

## ORDER REVISIONS

Revisions are to the 02/2/18 version of the Draft Order

- **Pages 6-7, footnote 10**

. . . Especially in light of the fact that the State Water Board itself added the Eastern San Joaquin surface water quality monitoring reports to the record -- which rely on the same or similar data -- we will allow both evaluations into the record. We have reviewed other documents attached to the petitions, comment letters, and ex parte disclosures by various parties that were also not accompanied by formal requests to consider supplemental evidence, and will consider these documents to be part of the administrative record as well. Consistent with our regulations, we generally limit a petition's administrative record to those records that were before the regional water board at the time of the board's action. However, in these proceedings, we find it appropriate to allow interested persons greater leeway in submission of the attachments both because of the more generalized nature of this proceeding and because the Eastern San Joaquin Agricultural General WDRs and the Central Valley Water Board irrigated lands program, as well as the data and science related to the WDRs and the irrigated lands program, have continued to evolve in the lengthy time period of our review.

- **Page 10**

The three petitions raise a number of issues concerning the Central Valley Water Board's adoption of the Eastern San Joaquin Agricultural General WDRs. To the extent petitioners or other commenters raise issues that are not discussed in this order, either in whole or in part, such issues are dismissed as not raising substantial issues appropriate for our review.<sup>17</sup>

<sup>17</sup>*People v. Barry* (1987) 194 Cal.App.3d 158, 175-177; *Johnson v. State Water Resources Control Bd.* (2004) 123 Cal.App.4th 1107, 1114; Cal. Code Regs., tit. 23, § 2052, subd. (a)(1). Additionally, Subsequent to the filing of the petitions, several interested persons raised new issues that were not directly related to revisions to the General WDRs contained in this order. Two examples are arguments related to the reasonable use doctrine and arguments related to the public trust doctrine. These issues were not timely raised and have not been addressed in this order.

- **Page 31, footnote 87**

. . . The regional water boards have the flexibility to develop alternative reporting areas for these types of growers, as long as the regional water board determines that the alternative reporting area provides meaningful data and balances the level of detail with the reporting burden similar to the field approach. In no case should a reported area exceed a total size of 640 acres, and different crop types must always be reported separately even if they are within the same reporting area, to allow for evaluation of the effectiveness of management practices with regard to each individual crop type grown.

- **Page 35**

We recognize that there may be categories of uniquely-situated growers for whom the specific nitrogen management requirements made precedential in the following sections of this order

are unnecessary because applied nitrogen [new footnote] is not expected to seep below the root zone in amounts that could impact groundwater, and is further not expected to discharge to surface water. Any category of Members (such as growers of a particular crop or growers in a particular area) seeking to be exempted from the precedential nitrogen management requirements in the following sections of this order shall make a demonstration, for approval by the relevant regional water board, that nitrogen applied to the fields does not percolate below the root zone in an amount that could impact groundwater and does not migrate to surface water through discharges, including drainage, runoff, or sediment erosion.<sup>99</sup> These criteria for determining categories of growers that may be exempted from the nitrogen management requirements shall also be precedential statewide.

In addition to growers that are exempt from all of the precedential nitrogen management requirements as stated above, there are categories of growers that the regional water boards may exempt from limited portions of the nitrogen management requirements or allow additional time to implement the requirements. We discuss these categories at the end of ~~the~~ section II.A.5.c.

[new footnote] Of course, these same nitrogen management requirements are also not precedential for categories of growers that never apply nitrogen to their fields. This order accordingly does not disturb the Central Valley Water Board's determination in Order R5-2016-0015, adopted February 19, 2016, regarding exemptions from management and reporting requirements for irrigated pastures with no external nitrogen inputs and for managed wetlands.

- **Throughout:** Strike “~~surface receiving water monitoring~~” and substitute “surface water quality monitoring”
- **Throughout:** Following adoption, staff will make conforming changes to correct references to footnote numbers and page numbers that are not accurate due to underline/strikethrough formatting and revisions
- **Clarification:** Tables 1-4 and Figures 1-2 were not attached to Change Sheet #1. These tables and figures are part of the order as circulated on January 19, 2018.

## APPENDIX A REVISIONS:

Revisions are from January 19, 2018, version of Appendix A

### Attachment B, MRP Page 34

#### INMP Component (14) – Irrigation Method

The irrigation method ~~that is shall be reported as the method~~ used for the most for crop irrigation during the growing season (drip, furrow, sprinkler, flood, etc.) shall be the method reported. For example, a grower that A crop that uses sprinkler irrigation to germinates a crop from seeds using sprinklers before converting irrigation and then converts to drip irrigation for the remainder of the season would report drip irrigation as the irrigation method.