

Participation Agreement

Between East San Joaquin Water Quality Coalition And Landowners, Operators, or Growers Within the Eastern San Joaquin River Watershed That are Members of the Third-Party Group

This Agreement is entered into and effective on this _____ day of _____, _____, by and between _____ and the East San Joaquin Water Quality Coalition ("ESJWQC"). For the purposes of this Agreement, "ESJWQC" means the East San Joaquin Water Quality Coalition and its designees, unless otherwise specified; and, "Member" means I, _____, the undersigned.

The ESJWQC was formed to assist landowners or operators in meeting certain requirements in Waste Discharge Requirements General Order for Growers Within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group (Order R5-2012-0116) ("General Order") as adopted by the Central Valley Regional Water Quality Control Board ("Central Valley Water Board"), and any future amendments to the General Order adopted by the Central Valley Water Board and/or the State Water Resources Control Board. By signing this Agreement, the Member agrees to all of the provisions contained herein.

SECTION I Recitals

A. On December 7, 2012, the Central Valley Water Board adopted Order No. R5-2012- 0116, Waste Discharge Requirements General Order for Growers Within the Eastern San Joaquin River Watershed That Are Members of the Third-Party Group ("General Order"). The General Order was revised by the Central Valley Water Board on October 3, 2013, and March 27, 2014. The Central Valley Water Board maintains the discretion to further revise the General Order as necessary. Further, the State Water Resources Control Board maintains discretion to revise the General Order based on its review of petitions filed by other parties or on its own accord.

B. The General Order implements the long-term Irrigated Lands Regulatory Program ("ILRP"), and regulates both landowners and operators of irrigated lands from which there are discharges of waste that could affect the quality of any waters of the state. California law defines waters of the state to mean any surface water or groundwater, including saline waters, within the boundaries of the state.

C. The General Order allows a third-party entity to be responsible for fulfilling regional requirements and conditions (e.g., surface and groundwater monitoring, regional management plan development and tracking) of the General Order and associated requirements in the Monitoring and Reporting Program Order R5- 2012-0116-R2 (MRP).

By being a member of the ESJWQC, a member is agreeing to be represented by the ESJWQC for purposes of the General Order. Any requirements or conditions not fulfilled by the ESJWQC are the responsibility of the individual member.

D. The ESJWQC was originally formed in 2003 to provide dischargers subject to the Coalition Group Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands with an alternative to individual surface water monitoring. The ESJWQC applied for third party status under the General Order on December 14, 2012. The Central Valley Water Board issued a Notice of Applicability, recognizing the ESJWQC as the third party on January 11, 2013. Although a recognized third party, the ESJWQC is not part of or an agent of the Central Valley Water Board.

E. The ESJWQC is comprised of members who own and/or operate irrigated cropland in the Eastern San Joaquin River Watershed region.

F. The ESJWQC is organized under California law as a nonprofit public benefit corporation.

G. The ESJWQC is governed by a Board of Directors who are dedicated to the purposes of the corporation.

H. The Member understands that participation in the ESJWQC is voluntary, and that participation in the ESJWQC provides for compliance with certain provisions specified in the General Order but that there are some requirements in the General Order that are specific to the individual member.

SECTION II Agreements ESJWQC

A. The ESJWQC agrees to fulfill all of the requirements and responsibilities associated with third party requirements contained in the General Order, including e.g., conducting education and outreach activities to inform the members of program requirements, and water quality problems.

B. The ESJWQC agrees to submit all reports, monitoring data and other information specifically required by the General Order, and that is applicable to the third party, to the Central Valley Water Board in a timely manner.

C. The ESJWQC intends to remain in existence and operate as long as the Central Valley Water Board allows owners and operators of irrigated land in the Eastern San Joaquin River Watershed to comply with certain requirements through a third party, or until the Board of Directors and/or its Members feel that the ESJWQC is no longer necessary or needed.

If the ESJWQC is dissolved, any remaining assets after payment, or provision for payment, of all debts and liabilities of the corporation shall be distributed as directed by the ESJWQC Board of Directors.

SECTION III

Member

A. The Member agrees to provide the necessary information as requested by the ESJWQC in a timely manner so that the ESJWQC may prepare information and reports as required by the General Order and its associated Monitoring and Reporting Program.

B. The Member agrees to participate in the ESJWQC in good faith.

C. The Member agrees to allow ESJWQC consultants reasonable access to property to collect information, as necessary.

D. The Member understands that all information submitted to the ESJWQC may be used by the ESJWQC to prepare reports as required by the Central Valley Water Board in the General Order, and the associated Monitoring and Reporting Program.

E. The Member understands that data and information submitted to the Central Valley Water Board may generally be considered public information and subject to the provisions of the state's Public Record Act laws, as determined by the Central Valley Water Board. Further, the Member understands that the Central Valley Water Board may request to review data and information that is otherwise maintained solely at the ESJWQC offices.

F. The Member understands that the Central Valley Water Board reserves the right to issue an order pursuant to its authority under Water Code section 13267 to an individual owner or operator of irrigated lands participating in the ESJWQC, which may require the Member to conduct monitoring and/or prepare a technical report that is specific to their operation even though the Member is participating in good faith in the ESJWQC.

G. By signing this Agreement, the Member agrees to pay the fees as approved by the ESJWQC Board of Directors to maintain the program.

H. The Member agrees to comply with and abide by all of the terms of this Agreement, and understands that failure to abide by the terms of the Agreement may result in termination from the ESJWQC in accordance with said terms as identified in the ESJWQC's bylaws.

SECTION IV

General Provisions

A. *Liability for Compliance.* The ESJWQC is not responsible or liable for determining individual compliance with the terms of the General Order or the Water Code in general. The Member does not assume any legal obligation or liability for any other Member of the ESJWQC.

B. *Hold Harmless and Indemnification.* Except for damage or loss resulting from willful misconduct, gross negligence, or breach of fiduciary obligation in connection with this Agreement, the ESJWQC and its respective members, directors, officers, associations or employees shall not be liable to the Member for any loss or damage in connection with this Agreement. The ESJWQC and the Member shall bear responsibility for the consequence of its own willful misconduct, gross negligence and breach of fiduciary obligation in connection with this Agreement, and in connection with any work undertaken in accordance with this Agreement. The Member shall indemnify, defend and hold harmless the ESJWQC, and its respective members, directors, officers, associations and employees, from the consequences of any Member willful misconduct, gross negligence and breach of fiduciary obligation, to the extent allowed by law.

C. *Amendment.* This Agreement may only be amended or modified by a written instrument executed by the ESJWQC and the Member. The Member will be given prior notice of any amendments to the Agreement.

D. *Entire Agreement.* This Agreement constitutes the entire Agreement of the parties with respect to the subject matter of this Agreement and supersedes any prior oral or written Agreement, understanding, or representation relating to the subject matter of this Agreement.

E. *Partial Invalidity.* If, after the date of execution of this Agreement, any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, such provision shall be fully severable. However, in lieu thereof, there shall be added a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

F. *Choice of Laws.* This Agreement shall be interpreted according to the laws and regulations of the State of California (not including California's choice-of-law rules) and any applicable Federal laws or regulations. The proper venue for any action brought under this Agreement must be brought in Stanislaus County, California.

G. *Compliance with Law.* In performing their respective obligations under this Agreement, the parties shall comply with and conform to all applicable laws, rules, regulations and ordinances.

I, _____, understand and certify that I have voluntarily entered into participation with this program and agree to abide by the terms and provisions of this program as outlined within this Agreement. By signing this statement, I also certify that I am the rightful property owner and/or lessee of the property in question, or I am an authorized representative of the corporation or partnership that owns/leases the property.

Signature

Member ID: _____

Name: _____

Address _____

City Zip: _____

Make a copy for your records and return entire form with signature.

East San Joaquin Water Quality Coalition
1201 L Street Modesto,
CA 95354