p>Agree, Regional Board staff will prioritize development of a similar Information Sheet.</p>
	3	<p>The obligation to commence monitoring should be clarified. It is stated that the monitoring program, once submitted with the NOI, needs to be approved by the Executive Officer. Upon review and approval, the Executive Officer will issue a Notice of Applicability. The issuance of the NOA is what triggers the obligation to commence the monitoring program. See provision H.3 on page 21. It would be helpful if the time when the monitoring program</p>	<p>Agree, this requirement has been revised. However, the NOI, MRP Plan, and QAPP are due nine months after the waiver is adopted.</p>

		should be initiated was included in Table 1, page 15 of the Tentative Order.	
	Section A. 10 on Page 13 and Section H.5 on page 21 of the Tentative Order	The Water Quality Management Plan is to be submitted by the Discharger Group upon observing exceedances of water quality objectives. Since the Discharger Group is not responsible for implementing the WQMP elements, this burden falls upon individual growers, e.g., "...construct or implement management practices to reduce pollutant loadings to waters of the State." [Section H.5.] In this sense, the WQMP appears to take on the form of an obligation that growers within a Discharger Group must conform to. However, the Discharger Group has no authority to impose this requirement and mandating that a Discharger Group direct specific actions on the part of growers places the Discharger Group in an, at best, awkward position. This obligation should be reconsidered and another mechanism identified for translating the provisions of a WQMP into what may be viewed as enforceable provisions. Alternatively, the WQMP developed by a Discharger Group should be viewed as an advisory document.	The Group retains the ability to stop representing any individual who does not meet the wavier conditions after informing that person. The Regional Board is then responsible for following up to attain compliance.
California Avocado Commission Oct 13	4	The Tentative Order imposes a broad prohibition that "Discharges from irrigated lands shall not result in concentrations of salts, nutrients, or organic pollutants being present in receiving water at levels that would impact the designated beneficial uses of the receiving water or groundwater." (Section G 3, page 20). This prohibition is in conflict with other statements that refer to "benchmarks" and expectations that "...water quality objectives may not be completely attained in all waters...under the term of this Order." The language of this provision needs to be	Agree, Section G has been modified as described above.

		modified to remove the potential for confusion.	
	5	The requirement that growers participating in the conditional waiver attend a minimum of 8 hours of training “at an educational venue” does not allow flexibility to growers who may be able to participate in programs that provide equivalent training but do not require on site attendance. Alternative approaches such as attending a Web-cast training program or correspondence courses should be allowed.	Board staff are willing to consider an educational program of this design if a method can be provided to demonstrate compliance with the provision.
	Provision G 1 of the Tentative Order	<p>It allows a Discharger group to submit information that would allow the quality of source water supplied to a grower to be considered when determining whether a Water Quality Management Plan is required. This provision is important to growers yet the applicability of this provision is not well defined. The Regional Board should consider providing some level of guidance to the staff to allow this provision to be appropriately applied. Of greatest concern, is what level of concentration in supply water will obviate the need for a WQMP. For example, water supply used by growers may already exceed one or more water quality objectives. In this instance, clearly, growers should not be held accountable for an exceedance of water quality objectives.</p> <p>Alternatively, a water supply may exhibit very high levels of a chemical parameter but not enough to exceed the objective. In such cases, use of that water may result in water which, after irrigation, could be above the objective. However, the Tentative Order does not provide guidance to the staff allowing a clear degree of flexibility in interpretation of this provision. Guidance should</p>	Board staff does not have sufficient information on supply water to predict how many benchmark exceedances may be caused by the problem. The Board or the Executive Officer may revise the Order in response to water quality evidence provided by dischargers of the kind described here.

		<p>be provided which unambiguously allows the use of irrigation supply water and limits growers' responsibility under the waiver to only those contaminants added by the grower.</p>	
		<p>Regarding this same provision (G. 1), if the Discharger Group is allowed to submit information for the Regional Board's consideration that would affect whether a WQMP is required, then the issue of timing is important. Since, the preparation of a WQMP represents a considerable effort and cost, the Regional Board should allow for submittal of information in lieu of a WQMP or somehow clarify the timing of the submittal of the information to allow a Discharger Group the option of avoiding the submittal of a WQMP while the information is being reviewed by the Regional Board staff.</p>	<p>See response above on consultation, postponements and the adaptability of the WQMP</p>
<p>California Avocado Commission Oct 13</p>	<p>Monitoring and reporting Program (Group)</p>	<p>The required number of sampling locations is not clearly identified. In Section II, page 5, the M&RP states, "The number and location of sampling sites shall be based on the number of discharge locations and the requirements of source identification as approved by the Executive Officer." On page 7 (same section) it again states, "All waters of the state receiving discharges from irrigated lands shall be monitored, as approved by the Executive Officer." Multiple monitoring sites on a single watershed may be necessary if required. The ambiguity of the number of sampling sites is in stark contrast to the Central Coast Regional Water Board's waiver which established a maximum number of sites for a set period of time. Additionally, the conditional waiver is justified, in part, on a cost assessment that identified a maximum number of sites in the base monitoring program (30 sites, Appendix 10, section III). The maximum number of required monitoring sites</p>	<p>The number of sample locations is based on economic and watershed constraints and is staff's best estimate of size of a monitoring program which will identify water quality problems and sources associated with agriculture. It is based on a sample of each of the major receiving waters in Ventura County in the Basin Plan where the majority of agricultural land use is found. The sampling density is comparative to that in use in the Central Coast and Central Valley Agricultural Waivers. As water quality problems and sources are identified, the sampling density and total number should change.</p>

		should be specified within the M&RP.	
	Monitoring and Reporting Program (Group)	<p>The M&RP discusses Seasonality on page 6. The provision, “The first dry weather samples will be collected after the majority of growers in a sub watershed have applied pesticides or fertilizers and during the period where irrigation is required.” This provision is overly prescriptive and difficult to implement. The requirement that sampling be accomplished after a majority of growers have applied pesticides or fertilizers assumes that a Discharger Group has access to this information so that it can determine when to conduct monitoring. It is possible that a Discharger Group will be based on a crop type instead of a geographical watershed. Determining when it is most appropriate to conduct sampling may be difficult and assumes a level of coordination and information sharing that may not exist within or among Discharger Groups. Moreover, the provision is in conflict with the provision in Appendix 3 which identifies the frequency of sampling and which specifically states, “. . . [collect] samples immediately following a pesticide application.” This conflict should be resolved.</p>	<p>Agree, a modification has been proposed by the Ventura County Farm Bureau which makes the dry weather description more general and calls for sampling when pollutants may be entering the receiving water. The revised language is in the MRP.</p>
California Avocado Commission Oct 13	Editorial Comments	<p>The draft Monitoring and Reporting Plan appears to contain a more detailed definition of a Discharger Group than that provided in the Tentative Order. See I. A, page 2 of M&RP) Perhaps the same definition should be used in each document.</p> <p>Tentative Order Finding #5 Last Sentence, also Finding #14 refers to a benchmark as being listed in Appendix 3. However, Appendix 3 appears to be the Listing of Constituents and Frequency of Monitoring table.</p>	<p>The MRP is revised to contain the same definition of a Discharger Group as the Order.</p> <p>Agree, change made</p>

		<p>Tentative Order Finding #26, 2nd sentence. Language stating “. monitoring indicates that a benchmark cannot be obtained immediately...” is not as accurate as it might otherwise be. A better phasing would be, “When the data from the required monitoring program indicates that a benchmark value is exceeded, an individual discharger or discharger group shall...”</p> <p>The time when a Water Quality Management Plan is required to be submitted appears to be clearly stated in several locations within the Tentative Order and the M&RP, i.e., required six months following the submittal of the annual monitoring report if that report identifies exceedances of water quality “benchmarks.” However, in a two instances it appears that a conflict exists or that the language is not as clear as it might otherwise be. See Tentative Order, Paragraph 10, page 13 and Paragraph F.1, page 19. This potential source of confusion should be resolved in the final language.</p>	<p>Agree, revision made.</p>
<p>Heal the Bay Oct 14</p>	<p>1</p>	<p>The discharger should extensively characterize the discharge and existing practices and submit this information to the Regional Board before a Conditional Waiver is issued.</p>	<p>The Conditional Waiver requires characterization of the discharge and existing with submittal of the Notice of Intent.</p> <p>Staff finds that one of the key objectives of the Conditional Waiver is to characterize the waters of the State. If such characterization were to take place before a Waiver was issued, the lack of a QAPP would hinder the use of the data to characterize the discharge. The waiver provides Regional Board staff that any data used for decision making is based on an approved QAPP.</p>
<p>Heal the Bay Oct 14</p>	<p>2</p>	<p>The proposed monitoring program is not sufficient to effectively characterize the impacts of these discharges.</p>	<p>Regional Board staff disagree. Coupled with benchmarks levels that include a numeric target of 1.0 TUC and trigger follow-up sampling in areas, the program effectively targets areas where agricultural discharge</p>

			adversely affects waters of the State. Staff believes that all 303(d) listed pollutants that are stated in the Basin Plan to be related to agriculture are included, except TDS. In this case Staff used BPJ to substitute TSS due to the high associativity of agricultural chemicals to suspended solids. The MRPs have been revised to more clearly specify toxicity assessment, by adding the following sentence to the description of Toxicity assessment. "Where toxicity results in mortality above 50% for the studied organism between the receiving water and the standard water, a Toxicity Identification Evaluation (TIE) shall be conducted using standard UEPA methods to identify the specific agents causing the toxicity."
Heal the Bay Oct 14	3	The frequency of monitoring should be increased, and monitoring should take place under worst case scenarios.	The frequency of monitoring is The costs of compliance are directly related to the frequency of sampling. Staff front-end loaded the monitoring program to build a robust data set. Staff also notes that if benchmarks are exceeded, additional monitoring will be required.
Heal the Bay Oct 14	4	The Regional Board should develop a single QAPP to be used by all discharges.	Staff agrees that the QAPP needs to support the goals of developing a scientifically defensible characterization of Staff has developed minimum QAPP requirements and an example of an approvable QAPP. Because the QAPP must be approved by the Regional Board, Board staff finds these to be adequate.
Heal the Bay Oct 14	5	GIS data should be collected and linked to existing databases to capture important discharger information.	Location data for sampling points and topographic maps are required. Regional Board staff will use these data to link to GIS databases. Staff are currently evaluating available databases, including those used by Regional Board staff, to select the most pertinent database for implementing the Conditional Waiver program.
Heal the Bay Oct 14	6	Monitoring reports should be submitted on a semi-annual basis, and benchmark exceedances should be reported to the Regional Board in a timely manner.	Staff agree that more timely reporting of toxicity exceedances is appropriate for protection of beneficial uses. Reporting program is revised to require notification of Regional Board within 5 days of benchmark exceedances for toxicity. Staff find that annual reporting is standard practice in many other Regional Board

			programs, such as NPDES permitting
Heal the Bay Oct 14	7	The Conditional Waiver should include clear enforcement actions.	The conditional waiver cites enforcement authorities under CWC sections 13267 and 13268. For dischargers of wastes from irrigated lands who fail to enroll under the Conditional Waiver, the Water Code provides authorities for such dischargers.
Heal the Bay Oct 14	8	Dischargers from irrigated lands directly adjacent to 303(d)-listed should not be allowed to fall under the conditional waiver.	Staff structured the Conditional Waiver program to effectively assess and implement additional monitoring and BMPs in areas that show impairments of water quality benchmarks, including 303(d) listed waterbodies. The waiver program complies the States Nonpoint Source Implementation Policy.
Heal the Bay Oct 14	9	Discharger groups should have clearly defined requirements that do not compromise the goals of the Conditional Waiver.	Based on stakeholder input and the patchwork geography of agriculture in the Los Angeles Region, the Conditional Waiver provides flexibility for different groups to organize. State note similar flexibility in other Regions of the State implementing Conditional Waivers for discharges from irrigated lands. Because the information to be submitted with the NOI identifies Group participants, staff note that the requirements for the Group do not compromise the goals of the Conditional Waiver.
Heal the Bay Oct 14	10	Groundwater monitoring requirements should be added to the MRPs	On-going studies regarding the effects of irrigated land discharges on groundwater quality funded by the State Board will be completed in 2007. Upon completion of the studies, staff will assess the loading to groundwater from existing irrigation practices and the Executive Officer may modify monitoring programs to include groundwater monitoring in areas with potential groundwater impacts.
County Sanitation District of Los Angeles County Oct. 14	1	The Wavier should clearly identify that compliance with all applicable water quality objectives is the primary goal and include specific milestones and a timeline for compliance with the objectives.	Finding #23 of the Order describes the goal of the Waiver as attainment of water quality objectives. Time schedules will be developed as part of the Water Quality Management Plans.
County	2	Appendix 1 should be revised to accurately	Appendix 1 is revised to show that the water quality

Sanitation District of Los Angeles County Oct. 14		reflect..the accurate surface waters objectives for nitrate	objective for nitrate are site specific.
County Sanitation District of Los Angeles County Oct. 14	3	Appendix 1 should be revised to include a full list of applicable Basin Plan objectives and other water quality standards, including the applicable National and California Toxic Rules Criteria.	Finding 5 of the order defines benchmarks of this Order to include applicable Basin Plan objectives and other water quality standards, including the applicable National and California Toxic Rules Criteria.
County Sanitation District of Los Angeles County Oct. 14	4	The Waiver should clarify the consequences of noncompliance with its conditions.	The conditional waiver cites enforcement authorities under CWC sections 13267 and 13268. For dischargers of wastes from irrigated lands who fail to enroll under the Conditional Waiver, the Water Code provides authorities for such dischargers.
County Sanitation District of Los Angeles County Oct. 14	5	Due to the large volumes of water used for agricultural purposes, potential groundwater impacts need to be evaluated.	Staff do not necessarily agree that groundwater needs to be monitored because of the large volume of groundwater used for agricultural processes. However, the waiver addresses groundwater monitoring. On-going studies regarding the effects of irrigated land discharges on groundwater quality funded by the State Board will be completed in 2007. Upon completion of the studies, staff will assess the loading to groundwater from existing irrigation practices and the Executive Officer may modify monitoring programs to include groundwater monitoring in areas with potential groundwater impacts.
County Sanitation District of Los Angeles County Oct. 14	6	Monitoring requirements in the Waiver should be integrated with other RWQCB and SWRCB programs.	The Order and Monitoring and Reporting programs provide for integration with other RWQCB and SWRCB programs. This integration will be described in MRP Plans and WQMPs submitted by dischargers and subject to Executive Officer approval.
County Sanitation District of	7	The Waiver should expand required monitoring to include all 303(d) listed constituents specific to each watershed in which agricultural operations are	Staff agree. The MRP has been revised to include all constituents listed on the 303(d).

Los Angeles County Oct. 14		located.	
County Sanitation District of Los Angeles County Oct. 14	8	Agricultural operations that discharge to 303 (d) listed water bodies should not be eligible for coverage under the W and should be issued waste discharge requirements instead. Alternately, as a minimum, the Waiver should require measures to assure compliance with applicable TMDL load allocations.	All agricultural operations covered under the Waiver are specifically required to comply with applicable TMDL load allocations.
County Sanitation District of Los Angeles County Oct. 14	9	Groundwater monitoring requirements should be added to the Monitoring and reporting Program, along with groundwater pumping data. All groundwater monitoring data collected pursuant to the Waiver should be made publicly available, unless it is legally eligible for protection from public disclosure.	See above. On-going studies regarding the effects of irrigated land discharges on groundwater quality funded by the State Board will be completed in 2007. Upon completion of the studies, staff will assess the loading to groundwater from existing irrigation practices and the Executive Officer may modify monitoring programs to include groundwater monitoring in areas with potential groundwater impacts .
County Sanitation District of Los Angeles County Oct. 14	10	The Waiver should require monitoring of pesticides, herbicides fertilizers, and other chemicals actually utilized in local agricultural operations, not just for pesticides largely banned from agricultural use in the United States.	Staff agree. Staff note that the Conditional Waiver includes monitoring for both currently used and historically used pesticides. However, the MRP has been revised to require including toxicity identification evaluations, if benchmarks are exceeded.
County Sanitation District of Los Angeles County Oct. 14	11	The information to be collected through the Monitoring and Reporting Program should be expanded to include additional information regarding irrigation practices, all chemical use including irrigation water additives, fertilizers and other soil amendments, management practice implementation.	These types of information are required as part of the Water Quality Monitoring Plan after benchmark values are known to be exceeded.
County Sanitation District of Los Angeles	12	Required monitoring frequencies should reflect irrigation practices, crop cultivation, dry/wet weather conditions and should be accelerated if exceedances of benchmarks are observed or if	The frequency is based on these factors and economics. The MRP states that the frequency may be revised based on increased when problems are found.

County Oct. 14		toxicity is observed.	
County Sanitation District of Los Angeles County Oct. 14	13	The Waiver should require annual bioassessments and sampling of discharges.	Bio assessments were not required as part of ongoing monitoring for economic considerations, and they are not required in comparable Regional Board programs. They may be required by the Executive Officer where needed. Discharge sampling may be required if assessments of receiving water do not result in identification of sources and reductions in water quality problems.
Southern California Edison Oct. 14	1	SCE supports the proposed Conditional Waiver. As proposed, the waiver would not apply to operations, including nurseries, currently regulated under, under the MS4 permit.	The proposed Conditional Waiver is written to exclude wholesale nurseries that are licensees to SCE and LADWP. Staff recommends that these nurseries pursue coverage under MS4 or other appropriate waste discharge requirements.