

ATTACHMENT A

An Amendment to the Water Quality Control Plan for the Colorado River Basin Region to Establish a Conditional Prohibition for Agricultural Wastewater Discharges Originating within the Palo Verde Valley and the Palo Verde Mesa, and to Incorporate an Implementation Plan.

Proposed changes are in reference to the Basin Plan as amended through 2008. Proposed additions are denoted by underlined text, proposed deletions are denoted by ~~strikethrough text~~

AMENDMENT

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TO “CHAPTER 4 – IMPLEMENTATION, III. NONPOINT SOURCE CONTROLS”, REVISE AND FORMAT TEXT FOR SECTION “A. AGRICULTURE” AS FOLLOWS:

A. AGRICULTURE

1. INTRODUCTION

Agricultural wastewater discharges, primarily irrigation return flows, constitute the largest volume of pollution entering surface waters in this Region. The agricultural drains/drain systems in this Region support significant beneficial uses as identified in Chapter 2 of this Plan. In an effort to protect and enhance these uses, the Regional Board adopted the "Agricultural Drainage Management (ADM) Report for the Colorado River Basin Region" in March 1992. This report established priorities for dealing with the drain systems based on a watershed approach. Drainage entities (e.g. water districts), including Imperial Irrigation District, Coachella Valley Water District, and Palo Verde Irrigation District, were identified in each of four watersheds, and the Regional Board will work closely with these entities to implement agricultural pollution controls.

The preferred approach toward addressing nonpoint source pollution is to deal with the problem on a watershed basis. The Salton Sea Transboundary Watershed has been identified as this Region's highest priority for control of agricultural pollution, based mainly on its relatively large size, the beneficial uses of waters in the watershed, the volume of discharge, and the severity of water quality degradation. California's 1998 Unified Watershed Assessment identified the Salton Sea Transboundary Watershed as a Category 1 (impaired) watershed.

The effectiveness over time of agricultural pollution controls is much more likely if all involved parties (e.g. farmers, local officials, the public) are informed of these activities and play a role in their development and implementation. In recognition of this, the state and federal nonpoint source programs contain significant outreach and educational components. In addition to working with the identified drainage entities, the Regional Board will continue to work with local Resource Conservation Districts, the U.S. Natural Resource Conservation Service, the State Department of Pesticide Regulation, the State Department of Food and Agriculture, County Agricultural Commissioners, college and university agricultural extension services, local Farm Bureaus, and stakeholder groups. The Regional Board also has the responsibility of coordinating and overseeing implementation of federal and state grants and loans programs that provide resources to local entities for control of nonpoint source pollution. The Regional Board will provide technical and educational assistance on pollution control as requested by local groups and will collect and make available information on successful pollution control activities in other regions and other states.

2. CONDITIONAL DISCHARGE PROHIBITIONS FOR AGRICULTURE

A. [RESERVED]

B. Palo Verde Valley and Palo Verde Mesa

Immediately after Office of Administrative Law (OAL) approval, the direct or indirect discharge of agricultural wastewater from the Palo Verde Valley and Palo Verde Mesa into waters of the state shall be prohibited unless a Discharger/Responsible Party complies with the conditions discussed below.

For the purposes of compliance with this conditional prohibition, agricultural wastewaters are defined as:

- storm water runoff from irrigated lands; and
- irrigation return water, which includes surface discharges (also known as "tailwater"), and subsurface discharges (known as "tile water" in tiled areas, or "seepage" in areas not tiled).

For the purposes of compliance with this conditional prohibition, Dischargers/Responsible Parties are defined as:

- farmland owners, renters/lessees, and operators/growers in the Palo Verde Valley and Palo Verde Mesa, who discharge or may discharge agricultural wastewater that could affect the quality of waters of the State; and
- the Palo Verde Irrigation District (PVID) and individuals who conduct drain operation and maintenance activities that cause a discharge of dredging wastes, which could affect the quality of waters of the State.

The conditional prohibition does not apply to discharges from irrigated lands equal to 5 acres or less in area, that are used for gardens, vineyards, orchards, pastures or greenhouses to produce crops and/or animals for personal consumption. This exemption includes irrigated lands used as golf courses or polo fields. Owners and operators of

irrigated lands meeting these criteria are not required to enroll in a group compliance program or submit a report of waste discharge for general or individual waste discharge requirements under this Amendment.

Conditions for Discharging Agricultural Wastewater (directly or indirectly) into the Palo Verde Valley and Palo Verde Mesa:

- Enrollment into a Group Compliance Program, approved by the Executive Officer, and compliance with Group Compliance Program requirements; or
- Submittal directly to the Regional Board, an individual water quality management plan (WQMP) and, if applicable, a drain water quality plan (DWQP) for approval by the Executive Officer, and implementation of the approved WQMP/DWQP; or
- Submittal of a Report of Waste Discharge for general or individual Waste Discharge Requirements.

B.1. Compliance Program Requirements Designated for PVID

PVID has committed to manage a Group Compliance Program. The scope of this management includes: developing program elements; outreach programs, and mechanisms to encourage and foster an effective self-determined approach to attain water quality objectives. To implement this program, PVID has committed to provide every Farmer and Drain Maintenance Entity in PVID, information necessary to comply with this Compliance Program. Specific goals of the Group Compliance Program to be managed by PVID include:

- coordinating an educational program to educate farmers on how to reduce pollutants leaving their fields.
- coordinating workshops with local technical assistance agencies, and
- cooperating with Regional Board staff to track and report Management Practice (MP) effectiveness.

PVID, together with Regional Board staff, has developed a Monitoring and Reporting Program (MRP) titled “Palo Verde Water Quality Monitoring Plan” to assist farmers and the Regional Board to implement this Basin Plan amendment. Advantages for enrolling into PVID’s Group Compliance Program include: group monitoring and reporting, and the opportunity to participate in outreach and education events sponsored by PVID. Pursuant to California Water Code (CWC) Section 13267, the Executive Officer has authority to modify the monitoring and reporting programs based on monitoring results.

In order for PVID to manage its Group Compliance Program in full compliance with the Nonpoint Source Policy, PVID must complete the following:

Six (6) months following OAL approval of this amendment:

Submit a Group Compliance Program Plan that includes:

- the name of the Group Compliance Program;
- suggested format(s) to prepare Individual WQMPs and DWQPs, including deadlines for submittal;

- a proposal to establish and maintain membership requirements, including requirements to enroll;
- outreach and education activities, and
- scheduled workshops to coordinate with technical assistance agencies.

In addition, PVID's DWQP and Drain Monitoring and Reporting Program (DMRP)¹ must be submitted with the Group Compliance Program Plan, for review and approval by the Executive Officer. Once approved these documents become components of the Group Compliance Program.

One (1) month following Executive Officer approval of Group Compliance Program Plan:

Begin implementation of the approved Group Compliance Program. Issue letters to all potential participants within Palo Verde Valley and Palo Verde Mesa that provide instructions to enroll into the approved Group Compliance Program.

Two (2) months following Executive Officer approval of Group Compliance Program Plan:

Submit a letter to the Regional Board certifying the Group has begun implementing the Group Compliance Program. Prepare and submit a Quality Assurance Project Plan (QAPP) for approval.

One (1) month following approval of the QAPP:

Begin implementing the Group's MRP, and submit all monitoring results to the Regional Board within fourteen (14) days of receipt from the laboratory.

Nine (9) months following Executive Officer approval of the Group Compliance Program Plan:

Submit to the Regional Board a Group WQMP/DWQP² in electronic and tabular format. The Group WQMP/DWQP must include copies of all Individual WQMPs/DWQPs. Subsequent annual group WQMPs/DWQPs must be included in the Annual Report submitted to the Regional Board by March 1st.

By March 1st of every year:

Submit to the Executive Officer an Annual Report. The Annual Report is for a calendar year, January 1 through December 31.

All documents and reports:

All documents and reports shall be signed and dated by a duly authorized PVID representative and contain a statement regarding the accuracy of the documented/reported information and the following in the title:

CONDITIONAL PROHIBITION FOR AGRICULTURAL WASTEWATER DISCHARGES ORIGINATING WITHIN THE PALO VERDE VALLEY AND THE PALO VERDE MESA

RESOLUTION NO. R7-2011-0014

(Insert Name of Report/Document) for (Insert Name of Group Compliance Program):

¹ PVID has complied with this provision by submitting its DMRP as an addendum to their MRP

² PVID has complied with this provision by submitting its DWQP as an addendum to their MRP

B.2. Compliance Program Requirements Designated for Programs Managed by Entities Other Than PVID

As indicated previously, Responsible Parties may join the Group Compliance Program managed by PVID, or join a Group Compliance Program managed by another entity. Responsible Parties electing to join another Group Compliance Program must comply with the following:

Six (6) months following OAL approval of this basin plan amendment:

Submit a Group Compliance Program Plan that includes:

- name of the Group Compliance Program;
- names and business addresses of group participants;
- names, addresses, and phone numbers of group's primary contact(s) or representative(s);
- suggested format(s) to prepare Individual WQMPs and DWQPs, including deadlines for submittal;
- a proposal to establish and maintain group membership requirements, including protocols to enlist;
- outreach and education activities, and
- scheduled workshops to coordinate with technical assistance agencies.

In addition, a Group MRP (including DMRP if applicable) must be submitted to the Executive Officer for review and approval, along with the Group Compliance Program Plan. Once approved, these documents become components of the Group Compliance Program. Pursuant to CWC Section 13267, the Executive Officer has authority to modify the monitoring and reporting programs based on monitoring results.

One (1) month following Executive Officer approval of the Group Compliance Program Plan:

Begin implementation of Group Compliance Program.

Two (2) months following Executive Officer approval of Group Compliance Program Plan:

Submit a letter to the Regional Board certifying the Group has begun implementing the Group Compliance Program. Prepare and submit a Quality Assurance Project Plan (QAPP) for approval.

One (1) month following approval of the QAPP:

Begin implementing the Group MRP, and submit all monitoring results to the Regional Board within fourteen (14) days of receipt from the laboratory.

Nine (9) months following Executive Officer approval of the Group Compliance Program Plan:

Submit to the Regional Board a Group WQMP/DWQP in electronic and tabular format. The Group WQMP/DWQP shall include copies of all Individual WQMPs/DWQPs. Subsequent annual group WQMPs/DWQPs must be included in the Annual Report submitted to the Regional Board by March 1st.

By March 1st of every year:

Submit to the Executive Officer an Annual Report. The Annual Report is for a calendar year, January 1 through December 31.

All documents and reports:

All documents and reports shall be signed and dated by a duly authorized representative and contain a statement regarding the accuracy of the documented/reported information and the following in the title:

CONDITIONAL PROHIBITION FOR AGRICULTURAL WASTEWATER DISCHARGES ORIGINATING WITHIN THE PALO VERDE VALLEY AND THE PALO VERDE MESA

RESOLUTION NO. R7-2011-0014

(Insert Name of Report/Document) for (Insert Name of Group Compliance Program):

B.3. Compliance Program Requirements Designated for Responsible Parties That Elect to Develop Individual Compliance Programs

Responsible Parties who elect to develop and implement Individual Compliance Programs rather than participate in the Group Compliance Program PVID will manage, or in a Group Compliance Program managed by other entities, must comply with the following Individual Compliance Program requirements:

Six (6) months following OAL approval of this amendment:

Submit a proposed Individual WQMP (including DWQP if applicable) and Individual MRP (including DMRP if applicable) for review and approval by the Executive Officer. Once approved, these documents become components of the Individual Compliance Program. Pursuant to CWC Section 13267, the Executive Officer has authority to modify the monitoring and reporting programs based on monitoring results.

Two (2) months following Executive Officer approval of the Individual Compliance Program Plan:

Prepare and submit a QAPP.

One (1) month following approval of QAPP:

Begin implementing the Individual MRP (including DMRP if applicable).

By March 1st of every year:

Submit to the Executive Officer an Annual Report. The Annual Report is for a calendar year, January 1 through December 31.

All documents and reports:

All documents and reports shall be signed and dated by a duly authorized representative and contain a statement regarding the accuracy of the documented/reported information and the following in the title:

CONDITIONAL PROHIBITION FOR AGRICULTURAL WASTEWATER DISCHARGES ORIGINATING WITHIN THE PALO VERDE VALLEY AND THE PALO VERDE MESA

RESOLUTION NO. R7-2011-0014

(Insert Name of Report/Document) for (Insert Name of Group Compliance Program):

B.4. Regional Board Compliance Assurance and Enforcement

Regional Board staff is proposing that the Regional Board hold public hearings at least once every three years to review the effectiveness of Group and Individual Compliance Programs and MP implementation, and compliance with applicable water quality objectives. The first public hearing will be held within three (3) years from the date of OAL approval of this amendment. Hearings shall address the following:

- Monitoring results;
- Progress attaining milestones;
- Trends in implementation of MPs
- Modification/addition of MPs to control constituents of concern and baseline constituents;
- Possible development of site-specific water quality objectives and/or subcategories of water quality standards provided Responsible Parties demonstrate full implementation of Compliance Programs and document MPs are properly implemented and maintained, and that additional controls will result in substantial and widespread economic and social impacts, and
- Enforcement actions taken or proposed to ensure compliance with the prohibition.

Enforcement

Consequences of noncompliance for Responsible Parties with approved Compliance Programs (other than PVID or other designated management entities) may be significant. Initially, enforcement efforts will focus on Responsible Parties who fail to enroll in a program, or make an inadequate attempt to meet their Compliance Plan development and reporting responsibilities, even though informed of the conditional prohibition's requirements. Responsible Parties who choose not to participate in an Individual or Group Compliance Program, or who choose not to file a Report of Waste Discharge to obtain individual Waste Discharge Requirements, will be in potential violation of the law.

Enforcement options available to the Regional Board are clearly defined in the State Water Board's Water Quality Enforcement Policy. The Executive Officer may use any combination of the following actions to ensure water quality impacts identified by Compliance Programs or Regional Board staff are promptly and effectively corrected:

- Implement and enforce Sections 13225, 13267, and 13268 of the California Water Code to ensure Responsible Parties submit in a prompt and complete manner the required documents prescribed in Section VII.C, or a Report of Waste Discharge in lieu of these documents.
- Require submission of a Report of Waste Discharge pursuant to CWC Section 13260 so that the Regional Board may consider prescribing Waste Discharge Requirements pursuant to CWC Section 13263, to Responsible Parties failing to comply with the requirements of an Individual or Group Compliance Program.

- Issue cleanup and abatement enforcement orders pursuant to CWC Section 13304 to Responsible Parties failing to comply with Individual or Group Compliance Programs, or violating Regional Board Waste Discharge Requirements.
- Prepare for Regional Board consideration of adoption cease and desist enforcement orders pursuant to CWC Section 13301 to Responsible Parties violating Regional Board Waste Discharge Requirements, or this conditional prohibition.
- Issue Administrative Civil Liability Complaints (ACLs), pursuant to CWC Sections 13261, 13264, or 13268, against Responsible Parties failing to comply with Regional Board orders, prohibitions, and/or requests.
- Refer recalcitrant violators of Regional Board orders and prohibitions to the District Attorney or Attorney General for criminal prosecution or civil enforcement.

Similar enforcement options are available to the Regional Board for PVID and other management entities failing to comply with the designated management entity requirements. For example, grounds for formal enforcement action may include the management entity's failure to submit and implement a report addressing potential impacts from dredging operations, or failing to achieve goals and milestones. This may cause the Regional Board to rescind the Group Compliance Program, requiring every Responsible Party enrolled in the rescinded Group Compliance Program to:

- enroll in another approved Group Compliance Program and comply with the requirements specified above for that group (i.e., "Designated Management Requirements for Group Compliance Programs Managed by Entities Other Than PVID"); or
- deal directly with the Regional Board, and comply with management requirements specified for responsible parties that do not join a group compliance program.