



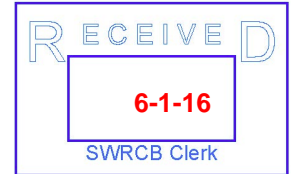
Westlands Water District

3130 N. Fresno Street, P.O. Box 6056, Fresno, California 93703-6056, (559) 224-1523, FAX (559) 241-6277

June 1, 2016

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street 24th Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
(tel) 916-341-5600
(fax) 916-341-5620

Transmitted via email to: commentletters@waterboards.ca.gov



Subject: Westlands Water District Comments to Waste Discharge Requirements General Order No. R5-2012-0116 for Growers Within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group (SWRCB/OCC Files A-2239(a)-(c))

Dear Ms. Townsend and Members of the State Water Resources Control Board,

The Westlands Water Quality Coalition (“Westlands Coalition”) appreciates the opportunity to provide comments to the Waste Discharge Requirements General Order No. R5-2012-0116 for Growers Within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group (“Proposed Eastern San Joaquin River General Order”).

The Westlands Coalition is an approved third-party coalition which serves in the implementation of the Western Tulare Lake Basin General Order R5-2014-001. Westlands Coalition supports the Western Tulare Lake Basin Area Regional Water Quality Control Board Central Valley Region General Order R5-2014-001 Waste Discharge Requirements (“Western Tulare Lake Basin General Order”) as approved and currently implemented. The Westlands Coalition represents nearly 1,500 members spanning over 490,000 irrigated acres. 95% of the irrigated acres in the Western Tulare Lake Basin boundary are enrolled in the Westlands Coalition.

Of specific concern to the Westlands Coalition is a statement in the Proposed Eastern San Joaquin River General Order that states:

The discussed recommendations are appropriate not only for the Eastern San Joaquin Agricultural General WDRs, but also for the next generation of regional water quality control board (regional water board) agricultural regulatory programs statewide, and our conclusions in this precedential order apply

statewide (except where a regional water board expressly finds that there are truly significant site-specific conditions that render these requirements inappropriate).

Proposed Eastern San Joaquin River General Order, pg. 8.

Unlike the East San Joaquin River General Order, and indeed all other general orders, there have been no petitions challenging the Western Tulare Lake Basin General Order. Accordingly, Westlands believes that it would be improper for the State Water Resources Control Board ("State Water Board") to submit an order affecting the Western Tulare Lake Basin General Order without affording Westlands Coalition and its members an opportunity to participate fully in administrative proceedings. Proposed amendments to any general order should be subject to similar review and comment as has been provided for the Proposed Eastern San Joaquin River General Order, even if those amendments are the same or similar. The intent of all comments submitted by the Westlands Coalition is solely to address concerns with the Proposed Eastern San Joaquin River General Order. Its comments are not intended to exhaust any rights it may have under similar proceedings the State Water Board initiates to amend the Western Tulare Lake Basin General Order, as it has received no formal notice that the State Water Board intends to do so. Furthermore, the Westlands Coalition expects that, to the extent any recommendations from the Proposed Eastern San Joaquin River General Order are incorporated into any future order affecting the Westlands Coalition that all potentially affected stakeholders, including the Westlands Coalition and its members, are afforded the rights of notice and comment that due process requires.

The Current Eastern San Joaquin River General Order (Current GO) adopted by the Central Valley Regional Water Quality Control Board ("Regional Board") requires growers to submit reports to third party coalitions. The coalitions aggregate the information on a township level based on crop and soil type, and then submit the aggregated information to the Regional Board. This process serves two beneficial purposes. The first benefit of aggregated data is the protection to the grower's individual private field level information. Secondly, fewer burdens fall on the Regional Board staff and resources when receiving data of this magnitude. The Regional Board maintains the right to review the raw data associated with the aggregated information; this process provides a check and balance to reporting. Maintaining grower's individual privacy through a third-party coalition is valuable for the viability of the coalitions and the program as a whole. Field level reporting directly to the Regional Board will remove a primary function and benefit associated with the coalition.

The Current GO requires third-party coalitions to develop a Groundwater Assessment Report ("GAR"), which further requires the coalition to determine high and low vulnerable areas within its jurisdiction. Currently, each member has a specified timeline to submit required documents based on the vulnerability designated by the GAR. Growers in low vulnerable areas do not have the same reporting certification requirements as the areas with high vulnerability. The Proposed Eastern San Joaquin River General Order, if its recommendations are incorporated into future statewide agricultural regulatory programs, would eliminate all vulnerability distinctions and would apply all of the requirements equally to all growers in the Central Valley and across the state. All growers would be required to have certified nitrogen management plans either by a certified professional, or through self-certification after completing and passing a self-

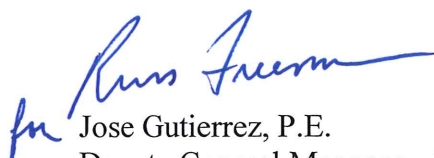
certification course. All growers would be required to submit nitrogen summary reports to the coalition group for their area. Such an outcome will provide a preposterous result, by requiring growers who apply no nitrogen fertilizers and growers in areas where nitrates in groundwater is not an issue to submit nitrogen summary reports. The removal of the high and low vulnerable designations will prohibit the Regional Board and the coalitions' ability to prioritize and focus efforts and resources in areas with the most significant water quality issues.

The removal of the vulnerability designation prioritization and the field level reporting will cause the Regional Board fees to increase. The Regional Board estimated the Proposed Order would require the addition of over 80 staff members. The costs associated with the staff increase and other associated increases would fall directly on the coalition members. This removes the coalition's ability to keep costs low, another primary benefit of the coalitions. Removing the cost benefit along with the privacy benefit could cause members to drop and participation to decrease. In addition, the frequent changing of regulations and lack of stability in the program could jeopardize the coalition's credibility.

The Irrigated Lands Regulatory Program, as it is approved and implemented currently through the adopted general orders, is designed with the ability to evolve over time. The various Regional Boards, through the coalitions, have the best understanding of the specific regulated region in question. Regional Boards, through coalitions, are in the best position to gather information in a useful way and make it available for regulators. Regional Boards, through Coalitions, are in the best position to determine priorities based on vulnerable areas. Allow the current program to run as its defined in the Current GO, with the evolution guided by regional issues and properly analyzed data.

If you have any questions or concerns, regarding these comments, please contact Charlotte Gallock by email at cgallock@westlandswater.org or by phone at (559) 241-6244. Thank you for the opportunity to provide comments on the State Water Board's Proposed Eastern San Joaquin River General Order.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jose Gutierrez".

Jose Gutierrez, P.E.
Deputy General Manager – Resources
Westlands Water District