

Executive Director's Report



t h e
NATOMAS
BASIN
c o n s e r v a n c y

February 25, 2015

Michael Bradbury
2367 Marina Glen Way
Sacramento, CA 95833

Re: Confirmation of Re-Appointment

Dear Mr. Bradbury:

Congratulations!

On February 24, 2015: your nomination for re-appointment to serve on the **Natomas Basin Conversancy Board of Directors**, in Seat 3 (Member who is not a current employee of the United States Fish and Wildlife Service, the United States Department of Interior, California Department of Fish and Game, or the State of California's Resources Agency) was confirmed by Sacramento City Council. Your term expiration will be December 4, 2018.

An oath of office and ethics training are required as part of your appointment. Information for these requirements will be received directly from my office. The City of Sacramento is pleased and grateful that you are willing to volunteer your time and expertise. We hope that you will enjoy your service. Please feel free to call on us whenever we can be of assistance.

Sincerely,

Shirley Concolino

Shirley Concolino, MMC
City Clerk

cc: Valerie Huevo

Oath of Office

To take and subscribe the following oath or affirmation is required by Article XX, Section 3 of the Constitution of the State of California.

As a member of the _____
City Board/Commission Name

I, _____, do solemnly swear (or affirm) that I will
Full Name
support and defend the Constitution of the United States and the
Constitution of the State of California against all enemies, foreign and
domestic; that I will bear true faith and allegiance to the Constitution of
the United States and the Constitution of the State of California; that I
take this obligation freely, without any mental reservation or purpose of
evasion; and that I will, well, and faithfully discharge the duties upon
which I am about to enter.

Subscribed and sworn on this _____ day of _____, _____
Day Month Year

Signature

From: **Lane, Paul** Paul.Lane@boe.ca.gov

Subject: Legal Opinion Letter

Date: March 25, 2015 at 10:20 AM

To: Alan Petersen (APetersen@co.sutter.ca.us) APetersen@co.sutter.ca.us, John Roberts jroberts@natomasbasin.org



I inquired and received word that the requested legal opinion has been drafted and is "in queue to be reviewed." Unfortunately, I don't know how long that may take.

So the wheels are turning, albeit slowly.

Paul Lane
Property Tax Specialist
Board of Equalization
Property and Special Taxes Department
916.274.3417
paul.lane@boe.ca.gov



Natomas
Mutual Water Company

2601 W. Elkhorn Blvd.
Rio Linda, CA 95673
Office 916 419 5936
Fax 916- 419 8691

RECEIVED
MAR 26 2015

IMPORTANT WATER SUPPLY UPDATE #1

DATE: March 23rd, 2015
TO: Natomas Mutual Water Company Shareholders and Water Users
SUBJECT: U.S. Bureau of Reclamation Water Allocation/Water Toll Rates

2015 Water Supply Update

We have received the official communication from the USBR announcing that they have tentatively set the water allocation at 75%. At this level of allocation, Natomas will be able to provide its shareholders adequate water for the historically irrigated fields within the Company. Water conservation will be important, and everyone should do their best to utilize conservation practices.

The USBR has also communicated that they will be increasing their water costs for 2015, so Natomas' Water Tolls for this season will see an increase from \$8.10 per acre foot to \$10.50 per acre foot. We are currently working to implement alternate means to generate revenue to help mitigate these charges and provide some relief to our Shareholders and Growers. Enclosed you will find a letter containing information about Shareholder participation in our Conjunctive Use Program, which successfully helped to keep rates down in 2014.

If you have any questions, please contact us at 916-419-5936 or awolken@natomaswater.com



Shareholder Participation in Ground Water Management Plan

DATE: March 20, 2015

TO: Natomas Mutual Water Company Shareholders and Water Users

SUBJECT: Well Water - Conjunctive Use Program 2015

The Natomas Mutual Water Company will again be participating in conjunctive use water transfers for 2015. This program will be similar to the 2014 program except for a 13% depletion factor and revenue split of 65/35. The program consists of transferring surface water that is made available through the use of groundwater for irrigation of crops in the Natomas Basin. The current rate paid to well owners for transferred water is \$390 per acre-foot.

We are looking for wells to be included in the program but the time to add new wells is limited. For wells to be a part of the conjunctive use transfers, the following information will need to be supplied the Natomas Mutual Water Company for submittal and approval by the USBR:

1. Location map of well
2. Drillers well log
3. Approved flow meter for well
4. Air Quality District Permit for diesel powered wells

This is a voluntary program but we encourage all owners with suitable wells to consider participating in the program. For further information please contact the Natomas Mutual Water Company at 916-419-5936.

From: Hobbs, Jennifer jennifer_hobbs@fws.gov
Subject: Pipe connection between Natomas Farms and recirculation ditch
Date: March 20, 2015 at 10:48 AM
To: John Roberts jroberts@natomasbasin.org
Cc: Richard Kuyper richard_kuyper@fws.gov

HJ

Hi John, I just wanted to close the loop on the construction work to connect Natomas farms to the adjacent recirculation ditch. The Service agrees that it makes sense to do this work as part of the operations and maintenance of HCP conservation lands. Please let us know if you have any questions.

Thanks,
Jenn

Jennifer Hobbs
Fish and Wildlife Biologist
Sacramento Fish and Wildlife Office
(916)414-6541

The Natomas Basin Conservancy
Grower Meeting
March 19, 2015

1. Introductions
2. 2015 Ag Leases (rice and non-rice)
3. New subwatershed regulations that will require grower compliance
4. Site-specific management plans (SSMP) preparation and relevance to farming operations
5. Conservation-minded farming and compliance and Habitat Conservation Plan
6. Groundwater exchange program participation
7. Conclusion



Security Coordination Meeting Agenda

March 5, 2015

- Continue contract with BPS
 - Other options—Sac County Sheriff or RFP (Bayer/??)
- Complaints/concerns
- Maintain level of service?
- Adjustments to current scope or special needs?
- Budgets for NCMWC, RD 1000 and NBC
- Meeting with BPS if contract extended

2150 RIVER PLAZA DRIVE
SUITE 460
SACRAMENTO, CA 95833
PHONE: 916.649.3331
FAX: 916.649.3322

February 19, 2015

Ms. Tina Bartlett, Regional Manager
North Central Region
California Department of Fish and Wildlife
1701 Nimbus Road
Rancho Cordova, CA 95670

Ms. Jennifer Norris, Field Supervisor
U.S. Fish and Wildlife Service
2800 Cottage Way, Suite 2605
Sacramento, CA 95825



RE: Request for "Revisions" to the Natomas Basin Habitat Conservation Plan: 1.) final Permit Area map for the Sutter County Permit Area, and 2.) clarification pursuant to Section VI.L.3 (p. VI-47) of the NBHCP regarding annual HCP fee adjustments.

Dear Ms. Bartlett and Ms. Norris:

This letter requests approval of two proposed revisions to the Natomas Basin Habitat Conservation Plan (NBHCP). The first proposed revision responds to a written request by your two agencies that the County of Sutter finalize its map of the NBHCP "Permit Area." The second requests a clarification on whether the Conservancy, acting as Plan Operator of the NBHCP, requires approval from the Wildlife Agencies to change the HCP fee in the course of its annual fee adjustment process.

As you are aware, the NBHCP, in Section VI.L.3, pages VI-47 – VI-49, provides for revisions to the NBHCP. The Conservancy is designated as the facilitator of any revision proposals, and is also designated the keeper of all records of revisions. In both cases presented here, "revisions" are proposed as they are defined in the NBHCP at Section VI.L.3 (specifically, page VI-47+).¹ All "Parties" to the NBHCP are aware of these proposed revisions, having had multiple opportunities to discuss them, and all are included in the circulation of this written request. In addition, the NBHCP Technical Advisory Committee is included in this circulation. The Conservancy's Board of Directors has approved both proposed revisions contingent upon approval from the Wildlife Agencies.

¹ From the NBHCP, p. VI-47: "These revisions would not result in operations under the NBHCP that are significantly different from those analyzed in connection with the NBHCP as approved, result in adverse impacts on the environment that are new or significantly different from those analyzed in connection with the NBHCP as approved."

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EXECUTIVE OFFICER

John R. Roberts
Executive Director

The two proposed revisions are more thoroughly presented below:

A. Proposing Party: County of Sutter.

Nature of proposed revision: Sutter County proposes to formally define its 7,467 Permitted Acres within the larger area authorized in the 2003 NBHCP. In the early years of the NBHCP, Sutter County had not yet fully delineated the exact boundaries of its Permit Area. It has since completed this process, and the CDFW and USFWS have requested an official copy of the final map, as well as its inclusion into the NBHCP and Implementation Agreement (IA). The matter of map revision is anticipated in the NBHCP.² Should CDFW and USFWS approve this revision, the Conservancy will add the updated and approved map to the NBHCP and IA.

History:

Briefly stated, the chronology of the actions to date is as follows:

January 28, 2014	letter to County of Sutter from Jennifer Norris, USFWS and Tina Bartlett, CDFW requesting Sutter County finalize its Permit Area map and resolve acreage discrepancies.
February 7, 2014	Response from Sutter County's Director of Development Services, Danelle Stylos, acknowledging receipt and describing action to be taken.
March 25, 2014	Letter from County of Sutter's Director of Development Services, Danelle Stylos, to the Natomas Basin Conservancy, Plan Operator, NBHCP, with requested map of Permit Area and request for Revision.
August 6, 2014	Approval by the Board of Directors of the Conservancy.
August 20, 2014	Matter agendaized with NBHCP Implementation Group meeting and discussed. CDFW and USFWS in attendance.
October 22, 2014	Conservancy posted the notice of request and map on the homepage of its web site.
December 19, 2014	Matter agendaized with NBHCP Implementation Group meeting and discussed. CDFW and USFWS in attendance.

² See NBHCP at Section VI.L.3.a.2: "Correction of any maps or exhibits to correct errors in mapping or to reflect previously approved changes in the ITPs or NBHCP."



Justification:

--Will the proposed revision, if accepted, result in operations under the NBHCP that are significantly different from those analyzed in connection with the NBHCP? No. During the last federal litigation regarding the NBHCP, the court was assured that once Sutter County was certain as to the exact boundaries of its Permit Area, it would submit a map that clearly defined this area. Additionally, on January 28, 2014, the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service requested Sutter County finalize the map and request a revision to the NBHCP. This proposed action simply complies with and fulfills that request. It also reconciles minor acreage discrepancies.

--Will the proposed revision, if accepted, result in adverse impacts on the environment that are new or significantly different from those analyzed in connection with the NBHCP as approved? No. This action would have no adverse impact on the environment, and merely complies with earlier commitments to formalize Sutter County's designated Permit Area.

Staff recommendations: Conservancy staff recommends approval.

B. Proposing Party: Natomas Basin Conservancy.

Nature of proposed revision:

In another matter, the Conservancy proposes a revision to the NBHCP based on the need for clarity as to whether or not approval from the Wildlife Agencies is required before a fee adjustment is made.

The NBHCP, at VI.L.4 (page VI-47) notes: "Revisions to the NBHCP are changes to the Plan provided for under the Operation Conservation Program, including...Mitigation Fee adjustments." The Conservancy, acting as Plan Operator of the NBHCP, does not believe that the annual HCP fee adjustment rises to the level of a "revision" as described in Section VI.L.4 and as noted above,³ especially in light of other mentions in the NBHCP as follows:

--"Adjustments to the Mitigation Fee...to meet ongoing management and monitoring costs...do not require amendments to the NBHCP or Permits." (at pages VI-4 and 5).

³This conclusion presumes that the NBHCP Finance Model is recalculated each year in accordance with the NBHCP, and the process established in the NBHCP for fee adjustments is adhered to (including discussion in publicly-notice meetings).



--“Such fee increases are provided for under the Plan’s Operating Conservation Program and therefore do not trigger amendment of the Plan or Permits.” (at page VI-6).

This item seeks to make clear that as long as the Conservancy follows the prescribed fee adjustment protocols in the NBHCP, approval by the Wildlife Agencies is not required.

A timeline of action to date on this matter follows:



August 6, 2014	Approval by the Board of Directors of the Conservancy.
August 20, 2014	Matter agendaized with NBHCP Implementation Group meeting and discussed. CDFW and USFWS in attendance.
December 19, 2014	Matter agendaized with NBHCP Implementation Group meeting and discussed. CDFW and USFWS in attendance.

Justification:

--*Will the proposed revision, if accepted, result in operations under the NBHCP that are significantly different from those analyzed in connection with the NBHCP?* No. HCP fee adjustment practices have been robust and fully compliant with the process established in the NBHCP since the Conservancy has been fully operational as the NBHCP’s Plan Operator.⁴ Since its inception, the NBHCP has endured multiple state and federal court tests with the annual HCP fee calculation process clearly apparent. Moreover, each year’s fee adjustment requests have been accepted and placed into effect without problem.

--*Will the proposed revision, if accepted, result in adverse impacts on the environment that are new or significantly different from those analyzed in connection with the NBHCP as approved?* No. See answer above.

Staff recommendations: The Conservancy recommends approval of a revision to the NBHCP as follows:

At Section VI.L.3 (page VI-47), make the following wording change (~~strikethrough~~ text proposed for deletion):

Revisions to the NBHCP are changes to the Plan provided for under the Operation Conservation Program, including Adaptive Management changes and the ~~Mitigation Fee adjustments.~~

⁴ Since the organization was first staffed in 1999.

Conclusion. The Conservancy, acting in its designated role as facilitator of revisions to the NBHCP, submits these two matters to the Wildlife Agencies as is required in the NBHCP. The Conservancy believes that the two items submitted above are, in the first instance, responsive to CDFW and USFWS requests, and in the second instance, needed to clarify a matter so that NBHCP fee-setting practices are compliant with all references in the NBHCP.

With written approval from the Wildlife Agencies, the Conservancy will insert the revisions into the NBHCP, and in the case of the Sutter County map request, also insert the requested map in the NBHCP's Implementation Agreement.

We look forward to your earliest response, and invite questions or comments that may arise on either or both of the above matters.

Sincerely,

THE NATOMAS BASIN CONSERVANCY, a California
Non-profit Public Benefit Corporation



By: John R. Roberts
Executive Director

Enclosures: --Communications and map in support of final map request
--Excerpt from NBHCP Section VI.L.3

c: Kellie Berry, U.S. Fish and Wildlife Service
Rick Kuyper, U.S. Fish and Wildlife Service
Doug Libby, County of Sutter
Scot Mende, City of Sacramento
NBHCP Technical Advisory Committee
Tanya Sheya, California Department of Fish and Wildlife
Danelle Stylos, County of Sutter



If you have any questions regarding the proposed Order, please contact Dania Jimmerson at (916) 464-4742 or Dania.Jimmerson@waterboards.ca.gov.

Original Signed By
James D. Marshall
Senior Engineer

Enclosures (3): Notice of Public Hearing (Discharger Only)
Proof of Posting Form (Discharger Only)
Tentative Cease and Desist Order (Discharger Only)

cc: David Smith, U.S. Environmental Protection Agency, Region IX, San Francisco (via email only)
Peter Kozelka, U.S. Environmental Protection Agency, Region IX, San Francisco (via email only)
US Army Corp of Engineers, Sacramento
US Fish and Wildlife Service, Sacramento
Phil Isorena, State Water Resources Control Board, Sacramento (via email only)
Department of Water Resources, Central District, Sacramento
State Office of Historical Preservation, Sacramento
Regional Manager, Department of Fish & Game, Region II, Rancho Cordova
Department of Environmental Health, Sacramento County, Sacramento
Paul Donoho, Division of Environmental Health, Yuba County, Marysville
Bill Jennings, California Sportfishing Protection Alliance, Stockton
Richard McHenry, California Sportfishing Protection Alliance (via email only)
Valentin Lopez, Chairperson, Amah Mutsun Tribal Band, Ohlone/Costanoan
Rhonda Morningstar Pope, Chairperson, Buena Vista Rancheria of Me-Wuk Indians, Me-Wuk (Miwok)
Lloyd Mathiesen, Chairperson, Chicken Ranch Rancheria of Me-Wuk, Me-Wuk (Miwok)
Lavina Suehead, Chairperson, Colfax-Todds Valley Consolidated Tribe of Colfax Rancheria, Miwok
Lynda Shoshone, President, Inter-Tribal Council of California, Inc.
Yvonne Miller, Chairperson, Lone Band of Miwok Indians, Miwok
Katherine Erolinda Perez, North Valley Yokuts Tribe, Ohlone/Costanoan, Yokuts, Miwok
John W. Burch, Traditional Chairperson, Salinan Tribe of Monterey, San Luis Obispo and San Benito Counties, Salinan
Nicholas Fonseca, Chairperson, Shingle Springs Band of Miwok Indians, Miwok
Andrew Franklin, Chairperson, Wilton Rancheria Indian Tribe, Miwok Tribe

Please Add John Roberts / TNBC

*

Jroberts@natomias
basin.org
2150 River plaza Dr.
Sacramento CA

(916) 649-3331

95833

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CEASE AND DESIST ORDER R5-2015-XXXX

REQUIRING STERLING CAVIAR LLC.
ELVERTA FACILITY
SACRAMENTO COUNTY
TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS PRESCRIBED
IN ORDER R5-2007-0012 (NPDES NO. CA0085197)

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Central Valley Water Board) finds that:

1. On 15 March 2007 the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order R5-2007-0012 (NPDES Permit No. CA0085197), prescribing waste discharge requirements for the Sterling Caviar LLC (hereafter Discharger) at Sterling Caviar LLC, Elverta (hereafter Facility), Sacramento County. Cease and Desist Order (CDO) R5-2007-0013 was also issued to allow compliance schedules for meeting the final effluent limitations for arsenic, manganese, and nitrate, with a final compliance date of 1 March 2012.
2. On 2 February 2012 the Central Valley Water Board adopted Order R5-2012-0007, amending CDO R5-2007-0013, to extend the compliance schedules for the arsenic, manganese, and nitrate an additional 3 years, until 1 March 2015.
3. WDR Order R5-2007-0012 contains Final Effluent Limitations IV.A.1.a. which reads, in part, as follows:

Table 6. Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Arsenic	µg/L	10	--	--	--	--
Manganese	µg/L	50	--	--	--	--
Nitrate (as N)	mg/L	10	--	--	--	--

A. Sources of Arsenic & Manganese are naturally occurring from well water used

Need for Time Schedule Extension and Legal Basis

5. The Discharger has completed several operational changes and facility upgrades that have resulted in compliance with the final nitrate limits (Figure 1). However, these changes and upgrades have not resulted in compliance with the final effluent limits for arsenic and manganese and it was determined to not be economically feasible to treat for these trace metals. Therefore, the Discharger implemented an alternative project, which is to reuse the fish hatchery wastewater for irrigation of an agricultural operation.

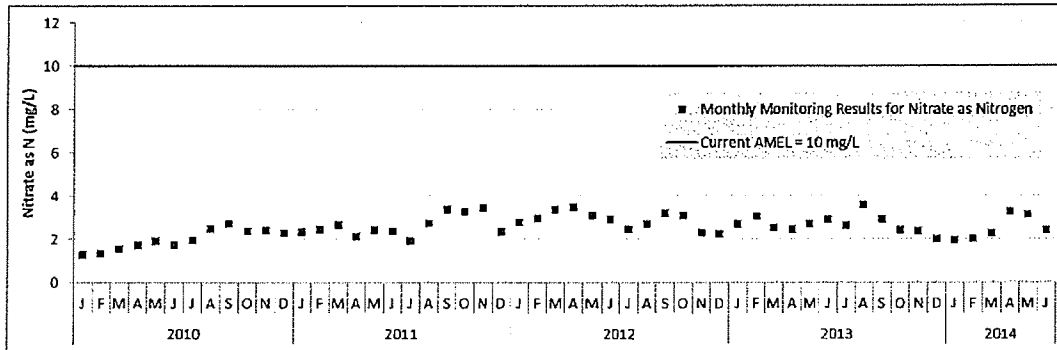


Figure 1. Monthly Monitoring Results for Nitrate as Nitrogen

6. The Discharger provided a preliminary plan to reuse the treated wastewater as irrigation supply for an agricultural crop and may cease the point source discharge to surface waters. Therefore, the NPDES Permit and CDO could potentially be rescinded. *not complete*

7. On 20 July 2011, the Discharger submitted a letter requesting an extension of the compliance schedule from 1 March 2012 until 1 March 2015 for the final effluent limitations for arsenic and manganese. The Discharger evaluated project alternatives to either change its ground water supply source for the Facility, which is the source of the arsenic and manganese, or construct facilities to remove the constituents. The Discharger conducted water quality monitoring and evaluated project alternatives and concluded that treatment for removal of arsenic and manganese at or below effluent limitations is not economically feasible. The Discharger also evaluated the option of reusing the treated wastewater for reuse on an agricultural crop. At the time, this was determined to be the cost effective project. Additional time was needed to pursue outside parties for development of an agricultural operation to be located near the Facility that would use treated effluent from the Facility as its irrigation source. Additional time was also necessary to establish contracts with an outside party, secure necessary permits, and develop the agricultural operation.

8. On 1 July 2013, the Discharger submitted a letter informing the Central Valley Water Board of a proposed project consisting of the construction of an onsite aquaponics agricultural operation (Aquaponics Farm) that would reuse treated effluent from the Facility for irrigation of food crops. In September 2013 the Aquaponics Farm obtained regulatory coverage under the Irrigated Lands Regulatory Program and joined the Sacramento Valley Water Quality Coalition. By December 2013 the Discharger had ceased discharging to surface water, and the entire flow from the Facility was being reused by the Aquaponics Farm as a flow-through system. However, by August 2014 the Discharger determined that the Aquaponics Farm was not an alternative project that feasibly *would* help achieve compliance by the required final date of 1 March 2015. Therefore, in August 2014 the Discharger subcontracted with an Environmental Engineering company to evaluate additional compliance alternatives.

9. On 29 October 2014 the Discharger submitted a Method of Compliance Work Plan (Work Plan) to comply with the final limits for arsenic and manganese. The Work Plan includes the following compliance alternatives:

- Operational.** This could include: 1) a modification of the current pumping schedule and flow rates to reduce the arsenic and manganese; 2) Installation of test wells to identify less-contaminated water-bearing intervals; and 3) Active treatment to remove the arsenic and manganese prior to use or discharge.

T E N T A T I V E

- b. **Regulatory.** This could include: 1) the development of site specific objectives or 2) a modification of the beneficial uses of the receiving water, point of discharge, or seasonal permit requirements.
- c. **Point-of-Use.** This includes alternatives where the use is excluded from coverage under the Clean Water Act, such as: 1) an agricultural use onsite or offsite, or 2) sale of the water to an agricultural entity.

The Discharger's next steps to achieve compliance are to submit: 1) an evaluation and ranking of alternatives described above (1 May 2015); 2) an implementation schedule and process and begin implementation for the selected project alternative(s) (1 October 2015); and 3) annual progress reports describing the steps that have been implemented and status towards achieving compliance with waste discharge requirements (1 April 2016 and 1 December 2016).

9. The Work Plan provided information supporting the infeasibility to comply with final effluent limitations for arsenic and manganese by 1 March 2015 (final limits are described in Finding 3 above). The Central Valley Water Board finds that the Discharger is demonstrating continued due diligence to comply with the final effluent limits to develop and implement a compliance alternative.

Mandatory Minimum Penalties

10. Water Code sections 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties (MMPs) upon dischargers that violate certain effluent limitations. Water Code section 13385(j) exempts certain violations from the MMPs. Water Code section 13385(j)(3) exempts the discharge from MMPs *"where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308, if all the [specified] requirements are met...for the purposes of this subdivision, the time schedule may not exceed five years in length..."*

11. Per the requirements of Water Code section 13385, subdivision (j)(3), the Central Valley Water Board finds that:

- a. This Order specifies the actions that the Discharger is required to take in order to correct the violations that would otherwise be subject to Water Code sections 13385(h) and (i).
- b. To comply with final effluent limitations for arsenic and manganese the Discharger has determined that an extension of the compliance schedule in Cease and Desist Order (CDO) R5-2007-0013-01 is necessary to: (1) further investigate the feasibility of alternatives and provide an evaluation and ranking of these alternatives; (2) submit a schedule for implementation of the selected project alternative(s); and (3) submit an evaluation of the final implemented alternative demonstrating final compliance.
- c. The Discharger has demonstrated that an extension of the compliance schedule for arsenic and manganese in CDO R5-2007-0013-01 is needed to complete the tasks described above and achieve compliance.
- d. This Order establishes a time schedule to bring the waste discharge into compliance with the effluent limitations that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitations.

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11. The final effluent limitations for arsenic and manganese became applicable to the waste discharge on the effective date of WDR Order R5-2007-0012 (4 May 2007). CDO Order R5-2007-0013 provided protection from MMPs for violations of effluent limitations for arsenic and manganese from 4 May 2007 until 1 March 2012 and CDO Order R5-2007-0013-01 extended the protection from MMPs until 1 March 2015. The issuance of this Order R5-2015-XXXX on XX April 2015 will provide protection from MMPs for violations of effluent limitations for arsenic and manganese from XX April 2015 until 1 March 2017. The Discharger is subject to MMPs for violations of effluent limitations for arsenic and manganese from 1 March 2015 to XX April 2015.

12. By statute, a CDO may provide protection from MMPs for no more than five years, except as provided in Water Code section 13385, subdivision (j)(3)(C)(ii)(II).

13. Per the requirements of Water Code section 13385(j)(3)(C)(i), the time schedule shall not exceed five years. However, per the requirements of 13385(j)(3)(C)(ii)(II), following a public hearing, and upon a showing that the Discharger is making diligent progress toward bringing the waste discharge into compliance with the effluent limitation, the Central Valley Water Board may extend the time schedule for up to an additional five years, if the Discharger demonstrates that the additional time is necessary to comply with the effluent limitation. The Central Valley Water Board finds, as described in previous findings in this Order, that the Discharger is making diligent progress to bring the waste discharge into compliance with final effluent limitations for arsenic and manganese contained in WDR Order R5-2007-0012, and has demonstrated that the additional time is necessary.

14. Compliance with this Order exempts the Discharger from MMPs for violations of the final effluent limitations for arsenic and manganese contained in WDR Order R5-2007-0012 from XX April 2015 to 1 March 2017.

15. In accordance with Water Code section 13385, subdivision (j)(3)(C), the total length of protection from mandatory minimum penalties for the final effluent limitations for arsenic and manganese does not exceed ten years.

16. Water Code section 13385(j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to section 13263.3 of the Water Code. Therefore, a pollution prevention plan will be necessary for arsenic and manganese to effectively reduce the effluent concentrations by source control measures.

17. This Order provides a time schedule for completing the actions necessary to ensure compliance with the final effluent limitations for arsenic and manganese contained in WDR Order R5-2007-0012. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds one year, this Order includes interim effluent limitations and interim requirements and dates for compliance with the final limits.

18. The compliance time schedules in this Order include interim performance-based effluent limitations for arsenic and manganese. The interim effluent limitations consist of an average monthly effluent concentration derived using sample data provided by the Discharger. In developing the interim limitations, when there are less than 10 sampling data points available, the *Technical Support Document for Water Quality- Based Toxics Control* ((EPA/505/2-90-001), TSD) recommends a coefficient of variation of 0.6 be utilized as representative of wastewater effluent sampling. The TSD recognizes that a minimum of 10 data points is necessary to conduct a valid statistical analysis. The multipliers contained in Table 5-2 of the TSD are used to determine an average monthly limitation based on a long-term average objective. In this case, the long-term average objective is to maintain, at a minimum, the current plant performance level. Therefore, when there are less than ten sampling points for a constituent, interim limitations are based on

3.11 times the maximum observed effluent concentration to obtain the average monthly interim limitation (TSD, Table 5-2).

19. The Central Valley Water Board finds that the Discharger can maintain compliance with the interim effluent limitations included in this Order. Interim effluent limitations are established when compliance with the final effluent limitations cannot be achieved by the existing Facility. Discharge of constituents in concentrations in excess of the final effluent limitations, but in compliance with the interim effluent limitations, can significantly degrade water quality and adversely affect the beneficial uses of the receiving stream on a long-term basis. The interim limitations, however, establish an enforceable ceiling concentration until compliance with the effluent limitation can be achieved.
20. If an interim effluent limit contained in this Order is exceeded, the Discharger is subject to MMPs for that particular exceedance as it will no longer meet the exemption in Water Code section 13385(j)(3). It is the intent of the Central Valley Water Board that a violation of an interim monthly effluent limitation subjects the Discharger to only one MMP for that monthly averaging period.

Other Regulatory Requirements

21. Water Code section 13301 states: *"When a regional board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action. In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to that system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order. Cease and desist orders may be issued directly by a board, after notice and hearing."*
 22. Water Code section 13267 states in part: *"In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."*
- The Discharger owns and operates the aquaculture facility named in this Order.
23. The technical and monitoring reports required by this Order are necessary to determine compliance with the WDRs and with this Order.

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24. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) ("CEQA") pursuant to Water Code section 13389, since the adoption or modification of a NPDES permit for an existing source is statutorily exempt and this Order only serves to implement a NPDES permit. (Pacific Water Conditioning Ass'n, Inc. v. City Council of City of Riverside (1977) 73 Cal.App.3d 546, 555 556). Issuance of this Order is also exempt from CEQA pursuant to California Code of Regulations, title 14, section 15321, subdivision (a)(2).

IT IS HEREBY ORDERED THAT:

1. Cease and Desist Order R5-2007-0013-01 is rescinded upon the effective date of this Order, except for enforcement purposes.
2. Pursuant to California Water Code sections 13301 and 13267, the Discharger shall comply with the following time schedule to ensure compliance with the arsenic and manganese effluent limitations contained in WDR Order R5-2007-0012 as described in the above Findings:

Task	Date Due
Submit Method of Compliance Workplan/Schedule	Complete
Submit Compliance Alternative Investigation/Evaluation and Selection of Preferred Compliance Alternative. Submit a report that includes: 1) a compliance options investigations analysis that includes: overall feasibility, effectiveness, cost, regulatory acceptance, timing, likelihood of compliance, and ease of implementation for the alternatives listed in Finding 7 of this Order. 2) a rationale for selection of preferred compliance option(s), and 3) a discussion of cost and funding sources. The report must also describe the selected preferred compliance alternative (s) and include a preliminary milestone schedule for implementing the alternative (s) for compliance with the final effluent limits for arsenic and manganese.	1 May 2015
Submit Pollution Prevention Plan (PPP) for arsenic and manganese pursuant to CWC section 13263.3	1 July 2015
Begin Implementation of Selected Project Alternative. Submit a report that includes a schedule and detailed process for implementing the selected alternative(s).	1 October 2015
Progress Reports. Submit progress reports that shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final date.	1 April 2016 1 December 2016
Full compliance. Submit report demonstrating compliance with the final effluent limitations for arsenic and manganese.	1 March 2017

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3. The following interim effluent limitations shall be effective immediately. The interim effluent limitations for arsenic and manganese shall be effective until **1 March 2017**, or when the Discharger is able to come into compliance, whichever is sooner.

Parameter	Average Monthly Effluent Limitation
Arsenic (µg/L)	37
Manganese (µg/L)	172

4. Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

5. In accordance with Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain work plans for, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain the professional's signature and/or stamp of the seal.

If, in the opinion of the Executive Officer, Sterling Caviar, LLC fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order or with the WDRs may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order 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. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

This Order is effective upon the date of adoption.

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CEASE AND DESIST ORDER R5-2015-XXXX
STERLING CAVIAR LLC ELVERTA FACILITY
SACRAMENTO COUNTY

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I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on XX April 2015.

PAMELA C CREEDON, Executive Officer

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