

Comment Summary and Responses  
Comment Deadline: December 22, 2014

Amendment to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins and the Water Quality Control Plan for the Tulare Lake Basin to Add Policies for Variances from Surface Water Quality Standards for Point Source Dischargers, Variance Program for Salinity, and Exception from Implementation of Water Quality Objectives for Salinity

List of Commenter's:

Comment Reference	Organization	Representative
1	California Association of Sanitation Agencies (CASA)	Adam Link
2	California Sportfishing Protection Alliance (CSPA)	Bill Jennings
3	Central Valley Clean Water Association (CVCWA)	Debbie Webster

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Response to Comments:

No.	Author	Comment	Response
1.1	Adam Link, CASA	CASA encourages the State Water Board to adopt the Variance Policy, Salinity Variance Program, and Salinity Exception Program.	The State Water Board thanks the commenter for participating in the basin plan amendment process.
2.1	Bill Jennings, CSPA	CSPA was unable to provide timely comments to the Central Valley Regional Water Quality Control Board (Central Valley Water Board) because our limited staff and resources were consumed in addressing the myriad critical issues, timelines and constraints related to the drought and Bay Delta Conservation Plan (BDCP). These amendments are too important and the potential consequences too significant for the State Board to approve them without consideration of input and the concerns from the environmental and fishing community. Consequently, CSPA respectfully requests that these specific comments be included in the record and considered by the State Board.	Comment noted.
2.2	Bill Jennings, CSPA	Throughout its documents the Regional Board describes salinity constituents as being “nonpriority pollutants”. This statement is true however appears to be used to lead the reader to the conclusion that since salinity constituents are not priority pollutants	The Central Valley Water Board agrees with the commenter that non-priority pollutants, such as salts and nitrates, are a significant concern. Both the State and the Central Valley Water Boards recognize the salinity and nitrate problems in the Central Valley which is why the Water Boards and stakeholders began the Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS). CV-SALTS is working on a salt and nitrate

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	<p>they are not a major concern. Other “non-priority pollutants” include chlorine and ammonia two of the most prevent pollutants found in domestic wastewater. The only impact of a pollutant being “non-priority” is that the State’s <i>Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California</i> (SIP) is not applicable. Salts have been shown to be problematic to agriculture and civilizations throughout history. The Regional Board has sparsely regulated salt constituents in the Central Valley resulting in surface and groundwater sources that exceed sustainable levels. Now, the Regional Board has adopted a Resolution that allows for another ten years of non-regulation. In the regulatory world many consultants sell delay as a product; time is money. The Regional Board has in many cases has already exhausted allowable compliance time schedules for discharger’s with elevated salinity levels and has adopted their Resolution to go beyond that. The Basin Plan, page IV-17.00, allows the Regional Board to establish compliance schedules if water quality objectives cannot be immediately achieved. The Basin Plan requires that time schedules be included for completion of specific actions that demonstrate reasonable progress toward the attainment of objectives or criteria.</p>	<p>management plan (SNMP) that is expected to be submitted to the Central Valley Water Board by May 2016. Future improvements in water quality throughout the Central Valley are expected through participation in CV-SALTS and the development and implementation of the SNMP. (See section 4.5.2.D. of the Staff Report, pages 29-30.) The Central Valley Water Board is proposing to use the <i>Salinity Variance Program</i> during the development and initial implementation of the SNMP consistent with State Water Board Order WQ 2009-0003.</p>
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		Compliance schedules are required to be as short as practicable to achieve compliance and in no event may a schedule exceed ten years. How many decades constitutes “as short as practicable” for salinity pollutants in the Central Valley?	
2.3	Bill Jennings, CSPA	US EPA has interpreted Federal Regulations to prohibit studies in lieu of Effluent Limitations. The Regional Board’s Basin Plan Amendment allows studies in place of Effluent Limitations contrary to Federal Regulation.	<p>The commenter is incorrect that the Basin Plan Amendment does not include effluent limitations. See <i>Variance Policy for Surface Waters</i> at II.G.1. and III.F.1 which requires that the permit include an interim effluent limitation for the constituent(s) for which the variance is sought.</p> <p>In addition, the final water quality based effluent limitation will be the applicable effluent limitation at the end of the variance term (<i>Variance Policy for Surface Waters</i> at II.G.1. and III.F.1).</p> <p>The Central Valley Water Board Basin Plan Amendment is consistent with federal regulations and guidance on variances (40 CFR § 131.13 and USEPA. 1994.).</p>
2.4	Bill Jennings, CSPA	The Antidegradation Analysis fails to identify the water bodies that may be impacted by the Basin Plan Amendment.	<p>An antidegradation analysis for a regionwide basin plan amendment does not need to identify specific water bodies since all the water bodies in the region are potentially affected. It should be noted that the analysis completed for the Basin Plan Amendment does not change the requirements to complete an antidegradation analysis to issue new or revised waste discharge requirements. The Basin Plan Amendment includes requirements for applicants to provide information on the water bodies that might be affected by a variance (See <i>Variance Policy for Surface Waters</i> at section II.C.2. and III.C.2.) or an exception (See <i>Exception</i> at 7.).</p> <p>The above approach is consistent with State Water Board Office of Chief Counsel Memorandum that states “The State and Regional Boards can and</p>

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			<p>should focus their attention on establishing objectives for those situations where objectives most needed to assure protection of beneficial uses, postponing until later site-specific approvals the determination whether discharges in a particular area should be allowed to reduce water quality to the level set by those objectives.” (SWRCB. 1987.)</p> <p>Also, see response to Comment 2.8, below.</p>
2.5	Bill Jennings, CSPA	The Antidegradation Analysis fails to assess the current water quality in the water bodies that may be impacted by the Basin Plan Amendment.	<p>An antidegradation analysis for a regionwide basin plan amendment potentially affects all water bodies in the region. The Central Valley Water Board is not required to specify the water quality of the individual affected water bodies to amend the Basin Plan. It should be noted that the analysis completed for the Basin Plan Amendment does not change the requirements to complete an antidegradation analysis to issue new or revised waste discharge requirements. The Basin Plan Amendment includes requirements for applicants to provide information on the water quality of the water bodies that might be affected by a variance (See <i>Variance Policy for Surface Waters</i> at section II.C.2. and III.C.2.) or an exception (See <i>Exception</i> at 7.). This approach is consistent with guidance provided by the State Water Board (SWRCB. 1987.).</p> <p>Also, see response to Comment 2.8, below.</p>
2.6	Bill Jennings, CSPA	The Antidegradation Analysis fails to identify the beneficial uses of the water bodies that may be impacted by the Basin Plan Amendment.	<p>An antidegradation analysis for a regionwide basin plan amendment does not need to identify beneficial uses of specific water bodies since all the water bodies in the region are potentially affected. The Central Valley Water Board identified the potentially affected beneficial uses of Central Valley water bodies in the Staff Report at Section 2.2. It should be noted that the analysis completed for the Basin Plan Amendment does not change the requirements to complete an antidegradation analysis to issue new or revised waste discharge requirements. The Basin Plan Amendment includes requirements</p>

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			<p>for applicants to provide information on the water quality of the water bodies that might be affected by a variance (See <i>Variance Policy for Surface Waters</i> at section II.C.2. and III.C.2.) or an exception (See <i>Exception</i> at 7.). This approach is consistent with guidance provided by the State Water Board (SWRCB. 1987.).</p> <p>Also, see response to Comment 2.8, below.</p>
2.7	Bill Jennings, CSPA	The Antidegradation Analysis fails to assess the current condition of the designated beneficial uses of the water bodies that may be impacted by the Basin Plan Amendment.	<p>An antidegradation analysis for a regionwide basin plan amendment does not need to assess the condition of specific water bodies since all the water bodies in the region are potentially affected. The current condition of the designated beneficial uses is not necessary since it is the lowering of water quality due to the amendment which must be analyzed. See response to Comment 2.8 for a discussion of how the Central Valley Water Board addressed impacts to designated beneficial uses of water bodies that may be affected by the Basin Plan Amendment.</p> <p>Also, see response to Comment 2.8, below.</p>
2.8	Bill Jennings, CSPA	The Antidegradation Analysis fails to assess the potential impacts to the designated beneficial uses of the water bodies that may be impacted by the Basin Plan Amendment.	<p>The Basin Plan Amendment has three parts and the Central Valley Water Board addressed the potential water quality impacts of each of the three parts:</p> <ol style="list-style-type: none"> <li>1. The first part is the <i>Variance Policy for Surface Waters</i> which contains the procedures for the Central Valley Water Board to issue variances for non-priority pollutants. These individual variances go through a full review process including review by the USEPA. In recognition that a detailed antidegradation analysis cannot be performed at this time, the Central Valley Water Board required applicants for a variance to submit information for the Central Valley Water Board to perform an antidegradation analysis as part of the review of the variance application (See <i>Variance Policy for Surface Waters</i> at section II.C.). For this part of the amendment, the Central Valley Water Board deferred</li> </ol>

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			<p>the antidegradation analysis until the review of the individual variance applications.</p> <p>2. The second part is the <i>Variance Program for Salinity Water Quality Standards</i> which contains the procedures for the Central Valley Water Board to issue a variance under a multiple variance program. The program is limited to salinity constituents from municipal and domestic wastewater dischargers that have or will implement local pretreatment, source control, and pollution prevention efforts to reduce the effluent concentrations of salinity constituents and are now faced with replacing the municipal water supply with a better quality water or installing costly improvements, such as membrane filtration treatment technology, such that widespread social and economic impacts are expected (See <i>Variance Policy for Surface Waters</i> at section III.A.). For this second part, the Central Valley Water Board analyzed the water quality of the Delta with the discharge from three POTWs using the current effluent quality and the quality of the effluent that would meet the water quality based effluent limitations. The significant finding was that the increase in salinity was slight and localized and the increase would not be detectable at the Delta's compliance locations (See Staff Report at section 4.5.2.C.). Therefore, there is no anticipated effect on beneficial uses. Only POTWs that demonstrate a similar effect on the receiving waters will be eligible for a salinity variance under the multiple variance program (See <i>Variance Policy for Surface Waters</i> at section III.C.7.). For POTWs that have a similar effect on their receiving water as the three case study POTWs, the degradation from a variance will be imperceptible. Dischargers that cannot demonstrate a similar effect on the receiving water as the case study POTWs but would like to apply for a variance will need to apply under the general variance and include the information for an antidegradation analysis. The antidegradation analysis done for this part of the Basin Plan Amendment does not change the requirements for an antidegradation analysis when renewing the permit.</p> <p>3. The third part is the <i>Exception Program</i> which contains the procedures for</p>
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			<p>obtaining an exception from meeting salinity limits in the waste discharge requirements. The Central Valley Water Board already has the authority to include time schedules in waste discharge requirements (Wat. Code, § 13263), which is essentially the same as the exception. The Basin Plan Amendment provides better oversight and transparency concerning what a discharger has to demonstrate in order to allow for a time schedule for salinity constituents. The antidegradation analysis for this part of the Basin Plan Amendment was completed using information from the Fresno-Clovis Metropolitan Regional Wastewater Reclamation Facility. A potential effect on water quality was identified and the Staff Report discusses the potential impacts to beneficial uses in section 4.5.3. It should be noted that the analysis completed for the Basin Plan Amendment does not change the requirements to complete an antidegradation analysis to issue new or revised waste discharge requirements.</p> <p>The above is consistent with guidance provided by the State Water Board in an Office of the Chief Counsel, October 7, 1987 Memorandum on Federal Antidegradation Policy. (SWRCB. 1987.)</p> <p>In addition to analyzing the effect of the Basin Plan Amendment, a variance or an exception is only applicable for a limited time of up to ten years. At the end of the variance or exception term, the applicable water quality based effluent limitation or groundwater limitation will be in effect.</p>
2.9	Bill Jennings, CSPA	The Antidegradation Analysis fails to assess the current quality of the wastewater discharges that may be impacted by the Basin Plan Amendment.	An antidegradation analysis was conducted for the changes that result from the Basin Plan Amendment. Assessment of effluent quality from individual dischargers is conducted under each permitting action where the variance is implemented. Also, see response to Comment 2.8, above.
2.10	Bill Jennings,	The Antidegradation Analysis fails to assess the potential water quality of the wastewater	See response to Comment 2.8. The Basin Plan Amendment has three parts and the Central Valley Water Board addressed the potential water quality



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	CSPA	discharges if they are granted coverage under the Basin Plan Amendment.	impacts of each of the three parts. In addition, the analysis done for the Basin Plan Amendment does not change the requirements for an antidegradation analysis when issuing new or revised NPDES permits, waste discharge requirements or conditional waivers. This approach is consistent with guidance provided by the State Water Board (SWRCB. 1987.).
2.11	Bill Jennings, CSPA	The Regional Board's Final Staff Report, pages 59 and 61, state that: " <i>Salinity Reduction Study Work Plans and salinity-based watershed management plan in NPDES permits, WDRs, and conditional waivers. These plans are considered to be best practicable treatment and control for salinity constituents since they include consideration of all measures short of end-of-pipe treatment.</i> " The Antidegradation Analysis does not assess best practicable treatment and control at existing wastewater treatment facilities and fails to discuss land disposal.	In addition to the discussion found on pages 59 and 61, the Central Valley Water Board identified options available to POTWs to reduce salinity (see Staff Report at section 4.5.2.B.). The Central Valley Water Board Executive Officer has exercised her authority to make minor, non-substantive changes to the amendment to add an additional paragraph regarding land disposal to the Staff Report. The Central Valley Water Board recognized that the only option that assures compliance is end-of-pipe treatment. However, the Central Valley Water Board also recognized the cost and difficulty of implementing end-of-pipe treatment and included an analysis showing that end-of-pipe treatment is expensive and had greenhouse gas emissions without improving water quality in the receiving water.
2.12	Bill Jennings, CSPA	The State's Antidegradation Policy requires that: " <i>Any activity which produces a waste or increased volume or concentration will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that a pollution or nuisance will not occur and the highest water quality with maximum benefit to the people of the state will be maintained.</i> "	The Central Valley Water Board addressed the Antidegradation Policy by first maintaining the existing quality of the water by including an interim performance-based effluent limitation. ( <i>Variance Policy for Surface Waters</i> at II.G.1. and III.F.1. and <i>Exception</i> at 4.) Next, to assure that best practicable treatment or control is implemented, the Central Valley Water Board requires applicants for variances and exceptions to provide information on methods for removing and reducing concentrations and loadings of pollutants and to include plans for implementing the reasonable methods in pollution prevention plans, Salinity Reduction Study Work Plans or salinity-based watershed management plans. Implementation of these plans is expected to result in

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		<p>Pollution is defined in the California Water Code as: "<i>Pollution</i>" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (A) the waters for beneficial uses. (B) Facilities which serve these beneficial uses. (2) "<i>Pollution</i>" may include "<i>contamination</i>." The Regional Board's Basin Plan Amendment allows for wastewater dischargers to pollute (exceed water quality standards and criteria which have been shown to be necessary to protect the beneficial uses of surface and/or ground water) water of the state for ten years.</p>	<p>water quality improvements. (<i>Variance Policy for Surface Waters</i> at II.G.2. and III.F.2., and <i>Exception</i> at 5.) So the Central Valley Water Board is not allowing additional degradation but is requiring the implementation of methods to reduce the discharge of pollutants.</p> <p>The Central Valley Water Board recognizes that these reductions are not sufficient to achieve the water quality based effluent limitations and therefore some degradation will continue. However, the Antidegradation Policy does not require immediate compliance and the Policy does not prohibit time schedules or variances to allow time to develop a long-term solution to salt and nutrient concerns in the Central Valley Region or for dischargers to identify and implement management practices that work for their industries. The variance coupled with the CV-SALTS effort will work to provide such solutions.</p>
2.13	Bill Jennings, CSPA	<p>The Regional Board's assessment of levels of salinity and the impacts to beneficial uses based on a lowest conductivity level of 700 umhos/cm is not protective of the Freshwater Aquatic Life and Industrial beneficial uses of the receiving streams in the Central Valley. Assessing protection of all beneficial uses would change the "small incremental increase" conclusions reached by the Regional Board and their consultant's Report. The Antidegradation Analysis fails to assess protection of all of the designated beneficial uses of the applicable receiving streams.</p>	<p>The Central Valley Water Board conducted the assessment of POTW impacts on the Delta for the <i>Variance Program for Salinity Water Quality Standards</i>. This part of the amendment is only applicable to POTWs that demonstrate that they are similar to the case studies. For the case studies (the cities of Manteca, Stockton, and Tracy), the incremental increase in salinity between maintaining their existing effluent quality compared to the effluent quality that meets their applicable water quality based effluent limitations (WQBELs) ranged from 1 to 18 µmhos/cm within the vicinity of the discharge. Modeling indicated that the effect decreased with distance from the discharge point and there would be no detectable change to EC at the compliance points identified in the <i>Bay-Delta Plan</i>. The electrical conductivity of 700 µmhos/cm was used only for the WQBELs since this conductivity level is the established water quality objective for the receiving waters for the case study cities. Other POTWs that apply for a variance under the <i>Variance Program</i> will need to make a demonstration that they will have a similar negligible effect on their receiving water quality using the applicable WQBELs for their situation.</p>

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2.14	Bill Jennings, CSPA	<p>The Regional Board and their cited Report did not statistically project the maximum possible pollutant concentrations when assessing the receiving stream would only realize a “small incremental increase” in pollutants and under the State and Federal regulations any exceedance of standards and objectives is significant and worthy of establishing limitations.</p> <p>The Regional Board’s analysis is limited and flawed. For example, Regional Board Order No. R5-2007-0116, for Bell Carter Olive Company and the City of Corning, allows 79,800 pounds per day of total dissolved solids (TDS), based on a flow rate of 1 mgd and a concentration of 9,560 mg/l of TDS to be discharged into the Sacramento River as a daily maximum. Obviously, the incremental increase in salinity levels as compared to water quality standards in much more than a “small incremental increase”. The Regional Board’s assessment of impacts to the entire Basin, based on a 3 municipalities, is misleading and incomplete.</p>	<p>The Central Valley Water Board’s amendment has several parts. There is the authority to issue variances that will be subject to USEPA approval and then there is the authority to issue variances for dischargers that are similar to the POTWs that the Central Valley Water Board analyzed. The Central Valley Water Board’s salinity analysis was for dischargers that fall under the second part of the amendment. These dischargers are limited to POTWs that can demonstrate an incremental increase in receiving water salinity similar to the case study cities. It is not clear why the commenter believes that the Central Valley Water Board is required to statistically project the maximum possible pollutant concentrations when assessing impact to receiving waters. The analysis completed by the Central Valley Water Board for the case study cities represented reasonable worst-case conditions as established by a stakeholder group that included the California Sportfishing Protection Alliance (DWR. 2007). For the case study cities, the incremental increase in salinity between maintaining their existing effluent quality compared to the effluent quality that meets their applicable water quality based effluent limitations (WQBELs) ranged from 1 to 18 µmhos/cm within the vicinity of the discharge. Modeling indicated that the effect decreased with distance from the discharge point and there would be no detectable change to EC at the compliance points identified in the <i>Bay-Delta Plan</i>. So, the Central Valley Water Board provided a reasonable worst-case incremental increase in the receiving water when it concluded that the incremental increase was small.</p> <p>Dischargers under the first part of the Basin Plan Amendment will need to provide sufficient information to assess the effect on receiving water quality of allowing a variance. Individual variances under this part of the Basin Plan Amendment must be approved by USEPA before they are effective. And the Central Valley Water Board has discretion on whether to grant any variance.</p>
2.15	Bill Jennings,	The Regional Board concludes that allowing a ten year exemption from salinity standards	See response to Comment 2.13. For the <i>Variance Program for Salinity Water Quality Standards</i> the Central Valley Water Board demonstrated that requiring

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<p>CSPA</p>	<p>is in the best interest of the people of California based on their analysis that reverse osmosis (RO) is expensive and the resulting sewer fees are unwarranted and unreasonable. The Regional Board did not assess the costs to all Californians if salinity standards are allowed to be exceeded.</p> <p>The Regional Board fails to assess the costs to industry for the existing salinity levels and failure to protect the Industrial Beneficial use of receiving waters resulting in the necessity to install RO prior to using the water. What are the costs to Californians for products produced by industry when RO systems must be installed in order to use the water to produce their products? How will the costs to industry and consumers increase as salinity levels increase under the Regional Board's Basin Plan amendment?</p> <p>It is doubtful the Californians would agree that it is in their best interest that individual communities benefit by reduced sewer rates while food prices and the prices for other goods and services increase due to the failure to adequately regulate salt levels in wastewater discharges. Californians have routinely voted for bonds and tax measure that support clean water: the Regional Board's conclusions that all of California would support dirty water in favor of lower</p>	<p>dischargers to meet their water quality based effluent limitations will not improve ambient water quality. Since there is no improvement in ambient water quality, there is no change in salinity quality for agricultural and industrial users of the receiving water. So, there is no cost to agriculture or industry for the production of goods and services from granting salinity variances or exceptions. It should be noted that the analysis completed for the Basin Plan Amendment does not change the requirements to complete an antidegradation analysis to issue new or revised waste discharge requirements. The Basin Plan Amendment includes requirements for applicants to provide information on the water quality of the water bodies that might be affected by a variance (See <i>Variance Policy for Surface Waters</i> at section II.C.2. and III.C.2.) or an exception (See <i>Exception</i> at 7.). This approach is consistent with guidance provided by the State Water Board (SWRCB. 1987.).</p>
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		sewer rates in a few communities in the Central Valley. The Regional Board has failed to assess the true costs associated with their Basin Plan amendment.	
2.16	Bill Jennings, CSPA	In additions to increased sewer rates, the increased production of greenhouse gasses associated with the increased power usage from RO units is the only other reason cited why the Basin Plan amendment would be in the best interest of the people of California. It is interesting that the Regional Board should cite increased power use and the corresponding greenhouse gas emissions as their reason for allowing degraded water quality. We could not find a single example of the Regional Board denying an expansion of any wastewater systems due to greenhouse gas production. The Regional Board, in allowing increased and expanded wastewater treatment systems often defends their decision to allow such increases based on jobs and has not mentioned greenhouse gasses. The Regional Board also fails to assess the current and increased greenhouse gas production due to industrial uses of RO due to high salinity levels. The Regional Board does not assess the impacts of degraded water quality as compared to the production of greenhouse gasses and also fails to look at alternative energy sources for the RO units such as solar power. The	<p>The Commenter is mistaken that the Central Valley Water Board has not considered greenhouse gas emissions in the context of requiring UV disinfection. The Central Valley Water Board made such a finding in Order R5-2013-0124 (see Finding 9).</p> <p>The wastewater rates and the greenhouse gas emissions are not the sole reason that the Central Valley Water Board concluded that the salinity variance was in the best interest of the people of the State. The Central Valley Water Board concluded that the lack of improvement in water quality (See response to Comment 2.13) coupled with the increased wastewater rates and greenhouse gas emissions was not in the best interest of the people of the State.</p>

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		Regional Board has routinely required the use of ultraviolet (UV) light in place of chlorine for the disinfection of wastewater; UV disinfection uses significantly more power than using chemical disinfection, yet the Regional Board has failed to discuss greenhouse gas production when requiring UV disinfection.	
2.17	Bill Jennings, CSPA	The Regional Board's Antidegradation analysis fails to discuss groundwater discharges and the fact the lining wastewater disposal ponds, rather than RO, is likely BPTC. While the Basin Plan Amendment also exempts land disposal systems, the discussions and analysis appears to be solely based on surface waters.	The Central Valley Water Board's amendment has several parts. One of the parts is a policy on granting an exception from effluent limitations and groundwater limitations for salinity constituents. The Exception Policy is the application and approval procedures for a time schedule as authorized in Water Code section 13263(c). For this part, the Central Valley Water Board included an analysis of the City of Fresno's wastewater treatment plant to demonstrate the type of information that would be required in the application for an exception. The analysis conducted in the amendment does not change the requirements for conducting an antidegradation analysis when the Central Valley Water Board considers waste discharge requirements that include an exception. When considering individual permitting actions, the Central Valley Water Board may determine that other management or treatment practices, such as lining wastewater disposal ponds, are best practicable treatment or control.
2.18	Bill Jennings, CSPA	The Regional Board states that the surface water conditions are largely due to sources other than municipalities and industrial wastewater discharges. The Regional Board's argument seems to be that they have failed to adequately regulate agricultural discharges and therefore assimilative	State Water Board Order WQ 2005-0005 identifies methods of meeting the salinity objectives for the Delta. These methods did not include regulation of the NPDES dischargers so the Central Valley Water Board was correct in its summary of the situation. The Central Valley Water Board's amendment provides the Regional Water Board with regulatory flexibility in these cases. The Central Valley Water Board's amendment does not obligate the Regional Water Board to grant the variances or exceptions. In addition, if the Central

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		<p>capacity for municipalities does not exist. This would not eliminate the need to properly regulate municipal and industrial wastewater discharges.</p>	<p>Valley Water Board decides to grant a variance or an exception, the amendment requires that the discharger meet an interim effluent limitation and develop and implement a pollution prevention plan, a salinity reduction study workplan or a salinity-based watershed management plan to reduce the discharge of the constituent(s). So, the Central Valley Water Board has included provisions to assure proper regulation of waste dischargers.</p>
2.19	Bill Jennings, CSPA	<p>The Regional Board has not determined whether the quality of the surface waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water. There is no such discussion in the Antidegradation Analysis. As is cited above: James M. Harrington, Staff Water Quality Biologist with the California Department of Fish and Game, citing McKee and Wolf (1971 Water Quality Criteria, State Water Resources Control Board) wrote that: "Surveys of inland fresh waters indicates that good mixes of fish fauna are found where conductivity values range between 150 and 500 umhos/cm. Even in the most alkaline waters, the upper tolerance limit for aquatic life is approximately 2000 umhos/cm."</p> <p>The State's Antidegradation Policy requires that changes in water quality will not result in water quality less than prescribed in the policies. Drinking water standards are included in the Basin Plan under the</p>	<p>For the Basin Plan Amendment, the Central Valley Water Board has demonstrated that the absolute salinity in the receiving water is not what it will use to evaluate water quality impacts. Instead the Central Valley Water Board will use the incremental increase in EC in the receiving water to evaluate the impact of granting variances and exceptions.</p> <p>The portion of the Central Valley Water Board's amendment that deals with surface waters has two parts. The first is the authority to issue a variance for non-priority pollutants subject to USEPA approval. The second part is the salinity variance for POTWs. The first part defers additional analysis until the time that an applicant requests a variance. At that time, the applicant is required to submit information on the water quality and beneficial uses of the receiving waters in compliance with the requirements of the antidegradation policy. The second part of the amendments is limited to POTWs that can demonstrate a similar negligible impact to the receiving waters as demonstrated for the three case study cities for salinity constituents. See response to Comment 2.13 and 2.14. With such a negligible impact, the Central Valley Water Board concluded there is no anticipated impact to beneficial uses.</p> <p>The Basin Plan Amendment does not obligate the Central Valley Water Board to grant variances or exceptions. Instead it provides the procedures to apply for variances and exceptions and requires the submittal of sufficient information to understand the incremental degradation that might occur and</p>

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		<p>Chemical Constituents Objective and agricultural water quality objectives are included under the narrative toxicity Objective. Certainly, a water quality objective that is protective of freshwater aquatic life could be assessed under the narrative toxicity objective and based on recommendations from Fish and Game as cited above. Water quality objectives for the protection of the Industrial beneficial use could be similarly developed. The Regional Board's Antidegradation Analysis fails to address the impacts of their Basin Plan amendment on the beneficial uses of receiving waters.</p>	<p>the justification to allow such a degradation to occur. And while such degradation is occurring the discharger will be required to assist in developing a long-term solution to salinity concerns in the Central Valley. Establishment of an exception policy does not create new statutory authority where it didn't previously exist. The purpose of the policy is to establish the framework to assure receipt of sufficient information to evaluate water quality impacts due to salinity and to develop a long-term solution.</p> <p>It should be noted that the analysis completed for the Basin Plan Amendment does not change the requirements to complete an antidegradation analysis to issue new or revised waste discharge requirements. The Basin Plan Amendment includes requirements for applicants to provide information on the water quality and beneficial uses of the water bodies that might be affected by a variance (See <i>Variance Policy for Surface Waters</i> at section II.C.2. and III.C.2.) or an exception (See <i>Exception</i> at 7.)</p>
2.20	Bill Jennings, CSPA	<p>The Regional Board's documents state that increases in salinity levels from existing levels will not be allowed under the Basin Plan amendment. However, the Regional Board's Basin Plan amendment states that: "<i>The proposed amendments allow setting an interim effluent limitation at a level higher than the current level of the constituent in the effluent to account for drought, water conservation or water recycling efforts.</i>" This provides a loophole for virtually every wastewater discharger yet is not discussed in the Antidegradation Analysis. The volume of salts discharged to surface and ground waters will be allowed to increase under the</p>	<p>The Central Valley Water Board discusses the increased interim effluent limitation in the antidegradation section (Section 6.1.2) of the Staff Report (page 59). There is also a discussion in Appendix C of the Staff Report. While the salinity concentrations would be higher in this circumstance, the flows would be lower so that the mass discharge would be expected to be similar. It should be noted that the analysis completed for the Basin Plan Amendment does not change the requirements to complete an antidegradation analysis to issue new or revised waste discharge requirements. The Basin Plan Amendment includes requirements for applicants to provide information on the water quality and beneficial uses of the water bodies that might be affected by a variance (See <i>Variance Policy for Surface Waters</i> at section II.C.2. and III.C.2.) or an exception (See <i>Exception</i> at 7.) The Basin Plan Amendment specifically requires submittal of information demonstrating that any increased effluent limitation to account for drought, water conservation, and/or water recycling is consistent with the Antidegradation Policy (See <i>Variance Policy for</i></p>



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		Basin Plan amendment contrary to the Antidegradation analysis findings.	<i>Surface Waters</i> at section II.C.7.).
2.21	Bill Jennings, CSPA	The Basin Plan amendment covers California's Central Valley. The Antidegradation Analysis fails to assess where high quality waters constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance. In such areas water quality is required to be maintained and protected. The Antidegradation Analysis is silent on this issue.	While there are National and State parks within the project area, there are no designated outstanding National resource waters in the Central Valley so the Central Valley Water Board was not obligated to discuss impacts to outstanding National resource waters.
2.22	Bill Jennings, CSPA	The Regional Board has failed to develop water quality objectives that are protective of the Industrial and Freshwater Aquatic Life beneficial uses in accordance with California Water Code 13241.	Water Code section 13241 requires that the regional water boards adopt basin plans that include water quality objectives that provide reasonable protection of the past, present and probable future beneficial uses. The Central Valley Water Board adopted two basin plans to cover the entire Central Valley and both basin plans contain water quality objectives that protect the beneficial uses. The Central Valley Water Board has conducted triennial reviews of both basin plans and has a work plan to adopt salinity objectives for the lower San Joaquin River. Other than the Lower San Joaquin River, there have been no comments that the Central Valley Water Board should consider adopting water quality objectives for salinity to provide general protection of the industrial or aquatic life uses. The Central Valley Water Board's triennial review work plans are extensive and cover many issues. The Central Valley Water Board's documents for the current Triennial Review and previous Triennial Reviews is

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			<p>found on its website at:</p> <p><a href="http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/triennialreviews.shtml">http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/triennialreviews.shtml</a></p> <p><a href="http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/oldtriennialreviews.shtml">http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/oldtriennialreviews.shtml</a></p> <p>The Staff Report documents that CV-SALTS is developing a comprehensive salinity and nutrient management plan (SNMP) for the Central Valley that could include revision of certain beneficial use designations and/or current salinity standards. So there is a need to set permit limitations at a level that protects water quality but does not compel the irrevocable commitment of major resources to implement upgrades to meet standards that may or may not be found applicable by CV-SALTS. The variance provides a framework and process to gather additional information in developing a long-term solution to the salinity problems in the Central Valley Region.</p>
2.23	Bill Jennings, CSPA	The Regional Board's Basin Plan amendment exempts wastewater dischargers from achieving water quality objectives, from taking any action to achieve compliance with water quality objectives and generally ignores the requirements of CWC 13242.	Water Code section 13242 requires that basin plans include an implementation program to achieve the water quality objectives. The Central Valley Water Board's amendment consists of an implementation program that requires that the discharger meet an interim effluent limitation and develop and implement a pollution prevention plan, a salinity reduction study work plan or a salinity-based watershed management plan to reduce the discharge of the constituent(s). So, the Central Valley Water Board has included provisions to assure proper regulation of waste dischargers.
2.24	Bill Jennings, CSPA	The Regional Board's Basin Plan Amendment fails to comply with the requirements of federal regulations 40 CFR 131.10 by failing to protect the freshwater aquatic life, irrigated agriculture, drinking water and industrial beneficial uses of	The Central Valley Water Board's amendment establishes water quality standards variances consistent with Title 40 of the Code of Federal Regulations section 131.13. As explained by USEPA in guidance, "With a variance, NPDES permits may be written such that reasonable progress is made toward attaining the standards without violating section 402(a)(1) of the [Clean Water] Act, which requires that NPDES permits must meet the

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		surface waters by imposing effluent limitations.	applicable water quality standards (USEPA. 1994.). The Basin Plan Amendment is consistent with USEPA regulations and guidance by requiring that the discharger meet an interim effluent limitation and develop and implement a pollution prevention plan, a salinity reduction study work plan or a salinity-based watershed management plan to reduce the discharge of the constituent(s). The variances are water quality standards that allow for an interim effluent limitation to be included in the permit so the Basin Plan Amendment complies with federal laws and regulations.
3.1	Debbie Webster, CVCWA	CVCWA encourages the State Board to approve the amendments to the Basin Plans In the form that the Regional Board adopted on June 6, 2014	The State Water Board thanks the commenter for participating in the basin plan amendment process.

REFERENCES:

Central Valley Regional Water Quality Control Board (CVRWQCB). 2013. Amending Waste Discharge Requirements Order R5-2010-0114-01 (NPDES Permit No. CA0077682) and Time Schedule Order R5-2010-0115-01. Sacramento Regional County Sanitation District, Sacramento Regional Wastewater Treatment Plant, Sacramento County. December 1.

State Water Resources Control Board (SWRCB). 1987. Federal Antidegradation Policy. Memorandum from William R. Attwater, Chief Counsel, State Water Resources Control Board, to Regional Board Executive Officer, Jim Baetge, and Ray Walsh. October 7.

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SWRCB. 2005. Order WQ 2005-0005. In the Matter of the Petition of City of Manteca for Review of Waste Discharge Requirements Order No. R5-2004-0028 (NPDES No. CA0081558) and Cease and Desist Order No. R5-2004-0029. Issued by the California Regional Water Quality Control Board, Central Valley Region. SWRCB/OCC File A-1634. March.