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## Santa Ana Regional Water Quality Control Board

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION  
INVESTIGATIVE ORDER NO. R8-2020-0009  
AN ORDERING DIRECTING  
NON-IRRIGATED AGRICULTURAL OPERATIONS IN THE SAN JACINTO  
WATERSHED  
TO SUBMIT TECHNICAL REPORTS PERTAINING TO AN INVESTIGATION OF  
NON-IRRIGATED AGRICULTURAL OPERATIONS AND PRACTICES IN THE  
SAN JACINTO WATERSHED**

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

- 1. Legal Regulatory Authority:** This order conforms to and implements: (1) policies and requirements of the Porter-Cologne Water Quality Control Act (division 7 of the Water Code, commencing with section 13000, including section 13267); (2) applicable State and federal regulations; and (3) all applicable provisions of statewide Water Quality Control Plans adopted by the State Water Resources Control Board (State Water Board) and the *Water Quality Control Plan for the Santa Ana River Basin* (Basin Plan) adopted by the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board), including beneficial uses, water quality objectives, anti-degradation policies, and implementation plans.
- 2. Geographic Extent of the Investigation Area:** The San Jacinto Watershed covers approximately 487,900 acres or about 762.3 square miles of Santa Ana River Basin. This watershed includes the San Jacinto River, Salt Creek, Canyon Lake, Lake Elsinore, and their tributaries.
- 3. Conditional Waiver of Agricultural Discharge (CWAD):** The CWAD was issued to protect the groundwater and surface water in the San Jacinto Watershed. The CWAD was adopted by the Santa Ana Regional Water Board on July 29, 2016 (Order No. R8-2016-003) and amended on April 28, 2017 (Order No. R8-2017-023). The intent of the CWAD is to regulate discharges from agricultural operations within the San Jacinto Watershed to ensure that such discharges are not causing or contributing to conditions of pollution or nuisance; exceedances of applicable water quality objectives for surface and ground waters; failure to achieve Total Maximum Daily Loads (TMDLs); or, the impairment of beneficial uses of receiving waters, including surface and ground waters.

WILLIAM RUH, CHAIR | HOPE SMYTHE, EXECUTIVE OFFICER

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4. **Presence of Pollutants in the Investigation Area:** Point and nonpoint source waste discharges in the San Jacinto Watershed have contributed to exceedances of some water quality objectives and impairment of some beneficial uses in both Canyon Lake and Lake Elsinore. Accordingly, both lakes are included on the federal Clean Water Act section 303(d) list of impaired waters. Canyon Lake is listed as impaired due to elevated levels of nutrients. Lake Elsinore is listed as impaired due to the elevated levels of nutrients, organic enrichment, low dissolved oxygen, elevated polychlorinated biphenyls (PCBs) and dichlorodiphenyltrichloroethane (DDT), and toxicity. To address nutrient (nitrogen and phosphorus) impairment in the lakes, on December 20, 2004, the Santa Ana Water Board adopted TMDLs for Canyon Lake and Lake Elsinore (Resolution No. 2004-0037). These TMDLs established load allocations and waste load allocations for nitrogen and phosphorus inputs from specified sources, including agricultural activities. These TMDLs were approved by the State Water Resources Control Board (State Water Board) on May 19, 2005 (Resolution No. 2005-0038), by the Office of Administrative Law on July 26, 2005, and by the U.S. Environmental Protection Agency on September 30, 2005 and have been implemented since 2005.
5. **Designated Beneficial Uses:** The Basin Plan identifies beneficial uses applicable to Lake Elsinore, Canyon Lake, and their tributaries. These beneficial uses are threatened or potentially threatened by nutrient and other pollutant discharges from agriculture:

- a. **Human Health**

Water Contact Recreation (REC1): Primary Contact Recreation) waters are used for recreational activities involving body contact with water where ingestion of water is reasonably possible. These uses may include but are not limited to swimming, wading, water-skiing, skin and scuba diving, surfing, whitewater activities, fishing, and use of natural hot springs.

Non-contact Water Recreation (REC2): Secondary Contact Recreation) waters are used for recreational activities involving proximity to water but not normally involving body contact with water where ingestion of water would be reasonably possible. These uses may include but are not limited to picnicking, sunbathing, hiking, beachcombing, camping, boating, tide pool and marine life study, hunting, sightseeing, and aesthetic enjoyment in conjunction with the above activities.

Municipal and Domestic Supply (MUN) waters are used for community, military, municipal, or individual systems. These uses may include but are not limited to drinking water supply.

Agricultural Supply (AGR) waters are used for farming, horticulture, or ranching. These uses may include but are not limited to irrigation, stock watering, and support of vegetation for range grazing.

Commercial and Sportfishing (COMM) waters are used for commercial or recreational collection of fish or other organisms, including those collected for bait. These uses may include but are not limited to uses involving organisms intended for human consumption. This is a designated beneficial use for Canyon Lake and not Lake Elsinore.

Groundwater Recharge (GWR) waters are used for natural or artificial recharge of groundwater for purposes that may include but are not limited to future extraction, maintaining water quality, or halting saltwater intrusion into freshwater aquifers.

b. **Aquatic** – Dependent Wildlife

Wildlife Habitat (WILD) waters support wildlife that may include but are not limited to the preservation and enhancement of vegetation and prey species used by waterfowl and other wildlife.

Warm Freshwater Habitat (WARM) waters support warm water ecosystems that may include but are not limited to preservation and enhancement of aquatic habitats, vegetation, and fish and wildlife, including invertebrates.

Rare, Threatened, or Endangered Species (RARE) waters support the habitats necessary for the survival and successful maintenance of plant or animal species designated under state or federal law as rare, threatened, or endangered.

6. **Discharger compliance with CWAD requirements:** Recipients of this Investigative Order No. R8-2020-0009 are exempt from the Water Quality Management Program Plan reporting requirements of the CWAD and State Water Board associated fees, at least until a renewed or revised CWAD order is completed. An important caveat is that any farming operations that have used irrigation on their agricultural operations since the CWAD order was amended in April 28, 2017, even for a brief period, will not be exempt from the requirements of the CWAD and payment of State Water Board fees. Recipients of this Order must meet the following conditions of the CWAD:

a. Dischargers must implement the most appropriate water conservation practices and best management practices (BMPs) to reduce, as much as possible, the discharge of nutrients, pesticides, sediment, trash, invasive plants, and other pollutants into the waters of the State, both surface and groundwater.

b. Dischargers must continue to meet the Canyon Lake / Lake Elsinore TMDL implementation requirements by either paying their apportioned fees to the Western Riverside County Agricultural Coalition (WRCAC) or meeting the requirements on their own. Agricultural operators who are not members of WRCAC are individually responsible to fulfill the watershed-wide monitoring,

Agricultural Nutrient Management Plan, and other Nutrient TMDL  
implementation tasks.

7. **Need for and Benefit of Report:** The CWAD is a regulatory device to be used to help meet the allocations listed for agricultural activities in the watershed as specified in the current TMDLs. The proposed revised TMDLs, anticipated to be considered for adoption by the Santa Ana Water Board in 2020, list significant load reductions for non-irrigated agricultural operations (which include the dry land farms). The nutrient load reductions for watershed runoff to Lake Elsinore and Canyon Lake, as listed in Table 6-9q4 in the Revised Nutrient TMDLs document, Draft Attachment A to Draft Tentative Resolution No. R8-2019-0041, shows the estimated nutrient load reduction required to meet the goals of the proposed revised TMDLs. In the table, the Canyon Lake - Main Lake column reflects the total phosphorus (TP) and total nitrogen (TN) loads that come into Canyon Lake via the San Jacinto River. In the Canyon Lake - East Bay column, the TP and TN loads reflect input via Salt Creek into Canyon Lake. The nutrient load reductions for the category Agriculture (non-irrigated) is much greater than for the categories Agriculture (CWAD) and Agriculture (Small). As a result, compliance with the proposed revised TMDLs requires non-irrigated agriculture (including dry land farming operations) to reduce its loading of pollutants into waters of the State by the amounts shown in Table 6-9q4 (see Attachment 1).
8. **Burden of Producing Report:** The report required by this Order will assist the Santa Ana Water Board in determining whether the dischargers have taken or will take necessary actions to protect water quality. The burden of compiling these reports, including the costs associated with collecting the information, bears a reasonable relationship to the benefits that will be obtained from having the necessary information for the Santa Ana Water Board to properly regulate and monitor dry-land agriculture, as well as, to protect water quality and ensure compliance with the TMDLs.

**IT IS HEREBY ORDERED**, pursuant to Water Code section 13267 that non-irrigated agricultural operations within the San Jacinto Watershed (collectively Dischargers) must comply with the following directive:

1. **Compliance with investigative order:** Recipients must respond to this investigative order and provide the information requested by Santa Ana Water Board staff within thirty (30) days of the date of this Order. Recipients of this Order are dischargers who are engaged in non-irrigated agricultural operations.
  - a. A “discharger” is defined as the owner, owner-operator, or operator of non-irrigated agricultural operations. A “discharger” discharges, proposes to discharge, or has the potential to discharge wastes that could directly or indirectly affect the quality of the waters of the State.
  - b. Non-irrigated agricultural operations include the tilling, planting or seeding, cultivating, growing, and harvesting of agricultural commodities or crops.

These operations include the dry land farming of grains with no use of irrigation.

**2. Technical Report:**

- a. Recipients must complete the attached Non-Irrigated Agricultural Operations Farming Practices and BMP Worksheet (Attachment 2). The recipients may add any other relevant information regarding the farming operation and the BMPs they employ in the "Additional Information" portion of Attachment 2.
- b. Recipients, including those of dry land farming, must complete an electronic Notice of Intent (eNOI) through GeoTracker, if not done so already. When completing the General Farm Information, the recipients must indicate that the farm is no longer farming, which will place the farming operation under an exempt status. The purpose of the eNOI is to collect information about the location, including Assessor Parcel Numbers (APNs), and crop types of the agricultural operation. The purpose of this requirement is to enroll only eligible agricultural operations into the CWAD. <https://geotracker.waterboards.ca.gov/enoi/>  
<https://geotracker.waterboards.ca.gov/enoi/>

- 3. Compliance Dates:** The eNOI and Non-Irrigated Agricultural Operations Farming Practices and BMP Worksheet must be submitted to Santa Ana Water Board staff by **February 7, 2020**. In accordance with Water Code section 13268, failure to meet those deadlines could result in administrative civil liabilities of \$1,000 per day of violation. If you are unable to submit the required reports by this deadline, you must submit a request for an extension in writing to SueAnn Neal at [SueAnn.Neal@waterboards.ca.gov](mailto:SueAnn.Neal@waterboards.ca.gov).

- 4. Penalty of Perjury Statement:** All reports must be signed by the Recipients (i.e., Dischargers) or duly authorized representatives and must include the following statement by the official, under penalty of perjury, that the report is true and correct to the best of the official's knowledge:

*"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

If you have any questions regarding Investigative Order No. R8-2020-0009, please contact SueAnn Neal at 951 782-4468 or [SueAnn.Neal@waterboards.ca.gov](mailto:SueAnn.Neal@waterboards.ca.gov) or David Woelfel at 951 782-7960 or [David.Woelfel@waterboards.ca.gov](mailto:David.Woelfel@waterboards.ca.gov).

Sincerely,

Jayne Joy  
Assistant Executive Officer  
Santa Ana Regional Water Quality Control Board

Enclosures:

Attachment 1: Table 6-9q4

Attachment 2: Non-Irrigated Agricultural Operations Farming Practices and BMP Worksheet