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For Petitioners California Coastkeeper Alliance, Santa Barbara Channelkeeper, Monterey Coastkeeper, San Jerardo Cooperative, California Sportfishing Alliance, Pacific Coast Federation of Fishermen’s Associations, and the Institute for Fisheries Resources

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Adoption of Order No. R3-2021-0040, by the Central Coast Regional Water Quality Control Board for the General Waste Discharge Requirements for Discharges from Irrigated Lands

**PETITION REQUESTING
REVIEW OF CALIFORNIA
REGIONAL WATER
QUALITY CONTROL BOARD
ORDER NO. R3-2021-0040**

Pursuant to Section 13320 of the California Water Code and Section 2050 of Title 23 of the California Code of Regulations, California Coastkeeper Alliance, Santa Barbara Channelkeeper, Monterey Coastkeeper, San Jerardo Cooperative, California Sportfishing Protection Alliance, Pacific Coast Federation of Fishermen’s Associations, and Institute for Fisheries Resources (collectively “Petitioners”) hereby petition the State Water Resources Control Board (“State Board”) to review the April 15, 2021 adoption by the California Regional Water Quality Control Board for the Central Coast Region (“Regional Board”) of Order No. R3-2021-0040 (“2021 Order”), which sets out the conditions for the General Waste Discharge Requirements (“WDRs”) for discharges from irrigated lands (“agricultural discharges”) under the Porter-Cologne Water Quality Control Act (“Porter-Cologne Act”).

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THE ACTION OF THE REGIONAL BOARD WHICH THE STATE BOARD IS REQUESTED TO REVIEW AND A COPY OF THE ORDER BEING PETITIONED:

Petitioners seek review of the Regional Board's adoption of the General Waste Discharge Requirements for Discharges of Irrigated Lands, Order No. R3-2021-0040. A copy of the Order is attached hereto as Exhibit A.

THE DATE ON WHICH THE REGIONAL BOARD ACTED OR REFUSED TO ACT OR WAS REQUESTED TO ACT:

The Regional Board adopted Order No. R3-2021-0040 on April 15, 2021.

A FULL AND COMPLETE STATEMENT OF THE REASONS THE ACTION OR INACTION WAS INAPPROPRIATE OR IMPROPER:

The Regional Board's adoption of the 2021 Order is improper because the Order contains significant legal defects, including violations of the Porter-Cologne Act and inconsistencies with the Nonpoint Source Policy and the Antidegradation Policy. The 2021 Order also ignores or fails to adequately consider constitutional, statutory, and common-law requirements, including among others, California residents' fundamental right to clean water, the duty to protect the public trust, consider reasonable and beneficial uses, required considerations for extending compliance dates for total maximum daily loads, and required considerations for review under the California Environmental Quality Act.

THE MANNER IN WHICH THE PETITIONERS ARE AGGRIEVED:

Petitioner California Coastkeeper, doing business as California Coastkeeper Alliance ("CCKA") is a statewide voice for our waters. CCKA is a non-profit public benefit corporation headquartered in Sacramento, California. Founded in 1999, CCKA is a network of California Waterkeeper organizations working to protect and enhance clean and abundant waters throughout the state, for the benefit of Californians and California ecosystems. Collectively, CCKA's member organizations are dedicated to the preservation, protection, and defense of the environment, and the natural resources of California watersheds and surface waters. CCKA's member organizations work to protect the health of their local water bodies and communities throughout California, as indicated by the geographic descriptors of each Waterkeeper organizational name (*e.g.*, Santa Barbara Channelkeeper). CCKA defends and expands on local matters by advocating before decision-makers on issues and programs with statewide impact and significance. To further their goals, CCKA and CCKA's member groups actively seek Federal and State agency implementation of Federal and State environmental laws and policies, and where necessary, directly initiate administrative challenges and enforcement actions on behalf of themselves and their individual members in State and Federal courts.

CCKA and its member organizations are aggrieved by the Regional Board's 2021 Order's failure to protect and restore all beneficial uses and water quality objectives established in the Central Coast Basin Plan, and the continued failure of the Water Boards to effectively

regulate agricultural pollution in California's waterways. CCKA's is concerned that the 2021 Order will allow continued agricultural pollution and degradation of waters in the Central Coast Region, including severe nitrate contamination.

Petitioner Santa Barbara Channelkeeper ("Channelkeeper") is a grassroots non-profit organization that works to protect and enhance the water quality of the waters of southern Santa Barbara County for the benefit of its 900 members, as well as natural ecosystems and human communities. Channelkeeper is dedicated to the preservation, protection and defense of the environment, wildlife, and the natural resources of the waters of southern Santa Barbara County and other area receiving waters. To further these goals, Channelkeeper works to ensure the implementation and enforcement of the Porter-Cologne Water Quality Control Act, the Central Coast Basin Plan and other relevant laws through a combination of policy advocacy, water quality monitoring, and community education and engagement.

Channelkeeper participated actively in proceedings leading to the 2021 Order, and has been long involved with the Central Coast agricultural pollution program. Since 2002, Channelkeeper has been monitoring water quality throughout the Goleta Slough watershed and in other nearby streams in the Central Coast Region. Immediately downstream of undeveloped National Forest lands, agricultural facilities dominate the landscape surrounding streams in the Goleta area. Many of Channelkeeper's monitoring sites are directly downstream of these agricultural influences, and at these sites, it has been determined that stream water quality is regularly polluted with concentrations of nutrients, bacteria and suspended sediments that exceed Basin Plan Water Quality Objectives.

Members of Channelkeeper use, recreate on, and enjoy the aesthetic values of the beaches, rivers and creeks ("Receiving Waters") of southern Santa Barbara County, to which numerous irrigated agricultural operations discharge pollution. Members of Channelkeeper use and enjoy the Receiving Waters for recreational, scientific, aesthetic, educational, conservation and commercial purposes, including but not limited to, fishing, boating, kayaking, surfing, swimming, windsurfing, fish and wildlife observation, photography, hiking and aesthetic enjoyment. The discharge of pollutants, including nitrates, from irrigated agricultural operations to Receiving Waters impairs those uses. Thus, the interests of Channelkeeper's members have been, are being, and will continue to be adversely affected by discharges from irrigated agricultural operations. The continued and additional impairments to water quality and beneficial uses that will be allowed the 2021 Order directly harm Channelkeeper members' use and enjoyment of the water.

Petitioner Monterey Coastkeeper works to tackle water pollution problems through policy advocacy and legal tools to ensure that the interests of development, industry and urban activity are kept in line with the environmental needs and wishes of the Monterey Bay and Salinas Valley community it serves. Monterey Coastkeeper and its members are active in championing effective government regulations, good public policy and an active community role in protecting freshwater and marine waters alike. Monterey Coastkeeper's members are particularly concerned with pollution related to agricultural operations in the Monterey Bay watershed, and Monterey Coastkeeper participated actively as a stakeholder in the development of the 2021 Order. Monterey Coastkeeper advocates for more effective pollution control requirements to

ensure that polluters are held accountable for their activities throughout agricultural communities. Monterey Coastkeeper advocates for more effective control requirements, publicly available data on individual operations, and adequate monitoring to ensure that polluters are held accountable for their activities throughout the agricultural communities. Monterey Coastkeeper focuses in particular on the Salinas Valley, working to ensure that agriculture is regulated by meaningful and effective requirements to prevent and minimize pollution discharges to the Salinas River, downstream, and underlying waters.

Monterey Coastkeeper and its members are aggrieved by the Regional Board's 2021 Order's failure to protect and restore all beneficial uses and water quality objectives established in the Central Coast Basin Plan. Monterey Coastkeeper is concerned that the 2021 Order will allow continued agricultural pollution and degradation of waters in the Central Coast Region. Monterey Coastkeeper's members and have a beneficial interest in assuring that agriculture is regulated by meaningful and effective requirements to prevent and minimize pollution discharges to the Salinas River, downstream, and underlying waters. The Salinas River and the Salinas River Valley are already impaired by high levels of nitrates and other agriculture-related pollutants. Failure to significantly stem releases to that River is detrimental to Coastkeeper and its members.

Petitioner San Jerardo Cooperative's primary objective is to provide housing for low-income farm workers and their families. San Jerardo's property is just over 32 acres, located approximately seven miles southeast of the City of Salinas, and houses 64 farm workers, including their families, approximately 350 people in total. San Jerardo has been directly involved in advocacy related to water quality on behalf of its residents and similar communities since 2001. As part of that effort, residents have provided testimony in front of the Central Coast Regional Board related to its development of the 2021 Order. The community members of San Jerardo will suffer from the continued levels of agricultural pollution left in place by the 2021 Order, including high levels of nitrate. San Jerardo residents are aggrieved by the Order's lack of clear timelines, and lack of urgency to curtail pollution to groundwater in particular. The water quality problems cannot be remedied fast enough.

San Jerardo depends on groundwater for its water supply, and its residents learned of contamination to its water supply beginning in 1990. As a result of well water testing for contamination above drinking water standards, San Jerardo has been forced to abandon wells and seek new safe sources of water. At times, residents have relied on bottled water, and the community has successively drilled new wells to access cleaner groundwater, after abandoning contaminated wells. San Jerardo is currently dependent on water from its fourth well, which is located two miles away and uphill from homes. The level of contamination in this fourth well is worsening and approaching the maximum contaminant level for nitrate in drinking water. San Jerardo residents now pay four times as much for water as compared with before the water contamination, even after factoring in assistance provided by state and federal government.

Residents of San Jerardo community have developed painful rashes, and worry about other health impacts that may develop over longer periods of time. Health experts agreed that health problems San Jerardo resulted from water contamination. Aside from the economic and health burdens, which can be more easily documented, there is a tremendous burden of stress on

the community which is difficult to quantify. Examples include parents worrying for their children's health, and daily struggles, having to choose between clean water and other necessities, and worry about the ability to cover the ever-increasing costs of water, as individual households and as a community. Residents are demoralized to see the health of their children and the community sacrificed for the profitability of the agricultural operations many of the residents work in every day. And because water is a constant in our lives, San Jerardo community members are constantly reminded of the risks their families face.

Petitioner California Sportfishing Protection Alliance ("CSPA") is a California non-profit corporation established in 1983 for the purpose of protecting and enhancing the state's water quality, wildlife and fishery resources and their aquatic ecosystems and associated riparian habitats. To further its goals, CSPA actively seeks federal and state agency implementation of environmental regulations and statutes and routinely participates in administrative, legislative, and judicial proceedings, including, where necessary, direct enforcement actions on behalf of itself and its members. CSPA has been intricately involved in efforts to regulate the egregious and persistent pollution from irrigated agriculture since the late 1990s and participated as a stakeholder in the development and review of the Regional Board's 2021 Order.

CSPA's thousands of members reside, work and recreate throughout California, including waterways tributary to Monterey Bay and the Central Coast. Its members have been involved for decades in public education and advocacy efforts to protect and restore the beneficial uses and public trust resources of California's waterways and routinely use and enjoy the full spectrum of recreational, commercial and aesthetic activities protected by the public trust. CSPA and its members are particularly aggrieved by the continued degradation of these waterways and failure of the Water Boards to meaningfully regulate agricultural pollution in California and, specifically, the failure of the Regional Board to adequately implement and enforce requirements of the Central Coast Basin Plan.

Petitioner Pacific Coast Federation of Fishermen's Associations ("PCFFA") is a California non-profit trade association representing the interests of approximately 1200 commercial fishing families operating throughout the oceans of the West Coast, most of them based in California. Many of PCFFA's individual members derive all or part of their livelihoods from fishing activities along the Central Coast of California. The livelihood and way of life of these members depends upon the health of the region's inshore or nearshore environment, which provides the nursery grounds for most of the species of fish and shellfish on which they depend. PCFFA has actively advocated for the clean water, healthy watersheds, biologically productive estuaries and wetlands, and unpolluted oceans that are critical to PCFFA's members, including advocacy around agricultural runoff, forestry and grazing impacts, oil drilling, and other threats to the coastal waters and marine ecosystems of California and the Central Coast. Agricultural discharges allowed by the 2021 Order will adversely impact the interests and livelihood of PCFFA members fishing along and in the estuaries of the Central Coast of California.

Petitioner Institute for Fisheries Resources ("IFR") is a California non-profit public benefit organization dedicated to the protection and restoration of fish resources and their habitats, and representing the working fishers who depend upon those fish for their livelihoods. IFR is committed to ensuring that environmental practices and policies designed to protect inland forests,

rivers, wetlands, estuarine, and coastal ecosystems that produce and nurture dozens of commercially fished species are adopted and fully implemented. IFR is a leader in several fisheries habitat restoration efforts, and the California coastal waters are a focus of its research and conservation work. IFR is also closely affiliated with, and was originally founded by, PCFFA. IFR actively participated as a stakeholder in the development and review of the Regional Board's 2021 Order.

PCFFA's members and IFR are aggrieved by persistent pollution from irrigated agriculture, which degrades inland and marine ecosystems that are necessary for the survival of fisheries. California's agricultural orders, including the 2021 Order, fail to properly consider and value these resources, and their importance for current and future generations of people who depend or will depend on them for subsistence, livelihood, wellbeing, recreation. As a result, many fisheries are in a perilous state, and urgent action is needed to preserve and restore these vital resources.

THE ACTION THE PETITIONER REQUESTS THE STATE WATER BOARD TAKE:

Petitioners urge the State Board to modify the Regional Board's April 15, 2021 Order to ensure compliance with the law, pursuant to its authority under California Water Code section 13320 and other laws that are applicable. Alternatively, Petitioners urge the State Board to remand the 2021 Order to the Regional Board with instructions to modify the Order to ensure compliance with the law, pursuant to its authority under California Water Code section 13320 and other laws that are applicable.

In modifying the 2021 Order, the State Board must ensure that the order as a whole complies with the laws discussed in this Petition. That is, the provisions of the permit are inherently interdependent, and thus, the State Board's modification in response to any individual concern in a petition may not cure any of the deficiencies unless the order complies with each of the laws discussed in the Petition.

A STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL ISSUES RAISED IN THE PETITION:

BACKGROUND

This 2021 Order continues the inadequate approach that the State Board and Regional Water Quality Control Boards (collectively "Water Boards") have adopted since more than thirty years ago. The Water Boards have failed to control agricultural dischargers to protect public resources, especially in environmental justice and vulnerable communities.

In 2000, the State Board conceded that agricultural activity is by far the largest contributor to nonpoint source pollution for those surface water bodies and groundwater aquifers that are not meeting water quality standards in California and the state acknowledged federal findings that agriculture contributes more than half of the pollution entering the nation's water bodies and that studies have identified agriculture as the greatest source of water pollution in the

United States. The State Board's 2000 plan¹ adopted a fifteen-year strategy, from 1998 through 2013, to fully implement nonpoint source control through 61 management measures addressing agricultural and urban nonpoint source pollution. The plan's measures were to be administered in three sequential five-year implementation periods:

- Self-determined implementation of management practices;
- Regulatory based encouragement of management practices;
- Effluent limitations and enforcement actions.

Notwithstanding the promise of the State Board's 2000 plan to fully implement nonpoint source control through effluent limitations and enforcement actions, the critical problem of agricultural pollution has only continued to worsen. Yet Water Boards refuse to employ the strategies identified by the State Board as necessary to ultimately control agricultural pollution.

While agricultural pollution plainly differs from other industrial waste, its control is not more difficult. Most rural agricultural discharges result from irrigation return flow – polluted water that leaves the field after irrigation. Especially along the Central Coast, growers typically channel these return flows into discrete drainage ditches that ultimately flow into state receiving waters. In many areas of the Central Coast, some return flows migrate downward into the soil, collecting in “tile drains.” Tile drains funnel the contaminated water into pipes that ultimately discharge into the drainage ditches. Like urban sewer systems, agricultural drainage networks can be monitored to track and ultimately address problematic sources. If properly controlled and monitored at the source field, excess fertilizer and pesticide application levels can be reduced. “Best management practices” are not rocket science; they merely need to be implemented to ensure pollution reduction, as the State does for urban industrial discharges.

What makes agricultural discharges challenging for regulators is not the complexity of controlling them, but the fierce resistance of a previously unregulated industry to the imposition of even modest, incremental steps to bring these pollution sources into compliance with the law. Time and time again, the Water Boards have failed to comply with the mandate of the Water Code, state regulations, and guidance the State Board itself promulgates.

The Regional Boards are the “principal” state agencies with “primary” responsibility for controlling the Region's water quality.² Meanwhile, the public health and economic impacts of the path the Regional Board continues to take are staggering. As the pollution gets substantially worse each year, the groundwater for 80 percent of the people in the Salinas Valley and other areas is predicted to be undrinkable by 2050, just around the corner.³ The people most affected are the poorest households in California, costs for water treatment are shifted from a multi-billion dollar industry to these communities. Moreover, the pressures on water, a vital and dwindling resource in this mostly arid region, are intensifying.

It is time for a new approach which conservatively errs on the side of assuring that water quality requirements are achieved, including addressing the degradation that has been allowed to

¹ Nonpoint Source Program Strategy and Implementation Plan, 1998-2013 (January 2000).

² Cal. Water Code § 1300.

³ 2021 Order, Attachment A Findings, p. 67 ¶ 206.c.

worsen under previous illegal permits. The State Board demands Regional Boards to regulate conservatively, explaining:

Conservatism in the direction of high quality should guide the establishment of objectives both in water quality control plans and in waste discharge requirements. A margin of safety must be maintained to assure protection of all beneficial uses.⁴

Yet, the Central Coast's previous three agricultural permits were ineffective and illegal (Agricultural Orders R3-2004-0117,⁵ WQ 2013-0101,⁶ and R3-2017-0002⁷). Indeed, the Court has yet to discharge the writ of mandate against the State Board's illegal Central Coast permit from 2013. Water quality degradation will only become worse and even more difficult to solve as more time passes without compliance with the law.

It is time for the Regional Board to do what is in the public interest and to comply with the many laws that it has the responsibility for implementing. We have already run out of time to clean up our precious and dwindling water supply for the people of California in the Central Coast who depend on the Regional Board to follow the law.

With the 2021 Order, the Regional Board must identify when it will protect and restore the beneficial uses and water quality objectives identified in the Basin Plan and use available and effective regulatory tools to demonstrate that the Order will accomplish that goal.

REGULATION OF IRRIGATED AGRICULTURE UNDER CALIFORNIA LAW

Irrigated agriculture has extensively polluted both surface water and the groundwater. The Central Coast region has approximately 540,000 acres of irrigated land and approximately 3,000 agricultural operations generating discharges of waste. As a result of agricultural activities, the Central Coast's water bodies are severely contaminated with nitrates and are highly toxic due to pesticide use. Nearly every water body in the lower Salinas Valley and lower Santa Maria Valley is now impaired for harmful pollutants associated with agriculture, such as nutrients, pesticides, and sediment.

Agricultural discharges are regulated under the Porter-Cologne Act. To implement their basin plans that establish beneficial uses and set water quality standards for the region, regional boards prescribe waste discharge requirements to regulate dischargers.⁸

⁴ See Monterey Coastkeeper, et al., Legal Comment on Draft Ag Order 4.0, p. 2-3 (June 22, 2020) (citing State Board Fact Sheet: *Nine Regional Water Quality Control Boards in California*).

⁵ See Michael Thomas comment letter Comment Regarding Ag Order 4.0 Renewal to Central Coast Water Board and future Courts (June 22, 2020) (Assistant Executive Officer and lead enforcement officer from 2005 until 2017, explaining "Internally, Water Board staff and legal counsel routinely discussed the illegality of the 2004 Ag Order").

⁶ See *Monterey Coastkeeper v. State Water Res. Control Bd.*, 28 Cal. App. 5th 342, 369 (Ct. App. 2018) [*"Coastkeeper"*].

⁷ See CCKA, et al., Legal-Technical comment letter (February 25, 2021), Attachment B (Ruling on Motion to Extend Time, Sacramento Superior Court, Case No. 34-2017-80002655 (November 6, 2020) (pursuant to stipulated settlement on claims from lawsuit on Order R3-2017-0002).

⁸ Cal. Water Code §§ 13260(a)(1), 13263.

Orders must be consistent with the Nonpoint Source Policy,⁹ which was developed to satisfy federal law and is incorporated into each basin plan. The policy recognizes that management practices can successfully control the generation of nonpoint source discharges, but that management practices alone are not standards. Nonpoint source pollution control must (1) explicitly address nonpoint source pollution in a manner that achieves and maintains water quality objectives and beneficial uses; (2) include a description of management practices and program elements expected to be implemented to ensure attainment of the program’s stated purposes; (3) include a time schedule and quantifiable milestones designed to measure progress toward achieving specified requirements; (4) include sufficient feedback mechanisms to ensure that the program is achieving its stated purpose, and ascertain whether additional or different actions are required; and (5) state the consequences for failure to achieve the program’s objectives.

Orders must be consistent with the State Board’s Antidegradation Policy,¹⁰ as incorporated into basin plans. The Antidegradation Policy, designed to protect waters that meet water quality objectives or are better in quality (i.e., high quality water) from degradation, requires the State to achieve “the highest water quality consistent with maximum benefit to the people of the state.”¹¹

Additionally, the Order must be consistent with the Reasonable and Beneficial Use Doctrine (“Reasonable Use Doctrine”), as enshrined in Article X, section 2 of the State Constitution and the Water Code.¹² Article X, section 2 requires “water resources of the State be put to beneficial use to the fullest extent of which they are capable, and the water or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare.” This beneficial and reasonable use doctrine is the principle governing all uses of water resources in California.¹³

The Order must also be consistent with California’s Human Right to Water Law,¹⁴ which holds up each person’s right to have safe, clean, affordable, and accessible water. The Water Boards’ responsibility extends to consideration of present and future generations, and avoiding the transfer of costs to communities affected by drinking water contamination.¹⁵

Further, the 2021 Order must satisfy the Regional Board’s obligations under the Public Trust Doctrine. The state has an affirmative duty to take the public trust into account in the

⁹ Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (2004) (“Nonpoint Source Policy”).

¹⁰ Resolution No. 68-16: Statement of Policy with Respect to Maintaining High Quality Waters in California (1968) (“Antidegradation Policy”).

¹¹ *Asociacion de Gente Unida por el Agua v. Central Valley Regional Water Quality Control Board*, 210 Cal. App. 4th 1255, 1279 (2012) [“AGUA”] (quoting the policy).

¹² Cal. Water Code §§ 100, 275, 1050, 1051, 1825, 10608, 10608.4, 10801 (g), 85023.

¹³ *Joslin v. Mann Municipal Water Dist.*, (1967) 67 Cal.2d. 132, 137-38.

¹⁴ Cal. Water Code § 106.3.

¹⁵ Resolution R3-2017-0004 Adopting the Human Right to Water as a Core Value and Directing Its Implementations in Central Coast Water Board Programs and Activities.

planning and allocation of water resources, and to protect public trust uses whenever feasible.¹⁶ As trustees, the Water Boards protect the people’s “common heritage of streams, lakes, marshlands and tidelands, surrendering that right of protection only in rare cases when the abandonment of that right is consistent with the purposes of the trust.”¹⁷

REASONS THAT THE REGIONAL BOARD’S 2021 ORDER IS ILEGAL

I. The 2021 Order Not Consistent with the Nonpoint Source Regulations.

The Nonpoint Source Policy, at its core, requires the Regional Board, at a minimum, achieve and maintain water quality objectives and beneficial uses, by a deadline no longer than that which is reasonably necessary. To prevent empty requirements that fail to lead to the ultimate goal, the Policy identifies five required Key Elements. While the Nonpoint Source Policy allows some flexibility in implementation, each of the five Key Elements must be included in the plan.¹⁸ The 2021 Order is the sole regulatory program implementing the irrigated lands regulatory program (“ILRP”) on the Central Coast,¹⁹ and as such, the Regional Board must fulfil all its duties under the Nonpoint Source Policy through the 2021 Order.

A. The Order Violates Key Element 2 Because it does not Ensure Attainment of Its Stated Purposes.

The 2021 Order explicitly states its purposes are to “protect and restore beneficial uses and achieve water quality objectives in the Basin Plan,”²⁰ but the details of the Order fail to assure these purposes will be met.²¹ The Nonpoint Source Policy requires the Regional Board determine, based on evidence in the record, that there is a high likelihood the program will attain its objectives.²² The Order does not make the required findings, rather, the Order’s findings say “there is a high likelihood that this Order will achieve the program’s ultimate purpose of preventing exceedances of water quality objectives and protecting beneficial uses.”²³ But the ultimate purpose is to do much more, as explained in the objectives section of the Order.

¹⁶ *National Audubon Society v. Superior Court*, 33 Cal. 3d 419, 446 (1983) [“*National Audubon*”].

¹⁷ *National Audubon*, 33 Cal. 3d 419, 441.

¹⁸ Nonpoint Source Policy, p. 11.

¹⁹ We note that this is one of many features distinguishing the 2021 Order and the Central Coast from State Board Order WQ 2018-0002 regulating Growers Within the Eastern San Joaquin Watershed that are Members of the Third-Party Group; the 2021 Order’s findings list many distinguishing facts. The Regional Board designed the 2021 Order to be consistent with many relevant authorities, including the precedential components of WQ 2018-0002, but the weight of that “precedent” was the subject of much unnecessary debate and resulted in confusion and delay. To facilitate future discussions on State Board precedent, Petitioners urge the State Board to come into compliance with Government Code section 11425.60.

²⁰ 2021 Order, p. 2.

²¹ The Basin Plan similarly requires the Regional Board, in setting waste discharge requirements, to “make a finding of beneficial uses to be protected and establish waste discharge requirements to protect those uses and to meet water quality objectives.” Basin Plan, p. 30 (2019).

²² *Monterey Coastkeeper v. State Water Resources Control Board*, (“*Coastkeeper*”), 28 Cal. App. 5th 342, 369-370 (Ct. App. 2018)

²³ 2021 Order, Attachment A Findings, p. 54 ¶ 162.

Because the Order does not explicitly determine that there is a high likelihood the program will attain its objectives, it violates the Nonpoint Source Policy.

Besides the lack of specific required findings, the 2021 does not have a high likelihood of achieving its purposes in violation of the Nonpoint Source Policy for the following reasons:

First, the 2021 Order ignores its own purpose of protecting and restoring all beneficial uses in the Basin Plan. For example, while the Order's findings acknowledge that water quality objective of 10 mg/L for nitrate in surface waters is not protective aquatic life,²⁴ the Order applies that standard for all surface waters. This is a clear violation of the Nonpoint Source Policy and the Basin Plan, because the Order fails to achieve its own purposes.

Second, as to achieving water quality objectives for nitrogen in groundwater, while the Findings discuss the potential for someday achieving the 10 mg/L MCL in even the most polluted groundwater basins,²⁵ the record does not show there is a high likelihood these basins will achieve this water quality objective. Indeed, as board members wrestled during hearings and deliberation with how to best achieve and restore water quality objectives for nitrogen given the challenges associated with cutting back nitrogen loading, the board made it clear that they were not committing to ever reaching the objectives. The board was hesitant to include a nitrogen discharge target of 300 pounds per acre,²⁶ which is a long way from the 50 pounds per acre necessary to protect drinking water for groundwater.²⁷ Findings state that “[c]urrent management practices that constitute existing [Best Practicable Treatment and Control] may not be capable at this time of achieving water quality objectives expressed as final numeric targets and limits required by this Order.”²⁸ Rather, the “phasing-in of more stringent numeric targets and limits” are supposed to allow for “ongoing research, testing, and advancement of new or improved management practices” that will ultimately achieve the targets.²⁹ To paraphrase, Findings are explaining that the ILRP will only ultimately attain current objectives for nitrogen in water if and when dischargers, en masse, agree it is worth their while to protect water quality. This strategy amounts to another voluntary scheme, which have proven to be ineffective in the past and therefore cannot be the basis of a finding of high likelihood.

Third, the Regional Board's deletion of the provision for setbacks and riparian zones undermines the Order's likelihood of achieving its purposes. The 2021 Order is missing the critical component of riparian and operational setbacks, which during the years of workshops and hearings on the Order, Regional Board staff and board members touted as the lynchpin for surface water protection and restoration. Pesticides and fertilizers cannot be kept out of the water if there is no setback and growers are farming to the water's edge. Critically endangered Southern Steelhead (Salinas River counts are often in the single

²⁴ 2021 Order, Attachment A Findings p. 173 ¶ 22, describing consensus that concentration of 1.0 mg/L nitrate as nitrogen is necessary to protect aquatic life beneficial uses.

²⁵ 2021 Order, Attachment A Findings p. 161 ¶ 73.

²⁶ *See, e.g.*, 2021 Order p. 54, note to table C.2-2. (“the initial [300 lb] 2028 nitrogen discharge targets will be re-evaluated...”).

²⁷ 2021 Order, Attachment A Findings, p. 87 ¶ 269.d.

²⁸ 2021 Order, Attachment A Findings, p. 74 ¶ 235.

²⁹ 2021 Order, Attachment A Findings, p. 74 ¶ 235.

digits) cannot migrate if there is no riparian cover protecting them from predators. There are no findings reconciling how the Order can have the objective of restoring beneficial uses, but do nothing more than protect the status quo (not restoring) riparian and wetland habitat, as the status quo neither protects nor restores beneficial uses. The Regional Board is aware that riparian habitat is shrinking, and that growers are under pressure to remove this critical mechanism for water quality protection.³⁰ The Regional Board has not analyzed the impact to water quality and beneficial uses as riparian zones are lost, ignoring evidence that this will in fact happen under the 2021 Order, as it has under past orders. The only protection in place is a single sentence “prohibition,” a strategy which has proven to be ineffective. The record is irrefutable that riparian protections and operational setbacks are critical to achieving the water quality objectives and beneficial uses of the Basin Plan, and contrary to the weight of the evidence, the Regional Board abandoned this critical component of the order. Setbacks and vegetative restoration or their functional equivalent are needed in order to ensure a high likelihood of achieving the Order’s objectives.

Fourth, the Regional Board’s ongoing reliance on the status quo of regulatory efforts by third-party agencies violates the Nonpoint Source Policy. The Regional Board failed to interrogate the question of whether continued reliance on Department of Pesticide Regulation (“DPR”) is appropriate, as required by the Nonpoint Source Policy.³¹ The record shows that the status quo of regulatory efforts by third-party agencies does not support the Regional Board’s reliance as to surface waters.³² Meanwhile, there is virtually no record related to groundwater.³³ When it comes to pesticide pollution, the 2021 Order fails to bridge the analytic gap between the evidence, which shows that the status quo is not working or unknown, and the 2021 Order’s continued reliance on regulation by DPR. The 2021 Order fails describe how the collaborative regulatory approach is not only capable of ultimately achieving water quality requirements, but has a high likelihood of doing so. The Regional Board has identified effective strategies to address ongoing pesticide pollution failures; refusing to adopt those strategies under the circumstances violates the Nonpoint Source Policy.

³⁰ See e.g., CCKA, et al., Legal-Technical comment letter (February 25, 2021), page 11, quoting *A Grower Survey, Reconciling Food Safety with Environmental Protection*, Monterey County Resource Conservation District, 2007 (“Approximately 88.9% of all growers who responded to the survey indicated that they have adopted at least one measure to actively discourage or eliminate wildlife from cropped areas . . . The most commonly adopted measures to discourage or eliminate wildlife are bare ground buffers . . . Bare ground buffers and poisoned bait stations are each used by more than half (>50%) of the respondents to protect crops from wildlife intrusion.”).

³¹ The Board may not delegate its responsibilities to another agency, and “may not indefinitely defer taking necessary action if another agency is not properly addressing a onpoint source problem.” Nonpoint Source Policy, p. 10; see also Cal. Water Code §13242 (requiring an implementation plan to describe necessary actions to be taken by a third party).

³² 2021 Order, Attachment A Findings, p. 178 ¶ 51 (“Toxicity in surface water is widespread in agricultural areas of the central coast region”); p. 179 ¶ 54 (“Many of the findings included below demonstrate that the Basin Plan objectives for toxicity and pesticides are not being achieved in the central coast waters.”).

³³ 2021 Order, Attachment A Findings, p. 163 ¶ 82 (“the potential impacts to groundwater resources are largely unknown”).

B The Order Violates Key Element 3 Because its Timelines and Deadlines are Improperly Attached to and Dependent On Development of Past and Future Industry Practices.

The 2021 Order is inconsistent with the Nonpoint Source Policy because the timelines it purports to establish are malleable, based on future developments in farming practices that may or may not come to fruition. The Regional Board must address the severe water pollution problems in surface waters and groundwater in the Central Coast Region, whether or not practices develop; without end goals, it is not possible to describe appropriate milestones.³⁴ Instead, the Order takes a backwards and illogical approach of attaching timelines to progress the worst polluting permittees make (or do not make), all the while ignoring the fact that many permittees already substantially protect water quality. In effect, the Regional Board's substitutes a standard of the *worst* practiced treatment or control for the best practicable treatment or control.³⁵

The law and evidence of severe degradation require that the Regional Board set an aggressive timeline, one that is no longer than "reasonably necessary."³⁶ Both the Water Code and Nonpoint Source Policy clearly provide that water quality objectives must be met, discharging pollutants is a *privilege*, not a right.³⁷ *Coastkeeper* explains that specific time schedules and quantifiable milestones are necessary to ensuring the program will succeed.³⁸

Timelines for achieving nitrate water quality objectives in groundwater are not included in the 2021 Order, and it is unclear when, if ever, groundwater will achieve nitrate standards. Based on scientific studies, even if nitrate loading at the soil surface stopped today, loading to the groundwater will continue because nitrates already present in the soil's unsaturated zone will take between several years and several decades to reach aquifers. In other words, any additional loading will exacerbate the already existing problem.³⁹ The Order as applied to individual growers seeks to reach a discharge level of 50 pounds of nitrogen per acre per year in 2050. Thus, nitrate exceedances in groundwater will persist long beyond 2050 as the excess nitrate from the decades leading up to 2050 percolates into groundwater. The Order as applied to members of a third-party program is significantly more permissive and ambiguous, lacking a

³⁴ The appellate court reviewing one of the Central Coast's previous, illegal, agricultural orders, explained that the achievement of water quality objectives is not required "within the lifespan of the modified waiver" (i.e., five years) at issue in that case. *Coastkeeper*, 28 Cal. App. 5th 342, 369-70. However, the Waste Discharge Requirements in the 2021 Order do not expire in five years. *Compare* Cal. Water Code § 13263 (Waste Discharge Requirements) *with* § 13269(b)(1) (Waivers). Therefore, the Board must set a deadline for achieving the water quality objectives and make a finding that the Order's requirements are designed to meet the deadline.

³⁵ *See also, infra*, § II. Antidegradation (relating to similarly situated dischargers).

³⁶ Nonpoint Source Policy, p. 13.

³⁷ Cal. Water Code § 13263; Nonpoint Source Policy p. 3.

³⁸ "Without specific time schedules and quantifiable milestones, there is not a 'high likelihood' the program will succeed in achieving its objectives, as required by NPS Policy." *Coastkeeper*, 28 Cal. App. 5th at 370. Cal. Water Code § 13242 requires a plan to include "a time schedule for action to be taken."

³⁹ *See* 2021 Order, Attachment A Findings, p. 157-58 ¶ 64; p. 161 ¶ 73.

timeline for reaching anything beyond a 360 pounds discharge level.⁴⁰ There is another important caveat related to nitrogen loading: the targets will only become progressively more protective of water quality beyond the 400 pound per acre limit *if* management practices develop apace.⁴¹

While some farming operations have taken advantage of the Water Boards' lackadaisical approach to protecting water quality over the last decades, developing their businesses by externalizing costs at the expense of state water quality, a great many operations have chosen not to. But the 2021 Order ignores those growers, and instead focuses on the worst polluters, attaching the attainment of water quality to hypothetical advances in management practices for the most unsustainable operations, who's practices are the most incompatible with protecting water quality. This is a clear violation the Nonpoint Source Policy and the Water Code for various reasons. First, the Water Code requires that water quality be attained, regardless of technological developments. Second, adequate technology already exists; there is ample evidence in the record that many operations already protect water quality, and even achieve the 50 pound per acre limit.⁴² Third, the Water Code does not allow those egregious polluters to gain a vested right to continue discharging,⁴³ which is effectively what the 2021 Order establishes.

As to surface water, the Order improperly delegates the role of developing timelines and milestones to yet-to-be established third party programs. Similar to groundwater, the Regional Board is shirking its responsibility to set appropriate milestones to ensure the surface water quality limits are met in a timely manner. The record demonstrates that simply setting timelines will fail, as evinced by strategies used in past agricultural orders⁴⁴ which expired having failed to make progress on water quality impairments. The Regional Board is also aware that “[r]iparian vegetation helps reduce nonpoint source pollution from loading and plays a vital role in protecting water quality and aquatic life beneficial uses of surface water.”⁴⁵ However, the 2021 Order does not include numeric targets for riparian and operational setbacks. The Regional Board determined instead that it was “premature” to impose this essential management practice regime that was proposed by staff, but gave no legitimate reason as to why it is premature. Thus, the Order violates Key Element 3 because, while it may be necessary to allow time to achieve water quality requirements, the Regional Board is failing to include specific quantifiable milestones that would measure progress and ensure the objectives take no longer to achieve than reasonably necessary.

⁴⁰ The Order specifies a 300 pounds target, plus 20 percent wiggle room, leading to a target of 360 pounds per acre. The 20 percent extra figure is neither science based nor does substantial evidence support the conclusion it is necessary to incentivize the third-party program.

⁴¹ See *e.g.*, 2021 Order p. 54, note to table C.2-2. (“the initial [300 lbs] 2028 nitrogen discharge targets will be re-evaluated...”).

⁴² See *infra*, § II. Antidegradation (relating to similarly situated dischargers); 2021 Order, Attachment A Findings, p. 148 Table A.C.1-4. Percentage of Ranches Achieving Discharge Targets and Limits.

⁴³ Cal. Water Code § 13263(g).

⁴⁴ 2021 Order, Attachment A Findings, p. 1-2 ¶ 5-6; see also, *infra*, § III.D. TMDLs.

⁴⁵ 2021 Order, Attachment A Findings, p. 220 ¶ 225.

The evidence overwhelmingly demands that the Regional Board act immediately and use the full weight of its regulatory authority to ensure all dischargers are taking steps to mitigate pollution. The law prohibits the Water Boards from waiting indefinitely for implementation of practices to progress, and does not allow egregious pollution of the past to set standards going forward. The record is devoid of evidence suggesting that letting the problematic practices continue or intensify is in the best interest of the public or the future of growers on the Central Coast, particularly related to nitrate pollution in groundwater which will continue to worsen even if all nitrate discharges were to cease tomorrow. Delays in commencing activities to drastically reduce discharges are not supported by evidence or the law.

C. The 2021 Order Violates Key Element 4 Because It Does Not Require Adequate Monitoring to Verify that Management Practices Are Effectively Controlling Pollution.

The fourth key element explicitly requires “feedback mechanisms,” so the Regional Board can determine if “additional or different [management practices] or [management practice] implementation measures must be used.” This requires adequate monitoring, because management practice implementation may not be substituted for actual compliance with water quality requirements.

The Regional Board’s feedback mechanisms are insufficient to allow it to track progress, and therefore the 2021 Order violates the Nonpoint Source Policy’s Key Element 4. Failure to satisfy this element results from the delegation of development of the monitoring regime to future decisions, failure to include numeric, quantifiable vegetative setback milestones to measure surface water protection,⁴⁶ and timelines for achieving objectives being ambiguous at best. In addition, the 2021 Order lacks sufficient water quality monitoring to allow the Regional Board to determine progress is being made.

The current spatial density of monitoring is inadequate and does not allow the Regional Board to determine trends or efficacy of management practices as required by the Nonpoint Source Policy. The record is clear on the inadequacy of current monitoring. During the development of the 2021 Order, staff reviewed all available surface water quality data and concluded “in most cases staff cannot assign a cause to these trends or conclude that overall water quality conditions are changing in such a way that water quality objectives will be achieved or beneficial uses will be protected.”⁴⁷ The testing sites, parameters, frequency, and methods are the same in the 2021 Order as they were then. Reporting on groundwater, staff provided a similar assessment.⁴⁸ Results of the monitoring regime have demonstrated that the Regional Board is not doing enough, but the regime does not allow the Regional Board to verify the degree to which the management practices are being properly implemented and achieving the program’s objectives.

⁴⁶ Measurable surface water protection standards as embodied in riparian and operational setbacks would have great utility for measuring progress for surface water follow up programs.

⁴⁷ Central Coast Regional Board Staff Report for Regular Meeting, March 22-23, 2018.

⁴⁸ Central Coast Regional Board Staff Report for Regular Meeting of May 10-11, 2018.

D. The 2021 Order Violates Key Element 5 Because it is Not Consistent with State Board Policies, Guidance, Previous Orders, or Factual Findings Related to Consequences and Enforcement.

Key Element 5 focuses on consequences for failure to achieve the program's stated purposes. The Order must anticipate and provide clear consequences for future failures of the program, for individual permittees and the program as a whole. Consequences must also look backwards, to consequences articulated in previous agricultural orders and plans. The succession of agricultural orders constitutes the implementation program for the Nonpoint Source Policy over the last 20 years. Successive agricultural orders have failed to make progress in curtailing discharges, and the process of implementing the ILRP has been characterized the failure of the Water Boards to follow through.⁴⁹ Key Element 5, indeed the entire Nonpoint Source Policy, is premised on accountability, and that accountability must start with the Regional Board.

Because the Regional Board's 2021 Order does not honor consequences previously articulated by Water Boards related to the nonpoint source pollution and policy, the program violates Key Element 5 of the Nonpoint Source Policy. The 2021 Order is the next iteration of agricultural orders, which have historically relied on voluntary improvements by dischargers, generally avoiding the creation of any increased direct accountability for individual operations to the public or regional boards. Meanwhile, deadlines pass, and planned consequences are not executed. For example, the Water Boards have failed to faithfully execute the State Board's Nonpoint Source Program Strategy and Implementation Plan, 1998-2013, which provided that effluent limitations and enforcement should begin in 2008. Another example is the lack of consequences when entire Central Coast watersheds miss TMDL compliance deadlines.⁵⁰ The passage of a new permit does not wipe away the impacts of past discharges or the Regional Board's responsibility for those discharges. The 2021 Order must carry forward accountability from past ILRP permits, while also learning from past failures.

The 2021 Order also continues to rely heavily on voluntary compliance that has proven ineffective, ignoring policy, guidance, and evidence that enforceable consequences are necessary to drive changes in farming practices.⁵¹ Active enforcement is required by the Water Code⁵² and mandated by the Nonpoint Source Policy⁵³ and the State Board Water Quality Enforcement

⁴⁹ See ex parte letter submitted February 25, 2021 by Steve Shimek (as an individual) to Central Coast Regional Board.

⁵⁰ See *infra*, § III.D. TMDLs.

⁵¹ 2021 Order, pp. 1-2 at 5-6; See also, CCKA, et al., Legal-Technical comment letter (February 25, 2021), p. 14, fn. 26 citing Brian Leahy, *Farms Don't Need Dangerous Chemicals to Grow Food, Let's Cut Our Dependence on Them*, Sacramento Bee (March 6, 2020) (Former Director of Department of Pesticide Regulation "Here's the lesson for reducing agriculture's chemical dependency: A purely voluntary approach doesn't work.").

⁵² Cal. Water Code § 13369. ("A nonpoint source management program shall include . . . the adoption and enforcement of waste discharge requirements that will require the implementation of best management practices.").

⁵³ Nonpoint Source Policy, p. 14. ("[A]ny enforcement limitations that might be encountered should be well understood by the RWQCB prior to approving or endorsing an NPS control implementation plan.").

Policy (“Enforcement Policy”).⁵⁴ A significant purpose of the Nonpoint Source Policy is to enable enforcement, as reflected in its title: “Policy for Implementation and *Enforcement* of the Nonpoint Source Pollution Program.”⁵⁵ In fact, the Nonpoint Source Policy is designed to provide “a bridge between the Nonpoint Source Program Plan and the [Enforcement Policy].”⁵⁶ Similarly, the Enforcement Policy emphasizes the importance of enforcement:

Without a strong and fair enforcement program to back up the cooperative approach, the entire regulatory framework would be in jeopardy. Enforcement is a critical ingredient in creating the deterrence needed to encourage the regulated community to anticipate, identify, and correct violations.⁵⁷

Yet the 2021 Order has built in barriers preventing the Regional Board from using the tool of enforcement.

A discharger’s participation in a third-party program will shield them from the threat of enforcement, eliminating the critical ingredient of deterrence, in effect making compliance with the provisions of the Order voluntary. Further, third party programs are delegated responsibility for developing consequences for follow-up programs in violation of the Nonpoint Source Policy.⁵⁸ By abdicating this duty, the 2021 Order leaves third party programs without adequate leverage to push recalcitrant members to adopt of effective management practices. Just like past permits, the 2021 Order will have the effect of punishing the many operations that have voluntarily managed their pollution, while violating the Water Code, Nonpoint Source Policy, the State Board’s Enforcement Policy, and various other plans and policies.

II. The 2021 Order Is Not Consistent with the Anti-Degradation Policy.

The Regional Board has failed to perform an antidegradation analysis consistent with the Antidegradation Policy. California’s Antidegradation Policy prohibits the Regional Board from allowing an activity that will result in the degradation of high-quality waters absent specific findings. The Antidegradation Policy requires an analysis of maximum benefit to the people of the State, including, among other things, implementation of feasible alternative treatment and control for managing pollution.⁵⁹ It is a fact-specific inquiry based on reasonableness. The 2021 Order’s analysis is inconsistent with, and therefore violates the Antidegradation Policy, for a number of reasons.

First, the Regional Board’s antidegradation findings on best practicable treatment or control list the required considerations, including the requirement to consider methods used by similarly situated dischargers,⁶⁰ but then fails to actually consider relevant methods used by

⁵⁴ The 2021 Order cites the State Board’s Water Quality Enforcement Policy as primary guidance. 2021 Order, pp. 8-9.

⁵⁵ Emphasis added.

⁵⁶ Nonpoint Source Policy, p. 2.

⁵⁷ State Board Water Quality Enforcement Policy, p. 1. (2017).

⁵⁸ Nonpoint Source Policy, p. 11 (“Element 5 shall be developed by the [Regional Board]”).

⁵⁹ See *AGUA*, 210 Cal. App. 4th 1255, 1282.

⁶⁰ 2021 Order, Attachment A Findings, p. 58 ¶ 178.

similarly situated dischargers to manage pollution. As to nitrate discharges and pesticide discharges, effective methods for controlling these sources of pollution are available and used by similarly situated dischargers. The record indicates that 61 percent of reporting ranches applied less than 300 pounds of nitrogen per acre in 2019, and 31 percent applied less than 150 pounds per acre.⁶¹ Similarly, the record shows that many farms can currently document minimal pesticide use, and as a result, create minimal pesticide discharge.⁶²

In addition to the high incidence of growers who effectively manage nitrogen loading and pesticide inputs, many operations in the region include on farm riparian and operations setbacks which provide an effective and reliable way to limit nitrate, toxicity, and sediment discharges to surface waters.⁶³ These riparian and operational setbacks are a critical tool for protecting and restoring surface water; uniformly promoted as such by Regional Board staff and board members during the process of developing the Order. Of course, many operations have these management practices in place, further demonstrating how similarly situated dischargers have a significantly smaller pollution impact. However, provisions standardizing riparian and setback protections (or demonstrating equivalence) were arbitrarily removed from the 2021 Order.

The antidegradation analysis fails, and the Order is illegal, because it does not require feasible alternative methods of pollution control to be installed. It is unreasonable to authorize certain farms that have a significantly larger pollution impact relative to similarly situated farms, to continue degrading high quality waters, when reliable, tested, reasonable alternatives exist.

Second, the 2021 Order improperly allows for “short-term” degradation to occur going forward in furtherance of an illegitimate status quo for farming practices. As the Order’s antidegradation analysis makes clear, farming practices that degrade high quality waters were illegally allowed to flourish on the Central Coast in recent decades.⁶⁴ Degradation of high quality waters from irrigated agriculture has escalated without the Water Boards authorizing the degradation, as required by law.⁶⁵ The current degrading practices, where a subset of farms benefit while externalizing tremendous costs to the public, are criticized by the Regional Board in one breath,⁶⁶ and taken for granted in the next breath.⁶⁷ It is unreasonable for the maximum benefit analysis to accept farming practices that lead directly to an unauthorized level of degradation as its starting reference point. In effect, the Regional Board has used the *worst* practiced treatment or control as the baseline in place of the best practicable treatment or control. The Antidegradation Policy prevents the 2021 Order from authorizing past degradation, but in effect, by choosing the take current polluting practices as a given, economically or otherwise, the 2021 Order provides a post hoc authorization for that degradation. The failures of past

⁶¹ 2021 Order, Attachment A Findings, p. 148 Table A.C.1-4; *See also* California Certified Organic Farmer’s comment letter June 20, 2020 (p. 3) describing minimal nitrogen leaching from certified organic farms.

⁶² *See e.g.*, California Certified Organic Farmer’s comment letter June 20, 2020 (p. 3).

⁶³ *See supra*, § I.B. Nonpoint Source Policy, describing the record on efficacy of riparian and operational setbacks for surface water protection.

⁶⁴ 2021 Order, Attachment A Findings, p. 60 ¶ 183.

⁶⁵ *See* 2021 Order, Attachment A Findings, p. 60 ¶ 182-183; p. 63 ¶ 194.

⁶⁶ *See* 2021 Order, Attachment A Findings, p. 60 ¶ 182.

⁶⁷ *See* 2021 Order, Attachment A Findings, p. 74 ¶ 235.

agricultural orders have encouraged the escalation of pollution, and now the 2021 Order effectively codifies this egregious level of pollution as an acceptable standard. Doing so creates absurd results, which fail the reasonableness inquiry. For example, because the nitrogen targets and limits are based on averages skewed by egregious overapplication of fertilizer by some dischargers, the 2021 Order may encourage farmers who have historically applied less nitrate, to apply more nitrogen in the future.

Third, the cost analysis within maximum benefit analysis requires more than simply stating the relevant cost considerations. There must be an actual balancing to give effect to Antidegradation Policy. The record demonstrates that reasonable alternatives exist that could curtail most pollution in short order, and this process would do no more than shift the balance of costs to maximize benefits to the people of the state, while historically the costs “have largely been externalized by those who discharge nitrate”⁶⁸ Shifting these costs would be a burden only to the subset of operations that have not yet voluntarily adopted effective management practices. Thus, the Regional Board’s authorization of degradation is based on nothing more than cost savings for a subset of dischargers, which violates the Antidegradation Policy.⁶⁹

Further, the cost analysis did not balance some of the most relevant cost considerations. For example, the costs of not protecting and restoring water quality objectives, including critical function of riparian and wetland habitat and the costs of not protecting and restoring water quality objectives and beneficial uses were not adequately considered.

Fourth, the 2021 Order and its findings are not consistent with the findings of the antidegradation analysis. The antidegradation analysis, acknowledging that many high-quality waters are present, concludes that the permit must protect and restore all water quality objectives and beneficial uses.⁷⁰ However, the 2021 Order’s findings do not conclude that it will accomplish these things.⁷¹ Further, the Regional Board’s antidegradation analysis repeatedly asserts that degradation authorized is reversible, but has not demonstrated that degradation will be reversible, particularly given the severe degradation that has occurred to date but which was never authorized by the Regional Board.⁷² The antidegradation findings mention aquatic life beneficial uses in passing, but do not analyze the potential irreversible impacts on these beneficial uses in particular.⁷³ The antidegradation analysis cannot point to anywhere else where the Regional Board demonstrates degradation is reversible, because, in fact, the record demonstrates that the 2021 Order will not restore many water quality objectives and beneficial uses.⁷⁴

⁶⁸ 2021 Order, Attachment A, Findings, p. 68 ¶215.

⁶⁹ See Question and Answers Resolution No. 68-16 (1995) (“Cost savings to [a] discharger, standing alone absent a demonstration of how these savings are necessary to accommodate important social and economic development are not adequate justification for allowing degradation.” Internal quotations omitted).

⁷⁰ See, e.g., 2021 Order, Attachment A - Findings, p. 59 ¶181.

⁷¹ See *supra*, § I.A. Nonpoint Source Policy.

⁷² See 2021 Order, Attachment A Findings, p. 60 ¶ 183.

⁷³ See also, *infra*, § III.C. Public Trust.

⁷⁴ See *supra*, § I.A. Nonpoint Source Policy.

The Regional Board is not taking reasonable steps to resolve groundwater or surface water degradation, as the Antidegradation Policy requires, particularly when so many similarly situated permittees are managing discharge effectively. The analysis authorizing discharge that will degrade high quality violates the Antidegradation Policy because it is based on incomplete and unreasonable maximum benefit analyses, and mischaracterizations about what the 2021 Order is expected to accomplish.

III. The 2021 Order Is Illegal and Most Be Modified for Failing to Adequately Consider Other Constitutional, Statutory, and Common-Law Requirements.

A. The 2021 Order Fails to Adequately Balance the Human Right to Water.

The Regional Board adopted the 2021 Order without adequately considering the impact of its decision on the Human Right to Water, contrary to State and Regional Board policy. The human right to water is an established California policy that declares the right of every human being to “safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.”⁷⁵ In the State of California, “the use of water for domestic purposes is the highest use of water, and . . . the next highest use is for irrigation.”⁷⁶

After the State Legislature codified the human right to water, the State Board declared in 2016 its mission “[t]o preserve, enhance, and restore the quality of California’s water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resources allocation and efficient use, for the benefit of present and future generations.”⁷⁷ And in January 2021, the Regional Board adopted its own resolution “Adopting the Human Right to Water as a Core Value and Directing its Implementation in Central Coast Water Board Programs and Activities.”⁷⁸ Each of these policies provides that discharges into water that could threaten human health “are among the Water Boards’ highest priorities, and such discharges should be regulated to attain the highest water quality which is reasonable...”⁷⁹ The Board’s actions must be guided by these legislative policies.⁸⁰

Current agricultural practices have resulted in the degradation of California’s waters, which in turn has denied millions of Californians their statutory right to clean, safe, affordable access to drinking water. As it exists today, California’s water is neither safe nor clean for millions of residents, many of whom live in low-income and rural communities. These

⁷⁵ Cal. Water Code § 106.3; *see also* Health and Safety Code § 116270(a) (“Every resident of California has the right to pure and safe drinking water.”).

⁷⁶ Cal. Water Code § 106.

⁷⁷ State Water Res. Control Bd. Resolution No. 2016-0100 (2016).

⁷⁸ Resolution No. R3-2021-0004.

⁷⁹ Resolution No. R3-2021-0004.

⁸⁰ Cal. Water Code section 106.3(b) states: “All relevant state agencies, including the department, the state board, and the State Department of Public Health, shall consider this state policy when revising, adopting, or establishing policies, regulations, and grant criteria when those policies, regulations, and criteria are pertinent to the uses of water described in this section.” *See also U.S. v. State Water Resources Control Board*, 182 Cal. App. 3d 82, 103 (1986) (“the Board’s actions are to be guided by the legislative policy that the favored or “highest” use is domestic, and irrigation is the next highest”).

communities are often more likely to be impacted by nitrate contamination and the least able to afford the costs of mitigation. Nitrate and pesticide pollution is prevalent in California's groundwater resources, posing a serious threat to all Californians and especially to those communities with the least resources. The 2021 Order acknowledges this severe pollution, and the serious risks these water conditions pose to human health.

The Regional Board's decision not to employ its own planned, reasonable, and effective means to control pollution is particularly egregious in light of the human right to water and several factors that exist here: the severity of California's groundwater pollution; the continued degradation of the water, which the Boards clearly recognize; the Boards' principal and primary role in controlling pollution; the admitted urgency of the problem; and, the recognition that source control and enforcement are critical.

The Regional Board's manner of proceeding during the development of the 2021 Order unduly favored the interests of polluting dischargers, unfairly prejudicing lesser resourced stakeholders who have been and will be denied the human right to water. Notwithstanding the grave human health consequences of agriculture, the Regional Board allowed well-resourced dischargers and their representatives to profoundly alter the staff blueprint for the order through ex parte communications, after these same stakeholders were allowed to "break the schedule" of the proceeding, even in the face of time schedules being overseen by the court as a result of the Water Boards' historical failures to adequately regulate agricultural discharges.⁸¹ The process violated Petitioners' right to a fair trial, and was inconsistent with the California Environmental Protection Agency's Intra-Agency Environmental Justice Strategy.⁸² It follows that the 2021 Order unduly favors the interests of polluting dischargers who will continue to profit from externalizing impacts, in favor of the interests of lesser resourced stakeholders including low-income communities of color who are most negatively impacted by this pollution.

Californians, including Petitioners at San Jerardo Cooperative, have a right not to be concerned with whether the water coming out of their faucets in their homes will result in developmental harm or death to their children, burn their skin or make them ill. There is no such equivalent right for agricultural discharges and indeed, domestic use of water is prioritized over agricultural uses. The State Board must give adequate consideration to the human right to water and those stakeholders who are denied that right, commensurate with the its own policies in reviewing the 2021 Order.

B. The 2021 Order Violates the Reasonable and Beneficial Use Doctrine.

The Reasonable and Beneficial Use Doctrine ("Reasonable Use Doctrine") requires the Regional and State Water Boards to manage water resources consistent with the public interest. The Boards have broad authority, and primary responsibility, to restrict unreasonable uses of the

⁸¹ See CCKA, et al., Legal-Technical comment letter (February 25, 2021), page 3, citing court order and filings from Sacramento Superior Court, Case No. 34-2017-80002655, Motion to Extent Time (pursuant to stipulated settlement on claims from lawsuit on predecessor 3.0 Ag Order). Attached: Attachment B – Ruling (November 6, 2020); Attachment C – Declaration of Steve Shimek; Attachment D – Declaration of Horacio Amezcuita; Attachment E – Declaration of Debi Ores.

⁸² August, 2004.

state's water to prevent waste and preserve water quality and other protected beneficial uses. However, the Regional Board adopted the 2021 Order without any consideration of the permitted activities' unreasonable use of water, contrary to Constitutional and statutory requirements. Moreover, the Regional Board's failure to prevent the unreasonable use may very well come at the expense and exclusion of another protected beneficial use, which itself is prohibited under the law.

California's Reasonable Use Doctrine requires the Boards to protect water resources and provides broad discretion to balance competing beneficial uses consistent with public interest. This doctrine is enshrined in Article X, section 2 of the State Constitution and the Water Code.⁸³ Article X, section 2 requires "water resources of the State be put to beneficial use to the fullest extent of which they are capable, and the water or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare." The Reasonable Use Doctrine is the principle governing all uses of water resources in California.⁸⁴ Section 100 of the Water Code further mandates "that the conservation of such water is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare."⁸⁵

Taken together, Article X, Section 2 and Water Code Section 100 grant broad, expansive authority for the Regional and State Water Boards to exercise the adjudicatory and regulatory functions of the state in the field of water resources.⁸⁶ Courts discern a legislative intent to grant "open-ended," "expansive" authority to undertake comprehensive statewide resource planning, assuring reasonable water allocation and safeguarding water purity.⁸⁷ The Boards are required to exercise their authority to control and condition water use consistent with public interest, including to protect water quality and to prevent waste and unreasonable use.⁸⁸ "The rule of reasonableness is now the 'overriding principle governing the use of water in California.'"⁸⁹

Despite the requirements of the Reasonable Use Doctrine, however, the 2021 Order fails to use reasonable means available under its authority to limit growers' pollution of water, which is particularly egregious when such uses impact or exclude domestic, environmental or other critical uses.⁹⁰ For example, growers in the Central Coast Region commonly use a flood irrigation system that causes water shortages for domestic users and results in concentration of nitrates in receiving surface waters that reach toxic levels. Moreover, there are known

⁸³ Cal. Water Code §§ 100, 275, 1050, 1051, 1825, 10608, 10608.4, 10801 (g), 85023.

⁸⁴ *Joslin v. Mann Municipal Water Dist.*, (1967) 67 Cal.2d. 132, 137-38.

⁸⁵ Cal. Water Code § 100.

⁸⁶ *Environmental Defense Fund, Inc. v. East Bay Mun. Utility Dist.*, 20 Cal.3d 327, 342 (1977); *Imperial Irrigation Dist. v. State Water Resources Control Bd.*, 186 Cal.App.3d 1160, 1166 (1986).

⁸⁷ *Light v. State Water Resources Control Board*, 226 Cal.App.4th 1463, 1479 (2014) ["*Light*"]; *National Audubon*, 33 Cal.3d 419, 449.

⁸⁸ *Light*, 226 Cal.App.4th at 1485; *Environmental Defense Fund*, 20 Cal.3d at 342.

⁸⁹ *Light*, 226 Cal.App.4th at 1479 (citing *People ex. rel. State Water Resources Control Bd. v. Forni*, 54 Cal.App.3d 743, 750 (1976) ["*Forni*"]).

⁹⁰ *Forni*, 54 Cal.App.3d at 750; *Light*, 226 Cal.App.4th at 1479-80.

alternative irrigation methods available.⁹¹ As held in *Peabody v. City of Vallejo*, “when the supply is limited public interest requires that there be the greatest number of beneficial uses which the supply can yield.”⁹² The Regional Board was required to ensure that its regulation of agricultural practices didn’t restrict communities’ access to safe, nontoxic drinking water or create critical environmental conditions.⁹³ The Human Right to Water is an important water use consideration in its own right.⁹⁴ However, it also serves as a standard to determine if a particular water use is reasonable.

All the above considerations are further complicated by climate change, as demonstrated by worsening drought in California. Failure to implement conservation practices is itself an unreasonable use of water, especially when the harm domestic and environmental uses. The Regional Board has a mandatory duty to perform a reasonable use analysis explicitly and explain how the analysis was done to ensure the interest of the people and public welfare are protected.

C. The Regional Board Did Not Fulfil Its Public Trust Duties.

The 2021 Order also fails to satisfy the Regional Board’s obligations under the public trust doctrine.⁹⁵ Neither the Order, the Findings, or the environmental impact report so much as mention the public trust, despite acknowledging that several types of agricultural discharges it proposes to authorize are likely to impact surface waters and have the potential to adversely impact fish and wildlife. The discharges likely to impact waterbodies include discharges of nutrients, pesticides, sediments and erosion carried by agricultural runoff and drains into surface waters. Yet the 2021 Order fails to do any analysis of the impacts to public trust resources, the first step in the process to satisfy the public trust doctrine.

Because the elimination of setbacks to prevent and filter runoff is likely to increase harmful impacts to fish and wildlife, the effect of this change on the specific fish and wildlife populations of the region’s waterways must to be examined. Riparian management and setbacks support the protection of public trust resources including endangered salmonids, other fish and aquatic lifeforms, estuaries, beneficial insects, birds, terrestrial species, and ecological functions.⁹⁶ The 2021 Order provides no rationale or substantial evidence to support or explain the Regional Board’s decision to drop these provisions, nor have these changes been evaluated to determine potential adverse impacts on public trust uses and resources protection of sensitive fish and wildlife populations.

Further, the impacts may be irreversible. There is no indication that the Board evaluated

⁹¹ See 2021 Order, Attachment A Findings, p. 15 ¶ 41.h.

⁹² *Peabody v. City of Vallejo*, 2 Cal.2d 351, 492 (1935).

⁹³ See Cal. Water Code § 106.3; Health and Safety Code § 116270(a); *National Audubon*, 33 Cal.3d at 447.

⁹⁴ Cal. Water Code §§ 106, 106.3; see also, *supra*, § III.A. Human Right to Water, for a more detailed discussion of the human right to water.

⁹⁵ The state has an affirmative duty to take the public trust into account in the planning and allocation of water resources, and to protect public trust uses whenever feasible. *National Audubon*, 33 Cal. 3d 419, 446.

⁹⁶ See e.g., 2021 Order, Attachment A Findings, pp. 210-11 ¶177.

whether the 2021 Order’s extended and specious timetables for meeting discharge limits are adequate to protect local subpopulations of fish and wildlife from serious decline or extinction. Here, the public trust doctrine requires an additional and critical layer of accountability on top of the Nonpoint Source Policy and antidegradation analyses. For example, while the antidegradation analysis characterizes degradation of waters as “short-term” and reversible, the analysis ignores that the severity of degradation in some waters has interrupted aquatic beneficial uses and certain species may be extinct before water quality is theoretically restored. The Regional Board, as trustee, has an affirmative duty to protect the people’s rights to their common heritage of streams, rivers and their tributaries, as well as the protection of fishing and recreation.

The Regional Board violated its trustee duties in adopting the 2021 Order and failing to properly analyze the impact of agricultural discharges on our public trust resources.

D. The Extensions for TMDL Compliance Dates Are Inconsistent with State Board Policy and Fair Notice Requirements.

The 2021 Order’s revision of total maximum daily loads (“TMDLs”) compliance dates violates state board policy and guidance, and does not comport with notice requirements for modifying TMDLs. The Regional Board has not provided any authority that supports granting these extensions with the 2021 Order without also providing targeted consequences to dischargers in the relevant geographical area that were responsible for complying with the deadlines.

The 2021 Order’s extended compliance dates were granted arbitrarily, without meaningful analysis of the impact or utility of such extensions. The 2021 Order relies on the Water Quality Control Policy for Addressing Impaired Waters, but ignore that the policy “is intended to ensure that the impaired waters of the state are addressed in a timely and meaningful fashion.”⁹⁷ However, the modifications pushing back existing compliance timelines effectively *eliminate* accountability under TMDL implementation plans from previous agricultural orders, and thus undermine the ILRP and planned progress toward improving water quality. TMDLs require a great deal of effort and research to establish, sometimes taking decades. Yet, TMDLs have not been effectively implemented by previous agricultural orders, as evinced by the lapsing of TMDL compliance dates. These extensions may not be granted without specific and meaningful consequences that addresses ongoing water quality problems.

The failure to administer consequences also violates the Nonpoint Source Policy’s Key Element 5. Findings explaining that extending TMDL timelines is appropriate are followed by an explanation of what will occur if and when TMDL final compliance dates pass.⁹⁸ None of these provisions, or provisions from previous plans for what increased scrutiny will occur have been applied or analyzed for any of the 2021 Order’s TMDL extensions. These areas must be immediately subject to increased “up the watershed” surface water monitoring, tile drain monitoring, or ranch-level surface water discharge monitoring for individual growers.

⁹⁷ See Water Quality Control Policy for Addressing Impaired Waters (June 16, 2005), p. 5.

⁹⁸ 2021 Order, Attachment A Findings, p. 39 ¶ 125.

In addition, the TMDL compliance date modifications cannot be completed through this permitting action because to do so will violate basic principles of administrative procedure that require fair notice to all TMDL stakeholders. Each TMDL is unique and watershed specific, and region-specific stakeholder groups are entitled to notice and an opportunity to participate given that the implementation plan for the TMDL failure and is being revised. Indeed, fair notice principles provide the rationale for using this permit action to revise the TMDL deadlines under the Water Quality Control Policy for Addressing Impaired Waters.⁹⁹ The Water Quality Control Policy for Addressing Impaired Waters does not support the modification of TMDL compliance schedules, particularly those that relate to pollution sources not exclusive to irrigated agriculture.

E. The Regional Board Has Failed to Comply With CEQA.

The California Environmental Quality Act's ("CEQA's") provision for environmental review is "the heart of CEQA" because it ensures that "the agency has, in fact, analyzed and considered the ecological implications of its actions."¹⁰⁰ CEQA review "protects not only the environment but also informed self-government."¹⁰¹ Further, an accurate description of the proposed project is the heart of the environmental impact report process.¹⁰² To comply with CEQA's mandate, an agency must monitor sources of new information and assess the impacts of changes to a proposed project. The Regional Board's CEQA process was deficient and as a result, the impacts of the project, particularly on fish and other aquatic life, were not adequately considered.

After making the substantial changes that resulted in the March 25, 2021 Revised Draft Order, the Regional Board did not allow adequate time for stakeholders including trustee agencies to consider the ecological implications of its action. The Revised Draft bore little resemblance to the preferred project described in the February 2020 Draft Environmental Impact Report (DEIR). One stark example was that the objective section of the order was modified to delete the word "restore," as in "restore riparian and wetland habitat." Another was that riparian and operational setback measures were removed.

The riparian and operational setbacks, as analyzed in the DEIR, were the central focus of support from commenters including NOAA, Cal Dept. of Fish and Wildlife, and US Fish and Wildlife Service. For example:

We believe that the Water Board's proposal to increase operational setbacks from adjacent waterbodies are not only reasonable, but absolutely necessary. These areas would provide essential buffer zones where chemical pollutants from agricultural operations are able to filter out prior to reaching adjacent surface waters, thus ensuring that all beneficial users are protected from degraded water quality. Additionally, we believe operational setbacks are necessary to ensure the protection and enhancement of

⁹⁹ See Water Quality Control Policy for Addressing Impaired Waters, p. 5.

¹⁰⁰ *Laurel Heights Improvement Ass'n v. Regents of the Univ. of California*, 47 Cal.3d 376, 392 (1988).

¹⁰¹ *Laurel Heights Improvement Ass'n v. Regents of the Univ. of California*, 47 Cal.3d 376, 392.

¹⁰² *Communities for a Better Environment v. City of Richmond*, 184 Cal. App. 4th 70 (1st Dist. 2010).

Attachments:

Exhibit A, Order No. R3-2021-0040

Submitted on behalf of

M. Tyler Sullivan, California Coastkeeper Alliance

Ben Pitterle, Santa Barbara Channelkeeper

Sean Bothwell, Monterey Coastkeeper

Horacio Amezcuita, San Jerardo Cooperative

Bill Jennings, California Sportfishing Protection Alliance

Mike Conroy, Pacific Coast Federation of Fishermen's Associations, and the Institute for Fisheries Resources

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

**GENERAL WASTE DISCHARGE REQUIREMENTS
FOR
DISCHARGES FROM IRRIGATED LANDS**

ORDER NO. R3-2021-0040

April 15, 2021

ORDER

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Attachments

Attachment A – Additional Findings and Regulatory Considerations

Attachment B – Monitoring and Reporting Program (MRP)

Attachment C – Acronyms, Abbreviations, and Definitions

THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CENTRAL COAST REGION FINDS:

Part 1, Section A. Findings

Background and Purpose

1. As described in the Water Quality Control Plan for the Central Coastal Basin (Basin Plan), the central coast region of California represents approximately 7.2 million acres of land. There are approximately 540,000 acres of irrigated land and approximately 3,000 agricultural operations that may be generating wastewater that falls into the category of discharges of waste from irrigated lands.
2. The central coast region has more than 17,000 miles of surface waters (linear streams/rivers) and approximately 4,000 square miles of groundwater basins that are, or may be, affected by discharges of waste from irrigated lands. Of the nine hydrologic regions in the state, the central coast region is the most groundwater dependent region with approximately 86% of its water supply being derived from groundwater.
3. The State Water Resources Control Board (State Water Board) and Regional Water Quality Control Boards (Regional Water Boards) are the principal state agencies with primary responsibility for the coordination and control of water quality for the health, safety and welfare of the people of the state pursuant to the Porter-Cologne Water Quality Control Act (Porter-Cologne Act, codified in Water Code Division 7). The legislature, in the Porter-Cologne Act, directed the state, through the Water Boards, to exercise its full power and jurisdiction to protect the quality of the waters in the state from degradation and to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible, and considering precipitation, topography, population, recreation, agriculture, industry, and economic development (Water Code section 13000).
4. Since the issuance of the first Agricultural Order in 2004 and subsequent Agricultural Orders in 2012 and 2017, the California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) has compiled additional and substantial empirical data demonstrating that water quality conditions in agricultural areas of the region continue to be severely impaired or polluted by waste discharges from irrigated agricultural operations and activities that impair beneficial uses. The main impacts from irrigated agriculture in the central coast region are nitrate discharges to groundwater and associated drinking water impacts, nutrient discharges to surface water, pesticide discharges

and associated toxicity, sediment discharges, and degradation of riparian and wetland areas and the associated impairment or loss of beneficial uses.

5. The objectives of this Order are:
 - a. Protect and restore beneficial uses and achieve water quality objectives specified in the Basin Plan for commercial irrigated agricultural areas in the central coast region by:
 - i. Minimizing nitrate discharges to groundwater,
 - ii. Minimizing nutrient discharges to surface water,
 - iii. Minimizing toxicity in surface water from pesticide¹ discharges,
 - iv. Protecting riparian and wetland habitat, and
 - v. Minimizing sediment discharges to surface water.
 - b. Effectively track and quantify achievement of 5.a.i through 5.a.v over a specific, defined time schedule.
 - c. Comply with the State's Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Policy), the State Antidegradation Policy, relevant court decisions such as those pertaining to *Coastkeeper et al*/ lawsuits, the precedential language in the Eastern San Joaquin Watershed Agricultural Order, and other relevant statutes and water quality plans and policies, including total maximum daily loads in the central coast region.
6. This Order regulates discharges of waste from irrigated lands by requiring individuals subject to this Order to comply with the terms and conditions set forth herein to ensure that such discharges do not cause or contribute to the exceedance of any regional, state, or federal numeric or narrative water quality objectives or impair any beneficial uses in waters of the state and of the United States.
7. Water Code section 13260(a) requires that any person discharging waste or proposing to discharge waste that could affect the quality of the waters of the state, other than into a community sewer system, must file with the appropriate Regional Board a report of waste discharge (ROWD) containing such information and data as may be required by the Central Coast Water Board, unless the Central Coast Water Board waives such requirement.
8. Water Code section 13263(a) requires the Central Coast Water Board to prescribe waste discharge requirements (WDRs), or waive WDRs, for the discharge. The requirements must implement the Basin Plan and must take into

¹ A pesticide is any substance intended to control, destroy, repel, or otherwise mitigate a pest. The term pesticide is inclusive of all pest and disease management products, including insecticides, herbicides, fungicides, nematicides, rodenticides, algicides, etc.

consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Water Code section 13241.

9. Water Code section 13263(b) states that, in prescribing requirements, the Central Coast Water Board need not authorize the utilization of the full waste assimilation capacities of the receiving waters.
10. Water Code section 13263(e) states that for WDRs, "Upon application by any affected person, or on its own motion, the regional board may review and revise requirements. All requirements shall be reviewed periodically."
11. This Order does not create a vested right to discharge; all discharges are a privilege, not a right, as described in Water Code section 13263(g).
12. Water Code section 13263(i) authorizes the Central Coast Water Board to prescribe general WDRs for a category of discharges if the Central Coast Water Board finds or determines that all the criteria listed below apply to the discharges in that category. Discharges associated with irrigated agricultural operations that will be regulated under this Order are consistent with these criteria and therefore a general order is appropriate.
 - a. The discharges are produced by the same or similar operations.
 - b. The discharges involve the same or similar type of waste.
 - c. The discharges require the same or similar treatment standards.
 - d. The discharges are more appropriately regulated under general WDRs than individual WDRs.
13. Water Code section 13243 authorizes the Central Coast Water Board, in WDRs, to specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted.
14. Water Code section 13267(a) authorizes the Central Coast Water Board to, in establishing or reviewing waste discharge requirements, or in connection with any action to any plan or requirement authorized by the Porter-Cologne Act, investigate the quality of any waters of the state within the region. The monitoring and reporting requirements as set forth in Attachment B are established under Water Code section 13267(b).
15. Water Code section 13267(c) authorizes the Central Coast Water Board or its authorized representatives to, in conducting an investigation of the quality of waters of the state within the region, inspect the facilities of the Discharger upon consent, issuance of a warrant, or in an emergency affecting public health or safety, to ascertain compliance with this Order and to ascertain whether the

purpose of the Porter-Cologne Act are being met. Inspections under Water Code section 13267(c) include sampling and monitoring.

16. Water Code section 13304 authorizes the Central Coast Water Board to, upon making the requisite findings, issue a cleanup and abatement order (CAO) that requires Dischargers to provide emergency and long-term alternative water supplies or replacement water service, including wellhead treatment, to each affected public water supplier or private well owners. A CAO is a separate action from this Order; this Order does not require Dischargers to provide alternative water supplies or replacement water.

Public Participation Process

17. In August 2017, Central Coast Water Board staff held a series of listening sessions throughout the central coast region to solicit stakeholder input on potential improvements to the previous agricultural order. The Central Coast Water Board discussed the input received from stakeholders during the September 2017 board meeting.
18. In February 2018, the Central Coast Water Board published an initial study to begin soliciting input related to environmental review for the California Environmental Quality Act (CEQA), in preparation for developing a draft Environmental Impact Report (EIR). A 73-day public comment period was held for the initial study. In March 2018, Central Coast Water Board staff held a series of public CEQA scoping meetings throughout the region. Input received during the public comment period and public scoping meetings has been considered in the development of the draft EIR.
19. In March and May 2018, Central Coast Water Board meetings included informational items dedicated to a review of water quality conditions associated with agricultural activities and discharges. The March 2018 informational item focused on surface water quality conditions and agricultural discharges and the May 2018 informational item focused on groundwater quality conditions and nitrate impacts to groundwater. Both informational items incorporated presentations from several outside speakers.
20. In September 2018, the Central Coast Water Board's public meeting was dedicated to a workshop for agricultural order stakeholders. Panels of agricultural, environmental, and environmental justice representatives gave presentations to the board in response to a series of questions staff proposed:
 - a. What can growers and the regional board do to demonstrate quantifiable progress to minimize nitrate discharge to groundwater to achieve water quality objectives?

- b. What can growers and the regional board do to demonstrate quantifiable progress to minimize nutrient discharge to surface waters to achieve water quality objectives?
 - c. What can growers and the regional board do to demonstrate quantifiable progress to minimize toxicity in surface waters from pesticide discharges to achieve water quality objectives?
 - d. What can growers and the regional board do to ensure that riparian and wetland habitat is protected due to agricultural activities and discharges?
 - e. What can growers and the regional board do to demonstrate quantifiable progress to minimize sediment discharge to achieve water quality objectives?
 - f. How can the regional board use discharge permit requirements to ensure current and future affordable, safe, and clean water for drinking and environmental uses?
21. In November 2018, the Central Coast Water Board published a set of five conceptual options tables that serve as the Central Coast Water Board's framework to address the questions posed in the September 2018 meeting. The Central Coast Water Board reviewed and discussed the options tables during its public meeting in November, and a 64-day written public comment period was subsequently held to solicit detailed stakeholder input. Central Coast Water Board staff held a series of outreach meetings throughout the region during the comment period.
22. In March 2019, after the 64-day public comment period, the Central Coast Water Board published updated versions of the five conceptual options tables. During the public meetings in March and May 2019, the Central Coast Water Board discussed the updated tables and received additional stakeholder comment.
23. In September 2019, during its public meeting, the Central Coast Water Board held a workshop focused on co-managing food safety and environmental protection, the role of riparian vegetation in water quality and beneficial use protection, and Discharger experiences with food safety challenges.
24. On February 21, 2020, the Central Coast Water Board published the draft Order and draft EIR and began a 45-day public comment period. The comment period was extended twice and closed on June 22, 2020.
25. In June 2020, Central Coast Water Board staff conducted three outreach meetings, which included presentations of the draft Order and draft EIR, and a question and answer session for attendees. These outreach meetings were conducted virtually via the Zoom platform, due to the COVID-19 pandemic.
26. Beginning on September 10, 2020 and continuing to January 8, 2021, the Central Coast Water Board held 10 days of Board meetings to receive oral comments

from the public and to discuss the draft Order. During these meetings, three of which were devoted entirely to receiving public comment and Board engagement with stakeholders, the Board deliberated on the draft Order using a consensus-based approach through which they directed staff on the development of a revised Order.

27. On January 26, 2021, the Central Coast Water Board circulated a revised draft Order for a 30-day public comment period that closed on February 25, 2021. Central Coast Water Board staff subsequently considered the public comments and developed a proposed Order for Board consideration during an April 14-15, 2021, public hearing.
28. The Central Coast Water Board, in a public hearing held on April 14-15, 2021, has heard and considered all comments pertaining to the discharge and proposed Order.
29. After considering all comments pertaining to this General Permit during a public hearing on April 14-16, 2021, this Order was found consistent with the findings in this Part 1 and Attachment A.
30. Any person aggrieved by this action of the Central Coast Water Board may petition the State Water Board to review the action in accordance with California Water Code section 13320 and title 23 California Code of Regulations sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., within 30 calendar days of the date of adoption of this Order at the following address, except that if the thirtieth day following the date of adoption falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day:

State Water Resources Control Board
Office of Chief Counsel
P.O. Box 100, 1001 I Street
Sacramento, CA 95812-0100

Or by email at waterqualitypetitions@waterboards.ca.gov

For instructions on how to file a petition for review, see http://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqp petition_instr.shtml.

Scope of Order

Irrigated Lands and Agricultural Discharges Regulated Under this Order

31. This Order regulates (1) discharges of waste from commercial irrigated lands, including, but not limited to, land planted to row, vineyard, field and tree crops where water is applied for producing commercial crops; (2) discharges of waste from commercial nurseries, nursery stock production, and greenhouse operations with soil floors that do not have point source-type discharges and are not currently operating under individual WDRs; and (3) discharges of waste from lands that are planted to commercial crops that are not yet marketable, such as vineyards and tree crops.
32. Discharges from irrigated lands regulated by this Order include discharges to surface water and groundwater, through mechanisms such as irrigation return flows, percolation, tailwater, tile drain water, stormwater runoff flowing from irrigated lands, stormwater runoff conveyed in channels or canals resulting from the discharge from irrigated lands, and runoff resulting from frost control or operational spills. These discharges can contain wastes that could affect the quality of waters of the state and impair beneficial uses.
33. This Order also regulates agricultural activities such as the removal or degradation of riparian vegetation resulting in the loss or degradation of instream beneficial uses.

Dischargers Regulated Under this Order

34. This Order regulates both landowners and operators of commercial irrigated lands on or from which there are discharges of waste or activities that could affect the quality of any surface water or groundwater or result in the impairment of beneficial uses (Dischargers). Dischargers are responsible for complying with the conditions of this Order. Both the landowner and the operator of the irrigated agricultural land are Dischargers under this Order. The Central Coast Water Board will hold both the landowner and the operator liable for noncompliance with this Order, regardless of whether the landowner or the operator is the party to enroll under this Order.
35. For the purposes of this Order, irrigated lands producing commercial crops are those operations that have one or more of the following characteristics:
 - a. The landowner or operator has obtained a pesticide use permit from a local County Agricultural Commissioner;

- b. The crop is sold, including but not limited to 1) an industry cooperative, 2) a harvest crew/company, or 3) a direct marketing location, such as certified Farmers Markets;
- c. The federal Department of Treasury Internal Revenue Service for 1040 Schedule F Profit or Loss from Farming is used to file federal taxes.

36. The electronic Notice of Intent (eNOI) serves as a report of waste discharge (ROWD) for the purposes of this Order.

37. The Central Coast Water Board recognizes that certain limited resource growers² (as defined by the U.S. Department of Agriculture) may have difficulty achieving compliance with this Order. The Central Coast Water Board will prioritize assistance for these growers, including but not limited to technical assistance, grant opportunities, and necessary flexibility to achieve compliance with this Order (e.g., adjusted monitoring, reporting, or time schedules).

Agricultural Dischargers Not Covered Under this Order and Who Must Apply for Individual Waste Discharge Requirements

38. This Order does not cover point source-type discharges from commercial nurseries, nursery stock production, greenhouses, or other operations. This Order does not cover discharges of waste from fully contained greenhouse operations (i.e., those that have no groundwater discharge due to impermeable floors but may have other discharges associated with the operation). These operations must either eliminate all such discharges of waste or submit a ROWD to apply for individual WDRs as set forth in Water Code section 13260.

Enforcement for Noncompliance

39. The State Water Board's Water Quality Enforcement Policy (Enforcement Policy) describes progressive enforcement action for violations of WDRs when appropriate. However, the Enforcement Policy recommends formal enforcement as a first response to more significant violations. Progressive enforcement is an escalating series of actions that allows for the efficient and effective use of enforcement resources to 1) assist cooperative Dischargers in achieving compliance; 2) compel compliance for repeat violations and recalcitrant violators; and 3) provide a disincentive for noncompliance. Progressive enforcement

² The term "Limited Resource Farmer or Rancher" means a participant:

- With direct or indirect gross farm sales not more than the current indexed value in each of the previous two years, and
- Who has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous two years.

A Self-Determination Tool is available to the public and may be completed on-line or printed and completed hardcopy at the USDA website: [Limited Resource Farmer/Rancher Self Determination Tool](#).

actions may begin with informal enforcement actions such as a verbal, written, or electronic communication between the Central Coast Water Board and a Discharger. The purpose of an informal enforcement action is to quickly bring the violation to the Discharger's attention and to give the Discharger an opportunity to return to compliance as soon as possible. The highest level of informal enforcement is a Notice of Violation.

40. The Enforcement Policy recommends formal enforcement actions for the highest priority violations, chronic violations, and/or threatened violations. Violations of this Order that will be considered a priority include, but are not limited to:
- a. Failure to obtain required regulatory coverage;
 - b. Failure to achieve numeric limits;
 - c. Falsifying information or intentionally withholding information required by applicable laws, regulations, or an enforcement order;
 - d. Failure to monitor or provide complete and accurate information as required;
 - e. Failure to pay annual fees, penalties, or liabilities; and
 - f. Failure to submit required reports on time.
41. Water Code section 13350 provides that any person who violates WDRs may be 1) subject to administrative civil liability imposed by the Central Coast Water Board or State Water Board in an amount of up to \$5,000 per day of violation, or up to \$10 per gallon of waste discharged; or 2) subject to civil liability imposed by a court in an amount of up to \$15,000 per day of violation, or up to \$20 per gallon of waste discharged. The actual calculation and determination of administrative civil penalties must be consistent with the Enforcement Policy and the Porter-Cologne Act.

Additional Findings and Regulatory Considerations

42. Attachment A to this Order, incorporated herein, includes additional findings that further describe the Water Board's legal and regulatory authority; compliance with CEQA requirements; applicable plans and policies adopted by the State Water Board and the Central Coast Water Board that contain regulatory conditions that apply to the discharge of waste from irrigated lands; and the rationale for this Order, including descriptions of the environmental and agricultural resources in the central coast region and impacts to water quality and beneficial uses from agricultural discharges.
43. The Central Coast Water Board encourages Dischargers to participate in third-party groups or programs (e.g., certification program, watershed group, water quality coalition, monitoring coalition, or other third-party effort) to facilitate and document compliance with this Order. Third-party programs can be used to implement outreach and education, monitoring and reporting, management practice and/or water quality improvement projects. Regionally scaled third-party

programs addressing multiple Order requirements are preferred to provide economies of scale to reduce Discharger costs, maximize effectiveness, and streamline Water Board oversight; however, watershed- or basin-scale third-party programs of limited scope may be appropriate under certain circumstances and should be coordinated to the extent practicable for consistency and effectiveness. Commodity group certification programs may also be effective in facilitating compliance with this Order. Dischargers participating in an Executive Officer approved third-party program may be subject to permit fee reductions or alternative compliance pathways that substantively comply with this Order.

44. The Central Coast Water Board acknowledges that it will take time to develop meaningful and effective third-party programs that facilitate compliance with this Order. The Order considers this by allowing an initial grace period for the phasing in of various requirements. The phasing in of various requirements is also intended to allow Water Board staff time to develop online reporting tools and templates and to conduct outreach and education to help Dischargers and service providers come up to speed on the new requirements.
45. Third-party programs are discussed in **Part 2, Section A**. The Central Coast Water Board will provide more detailed third-party expectation documents and/or third-party program requests for proposals (RFPs) to inform and solicit third-party program proposals for Executive Officer consideration.
46. The Executive Officer may make non-substantive changes to the Order to correct typographical errors or to maintain consistency within the Order or between the Order and its Attachments, e.g., to conform changes made during the Order development process that were inadvertently not carried through the entire Order. The Board will provide public notice of the non-substantive changes.

IT IS HEREBY ORDERED that Order No. R3-2017-0002 is terminated as of the effective date of this Order except for the purposes of enforcement, and that pursuant to Water Code sections 13260, 13263, and 13267, Dischargers enrolled in this Order, their agents, successors, and assigns, must comply with the following terms and conditions to meet the provisions contained in Water Code Division 7 and regulations, plans, and policies adopted thereunder.

Part 2, Section A. Enrollment, Fees, Termination, General Provisions, and Third-Party Programs

1. This Order is effective upon adoption by the Central Coast Water Board.
2. Except where stated otherwise, all requirements of this Order apply to all Dischargers.

Enrollment

3. Enrollment in this Order requires the submittal of the electronic Notice of Intent (eNOI) pursuant to Water Code section 13260. Submittal of all other technical reports pursuant to this Order is required pursuant to Water Code section 13267. Failure to submit technical reports or the attachments in accordance with the time schedules established by this Order or Monitoring and Reporting Program (MRP), or failure to submit a complete technical report (i.e., of sufficient technical quality to be acceptable to the Executive Officer), may subject the Discharger to enforcement action pursuant to Water Code sections 13261, 13268, or 13350. Dischargers must submit technical reports in the format specified by the Executive Officer.
4. Dischargers who are not currently enrolled in the existing agricultural order must submit to the Central Coast Water Board a complete eNOI prior to discharging. Upon submittal of a complete and accurate eNOI, the Discharger is enrolled under this Order, unless otherwise informed by the Executive Officer.
5. Dischargers who were enrolled in Order R3-2017-0002 as of the effective date of this Order are automatically enrolled in this Order. Within 120 days of Order adoption, enrolled Dischargers must update their eNOI.
6. In the case where an operator may be operating for a period of less than 12 months, the landowner must submit the eNOI. In all other cases, either the landowner or the operator must submit the eNOI. Both the landowner and the operator are Dischargers and considered a responsible party for compliance with the requirements of this Order.
7. **Prior to any discharge or commencement of activities that may cause a discharge**, including land preparation prior to crop production, any Discharger

proposing to control or own a new operation or ranch that has the potential to discharge waste that could directly or indirectly reach waters of the state and/or affect the quality of any surface water and/or groundwater must submit an eNOI.

8. **Within 60 days** of any change in operation or ranch information, the Discharger must update the eNOI.
9. **Within 60 days** of any change in control or ownership of an operation, ranch, or land presently owned or controlled by the Discharger, the Discharger must notify the succeeding owner and operator of the existence of this Order.
10. **Within 60 days** of acquiring control or ownership of an existing operation or ranch, the succeeding Discharger must submit an eNOI.
11. Dischargers must submit all the information required in the eNOI form, including but not limited to the following information for the operation and individual ranch:
 - a. Assessor parcel numbers (APNs) covered by enrollment,
 - b. Landowner(s),
 - c. Operator(s),
 - d. Contact information,
 - e. Third-party program membership,
 - f. Location of operation, including specific ranch(es),
 - g. Map with discharge locations and groundwater wells identified,
 - h. Type and number of groundwater wells located on ranch parcels,
 - i. Total and irrigated acreage,
 - j. Crop types grown,
 - k. Irrigation system type,
 - l. Discharge type,
 - m. Chemical use,
 - n. Slope,
 - o. Impermeable surfaces,
 - p. Presence and location of any waterbodies on or adjacent to the ranch.
 - q. Status of drinking water notification to well users
12. Dischargers or groups of Dischargers seeking regulatory requirements tailored to their specific operation, ranch, geographic area, or commodity may submit an ROWD to obtain an individual order and MRP, or request the development of a general order for a specific type of discharge (e.g., commodity-specific general order). This Order remains applicable to those Dischargers until the Central Coast Water Board adopts such an individual order, MRP, or general order, and, if applicable, the Dischargers are enrolled in the general order.
13. Dischargers seeking enrollment in this Order must submit a statement of understanding of the conditions of this Order and MRP signed by the Discharger

(landowner or operator) with the eNOI. If the operator signs and submits the electronic NOI, the operator must provide a copy of the complete NOI form to the landowner(s).

14. Coverage under this Order is not transferable to any person except after the succeeding Discharger's submittal to the Central Coast Water Board of an updated eNOI and approval by the Executive Officer.

Fees

15. Dischargers must pay a fee to the State Water Resources Control Board in compliance with the fee schedule contained in Title 23 California Code of Regulations.
16. Dischargers must pay any relevant third-party program fees (e.g., Surface Water Third-Party Monitoring Program (aka Cooperative Monitoring Program or CMP) necessary to comply with monitoring and reporting conditions of this Order or they must comply with monitoring and reporting requirements individually.
17. For Dischargers who choose to participate in a third-party program, failure to pay third-party program fees voids a selection or notification of the option to participate in the third-party program and hence requires Dischargers to immediately comply with individual groundwater protection and/or surface water protection requirements.

Termination

18. **Immediately**, if a Discharger wishes to terminate coverage under this Order for the operation or an individual ranch, the Discharger must submit a complete Notice of Termination (NOT), in a format specified by the Executive Officer. Termination from coverage is the date the termination request is approved, unless specified otherwise. All discharges must cease before the date of termination, and any discharges on or after the date of termination are violations of this Order, unless covered by other WDRs or waivers of WDRs. All required monitoring and reporting are due **within 60 days of the termination or March 1 following the termination date**, whichever is sooner, unless otherwise directed by the Executive Officer.

General Provisions

19. The unauthorized discharge of any waste not specifically regulated by this Order, is prohibited.
20. The discharge of waste at a location or in a manner different from that described in the eNOI is prohibited.

21. Dischargers must comply with the Monitoring and Reporting Program (MRP), incorporated herein as Attachment B.
22. All forms, reports, documents, and laboratory data must be submitted to the Central Coast Water Board electronically through the State Water Board's database systems (e.g., GeoTracker, CEDEN,³ etc.).
23. Dischargers are defined in this Order as both the landowner and the operator of irrigated agricultural land on or from which there are discharges of waste from irrigated agricultural activities that could affect the quality of any surface water or groundwater. The Central Coast Water Board will hold both the landowner and the operator liable for noncompliance with this Order.
24. The Executive Officer may propose, and the Central Coast Water Board may adopt, individual WDRs for any Discharger at any time.
25. The Central Coast Water Board or the Executive Officer may, at any time, terminate applicability of this Order with respect to an individual Discharger upon written notice to the Discharger.
26. Noncompliance with requirements in this Order is grounds for enforcement action and/or termination of coverage for waste discharges under this Order, subjecting the Discharger to enforcement under the Water Code for further discharges of waste to surface water or groundwater.
27. The fact that it would have been necessary to halt or reduce the permitted discharge activity to maintain compliance with this Order is not a defense for the Discharger's violations of this Order.
28. Provisions of this Order are severable. If any provision of this Order is found invalid, the remainder of this Order will not be affected.
29. Upon the Central Coast Water Board's or Executive Officer's request and within a reasonable timeframe, Dischargers must submit any information required to determine compliance with this Order or to determine whether there is cause for modifying or terminating this Order.
30. Under authority of Water Code section 13267(c), the Discharger must allow the Central Coast Water Board, or an authorized representative, upon consent or other documents as may be required by law, to do the following:
 - a. Enter upon the Discharger's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this Order,

³ CEDEN is the California Environmental Data Exchange Network.

- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order,
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order, and
- d. Collect samples from and monitor waters of the state within or bordering property subject to this Order, at reasonable times for the purposes of assuring compliance with this Order or as otherwise authorized by the Water Code. The sampling and monitoring may include and is not limited to domestic and irrigation wells, surface receiving waters, and edge of field discharges to surface waters.

31. This Order may be reopened to address changes in statutes, regulations, plans, policies, or case law that govern water quality requirements for the discharges regulated herein.

Order Effectiveness Evaluation

32. To facilitate an adaptive management process to inform modifications to the Order, the Central Coast Water Board will receive annual updates from its staff and, as appropriate, third party groups or programs during public meetings regarding the implementation of this Order. The purpose of the updates is to evaluate and report out on individual discharger and third-party group compliance; identify successes, challenges, and emerging science and management practices; consider potential Order modifications as may be appropriate at five-year intervals; and generally inform the Board and public regarding the Order's effectiveness towards achieving the stated objectives.

Third-Party Programs

33. Dischargers may comply with portions of this Order by participating in third-party groups or programs (e.g., certification program, watershed group, water quality coalition, monitoring coalition, or other third-party effort) approved by the Executive Officer. In this case, the third-party will assist individual Dischargers in achieving compliance with this Order, including implementing water quality improvement projects and required monitoring and reporting as described in the MRP. Compliance with the requirements of this Order is still required for all members of the third-party program; however, the third-party may propose modified monitoring and reporting for approval by the Executive Officer. Third-party program proposals will be evaluated on a case-by-case basis relative to their ability to document compliance with this Order as part of a request for proposal process and as further informed by a forthcoming third-party expectations document.

34. Interested persons may seek discretionary review by the Central Coast Water Board of the Executive Officer's approval or denial of the following work plans:
- Third-party program groundwater quality trend monitoring and reporting.
 - Third-party program surface receiving water quality trend monitoring and reporting.
 - Individual and third-party program follow-up surface receiving water implementation.
35. Interested persons seeking discretionary review by the Central Coast Water Board must submit their request in writing no later than 30 days from the date of the Executive Officer's approval or denial of the work plans noted above.
36. This Order includes specific provisions and an alternative compliance pathway for third-party programs that will also be subject to a third-party request for proposal process and Executive Officer review and approval. Dischargers participating in a third-party administered alternative compliance pathway program, and that remain in good standing as defined in this Order and/or Executive Officer approved third-party work plan, are subject to the third-party program requirements in lieu of individual requirements as specified. The third-party alternative compliance pathway program's assessment and evaluation for groundwater protection and the regional groundwater quality trend monitoring program described in **Part 2, Section C.1** must be closely aligned and coordinated such that they are effectively measuring the objectives the programs are trying to achieve.
37. Third-party program proposals must include and identify specific membership eligibility requirements, for approval by the Executive Officer, to evaluate whether third-party program members are in good standing. Members that are not in good standing with the membership eligibility requirements lose their membership and must immediately comply with individual groundwater protection and/or surface water protection requirements. At a minimum, third-party program proposals must include membership eligibility requirements and follow-up consequences that are triggered, including revocation of membership eligibility, to address the following scenarios where members are no longer in good standing:
- a. Non-payment of fees
 - b. Non-submittal of information
 - c. Non-participation in education/outreach or site visits
 - d. Failure to implement / adapt management practices
38. Consistent with the Water Board's Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Policy), the ineffectiveness of a third-party program through which a Discharger participates in nonpoint source control efforts cannot be used as a justification for lack of individual

discharger compliance. Dischargers continue to be responsible for complying with this Order individually.

39. Dischargers who elect to join one or more third-party programs to facilitate compliance with this Order must retain their membership with the third parties in good standing. If the Discharger does not meet the requirements of membership in a particular third-party program, then the Discharger is responsible for complying with all requirements in this Order individually. If the Discharger is in good standing of another third-party program for another purpose, that third-party program's requirements still apply. For example, a Discharger may no longer be a member in good standing of the third-party alternative compliance pathway program but could still be a member in good standing for a third-party surface receiving water quality trend monitoring and reporting program. For this example, Dischargers may become eligible to rejoin the third-party alternative compliance pathway program by demonstrating compliance with individual groundwater protection requirements.
40. Dischargers who elect to join an approved third-party program must notify the approved third-party program administrator of their election to participate in the third-party program within 60 days of: 1) approval of the third-party program, and/or 2) the Discharger's enrollment in this Order, whichever is later.
41. The third-party program administrator must notify the Central Coast Water Board of Dischargers electing to participate within 90 days of the third-party program approval, and then provide member participation updates on a quarterly basis thereafter. At a minimum, participating Discharger information provided to the Central Coast Water Board must include operation enrollment information (e.g., AW numbers and operation names) and ranch enrollment information (e.g., GeoTracker AGL numbers and ranch names) in a format specified by the Executive Officer.
42. Third-party programs must meet the following minimum criteria:
 - a. Effectiveness of scale and scope – The program must be of sufficient scale and scope relative to its intended purpose to maximize Discharger participation, implementation effectiveness and Order compliance. Although regionally scaled programs are preferred, watershed- or basin-scale programs will be considered as needed to address localized water quality issues.
 - b. Clearly stated goals and objectives – The program must have meaningful and clearly stated goals, objectives, and associated performance metrics relevant to the Order requirements that are the focus of the program.
 - c. Management and administration – The program must have a well-defined and robust governance and administrative structure with clearly defined roles and responsibilities.

- d. Capacity and expertise – The program must demonstrate sufficient technical, managerial, and financial capacity to successfully achieve its goals and objectives.
- e. Physical presence – The program should have a physical presence in the central coast region, including staff and a headquarters, that can assist its members on a continual and as-needed basis. If the third-party program administrator does not have or plan to have a physical presence in the region, they must demonstrate they can effectively establish, maintain, and engage with core membership without a headquarters in the central coast region.
- f. Transparency and accountability – The program must provide regular assessments of its performance relative to its stated goals and objective based on meaningful performance metrics. This includes reporting of water quality data and farm-level data as needed to document compliance with this Order.
- g. Membership and fee accounting – The program must track and provide ongoing accounting of its Discharger membership and fees to document Discharger compliance.
- h. Data management – The program must upload data as required by this Order to the Water Boards' various data management systems (e.g., CEDEN, GeoTracker, etc.).
- i. Member requirements – The program must have clearly stated and enforced Discharger membership eligibility requirements and report out on them as needed to document compliance.
- j. Coordination – The program must consider and coordinate with other third-party programs/groups or local entities as may be appropriate to create consistency; leverage the efforts, infrastructure and expertise of others; and streamline the program to maximize effectiveness (e.g., coordination with Groundwater Sustainability Agencies [GSAs], flood control management agencies, watershed restoration and management entities, etc.).
- k. Continuing education – The program must include continuing education opportunities as appropriate either directly through the program or through coordination with other third-party programs/groups or local entities to ensure its members obtain technical skills and assistance necessary to achieve compliance with the limits established in this Order. In the instance of third-party monitoring programs, membership outreach and education should be implemented to inform members about the monitoring results relative to meeting specific water quality objectives, numeric targets, numeric interim quantifiable milestones, or numeric limits.
- l. Specific project plan documents – The program must have a detailed work plan including a Quality Assurance Project Plan (QAPP) and Sampling and Analysis Plan (SAP) as may be appropriate based on the program goals and objectives and associated Order requirements.

43. The Central Coast Water Board's review of third-party program proposals will consider the criteria outlined above relative to overall program effectiveness, with an emphasis on approving programs that can effectively assist their members in complying with the requirements of this Order.

Part 2, Section B. Planning, Education, Management Practices, and CEQA

Farm Water Quality Management Plan (Farm Plan)

1. Dischargers must develop, implement, and update as necessary a Farm Water Quality Management Plan (Farm Plan) for each ranch. A current copy of the Farm Plan must be maintained by the Discharger and must be submitted to the Central Coast Water Board upon request. At a minimum, the Farm Plan must include the discrete sections listed below. Additional details regarding each section are included in subsequent sections of this Order. Certain elements included in the Farm Plan must be reported on; however, in general, the Farm Plan is a planning and recordkeeping tool used by Dischargers to manage various aspects of their agricultural operation.
 - a. Irrigation and Nutrient Management Plan (INMP)
 - b. Pesticide Management Plan (PMP)
 - c. Sediment and Erosion Management Plan (SEMP)
 - d. Water Quality Education
 - e. CEQA Mitigation Measure Implementation
2. The INMP, PMP, and SEMP sections of the Farm Plan must include information on management practice implementation and assessment. Elements of the INMP are reported on in the Total Nitrogen Applied report or INMP Summary report. Elements of all the sections listed above are reported on in the Annual Compliance Form (ACF). Additional information on the monitoring and reporting requirements related to each of these sections is included in the MRP.
3. Where required by the Executive Officer based on groundwater quality or surface water quality conditions or exceedances of the numeric targets, numeric interim quantifiable milestones, or numeric limits established in this Order, the Farm Plan must incorporate ranch-level groundwater or surface water discharge monitoring information described in the MRP. The ranch-level groundwater and surface water discharge monitoring must be designed and implemented to inform improved management practices to protect groundwater and surface water quality.
4. Dischargers must maintain all records related to compliance with this Order for a minimum of ten years. Records include, but are not limited to, monitoring information, calculations, management practice implementation and assessment, education records, and all required reporting and information used to submit

complete and accurate reports. Third parties that have been approved by the Executive Officer to assist Dischargers with complying with this Order, for example in the form of water quality monitoring, must also maintain all records for a minimum of ten years. Records must be submitted to the Central Coast Water Board upon request or as required by this Order or an approved work plan.

Continuing Education

5. Dischargers must attend outreach and education events annually to obtain technical skills and assistance necessary to achieve compliance with the numeric targets, numeric interim quantifiable milestones, and numeric limits established by this Order. Outreach and education events should focus on meeting water quality objectives and protecting beneficial uses by identifying water quality problems, implementing pollution prevention strategies, and implementing management practices and assessment designed to protect water quality and beneficial uses and resolve water quality problems to achieve compliance with this Order. Records of participation in continuing education must be maintained in the Farm Plan and submitted to the Central Coast Water Board upon request.
6. Dischargers who exceed the fertilizer nitrogen application targets or limits, nitrogen discharge targets or limits, numeric interim quantifiable milestones, or surface receiving water limits must complete additional relevant water quality education sufficient to fully inform the implementation of additional or improved management practices and assessment to avoid future exceedances.
7. A copy of this Order and MRP must be kept at the ranch for reference by operating personnel. Key operating and site management personnel must be familiar with the content of both documents.

Management Practice Implementation and Assessment

8. Dischargers must implement management practices and assessment, as necessary, to improve and protect water quality, protect beneficial uses, achieve compliance with applicable water quality objectives, achieve the numeric targets, numeric interim quantifiable milestones, and numeric limits established in this Order. Management practices implementation and assessment must be documented in the appropriate section of the Farm Plan (e.g., irrigation and nutrient management practices and assessment must be documented in the INMP section of the Farm Plan). Dischargers must report on management practice implementation and assessment in the ACF, as described in the MRP. Dischargers may demonstrate management practice effectiveness at ranch-level or watershed-scale.

CEQA Mitigation Measure Implementation, Monitoring, and Reporting

9. Impacts and mitigation measures identified in CEQA Mitigation Monitoring and Reporting Program (MMRP) are set forth in the Final Environmental Impact Report (FEIR) at Appendix D, which is incorporated by reference. Mitigation measures identified in the FEIR for this Order are required to be implemented as described in Appendix D unless exempted by another law or regulation. These mitigation measures will substantially reduce environmental effects of the project. The mitigation measures included in this Order have eliminated or substantially lessened all significant effects on the environment, where feasible. Where noted, some of the mitigation measures are within the responsibility and jurisdiction of other public agencies. Such mitigation measures can and should be adopted, as applicable, by those other agencies.
10. Dischargers must report on mitigation measure implementation electronically in the Annual Compliance Form (ACF), as described in the MRP.

Part 2, Section C.1. Groundwater Protection

1. Dischargers may not be subject to all provisions of **Part 2, Section C.1** if they are members in good standing with the third-party alternative compliance pathway program included within **Part 2, Section C.2**.

Phasing

2. Ranches are assigned the Groundwater Phase Area of the groundwater basin where the ranch is located based on the relative level of water quality and beneficial use impairment and risk to water quality. All ranches are assigned a Groundwater Phase Area of 1, 2, or 3. Groundwater Phase 1 areas represent greater water quality impairment and higher risk to water quality relative to Groundwater Phase 2 and 3 areas.
3. The requirements and implementation schedules for groundwater protection are based on the groundwater phase areas, listed in **Table C.1-1** and shown on the maps in **Figure C.1-1**.
4. In the event that a ranch spans multiple Groundwater Phase areas, the ranch will be assigned the earlier phase. For example, a ranch that spans both Groundwater Phase 1 and Groundwater Phase 2 areas will be assigned to Groundwater Phase 1.
5. The Groundwater Phase Area assigned to each ranch will be displayed on the ranch eNOI in GeoTracker.

Irrigation and Nutrient Management Plan

6. Dischargers must develop and implement an Irrigation and Nutrient Management Plan (INMP) that addresses both groundwater and surface water. This section applies to the groundwater related INMP requirements and the surface water related INMP requirements are contained within **Part 2, Section C.3** of this Order. The INMP is a section of the Farm Plan and must be maintained in the Farm Plan and submitted to the Central Coast Water Board upon request. Summary information from the INMP must be submitted in the INMP Summary report. At a minimum, the elements of the INMP related to groundwater protection must include:
 - a. Monitoring and recordkeeping necessary to submit complete and accurate reports, including the ACF, Total Nitrogen Applied (TNA) report, and INMP Summary report.
 - b. Planning and management practice implementation and assessment that results in compliance with the fertilizer nitrogen application limits in **Table C.1-2** and the nitrogen discharge targets and limits in **Table C.1-3**.
 - c. Descriptions of all irrigation, nutrient, and salinity management practices implemented and assessed on the ranch.
 - d. When INMP certification is required, e.g., as a follow-up action or as a consequence for not meeting the quantifiable milestones and time schedules below, the INMP certification shall include the following:

The person signing this Irrigation and Nitrogen Management Plan (INMP) certifies, under penalty of law, that the INMP was prepared under his/her direction and supervision, that the information and data reported is to the best of his/her knowledge and belief, true, accurate, and complete, and that he/she is aware that there are penalties for knowingly submitting false information. The qualified professional signing the INMP may rely on the information and data provided by the Discharger and is not required to independently verify the information and data.

The qualified professional signing the INMP below further certifies that he/she used sound irrigation and nitrogen management planning practices to develop irrigation and nitrogen application recommendations and that the recommendations are informed by applicable training to minimize nitrogen loss to surface water and groundwater. The qualified professional signing the INMP is not responsible for any damages, loss, or liability arising from subsequent implementation of the INMP by the Discharger in a manner that is inconsistent with the INMP's recommendations for nitrogen application. This certification does not create any liability or claims for environmental violations.

Qualified professional certification:

"I, _____, certify this INMP in accordance with the statement above."

_____ (Signature)

The discharger additionally agrees as follows:

"I, _____, Discharger, have provided information and data to the certifier above that is, to the best of my knowledge and belief, true, accurate, and complete, that I understand that the certifier may rely on the information and data provided by me and is not required to independently verify the information and data, and that I further understand that the certifier is not responsible for any damages, loss, or liability arising from subsequent implementation of the INMP by me in a manner that is inconsistent with the INMP's recommendations for nitrogen application. I further understand that the certification does not create any liability for claims for environmental violations."

Quantifiable Milestones and Time Schedules

7. As shown in **Table C.1-2**, the fertilizer nitrogen application limits go into effect December 31, 2023.
8. As shown in **Table C.1-3**, the nitrogen discharge targets go into effect December 31, 2023 and nitrogen discharge limits go into effect December 31, 2027.

Fertilizer Nitrogen Application Limits

9. Dischargers must not apply fertilizer nitrogen (**A_{FER}**) at rates greater than the limits in **Table C.1-2**. Compliance with fertilizer nitrogen application limits is assessed for each specific crop reported in the TNA report or INMP Summary report.

Nitrogen Discharge Targets and Limits

10. This Order requires Dischargers to submit information on nitrogen applied (**A**) and nitrogen removed (**R**). This Order also establishes nitrogen discharge targets and limits based on the calculation of nitrogen applied minus nitrogen removed (**A-R**) using the formulas below. Nitrogen must not be discharged at rates greater than the targets and limits in **Table C.1-3**. Compliance with nitrogen discharge targets and limits is assessed annually for the entire ranch in the INMP Summary

report through one of the **three compliance pathways** shown below.
Compliance with all pathways is not required.

Compliance Pathway 1:

$$A_{FER} + (C \times A_{COMP}) + (O \times A_{ORG}) + A_{IRR} - R = \text{Nitrogen Discharge}$$

OR

Compliance Pathway 2:

$$A_{FER} + (C \times A_{COMP}) + (O \times A_{ORG}) = R$$

OR

Compliance Pathway 3:

$$A_{FER} + (C \times A_{COMP}) + (O \times A_{ORG}) - R = \text{Nitrogen Discharge}$$

In all formulas, $R = R_{HARV} + R_{SEQ} + R_{SCAVENGE} + R_{TREAT} + R_{OTHER}$

- a. **A_{FER}** is the amount of fertilizer nitrogen applied in pounds per acre.
- b. **C** is the compost discount factor used to represent the amount of compost nitrogen mineralized during the year that the compost was applied.
- c. **A_{COMP}** is the total amount of compost nitrogen applied in pounds per acre.
- d. **O** is the organic fertilizer discount factor used to represent the amount of nitrogen mineralized during the first 12 weeks in the year it was applied.
- e. **A_{ORG}** is the total amount of organic fertilizer or amendment nitrogen applied in pounds per acre.
- f. **A_{IRR}** is the amount of nitrogen in pounds per acre applied in the irrigation water estimated from the volume required for crop evapotranspiration (ET) or volume of water applied.
- g. **R** is the amount of nitrogen removed from the field through harvest, sequestration, or other removal methods, in pounds per acre.
- h. **R_{HARV}** is the amount of nitrogen removed from the field through harvest or other removal of crop material.
- i. **R_{SEQ}** is the amount of nitrogen removed from the field through sequestration in woody materials of permanent or semi-permanent crops.
- j. **$R_{SCAVENGE}$** is the amount of nitrogen credited as removed from the field through nitrogen scavenging cover crops utilized during the wet/rainy season, nitrogen scavenging high carbon amendments during the wet/rainy season, or high carbon woody materials applied as mulch to the crop ground surface.
- k. **R_{TREAT}** is the amount of nitrogen removed from the ranch through a quantifiable treatment method (e.g., bioreactor).

- I. **ROTHER** is the amount of nitrogen removed from the ranch through other methods not previously quantified.
11. The Central Coast Water Board encourages the use of irrigation water nitrogen as a method of reducing the amount of fertilizer nitrogen applied to crops. The use of irrigation water nitrogen is typically referred to as “pump and fertilize” and is incentivized through compliance pathway 2 and 3 in [Table C.1-3](#). The amount of irrigation water nitrogen is not used in the compliance calculation in these compliance pathways. The amount of irrigation water nitrogen must be reported regardless of the compliance pathway.
12. The Central Coast Water Board encourages the use of compost to improve soil health, nutrient and carbon sequestration, and water holding capacity consistent with the state’s Healthy Soils Initiative. All compost nitrogen (**ACOMP**) applied to the ranch must be reported in the TNA report or INMP Summary report; however, the use of compost is incentivized through the option for Dischargers to use a compost “discount” factor (**C**). Dischargers may use the compost discount factor provided by the Central Coast Water Board in the MRP or may determine their own discount factor. The discounted compost nitrogen must, at a minimum, represent the amount of compost mineralized during the year the compost was applied to the ranch. If the Discharger uses their own compost discount factor, they must maintain records of the method used to determine the compost discount factor in the Farm Plan, and these records must be submitted to the Central Coast Water Board upon request.
13. The Central Coast Water Board encourages the use of organic fertilizers and amendments to improve soil health, nutrient and carbon sequestration, and water holding capacity consistent with the state’s Healthy Soils Initiative. All organic fertilizer and amendment nitrogen (**AORG**) applied to the ranch must be reported in the TNA report or INMP Summary report; however, the use of organic fertilizers and amendments is incentivized through the option for Dischargers to use an organic fertilizer “discount” factor (**O**). Dischargers may use the organic fertilizer discount factor associated with the products C:N ratio, provided by the Central Coast Water Board in the MRP. The discounted organic fertilizer nitrogen must, at a minimum, represent the amount of organic fertilizer mineralized during the first 12 weeks the organic fertilizer was applied to the ranch. The Discharger must maintain records of the organic products used and their associated C:N ratios in the Farm Plan, and these records must be submitted to the Central Coast Water Board upon request. The following products are not eligible to receive an organic fertilizer discount: a) products with no organic compounds (long chain carbon) molecules, such as conventional fertilizer, slow release fertilizers, b) products that do not depend on microbial mineralization to release nitrogen to mineral form to make it available for crop uptake, c) products without

C:N ratio information available, and d) organic liquid fertilizers that are in the liquid and/or emulsified form (excluding organic foliar applications).

14. The amount of **crop material** removed through harvest or other methods (R_{HARV}) must be calculated using the formula described below. Dischargers must either use the crop-specific conversion coefficient values found in the MRP or develop their own conversion coefficient values following the approved method in the MRP. If Dischargers develop their own conversion coefficient, they must maintain information on the method used in the Farm Plan, and these records must be submitted to the Central Coast Water Board upon request.

$$R_{HARV} = \text{Conversion Coefficient} \times \text{Material Removed}$$

- a. The **Conversion Coefficient** is a crop-specific coefficient used to convert from units of material removed per acre to units of nitrogen removed per acre.
 - b. **Material Removed** is the amount of nitrogen-containing material removed from the field, in units of pounds per acre.
15. The amount of nitrogen removed through **sequestration** in woody material of permanent or semi-permanent crops (R_{SEQ}) must be estimated by the Discharger. Dischargers must maintain records detailing how they estimated the amount of nitrogen sequestered in their permanent crops. These records must be maintained in the Farm Plan and submitted to the Central Coast Water Board upon request.
16. The Central Coast Water Board encourages Dischargers to implement best management practices that reduce nitrogen leaching in the wet/rainy season and improve soil healthy. Dischargers may claim a nitrogen scavenging credit ($R_{SCAVENGE}$) one time per year for each ranch acre by utilizing any of the four options provided by the Central Coast Water Board in the MRP. The total acres receiving the nitrogen scavenging credit may not exceed the ranch acres. Dischargers electing to claim the nitrogen scavenging credit must ensure that their cover crop, high carbon amendment, or high carbon woody materials meets the definitions of a nitrogen scavenging cover crop, nitrogen scavenging high carbon amendment, or high carbon woody materials as noted in the MRP and Definitions. Substantiating records for this credit must be maintained in the Farm Plan and submitted to the Central Coast Water Board upon request.
17. The Central Coast Water Board encourages Dischargers to develop and implement innovative methods for removing nitrogen from the environment to improve water quality. Dischargers may use treatment methods (e.g., bioreactors) on their ranch by participating in collective treatment programs or

systems⁴ to remove nitrogen from groundwater or surface water and may count this towards their nitrogen removal (**R**) value if they are able to quantify the amount of nitrogen removed from ranch discharge to groundwater or surface water. This quantified removal through treatment or other innovative methods must be reported as **R_{TREAT}**. Dischargers electing to account for this nitrogen removal must monitor the volume and concentration of water entering and exiting the ranch or collective treatment system and calculate the amount of nitrogen removed. These records must be maintained in the Farm Plan and submitted to the Central Coast Water Board upon request.

18. If Dischargers remove additional nitrogen through means other than removing crop material (**R_{HARV}**), sequestration (**R_{SEQ}**), scavenging credit (**R_{SCAVENGE}**), or treatment methods (**R_{TREAT}**), they must quantify and report this additional removal as **R_{OTHER}**. Dischargers must maintain records detailing how they calculated **R_{OTHER}**. These records must be maintained in the Farm Plan and submitted to the Central Coast Water Board upon request.
19. The discharge of nitrogen in excess of the nitrogen discharge **targets** in **Table C.1-3** may result in additional requirements, including obtaining additional education, INMP certification by a qualified professional, implementing additional or improved management practices, and increased monitoring and/or reporting.
20. The discharge of nitrogen in excess of the nitrogen discharge **limits** in **Table C.1-3** may result in additional requirements, including obtaining additional education, INMP certification by a qualified professional, implementing additional or improved management practices, increased monitoring and reporting, and/or progressive enforcement actions.
21. Dischargers who apply more fertilizer nitrogen (**A_{FER}**) than the fertilizer nitrogen application limits in **Table C.1-2** to any specific crop **and** who are able to demonstrate compliance with the **final** nitrogen discharge limits, as shown in **Table C.1-3**, are exempt from the fertilizer nitrogen application limit.
22. Dischargers who can quantifiably demonstrate that their ranches pose no threat to surface water quality or groundwater quality may submit a technical report to the Executive Officer for review. If approved, the Discharger is not required to conduct the nitrogen application (**A**) or removal (**R**) monitoring and reporting or to submit the INMP Summary report, regardless of what Groundwater Phase area the ranch is in. The technical report must demonstrate that nitrogen applied at the ranch does not percolate below the root zone in an amount that could

⁴ Collective treatment programs or systems may be installed or implemented outside the ranch boundaries at a downstream or downflow collective discharge point from multiple ranches to remove nitrogen from groundwater or surface water from each ranch participating in the collective treatment program or system.

degrade groundwater and does not migrate to surface water through discharges, including drainage, runoff, or sediment erosion. Dischargers must provide the Executive Officer with annual updates to confirm that the exemption is still applicable. Failure to provide sufficient annual updates confirming that the exemption is still applicable will result in an immediate reinstatement of the requirement to submit the INMP Summary report for applicable Dischargers. Dischargers electing to use this approach are still eligible to participate in the third-party alternative compliance pathway for groundwater protection.

23. Dischargers who can quantifiably demonstrate that their ranch is achieving the **final** nitrogen discharge limits, as shown in **Table C.1-3**, are not required to submit the nitrogen removal (**R**) reporting in the INMP Summary report, regardless of what Groundwater Phase area the ranch is in. Example situations where this may apply include participation in an approved third-party program that certifies that the Discharger is meeting the final discharge limit and will continue to do so for the duration of the Discharger's participation in the approved third-party program, or by submitting a technical report, subject to Executive Officer review, that quantifies the amount of nitrogen discharge based on the volume and nitrogen concentration of all discharges from the ranch. In these situations, confirmation of membership in the approved third-party program or Executive Officer approval of a submitted technical report constitute compliance with the nitrogen removed (**R**) reporting requirement in the INMP Summary report. This exemption only applies to removal (**R**) in the INMP Summary report; all other requirements, including the TNA report, still apply as described in this Order. Dischargers must provide the Executive Officer with annual updates to confirm that the exemption is still applicable. Failure to provide sufficient annual updates confirming that the exemption is still applicable will result in an immediate reinstatement of the requirement to submit the nitrogen removal (**R**) reporting information in the INMP Summary report for applicable Dischargers. Dischargers electing to use this approach are still eligible to participate in the third-party alternative compliance pathway for groundwater protection.
24. Dischargers, groups of dischargers or commodity groups who can quantify the amount of nitrogen discharged from their ranch or for specific crops or via specific management practices by directly monitoring it at the points of discharge can propose an alternative monitoring methodology to comply with the nitrogen discharge targets and limits, in lieu of using the A-R compliance formulas. Example situations where this may apply includes greenhouse, nursery, container production or intensive crop production where irrigation and drain water is captured and allows for direct monitoring of discharges. For these types of situations, it may be easier to monitor nitrogen discharge than to calculate the amount of nitrogen removed at harvest for each one of the many different crops and plants being grown. Dischargers must submit a request to the Executive

Officer with a technical report of the methodology proposed to quantify nitrogen discharges. The methodology must include enough information to quantify the amount of nitrogen discharged and confirm compliance with the nitrogen discharge targets and limits, as shown in [Table C.1-3](#) or [Table C.2-2](#) (for Dischargers participating in the Third-Party Alternative Compliance Pathway Program for Groundwater Protection described in [Part 2, Section C.2](#)). Acceptable methodologies must include direct measurements of the volume and nitrogen concentration of the water discharged from each ranch per acre and year. Executive Officer approval of the method(s) must be granted before the discharger begins reporting nitrogen discharge based on the proposed methodology. Dischargers who obtain Executive Officer approval to directly monitor their nitrogen discharge from their ranches will not be required to submit nitrogen removal (R) reporting in the INMP Summary report. Dischargers electing to use this approach are still eligible to participate in the third-party alternative compliance pathway program for groundwater protection.

25. The initial 2027 nitrogen discharge limits, as shown in [Table C.1-3](#) will be re-evaluated based on Discharger reported nitrogen applied and removed data, new science, and management practice implementation and assessment before becoming effective.

Monitoring and Reporting

26. Dischargers must report on management practice implementation and assessment electronically in the **ACF**, as described in the MRP.
27. Dischargers must record and report total nitrogen applied to all crops grown on the ranch, electronically in the TNA report form, as described in the MRP.
28. Dischargers must track and record the following elements of the INMP Summary report that are not included in the TNA report: total nitrogen removed from the ranch and information on irrigation water application and discharge volumes. Dischargers must submit this information electronically in the INMP Summary report form as described in the MRP.
29. The INMP Summary report contains the same nitrogen application information as the TNA report, plus additional information related to nitrogen removed and irrigation management. **Therefore, the INMP Summary report satisfies the TNA report requirement and an additional TNA report is not required to be submitted when the INMP Summary report is submitted to the Central Coast Water Board.**
30. Dischargers must conduct **irrigation well monitoring and reporting prior to the start of groundwater quality trend monitoring and reporting**, either individually or as part of a third-party effort, as described in the MRP.

31. Dischargers must conduct **on-farm domestic well monitoring and reporting**, either individually or as part of a third-party effort, as described in the MRP.
32. Dischargers must conduct **groundwater quality trend monitoring and reporting**, either individually or as part of a third-party effort, as described in the MRP. This requirement applies to all Dischargers enrolled in this Order, regardless of how many wells are currently present on their ranch.
 - a. Dischargers who elect to perform groundwater quality trend monitoring and reporting as part of a **third-party** effort must form or join a third-party. The third-party must submit a work plan for Executive Officer review by the dates and covering the areas specified in the MRP unless it is associated with the Third-Party Alternative Compliance Pathway for Groundwater Protection described in **Part 2, Section C.2**. The work plan must be approved by the Executive Officer prior to implementation. Once approved by the Executive Officer, the work plan must be implemented.
 - b. Dischargers who elect to perform groundwater quality trend monitoring and reporting individually must submit a work plan for Executive Officer review, by the date specified in the MRP, based on their ranch location. The work plan must be approved by the Executive Office prior to implementation. The work plan must describe how the ranch-level groundwater quality trend monitoring program will evaluate groundwater quality trends over time and assess the impacts of agricultural discharges on groundwater quality. Once approved by the Executive Officer, the work plan must be implemented. Dischargers without a well on their property may comply with individual ranch-level groundwater quality trend monitoring and reporting requirements by implementing one of the options specified in the MRP.
33. When required by the Executive Officer based on groundwater quality data or significant and repeated exceedance of the nitrogen discharge targets or limits, Dischargers must complete **ranch-level groundwater discharge monitoring and reporting**, either individually or as part of a third-party effort as described in the MRP. Water Board staff will coordinate with Dischargers prior to the Executive Officer invoking this requirement to determine if non-compliance is the result of unforeseen or uncontrollable circumstances and to provide the Discharger with 90-day advanced notice of the forthcoming requirement. When ranch-level groundwater discharge monitoring and reporting is required, a work plan, including a SAP and QAPP, must be submitted for Executive Officer review prior to implementation. Once approved by the Executive Officer, the work plan must be implemented. Ranch-level groundwater discharge monitoring may be discontinued with the approval of the Executive Officer when the Discharger comes into compliance with the nitrogen discharge targets or limits, or the discharge has otherwise ceased.

Part 2, Section C.2. Third-Party Alternative Compliance Pathway for Groundwater Protection

1. Dischargers that are members in good standing in the third-party alternative compliance pathway program are subject to the provisions of this **Part 2, Section C.2**, unless otherwise stated. For purposes of this section, such Dischargers are referred to as “participating Dischargers.”

Participating dischargers:

- a. Are not subject to fertilizer nitrogen application limits in **Table C.1-2**, which are enforceable by the Central Coast Water Board.
 - b. Are not subject to nitrogen discharge limits in **Table C.1-3**, which are enforceable by the Central Coast Water Board.
 - c. Are subject to targets, which if exceeded result in consequences outlined in this **Part 2, Section C.2**.
 - d. Are not subject to ranch-level groundwater discharge monitoring and reporting.
 - e. Are generally provided more time to achieve fertilizer nitrogen application targets and nitrogen discharge targets, relative to non-participating dischargers.
2. Prior to the initiation of the work plan process outlined below and in the MRP for this third-party alternative compliance pathway program, entities wishing to implement the third-party alternative compliance pathway program described in this **Part 2, Section C.2** must submit a third-party alternative compliance pathway program proposal consistent with the third-party program requirements outlined in **Part 2, Section A** of this Order, as well as the request for proposal process and associated third-party program expectations document forthcoming after Order adoption. For purposes of this section, the entity approved to implement the third-party alternative compliance pathway is referred to as the approved third-party alternative compliance pathway program administrator.
 3. Participating Dischargers must develop and implement an Irrigation and Nutrient Management Plan (INMP) that addresses groundwater. The INMP is a section of the Farm Plan and must be maintained in the Farm Plan and submitted to the Central Coast Water Board upon request. Summary information from the INMP must be submitted in the INMP Summary report. At a minimum, the elements of the INMP related to groundwater and surface water protection for participating Dischargers in a third-party program must include:
 - a. Monitoring and recordkeeping necessary to submit complete and accurate reports, including the Annual Compliance form (ACF), Total Nitrogen Applied (TNA) report, and INMP Summary report.

- b. Planning and management practice implementation and assessment that results in compliance with the fertilizer nitrogen application targets in [Table C.2-1](#), the nitrogen discharge targets in [Table C.2-2](#), and groundwater protection area targets to be determined and approved by the Executive Officer.
- c. Descriptions of all irrigation, nutrient, and salinity management practices implemented and assessed on the ranch.

Quantifiable Milestones and Time Schedules

4. As shown in [Table C.2-1](#), the fertilizer nitrogen application targets go into effect December 31, 2024 for participating Dischargers in the third-party alternative compliance pathway.
5. As shown in [Table C.2-2](#), the nitrogen discharge targets go in to effect during the third year of this Order (December 31, 2024) for participating Dischargers in the third-party alternative compliance pathway.

Fertilizer Nitrogen Application Targets

6. Participating Dischargers must not apply fertilizer nitrogen (A_{FER}) at rates greater than the **targets** in [Table C.2-1](#). Compliance with fertilizer nitrogen application targets is assessed annually for each specific crop reported in the TNA report or INMP Summary report.
7. Participating Dischargers that apply fertilizer nitrogen (A_{FER}) at rates greater than the **targets** in [Table C.2-1](#) one year after the compliance date are subject to follow-up by the approved third-party program administrator, which could include additional education and/or implementation of additional or improved management practices.
8. Participating Dischargers that apply fertilizer nitrogen (A_{FER}) at rates greater than the **targets** in [Table C.2-1](#) for a two-year running average after the compliance date, are no longer eligible to participate in the third-party alternative compliance pathway program and must comply with the individual groundwater protection requirements in [Part 2, Section C.1](#). Water Board staff will coordinate with participating Dischargers prior to the Executive Officer invoking this requirement to determine if non-compliance is the result of unforeseen or uncontrollable circumstances and to provide the Discharger with 90-day advanced notice of the forthcoming individual groundwater protection requirements.

Nitrogen Discharge Targets

9. Participating Dischargers must not discharge nitrogen at rates greater than the **targets** in [Table C.2-2](#). Compliance with nitrogen discharge targets is assessed

annually for the entire ranch using INMP Summary report information. Participating Dischargers must comply with at least one of the nitrogen discharge compliance pathways described in **Part 2, Section C.1** by the compliance date.

10. The final year 2028 nitrogen discharge **targets**, as shown in **Table C.2-2** will be re-evaluated based on discharger reported nitrogen applied and removed data, new science, management practice effectiveness assessment and evaluation, and groundwater protection area collective numeric interim and final targets before becoming effective.
11. Participating Dischargers that discharge nitrogen in excess of the nitrogen discharge **targets** in **Table C.2-2** one year after the compliance date are subject to follow-up by the approved third-party alternative compliance pathway program administrator, which could include additional education and/or implementation of additional or improved management practices.
12. Participating Dischargers that discharge nitrogen in excess of the year 2024 or 2026 nitrogen discharge **targets** in **Table C.2-2** for a two-year running average, must obtain annual INMP certification by a qualified professional until nitrogen discharge targets are achieved for a two-year running average. The INMP certification must include the certification language outlined in **Part 2, Section C.1**.
13. Participating Dischargers that discharge nitrogen in excess of the final nitrogen discharge target in **Table C.2-2** for a three-year running average after the compliance date, are no longer eligible to participate in the third-party alternative compliance pathway program and must comply with individual groundwater protection requirements in **Part 2, Section C.1**. Water Board staff will coordinate with participating Dischargers prior to the Executive Officer invoking this requirement to determine if non-compliance is the result of unforeseen or uncontrollable circumstances and to provide the Discharger with 90-day advanced notice of the forthcoming individual groundwater protection requirements.

Groundwater Protection Areas, Formulas, Values, and Targets

14. The approved third-party alternative compliance pathway program administrator, on behalf of its participating Dischargers, must develop and submit incremental 35%, 70%, and 100% work plans for Executive Officer approval, as described in the MRP. The 35% and 70% work plans will be subject to Executive Officer approval following a 30-day written public period and a public meeting to receive public comments and board input.
15. The incremental draft and final work plans must include the following:

- a. Clearly defined objectives and scientific justification for all proposed groundwater protection (GWP) areas, formulas, values, and collective numeric interim and final targets.
 - b. Scientific justification in support of the proposed GWP areas with respect to, but not limited to, geology, hydrogeology, groundwater basin and subbasin areas, recharge areas, land uses, cropping patterns, and potential membership coverage by acreage and number of members. The proposed GWP areas, formula, values, and collective interim and final targets must be tied together and scaled in a way that will allow for the effective evaluation of water quality and beneficial use protection and compliance with GWP interim and final targets on both a collective and individual basis.
 - c. A program to assess and evaluate the performance and effectiveness of the third-party alternative compliance pathway program's collective numeric interim and final targets in achieving tangible groundwater quality improvements over time at the individual GWP area scale. The assessment and evaluation program must be scaled – spatially and temporally – in coordination with the regional groundwater quality trend monitoring program described in **Part 2, Section C.1** of the third-party program over time.
 - d. Criteria and associated follow-up actions or consequences that the third-party alternative compliance pathway program administrator will implement if individual participating Dischargers do not meet collective numeric interim and final targets, and third-party program membership eligibility requirements including membership probation and revocation to address recalcitrant participating Dischargers.
16. The final work plans must be approved by the Executive Officer prior to implementation. Once approved by the Executive Officer, the work plans must be implemented.
17. Compliance with the collective numeric interim and final targets for a GWP area shall be determined by aggregating data from participating Dischargers within a GWP area to determine if the combined nitrogen discharge is achieving collective compliance with the GWP Area numeric interim and final targets.
18. Although compliance with GWP collective numeric interim and final targets is assessed using the combined nitrogen discharge of participating Dischargers in a GWP area, GWP collective numeric interim and final targets must be designed such that there is a clear and quantifiable means of assessing individual ranch level contribution to the success or failure of complying with the GWP area collective numeric interim and final targets.

19. Participating Dischargers in a GWP area that exceed the GWP collective numeric interim or final targets by 20% or more, as evaluated individually and on an annual basis, are subject to follow-up by the approved third-party alternative compliance pathway program administrator, which could include additional education or implementation of additional or improved management practices.
20. All participating Dischargers in a GWP area that exceeds the collective numeric interim and final GWP targets by 20% or more for a 3-year running average after the compliance date, are no longer eligible to participate in the third-party alternative compliance pathway program and must comply with the individual groundwater protection requirements in **Part 2, Section C.1**.

Monitoring and Reporting

21. Participating Dischargers must submit ACF, TNA, and INMP Summary information according to requirements outlined in **Part 2, Section C.1**, and as described in the MRP.
22. Participating Dischargers must submit ACF, TNA, and INMP Summary information according to the groundwater phase assigned to each ranch. Groundwater phases are outlined in **Part 2, Section C.1**.
23. Participating Dischargers must submit groundwater monitoring and reporting information according to requirements outlined in **Part 2, Section C.1** and as described in the MRP, either individually or as part of a third-party program.

Part 2, Section C.3. Surface Water Protection

Priority Areas (Individual)

1. Ranches are assigned the Surface Water Priority area of the HUC-8 watershed where the ranch is located based on the relative level of water quality, beneficial use impairment and risk to water quality. All ranches are assigned a Surface Water Priority of 1, 2, 3, or 4. Surface Water Priority Area 1 areas represent greater water quality impairment and higher risk to water quality relative to Surface Water Priority Areas 2, 3, and 4.
2. The follow-up surface receiving water implementation requirements for surface water protection are based on the surface water priority areas, listed in **Table C.3-1** and shown on the map in **Figure C.3-1**.
3. In the event that a ranch spans multiple Surface Water Priority areas, the ranch will either be assigned the earlier priority or will be assigned the priority of the watershed or drainage unit that the ranch drains or discharges to, if specific discharge information is provided to the Central Coast Water Board.

4. The Surface Water Priority assigned to each ranch will be displayed in the ranch eNOI in GeoTracker.

Priority Areas (Third-Party Program)

5. Ranches that are enrolled as part of an approved third-party follow-up surface receiving water implementation program are assigned the third-party program Surface Water Priority of high priority, medium priority, or low priority where the ranch is located, as shown in [Table C.3-1.3P](#) and the map shown in [Figure C-3.1. 3P](#).
6. In the event that a ranch spans multiple third-party program Surface Water Priority areas, the ranch will either be assigned the earlier priority or will be assigned the priority of the watershed or drainage unit that the ranch drains or discharges to, if specific discharge information is provided to the Central Coast Water Board.
7. The third-party program Surface Water Priority assigned to each ranch will be displayed in the ranch eNOI in GeoTracker.

Irrigation and Nutrient Management

8. Dischargers must develop and implement an Irrigation and Nutrient Management Plan (INMP) that addresses both groundwater and surface water. This section applies to the surface water related INMP requirements and the groundwater related INMP requirements are contained within [Part 2, Section C.1](#) of this Order. The INMP is a section of the Farm Plan, must be maintained in the Farm Plan (see [Part 2, Section B](#) and Farm Plan paragraph 14 below), and submitted to the Central Coast Water Board upon request. Summary information from the INMP must be submitted in the ACF, as described in the MRP.

Pesticide Management

9. Dischargers must develop and implement a Pesticide Management Plan (PMP). The PMP is a section of the Farm Plan, must be maintained in the Farm Plan (see [Part 2, Section B](#) and Farm Plan paragraph 14 below), and submitted to the Central Coast Water Board upon request. Summary information from the PMP must be submitted in the ACF, as described in the MRP.

Sediment and Erosion Management

10. Dischargers must develop and implement a Sediment and Erosion Management Plan (SEMP). The SEMP is a section of the Farm Plan, must be maintained in the Farm Plan (see [Part 2, Section B](#) and Farm Plan paragraph 14 below), and submitted to the Central Coast Water Board upon request. Summary information from the SEMP must be submitted in the ACF, as described in the MRP.

Impermeable Surfaces

11. Ranches with either 50 to 100 percent of fields covered by impermeable surfaces (defined in Attachment C of this Order), or with greater than or equal to 22,500 square feet (0.5 acre) of impermeable surfaces must manage stormwater discharge duration, rate, and volume as described below.
 - a. Stormwater discharge intensity from fields with impermeable surfaces must not exceed the stormwater discharge intensity from equivalent permeable field area for any storm event up to and including the 10-year storm event. The *Santa Barbara Urban Hydrograph Method*⁵ and the *Rational Method*⁶ are two methods for determining the stormwater discharge intensity match, however other similar methods to determine stormwater discharge intensity may be used.
 - b. Stormwater discharge volume from fields with impermeable surfaces must not exceed the stormwater discharge volume from equivalent permeable field area for any storm event up to and including the 95th percentile, 24-hour storm event. The *Curve Number Method*⁷ is a method for determining the stormwater discharge volume match, however other similar methods to determined stormwater discharge volume may be used.
 - c. Description and time schedules of management practices, treatment, and/or control measures implemented to meet design storm requirements and mitigate for increased stormwater runoff from impermeable surfaces must be kept in the Farm Plan. Methods for assessing the effectiveness of each management practice, treatment, and/or control measure include calculation of peak and runoff volumes, visual inspection, photo documentation, and local precipitation event data, however other storm event measurement types and recordkeeping that determine the effectiveness of management practices may be used.

Farm Plan

12. At a minimum, the elements of the Farm Plan related to surface water protection must include:
 - a. Monitoring and recordkeeping necessary to submit complete and accurate reports, including the ACF.

⁵ The Santa Barbara Urban Hydrograph Method is based on the curve number approach and is useful for sheet flow over a plane surface, called overland flow.

⁶ The Rational Method is used to determine peak discharge from runoff in a given area.

⁷ The Curve Number Method was developed by the Soil Conservation Service to estimate runoff from rainfall on agricultural fields and provides runoff depth that can be used to calculate runoff volume.

- b. Planning and management practice implementation and assessment that results in compliance with the surface water limits in [Table C.3-2](#) (TMDL areas) and [Table C.3-3](#) (non-TMDL areas) for nutrients, [Table C.3-4](#) (TMDL areas) and [Table C.3.5](#) (non-TMDL areas) for pesticides and toxicity, and [Table C.3-6](#) (TMDL areas) for sediment and [Table C.3-7](#) (non-TMDL areas) for turbidity that apply to a ranch based on the ranch location.
- c. Descriptions of all management practices implemented on the ranch, as follows:
 - i. All irrigation, nutrient, and salinity management practices (i.e., INMP).
 - ii. All pesticide management practices (i.e., PMP), including pesticide application characteristics (e.g., timing, formulations, wind, and rainfall monitoring, etc.) and any integrated pest management (IPM) practices implemented (e.g., scouting, beneficial insects, etc.).
 - iii. All sediment, erosion, irrigation, stormwater, road, agricultural drainage pump, and impermeable surface management practices (i.e., SEMP).

Quantifiable Milestones and Time Schedules

13. Dischargers in an area **with an established TMDL** ([Figure C.3-2](#) for Nutrient TMDL areas, [Figure C.3-3](#) for Pesticide and Toxicity TMDL areas, and [Figure C.3-4](#) for Sediment TMDL areas) for a pollutant must not cause or contribute to an exceedance of the pollutant's surface receiving water limit in [Table C.3-2](#) for nutrients, [Table C.3-4](#) for pesticides and toxicity, and [Table C.3-6](#) for sediment in accordance with the compliance dates specified in the applicable table.
14. Dischargers in an area **without an established TMDL** for a pollutant must not cause or contribute to an exceedance of the pollutant's surface receiving water limit in [Table C.3-3](#) for nutrients, [Table C.3.5](#) for pesticides and toxicity, and [Table C.3-7](#) for turbidity in accordance with the compliance dates specified in the applicable table.
15. The surface receiving water limits in [Table C.3-3](#) for nutrients, [Table C.3.5](#) for pesticides and toxicity, and [Table C.3-7](#) for turbidity, apply to all Dischargers unless a specific surface receiving water limit based on a TMDL in [Table C.3-2](#) for nutrients, [Table C.3-4](#) for pesticides and toxicity, and [Table C.3-6](#) for sediment applies to a Discharger.
16. Dischargers in areas where the water quality for a pollutant is better (i.e., of higher quality) than the applicable limit in [Table C.3-2](#) (TMDL areas) and [Table C.3-3](#) (non-TMDL areas) for nutrients, [Table C.3-4](#) (TMDL areas) and [Table C.3.5](#) (non-TMDL areas) for pesticides and toxicity, and [Table C.3-6](#) (TMDL areas) for sediment and [Table C.3-7](#) (non-TMDL areas) for turbidity must

not cause or contribute to an increase of that pollutant in receiving waters, except as consistent with the antidegradation findings of this Order.

17. The discharge of pollutants from a ranch that cause or contribute to an exceedance of the applicable limits after the compliance date in [Table C.3-2](#) (TMDL areas) and [Table C.3-3](#) (non-TMDL areas) for nutrients, [Table C.3-4](#) (TMDL areas) and [Table C.3.5](#) (non-TMDL areas) for pesticides and toxicity, and [Table C.3-6](#) (TMDL areas) for sediment and [Table C.3-7](#) (non-TMDL areas) for turbidity may result in additional requirements, including obtaining additional education, implementing additional or improved management practices, follow-up monitoring and reporting, ranch-level surface discharge monitoring and reporting, and progressive enforcement actions.

Monitoring and Reporting

18. Dischargers must complete **surface receiving water monitoring and reporting** as described in the MRP, either individually or through a third-party monitoring program approved by the Executive Officer. Dischargers, either individually or through a third-party monitoring program, must submit a work plan, including a SAP and QAPP as described the MRP, for Executive Officer review prior to implementation. Once approved by the Executive Officer, the work plan must be implemented. The work plan must include applicable monitoring for the pollutants in [Table C.3-2](#) (TMDL areas) and [Table C.3-3](#) (non-TMDL areas) for nutrients, [Table C.3-4](#) (TMDL areas) and [Table C.3.5](#) (non-TMDL areas) for pesticides and toxicity, and [Table C.3-6](#) (TMDL areas) for sediment and [Table C.3-7](#) (non-TMDL areas) for turbidity and must describe the actions that will be taken to achieve the limits in the tables.
19. Dischargers must develop a **follow-up surface receiving water implementation work plan**, either individually or through a third-party program. The work plan due date is based on the Surface Water Priority of the ranch.
 - a. Individual Dischargers that are not part of a third-party program approved to develop and implement follow-up surface receiving water implementation work plan(s) must submit an individual work plan by the dates specified below, based on the ranch's Surface Water Priority Area defined in [Table C.3-1](#) of the Order:
 - i. March 1, 2023 for Surface Water Priority 1 areas
 - ii. March 1, 2024 for Surface Water Priority 2 areas
 - iii. March 1, 2025 for Surface Water Priority 3 areas
 - iv. March 1, 2026 for Surface Water Priority 4 areas
 - b. Third-party program(s) approved to develop and implement follow-up surface receiving water implementation work plan(s) on behalf of participating Dischargers must submit work plan(s) by the dates specified below, based

- on the third-party program surface water priority area. Third-party program surface water priority areas are defined in [Table C.3-1.3P](#) of the Order:
- i. March 1, 2024 for High Priority areas
 - ii. March 1, 2026 for Medium Priority areas
 - iii. March 1, 2028 for Low Priority and All Other areas
- c. The work plan must include numeric interim quantifiable milestones and follow-up actions, such as outreach, education, and management practice implementation and assessment, and, where applicable for pollutant source identification and abatement, additional surface receiving water monitoring locations. Numeric quantifiable milestones include numeric interim quantifiable milestones for relevant constituents (e.g., pollutant load or concentration) and numeric interim quantifiable milestones for management practices implemented that confirm progress towards reducing the discharge of relevant constituents (e.g., volume of discharge water diverted to treatment systems, treatment system pollutant reduction, distance of riparian area improvements, acres no longer receiving conventional pesticide applications). The work plan must include a SAP and QAPP. The work plan must describe the implementation measures that will be taken to reduce the discharge of relevant pollutants and achieve the applicable surface water numeric limits by the compliance dates in [Table C.3-2](#) (TMDL areas) and [Table C.3-3](#) (non-TMDL areas) for nutrients, [Table C.3-4](#) (TMDL areas) and [Table C.3-5](#) (non-TMDL areas) for pesticides and toxicity, and [Table C.3-6](#) (TMDL areas) for sediment and [Table C.3-7](#) (non-TMDL areas) for turbidity. The work plan must be submitted for Executive Officer review prior to implementation. Once approved, the work plan must be implemented.
- d. Prior to the applicable compliance dates in [Table C.3-2](#) (TMDL areas) and [Table C.3-3](#) (non-TMDL areas) for nutrients, [Table C.3-4](#) (TMDL areas) and [Table C.3-5](#) (non-TMDL areas) for pesticides and toxicity, and [Table C.3-6](#) (TMDL areas) for sediment and [Table C.3-7](#) (non-TMDL areas) for turbidity, Dischargers who elect to participate in a third-party program to develop and implement their work plan will not be subject to ranch-level surface discharge monitoring and reporting.
- e. Work plans must take into consideration the level of water quality impairment identified through surface receiving water monitoring. Work plans for areas with persistent exceedances of the surface water limits in [Table C.3-2](#) (TMDL areas) and [Table C.3-3](#) (non-TMDL areas) for nutrients, [Table C.3-4](#) (TMDL areas) and [Table C.3-5](#) (non-TMDL areas) for pesticides and toxicity, and [Table C.3-6](#) (TMDL areas) for sediment and [Table C.3-7](#) (non-TMDL areas) for turbidity must identify follow-up actions to restore degraded areas and meet surface receiving water limits (e.g., numeric interim quantifiable milestones, outreach, education, management practice implementation and

assessment) and additional surface receiving water monitoring locations for pollutant source identification and abatement. Work plans for areas that are already achieving the surface water limits in [Table C.3-2](#) (TMDL areas) and [Table C.3-3](#) (non-TMDL areas) for nutrients, [Table C.3-4](#) (TMDL areas) and [Table C.3.5](#) (non-TMDL areas) for pesticides and toxicity, and [Table C.3-6](#) (TMDL areas) for sediment and [Table C.3-7](#) (non-TMDL areas) for turbidity must identify actions to be taken to protect the high-quality areas (e.g., numeric interim quantifiable milestones, outreach and education). Numeric quantifiable milestones include numeric interim quantifiable milestones for relevant constituents (e.g., pollutant load or concentration) and numeric interim quantifiable milestones for management practices implemented that confirm progress towards reducing the discharge of relevant constituents (e.g., volume of discharge water diverted to treatment systems, treatment system pollutant reduction, distance of riparian area improvements, acres no longer receiving conventional pesticide applications).

- f. Dischargers who elect to develop their work plan individually and whose ranches are located in areas where surface receiving water monitoring shows an exceedance of an applicable surface water limit in [Table C.3-2](#) (TMDL areas) and [Table C.3-3](#) (non-TMDL areas) for nutrients, [Table C.3-4](#) (TMDL areas) and [Table C.3.5](#) (non-TMDL areas) for pesticides and toxicity, and [Table C.3-6](#) (TMDL areas) for sediment and [Table C.3-7](#) (non-TMDL areas) for turbidity after the applicable compliance deadline may be subject to ranch-level surface discharge monitoring and reporting.
20. When required by the Executive Officer, based on surface receiving water quality data or significant and repeated exceedance of the surface water quality limits in [Table C.3-2](#) (TMDL areas) and [Table C.3-3](#) (non-TMDL areas) for nutrients, [Table C.3-4](#) (TMDL areas) and [Table C.3.5](#) (non-TMDL areas) for pesticides and toxicity, and [Table C.3-6](#) (TMDL areas) for sediment and [Table C.3-7](#) (non-TMDL areas) for turbidity, Dischargers must complete **ranch-level surface discharge monitoring and reporting** as described in the MRP. Dischargers can complete this requirement either individually or as part of a third-party program effort. Water Board staff will coordinate with Dischargers prior to the Executive Officer invoking this requirement to determine if non-compliance is the result of unforeseen or uncontrollable circumstances and to provide the Discharger with 90-day advanced notice of the forthcoming requirement. When ranch-level surface discharge monitoring and reporting is required, a work plan, including a SAP and QAPP, must be submitted for Executive Officer review prior to implementation. Once approved by the Executive Officer, the work plan must be implemented. Ranch-level surface discharge monitoring may be discontinued with the approval of the Executive Officer when the Discharger comes into compliance with the surface receiving water limits, or the discharge has otherwise ceased.

21. Dischargers must report on nutrient, pesticide, and sediment and erosion control management practice implementation and assessment electronically in the ACF, as described in the MRP.
22. Dischargers whose ranches have impermeable surfaces must report on stormwater management practice implementation and assessment electronically in the ACF, as described in the MRP.
23. Dischargers with waterbodies within or bordering their ranch must measure and report the current riparian area (average width and length, in feet) in the ACF, as described in the MRP.

Part 2, Section D. Additional Requirements and Prohibitions

Waste Discharge Control and Prohibitions

1. Except in compliance with this Order, Dischargers must not cause or contribute to exceedances of applicable water quality objectives, as defined in Attachment A, must protect all beneficial uses for inland surface waters, enclosed bays, and estuaries, and for groundwater, as outlined in sections 3.3.2 and 3.3.4 of the Basin Plan, and must prevent nuisance as defined in Water Code section 13050.
2. Dischargers must achieve applicable Total Maximum Daily Load (TMDL) Load Allocations (LAs) by achieving the surface water receiving limits established in this Order. Dischargers must incorporate planning elements from applicable TMDLs into the appropriate section of their Farm Plan and, as appropriate, into their follow-up surface receiving water implementation work plan(s).
3. Dischargers that anticipate exceeding a limit or condition of the Order after the final compliance date has passed may request a time schedule order pursuant to Water Code section 13300 for the Central Coast Water Board's consideration. A time schedule order must be requested 18 months in advance of a Discharger or a group of Dischargers anticipating that they will not be able to achieve the receiving water limit by the compliance date. At a minimum, the request for a time schedule order must include information outlined in Attachment A (Additional Findings). Dischargers may either individually request a time schedule order or may jointly request a time schedule order with other Dischargers subject to the same groundwater or surface receiving water limit.
4. The discharge of rubbish, refuse, trash, irrigation tubing or tape, or other solid wastes into surface waters is prohibited. The placement of such materials where they discharge or have the potential to discharge to surface waters is prohibited.
5. The discharge of chemicals such as fertilizers, fumigants, pesticides, herbicides, or rodenticides down a groundwater well casing is prohibited.

6. The discharge of chemicals, including those used to control wildlife (such as bait traps or poison), directly into surface waters or groundwater is prohibited. The placement of chemicals in a location where they may be discharged to surface waters or groundwater is prohibited.
7. Dischargers who apply fertilizers, fumigants, pesticides, herbicides, rodenticides, or other chemicals through an irrigation system must have functional and properly maintained backflow prevention devices installed at the well or pump to prevent pollution of groundwater and surface water that comply with any applicable DPR requirements or local ordinances. Backflow prevention devices used to protect water quality must be those approved by the United States Environmental Protection Agency (USEPA), DPR, State Water Board Division of Drinking Water, or the local public health or water agency.
8. Dischargers must properly destroy all abandoned groundwater wells, exploration holes or test holes, as defined by Department of Water Resources (DWR) Bulletin 74-81 and revised in 1988, in such a manner that they will not produce water or act as a conduit for mixing or otherwise transfer groundwater or waste pollutants between permeable zones or aquifers. Well destruction must be performed in compliance with any applicable DWR requirements or local ordinances (including local well destruction permitting requirements).
9. This Order does not authorize the discharge of pollutants from point sources to waters of the United States, including wetlands. Where required, Dischargers must obtain authorization for such discharges by obtaining a Clean Water Act (CWA) section 402 National Pollutant Discharge Elimination System (NPDES) permit or a CWA section 404 dredge and fill permit.
10. Dischargers who utilize containment structures (such as retention ponds or reservoirs) to achieve treatment or control of the discharge of waste must manage, construct, and maintain such containment structures to avoid discharges of waste to groundwater and surface water that cause or contribute to exceedances of water quality objectives or impairment of beneficial uses. Dischargers may choose the method of compliance appropriate for the individual ranch, which may include, but is not limited to:
 - a. Implementing chemical treatment (such as enzymes);
 - b. Implementing biological treatment (such as wood chips);
 - c. Recycling or reusing contained water to minimize infiltration or discharge of waste;
 - d. Minimizing the volume of water in the containment structure to minimize percolation of waste; and/or
 - e. Minimizing percolation of waste via a synthetic, concrete, clay, or low permeability soil liner.

11. Dischargers must implement proper handling, storage, disposal, and management of fertilizers, fumigants, pesticides, herbicides, rodenticides, and other chemicals to prevent or control the discharge of waste to waters of the state that causes or contributes to exceedances of water quality standards. All chemical storage areas must have appropriate secondary containment structures to protect water quality and prevent discharge through spillage, mixing, or seepage.
12. Dischargers must implement water quality protective management practices (such as source control or treatment) to prevent erosion, reduce stormwater runoff quantity and velocity, and hold fine particles in place.
13. Dischargers must minimize the presence of bare soil vulnerable to erosion and soil runoff to surface waters and implement erosion control, sediment, and stormwater management practices in non-cropped areas, such as unpaved roads and other heavy use areas.
14. Dischargers who utilize agricultural drainage pumps must implement management practices to dissipate flow and prevent channel and/or streambank erosion resulting in increased sediment transport and turbidity within surface water.
15. Dischargers must comply with any applicable stormwater permits.
16. Dischargers must implement best practicable treatment or control (BPTC) measures for the construction and maintenance of farm roads to minimize erosion and sediment discharges that contribute to nonpoint source pollution.
17. Dischargers must ensure that all farm roads are, to the extent possible, hydrologically disconnected from waters of the state by installing disconnecting drainage features, increasing the frequency of (inside) ditch drain relief as needed, constructing out-sloped roads, constructing energy dissipating structures, avoiding concentrating flows in unstable areas, and performing inspection and maintenance as needed to optimize access road performance.
18. Dischargers must ensure that farm road surfacing, especially within a segment leading to waters of the state, minimizes sediment delivery to waters of the state and maximizes road integrity.
19. Dischargers must ensure that farm roads are out-sloped whenever possible to promote even drainage of the farm road surface, prevent the concentration of stormwater flow within an inboard or inside ditch, and to prevent disruption of the natural sheet flow pattern off a hill slope to waters of the state.

20. Farm road stormwater drainage structures must not discharge onto unstable slopes, earthen fills, or directly into waters of the state. Drainage structures must discharge onto stable areas with straw bales, slash, vegetation, and/or rock riprap.
21. If used, chemical toilets or holding tanks must be maintained in a manner appropriate for the frequency and conditions of usage, sited in stable locations, and located outside of areas bordering surface waterbodies.
22. Dischargers who produce and apply compost in-house must comply with the following requirements:
 - a. Materials and activities on-site must not cause, threaten to cause, or contribute to conditions of pollution, contamination, or nuisance;
 - b. Activities must be set back at least 100 feet from the nearest surface waterbody and/or the nearest water supply well;
 - c. Dischargers must implement practices to minimize or eliminate the discharge of waste that may adversely impact the quality or beneficial uses of waters of the state;
 - d. Dischargers must manage the application of water to compost (including from precipitation events) to reduce the generation of wastewater;
 - e. Working surfaces must be designed to prevent, to the greatest extent possible, ponding, infiltration, inundation, and erosion, notwithstanding precipitation events, equipment movement, and other aspects of the facility operations;
 - f. Dischargers must maintain the following records in the Farm Plan. These records must be submitted to the Central Coast Water Board upon request.
 - i. Total operational footprint of compost activities (in acres), including ancillary activities;
 - ii. Compost operation records to provide background information on the composting operation history and a description of methods and operation used, including the following: feedstock types, volumes, sources, and suppliers. Description of the method of composting (e.g., windrow, static, forced air, mechanical). Description of how residuals are removed from the feedstocks and managed and/or disposed of.
 - iii. Description of water supply.
 - iv. Map detailing the location and size (in acres) of the working surface used for the storage of incoming feedstocks, additives, and amendments (receiving area); active and curing composting; final product; drainage patterns; location of any groundwater monitoring wells and water supply wells within and/or near the property boundary; location and distance (in feet) to nearby water supply wells (e.g., municipal supply, domestic supply, agricultural wells) from the nearest property boundary of the operation; identification of all surface waterbodies, including streams, ditches, canals, and other drainage

- courses; and distances from the nearest property boundary of the operation to these surface waterbody areas.
- v. Records of appropriate monitoring (dependent on method of composting) for composting to develop final product (temperature, turning, air flow, etc.).
 - vi. Records of final product use, including locations and volumes.
23. Disturbance (e.g., removal, degradation, or destruction) of existing, naturally occurring, and established native riparian vegetative cover (e.g., trees, shrubs, and grasses), unless authorized or exempted (e.g., Clean Water Act [CWA] section 404 permit and CWA section 401 certification, WDRs, waivers of WDRs, a California Department of Fish and Wildlife [CDFW] Lake and Streambed Alteration Agreement, or municipal ordinance), is prohibited. Dischargers must avoid disturbance in riparian areas to minimize waste discharges and protect water quality and beneficial uses.
24. In the case where disturbance of riparian areas is authorized, Dischargers must implement appropriate and practicable measures to avoid, minimize, and mitigate erosion and discharges of waste.

Additional Requirements

25. Upon the Central Coast Water Board's request, Dischargers must submit information regarding compliance with any DPR adopted or approved surface water or groundwater protection requirements to the Central Coast Water Board.
26. Upon the Central Coast Water Board's request, Dischargers must submit proof of an approved Lake and Streambed Alteration Agreement or other authorization or release from the CDFW to the Central Coast Water Board for any work conducted within the bed, bank, and channel, including riparian areas, of parcels enrolled in this order, that has the potential to result in erosion and discharges of waste to waters of the State.
27. Upon the Central Coast Water Board's request, Dischargers must submit proof of a Clean Water Act section 404 dredge and fill permit from the United States Army Corps of Engineers (USACE) for any work that has the potential to discharge wastes considered "fill" material, such as sediment, to waters of the United States to the Central Coast Water Board.
28. Dischargers must comply with DWR Bulletin 74-81 and supplement 74-90, Water Code sections 13700 through 13755, and any local permitting requirements associated with installation of new wells.
29. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in

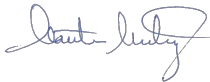
the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C. sections 1531 to 1544). If a "take" will result from any act authorized under this Order, the Dischargers must obtain authorization for an incidental take prior to taking action. Dischargers are responsible for meeting all applicable requirements of the California and federal Endangered Species Acts for the discharge authorized by this Order.

30. Dischargers or a representative authorized by the Discharger must sign technical reports submitted to the Central Coast Water Board to comply with this Order. Any person signing or submitting a document must provide the following certification, whether written or implied:

"In compliance with Water Code section 13267, I certify under penalty of perjury that this document and all attachments were prepared by me, or under my direction or supervision, following a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. To the best of my knowledge and belief, this document and all attachments are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

CERTIFICATION

I, Matthew T. Keeling, Executive Officer, do hereby certify that this General Order with all its attachments is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Central Coast Region on April 15, 2021.



Matthew T. Keeling, Executive Officer

Tables and Figures

Tables and Figures related to Part 2, Section C.1. Groundwater Protection

Table C.1-1. Groundwater Phase Areas

Groundwater Basin¹	Groundwater Phase
Gilroy-Hollister Valley - Llagas Area	Phase 1, Phase 2
Salinas Valley - Forebay Aquifer	Phase 1, Phase 2
Salinas Valley - Upper Valley Aquifer	Phase 1, Phase 2
Santa Maria River Valley - Santa Maria	Phase 1, Phase 2
Santa Ynez River Valley	Phase 1, Phase 3
Corralitos - Pajaro Valley	Phase 2
Gilroy Hollister Valley - North San Benito	Phase 2
Salinas Valley - 180/400 Foot Aquifer	Phase 2
Salinas Valley - East Side Aquifer	Phase 2
San Luis Obispo Valley	Phase 2
All Other Basins and Areas Outside of Basins	Phase 3

¹As defined in the 2019 California Department of Water Resources Bulletin 118.

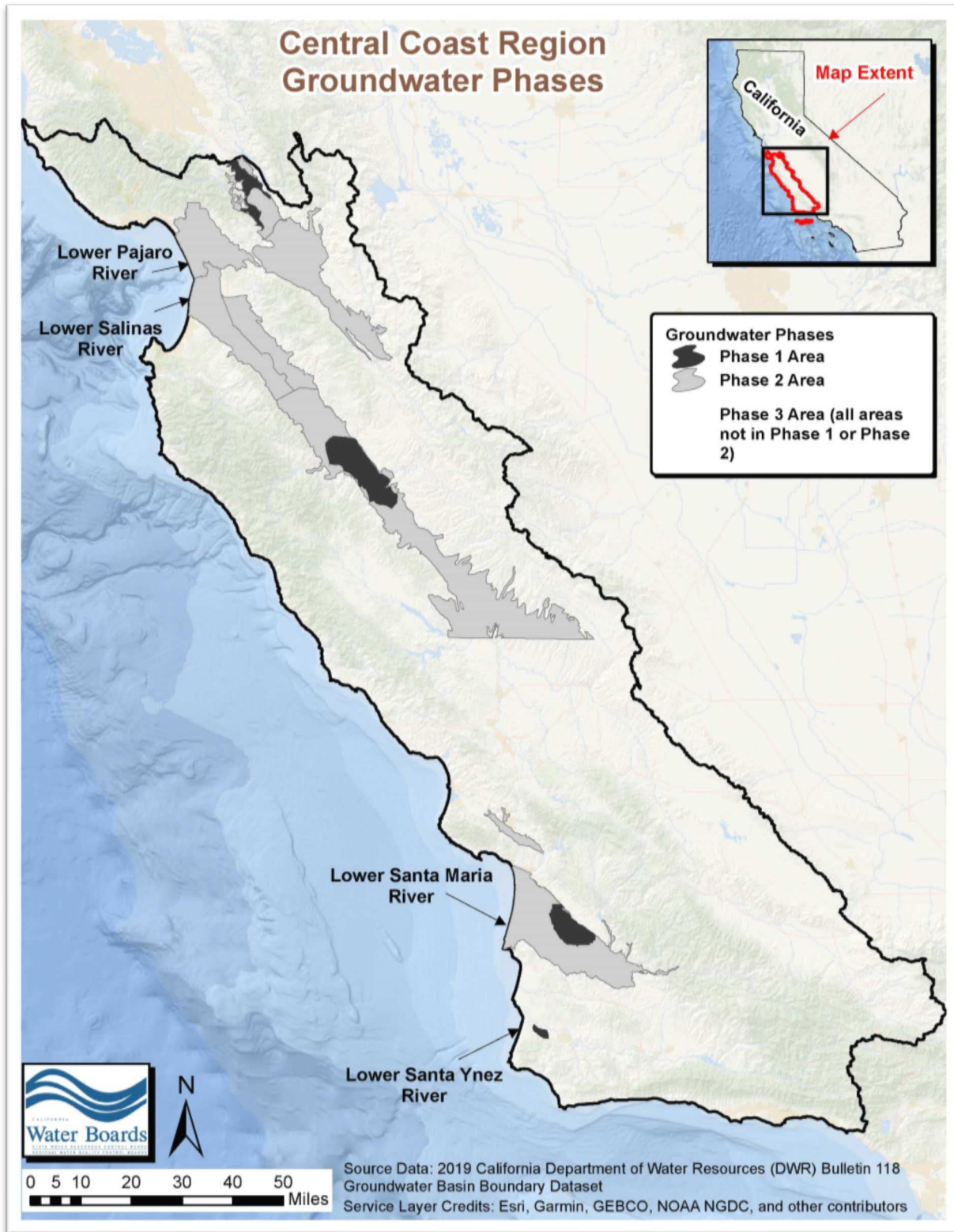


Figure C.1-1: Groundwater Phase Areas

Table C.1-2. Compliance Dates for Fertilizer Nitrogen Application Limits

Crop	90th Percentile A_{FER} =	Compliance Date	85th Percentile A_{FER} =	Compliance Date
Broccoli	295	12/31/2023	280	12/31/2025
Cauliflower	310		285	
Celery	360		330	
Lettuce	275		255	
Spinach	245		230	
Strawberry	320		295	
All Other Crops	500		480	

Note: For crops grown for less than one year (e.g., broccoli, lettuce, etc.), units are in pounds of nitrogen per acre per crop. In the situation where a Discharger grows a crop more than once during the year, e.g. grows a spring lettuce and a fall lettuce, the application limit applies to each of the crops separately: no more than 275 pounds of nitrogen per acre can be applied to the spring lettuce crop and no more than 275 pounds of nitrogen per acre can be applied to the fall lettuce crop. The two lettuce crops can be reported on separately or can be averaged together. For crops grown for more than one year (e.g., grapes, trees, etc.), units are in pounds of nitrogen per acre per year. The 90th and 85th percentile fertilizer nitrogen application limits were determined by using year 2014 to 2019 total nitrogen applied (TNA) reporting information.

Table C.1-3. Compliance Dates for Nitrogen Discharge Targets and Limits

Compliance Pathway 1 $A_{FER} + (C \times A_{COMP}) + (O \times A_{ORG}) + A_{IRR} - R =$	Compliance Date		
	Target	500	12/31/2023
	Target	400	12/31/2025
	Limit	300	12/31/2027
	Limit	200	12/31/2031
	Limit	150	12/31/2036
	Limit	100	12/31/2041
	Limit	50	12/31/2051
OR			
Compliance Pathway 2 $A_{FER} + (C \times A_{COMP}) + (O \times A_{ORG}) = R$	Compliance Date		
	Target	A = R	12/31/2023
	Target	A = R	12/31/2025
	Limit	A = R	12/31/2027
	Limit	A = R	12/31/2031
	Limit	A = R	12/31/2036
	Limit	A = R	12/31/2041
	Limit	A = R	12/31/2051
OR			
Compliance Pathway 3 $A_{FER} + (C \times A_{COMP}) + (O \times A_{ORG}) - R =$	Compliance Date		
	Target	300	12/31/2023
	Target	200	12/31/2025
	Limit	100	12/31/2027
	Limit	0	12/31/2031
	Limit	-50	12/31/2036
	Limit	-100	12/31/2041
	Limit	-150	12/31/2051

Note: All units are in pounds of nitrogen per acre per year and represent all crops grown and harvested on the entire ranch. The initial 2027 nitrogen discharge limits will be re-evaluated based on discharger reported nitrogen applied and removed data, new science, and management practice implementation and assessment before becoming effective.

A_{FER} is the amount of fertilizer nitrogen applied in pounds per acre.

C is the compost discount factor used to represent the amount of compost nitrogen mineralized during the year that the compost was applied.

A_{COMP} is the total amount of compost nitrogen applied in pounds per acre.

A_{IRR} is the amount of nitrogen in pounds per acre applied in the irrigation water estimated from the volume required for crop evapotranspiration (ET) or volume of water applied.

O is the organic fertilizer discount factor used to represent the amount of nitrogen mineralized during the first 12 weeks in the year it was applied.

A_{ORG} is the total amount of organic fertilizer or amendment nitrogen applied in pounds per acre.

R is the amount of nitrogen removed from the field through harvest, sequestration, or other removal methods, in pounds per acre.

Note: Report due dates to confirm compliance with the fertilizer application limits and nitrogen discharge targets and limits are included in the MRP.

Tables and Figures related to Part 2, Section C.2. Third-Party Alternative Compliance Pathway for Groundwater Protection

Table C.2-1. Compliance Dates for Fertilizer Nitrogen Application Targets (Alternative Compliance Pathway)

Crop	90 th Percentile A _{FER} =	Compliance Date	85 th Percentile A _{FER} =	Compliance Date
Broccoli	295	12/31/2024	280	12/31/2026
Cauliflower	310		285	
Celery	360		330	
Lettuce	275		255	
Spinach	245		230	
Strawberry	320		295	
All Other Crops	500		480	

Note: For crops grown for less than one year (e.g., broccoli, lettuce, etc.), units are in pounds of nitrogen per acre per crop. In the situation where a Discharger grows a crop more than once during the year, e.g. grows a spring lettuce and a fall lettuce, the application limit applies to each of the crops separately: no more than 275 pounds of nitrogen per acre can be applied to the spring lettuce crop and no more than 275 pounds of nitrogen per acre can be applied to the fall lettuce crop. The two lettuce crops can be reported on separately or can be averaged together. For crops grown for more than one year (e.g., grapes, trees, etc.), units are in pounds of nitrogen per acre per year. The 90th and 85th percentile fertilizer nitrogen application targets were determined by using year 2014 to 2019 total nitrogen applied (TNA) reporting information.

Table C.2-2. Compliance Dates for Nitrogen Discharge Targets (Alternative Compliance Pathway)

Compliance Pathway 1 A _{FER} + (C x A _{COMP}) + (O x A _{ORG}) + A _{IRR} - R =	Target	Compliance Date
	500	12/31/2024
	400	12/31/2026
	300	12/31/2028
OR		
Compliance Pathway 2 A _{FER} + (C x A _{COMP}) + (O x A _{ORG}) = R	Target	Compliance Date
	A = R	12/31/2024
	A = R	12/31/2026
	A = R	12/31/2028
OR		
Compliance Pathway 3 A _{FER} + (C x A _{COMP}) + (O x A _{ORG}) - R =	Target	Compliance Date
	300	12/31/2024
	200	12/31/2026
	100	12/31/2028

Notes: All units are in pounds of nitrogen per acre per year and represent all crops grown and harvested on the entire ranch. All compliance pathway variables are defined above under [Table C.1-3](#). The final 2028 nitrogen discharge targets will be re-evaluated based on discharger reported nitrogen applied and removed data, new science, management practice implementation and assessment, and third-party GWP collective numeric interim and final targets before becoming effective.

Tables and Figures related to Part 2, Section C.3. Surface Water Protection

Table C.3-1. Surface Water Priority Areas

HUC-8 Number¹	HUC-8 Name	Surface Water Priority
18060008	Santa Maria	Priority 1
18060005	Salinas	Priority 2
18060002	Pajaro	Priority 3
18060015	Monterey Bay	Priority 3
18060010	Santa Ynez	Priority 3
18050003	Coyote	Priority 4
18050006	San Francisco Coastal South	Priority 4
18060004	Estrella	Priority 4
18060006	Central Coastal	Priority 4
18060003	Carrizo Plain	Priority 4
18060007	Cuyama	Priority 4
18060009	San Antonio	Priority 4
18060013	Santa Barbara Coastal	Priority 4
18060014	Santa Barbara Channel Islands	Priority 4
18070101	Ventura	Priority 4

¹As defined by the National Hydrography Dataset Plus Watershed Boundary Dataset

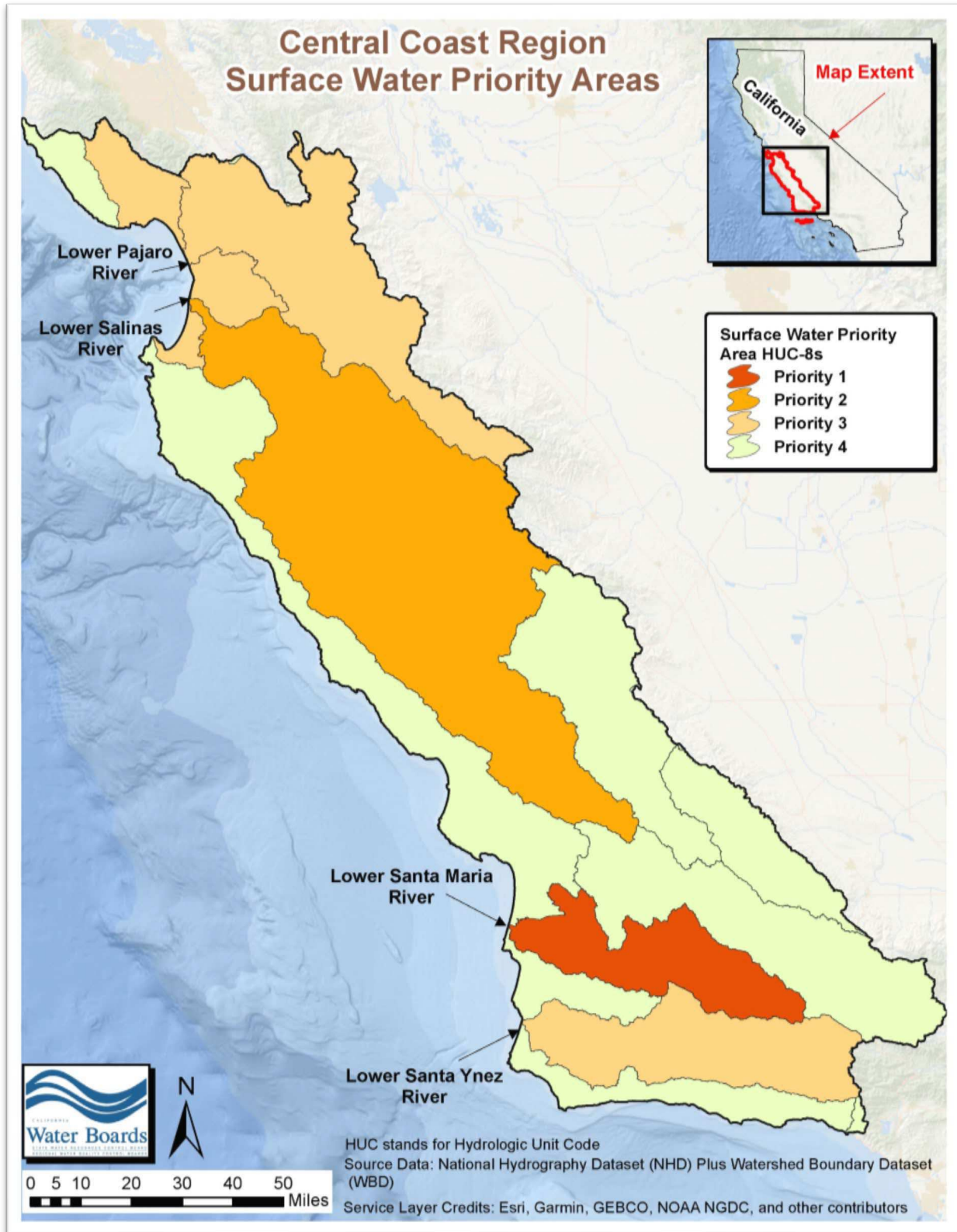


Figure C-3.1: Surface Water Priority Areas

Table C.3-1.3P. Surface Water Priority Areas (Third-Party Program)

High Priority	
305FUF	Furlong Creek at Frazier Lake Road
309ALG	Salinas Reclamation Canal at La Guardia
309CCD	Chualar Creek west of Highway 101
309CRR	Chualar Creek North Branch east of Highway 101
309ESP	Espinosa Slough upstream from Alisal Slough
309JON	Salinas Reclamation Canal at San Jon Road
309MER	Merrit Ditch upstream of Highway 183
309NAD	Natividad Creek upstream of Salinas Reclamation Canal
309OLD	Old Salinas River at Monterey Dunes Way
309QUI	Quail Creek at culvert on east side of Highway 101
309TEH	Tembladero Slough at Haro Street
312BCC	Bradley Canyon Creek at Culvert
312BCJ	Bradley Channel at Jones Street
312GVS	Green Valley at Simas
312MSD	Main Street Canal upstream of Ray Road at Highway 166
312OFC	Oso Flaco Creek at Oso Flaco Lake Road
312ORC	Orcutt Solomon Creek upstream of Santa Maria River
312ORI	Orcutt Solomon Creek at Highway 1
312SMA	Santa Maria River at Estuary
Medium Priority	
305BRS	Beach Road Ditch at Shell Road
305CAN	Carnadero Creek upstream of Pajaro River
305CHI	Pajaro River at Chittenden Gap
305FRA	Pajaro River Millers Canal at Frazier Lake Road
305LCS	Llagas Creek at Southside Avenue
305PJP	Pajaro River at Main Street
305SJA	San Juan Creek at Anzar Road
305TSR	Tequisquita Slough upstream of Pajaro River at Shore Road
305WCS	Watsonville Creek at Elkhorn Road / Hudson Landing
309ASB	Alisal Slough at White Barn
309BLA	Blanco Drain below Pump
309GAB	Gabilan Creek at Boronda Road
309MOR	Moro Cojo Slough at Highway 1
309RTA	Santa Rita Creek at Santa Rita Creek Park
310LBC	Los Berros Creek at Century Road
310PRE	Prefumo Creek at Calle Joaquin
310USG	Arroyo Grande Creek at old USGS Gauge
310WRP	Warden Creek at Wetlands Restoration Preserve
312OFN	Little Oso Flaco Creek
312SMI	Santa Maria at Highway 1
313SAE	San Antonio Creek at San Antonio Road east
314SYN	Santa Ynez River at 13 th
315BEF	Bell Creek at Winchester Canyon Park
315FMV	Franklin Creek at Mountain View Lane
315GAN	Glenn Annie Creek
315LCC	Los Carneros Creek at Calle Real

Low Priority	
305COR	Salsipuedes Creek downstream of Corralitos Creek upstream of HWY 129
305WSA	Watsonville Slough at San Andreas Road
309GRN	Salinas River (Mid) at Elm Road in Greenfield
309SAC	Salinas River at Chualar
309SAG	Salinas River at Gonzales River Road Bridge
309SSP	Salinas River (Lower) at Spreckles Gauge
310CCC	Chorro Creek upstream of Chorro Flats
314SYF	Santa Ynez River at Flordale
314SYL	Santa Ynez River at River Park
315APF	Arroyo Paredon Creek at Foothill Bridge
All Other Areas	Low priority also includes all other areas not in high or medium priority areas

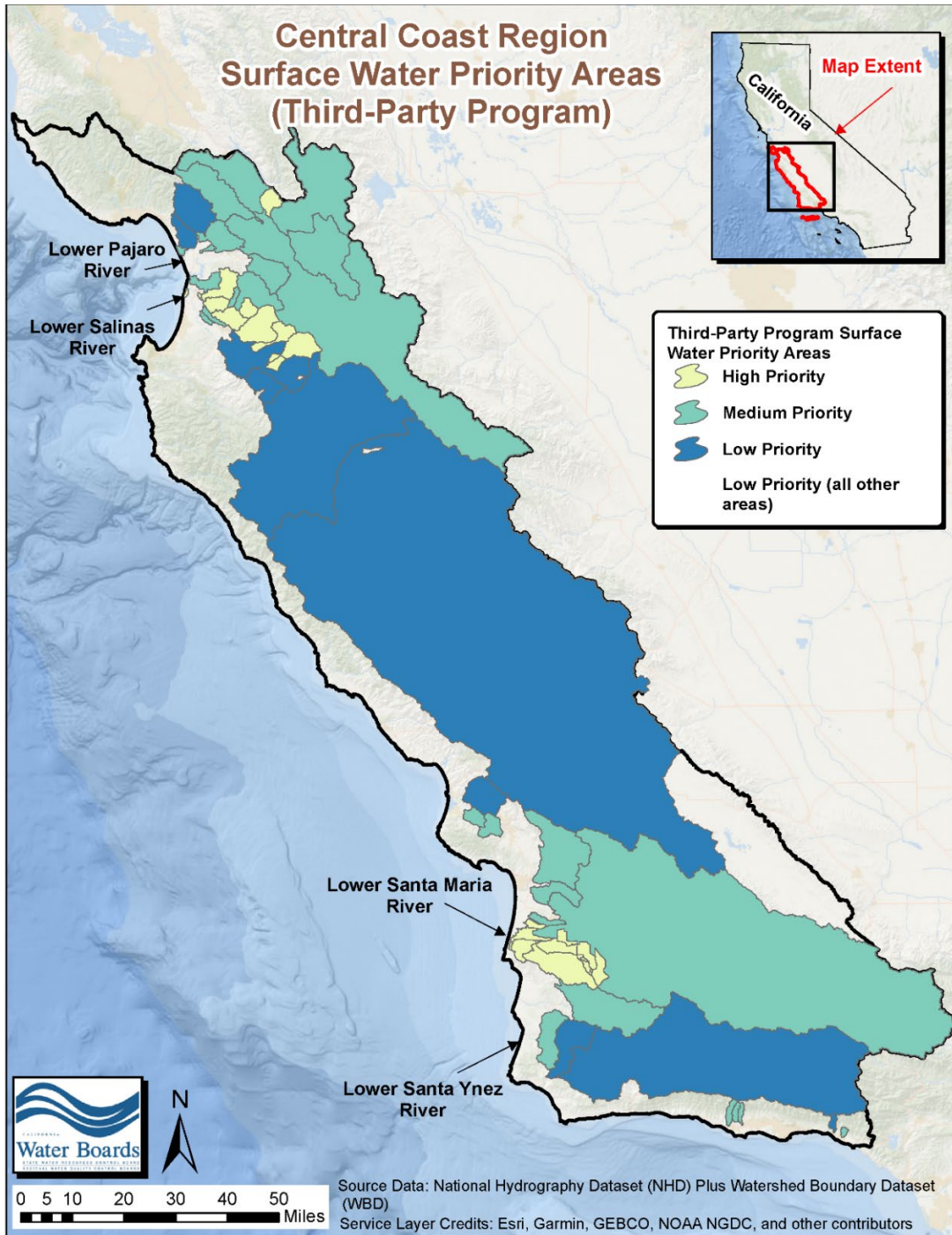


Figure C-3.1.3P: Surface Water Priority Areas (Third-Party Program)

Table C.3-2. Compliance Dates for Nutrient Limits (TMDL areas)

TMDL Project Name	Constituent	Matrix	Limit¹	Units²	Compliance Date
Arroyo Paredon Nitrate TMDL	Nitrate, as N	Water Column	10.0	mg/L	12/31/2032
Bell Creek Nitrate TMDL	Nitrate, as N	Water Column	10.0	mg/L	12/31/2032
Franklin Creek Nutrients TMDL	Nitrate, as N	Water Column	10.0	mg/L	12/31/2032
Franklin Creek Nutrients TMDL	Total Nitrogen, as N	Water Column	Wet Season: 8.0	mg/L	3/4/2034
Franklin Creek Nutrients TMDL	Total Phosphorous	Water Column	Wet Season: 0.3	mg/L	3/4/2034
Franklin Creek Nutrients TMDL	Total Nitrogen, as N	Water Column	Dry Season: 1.1	mg/L	3/4/2044
Franklin Creek Nutrients TMDL	Total Phosphorous	Water Column	Dry Season: 0.075	mg/L	3/4/2044
Glen Annie Canyon, Tecolotito Creek, & Carneros Creek Nitrate TMDL	Nitrate, as N	Water Column	10.0	mg/L	12/31/2032
Los Berros Creek Nitrate TMDL	Nitrate, as N	Water Column	10.0	mg/L	12/31/2032
Los Osos Creek, Warden Creek, and Warden Lake Wetland Nutrient TMDL	Nitrate, as N	Water Column	10.0	mg/L	12/31/2032

TMDL Project Name	Constituent	Matrix	Limit¹	Units²	Compliance Date
Lower Salinas River Watershed Nutrient TMDL	Ammonia (Un-ionized), as N3	Water Column	0.025	mg/L	12/31/2032
Lower Salinas River Watershed Nutrient TMDL	Nitrate, as N	Water Column	10.0	mg/L	12/31/2032
Lower Salinas River Watershed Nutrient TMDL	Total Nitrogen, as N4	Water Column	Wet Season: 8.0	mg/L	5/7/2034
Lower Salinas River Watershed Nutrient TMDL	Nitrate, as N	Water Column	Wet Season: 8.0	mg/L	5/7/2034
Lower Salinas River Watershed Nutrient TMDL	Orthophosphate, as P	Water Column	Wet Season: 0.3	mg/L	5/7/2034
Lower Salinas River Watershed Nutrient TMDL	Total Nitrogen, as N4	Water Column	Dry Season: 1.7	mg/L	5/7/2044
Lower Salinas River Watershed Nutrient TMDL	Nitrate, as N	Water Column	Dry Season: 1.4 – 6.41	mg/L	5/7/2044
Lower Salinas River Watershed Nutrient TMDL	Orthophosphate, as P	Water Column	Dry Season: 0.07 – 0.131	mg/L	5/7/2044
Pajaro River Watershed Nutrient TMDL	Ammonia (Un-ionized), as N3	Water Column	0.025	mg/L	12/31/2032
Pajaro River Watershed Nutrient TMDL	Nitrate, as N	Water Column	10.0	mg/L	12/31/2032

TMDL Project Name	Constituent	Matrix	Limit¹	Units²	Compliance Date
Pajaro River Watershed Nutrient TMDL	Total Nitrogen, as N	Water Column	Wet Season: 8.0	mg/L	12/31/2032
Pajaro River Watershed Nutrient TMDL	Nitrate, as N	Water Column	Wet Season: 8.0	mg/L	12/31/2032
Pajaro River Watershed Nutrient TMDL	Orthophosphate, as P	Water Column	Wet Season: 0.3	mg/L	12/31/2032
Pajaro River Watershed Nutrient TMDL	Total Nitrogen, as N5	Water Column	Dry Season: 1.1 – 2.11	mg/L	7/12/2041
Pajaro River Watershed Nutrient TMDL	Nitrate, as N	Water Column	Dry Season: 1.8 – 3.91	mg/L	7/12/2041
Pajaro River Watershed Nutrient TMDL	Orthophosphate, as P	Water Column	Dry Season: 0.04 – 0.141	mg/L	7/12/2041
San Luis Obispo Creek Nitrate TMDL	Nitrate, as N	Water Column	10.0	mg/L	12/31/2032
Santa Maria River Watershed Nutrients TMDL	Ammonia (Un-ionized), as N3	Water Column	0.025	mg/L	12/31/2032
Santa Maria River Watershed Nutrients TMDL	Nitrate, as N	Water Column	10.0	mg/L	12/31/2032

TMDL Project Name	Constituent	Matrix	Limit¹	Units²	Compliance Date
Santa Maria River Watershed Nutrients TMDL	Nitrate, as N	Water Column	Wet Season or Year-Round: 5.7 – 8.01	mg/L	5/22/2034
Santa Maria River Watershed Nutrients TMDL	Orthophosphate, as P	Water Column	Wet Season or Year-Round: 0.08 – 0.31	mg/L	5/22/2034
Santa Maria River Watershed Nutrients TMDL	Nitrate, as N	Water Column	Dry Season: 4.3	mg/L	5/22/2044
Santa Maria River Watershed Nutrients TMDL	Orthophosphate, as P	Water Column	Dry Season: 0.19	mg/L	5/22/2044

¹The Lower Salinas River Watershed Nutrient TMDL, Pajaro River Watershed Nutrient TMDL, and Santa Maria River Watershed Nutrient TMDL include load allocations for specific waterbody reaches within the TMDL project area. The limits for those TMDLs are summarized in this table as ranges; however, the exact load allocation values for each reach apply as described in the TMDL and Basin Plan and will be assessed as numeric limits for the purposes of this Order.

²mg/L is milligrams per liter.

³Calculated using total ammonia and onsite instream measurements (field measurements) of pH and water temperature.

⁴Total nitrogen TMDL load allocation applies to Moro Cojo Slough only.

⁵Total nitrogen TMDL load allocation applies to the following sloughs: Watsonville, Harkins, Gallighan, and Struve.

Table C.3-3. Compliance Dates for Nutrient Limits (Non-TMDL areas)

Constituent Group	Constituent	Matrix	Limit	Units¹	Compliance Date
Nutrients	Nitrate, as Nitrogen	Water Column	10.0	mg/L	12/31/2032
Nutrients	Ammonia (un-ionized), as Nitrogen ²	Water Column	0.025	mg/L	12/31/2032

¹mg/L is milligrams per liter.

²Calculated using total ammonia and onsite instream measurements (field measurements) of pH and water temperature.

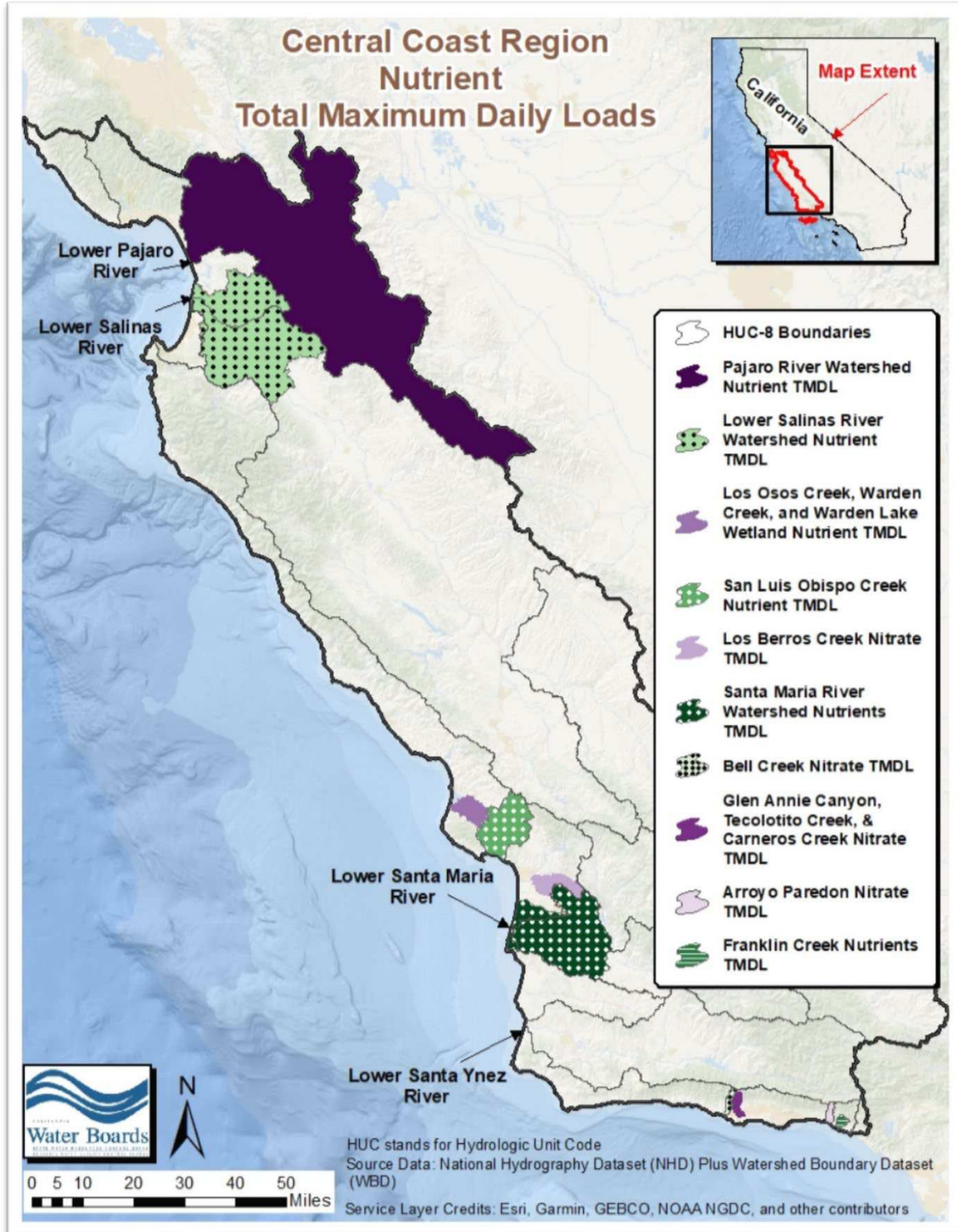


Figure C.3-2: Nutrient TMDL Areas

Table C.3-4. Compliance Dates for Pesticide and Toxicity Limits (TMDL areas)

TMDL Project Name	Constituent¹	Matrix	Limit²	Units³	Compliance Date
Arroyo Paredon Diazinon TMDL	Additive Toxicity (Chlorpyrifos and Diazinon)	Water Column	Sum of Additive Toxicity, TU ≤ 1.0	TU	12/31/2032
Arroyo Paredon Diazinon TMDL	Diazinon	Water Column	CCC: 0.10 CMC: 0.16	µg/L	12/31/2032
Lower Salinas River Watershed Chlorpyrifos and Diazinon TMDL	Chlorpyrifos ⁴	Water Column	CCC: 0.015 CMC: 0.025	µg/L	12/31/2032
Lower Salinas River Watershed Chlorpyrifos and Diazinon TMDL	Diazinon ⁴	Water Column	CCC: 0.10 CMC: 0.16	µg/L	12/31/2032
Lower Salinas River Watershed Chlorpyrifos and Diazinon TMDL	Additive Toxicity (Chlorpyrifos and Diazinon)	Water Column	Sum of Additive Toxicity, TU ≤ 1.0	TU	12/31/2032

TMDL Project Name	Constituent¹	Matrix	Limit²	Units³	Compliance Date
Lower Salinas River Watershed Sediment Toxicity and Pyrethroids in Sediment TMDL	Additive Toxicity (Pyrethroids)	Sediment	Sum of Pyrethroid TU < 1.0	TU	12/31/2032
Lower Salinas River Watershed Sediment Toxicity and Pyrethroids in Sediment TMDL	Aquatic Toxicity	Sediment	No significant toxic effect, 10-day, chronic exposure with <i>Hyalella azteca</i>	Survival endpoint	12/31/2032
Pajaro River Watershed Chlorpyrifos and Diazinon TMDL	Additive Toxicity (Chlorpyrifos and Diazinon)	Water Column	Sum of Additive Toxicity, TU ≤ 1.0	TU	12/31/2032
Pajaro River Watershed Chlorpyrifos and Diazinon TMDL	Chlorpyrifos	Water Column	CCC: 0.015 CMC: 0.025	µg/L	12/31/2032
Pajaro River Watershed Chlorpyrifos and Diazinon TMDL	Diazinon	Water Column	CCC: 0.10 CMC: 0.16	µg/L	12/31/2032

TMDL Project Name	Constituent¹	Matrix	Limit²	Units³	Compliance Date
Pajaro River Watershed Chlorpyrifos and Diazinon TMDL	Aquatic Toxicity	Sediment	No significant toxic effect, 10-day, chronic exposure with <i>Hyalella azteca</i>	Survival and reproduction endpoints	12/31/2032
Pajaro River Watershed Chlorpyrifos and Diazinon TMDL	Aquatic Toxicity	Water Column	No significant toxic effect, 7-day, chronic exposure with <i>Ceriodaphnia dubia</i>	Survival and reproduction endpoints	12/31/2032
Santa Maria River Watershed Toxicity and Pesticide TMDL	Additive Toxicity (Chlorpyrifos and Diazinon)	Water Column	Sum of Additive Toxicity, TU ≤ 1.0	TU	12/31/2032
Santa Maria River Watershed Toxicity and Pesticide TMDL	Chlorpyrifos	Water Column	CCC: 0.015 CMC: 0.025	µg/L	12/31/2032
Santa Maria River Watershed Toxicity and Pesticide TMDL	Diazinon	Water Column	CCC: 0.10 CMC: 0.16	µg/L	12/31/2032

TMDL Project Name	Constituent¹	Matrix	Limit²	Units³	Compliance Date
Santa Maria River Watershed Toxicity and Pesticide TMDL	Malathion	Water Column	CCC: 0.028 CMC: 0.17	µg/L	12/31/2032
Santa Maria River Watershed Toxicity and Pesticide TMDL	Additive Toxicity (Pyrethroids)	Sediment	Sum of Pyrethroid TU ≤ 1.0	TU	12/31/2032
Santa Maria River Watershed Toxicity and Pesticide TMDL	Aquatic Toxicity	Sediment	No significant toxic effect, 10-day, chronic exposure with <i>Hyalella azteca</i>	Survival endpoint	Not Defined ⁵
Santa Maria River Watershed Toxicity and Pesticide TMDL	Aquatic Toxicity	Water Column	No significant toxic effect, 6-8 day, chronic exposure with <i>Ceriodaphnia dubia</i>	Survival and reproduction endpoints	Not Defined ⁵
Santa Maria River Watershed Toxicity and Pesticide TMDL	4,4'-DDT (p,p-DDT)	Sediment	6.5	µg/kg o.c.	10/29/2044

TMDL Project Name	Constituent¹	Matrix	Limit²	Units³	Compliance Date
Santa Maria River Watershed Toxicity and Pesticide TMDL	4,4'-DDE (p,p-DDE)	Sediment	5.5	µg/kg o.c.	10/29/2044
Santa Maria River Watershed Toxicity and Pesticide TMDL	4,4'-DDD (p,p-DDD)	Sediment	9.1	µg/kg o.c.	10/29/2044
Santa Maria River Watershed Toxicity and Pesticide TMDL	Total DDT (Sediment)	Sediment	10.0	µg/kg o.c.	10/29/2044
Santa Maria River Watershed Toxicity and Pesticide TMDL	Chlordane	Sediment	1.7	µg/kg o.c.	10/29/2044
Santa Maria River Watershed Toxicity and Pesticide TMDL	Dieldrin	Sediment	0.14	µg/kg o.c.	10/29/2044
Santa Maria River Watershed Toxicity and Pesticide TMDL	Endrin	Sediment	550.0	µg/kg o.c.	10/29/2044

TMDL Project Name	Constituent¹	Matrix	Limit²	Units³	Compliance Date
Santa Maria River Watershed Toxicity and Pesticide TMDL	Toxaphene	Sediment	20.0	µg/kg o.c.	10/29/2044

¹Toxic units and/or additive toxicity units are calculated using the relevant biological indicators, as described in the applicable TMDL, e.g. LC50, CCC, or CMC.

²CCC is Criterion Continuous Concentration or chronic (4-day (96-hour) average), not to be exceeded more than once in a three year period; CMC is Criterion Maximum Concentration or acute (1- hour average) not to be exceeded more than once in a three year period; the sum of additive toxicity is calculated by dividing each measured chemical concentration by that chemical's criterion (CCC or CMC) and summing those values as defined in the staff report for the respective TMDL project.

³µg/L is micrograms per liter; µg/kg is micrograms per kilogram; ng/g is nanograms per gram; o.c. means normalized for sediment organic carbon content; ppb is parts per million.

⁴Apply only when one of the two compounds (chlorpyrifos or diazinon) is present.

⁵A time schedule for aquatic toxicity was not identified in the Santa Maria River Watershed Toxicity and Pesticide TMDL; therefore, Dischargers in this area must comply with the aquatic toxicity compliance date defined in Table C.3-2.

Table C-3.5. Compliance Dates for Pesticide and Toxicity Limits (Non-TMDL areas)

Constituent Group	Constituent	Matrix	Limit¹	Units²	Compliance Date
Pesticides	Acetamiprid	Water Column	2.10	µg/L	12/31/2032
Pesticides	Atrazine	Water Column	60.0	µg/L	12/31/2032
Pesticides	Bifenthrin	Sediment	0.52	µg/g o.c.	12/31/2032
Pesticides	Chlorpyrifos	Water Column	0.023	µg/L	12/31/2032
Pesticides	Chlorpyrifos	Sediment	1.77	µg/g o.c.	12/31/2032
Pesticides	Clothianidin	Water Column	0.05	µg/L	12/31/2032
Pesticides	Cyanazine	Water Column	27.0	µg/L	12/31/2032
Pesticides	Cyfluthrin	Sediment	1.08	µg/g o.c.	12/31/2032
Pesticides	Cypermethrin	Sediment	0.38	µg/g o.c.	12/31/2032
Pesticides	Danitol (fenpropathrin)	Sediment	1.10	µg/g o.c.	12/31/2032
Pesticides	Demeton-s-methyl sulfoxide (oxydemeton-methyl)	Water Column	46	µg/L	12/31/2032
Pesticides	Diazinon	Water Column	0.105	µg/L	12/31/2032
Pesticides	Dichlorvos	Water Column	0.0058	µg/L	12/31/2032
Pesticides	Dimethoate	Water Column	0.50	µg/L	12/31/2032
Pesticides	Dinotefuran	Water Column	23.5	µg/L	12/31/2032
Pesticides	Disulfoton (Disyton)	Water Column	0.01	µg/L	12/31/2032
Pesticides	Diuron	Water Column	80.0	µg/L	12/31/2032
Pesticides	Esfenvalerate	Sediment	1.54	µg/g o.c.	12/31/2032
Pesticides	Fenvalerate	Sediment	1.54	µg/g o.c.	12/31/2032
Pesticides	Glyphosate	Water Column	26,600	µg/L	12/31/2032
Pesticides	Imidacloprid	Water Column	0.01	µg/L	12/31/2032
Pesticides	Cyhalothrin, lambda	Sediment	0.45	µg/g o.c.	12/31/2032
Pesticides	Linuron	Water Column	0.09	µg/L	12/31/2032
Pesticides	Malathion	Water Column	0.049	µg/L	12/31/2032
Pesticides	Methamidophos	Water Column	4.50	µg/L	12/31/2032
Pesticides	Methidathion	Water Column	0.66	µg/L	12/31/2032
Pesticides	Paraquat	Water Column	< 36.9	µg/L	12/31/2032
Pesticides	Parathion-methyl	Water Column	0.25	µg/L	12/31/2032
Pesticides	Permethrin	Sediment	10.83	µg/g o.c.	12/31/2032

Constituent Group	Constituent	Matrix	Limit ¹	Units ²	Compliance Date
Pesticides	Phorate	Water Column	0.21	µg/L	12/31/2032
Pesticides	Phosmet	Water Column	0.80	µg/L	12/31/2032
Pesticides	Simazine	Water Column	40.0	µg/L	12/31/2032
Pesticides	Thiacloprid	Water Column	0.97	µg/L	12/31/2032
Pesticides	Thiamethoxam	Water Column	0.74	µg/L	12/31/2032
Pesticides	Trifluralin	Water Column	2.40	µg/L	12/31/2032
Toxicity	Sediment Toxicity	Sediment	No significant effect based on chronic or acute toxicity to applicable test organism	Survival, growth, and reproduction endpoints ³	12/31/2032
Toxicity	Water Column Toxicity	Water Column	No significant effect based on chronic or acute toxicity to applicable test organism	Survival, growth, and reproduction endpoints ³	12/31/2032
Toxicity	Toxic Units	Sediment	Sum of additive toxicity ≤ 1	Toxic Unit (TU) ⁴	12/31/2032
Toxicity	Toxic Units	Water Column	Sum of additive toxicity ≤ 1	Toxic Unit (TU) ⁴	12/31/2032

¹Attachment A to this Order describes the sources of the limits established in this table.

²µg/L is micrograms per liter; µg/kg is micrograms per kilogram; ng/g is nanograms per gram; o.c. means normalized for sediment organic carbon content; ppb is parts per million.

³Toxicity determinations will be pass/fail based on a comparison of the test organism's response (survival, growth, and reproduction) to the water sample compared to the control using the Test of Significant Toxicity (TST statistical approach), or a statistical t-test, based on the toxicity provisions in the State Water Board *Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries in California* (in draft). If a sample is declared "fail" (i.e., toxic) for any endpoint, then the limit is not met. The most sensitive test species for each constituent must be used when evaluating toxicity.

⁴Toxic units (TU) and/or additive toxicity units are calculated using the relevant biological indicators, e.g. LC50, CCC, or CMC as follows: Calculate additive toxicity for organophosphate pesticides in non-TMDL watersheds as defined in the TMDL for Chlorpyrifos and Diazinon in the Lower Salinas River Watershed; and calculate TUs for pyrethroid pesticides in non-TMDL watersheds as defined in the TMDL for Sediment Toxicity and Pyrethroids in the Lower Salinas River Watershed.

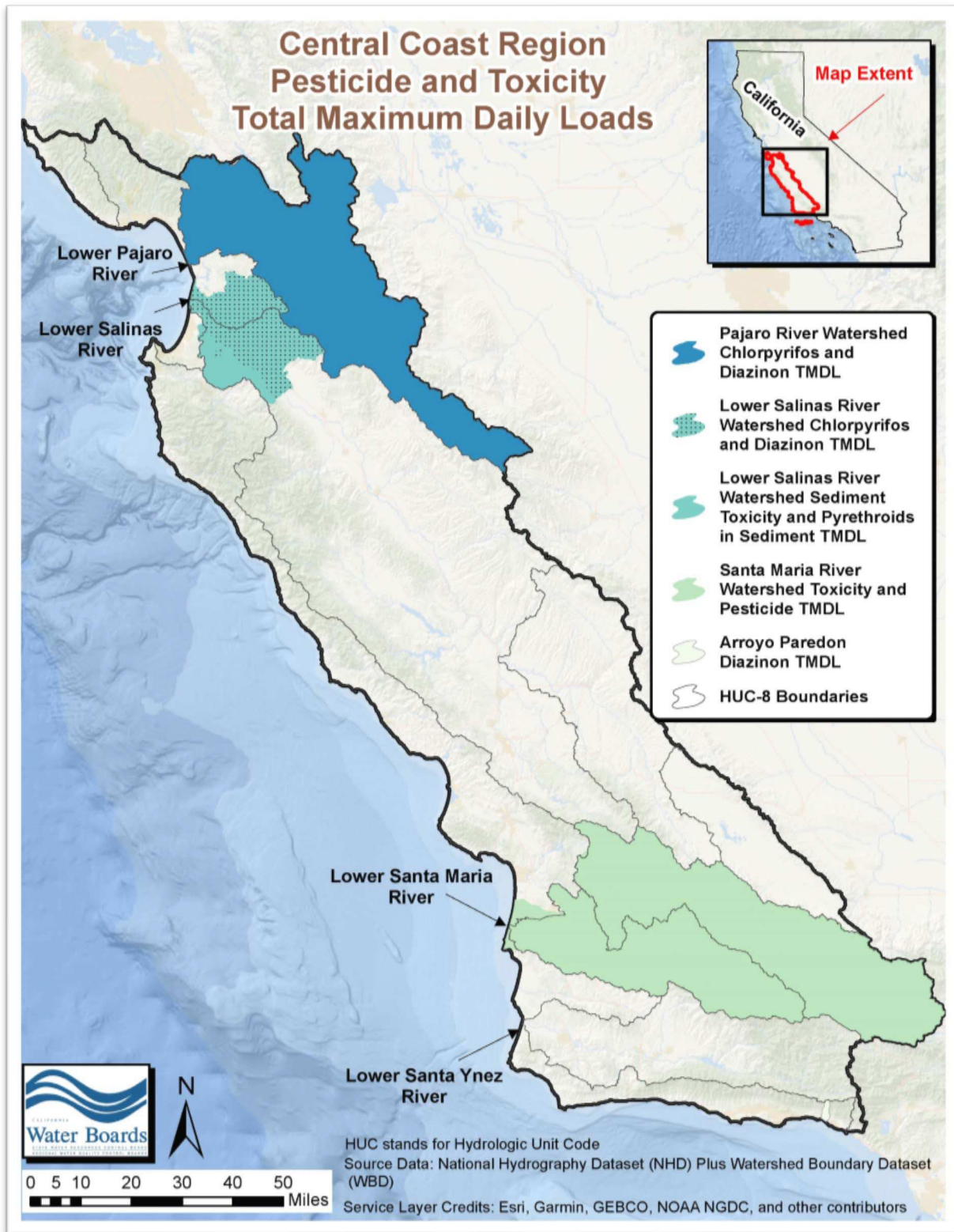


Figure C.3-3: Pesticide and Toxicity TMDL Areas

Table C.3-6. Compliance Dates for Sediment Limits (TMDL areas)

TMDL Project Name	Constituent	Limit¹	Units	Compliance Date
Morro Bay Sediment TMDL	Sediment	285 – 6,662	Tons of sediment per year	12/3/2053
Pajaro River Watershed Sediment TMDL	Sediment	447 – 4,114	Tons of sediment per year	11/27/2051

¹The Morro Bay Sediment TMDL and Pajaro River Watershed Sediment TMDL include load allocations for specific waterbody reaches within the TMDL project area. The limits for those TMDLs are summarized in this table as ranges; however, the exact load allocation values for each reach apply as described in the TMDL and Basin Plan and will be assessed as numeric limits for the purposes of this Order.

Table C.3-7. Compliance Dates for Turbidity Limits (Non-TMDL areas)

Constituent Group	Constituent	Beneficial Use	Limit	Units¹	Compliance Date
Physical Parameters and General Chemistry	Turbidity	WARM	40.0	NTU	12/31/2032
Physical Parameters and General Chemistry	Turbidity	COLD	25.0	NTU	12/31/2032

¹NTU is nephelometric turbidity units

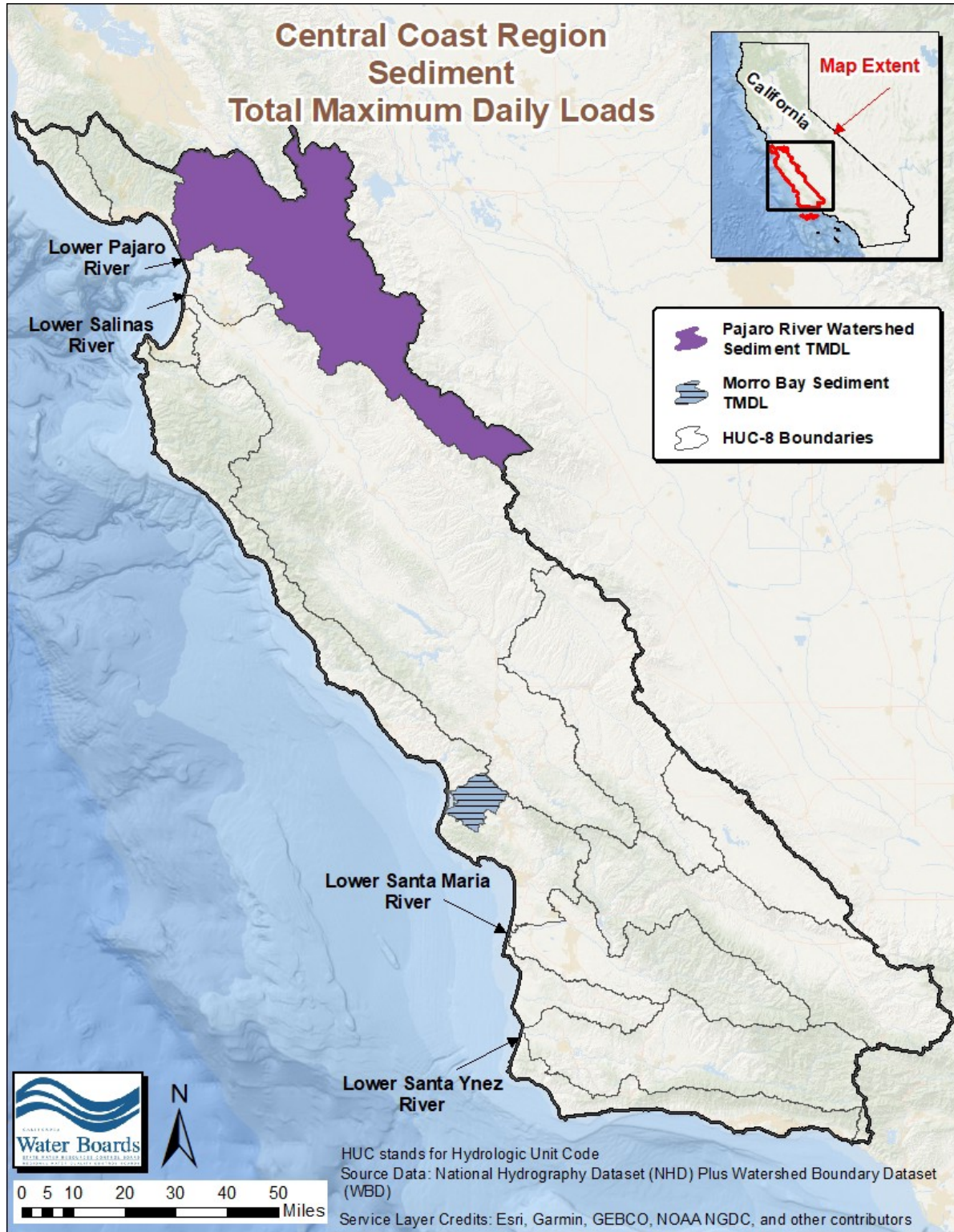


Figure C.3-4: Sediment TMDL Areas