

**COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT
CONDITIONAL PROHIBITION AND IMPLEMENTATION PLAN FOR
AGRICULTURAL WASTEWATER DISCHARGES WITHIN THE PALO VERDE
VALLEY AND PALO VERDE MESA**

The following representatives of organizations submitted written comments on the Draft Conditional Agricultural Discharge Prohibition: Palo Verde

Letter	Signatory	Affiliation	Date
A	Mark Johnson	Coachella Valley Water District	8/31/10
B	Roger Henning	Palo Verde Water District	8/31/10
C	James Ross	Imperial Irrigation District	8/31/10
D	Lindsey Dale	Imperial County Farm Bureau	8/31/10

COMMENTS AND RESPONSES

Written comments on the Draft Conditional Prohibition and Implementation Plan for Agricultural Discharges in Palo Verde are reproduced on the following pages, along with responses to those comments, which are highlighted in bold font. To assist in referencing comments and responses, the following coding system is used:

Comment letters are coded by letters and each issue raised in the comment letter is assigned a number (e.g., Comment Letter A, comment 1: A-1).

Where changes to the Draft Conditional Prohibition text result from responding to comments, those changes are included in the response and demarcated with revision marks (underline for new text, ~~strike-out~~ for deleted text). Comment-initiated text revisions to the Draft Conditional Prohibition and minor staff initiated changes are also provided and are demarcated with revision marks in the Errata of the final Conditional Prohibition and Implementation Plan.

Letter A



Established in 1918 as a public agency

Coachella Valley Water District

Directors:
Patricia A. Larson, President
Peter Nelson, Vice President
Tellis Codekas
Franz W. De Klotz
Russell Kitahara

Officers:
Steven B. Robbins, General Manager-Chief Engineer
Julia Fernandez, Board Secretary

Redwine and Sherrill, Attorneys

August 31, 2010

File: 0553.111

Theresa Kimsey
Executive Officer
California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Dear Ms. Kimsey:

Subject: Proposed Basin Plan Amendment to Establish a Conditional Prohibition and Implementation Plan for Agricultural Wastewater Discharges Originating Within Palo Verde Valley and the Palo Verde Mesa

We appreciate the opportunity to provide comments on the subject Amendment and Conditional Prohibition. Coachella Valley Water District (CVWD) provides domestic water, wastewater, recycled water, irrigation/drainage and regional storm water protection services to a population of 265,000 throughout the Coachella Valley. CVWD services supporting agriculture lands in the Coachella Valley include irrigation water facilities serving over 78,000 acres and drainage facilities serving over 37,000 acres.

While we understand that California has allowed a statewide waiver for agriculture discharges to expire and now expects these discharges to be regulated, we believe it is important to recognize that the Federal government still exempts agriculture discharges from Clean Water Act regulation throughout the U.S. California is breaking new ground with these agriculture discharge regulations and your office is exploring new territory by implementing the first agricultural conditional prohibitions in the State and U.S. This letter and the enclosed comments indicate the subject Amendment and Conditional Prohibition are not ready for adoption and provide recommendations for a more coordinated approach involving stakeholders from each agricultural watershed within the Colorado River Basin to successfully implement conditional prohibitions to control agricultural discharges and protect beneficial uses of State waters.

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www.cvwd.org

P.O. Box 1058 Coachella, CA 92236
Phone (760) 398-2651 Fax (760) 398-3711

Letter A Continued

Theresa Kimsey
California Regional Water
Quality Control Board

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August 31, 2010

Several of the enclosed comments are provided to address a critical problem with the subject Amendment related to prohibiting agricultural discharges that exceed salinity water quality objectives for receiving waters, including Palo Verde Valley Drains. Agriculture in the Palo Verde area depends on drains constructed to intercept rising groundwater, that often contains high levels of dissolved salt from naturally saline soils, and provide growers the ability to leach saline soils as part of a federally supported program to reclaim lands for beneficial uses. This function will directly conflict with provisions in the subject Amendment if adopted. Using treatment systems to remove and dispose of this salt is not practical and cost prohibitive putting responsible parties in an untenable position. The subject Amendment and related documents fail to address this critical conflict and ignore the economic impact that this would have on the Palo Verde region.

Another important problem with the effort currently being used to develop this agriculture discharge regulatory program is that an inconsistent uncoordinated approach is being used in each watershed within the Colorado River Basin. RWQCB adopted the first agricultural conditional prohibition in 2005 for Imperial Valley. This conditional prohibition controls elevated levels of sediment in agricultural discharges, which was identified as a threat to water quality based on sediment impaired receiving waters identified on the State's 303(d) list of impaired waters. Now, RWQCB staff is proposing to adopt a conditional prohibition for agricultural related discharges in Palo Verde that provides conditions for prohibiting the entire discharge rather than a specific pollutant found in these discharges. Unlike the conditional prohibition of sediment for Imperial Valley, the subject amendment takes a shotgun approach to require monitoring and reporting and implementation of management practices for multiple water quality parameters, including those not linked to impairments identified on the 303(d) list. Meanwhile, RWQCB staff is using a different approach for the Coachella Valley where a Technical Advisory Committee (TAC) has been formed to evaluate different approaches to regulate agricultural discharges in the Coachella Valley and provide recommendations to the RWQCB. Either the recommendations from this TAC will lead to an approach that lacks the problems identified in these comments and is inherently different from the subject Amendment for the Palo Verde area or the RWQCB intends to implement an approach in the Coachella Valley that contains the same problems identified with the Palo Verde approach. Either option would be unreasonable for dischargers in one or more watershed.

This piece-meal approach to regulating agriculture in the Colorado River Basin is likely to lead to serious equity problems. A coordinated approach involving a committee of stakeholders from each agricultural watershed within the region is needed. This effort can be used to develop an agreement in principal to the key elements needed to develop agricultural regulations for individual watersheds that share these key elements, are tailored to unique conditions found in each watershed and are developed and implemented simultaneously.

Letter A Continued

Theresa Kimsey
California Regional Water
Quality Control Board

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This same approach has been successfully used by State and Federal agencies to flush out problems typically encountered when regulating water quality and to find common principles that provide an equitable approach to simultaneously regulate entities found in many different watersheds. A recent example of this approach is being used by the USEPA who formed the Total Coliform Rule Distribution System Advisory Committee to find common principles to revise the drinking water total coliform rule. The agreement in principle developed by this committee is now being used by USEPA to complete the regulatory process.

Your consideration of these comments is appreciated and we look forward to continuing to work with your agency to develop a reasonable approach to satisfy State requirements in a manner that is equitable for agriculture in each watershed within the Colorado River Basin region.

If you have any questions please contact Steve Bigley, Environmental Services Manager, extension 2286.

Yours very truly,



Mark Johnson
Director of Engineering

Enclosure/1/as

SB:chi:eng:wr:10:Aug:Pale Verde-WW Discharge

www.cvwd.org

P.O. Box 1058 Coachella, CA 92236
Phone (760) 398-2651 Fax (760) 398-3711

Letter A Continued

Coachella Valley Water District Comments for Draft Basin Plan Amendment
to Establish a Conditional Prohibition and Implementation Plan for Agricultural
Discharges Originating Within the Palo Verde Valley and Palo Verde Mesa

August 31, 2010

1. Staff Report, definitions, agricultural wastewater discharges. Agricultural wastewater discharges are defined in the Draft Staff Report ("Staff Report") for the subject draft basin plan amendment and conditional prohibition as irrigation return water, which includes subsurface discharges known as tile water in tiled areas and groundwater or "seepage" in areas not tiled. Inadequate information has been provided in the supporting documents to justify the inclusion of groundwater or "seepage" in areas not tiled. Tile drains are installed primarily to prevent crop damage caused by rising groundwater and to provide the ability to meet leaching requirements that exist for saline soils. Lands consisting of soils without this need are not tiled and are therefore operated much differently. Common irrigation procedures including drip irrigation used in the arid west are designed to limit seepage in areas not tiled to that amount needed to satisfy the crop and to create an area of suitable soil within the root zone without discharging to state waters, which includes groundwater. It would be inappropriate to conditionally prohibit irrigation return water that does not discharge to waters of the State.

A-1

Revise the first sentence of this definition as follows:

"For purposes of this conditional prohibition, "agricultural wastewater discharges" means: discharges of wastewater from irrigated lands, specifically: 1) storm water runoff from irrigated lands; and 2) irrigation return water, which includes surface discharges (also known as "tailwater") and subsurface discharges (also known as "tile water")."

2. Staff Report, section I, paragraph 5. The following sentence should be inserted after the second sentence in this paragraph: "The conditional prohibition is not intended to limit the lawful application of soil amendments, fertilizers, herbicides, fumigants or pesticides to land."
3. Staff Report, section I, additional paragraph. A paragraph should be added between the fifth and sixth paragraph of the introduction, section I, to clarify how the amendment and conditional prohibition will address agricultural wastewater discharges containing salinity in amounts that exceed water quality objectives. An important function of the drains installed in the Palo Verde area is to reclaim saline soils by leaching salt from the soil and discharging this excess salt into waters of the State. Without this leaching practice, the reclamation of saline soils accomplished by local and Federal investments would be reversed and the beneficial use of this land may cease. Requiring additional controls to remove salinity from agricultural wastewater discharges would be cost prohibitive and lead to substantial and widespread economic harm to the area. It is reasonable to anticipate that site specific

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A-3

Letter A Continued

water quality objectives will be needed to allow discharges of salinity in amounts that exceed existing water quality objectives in the Basin Plan for waters of the State, including the Palo Verde Valley Drains. With shallow saline groundwater also occurring in the Imperial and Coachella Valley's, this would be one of those key elements that should be discussed and resolved using a committee composed of representatives from each agricultural watershed in the region. Without the benefit of this process, the following revision would improve the draft Staff Report:

Insert the following text after paragraph 5 in section I:

"This conditional prohibition will not prevent the reclamation of saline soils in the Palo Verde Valley and Palo Verde Mesa using surface and subsurface drains and/or salt leaching practices. These reclamation practices depend in part on discharging salt in amounts that may exceed existing water quality objectives in the Basin Plan for waters of the State, including the Palo Verde Valley Drains, Palo Verde Lagoon and Outfall Drain. Neither Federal nor State laws governing water quality require instantaneous compliance with applicable water quality standards. The conditional prohibition and amendment includes implementation of Compliance Programs that include management practices to achieve best practicable treatment or control of the discharge that will reduce wastes in the discharges to achieve applicable water quality standards and protect beneficial uses of waters of the State. However, implementing best practicable control measures may not always achieve water quality standards. So, compliance assurance activities included in the conditional prohibition and amendment include possible development of site specific water quality objectives and/or subcategories of water quality standards when Responsible Parties demonstrate full implementation of Compliance Programs and document MPs are properly implemented and maintained, and additional controls will result in substantial and widespread economic harm or detrimental social impacts."

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4. Staff Report, section IV, paragraph 1. The last sentence states, "As saline soils in the Valley and Mesa are reclaimed through salt leaching, more profitable crops are grown." There is no information provided in the Staff Report to support a finding that saline soils reclaimed through salt leaching are more profitable than soils that do not require salt leaching.

A-4

Replace this sentence with the following text:

"Saline soils in the Valley and Mesa reclaimed through salt leaching can be used to grow profitable crops."

5. Staff Report, section VI, paragraph 1. The first sentence of this paragraph states that the purpose of the amendment is to conditionally prohibit agricultural wastewater discharges and drain maintenance discharges to ensure compliance with water quality objectives and protection of beneficial uses of State waters in the Palo Verde Valley and Palo Verde Mesa. This text is not consistent with the intent of the basin plan amendment stated in the first paragraph of section I of the Staff Report, which states

A-5

Letter A Continued

"The intent of the amendment is to ensure agricultural wastewater discharges and drain maintenance discharges, occur in a manner that does not adversely affect the beneficial uses defined in the Basin Plan for the Palo Verde Valley Drains, and the Palo Verde Valley Lagoon and Outfall Drain." CVWD believes the intent of the subject Amendment is better articulated in the introduction provided in section I.

Replace the first sentence of this paragraph with the following text:

"As previously mentioned, the purpose of this amendment is to ensure agricultural wastewater discharges and drain maintenance discharges, occur in a manner that does not adversely affect the beneficial uses defined in the Basin Plan for the Palo Verde Valley Drains, and the Palo Verde Valley Lagoon and Outfall Drain."

6. Staff Report, section VI, paragraph 1, second bullet. For the reasons provided in comment 1, the second bullet should be replaced with the following text:

"2. irrigation return water, which includes:
a. surface discharges (also known as "tailwater"), and
b. subsurface discharges (also known as "tile water")."

7. Staff Report, section VII (C), step 3(a)(2). This step would require Palo Verde Irrigation District (PVID) to begin implementation of the Group Compliance Program, issue letters to potential participants and complete and submit a Quality Assurance Project Plan (QAPP) within one month of receiving Executive Officer approval of the Group Compliance Program Plan. This is too little time to prepare a comprehensive QAPP for monitoring included in the Group Compliance Program Plan. The requirement to prepare and submit the QAPP should be removed from step 3(a)(2) and added to step 3(a)(4) which provides PVID two (2) months following receiving Executive Officer approval of the Group Compliance Program Plan to certify the Group has begun implementing the Group Compliance Program.

8. Staff Report, section VII (C), step 3(a)(4). As explained in the previous comment, this step should include the preparation and submission of the QAPP.

9. Staff Report, section VII (C), step 3(a)(5). This step is titled, "Six (6) months following Executive Officer approval." This title should be edited to clarify that this step is referring to Executive Officer approval of the Group Compliance Program Plan. In addition, six (6) months is too little time to submit a Group WQMP/DWQP, which includes copies of all the individual WQMPs/DWQPs prepared by individual Group participants. This task may include completing and compiling dozens of individual WQMPs/DWQPs. A more reasonable period of time for this task is nine (9) months.

10. Staff Report, section VII (C), step 3(b)(2). CVWD believes the correct title for this step would refer to Executive Officer approval of the Group Compliance Program

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Letter A Continued

Plan. In addition, as mentioned in comment 7, the preparation and submittal of the QAPP should be removed from this step and added to Step 3(b)(4).

11. Staff Report, section VII (C), step 3(b)(4). As mentioned in comment 7, the title of this step should be corrected and it should include the preparation and submission of the QAPP.

12. Staff Report, section VII (C), step 3(b)(5). The title of this step also needs to be corrected and it is recommended that the period of time provided for this task be increased to nine (9) months, which is consistent with previous comments.

13. Staff Report, section VII (E)(2), enforcement. It is understood that there are many enforcement options available to the Regional Water Board. CVWD believes that it would be beneficial for Regional Water Board staff to consult with PVID or any other entity responsible for implementing a Group Compliance Program prior to implementing an enforcement option on individual participants within a Group. This consultation may help reveal misunderstandings or incorrect information and avoid initiating an inappropriate enforcement action.

Add the following text to end of the enforcement section:

"Prior to initiating enforcement actions on an individual participant in a Group Compliance Program, Regional Water Board staff will consult with PVID or any other entity responsible for implementing the applicable Group Compliance Program to ensure accurate information is provided to support any enforcement action."

14. Staff Report, section VIII, general. This section is intended to provide estimated costs associated with the amendment. This section includes estimated costs for developing and reviewing plans and reports and performing monitoring. However, there are no estimated costs for implementing management practices identified in the Compliance Programs. Typically implementing control measures represent the greatest cost for complying with discharge requirements. For example, the cost to add soil amendments that reduce the transport of sediments in tailwater are estimated to be \$5.00 per acre per crop. The costs to implement reverse osmosis treatment and brine disposal to reduce salinity levels found in agricultural wastewater discharges, which may exceed water quality objectives listed in the Bain Plan for Palo Verde Drains, is likely to exceed \$1,500 per acre-foot. In addition, no estimates are provided for the costs to implement alternative drain O&M procedures to reduce sediment loading in waters of the State while maintaining the critical functionality that these drains provide. In addition, CVWD has recent experience preparing an approved QAPP and submitting monitoring reports for agriculture discharge monitoring and the costs provided in this section for completing these tasks are underestimated. This is one of those key elements that would be best explored by a committee of representatives from each agricultural watershed in this region to

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Letter A Continued

develop an accurate assessment of the costs and economic impact that implementing agricultural conditional prohibitions will have throughout this region.

CVWD recommends that the Staff Report be revised to include a reasonable estimate of the costs to implement management practices. Work done to comply with the sediment conditional prohibition for Imperial Valley and for conditional waivers in other areas of the State can be used as a source for estimating these costs.

15. Staff Report, section VII(F), table 10. This table includes an excessive amount of monitoring that includes monitoring that is not supported by a reasonable potential analysis linking pollutants found in agricultural wastewater discharges or caused by drain O&M activities with impairments found in waters of State within the Palo Verde area. This lack of correlation is inconsistent with the approach used for the sediment conditional prohibition in Imperial Valley and results in unjustified additional monitoring costs. It is recommended that Regional Water Board work with PVID to revise the proposed monitoring program to ensure it provides a cost effective approach to addressing water quality impairments that are reasonably associated with agricultural wastewater discharges or drain O&M activities. This type of assessment would be best done after receiving input from a committee composed of representatives from each agricultural watershed in this region to ensure reasonable requirements are implemented in each watershed.

Attachment A, chapter 4, section III(A)(2)(b), paragraph 1. The first sentence states, "Beginning three (3) months after (OAL) approval, the direct or indirect discharge of agricultural wastewater from the Palo Verde Valley and Palo Verde Mesa into waters of the state shall be prohibited unless a Discharger/Responsible Party complies with the conditions discussed below." As written, this provision would become effective following OAL approval which occurs prior to review and approval by USEPA. This is not consistent with the remaining provisions contained in the subject amendment and conditional prohibition or the existing sediment conditional prohibition for the Imperial Valley, which provide for this additional review and approval. CVWD believes this additional review is appropriate considering the subject amendment and conditional prohibition will form a new regulatory program for the Palo Verde area.

The term "(OAL)" should be replaced by the term "(USEPA)" in the first sentence of this paragraph.

16. Attachment A, chapter 4, section III(A)(2)(b), paragraph 2, second bullet. This bullet defines agricultural wastewaters as irrigation return water, which includes subsurface discharges known as tile water in tiled areas and seepage in areas not tiled. This definition should be revised to exclude seepage in areas not tiled as explained in comment no. 1.

Replace the second bullet of this paragraph with the following text:

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Letter A Continued

- Irrigation return water, which includes surface discharges (also known as “tailwater”), and subsurface discharges (also known as “tile water”).

**A-16
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17. Attachment A, chapter 4, section III(A)(2)(b), paragraph 3. This paragraph helps identify the entities that would be considered dischargers/responsible parties for purposes of complying with the subject conditional prohibition. This paragraph can be improved with additional clarification on the scope of application. It is understood that the subject conditional prohibition is not intended to apply to irrigated lands producing crops and/or animals used for personal consumption or that would have a “de minimus” effect on waters of the State.

A-17

Add an additional bullet to this paragraph using the following text:

- the conditional prohibition is not intended to apply to discharges from irrigated lands used for gardens, vineyards, orchards, pastures and greenhouses that are used for the purpose of producing crops and/or animals for personal consumption or lands that are 5 acres or less. This exemption includes irrigated lands uses as golf courses or polo fields. Owners and operators of irrigated lands meeting this criteria are not required to enroll into a group compliance program or submit a report of waste discharge for general or individual waste discharge requirements.

18. Attachment A, chapter 4, section IIIA(2)(B.1), paragraph 6. As explained in comment no. 7, the requirement to prepare and submit a QAPP for approval should be moved from this paragraph to paragraph 8 of this section to provide an additional month to prepare and submit the QAPP.

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19. Attachment A, chapter 4, section IIIA(2)(B.1), paragraph 8. As explained in the previous comment, the requirement to prepare and submit the QAPP should be added to this paragraph.

A-19

20. Attachment A, chapter 4, section IIIA(2)(B.1), paragraph 9. As explained in comment no. 9, the title of this paragraph should be revised to indicate the tasks required are due nine (9) months following Executive Officer approval of the Group Compliance Program Plan.

A-20

21. Attachment A, chapter 4, section IIIA(2)(B.2), paragraph 4. As explained in comment no. 7, the requirement to prepare and submit a QAPP for approval should be moved from this paragraph to paragraph 6 of this section to provide an additional month to prepare and submit the QAPP.

A-21

22. Attachment A, chapter 4, section IIIA(2)(B.2), paragraph 6. As explained in the previous comment, the requirement to prepare and submit the QAPP should be added to this paragraph.

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Letter A Continued

23. Attachment A, chapter 4, section IIIA(2)(B.2), paragraph 7. As explained in comment no. 9, the title of this paragraph should be revised to indicate the tasks required are due nine (9) months following Executive Officer approval of the Group Compliance Program Plan.

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24. Attachment A, chapter 4, section IIIA(2)(B.4), enforcement. As explained in comment no. 13, it is recommended that the following text be added to end of the enforcement section:

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"Prior to initiating enforcement actions on an individual participant in a Group Compliance Program, Regional Water Board staff will consult with PVID or any other entity responsible for implementing the applicable Group Compliance Program to ensure accurate information is provided to support any enforcement action."

25. CEQA checklist and determination, project description. As stated in comment no.1, the first sentence of the second paragraph of the project description should be revised as follows:

A-25

"This conditional prohibition applies strictly to agricultural wastewater discharges from irrigated lands, specifically: 1) storm water runoff from irrigated lands, and 2) irrigation return water, which includes surface discharges (also known as "tailwater") and subsurface discharges (also known as "tile water")."

26. CEQA checklist and determination, agricultural resources (2)(c). CVWD disagrees with the determination that proposed Amendment and Conditional Prohibition will have "no impact" in regards to involving other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use. The proposed Amendment and Conditional Prohibition will clearly change the environment that farmers will operate within in regards to compliance with discharge requirements that do not exist outside of California. The proposed requirement for agriculture wastewater discharges to meet existing Basin Plan water quality objectives for salinity are in direct conflict with the objective of agricultural drains installed to remove and dispose of salt into receiving waters to reclaim saline soils for beneficial uses. It would be cost prohibitive to install facilities to collect and treat these discharges making the conversion of farmland to non-agricultural use a likely outcome of this project.

A-26

27. CEQA checklist and determination, transportation and traffic (15). CVWD disagrees with the determination that the proposed Amendment and Conditional Prohibition will have "no impact" on transportation or traffic. Implementing control measures to treat and remove salinity from agriculture wastewater discharges would have a significant impact on transportation and traffic. The two most feasible disposal options for salt removed from agricultural wastewater discharges is to evaporate and concentrate the membrane reject water using zero liquid waste discharge technology and haul the solid residuals to a landfill or to concentrate the membrane reject water

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Letter A Continued

using a second reverse osmosis system and haul away the concentrated reject water to the closest waste disposal facility that is over 100 miles away. Either option will generate a significant amount of additional traffic due to waste hauling activities that has not been addressed by the CEQA determination.

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con't**

LETTER A, Mark Johnson – Coachella Valley Water District

Response A-1: The commenter states that “[i]nadequate information has been provided in the supporting documents to justify the inclusion of groundwater or ‘seepage’ in areas not tiled.” The commenter explains that drip irrigation systems “are designed to limit seepage in areas not tiled to that amount needed to satisfy the crop and to create an area of suitable soil within the root zone without discharging to state waters.” Thus, the commenter states that “[i]t would be inappropriate to conditionally prohibit irrigation return water that does not discharge to waters of the State.” Accordingly, the commenter suggests that the definition of “agricultural wastewater discharges” be revised to delete the references to “ground water” and “seepage” from that portion of the definition concerning subsurface discharges.

The comment is noted. Staff agrees that the definition of “agricultural wastewater discharges” should not include “groundwater” as a type of subsurface irrigation return water agricultural wastewater discharge. The entire focus of this Basin Plan Amendment, of course, is to ensure that ag wastewater discharges do not affect the quality of waters of the State, which the commenter also correctly notes includes groundwater. Thus, the correct relationship to be set forth in the definition with respect to subsurface discharges is to identify the types of ag discharges that could affect groundwater. Consistent with these relational terms, the term “seepage” must remain in the “subsurface” portion of the ag discharge definition because “seepage” has been identified by the USEPA and the State Water Board as a nonpoint source of pollution. (See USEPA Document No. 841-F-05-001, Revised March 2005, entitled “Protecting Water Quality from Agricultural Runoff”, available at the following EPA website link: http://water.epa.gov/polwaste/nps/upload/2005_4_29_nps_Ag_Runoff_Fact_Sheet.pdf). Also see the State Water Board’s “Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program Policy (NPS Program Policy)”, p. 7, second paragraph, which may be viewed at the following State Water Board website link: http://www.waterboards.ca.gov/water_issues/programs/nps/docs/oalfinalcopy052604.doc.

Seepage occurs as a result of the discharge of irrigation waters onto the crops, through drip systems or otherwise, which are not completely taken up by the root zone. This seepage then is able to continue to travel downward and may reach the ground water table. Of course, if the seepage does not reach the ground water table, which the Staff Report notes on p. 22, bottom paragraph, occurs around 9.5 feet below ground surface, then no “discharge” to ground water has occurred. But until monitoring is conducted pursuant to the Implementation Plan in this Basin Plan Amendment, however, it is unknown at this time whether such seepage, in fact, does not reach ground water, as the commenter contends. Until that monitoring information is obtained, the discharge of the irrigation return waters to the subsurface creates a potential threat to water quality caused by the (for now) undetermined portion of seepage that may reach the ground water table. For this reason, the term “seepage,” as a potential nonpoint source of pollution, must remain in that part of the “subsurface discharge” description of the definition of agricultural wastewater discharges. The definition for Agricultural Wastewater Discharges would be changed as shown:

Agricultural Wastewater Discharges: For purposes of this conditional prohibition, “agricultural wastewater discharges” means: discharges of wastewater from irrigated lands, specifically: 1) storm water runoff from irrigated lands; and 2) irrigation return water, which includes surface discharges (also known as “tailwater”) and subsurface discharges (known as “tile water” in tilled areas, and ~~groundwater~~ or “seepage” in areas not tilled).

The amended definition would then read as follows:

Agricultural Wastewater Discharges: For purposes of this conditional prohibition, “agricultural wastewater discharges” means: discharges of wastewater from irrigated lands, specifically: 1) storm water runoff from irrigated lands; and 2) irrigation return water, which includes surface discharges (also known as “tailwater”) and subsurface discharges (known as “tile water” in tilled areas, and “seepage” in areas not tilled).

Staff will also make conforming changes throughout the text where this definition is paraphrased or repeated.

Response A-2: The commenter requests that the following statement be added after the second sentence of paragraph 5, section 1 of the Staff Report:

“The conditional prohibition is not intended to limit the lawful application of soil amendments, fertilizers, herbicides, fumigants or pesticides to land.” **Comment noted, and the text will be added.**

Response A-3: The commenter requests that the following language be added after paragraph 5, section 1 of the Staff Report:

“This conditional prohibition will not prevent the reclamation of saline soils in the Palo Verde Valley and Palo Verde Mesa using surface and subsurface drains and/or salt leaching practices. These reclamation practices depend in part on discharging salt in amounts that may exceed existing water quality objectives in the Basin Plan for waters of the State, including the Palo Verde Valley Drains, Palo Verde Lagoon and Outfall Drain. Neither Federal nor State laws governing water quality require instantaneous compliance with applicable water quality standards. The conditional prohibition and amendment includes implementation of Compliance Programs that include management practices to achieve best practicable treatment or control of the discharge that will reduce wastes in the discharges to achieve applicable water quality standards and protect beneficial uses of waters of the State. However, implementing best practicable control measures may not always achieve water quality standards. So, compliance assurance activities included in the conditional prohibition and amendment include possible development of site specific water quality objectives and/or subcategories of water quality standards when Responsible Parties demonstrate full implementation of Compliance Programs and document MPs are properly implemented and maintained, and additional controls will result in substantial and widespread economic harm or detrimental social impacts.”

The comment is noted. The commenter is misinterpreting the applicable and relevant water quality standards for areas affected by this proposed amendment. Compliance with salinity water quality standards is not expected to be,

an issue in this case. More specifically, the Basin Plan exempts agricultural discharges from meeting salinity objectives applicable to the PVID drains (see Basin Plan, Chapter 3, Section II-H, p. 3-2). Therefore, this proposed language will not be added to the proposed Amendment.

Response A-4: The commenter requests changing the Staff Report, section IV, paragraph 1, last sentence, from ~~“As saline soils in the Valley and Mesa are reclaimed through salt leaching, more profitable crops are grown.”~~ to “Saline soils in the Valley and Mesa reclaimed through salt leaching can be used to grow profitable crops.” **Comment noted, and the text will be revised as requested.**

Response A-5: The commenter requests changing the Staff Report, section VI, paragraph 1, first sentence, from ~~“the purpose of the amendment is to conditionally prohibit agricultural wastewater discharges and drain maintenance discharges to ensure compliance with water quality objectives and protection of beneficial uses of State waters in the Palo Verde Valley and Palo Verde Mesa.”~~ to “As previously mentioned, the purpose of this amendment is to ensure agricultural wastewater discharges and drain maintenance discharges occur in a manner that does not adversely affect the beneficial uses defined in the Basin Plan for the Palo Verde Valley Drains, and the Palo Verde Valley Lagoon and Outfall Drain.” The commenter explains that this change would make this sentence consistent with the first paragraph in Section I, which the commenter believes articulates the intent of the Amendment better. **Comment noted, and the text will be revised as requested.**

Response A-6: The commenter states “for the reasons provided in comment 1, the Staff Report, section VI, paragraph 1, the second bullet should be changed.” **Comment noted. The text will be revised in accordance with Staff’s proposed changes described in Response A-1, above.**

Response A-7: The commenter requests changing the Staff Report, section VII, C, step 3(a)2. to move the requirement for PVID to prepare and submit a QAPP for approval from this step to Step 3(a)4, which provides two months following Executive Officer approval of the Group Compliance Program Plan versus Step 3(a)2’s one month following EO approval. **Comment noted, and the time will be changed from (4) month to (2) months throughout the staff report,**

Attachment A, and Attachment IV for submission of the QAPP. Staff will also change section VII, C, step 3(a)1 from three ~~(3)~~ months to six (6) months to allow the discharger more time. These changes will also be made throughout the Staff Report, Attachment A, and Attachment IV.

Response A-8: The commenter refers to its previous comment, A-7, and states the same changes should also be made to the Staff Report, section VII(C), step 3(a)4. **The comment is noted. The commenter is referred to Response A-7, above.**

Response A-9: The commenter requests changing the Staff Report, section VII, C, step 3(a)5 from a time frame of (6) months to (9) months and to edit the title to clarify that this step is referring to Executive Officer approval of the Group Compliance Program Plan. **Comment noted, and the time will be changed in section VII, C, step 3(a)5 from ~~six (6)~~ to nine (9) months throughout the Staff Report, Attachment A, and Attachment IV. The title for this step will also be revised as follows:**

“5. Nine (9) months following Executive Officer approval of the Group Compliance Program Plan:”

Response A-10: The commenter suggests that the correct title for step 3(b)(2) in section VII (C) of the Staff Report should be Group Compliance Program Plan. This change was initiated by staff prior to receiving these comments and has already been changed in the Draft Staff Report received by the Board and online. Commenter also suggests (as mentioned in comment A-7) that the preparation and submittal of the QAPP should be removed from this step and added to Step 3(b)4. **Comment noted. The time changes requested and section numbering will be changed throughout the Staff Report, Attachment A, and Attachment IV.**

Response A-11: The commenter refers to its previous comment A-7 and states the same changes should also be made to the Staff Report, section VII(C), step 3(b)4. **The comment is noted. The commenter is referred to Response A-7, above.**

Response A-12: The commenter makes the same comment as in Comment A-9, and states the same changes should also be made to the Staff Report, section VII (C), step 3(b)5. **The comment is**

noted. The commenter is referred to Response A-9, above.

Response A-13: The commenter requests adding the following text at the end of the enforcement section in Section VII.E.2: “Prior to initiating enforcement actions on an individual participant in a Group Compliance Program, Regional Water Board staff will consult with PVID or any other entity responsible for implementing the applicable Group Compliance Program to ensure accurate information is provided to support any enforcement action.”

Comment noted. Regional Water Board enforcement cannot be preempted by the prescriptive consultation requested. However, like with any other enforcement matter, the Regional Water Board reviews its data for accuracy and may engage in consultation with key stakeholders, when such consultation is necessary, prior to taking enforcement.

Response A-14: The commenter makes the general comment about section VIII, Economic Assessment, that it does not include estimated MP costs.

The comment is noted. The proposed Amendment is not prescriptive regarding MPs, and farmers are not expected to implement new MPs. A farmer may pick and choose the most economical way to comply so long as it meets the conditions of the prohibition. In any event, to the extent that the dischargers choose to implement different MPs from those listed in this Amendment or from elsewhere, it would be impossible to know what those estimated costs are until those different MPs are selected by the dischargers. Moreover, even when the selected MPs become known, the costs for implementing the MPs will depend on the specific irrigated lands for which the MPs will be used and the specific methods of implementation proposed. Because of these significant variables and uncertainties, any MP cost estimates would be highly speculative and thus, inappropriate to include in this Economic Assessment.

Response A-15: The commenter states that the Staff Report, section VII (F), table 10 included excessive amounts of monitoring that includes monitoring not supported by a reasonable potential analysis linking pollutants found in agricultural wastewater

discharges or caused by drain O&M activities with impairments found in waters of the State within the Palo Verde area. The commenter notes further that this lack of correlation is inconsistent with the approach used for sediment control in Imperial Valley and would result in unjustified additional monitoring costs. Thus, the commenter recommends that the Regional Water Board work with PVID to revise the proposed monitoring program to ensure it provides a cost-effective approach to addressing water quality impairments that are reasonably associated with agricultural wastewater discharges or O&M activities.

The comment is noted. The intent of the conditional prohibition is to ensure agricultural wastewater discharges and O&M occur in a manner that does not adversely affect the beneficial uses defined in the Basin Plan. A monitoring and reporting program is designed to get adequate feedback as to whether the current MPs are effective at protecting water quality. Designing a monitoring and reporting program so that it provides adequate feedback is also the fourth of five key structural elements specified in the State Water Board's NPS Program Policy that all nonpoint source pollution control programs must have. ("KEY ELEMENT 4: An NPS control implementation program shall include sufficient feedback mechanisms so that the RWQCB, dischargers, and the public can determine whether the program is achieving its stated purpose(s), or whether additional or different MPs or other actions are required." (NPS Program Policy, p. 13.) The proposed monitoring is consistent with the recommendations made by PVID's consultant in the report entitled "Palo Verde Water Quality Monitoring Plan; August 2005 [Revised by PVID September 14, 2005]"; and it is necessary for water quality protection.

Staff would also like to point out that the entire state is implementing MRPs for Agricultural Wastewater that include parameters very similar or even more stringent than the parameters included in Table 10. See, for example, the Agricultural Waivers for Regions 3 and 5.

The commenter also makes a second, but unrelated and unnumbered comment here. The commenter notes that in Attachment A [to the Resolution], chapter 4, section III.A.2.B, paragraph one, the term "(OAL)" needs to be changed to (USEPA). This was an error that was corrected

by staff prior to receiving these comments and was changed in the Draft Staff Report received by the Board and in the online posting of this proposed Amendment. Staff will also be making the same correction to the text of the Staff Report in Section VII.C, p. 36, first paragraph.

Response A-16: The commenter refers to its previous comment A-1 and states that the same changes should also be made to Attachment A [of the Resolution], chapter 4, section III.A.2.B, paragraph 2, second bullet. **The comment is noted. The commenter is referred to Response A-1, above.**

Response A-17: The commenter requests to have the following statement added to Attachment A [of the Resolution], chapter 4, section III.A.2.B, paragraph 3. **Comment noted, and the following text will be added:**

- “The conditional prohibition is not intended to apply to discharges from irrigated lands used for gardens, vineyards, orchards, pastures and greenhouses that are used for the purpose of producing crops and/or animals for personal consumption on lands that are 5 acres or less. This exemption includes irrigated lands used as golf courses or polo fields. Owners and operators of irrigated lands meeting these criteria are not required to enroll in a group compliance program or submit a report of waste discharge for general or individual waste discharge requirements under this Amendment.”

Response A-18: The commenter refers to its previous comment A-7 and states the same changes should also be made to Attachment A [of the Resolution], chapter 4, section III.A.2.B.1, paragraph 6. **The comment is noted. The commenter is referred to Response A-7, above.**

Response A-19: The commenter refers to its previous comment A-7 and states the same changes should also be made to Attachment A [of the Resolution], chapter 4, section III.A.2.B.1, paragraph 8. **The comment is noted. The commenter is referred to Response A-7, above.**

Response A-20: The commenter refers to its previous comment A-9 and states the same changes should also be made to Attachment A, chapter 4, section III.A.2.B.1, paragraph 9. **The comment is noted. The commenter is referred to Response A-9, above.**

- Response A-21:** The commenter refers to its previous comment A-7 and states the same changes should also be made to Attachment A, chapter 4, section III.A.2.B.2, paragraph 4. The comment is noted. **The commenter is referred to Response A-7, above.**
- Response A-22:** The commenter refers to its previous comment A-7 and states the same changes should also be made to Attachment A, chapter 4, section III.A.2.B.2, paragraph 6. **The comment is noted. The commenter is referred to Response A-7, above.**
- Response A-23:** The commenter refers to its previous comment A-9 and states the same changes should also be made to Attachment A, chapter 4, section III.A.2.B.2, paragraph 7. **The comment is noted. The commenter is referred to Response A-9, above.**
- Response A-24:** The commenter refers to its previous comment A-13 and states the same changes should also be made to Attachment A, chapter 4, section III.A.2.B.4, enforcement. **The comment is noted. The commenter is referred to Response A-13, above.**
- Response A-25:** The commenter refers to its previous comment A-1 and states the same changes should also be made to the CEQA checklist and determination, project description. **The comment is noted. The commenter is referred to Response A-1, above.**
- Response A-26:** The commenter disagrees with the CEQA checklist determination in Agricultural Resources 2.c. that the proposed Amendment and Conditional Prohibition will have “no impact” in regards to involving other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use. The commenter states that dischargers will be required to do expensive MPs for salt removal in the drains. **Comment noted. The CEQA analysis and determination are appropriate. The commenter is referred to Response A-3, above.**
- Response A-27:** The commenter disagrees with the determination that the proposed Amendment and Conditional Prohibition will have “no impact” on transportation or traffic. **The comment is**

noted. The commenter is referred to Response A-26, above.

Letter B



PALO VERDE IRRIGATION DISTRICT

180 W. 14TH AVENUE - BLYTHE, CALIFORNIA 92225-2714
TELEPHONE (760) 922-3144 - FAX (760) 922-8294

August 31, 2010

Theresa Kimsey
California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

re: Public Notice 7-10-28, BPA to Establish a Conditional Prohibition and
Implementation Plan for Agricultural Wastewater Discharges Originating Within
the Palo Verde Valley and the Palo Verde Mesa

Dear Ms. Kimsey:

Upon further review of the June 30, 2010 Draft Amendment Report to "Establish a Conditional Prohibition and Implementation Plan for Agricultural Wastewater Discharges Originating Within the Palo Verde Valley and the Palo Verde Mesa", the following Comments are provided in addition to those Comments sent you on July 23, 2010. These Comments indicate we still have significant concerns with the subject conditional prohibition and we request the adoption of this Basin Plan Amendment be delayed so that a committee can be formed composed of stakeholders that represent agricultural watersheds within the region (including Bard Water District) to promote an equitable manner in which to implement conditional prohibitions.

1. The Title of the Staff's Draft Report for a Conditional Prohibition Amendment to the Basin Plan, the CEQA Checklist title and page 2, Resolution R7-2010-0033, ATTACHMENT A page 6 part B, and appropriate wording in the text of all should be revised to reflect that this Program is directed toward controlling 'possible pollutants' in Agricultural Wastewater Discharges and not the discharge itself. All the titles provide a reader the misconception that agricultural wastewater discharges are being controlled.
2. Draft Staff Report (DSR) page 8, Definition of 'Agricultural Wastewater Discharges', DSR page 11 third paragraph, CEQA page 2 2nd paragraph of Project Description, and Attachment A, page 6, B, 2nd bullet: Request the deletion of the reference to 'groundwater or seepage' into the drain system. Storm water runoff into a

B-1

B-2

Letter B Continued

drain and tile drainage water flowing into a drain are water that has not had much of a soil treatment opportunity. However, groundwater is water that has percolated thru the soil to reach groundwater and then flows thru the soil to enter the drain. It has been pretreated so those constituents that attach to soil have been removed from that water by a natural purification process.

**B-2
con't**

3. DSR page 11, first paragraph: See Comment #1.

**B-3
B-4**

4. DSR page 11, last paragraph: Please clarify by adding this sentence after the second sentence: This conditional prohibition will not regulate or restrict the legal application of fertilizer, pesticides, soil amendments, and herbicides to the farm land.

5. DSR page 11, last paragraph: These drains were installed to allow saline soil to be reclaimed. Drains allowed for the lowering of the groundwater under the land and to remove the saline groundwater that was high in Total Dissolved Solids. As this land was farmed and irrigated with better quality water, the soil salinity gradually improved until land would produce a cash crop. While this land reclamation was in progress, the water removed from under the field would exceed existing TDS limits. I request a clarifier be added here that 'This conditional prohibition will not prohibit land reclamation activities.' In those cases where TDS is exceeded due to land reclamation, Staff of Regional Water Board would be able to work with land owner on a case by case basis to address the TDS issue.

B-5

6. DSR page 14, B.(1): To clarify that this Proposed Basin Plan Amendment does not apply to irrigated yards in the City of Blythe and yards in rural areas, could the wording in the Order No.R5-2006-0053 for COALITION GROUP CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM IRRIGATED LANDS in Central Valley Region, item # 46 page 12 be used in the Draft and all related text to clarify Responsible Party? That is "this Conditional Prohibition and Basin Plan Amendment '...is not intended to cover discharges of agricultural waste-water from irrigated lands used for gardens, vineyards, small orchards, small pastures, and small greenhouses that are used for the purpose of producing crops and/or animals for personal consumption or use and the product or service is not sold commercially ...' unless directed by the Executive Officer".

B-6

7. DSR page 15 and Table 1: The Palo Verde Irrigation District drain system was constructed solely to maintain the groundwater under the farm land at a level to encourage crop production and prevent crop damage from high water tables. Prior to 1960, the valley average depth to groundwater was 5 feet. In the 1960's and 1970's, PVID was able to deepen the bottom of most of the drain system so that now the valley average depth to groundwater is 10 feet. This beneficial use of the drains is not listed in Table 1.

B-7

Letter B Continued

8. DSR page 22, last sentence of paragraph1: Please clarify the sentence as follows 'As farmland with saline soils in the Palo Verde Valley and on the Mesa is reclaimed by leaching dissolved salts using irrigation water, soil salinity is improved over time so a wider variety of crops can be grown.'

B-8

9. DSR page 27, last paragraph: RWQCB water quality data confirms that PVID's drain system is in compliance with turbidity, total suspended solids, pH, and specific conductance, PVID is requesting to reduce the level of monitoring as per Comment #19. The RWQCB data includes impacts by PVID's drain maintenance activities to drain water during that data time frame. The Palo Verde Water Quality Monitoring Plan of September 2005 (Attachment I) was developed using RWQCB staff input and was submitted at the request of RWQCB staff. Since 2005, PVID feels that a less extensive monitoring proposal would provide adequate information.

B-9

10. DSR page 31, first paragraph: Report fails to mention the RWQCB's "Fecal Coliform Source Tracking by Ribotype Fingerprints of Environmental *E. Coli* from the Palo Verde Outfall Drain by Kitts, Schaffner and Samadpour" using 200 water samples from April to August 2003. They reported the dominant sources of *E. Coli* was avian (48%) and rodent (29%). Maximum livestock source of 7% occurred below the Palo Verde Diversion Dam. Human sources accounted for 6% across the entire study area while maximum of 14% occurred downstream of Palo Verde townsite. How will the results of this study affect the proposed TMDL for the Outfall Drain?

B-10

11. DSR page 31, DDT impairment paragraph: Paragraph does not indicate that the high DDT amounts (397 ng/g) obtained in October 1995 (almost 15 years ago) were almost 28 times higher than the October 2002 amount of total DDT at 14.3 ng/g. For the proposed TMDL program, more current data should be used--- say that in the last 5 to 8 years, representing the life of the average fish.

B-11

12. DSR page 32 Section VI first paragraph: the wording here for the purpose of this amendment is different than that used on page 11, Section I, first paragraph. This paragraph should be addressing the possible pollutants in agricultural wastewater discharges and drain maintenance activity discharges. See Comment #1.

B-12

13. DSR page 32 first group item 2.b.ii groundwater or seepage: PVID request this source be deleted. See Comment #2.

B-13

14. DSR page 32 third paragraph: Sentence should be clarified to 'Proposed ...amendment prohibits possible pollutants in agricultural...'

B-14

15. DSR page 34, B, 6 bullets: Group Compliance Program Plan should be added to the list. We have to generate one for submittal to RWQCB for approval by Executive Officer (page 39 item 1) that will become a component of the Group Compliance Program.

B-15

Letter B Continued

16. DSR page 39, #2, prepare and submit a QAPP: I followed up on your referral to the web site for a QAPP. It has 105 pages of template to be filled out. I contacted our lab who did analysis of water samples in 2005 to get the information to fill out the template on July 27th. I haven't received it yet. I've been tied up with this Draft so I don't know when they will provide the information. Based on this delay, I believe I'll need more than 1 month to fill out the template and submit it to you since I'll be busy trying to meet the other deadline issues for submittal. I've a very limited staff.

B-16

17. DSR page 39, #5, 6 months deadline: PVID believes this is too short of a time frame since there are no WQMP & DWQP Reports for PVID to use as a model and two new computerized reporting systems will needed to be created, tested, and implemented, including training--one for billing and verifying enrolled property and the other for landowners / lessees to enroll and indicate management practices being used in their operation. Based on the following scenario, we may need 10 months.

Shortly after RWQCB adopts this Amendment, PVID would start the process to hire an individual to manage this Program. In the meantime, PVID has limited staff to work on this Program as well as other PVID projects and routine daily workload. Once Executive Officer approves Program Plan, PVID proposes to start the process with consultant to modify the computer program used by Imperial County Farm Bureau in Imperial Irrigation District for Sediment TMDL data input and update by landowners / lessees. This modified computer program would allow participants to enroll in this Program using computers to access the internet. Also, PVID would be finalizing the submitted proposed WQMP and DWQP. Within one month after GCP approval, PVID will need to have consultant convert existing Water Toll billing data into a new database for sending letters to everyone within PVID's boundary for potential participation in Program. PVID will also use the 105 page RWQCB's QAPP template to develop a QAPP for submittal. At the two month time frame, PVID is to notify RWQCB that Program is being implemented. Maybe after 4 months, computer program may be ready for participants to sign up. At this time billing for participation in Program would need to be sent out so they can pay their fee as a part of the signup process. Months 4 and 5 would be spent training & enrolling landowners / lessees using computer system. Month 6 would be spent summarizing the individual WQMPs & DWQPs for the required reports and verifying that enrollees have paid fees. Month 7 would be needed to finish the draft reports for WQMP and DWQP. Month 8 would be for an 'unofficial submittal' of the draft reports to Staff of RWQCB. Month 9 would be spent revising the two reports based on Staff comments. Thus sometime in month 10, the official submittal of the two required reports (WQMP & DWMP) would be made along with the required individual WQMP&DWQP data sheets.

B-17

Also, phrasing is needed to transition from this submittal to the first Annual Report submittal. If this submittal is done say in November or December, do we have to turn in

Letter B Continued

an Annual Report containing essentially the same data with such a short time frame between submittals?

18. DSR page 49 or 50: In enforcement section of all related documents, please make it clear that for PVID's Group Compliance Program, RWQCB staff will first consult with PVID's Program managing person to confirm details before RWQCB staff deals with a participant in person.

19. DSR page 51, Table 10 and Attachment I, PVID's MRP page 3, Section 3.3 and at other locations in Draft Report: PVID requests our proposal to sample for constituents and for pesticides/insecticides (Chlorpyrifos, Malathion, Dimethoate, Phorate, Endosulfan) be revised to:

- a. At Sites #1 and #4 (at Dam and at Outfall Drain where it leaves PVID): For the first year, sample for pesticides/insecticides semiannually in May and November when samples are taken for other constituents (instead of quarterly).
- b. At Sites #1 and #4 (at Dam and at Outfall Drain where it leaves PVID): After first year, if Executive Officer for Regional Board agrees, sample for pesticides/insecticides annually in May when samples are taken for other constituents (instead of semi-annually).
- c. At Sites #2 and #3 (two internal locations): For the first year, no sampling or testing would be done.
- d. At Sites #2 and #3 (two internal locations): After the first year, no sampling or testing would be done unless Executive Officer for Regional Board determined that additional testing was needed.

This request is being made so that the wetlands along the drain channels are allowed to help improve water quality in the internal drain system before the water leaves PVID's boundary. The difference between the water quality of the diverted water and the drain water leaving PVID would be what was added or removed from the water while within PVID's boundary. For those entities elsewhere in the state of California using wetlands to improve water quality for their system, the quality of the water leaving the wetland area is what determines if the project is working, not measurements partway thru the process. Please keep in mind that if these chemicals are found in the drain water, the source is still unknown. They could be coming from City of Blythe's storm drain runoff, or someone improperly disposing of a container. Even after a thorough investigation is made, the source may still not be determined.

20. DSR page 51, section G: With state of California having the debt problem it does, is there really a possibility PVID would be able to get state funding help?

21. DSR page 53, item B.1: **Program Management** estimate of 200 hours seems low. To answer enrollment questions, evaluate data submitted by landowners/lessees,

B-17
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B-19

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B-21

Letter B Continued

summarize data, send out bills, process payments, determine who and what land has or has not participated, post property changes to data files, update data files, and be available to meet with and answer RWQCB Staff questions, for the first year, it might be closer to 3 months or 500 hours, no overtime. Second year might drop down to 2.5 months, and third year to 2 months (336 hours).

**B-21
con't**

22. DSR page 53, item B.2: PVID's simple proposed Water Quality Monitoring Plan of 2005 (ATTACHMENT I) cost over \$10,000.00. Since RWQCB has no **Group Compliance Program Plan** that PVID could model our Plan after, we will have to draft a proposed outline, have RWQCB staff review and comment on it until we get an acceptable version and then put it together. This Draft Plan would be submitted for unofficial review by RWQCB staff for changes etc to get the final version for submittal. This process will take more than 2 weeks. A better estimate might be 6 weeks, 240 hours. There may be some attorney fees involved also. Also costs for developing two computer data base programs, one for converting Water Toll data over to this Program and convert the Farm Bureau's TMDL internet interface program over to our system for landowner / lessee data input and data update need to be added, maybe an additional \$75,000.00 to \$100,000.00.

B-22

23. DSR page 54, item B.4: Since RWQCB does not have a **DWQP** that PVID or other parties can use as a template, an individual DWQP for the first year might take 30 hours to write and get RWQCB staff to accept it. For PVID to modify the Water Quality Monitoring Plan of 2005 (ATTACHMENT I) for the first year, describe mechanisms to assess effectiveness of over 23 drain management practices unofficially submit it to RWQCB staff for approval, and finish it based on their comments, an estimate of 80 hours might be more reasonable. For future annual revisions, the estimated 10 hours is probably okay.

B-23

24. DSR page 54, item B.5: Since RWQCB does not have a **WQMP** that PVID or other parties can use as a template, each individual WQMP for the first year is proposed to be computerized for the landowner/lessee to fill out at their convenience via the internet to indicate which of over 35 management practices are being used. For 100 to 150 landowner/lessee applications taking from .5 hours for 1 field up to 10 hours for the larger farmers, an average of 4 hours for 125 enrollees at \$50.00 per hour would cost \$25,000.00 for the first year. Costs for future years might be as low as \$6,250. For PVID to write and develop a WQMP using the internet and computer system discussed in Comment #22, an additional cost of 80 person hours at \$75.00 per hour for the first year or \$6,000.00 may be incurred. Also legal fees may be charged. Estimate for future years for updating may be satisfactory.

B-24

25. DSR page 54, item B.6: Costs for **submitting** the two reports (**WQMP** and **DWQP**) are included above.

B-25

Letter B Continued

26. DSR page 54, item B.7: Since RWQCB does not have an **Annual Report** that PVID can use as a template, estimated time seems low. For each Program participant to evaluate the Management Practices used on his property and make recommended changes could take an average of 1 hour each for 125 participants would be 125 hours. Costs for future years need to include costs for landowner / lessees to evaluate management practices for the Annual Report For Program manager to summarize the Management Practices reported by the 125 participants might take 100 hours. For Program manager to finish writing, proofing data, submitting draft to RWQCB for unofficial review and finalizing report and copying all individual WQMP and DWQP data sheets, an estimated 100 hour of additional time might be more reasonable.

B-26

27. DSR page 54, item B.8: Since RWQCB does not have an **MRP** that PVID can use as a template, estimated time seems low. Summarizing locations of requested discharge location data and determining effectiveness of WQMP is going to take time. Developing a proposed Plan, submitting it to RWQCB staff for comment, revising it to fit recommendations, then finishing it for submittal may take 160 hours.

B-27

28. DSR page 54, item B.9: Since RWQCB does not have a **DMRP** that PVID or other parties can use as a template, an individual DMRP for the first year might take 30 hours to write and get RWQCB staff to accept it. For PVID to modify the Water Quality Monitoring Plan of 2005 (ATTACHMENT I) for the first year, determine how many randomly selected maintenance operations are to be sampled and metered, and determine method to evaluate effectiveness of DWQMP, then unofficially submit it to RWQCB staff for approval, and finish it based on their comments, an estimate of 80 hours might be more reasonable. For future annual revisions, the estimated 10 hours is probably okay.

B-28

29. DSR page 54, item B.10: Using RWQCB's 105 page template for a **QAPP** and getting information from lab for the template will take more time based on what little of it I was able to follow. Submitting draft QAPP to RWQCB staff for approval should take less time than it did for other reports. Time for PVID staff to provide data in a form for posting to SWAMP needs to be included in cost. Estimate 120 hours for first year.

B-29

30. DSR page 55, item B.11: If request of Comment # 19 is accepted, then **Sampling** costs for first year need revising. Costs for metering flow, for 8 hours at regular pay and 4 hours of overtime each sampling day, and costs for the randomly sampling of drain maintenance activities (DMRP) need to be included.

B-30

31. DSR page 55, item B.12: If request of Comment # 19 is accepted, then **Analysis** costs for first year need revising. Costs for lab analysis of the random sampling of drain maintenance activities (DMRP), posting lab data to spreadsheets, and analyzing lab results as per QAPP need to be included.

B-31

Letter B Continued

32. DSR page 55, item B.13: Since RWQCB does not have an AMR that PVID can use as a template, estimated time seems low based on what this report contains as outlined in ATTACHMENT III. Estimate first year may take 120 hours to assemble requested information, assess water quality impacts, and evaluate management practices into a report, draft cover letter discussing non compliance issues, and provide perspective of area conditions, then submit both unofficially to RWQCB staff for review and comment then make requested changes. Costs providing for modifying computer programs for summarizing each landowner / lessee data input may need revising the first year should be included in estimate.

B-32

33.DSR page 55, proposed item # 14: Cost estimate needed to consider the cost of implementation on farm fields and costs for landowner/lessee to do reporting and evaluations of Management Practices. I've included estimated time for enrolled participants to access Program from the internet and update data at their convenience. However, some people without internet access will have to come to our office and may need assistance to fill out their information and update it.

B-33

34.DSR page 55, proposed item #15: Some estimate of water quality improvement should be provided to determine if the improvement is worth the expense. This estimate must be reasonably achievable. On DSR page 27, since turbidity, total suspended solids, pH and specific conductance do not exceed numeric WQO's for Basin Plan, they can't be included. Since DDT is naturally dropping in samples taken in 2002/2003, the natural drop shouldn't be included in estimate.

B-34

35. DSR page 55, 56: Table 11 should be revised for new cost estimates discussed above.

B-35

36. DSR Attachment I: Do you need a revised Attachment I to reflect proposed changes in sampling location by Comment # 19?

B-36

37. DSR Attachment III, page 2, MRP item 6: Refers to silt. Elsewhere, on page 44 of DSR in paragraph above Table 7, it refers to sediment. That phrase 'sediment' should be used here instead of 'silt'.

B-37

38. DSR Attachment A, page 6,3rd bullet: See Comment 6 and add here.

B-38

39. DSR Attachment A, page 6, part B's first paragraph vs page 7, part B's 5th bullet, Enrollment into Group Compliance Program: There is a conflict with this condition. "Beginning 3 months after OAL (revised to USEPA) approval (of Amendment), the direct or indirect discharge of agricultural waste water is prohibited" unless complying with the condition of the 5th bullet. That bullet requires "enrollment into Group Compliance Program approved by Executive Officer". However, potential participants won't be mailed the letter announcing program is available to them until (page 8) 1 month after Executive Officer approves Group Compliance Program. They won't be able to sign

B-39

Letter B Continued

up until 4 to 5 months (Comment # 17) after GCP approval (assuming PVID is able to get computer software revised for them to use by that time frame). Thus there could be up to 5 months elapse between 3 month EPA deadline and notification that Program is open for enrollment. This could be handled by changing deadline when discharge is prohibited to be 5 months after Executive Officer approves Group Compliance Program.

40. DSR Attachment A, page 8, one month after approval, prepare & submit QAPP: See Comment #16 for more time to do this.

41. DSR Attachment A, page 8, six months after approval, prepare & submit WQMP/DWMP: See Comment #17 for more time to do this.

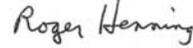
42. DSR Attachment A, page 11, B.4 Enforcement: See Comment 18 and add here also.

43. DSR page 8, Attachment III, Attachment A: Please confirm that the Annual Report is for a calendar year, January 1 thru Dec 31 instead of from the date USEPA approved Amendment .

44. DSR page 5 and Figure 2 page 29: Page 5 refers to the 2009 to 2007 Crop Report while Figure 2 is the 2006 to 2004 Crop Report.

Thanks for the opportunity to comment. If you have any questions, please call.

Sincerely



Roger Henning
Chief Engineer

**B-39
con't**

B-40

B-41

B-42

B-43

B-44

LETTER B, Roger Henning – Palo Verde Water District

Response B-1: The commenter suggested that the title should be changed to “Possible Pollutants” in Agricultural Wastewater Discharges.

The comment is noted. The USEPA and State Water Board nonpoint source pollution programs, which form the basis for this proposed Amendment, make clear that agricultural runoff is a major source of nonpoint source pollution. These programs also make clear that, of course, it is not the irrigation water that is applied to the crops that is the pollutant of concern. Rather, it is the sediment, nutrients, pathogens, pesticides, metals, and salts that are carried off in the irrigation return waters and storm waters that may discharge to and impact surface and ground waters. See, for example, USEPA Document No. 841-F-05-001, Revised March 2005, entitled “Protecting Water Quality from Agricultural Runoff”, available at the following EPA website link: <http://water.epa.gov/polwaste/nps/upload/2005_4_29_nps_Ag_Runoff_Fact_Sheet.pdf>. Therefore, staff does not believe the title in question is misleading.

Response B-2: The commenter requests the deletion of the reference to 'groundwater or seepage' into the drain system. **The comment is noted. The commenter is referred to Response A-1, above.**

Response B-3: The commenter refers to their previous comment B-1 and states that the same changes should also be made to the Staff Report page 11, first paragraph. **The comment is noted. The commenter is referred to Response A-1, above.**

Response B-4: The commenter is requesting clarification by adding this sentence. “This conditional prohibition will not regulate or restrict the legal application of fertilizer, pesticides, soil amendments, and herbicides to the farm land.” **The comment is noted. The commenter is referred to Response A-2, above.**

Response B-5: The commenter states that the drains were installed to allow saline soil to be reclaimed. **The comment is noted. The commenter is referred to Response A-3, above.**

Response B-6: The commenter would like the following statement to be added to the Staff Report page 14, B(1): "it is not intended to cover discharges of agricultural waste-water from irrigated lands used for gardens, vineyards, small orchards, small pastures, and small greenhouses that are used for the purpose of producing crops and/or animals for personal consumption or use and the product or service is not sold commercially unless directed by the Executive Officer". **The comment is noted. The commenter is referred to Response A-17, above.**

Response B-7: The commenter stated that the beneficial uses of the drains are not included in Table 1. **Comment noted. Table 1 will be modified accordingly.**

Beneficial uses of Palo Verde Valley Drains, Palo Verde Lagoon and Outfall Drain, as identified in the Basin Plan, are provided in Table 1 below.

Table 11: Beneficial Uses	
Beneficial Use	Description
Water Contact Recreation (REC I)	Uses of water for recreational activities involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, swimming, wading, water skiing, skin and scuba diving, surfing, whitewater activities, fishing, and use of natural hot springs. However, the only REC I usage known to occur is from fishing activity.
Water Non-Contact Recreation (REC II)	Uses of water for recreational activities involving proximity to water, but not normally involving contact with water where ingestion of water is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tide pool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.
Warm Freshwater Habitat (WARM)	Uses of water that support warm water ecosystems including, but not limited to, preservation or enhancement of aquatic habitats, vegetation, fish, or wildlife, including invertebrates.

Wildlife Habitat (WILD)	Uses of water that support terrestrial ecosystems including but not limited to, the preservation and enhancement of terrestrial habitats, vegetation, wildlife (e.g., mammals, birds, reptiles, amphibians, invertebrates), or wildlife water and food sources.
* Preservation of Rare, Threatened, or Endangered Species (RARE) (Applies to Lagoon and Outfall Drain only)	Uses of water that support habitats necessary, at least in part, for the survival and successful maintenance of plant or animal species established under state or federal law as rare, threatened or endangered. (Applies to Lagoon and Outfall Drain only.)

* This does not apply to Beneficial Uses of Palo Verde Valley Drains.

Response B-8: The commenter asks to revise the last sentence of paragraph 1, p. 22 of the Staff Report to read as follows: “As farmland with saline soils in the Palo Verde Valley and on the Mesa is reclaimed by leaching dissolved salts using irrigation water, soil salinity is improved over time so a wider variety of crops can be grown.” **The comment is noted. The commenter is referred to Response A-4, above.**

Response B-9: The commenter states that PVID feels that a less extensive monitoring proposal would provide adequate information. **The comment is noted. The commenter is referred to Response A-15, above. Regional Water Board staff has discussed with PVID management on several occasions (most recently on 9/2/2010) that the proposed Basin Plan amendment authorizes the Executive Officer to revise the monitoring program to the extent necessary. In PVID’s case, should monitoring data demonstrate consistent compliance with water quality standards, staff would recommend reducing and/or eliminating the monitoring frequency or monitoring for a particular constituent. Please see also Response A-15, above.**

Response B-10: The commenter asks how the result of a study will affect a TMDL. **The comment is noted. This comment is beyond the scope of this proposed Basin Plan Amendment since it does not address TMDLs.**

Response B-11: The commenter states that more recent data should be used for the TMDL program. **The comment is noted. The commenter is referred to Response B-10, above.**

- Response B-12:** The commenter refers to its previous comment B-1 and states that the same changes should also be made to the Staff Report, page 32, Section VI, first paragraph. **The comment is noted. The commenter is referred to Responses A-5 and B-1, above.**
- Response B-13:** The commenter refers to its previous comment B-2 and states that the same changes should also be made to the Staff Report, page 32, first group, item 2.b. **The comment is noted. The commenter is referred to Response A-1, above.**
- Response B-14:** The commenter refers to its previous comment B-1 and states that the same changes should also be made to the Staff Report, page 32, first paragraph. **The comment is noted. The commenter is referred to Response B-1, above.**
- Response B-15:** The commenter states that the following seventh bullet should be added to the list of 6 bullets, page 34, B:
- Group Compliance Program Plan
- Comment noted, and the changes will be made.**
- Response B-16:** The commenter requests more time to prepare and submit a QAPP. **The comment is noted. The commenter is referred to Response A-7, above.**
- Response B-17:** The commenter requests changing the Staff Report, section VII, C, step 3.a.5 from a time frame of (6) months to (10) months. **The comment is noted. The commenter is referred to Response A-9, above.**
- Response B-18:** The commenter requests a statement be added to the enforcement section to make it clear that before any enforcement action is taken with respect to an Individual Discharger, the RWQCB staff will first consult with PVID's Program manager to confirm details. **The comment is noted. The commenter is referred to Response A-13, above.**
- Response B-19:** The commenter suggests revising the MRP PVID has already prepared: "Palo Verde Water Quality Monitoring Plan; August 2005, Revised by PVID September 14, 2005." **The comment is noted. The commenter is referred to Response A-15, above.**
- Response B-20:** The commenter asks if PVID would be able to get funding, given California's current dept problem. **The comment is**

noted. Staff will work with the discharger to locate possible funding sources.

Response B-21: The commenter requests the following changes be made to the Staff Report, Economic Assessment section: Change the Program Manager hours from 200 to 500 hours. **Comment noted, and the hours will be changed as requested.**

Response B-22: The commenter requests in the Staff Report, Economic Assessment section, to change the cost of the Group Compliance Program Plan.

Comment is noted. As the Economic Assessment makes clear, all of the costs and person-hours shown, including labor rates, are “estimates.” To the extent that the estimates are incorrect, then staff will work with the Discharger to ensure that it is able to comply with the substantive requirements of the Basin Plan prohibition. Also, since these are estimates, they have no enforcement significance. In other words, if a task takes longer than estimated, and the discharger has shown that it has made a good faith effort to comply with the task but is unable to do so due to an underestimation of the labor hours for that task, then staff will coordinate with the Discharger to help it complete the task as soon as is reasonably possible.

Response B-23: The commenter requests in the Staff Report, Economic Assessment section, that the DWQP hours be changed from 30 to 80 hours. **Comment noted, and the hours will be changed as requested.**

Response B-24: The commenter requests changes to the Staff Report, Economic Assessment section. **The comment is noted. There is insufficient/unclear information to respond to this request.**

Response B-25: The commenter requests certain changes to the Staff Report, Economic Assessment be made. **The comment is noted. The commenter is referred to Response B-22, above.**

Response B-26: The commenter states there are no templates for Annual Reports. Therefore, it believes the hours in the Staff Report, Economic Assessment section, should be changed from 40 to 125. **Comment noted, and the hours will be changed as requested.**

- Response B-27:** The commenter states that there are no templates for a MRP and suggests revising the MRP that PVID has already prepared to add a WQMP effectiveness section. Commenter suggests it would take an additional 160 hours to make this revision. **Comment noted. Staff believes the MRP that PVID has submitted is sufficient to determine WQMP effectiveness.**
- Response B-28:** The commenter states there are no templates for DMRP and thus requests that the hours in the Staff Report, Economic Assessment section, be changed from ~~30~~ to 80. **Comment noted, and the hours will be changed as requested.**
- Response B-29:** The commenter requests that the hours for a QAPP be changed from ~~80~~ to 120 for the first year in the Staff Report, Economic Assessment section. **Comment noted, and the hours will be changed as requested.**
- Response B-30:** The commenter is requesting changes to the cost of the sampling in accordance with a revised sampling program, as described in comment B-19. **The comment is noted. The commenter is referred to Response A-15, above.**
- Response B-31:** The commenter is requesting changes to the cost of the sampling in accordance with a revised sampling program, as described in comment B-19. **The comment is noted. The commenter is referred to Response A-15, above.**
- Response B-32:** The commenter states there are no templates for AMR. Thus, the commenter requests that the hours in the Staff Report, Economic Assessment section, be changed from ~~40~~ to 120. **Comment noted, and the hours will be changed as requested.**
- Response B-33:** The commenter suggests that there are no cost estimates for Individual Dischargers for the cost of implementation on farm fields and costs for landowner/lessee to do reporting and evaluations of Management Practices. **The comment is noted. These costs are reflected in the Staff Report, Economic Assessment section, Tables 12, 14, and 15.**
- Response B-34:** The commenter states some estimate of water quality improvement should be provided to determine if the improvement is worth the expense. This estimate must be reasonably achievable. The commenter refers to the Staff

Report, page 27, and comments that since turbidity, total suspended solids, pH, and specific conductance do not exceed numeric WQOs for the Basin Plan, they cannot be included in the water quality improvement estimate. The commenter adds that since DDT is naturally decreasing in samples taken in 2002/2003, the natural decrease also should not be included in the water quality improvement estimate. **The comment is noted. Because there is insufficient information to respond to this request, no changes will be made at this time. The commenter is also referred to Response A-15, above.**

Response B-35: The commenter states that Table 11 should be revised for the new cost estimates discussed above. **The comment is noted, and the appropriate changes to the table will be made.**

Response B-36: The commenter asks if there is a need to revise Attachment I to reflect proposed changes in sampling locations, and refers to comment B-19. **The comment is noted. The commenter is referred to Response A-15, above.**

Response B-37: The commenter states that the Staff Report, Attachment III, page 2, MRP item 6 needs to be changed from silt to sediment for consistency. **The comment is noted, and the changes will be made as requested.**

Response B-38: The commenter refers to its previous comment B-6 and states that the same changes should also be made to Attachment A, page 6, 3rd bullet. **The comment is noted. The commenter is referred to Response A-17, above.**

Response B-39: The commenter states that "Attachment A, chapter 4, section III (A)(2)(b), paragraph one, the term (OAL) needs to be changed to (USEPA)." **The commenter is referred to the last paragraph in Response A-15, above.**

Response B-40: The commenter refers to its previous comment B-16 and states that the same changes should also be made to Attachment A, page 8. **The comment is noted. The commenter is referred to Response A-7, above.**

Response B-41: The commenter refers to its previous comment B-17 and states that the same changes should also be made to Attachment A, page 8. **The comment is noted. The commenter is referred to Response A-9, above.**

- Response B-42:** The commenter refers to its previous comment B-18 and states that the same changes should also be made to Attachment A, page 11, B.4, Enforcement. **The comment is noted. The commenter is referred to Response A-13, above.**
- Response B-43:** The commenter requests confirmation that the Annual Report is for the calendar year, January 1 through December 31. **The comment is noted, and the following text will be added:** “Annual Report is for a calendar year, January 1 through December 31.”
- Response B-44:** The commenter refers to the Staff Report, page 5, and Figure 2, page 29, and comments that Page 5 refers to the 2009 to 2007 Crop Report while Figure 2 is for the 2006 to 2004 Crop Report. **The comment is noted. There is insufficient/unclear information to respond to this comment. The Staff Report, Figure 2, is the PVID Acreage Map 2009, and Table 22 is the Crops Grown within PVID (2004-2006).**

Letter C



IMPERIAL IRRIGATION DISTRICT

OPERATING HEADQUARTERS • P. O. BOX 937 • IMPERIAL, CALIFORNIA 92251

WD

August 31, 2010

Ms. Theresa Kimsey
California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Dear Ms. Kimsey:

Subject: Comments on the Proposed Amendment to the Colorado River Region Basin Plan: Conditional Prohibition and Implementation Plan for Palo Verde Agricultural Wastewater

The Imperial Irrigation District (IID) has reviewed the proposed amendments to the Water Quality Control Plan for the Colorado River Basin (Basin Plan) and appreciates being offered the opportunity to provide comments.

In general, the IID concurs with the concerns expressed by Coachella Valley Water District (comment letter dated 8/31/10), Palo Verde Irrigation District (comment letter dated 8/31/10), and the Imperial County Farm Bureau (comment letter dated 8/31/10) regarding the proposed Basin Plan amendment. The IID is also deeply concerned about the implications this Basin Plan amendment could have regarding the future of Imperial Valley's agricultural wastewater discharges which are currently being administered under a very successful TMDL program. The Imperial Valley has worked with the Regional Board for many years to address water quality impairments. The IID conducts an extensive water quality monitoring and reporting program that includes 26 monitoring locations, the Imperial County Farm Bureau conducts a Voluntary Compliance Program focused on the implementation of on-farm BMPs that has attained a grower participation rate of 99 percent, and water quality data has demonstrated that Imperial Valley's 303(d) listed water bodies have achieved significant improvement. We look forward to continuing IID's current efforts, which reduce known water quality impairments, and are hopeful that Palo Verde is given the opportunity to achieve accomplishments appropriate for their water system in an approach that is similar to Imperial Valley's.

As stated in the proposal, the amendment is intended to establish a conditional prohibition and implementation plan for agricultural wastewater discharges originating in the Palo Verde Valley and the Palo Verde Mesa. The Imperial Valley has been operating under a sediment/silt discharge prohibition for several years. However, the series of events which led to the eventual implementation of the Imperial Valley's prohibition appears very different than is the case with Palo Verde.

C-1

Letter C Continued

Ms. Theresa Kimsey
CRWQCB

-2-

August 31, 2010

The process followed in the IID's case consisted of evaluating water bodies, their beneficial uses, and potential impacts that the pollutants may have on those beneficial uses. After the water body was considered impaired, this led to listing on the State's 303(d) list (several water bodies for various constituents) and subsequent silt TMDL implementation as well as a sediment/silt discharge prohibition. Although the Imperial Valley community was not excited about the prospect of new regulations such as the TMDLs and sediment/silt prohibition, the process which led to the ensuing conclusion appears to have been reasonably logical. However, the prohibition currently being proposed does not appear to follow this same rationale.

C-2

Several questions arise when considering the proposed prohibition. Palo Verde water bodies were evaluated for impairments and consideration for 303(d) listing, leading to listings for DDT and pathogens in the Palo Verde Outfall Drain and Lagoon. It appears that the proposed prohibition amendment would bypass the 303(d) list and TMDL process altogether, effectively establishing limitations of agricultural discharges and associated pollutants that have not been identified as sources of impairment within Palo Verde water bodies.

C-3

In the Staff Report, page 51, section VII (F), table 10 includes a monitoring program for constituents/parameters of concern. It would appear that this program is excessive, particularly considering the fact that the majority of the constituents are not linked to impairments identified on the 303(d) list. In addition, the costs for pesticide analysis can be quite exorbitant. When establishing a monitoring program, we believe that a more cost effective plan should be prepared that addresses the identified water quality impairments associated with agricultural wastewater discharges, while "constituents of concern" may be addressed with a special study.

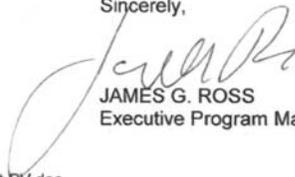
C-4

The IID believes it would be appropriate to form a committee composed of stakeholders that represent agricultural watersheds within the region to promote an equitable manner in which to implement conditional prohibitions, and would willingly participate in such a process.

C-5

Once again, IID thanks you for the opportunity to comment on the proposed Basin Plan amendment. If you have any questions regarding these comments, please contact Steve Charlton at (760) 339-9143.

Sincerely,



JAMES G. ROSS
Executive Program Manager, Water

SLC/lc
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LETTER C, James G. Ross – Imperial Water District

Response C-1: The commenter states that IID is deeply concerned about the implications this Amendment could have regarding the future of Imperial Valley's agricultural wastewater discharges, and they look forward to continuing IID's current efforts and hope that Palo Verde is given the opportunity to achieve accomplishments appropriate for their water system in an approach similar to Imperial Valley's.

The comment is noted. Unfortunately, the IID mischaracterizes the purpose of the proposed Amendment and genesis of the Imperial Valley TMDL programs and the extent to which the Valley's TMDLs address all other water quality constituents of concern (COCs). This amendment has no relevance to the regulatory programs that address Imperial Valley's water quality impairments. Those programs, which staff agrees have been very successful to date, are separate and distinct from the regulatory program being proposed through this Basin Plan Amendment.

TMDLs are required by Section 303(d) of the Clean Water Act to address pollution problems (i.e., are reactive, not preventive). The TMDL programs in the Imperial Valley were necessary because the Imperial Valley has some of the most polluted waters in the nation. The Basin Plan amendment that incorporated the Sediment/Silt Prohibition for the Imperial Valley does not address all other COCs typically found in agricultural discharges (e.g., pesticides). This is not the situation in Palo Verde. This proposed Amendment only applies to the agricultural wastewater in the Palo Verde Valley and Palo Verde Mesa, and the purpose of the Amendment is to enhance water quality and prevent impairments.

The California Water Code requires all waste discharges that could affect the quality of waters of the State be regulated, and that all existing non-regulated discharges be brought into compliance with this legal requirement. As explained in the State Water Board's "Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program Policy (NPS Program Policy)", nonpoint source discharges can be addressed through WDRs, Waivers, or a discharge prohibition. Using one or more of these administrative tools, the Regional Water

Board is tasked with deciding and implementing a program that best protects water quality for a certain water body or for the entire region. Through workshops and consultation with stakeholders, Regional Water Board staff concluded that the discharge prohibition tool may be the most effective way to comply with the legal requirement to regulate nonpoint source discharges, based on factors that take into consideration the complexity and uniqueness of the Palo Verde area and PVID system, and that also provide the greatest flexibility to Responsible Parties. If the Regional Water Board were to follow IID's rationale, the Regional Water Board would be essentially just dealing with cleanup of polluted waters, as opposed to carrying out its fundamental mission—to protect and enhance water quality. Therefore, staff disagrees with the commenter's concern that this amendment will have negative implications for Imperial Valley.

Response C-2: The commenter states that the proposed prohibition does not appear to follow the same rationale as was followed for the Imperial Valley TMDL/ag discharge prohibition for sediment/silt. **The comment is noted. The commenter is referred to response C-1, above.**

Response C-3: The commenter asks why we are not doing TMDLs in the Palo Verde Valley and Palo Verde Mesa and states that it appears that we are bypassing the Clean Water Act Section 303(d) list and the TMDL process. **Comment noted. Staff is not bypassing the Section 303(d) list or the TMDL process. The commenter is referred to response C-1, above.**

Response C-4: The commenter states that it feels that the monitoring program for constituents/parameters of concern is excessive. **The comment is noted. The commenter is referred to Response A-15, above.**

Response C-5: The commenter states that it feels that it would be appropriate to form a committee composed of stakeholders that represent agricultural watersheds within the region to promote an equitable manner in which to implement conditional prohibitions, and would willingly participate in such a process. **The comment is noted. Staff respectfully declines to implement this proposal. In addition, if the commenter is suggesting that staff waits to implement this Amendment**

until such a committee is formed, staff must respectfully decline this suggestion as well. Waiting would be inconsistent with the legal requirement that this nonpoint source discharge be regulated.

Letter D



August 31, 2010

Theresa Kimsey
California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Ste. 100
Palm Desert CA 92260

Re: BPA to establish a Conditional Prohibition and Implementation Plan for Agricultural Wastewater Discharges Originating within the Palo Verde Valley and the Palo Verde Mesa

Dear Ms. Kimsey:

Imperial County Farm Bureau (ICFB) has studied the proposed Conditional Prohibition and Implementation Plan (Conditional Prohibition) and appreciates the opportunity to comment on this proposal. ICFB manages the Imperial Valley Voluntary TMDL Compliance Program, which assists participants in complying with the Imperial Valley Silt & Sediment TMDLs.

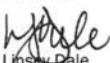
The three Imperial Valley Silt & Sediment TMDLs and prohibition of sediment/silt discharge were developed in response to water quality studies that identified specific impairment(s) shown to negatively impact the beneficial uses of local water bodies. The impairment(s) led to listing on the State's 303(d) list, which in turn led to the development of the Silt & Sediment TMDL by a technical advisory committee made up of stakeholders from throughout Region 7. This approach has proven successful. Approximately 99% of farmers participate in the Farm Bureau's TMDL program, implementing multiple BMPs on each field. Records indicate that at any given time, more than 25,000 BMPs are in place in the drained, and as a direct result more than 33,000 tons of silt have been prevented from entering the drainshed.

The approach that this proposed Conditional Prohibition has taken, however, is very concerning. While the stated goal is to protect the beneficial uses of waters in the Palo Verde Valley and Palo Verde Mesa, the proposed Conditional Prohibition is targeting all potential pollutants, including those that have not been shown to have a negative impact on beneficial uses.

Imperial County Farm Bureau is in agreement with the comments that have been submitted by Palo Verde Irrigation District, Coachella Valley Water District, and Imperial Irrigation District in their letters dated 08/31/2010. We believe that a unified approach to Conditional Prohibitions in the Colorado River Basin would be extremely beneficial, and feel that a committee composed of stakeholders from each agricultural watershed in the region should be created to help develop conditions for implementing Conditional Prohibitions in the Basin.

In addition to the concerns identified herein, we respectfully submit the comments on the following pages. We sincerely appreciate the opportunity to comment on this proposed Conditional Prohibition. If you have any questions or need further clarification, please contact me at 760-352-3831.

Sincerely,


Linsy Dale
Executive Director

1000 Broadway, El Centro CA 92243 | 760 352 3831 phone | 760 352 0232 fax | info@icfb.net | www.icfb.net

Letter D Continued

Re: BPA to establish a Conditional Prohibition and Implementation Plan for Agricultural Wastewater Discharges Originating within the Palo Verde Valley and the Palo Verde Mesa

1. Discharge of Pollutants in Agricultural Wastewater

In multiple places, *Attachment A* and *Staff Report* identify the Palo Verde Valley and Palo Verde Mesa prohibition as a prohibition on "the direct or indirect discharge of agricultural wastewater" or a "prohibition for agricultural wastewater discharges."

We strongly believe it is critical to identify and prohibit the discharge of pollutants identified on the 303(d) list that are carried in agricultural wastewater that can negatively impact the beneficial uses of the identified waterways, rather than prohibiting the discharge of the very commodity upon which these beneficial uses rely.

Additionally, in *Attachment A, Chapter 4, Section III, Point A*, the first paragraph of item #1 identifies the agricultural wastewater discharges themselves as constituting "the largest volume of pollution entering surface waters in this Region" rather than clarifying that agricultural wastewater discharges are simply conduits or carriers of these pollutants.

Therefore, we believe *Attachment A* and *Staff Report* should be amended throughout to target the discharge of 303(d)-listed pollutants rather than of wastewater, and to identify these pollutants as the source of negative impacts, rather than implicating the water that makes the beneficial uses of the identified waterways possible.

D-1

2. Monitoring

The proposed monitoring plan includes numerous pesticides and constituents that have not been shown to cause impairment or to negatively impact beneficial uses of the addressed waterways. As proposed, we believe the monitoring plan is not congruent with the stated goals of protecting beneficial uses nor of implementing "economically achievable protections."

Therefore, we believe the proposed monitoring plan should be amended to concentrate on pollutants identified on the State's 303(d) list as impairing the waterways addressed in this proposed Conditional Prohibition.

D-2

3. Lawful Application of Soil Amendments, Fertilizers, Pesticides and Other Additives

The first paragraph of *Staff Report, Section I* should be amended to clarify that this prohibition is not intended in any way to prohibit the application of pesticides, insecticides, soil amendments, fertilizers or other additives that are applied in accordance with applicable laws.

D-3

4. Saline Soils

Salt leaching, tile drainage and other practices are extremely important and necessary for maintaining the productivity and viability of saline soils. Wastewater from these soils may not always achieve water quality goals for salinity. Requiring all wastewater from these soil types to remain within acceptable levels for salinity would not be in compliance with the basin plan's stated goal of implementing "economically achievable protections."

Therefore, we believe *Staff Report, Section I* should be amended to clarify that this prohibition is not intended in any way to prohibit or hinder proper maintenance of saline soils using surface or subsurface drains, salt leaching practices, or any other generally accepted practices.

D-4

Letter D Continued

Re: BPA to establish a Conditional Prohibition and Implementation Plan for Agricultural Wastewater Discharges Originating within the Palo Verde Valley and the Palo Verde Mesa

D-4
con't

5. **Small Properties & Homesteads**

Where Dischargers/Responsible Parties are identified in Attachment A, Chapter 4, Section III, Point A(2)(b), it should be clarified that this prohibition does not apply to private homesteads or to irrigated lands of 5 acres or less.

D-5

6. **Enforcement**

In order to encourage participation in Group Compliance Programs and lessen the burden on Regional Board staff, it is important that enforcement actions only be initiated on individual participants after allowing the Group Compliance Program a chance to address the problem directly with the participant.

D-6

Where Enforcement procedures are identified in Attachment A, Chapter 4, Section III, Point A (2)(B.4), it should be specified that Regional Board staff will notify the appropriate Group Compliance Program of any pending enforcement actions on participants in the Program, and allow the Group Compliance Program sixty (60) days to address the problem directly with the participant prior to initiating formal enforcement procedures on a member of a Group Compliance Program.

LETTER D, Lindsey Dale – Imperial County Farm Bureau

- Response D-1:** The commenter states that it believes that it is critical to identify and prohibit the discharge of pollutants identified on the 303(d) list that are carried in agricultural wastewater. **The comment is noted. The commenter is referred to Responses C-1 through C-3, above.**
- Response D-2:** The commenter states that the proposed monitoring plan should be amended to concentrate on pollutants identified on the State's 303(d) list as impairing the waterways addressed in this proposed Conditional Prohibition. **The comment is noted. The commenter is referred to Responses A-15 and C-3, above.**
- Response D-3:** The commenter states that the first paragraph of the Staff Report, Section I should be amended to clarify that this prohibition is not intended in any way to prohibit the application of pesticides, insecticides, soil amendments, fertilizers or other additives that are applied in accordance with applicable laws. **The comment is noted. The commenter is referred to Response A-2, above.**
- Response D-4:** The commenter states that the Staff Report, Section I should be amended to clarify that this prohibition is not intended in any way to prohibit or hinder proper maintenance of saline soils using surface or subsurface drains, salt leaching practices, or any other generally accepted practices. **The comment is noted. The commenter is referred to Response A-3, above.**
- Response D-5:** The commenter states that where Dischargers/Responsible Parties are identified in Attachment A, Chapter 4, Section III, Point A(2)(b), it should be clarified that this prohibition does not apply to private homesteads or to irrigated lands of 5 acres or less. **The comment is noted. The commenter is referred to Response A-17, above.**
- Response D-6:** The commenter states that where Enforcement procedures are identified in Attachment A, Chapter 4, Section III, Point A(2)(B.4), it should be specified that Regional Water Board staff will notify the appropriate Group Compliance Program of any pending enforcement actions on participants in the Program, and allow the Group Compliance Program sixty (60) days to address the problem directly with the participant prior to initiating formal enforcement procedures on a member of a

Group Compliance Program. **The comment is noted. The commenter is referred Response A-13, above.**