

**Regional Water Quality Control Board
Central Valley Region
Board Hearing – 31 May / 1 June 2018**

**RESPONSE TO WRITTEN COMMENTS ON
A BASIN PLAN AMENDMENT TO INCORPORATE A CENTRAL VALLEY-WIDE SALT
AND NITRATE CONTROL PROGRAM**

At a public hearing scheduled for 31 May and 1 June 2018, the Central Valley Regional Water Quality Control Board (“Central Valley Water Board”) will consider adoption of amendments to the Water Quality Control Plans for the Sacramento River and San Joaquin River Basins and the Tulare Lake Basin (“Basin Plans”) to incorporate a Central Valley-wide Salt and Nitrate Control Program.

The Central Valley Water Board provided interested persons the opportunity to submit written comments on the proposed Basin Plan Amendments and draft Staff Report from 19 March 2018 to 7 May 2018. This document contains responses to written comments submitted to Central Valley Water Board staff during this period.

Written comments were received by:

Name, Title Organization
<u>Geoff Brosseau, Executive Director</u> <u>California Stormwater Quality Association (CASQA)</u> <u>(1 May 2018)</u>
<u>Maureen Daggett, Regulatory Specialist/Sr. Scientist</u> <u>Environmental Compliance Management Services (ECMS)</u> <u>(4 May 2018)</u>
<u>Robert J. Gore</u> <u>California Independent Petroleum Association (CIPA)</u> <u>(4 May 2018)</u>
<u>Janet Hashimoto, Manager</u> <u>United States Environmental Protection Agency (USEPA)</u> <u>(4 May 2018)</u>
<u>Jarnail Chahal, Engineering Manager</u> <u>Alameda County Flood Control & Water Conservation District, Zone 7 (Zone 7)</u> <u>Leah Orloff, Water Resources Manager</u> <u>Contra Costa Water District (CCWD)</u> <u>(4 May 2018)</u>
<u>Dustin Fuller, General Manager</u> <u>Tulare Lake Drainage District (TLDD)</u> <u>Mark Gilkey, General Manager</u> <u>Tulare Lake Basin Water Storage District (TLBWSD)</u> <u>(4 May 2018)</u>

Name, Title Organization
<u>Residents of North Davis Meadows and the Estates at North Davis Meadows</u> (7 May 2018)
<u>Joseph C. McGahan, Watershed Coordinator</u> <u>San Joaquin Valley Drainage Authority (SJVDA)</u> (7 May 2018)
<u>Roberta L. Larson, Executive Director</u> <u>California Association of Sanitation Agencies (CASA)</u> (7 May 2018)
<u>Kate Poole</u> <u>Natural Resources Defense Council (NRDC)</u> <u>Rachel Zwillinger</u> <u>Defenders of Wildlife (DOW)</u> (7 May 2018)
<u>Rob Neenan, President/CEO</u> <u>California League of Food Producers (CLFP)</u> (7 May 2018)
<u>Daniel B. Cozad, Executive Director</u> <u>David Cory, Chairman</u> <u>Central Valley Salinity Coalition (CVSC)</u> (dated: 6 May 2018, received: 7 May 2018)
<u>Elissa Callman, Senior Engineer</u> <u>Sacramento River Source Water Protection Program (SRSWPP)</u> (7 May 2018)
<u>Ryan Hernandez, Manager</u> <u>Contra Costa County Water Agency (CCCWA)</u> (7 May 2018)
<u>Russel Emerson, Manager</u> <u>Valley Water Management Company (VWMC)</u> (7 May 2018)
<u>Jeevan Muhar, Engineer-Manager</u> <u>Arvin-Edison Water Storage District (AEWSD)</u> (7 May 2018)
<u>Melissa Poole, Senior Counsel/Director of Governmental Affairs</u> <u>The Wonderful Company LLC (TWC)</u> (7 May 2018)

Name, Title Organization
Bruce Houdesheldt, Director of Water Quality Northern California Water Association/Sacramento Valley Water Quality Coalition (7 May 2018)
Nicole M. Bell, Manager Kern River Watershed Coalition Authority Buena Vista Coalition Cawelo Water District Coalition Kaweah Basin Water Quality Association Kings River Watershed Coalition Authority Tule Basin Water Quality Coalition Westside Water Quality Coalition (7 May 2018)
Lysa Voight, Senior Civil Engineer/Legislative and Regulatory Affairs Sacramento Regional County Sanitation District (7 May 2018)
Kari E. Fisher, Senior Counsel California Farm Bureau Federation (7 May 2018)
John Herrick South Delta Water Agency (7 May 2018)
Debbie Webster, Executive Officer Central Valley Clean Water Association (7 May 2018)
Joe DiGiorgio, Professional Engineer (7 May 2018)
Michael K. Claiborne, Attorney Leadership Counsel for Justice and Accountability Deborah Ores, Attorney Community Water Center Jennifer Clary, Water Programs Manager Clean Water Fund Nathaniel Kane, Staff Attorney Environmental Law Foundation (7 May 2018)
Curtis Creel, General Manager Kern County Water Agency (7 May 2018)
Andrea Harvey-York, Manager Almond Alliance of California (7 May 2018)

CALIFORNIA STORMWATER QUALITY ASSOCIATION (CASQA)

Comments were received from Geoff Brosseau, Executive Director representing California Stormwater Quality Association on 1 May 2018.

CASQA Comment No. 1: Stormwater should be recognized and managed as valuable water resource instead waste or hazard.

RESPONSE: Comment noted. The Salt Control Program recognizes the value of stormwater recharge as an integral component of any long-term solution and requires completion of a Stormwater Recharge Master Plan Study under the Salinity Prioritization and Optimization Study (P&O Study).

CASQA Comment No. 2: Recommends adding a goal to the Salt and Nitrate Control Program that recognizes the significance of a stormwater capture and use component to the overall strategy.

RESPONSE: While not added as a specific goal for the overall program, the staff report was expanded to discuss the significance of integrating stormwater recapture as part of the introduction when discussing the overall strategy.

CASQA Comment No. 3: Clarify that the Nitrate Control Program Conditional Prohibition does not apply to surface water discharges or stormwater-based capture and use projects.

RESPONSE: Language within the proposed Conditional Prohibition of Nitrate Discharges to Groundwater has been added to reflect the title of the section. No additional changes were made for stormwater-based capture and use projects as those projects would need to follow the provisions of the Nitrate Control Program to document limited to no degradation from nitrate discharges under the individual permittee pathway or be part of an overall collaborative approach from a sub-basin as part of a Management Zone Implementation Plan.

CASQA Comment No. 4: Add a definition for the term “stormwater” so that it is clear that stormwater may include both dry weather and wet weather runoff.

RESPONSE: An agreement was reached through the CV-SALTS Executive Committee not to include definitions for terms that are already defined by regulation. As noted by the Commenter, stormwater is defined in 40 CFR 122.26(b)(13). No additional definition has been added for stormwater.

CASQA Comment No. 5: Stormwater permittees should be provided flexibility to participate in the Salinity Alternative Permitting Approach with in-kind services such as stormwater capture and use projects instead of financially if permittee is deemed to be causing or contributing to exceedances of salinity-related water quality objectives.

RESPONSE: The Control Program has been structured to allow the lead entity, which is to be a collaborative group of stakeholders, to manage, finance and complete the P&O Study. The lead entity is required to provide a work plan, governance structure and funding plan within one year of the effective date of the amendment. Nothing in the proposed Basin Plan Amendments prohibits the lead entity from accepting in-kind services as part of its determination of level of

participation. CASQA is encouraged to explore becoming a member of the lead entity and work within the collaborative process to balance resources.

CASQA Comment No. 6: Replace the term “financial” with the term “financial or in-kind services/projects” throughout the Proposed Amendment. CASQA strongly recommends that, if a stormwater permittee is deemed to be causing or contributing to persistent exceedances of salinity-related water quality objectives, that they be provided the flexibility to participate in the Alternative Compliance Permitting Approach with in-kind services/projects. As needed, the proposed Amendment could also define “in-kind” services/projects and/or indicate that the in-kind services/projects are subject to the approval of the lead entity.

RESPONSE: See response to **CASQA Comment No. 5**. In addition, determination of appropriate stormwater recharge projects is part of the components to be developed under the P&O Study. During the required review prior to Phase II of the Salt Control Program, specific for “in-kind” stormwater projects may be able to be incorporated.

CASQA Comment No. 7: The Salt Control Program should provide flexibility so that stormwater permittees can implement the pollutant prioritization and watershed approaches envisioned in the stormwater permits.

RESPONSE: Permits are developed to implement provisions in the Basin Plans. The Central Valley Water Board has identified Salt and Nitrate control as an overarching basin-wide priority. Once the Salt and Nitrate Control Program is effective, permits will be adjusted accordingly. In its prioritization of constituents (e.g., salt) and whether the alternative salinity permitting approach is an applicable compliance strategy, the stormwater permittee would need to consider whether its discharge is exceeding the numeric salinity values, or whether the discharge is reasonably degrading receiving waters. Should the permittee’s initial review of the salinity impact of their discharge show de minimis effects, permit conditions would not change significantly if at all. If the initial review shows that salt in the discharge is a concern, the permittee may elect to participate in the collaborative P&O Study which will be evaluating basin wide (i.e. watershed) approaches to managing salinity in the Central Valley.

CASQA Comment No. 8: The language of the Salt Control Program appears to require the permittees to be subject to the Conservative Salinity Permitting Approach or the Alternative Salinity Permitting Approach if they are unable to meet the numeric effluent limits for AGR and MUN beneficial uses. Clarify the process that is used to determine if a stormwater permittee is causing or contributing to persistent exceedances of a numeric salinity-related water quality objective and thus, subject to the Alternative Salinity Permitting approach.

RESPONSE: All permittees that discharge salt would be subject to the Salt Control Program. The numeric salinity values identified (700/900 uS/cm EC) are not numeric effluent limits. Instead, these values represent thresholds used to differentiate those permittees that discharge salts at levels that would require participation in region-wide efforts to manage salinity from those that should instead work diligently to maintain their relatively minor contributions to salt loading. Stormwater permittees would utilize the best information available to determine whether their discharges are causing the receiving water to exceed the numeric values. If so, permittees may

elect whether they will be regulated under the conservative pathway or the alternative pathway (the collaborative P&O Study). Permittees would also evaluate the overall impact (relative degradation) that their discharge has on the receiving water. If the stormwater discharges are utilizing available assimilative capacity of the receiving water, the Board has the discretion of determining whether the maximum benefit of the people of the state is served by allowing use of the assimilative capacity to continue. A clarifying example has been added to Appendix I.

CASQA Comment No. 9: CASQA proposes a new #3 to the NPDES Surface Water Dischargers section (Draft Staff Report, page 40) that includes several criteria in order to determine when “A stormwater permittee is not causing or contributing to a persistent exceedance of EC within the receiving waters...” The criteria focus on meeting water quality standards and water quality objectives within the effluent and/or receiving water while considering potential impacts from other, uncontrollable sources and “relevant time periods”.

RESPONSE: The proposed language has not been incorporated as it creates inappropriate off-ramps from some of the foundational components of the proposed Salt Control Program. The proposed language focuses on meeting water quality objectives and does not consider potential degradation to high quality waters. As described in the response to **CASQA Comment No. 8**, The numeric values utilized within the Salt Control Program are not water quality objectives. The permittee must demonstrate that their discharge is not causing unreasonable degradation to high quality waters using both the numeric values and by evaluating impact on the receiving water since under the conservative salinity approach, the Board will be disinclined to grant assimilative capacity, but does have the discretion to find that the continued discharge is to the maximum benefit of the people of the State. The proposed language also discusses potential impacts from other uncontrollable sources. The stormwater permittee is ultimately responsible for meeting regulatory requirements for its discharge to receiving waters. Staff understands that sources of salinity are not easily controlled. The Salt Control Program provides a framework for managing salinity Valley-wide and provides the option for entities such as stormwater permittees to comply with permitting requirements via participation in the collaborative P&O Study versus trying to manage local uncontrollable sources.

CASQA Comment No. 10: Clarify that the stormwater permittees are not required to prohibit or prevent discharge that may originate from uncontrollable sources. Additionally, the term “reasonable, feasible, or practicable” should recognize controllable vs uncontrollable sources. The Commenter proposes adding a footnote to NPDES Surface Water Discharges provision #3 (page 44) related to implementing reasonable, feasible and practicable efforts to Control Salt, that clearly identifies rising groundwater that seeps into conveyance structures as an uncontrollable source of salinity and that capital improvements to address this source is not reasonable, feasible or practicable for municipal stormwater dischargers.

RESPONSE: See response to **CASQA Comment No. 9**. The stormwater permittee is ultimately responsible for material conveyed in their system. Staff recognizes the concern of rising groundwater contributing to salt loads entering conveyance facilities and being discharged downstream. The proposed Basin Plan Amendments does not require these conveyances to be lined. As the commenter notes in the proposed footnote language, “...it is unknown if the control of groundwater seepage

into conveyance structures is necessary to address salinity impairments of surface waters in the Central Valley...” If the conveyances are contributing to salt loading of water bodies based on concentrations in excess of conservative numeric values or need for additional assimilative capacity, it is appropriate that the permittees participate in the P&O Study and determine relative impact and appropriate management on a basin/sub-basin scale.

CASQA Comment No. 11: Clarify that the region-wide permit pollutant prioritization approach allows for the customization of the Stormwater Management Program based on the priority water quality constituents.

RESPONSE: See response to **CASQA Comment No. 7.**

ENVIRONMENTAL COMPLIANCE MANAGEMENT SERVICES (ECMS)

Comments were received from Maureen Daggett, Regulatory Specialist/Sr. Scientist representing Environmental Compliance Management Services on 1 May 2018.

ECMS Comment No. 1: Adoption of the proposed SNMP is in violation of both CEQA and Administrative Procedures Act (APA). The Commenter references sections of the Central Valley-wide Salt and Nitrate Management Plan (SNMP) submitted to the Central Valley Water Board in January 2017, by the Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) initiative as being insufficient to satisfy legal requirements.

RESPONSE: The Commenter appears to be under the impression that the proposed Basin Plan Amendments are to incorporate the SNMP submitted in January 2017, as regulatory provisions. The proposed amendments have been based in a large part on the recommendations contained within the SNMP and the technical studies, white papers and consolidated databases that supported the effort. However, the proposed amendments do not incorporate the document into the Basin Plans. The proposed amendments have translated and adjusted proposed SNMP recommendations into regulatory provisions as part of a proposed Salt and Nitrate Control Program and supporting new and revised policy recommendations. As part of the process of developing the proposed Amendments, all required components of both CEQA and the Administrative Procedures Act (APA) have been met and the resulting staff report and supporting documentation serve as the required Substitute Environmental Documentation. The staff report has evaluated consistency with State and Federal Antidegradation Policies (Section 5) and contains an environmental review (Section 7) as well as CEQA checklist (Appendix K).

CALIFORNIA INDEPENDENT PETROLEUM ASSOCIATION (CIPA)

Comments were received from Robert J. Gore, representing California Independent Petroleum Association on 4 May 2018.

CIPA Comment No. 1: CIPA recognizes CV-SALTS was, until recently, primarily an agricultural water quality management program.

RESPONSE: From its inception in 2006, the CV-SALTS initiative has been a collaborative stakeholder process comprised of state, federal and local agencies, the regulated community (municipalities, industry, agriculture and all other permitted dischargers), environmental groups, and representatives from Environmental Justice

groups, disadvantaged communities and water purveyors working together on a sustainable Central Valley management framework.

CIPA Comment No. 2: The Draft Report in several places calls for CV-SALTS to incorporate all major IND and MUN dischargers, which we endorse.

RESPONSE: Support noted.

CIPA Comment No. 3: CIPA members and the CVWB recently collaborated over the course of several months to complete the General Orders for WDRs on Oil Field Discharges to Land (Pond Orders). The Pond Orders must be incorporated into this regulatory process, particularly as compliance vehicles for the Prioritization & Optimization (P&O) Study and Conditional Prohibition (CP).

RESPONSE: All permits, including General Orders, must implement regulatory provisions contained in the applicable Basin Plan. The Salt and Nitrate Control Program provisions would become effective after approval by the Office of Administrative Law—including provisions under the Conditional Prohibition of Salt and Nitrate Discharges. Conditional Prohibitions are directly enforceable and have been proposed to insure early implementation of key components of the proposed Control Program including the evaluation of impacts from discharges. The Pond Orders noted above will become the long-term compliance vehicle for all program provisions.

CIPA Comment No. 4: CIPA supports the recognition of regional economic growth as one of the five over-arching goals. Likewise, we concur with the three prioritized management goals to ensure a safe drinking water supply, achieve balanced salt and nitrate loading and implement long-term, managed aquifer restorations where feasible, reasonable and practicable. Aquifer restoration, we note, is a complex regional determination that must, indeed, be feasible, reasonable and practicable.

RESPONSE: Support noted.

CIPA Comment No. 5: CIPA strongly opposes the references to broad data-gathering efforts for the entire Central Valley surface and ground waters.

RESPONSE: As a regional solution to the sustainable management of salt and nitrate in the Central Valley, the success of the Salt and Nitrate Control Program depends on the ability to evaluate the effectiveness of implemented alternatives and overall status and trends in both surface and groundwater by regional area (basins and sub-basins). The proposed strategy is to rely on existing data bases and those anticipated through the expanding Irrigated Lands Regulatory Program (ILRP) monitoring efforts and Sustainable Groundwater Management Act (SGMA) process. Where those data are insufficient, additional information may be required to fill in the data gaps.

CIPA Comment No. 6: With regard to existing data, we recommend the report list all relevant State water databases and how they will be used for CV-SALTS. Several are mentioned in different places in the text, such as CEDEN, but there should be a reference list. CIPA also recommends using existing water studies that have been performed throughout the years, such as those done for western Kern County.

RESPONSE: The Central Valley Water Board and the State Water Board are in the midst of a long-term effort to better categorize, manage and integrate their water quality databases, and these efforts will continue through the implementation of the proposed Basin Plan Amendments. However, no all-encompassing list of data sources has been included in the Staff Report. Multiple data sources have been used in previous studies leading up to the proposed Basin Plan Amendments and are noted in the Technical Reports. These resources are likely to be expanded and or changed as the process continues including new data sources generated by the ILRP as well as the SGMA Program. It will be the responsibility of the lead entity conducting the monitoring and surveillance project for the overall program to develop a complete list and incorporate area studies to avoid duplicative efforts and avoidable expense.

CIPA Comment No. 7: During the CV-SALTS discussions, there were repeated comments about recognizing in CV-SALTS data-gathering and monitoring the SGMA Groundwater Sustainability Agencies (GSA) research and projects. We call for the addition of specific references to incorporating SGMA GSA research and data.

RESPONSE: In the Surveillance and Monitoring Program Requirements for the Salt and Nitrate Control Program under the discussion of alternatives (Section 4), the Staff Report recommends building off existing monitoring programs including the planned monitoring programs including coordination with newly developed Groundwater Sustainability Agencies under the SGMA Program.

CIPA Comment No. 8: Above all, we reference CWC 13267b1: *“The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”*

RESPONSE: The Central Valley Water Board is cognizant of the requirements of Water Code section 13267, subdivision (b)(1). When implementing the elements of the proposed Basin Plan Amendment, the Board will be required to abide by this directive when it imposes monitoring and reporting requirements. The Board notes that the Salt and Nitrate Control Program is addressing a long-term problem with long term solutions. The program is not intended to be overly burdensome, but enough scientifically-based data gathering and analysis is required to ensure the program is accomplishing the stated program goals.

CIPA Comment No. 9: The Salt Control Program (SCP) P&O Study will identify groundwater basins that may serve as salt management areas, with de-designation BPAs for beneficial use. We strongly support this concept, and ask for a definition of “salt management areas” and an example. (pages 17-18)

RESPONSE: A definition of “salt management area” has been added to the Definitions and Terminology Specific to the Salt and Nitrate Control Program. It defines a salt management area as:

A defined groundwater basin or sub-basin that that can be used receive and contain water with elevated salinity concentrations in order to remove the salt from sensitive areas until such time that the collected salts can be removed from the area for disposal or use.

An example of a potential salt management area would be the portion of the Tulare Lake Basin de-designated by the Central Valley Water Board in April 2017 for municipal and domestic supply (MUN) and agricultural supply (AGR) beneficial uses. This dedesignated area is in the low-lying portion of the Tulare Lake Basin, has acted as a historical salt sink and if managed correctly would pose little to beneficial use impacts.

CIPA Comment No. 10: The SCP CP does not apply to dischargers under the Irrigated Lands Regulatory Program (ILRP) General Orders, whose compliance will be governed by amendments to the orders. We respectfully request the same recognition and treatment for the Pond Orders. (23).

RESPONSE: Nothing in the language of the Conditional Prohibition would prevent the Central Valley Water Board from amending the Oil Field General Orders or any other General Orders or permits prior to implementation of the proposed amendments. However, the Board is mandated to revise the 14 ILRP General Orders under the precedential directives of the State Water Board's East San Joaquin Petition Order, and language to implement the proposed Basin Plan Amendments can and should be incorporated into those Orders as part of that process. Updates to remaining General Orders (including the Oil Field General Orders) will be made as quickly as possible, acknowledging the Board's available resources.

CIPA Comment No. 11: CIPA welcomes the opportunity for future collaboration on monitoring procedures to periodically assess control programs and to re-evaluate if appropriate. Also, to develop representative water quality and trend information. Thank you for recognizing we will maximize the use of existing monitoring programs.

RESPONSE: Support noted.

CIPA Comment No. 12: In addition, we respectfully request that staff requests for data be tightly focused on monitoring directly related to the project, both technically and geographically. (25)

RESPONSE: As described in response to **CIPA Comment No. 8**, statutory conditions are placed on the Board's issuance of monitoring and reporting orders. The Board notes that one of the fundamental principles that justifies the Salt Control Program is that salinity is a basin-wide problem that demands basin-wide solutions.

CIPA Comment No. 13: As noted above, we support the CVWB determination, due to complexity and far-reaching salt impacts, that all water users are stakeholders responsible for successful implementation of the SCP.

RESPONSE: Support noted.

CIPA Comment No. 14: Thank you for including technical (in-kind) support for the P&O Study as part of full participation. (26, 217)

RESPONSE: The lead entity overseeing the P&O Study will establish the needed level of participation, including the level of the minimum level of financial support. The following language has been added to the Staff Report in Section 4 under the Salt Control Program:

The lead entity shall be responsible for determining the minimum required level of financial support. In some circumstances, and where appropriate, the lead entity may consider in lieu contributions to meet the minimum level of financial support. However, such determinations are at the discretion of the lead entity.

CIPA Comment No. 15: Under the Salt & Nitrate Control Plan (SNCP) CP, for certain other permittees subject to General Orders, CVWB will hold a hearing on amendments within 18 months of SNCP approval. Again, CIPA requests the Pond Orders be incorporated, including operating waivers applied during the CVWB process. (31)

RESPONSE: See response to **CIPA Comment No. 10.**

CIPA Comment No. 16: The P&O Study evaluates de-designation BPAs for suitability as salt management areas. CIPA supports, with a definition of salt management area and examples of the anticipated operational aspects. (43-45)

RESPONSE: See response to **CIPA Comment No. 9.**

CIPA Comment No. 17: CIPA respectfully requests that monitoring costs be reasonable and within scope of SNMP. A tight and continuing focus must be maintained. While it is desirable to gather salient, comprehensive data for the Central Valley's surface and groundwater sources, this is a public purpose and must be managed in this manner.

RESPONSE: See response to **CIPA Comment No. 12.**

CIPA Comment No. 18: For example, we are asked to provide answers to questions such as: "What are the ambient conditions and trends of salinity in surface waters throughout the Central Valley?" This is overly broad. Ambient conditions and trends must be directly related to salinity, boron and nitrates in a specific geographical area. "Throughout the Central Valley" must be appropriately designated to the basin, sub-basin or project area.

RESPONSE: The Salt and Nitrate Control Program is a region-wide solution to a region-wide issue. In the long term, the program requires basin-wide information to evaluate the effect of implementation activities. The framework of the proposed surveillance and monitoring program has been purposely crafted to provide flexibility to design work plans to focus more detailed evaluations in priority areas while still tracking ambient conditions on a broad basis and adapt as the program moves forward.

CIPA Comment No. 19: Also, it is noted P&O participants must fund the monitoring report "and any additional activities necessary to ensure that all required information is available to the lead entity." "Additional activities" and "all required information" are overly broad and unnecessary, given the specificity of the control programs. CIPA recommends these phrases be deleted.

RESPONSE: The broad nature of the language on required monitoring requirements is meant to provide flexibility to the lead entity overseeing the monitoring effort (language specifying that the same entity that manages the P&O Study will also manage the monitoring effort has been deleted). The lead entity will develop a work plan for Central Valley Water Board approval that identifies the level of work that will be required to satisfy the monitoring goals. For example, the work plan may identify data gaps that need to be filled in priority areas or cross-walks to existing databases that need to be developed to leverage resources.

CIPA Comment No. 20: And, under Surface Water, the Work Plan is supposed to include “ambient water quality conditions and trends for selected SMCLs...not necessarily limited to salinity-related SMCLs.” Yet again, overly broad – the conditions and trends can be clearly listed in the Work Plan, which must focus on salinity, not other “selected SMCLs”.

RESPONSE: Proposed language clarifies how SMCLs will be implemented. The amendments apply to all SMCLs, not just those related to salinity. Therefore, the work plan must address non-salinity SMCLs as well (those constituents identified in Table 64449-A of Title 22).

CIPA Comment No. 21: The lead entity determines adequacy and submits report every 5 years, which is a suitable interval. We add, however, that in the absence of noncompliance or escalating trends, the report requirements be reduced. CIPA supports the proposal that the groundwater monitoring program will utilize data collected by existing monitoring programs. (77-79)

RESPONSE: Flexibility is provided so that the first Program assessment report shall be submitted to the Board no later than five years after the approval of the Work Plan and every five years thereafter, unless a revised reporting schedule is approved by the Board Executive Officer. Support for utilizing existing monitoring programs noted.

CIPA Comment No. 22: We appreciate and may formally support the recommendation to the Legislature to assist in funding the P&O Study and other elements of the control programs. This is a public health program and continuing General Fund support is wholly appropriate.

RESPONSE: Support noted.

CIPA Comment No. 23: While we recognize the effort to broaden CV-SALTS participation, CIPA does not support including the water rights permitting process. Inclusion of the water rights permitting process will only result in litigation and delay.

RESPONSE: The State Water Resources Control Board (State Water Board) retains full jurisdictional authority over water rights within California. The Central Valley Water Board cannot impose mandates on the State Water Board to implement changes. However, water rights permitting and enforcement activities have been, and will continue to be, vital tools to drive Central Valley water users towards the type of collaborative solutions proposed in the Salt and Nitrate Control Program. Within the Recommendation for Implementation to Other Agencies, staff recommends that the State Water Board use its water rights permitting and enforcement authorities, as appropriate, to require participation in the P&O Study by those water right holders in the Central Valley that may contribute to adverse salt impacts.

CIPA Comment No. 24: The Dept. of Conservation should be added to the list of consulted State Departments. (81)

RESPONSE: The Department of Conservation was added to the list of State Agencies.

CIPA Comment No. 25: The CVWB is to hold yet another public hearing on a salinity variance. Sufficient public process will be invested in launching CV-SALTS. Though we appreciate due

transparency, we ask that downstream public hearings for variances, exceptions and like granular steps be minimized, according to statute. (95)

RESPONSE: Future public meetings will be held according to the requirements of Federal and California law with the intent of providing adequate public participation.

CIPA Comment No. 26: Again, we are confronted with overly broad scoping when, under F(d), the variance holder must conduct “(a)ny additional monitoring....” This should be carefully and precisely defined. (98)

RESPONSE: The referenced language is part of the existing policy and staff are not proposing any changes at this time. It should be noted that there are public participation procedures when the Board proposes monitoring provisions as part of a variance and when the Board includes monitoring requirements in permits. These public participation procedures will provide adequate opportunity to vet any monitoring provisions prior to implementation in a permit.

CIPA Comment No. 27: “The Conditional Discharge Prohibition will establish enforceable conditions until the Regional Water Board revises permits to incorporate applicable requirements from the Control Program or determines that existing permit requirements are adequate.” CIPA asks: What is the anticipated time frame to resolve the transition from CP to CVWB WDR revision / determination? (202)

RESPONSE: (This response assumes the comment is on provisions of the Salt Control Program) The time frame will be dependent on the number of dischargers that choose to participate in the conservative approach and those that choose to participate in the P&O study. Amending permits through a broad action to incorporate P&O study requirements as an attachment to existing permits is anticipated to be completed approximately 18 months after the effective date of the program. However, it is difficult to judge the number of permittees that will elect to be regulated under the conservative approach and it is likely that individual permit revisions will need to be prioritized. Until revisions are adopted, the Conditional Prohibition will apply.

CIPA Comment No. 28: Level of P&O participation is determined by CVSC, including consideration of ambient conditions and “proportional contribution of salts and other factors as determined appropriate.” CIPA asks: What is the source for defining and determining ambient conditions? How is proportional contribution of salts determined? What are other factors? (206)

RESPONSE: The lead entity for the P&O Study is anticipated to be a group similar to the CVSC, but the proposed amendments do not specify the CVSC as that entity. Ambient conditions would initially be determined utilizing information documented under the CV-SALTS initiative as refined with any additional information provided by stakeholders. The lead entity for the P&O Study would be responsible for determining level of participation and proportional contributions. The process is anticipated to be an open stakeholder process with active participation of the affected stakeholders.

CIPA Comment No. 29: The P&O study will ultimately “implement reasonable, feasible and practicable efforts to control salinity.” While we appreciate the characterization of permittee control measures, CIPA inquires if Pond Order compliance is included as reasonable, feasible and practicable? (213-214)

RESPONSE: All Board Orders must implement provisions of the applicable Basin Plan. Upon approval of the proposed amendments, the Pond Orders will be revised to incorporate the Control Program provisions. Some existing Pond Order requirements may be adjusted to align with provisions implementing reasonable, feasible and practicable actions to support a Central Valley-wide Salt and Nitrate Control Program.

CIPA Comment No. 30: For SCP compliance, participation in P&O Study “by providing minimum level of funding required or in-kind support.” We appreciate the inclusion of in-kind. (216-217)

RESPONSE: See response to **CIPA Comment No. 14.**

CIPA Comment No. 31: SNCs are, as written, primarily implemented through WDR and waivers. CIPA asks: How do Pond Orders fit in? (260)

RESPONSE: The Oilfield General Orders and individual orders are waste discharge requirements prescribed pursuant to authority granted to the Board under Water Code section 13263. See response to **CIPA Comment No. 29.**

CIPA Comment No. 32: CPs are the preferred option. We support this language on page 261, with emphasis added: *“Once the Salt and Nitrate Program is in effect, as well as its accompanying Conditional Prohibition of Discharge, any discharges of salt or nitrate would be prohibited unless the discharge was consistent with the implementation provisions in the proposed Basin Plan Amendments. Tracking participation may be difficult, but individual permits would not need to be modified before early implementation measures could be required by the Board (e.g. participation in the P&O Study or meeting conservative limits for salt and/or developing Early Action Plans to provide safe drinking water supplies to groundwater user impacted by elevated nitrate levels”*

RESPONSE: Support noted.

CIPA Comment No. 33: Reporting is required every 3 years – it should be 5 years to conform with other areas in the report. Requiring the program to “capture region-wide trends in surface and groundwater quality as well as impacts of specific management activities” is overly broad and burdensome. (262-263)

RESPONSE: The references to the three-year reporting requirement and monitoring plan requirements appear to be references to requirements under the Recycled Water Policy. Approval by the State Board would approve the five-year schedule proposed as part of this Control Program.

CIPA Comment No. 34: We concur and strongly support the notation that monitoring programs should “rely on local, regional and subregional monitoring programs to maximum extent possible.” (265)

RESPONSE: Support noted.

CIPA Comment No. 35: On pages 266-267, the language again is overly broad, vague and exceeds the scope. We respectfully point out that much of the following is the responsibility of the water boards to incorporate in their overall management:

“Establish a program that is robust and dense enough, both spatially and temporally, to make the ambient water quality determinations in a complex geographic, hydrologic, and hydrogeological environment.”

“Collect ancillary data required to estimate volume – weighted ambient groundwater quality, including groundwater elevations.

“Incorporate monitoring stations associated with planned recycled water projects, including indirect potable reuse projects, to the extent that this information is available.

“Establish a dynamic monitoring network that can be (a) expanded to meet future data needs or (b) reduced based on findings from periodic data analyses that show less monitoring coverage is warranted.”

***Surface water monitoring is also broad and costly, for example on page 268, there is the addition of “other secondary MCLs”:*

“Ambient conditions, including monthly and annual average concentrations for salinity and other secondary MCLs....”

RESPONSE: The commenter is referencing guidance that was developed under the CV-SALTS initiative. The proposed Amendments reference the material as guidance during the development of a surveillance and monitoring work plan.

CIPA Comment No. 36: Under groundwater requirements, the Oil and Gas Regional Monitoring Program is listed as a data source, which we support. (270)

RESPONSE: Support noted.

CIPA Comment No. 37: When applying for a salinity variance, an individual discharger should not have to prepare and implement a Salinity Reduction Study Work Plan – this is the responsibility of either the CVSC or a project / regional coalition, and should be noted as such. (276)

RESPONSE: Salinity variances only apply to NPDES dischargers and only permittees that are participating in the P&O Study may apply for a variance under this Salinity Variance Program. Dischargers applying under the streamlined variance process must have a situation comparable with case studies that supported the original streamlined salinity variance (POTWs discharging into the Delta whose would only be able to meet water quality objectives by utilizing RO systems and whose improved discharge water quality would not provide a commensurate improvement in receiving water quality). Those dischargers may submit a joint application as long as the joint application contains all the information identified in paragraph III.C which includes the Salinity Reduction Work Plan.

CIPA Comment No. 38: While we requested and support the addition of boron to the exceptions process, we strongly oppose numeric standards and a watershed-level boron management plan as outside the capacity and scope of this regulation. (284-285) CIPA associates with the detailed comments and remedies for boron put forth in the Valley Water Management letter.

RESPONSE: See responses to Valley Water Comments. While specific numeric boron limits (i.e. the 1 mg/L limit) has been proposed for removal from Chapter 4 of

the Tulare Lake Basin Plan, the numeric limit was replaced with a reference to an appropriate water quality objective. To utilize an exception, there must be an effluent limit that the permittee is requesting an exception from. The current Salt and Nitrate Control Program utilizes over ten years of technical studies to provide the foundation for the Control Program provisions including the focus of the P&O Study based on detailed evaluation of ambient surface and groundwater conditions throughout the Central Valley. No such studies have been completed for boron therefore watershed-level studies are appropriate.

CIPA Comment No. 39: CIPA, through CEO Rock Zierman, Regulatory Affairs Director Willie Rivera and me will be fully involved in this collaborative venture to protect and advance drinking water protection. Our members would be pleased to provide fully qualified technical support and operational expertise.

RESPONSE: Offer noted and appreciated.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA)

Comments were received from Ms. Janet Hashimoto, Manager representing United States Environmental Protection Agency (USEPA) on 4 May 2018.

USEPA Comment No. 1: We appreciate the need for long-term vision and overarching framework for managing salt and nitrate in the Central Valley.

RESPONSE: Comment noted.

USEPA Comment No. 2: The proposed Basin Plan Amendments state that, " ... the numeric value of 700 μ Siem EC (as a monthly average) shall be considered to be a conservative value that is protective of the AGR beneficial use. This value is for use only as indicated here for the Conservative Permitting Approach and shall not be considered a water quality objective." If adopted as a legally binding value that establishes the desired condition of the waterbody, this may be a new or revised water quality criterion and subject to CWA 303(c) review and approval. Alternatively, does the value reflect an effluent limitation for National Pollutant Discharge Elimination System (NPDES) permits? If so, is it based on something other than the underlying designated uses and associated criteria?

RESPONSE: During Phase 1 of the proposed Salt Control Program, the numeric value of 700 μ S/cm EC (as a monthly average) is to be used as a conservative interpretation of the narrative water quality objectives for agriculture to establish water quality-based effluent limitations. As such, it will be protective of the designated uses since it is lower than any other guidelines, criteria or water quality objectives established to protect beneficial uses.

USEPA Comment No. 3: The proposed Basin Plan Amendments would clarify that the "Upper" Secondary Maximum Contaminant Levels (SMCLs) are the applicable water quality criteria and in addition, the "Short Term" SMCLs may be authorized on a temporary basis during droughts. How will these Short Term SMCLs be reflected in NPDES permits? Is it anticipated that the Short Term SMCLs would be protective of the underlying designated uses?

RESPONSE: During periods of drought, less water is available in the Central Valley streams and salinity levels in streams may increase. It is typical for water quality monitoring data to show ambient instream concentrations of salinity peak above the

recommended Secondary MCL, even during periods of non-drought. However, compliance with Secondary MCLs is not evaluated based on peak values but rather based on annual averages using a minimum of four quarterly samples. This recognizes the variable manner of ambient conditions. These conditions are further impacted by periods of drought, that are temporary by nature. Further, while the policy allows for the concentrations of these constituents to increase due to less water, it does not allow for the total loading to increase. This ensures no additional loading of salt during periods of drought. The "Short Term" SMCLs will be used to guide development of interim effluent limitations established as conditions to implement any water quality standards variance for salinity.

USEPA Comment No. 4: Full participation in the P&O study as documented and confirmed by the lead entity overseeing the P&O Study shall be found by the Regional Water Board to provide for in lieu or alternative compliance to receiving water limits based on salinity." It is unclear as to how future permits with this provision will be structured.

RESPONSE: Federal regulations for water quality standards variances require identifying the highest attainable condition that the discharger must strive towards during the term of the variance. The P&O Study will be established by the Board as the process to achieve future improvements in water quality throughout the Central Valley. Therefore, the Central Valley Water Board will include a provision to participate in the P&O Study in permits for dischargers that successfully apply for a water quality standards variance for salinity.

USEPA Comment No. 5: If any permittee has existing numeric limits for electrical conductivity (EC), then will these limits be retained? If not, then please explain what permit conditions for EC will be in effect. Additionally, if the Regional Board intends to provide variances in the future to permittees, then the Regional Board should define the numeric value from which the permittee is seeking a variance.

RESPONSE: Numeric effluent limitations for electrical conductivity will be re-evaluated to be consistent with any applicable numeric or narrative water quality objectives. Permits for discharges to water bodies with site specific numeric water quality objectives for salinity will most likely retain the existing water quality based effluent limitation. For discharges to water bodies without numeric water quality objectives for salinity, the Board proposes to establish a water quality based effluent limitation of 700 $\mu\text{S}/\text{cm}$ EC. Dischargers that cannot meet the water quality based effluent limitations and elect to implement the Alternative Salinity Permitting Approach will be eligible to apply for a water quality standards variance for salinity. Interim effluent limitations representing the highest attainable condition will be applied during the term of the variance.

USEPA Comment No. 6: Furthermore, any variance should be consistent with 40 CFR 131.14 and show incremental progress in water quality.

RESPONSE: See response to **USEPA Comment No. 4**. Any applicant for a variance must participate in the P&O Study, which is expected to result in overall improvements to water quality in the Central Valley.

USEPA Comment No. 7: If extension of this variance continues to rely on the same case studies, the data should be analyzed and updated if necessary to ensure that the conclusions are still valid.

RESPONSE: Dischargers choosing to apply for a variance must submit an application that includes, among other requirements, justification of the need for a variance and an assessment of implementation methods including an explanation of the basis for concluding that there are no readily available or cost-effective methodologies available to the discharger to consistently attain the water quality based effluent limitations for salinity. The Central Valley Water Board will evaluate the application to determine whether to adopt a variance and what conditions to include. This process assures that the data supporting the conclusions for the variance is the most up-to-date.

USEPA Comment No. 8: The proposed Basin Plan Amendments would establish interim salinity permit limits (not to exceed an EC concentration of $\mu\text{S}/\text{cm EC}$) for dischargers during periods of drought (compared to the $700 \mu\text{S}/\text{cm EC}$ limit under the "conservative salinity permitting approach"). Is it anticipated that the interim salinity limits at this level would be protective of the underlying designated uses and associated water quality criteria? If not, then would the Regional Board expect to adopt a water quality standards variance?

RESPONSE: The $700 \mu\text{S}/\text{cm EC}$ limit applies outside of periods of drought. Discharges in compliance with this threshold are considered protective of the underlying designated uses. This amendment is proposing a Drought and Conservation Policy that would establish interim limits greater than $700 \mu\text{S}/\text{cm}$ that would be applicable to discharges during drought conditions (defined in the proposed policy). During periods of drought, less water is available and salinity levels are expected to rise in Central Valley streams. Agricultural users adapt by managing water supplies and using water with a higher salinity level. For municipal and domestic supplies, $2,200 \mu\text{S}/\text{cm EC}$ is the recommended SMCL for the short term. Therefore, use of $2,200 \mu\text{S}/\text{cm EC}$ as an effluent limitation is expected to provide reasonable protection of designated uses during drought conditions. During drought periods a discharge that is in compliance with the interim drought limits is protecting the underlying designated uses and would not require a variance.

**ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
(ZONE 7) & CONTRA COSTA WATER DISTRICT (CCWD)**

Comments were received from Jarnail Chahal, Engineering Manager representing Alameda County Flood Control & Water Conservation District, Zone 7 and Leah Orloff, Water Resources Manager representing Contra Costa Water District on 4 May 2018.

ZONE 7 & CCWD Comment No. 1: Both Zone 7 and CCWD rely primarily on the Sacramento-San Joaquin Delta (Delta) for their water supplies. While we support seeking a long-term solution to address the salt and nitrate water quality concerns in the Central Valley, the proposed Basin Plan Amendments are not protective of downstream water quality, and therefore create the possibility of further degradation of source water quality for downstream water users like Zone 7 and CCWD

RESPONSE: Staff disagree that the proposed amendments are not protective of downstream waters. The Central Valley Water Board implements its regulatory programs, including elements contained in the proposed amendments, to avoid impacts to water quality and beneficial uses of the waters. The proposed Basin Plan Amendments are intended to clarify and memorialize permitting policy and procedure

related to Secondary MCLs. The new language implements a more stringent practice than what is implemented currently to set requirements for Secondary MCLs in WDRs and other orders. The requirement for the Board to conduct anti-degradation analysis, evaluate downstream impacts and protect water quality remain in place. With regard to salinity impacts to Delta waters, the proposed amendments do not alter, revise or supersede the requirements and standards established through the Bay-Delta Plan. The Salt Control Program sets forth a phased control program with measures to ensure controllable sources of salts remain at current levels and are not increased unless the discharger can adequately demonstrate such increases will not impact downstream users or that such discharges are compliant with the Drought and Conservation Policy also proposed by the Amendments

ZONE 7 & CCWD Comment No. 2: The proposed BPAs are not consistent with Porter-Cologne principals that (1) water quality should be protected; (2) responsibility for water quality problems and issues resulting from waste discharges, or from contamination, pollution, or nuisance, rests exclusively with the discharger.

RESPONSE: As described in the Staff Report Section 6, these amendments are consistent with all relevant laws and policies, including the Clean Water Act and Porter-Cologne. These proposed Basin Plan Amendments make no changes to the existing water quality objectives for surface or groundwaters. The requirement for the Central Valley Water Board to conduct anti-degradation analysis, evaluate downstream impacts and protect water quality remain in place. The proposed Basin Plan Amendments do not shift responsibility from those permittees whose discharges may create downstream water quality standards.

ZONE 7 & CCWD Comment No. 3: The recommendations to defer implementation to other agencies are inappropriate. The proposed BPAs depart significantly from Porter-Cologne in their suggestion that other agencies should bear some of the cost of Central Valley water quality protection. Recommend that the proposed basin plan language “Recommendations for Implementation to Other Agencies” be removed.

RESPONSE: Recommending that other agencies and parties participate in regulatory programs is not unique to this amendment. It has been done through the Board’s Delta Methyl-Mercury TMDL and in other policies or plans adopted by the Central Valley and State Water Boards. The Porter-Cologne Act recognized that there may be activities and other factors that could impact water quality and that they should be regulated¹. It further recognized that the quality of our waters is impacted by activities such as interbasin water development projects. It is very appropriate for the Board to recommend that all users of Central Valley waters participate in finding solutions to abate the impacts of their activities.

ZONE 7 & CCWD Comment No. 4: Source water should be protected in all phases of the Salt Control Program. Under the alternative salinity permitting approach proposed by the Salt Control Program, no numeric criteria were established to protect beneficial uses. Allowing downstream water quality to further degrade for decades, as contemplated by the implementation provisions of the proposed BPAs, is not consistent with the statutory policy imperative. Although the Draft Staff Report mentioned that management practices would be implemented by the permittee(s), the proposed BPAs did not include details of what practices would be enforced.

¹ Wat. Code § 13000 et seq.

RESPONSE: Nothing in the Salt Control Program diminishes the Central Valley Water Board's commitment to source water protection. Permittees under the Alternative Salinity Permitting Approach would need to continue implementing reasonable, feasible and practicable efforts to control salinity through performance-based measures as determined by the Board. These include, but are not limited to, salinity management practices, pollution prevention, watershed, and/or salt reduction plans, monitoring and maintenance of existing discharge concentration or loading levels of salinity. These salinity management practices can vary considerably between different programs and areas and it is not appropriate to include these details in the Basin Plan Language. These measures ensure discharges of salts will be properly controlled and significant increases, as implied by this comment, will not occur. Further, the proposed amendments do not alter, revise or supersede the salinity standards established through the Bay-Delta Water Quality Control Plan, site specific salinity standards or previously adopted salinity control programs. These standards and any subsequent changes to them remain in full effect during all phases of the Salt Control Program unless an appropriate and public regulatory action is taken by the Central Valley or State Water Board to change them.

ZONE 7 & CCWD Comment No. 5: Recommend that appropriate salinity objectives (between the “recommended” and “upper” salinity SMCLs) be established for both permitting approaches for all phases of the Salt Control Program, and that the Salinity Variance Program only be extended as long as necessary to determine how to meet water quality objectives.

RESPONSE: The two permitting approaches for the Salt Control Program have different primary goals, so using the same process to establish a salinity limitation or apply a salinity variance during all phases of the program would not be appropriate. The Conservative Salinity Permitting Approach's primary goal is to prevent degradation, and thus applies a conservative numeric value for EC to protect applicable beneficial uses and also limits the use of salinity variances. The Alternative Salinity Permitting Approach's primary goal is managed degradation while developing long-term solutions for achieving salt balance in the region. This goal will be achieved through the use of performance-based measures (as described in **ZONE 7 & CCWD Comment No. 4**) and salinity variances while permittees are participating in the P&O study and subsequent implementation activities.

ZONE 7 & CCWD Comment No. 6: The proposed salinity objectives in the BPAs are not protective of downstream beneficial uses. The Salt Control Program, Secondary Maximum Contaminant Levels (SMCLs) Policy, and the Drought and Conservation Program of the proposed BPAs will allow Central Valley dischargers to discharge water with higher salinity. This could result in water quality degradation in the Delta, affecting the drinking water quality for 23 million Californians, agricultural water uses for thousands of acres of farms, industrial water uses for important sectors of the economy, and environmental water uses for a variety of threatened and endangered species. The Draft Staff Report has explained the difficulties in requiring dischargers to achieve the “recommended” salinity level in the near term. However, the “recommended” level should be at least achievable with the full implementation of the Salt Control Program, if not earlier.

RESPONSE: See responses to **Zone 7 & CCWD Comment Nos. 2 & 4**.

ZONE 7 & CCWD Comment No. 7: In addition, a long-term application of the “upper” and “short-term” salinity SMCLs as water quality objectives is not protective of downstream

beneficial uses. As found by the State Water Board (State Water Board Order WQ 2012–00011, p.15), the application of “short-term” salinity SMCL as water quality objectives is not appropriate, and is inconsistent with Title 22 (Cal. Code Regs., tit. 22, § 64449). Overall, water quality objectives should be established to protect beneficial uses.

RESPONSE: The proposed Basin Plan Amendments are consistent with the directives contained in State Board WQO 2012-00011. The draft Staff Report explains that, in the Lodi Case (WQO 2012-00011), the State Board noted that while the Basin Plan adopted the Secondary MCLs by reference to Tables 64449-A and 64449-B, none of the surrounding text from §64449 of Title 22 was included and that use of the short-term Secondary MCL level may be authorized on a temporary basis, pending construction of treatment facilities, or development of new water sources.

The proposed Basin Plan Amendments affirm this and expand the authorized temporary basis to allow short-term levels to be applied through the proposed Drought and Conservation Policy, provided conditions within the policy are met. The Board believes adding Title 22 text to the use of Tables 64449-A and 64449-B provides important context and has long relied on it to fashion an appropriate implementation strategy for the Secondary MCLs. In addition to Lodi, many communities in the region were subject to very stringent standards due to the Board’s past practices of implementing secondary MCLs in a very conservative manner. Some communities were able to resort to alternative surface water supplies, where available. Others were left with no feasible manner to meet the requirements and have been granted time schedules while CV-SALTS worked towards a solution. In all cases these facilities were required to maintain current levels of salinity discharges when feasible and to implement salinity management and reduction programs. Because of this, the Board altered its approach to regulating secondary MCLs to be more consistent with Title 22. The proposed Basin Plan amendment is more conservative than the Board’s current permitting procedures and is more consistent with how secondary MCLs should be evaluated to reduce the potential for confusion and misinterpretation in the future. The Board is particularly concerned that evaluating compliance with Secondary MCLs in untreated source waters is not consistent with the intent or plain language of Title 22 and would result in overly-stringent permit limitations above those that would otherwise be necessary to protect beneficial uses, which is at odds with the requirements of the Water Code (see Wat. Code, § 13263.). Finally, the Board is also concerned that compliance with secondary MCLs must be addressed in order to reduce the risk of inappropriately concluding waters may be classified as “impaired waters” and be included on the state’s 303(d) list. The revised draft Basin Plan amendment does not propose to change the water quality objectives.

ZONE 7 & CCWD Comment No. 8: Salinity levels in the water supply source and growth increment should not be considerations for discharges with higher salinity. As proposed, the BPAs would result in more difficulties for Central Valley dischargers in meeting discharge requirements and would require even higher discharge salinity to be allowed. This would also create an unsustainable vicious cycle that would continue to degrade Delta water quality. For the same reason, considering any growth increment in discharge requirements is not sustainable from the perspective of the protection of the quality of all waters of the state

RESPONSE: See responses to **ZONE 7 & CCWD Comments No. 1 and No. 4.**

ZONE 7 & CCWD Comment No. 9: The BPAs should be consistent with existing drainage agreements. Recommended policies have the potential to create regulatory loopholes to allow export of agricultural drainage out of the Central Valley. This is inconsistent with existing drainage agreements, including the 2009 Third Grassland Bypass Project Use Agreement, the September 2015 Settlement Agreement between Westlands Water District and the United States, the April 2017 Agreement between San Luis Water District and the United States, and a potential agreement among the Panoche Water District, Pacheco Water District and the United States. Recommend the BPAs or Staff Report include specific section provisions discussing the discharge requirements of the CVP San Luis Drain Area, and requiring that implementation of the Salt Control Program be consistent with existing and future drainage agreements.

RESPONSE: The Central Valley Water Board does not regulate or approve the transfer/diversion of water. The Basin Plan establishes water quality objectives, implementation programs, and other water quality programs to ensure protection of beneficial uses. Diversion of surface waters is regulated under the State Water Board's Division of Water Rights. Any solution involving diversion of surface waters would need to be coordinated with the Division of Water Rights, and would likely need a permit for the diversion.

ZONE 7 & CCWD Comment No. 10: The Central Valley Water Board's previous response to CCWD's comments on salinity objectives in Lower San Joaquin River did not adequately address the concerns of responsibility shifting. The Central Valley Water Board's responded that the salinity-reducing management projects require agricultural dischargers to share the burden of reducing salinity loads to the Delta. It is the dischargers' full responsibility to protect against the water quality degradation that discharges can cause, not just "to share the burden". Relieving Central Valley dischargers from their full responsibility for at least some period of time, perhaps decades, is inconsistent with the fundamental policy concerning responsibility of dischargers expressed in Porter-Cologne

RESPONSE: The comment mischaracterizes the effect of the proposed Basin Plan Amendments. The Porter-Cologne Water Quality Control Act requires that the Board prescribe waste discharge requirements to ensure the protection of beneficial uses, and authorizes the Board to take enforcement actions against unpermitted entities and individuals that discharge wastes that impact beneficial uses. The proposed Basin Plan Amendments do not fundamentally alter the way the Board imposes requirements to protect beneficial uses, nor the obligations of permittees to abide by permit terms that will ultimately require the protection of beneficial uses.

ZONE 7 & CCWD Comment No. 11: The Central Valley Water Board's previous response to CCWD's comments on salinity objectives in Lower San Joaquin River did not adequately address the concerns on water quality degradation. The Central Valley Water Board's previous response to CCWD was that the EC objectives in the Lower San Joaquin River were not established to allow an increase in salt loads but to ensure the protection of beneficial uses. The "upper" and "short-term" salinity levels are not protective for MUN beneficial use. The proposed water quality objectives are inconsistent with the Board's response. There are no provisions in the proposed BPAs to prevent the usage of increased assimilative capacity that would result in water quality degradation.

RESPONSE: See responses to **ZONE 7 & CCWD Comments No. 1 and No. 4.**

ZONE 7 & CCWD Comment No. 12: We may comment further based on the peer review of the technical studies once it is made available. We are also concerned the Board's Staff Report was completed prior to that information becoming available, as it is not yet known whether the peer review findings may affect the staff recommendations. The late release of the materials also cut into the current review period for all documents.

RESPONSE: The peer review material will be part of the agenda package for the 31 May and 1 June 2018 Central Valley Water Board hearing. Oral comments on the peer review will be accepted during the hearing.

ZONE 7 & CCWD Comment No. 13: Commenter provided an Attachment to letter with proposed changes relating to comments made above to eight sections of the BPA language.

RESPONSE: Based on responses to ZONE 7 & CCWD comments above, none of the proposed changes in the Attachment were made to the Basin Plan Language.

TULARE LAKE DRAINAGE DISTRICT (TLDD) & TULARE LAKE BASIN WATER STORAGE DISTRICT (TLBWSD)

Comments were received from Dustin Fuller, General Manager representing Tulare Lake Drainage District (TLDD) and Mark Gilkey, General Manager representing Tulare lake Basin Water Storage District (TLBWSD) on 4 May 2018.

TLDD & TLBWSD Comment No. 1: In an effort to promote an enhance the long-standing salt management activities in the historic Tulare Lake Bed, the Districts have spent substantial amounts of time, money and effort to de-designate the groundwater MUN and AGR beneficial use designations due to the highly elevated saline conditions. Now that the de-designations have been completed, we request the Salt Control Plan be clarified to apply to areas where there is a MUN or AGR groundwater beneficial use. This clarification to the Salt Control Program should be made in the introductory paragraph on page 43 and in the section titled "Permitted Discharge to a Water Body Subject to De-designations of Beneficial Use" (bottom of page 44). It should be reflected that based upon a P&O Study, a discharge in an area where there is not a MUN or AGR groundwater beneficial use designation should not be subject to the Salt Control Program.

RESPONSE: The de-designation of the MUN and AGR beneficial uses in a portion of the Tulare Lake Bed groundwater was a critical case study that was completed collaboratively through the CV-SALTS initiative to identify potential salt management areas. The efforts of TLDD were essential for the completion of the project. The overall Salt Control Program is framed to ensure a sustainable environmental and economic future for the Central Valley and the development and use of salt management areas to initially move salt out of sensitive areas has been identified as one piece of a complicated puzzle that will be further refined through the proposed salinity Prioritization and Optimization Study (P&O Study). It is important that dischargers to these potential salt management areas continue to participate in the Salt Control Program and the P&O Study as a basin-wide strategy is developed. Level of participation in the P&O Study will be determined by the lead entity who should consider the benefits of a collaborative partnership with areas that can provide part of the overall management solution.

NORTH DAVIS MEADOWS AND ESTATES AT NORTH DAVIS MEADOWS (NDM)

Comments were received from residents representing North Davis Meadows and Estates at North Davis Meadows on 7 May 2018.

NDM Comment No. 1: Requests that portions of Yolo County near North Davis Meadows and Estates at North Davis Meadows be moved from Priority 2 to Priority 1 for the Nitrate Control Program. NDM references the staff report allowing communities to request for a different priority.

RESPONSE: Request noted. As stated in the proposed Basin Plan Amendment language under *Nitrate Control Program Implementation*, a community may request that a basin or portion of a basin be subject to the Nitrate Control Program in advance of the proposed timelines for the identified prioritized basins. The Board will utilize additional information provided by the community and make a determination after considering water quality based factors including, but not limited to, additional data/information on nitrate conditions within the area under consideration, degree that the nitrate water quality is impacting users, actions that have been taken to correct the concerns, and maximizing the efficient use of resources. The data that has been supplied by the community residents (information documented in the request letter and monthly concentration data for two wells since April 2015 in an attached table) is currently insufficient to support changing the current schedule to subject permittees within “portions” of Yolo County near the identified neighborhood to provisions of the Nitrate Control Program. It is unclear from the information provided the exact boundaries of the request, whether all residents within the area under consideration receive their drinking water from one or a combination of the two wells documents (one well has the most recent two years of nitrate concentrations reported near 4 mg/L nitrate as nitrogen while the other well has reported 12 to 13 mg/L nitrate as nitrogen—no screening depths are provided for either).

NDM Comment No. 2: Moving Yolo County to Priority 1 would even out the number of Priority 1 and Priority 2 Basins so they both have seven in each priority.

RESPONSE: Size and complexity of each basin was considered when grouping into Priority 1 and Priority 2 Basins as well as number of known impacted disadvantaged communities. The variability of the well information for Yolo County (see response to **NDM Comment No. 3**) also contributed to the Priority 2 ranking which was recommended in the CV-SALTS SNMP submitted to the Central Valley Water Board in January 2018.

NDM Comment No. 3: Data clearly justifies the modification of the area’s priority. NDM provides example of nitrate exceedances such as Blackhawk Place well data and the overall Yolo County Groundwater Basin data.

RESPONSE: The commenter is correct that the Yolo Basin did have the highest average nitrate concentration reported in the upper zone, however, further review of the source of information was conducted prior to the recommended priority rankings set forth in the CV-SALTS SNMP. Additional well information has been included in Appendix B of the Staff Report including Table 4 from the Hi-Resolution Mapping Report (Luhdorff & Scalmanini and Larry Walker Associates, 2016) which includes the well data sources for each groundwater basin and a summary document characterizing the overall TDS and Nitrate as nitrogen water quality in wells within the Yolo Basin. In summary:

- Review of the more detailed well information provided in Table 4 from the Hi-Resolution Mapping Report indicates that of the 431 wells used to evaluate the upper groundwater zone, 399 are used for “Environmental Monitoring” and 10 are noted as domestic. Domestic wells comprise 2% of the total wells.
- The ratio of well use for the Priority 1 Basins are:
 - Kaweah: Total 329; EM/Monitoring = 138; Domestic = 179 (54%)
 - Turlock: Total 925; EM/Monitoring = 71; Domestic = 769 (83%)
 - Chowchilla: Total 114; EM/Monitoring = 22; Domestic = 92 (81%)
 - Tule: Total 176; EM/Monitoring = 70; Domestic = 88 (50%)
 - Modesto: Total 440; EM/Monitoring = 153; Domestic = 200 (46%)
 - Kings: Total 390; EM/Monitoring = 188; Domestic = 107 (27%)
- The summary evaluation characterizing TDS and nitrate in wells noted that approximately 80% of the wells within the upper zone had concentrations less than 10 mg/L nitrate as nitrogen and very few wells (3) had reported concentrations above 1,000 mg/L nitrate as nitrogen which skewed the overall average.

The above information was utilized when considering groundwater basin prioritization resulting in a Priority 2 recommendation.

The commenter provided information on two wells providing drinking water to the communities to support a request for reprioritization of a subarea of the Yolo Basin. See response to **NDM Comment No. 1**.

NDM Comment No. 4: Request that the draft staff report acknowledge that portions of the Sacramento area such as the North Davis Meadows do not have excellent groundwater quality.

RESPONSE: Additional language noting areas of elevated nitrate and salt in the Sacramento Valley have been incorporated into the Executive Summary and Section 2.0 (Environmental and Regulatory Setting).

SAN JOAQUIN VALLEY DRAINAGE AUTHORITY (SJVDA)

Comments were received from Joseph C. McGahan, Watershed Coordinator representing San Joaquin Valley Drainage Authority on 7 May 2018, expressing support for the proposed Basin Plan Amendments.

RESPONSE: Support noted.

SJVDA Comment No. 1: The SJVDA supports the comments submitted by the Central Valley Salinity Coalition.

RESPONSE: See response to comments from Central Valley Salinity Coalition.

SJVDA Comment No. 2: Requests that the Board elaborate on the process it will use to re-evaluate priority basins in the Nitrate Control Program. In order to prevent unnecessary expenditures of limited resources, consideration of re-prioritization should be allowed before

Priority 2 basins are issued Notice to Comply. The current Basin Plan language does not fully explain the process the Board will use to make these re-evaluations.

RESPONSE: Additional clarifying language has been added to the Staff Report in Section 4.2.2.1.2 and to the proposed Nitrate Control Program language under *Issuance of Notices to Comply*. The re-prioritization process can move in both directions—areas that request a higher priority and areas that request a lower priority. Current language states that “...*nothing in the Nitrate Control Program is intended to prevent or prohibit a community from specifically requesting that the Central Valley Water Board subject a basin, sub-basin, or portion thereof to the Nitrate Control Program in advance of the timelines identified...*” The request must be accompanied by information supporting a review of the same factors that the Board considered during the initial prioritization as identified under the *Regional Water Board Review of Priorities* such as additional information on groundwater quality in the area of concern, known nitrate drinking water supply issues and efforts to address, and maximizing efficient use of resources.

Additional language has been added to clarify that permittees within a prioritized basin may request that the Central Valley Water Board defer the issuance of Notices to Comply for their sub-basin or portion of their sub-basin until the issuing of notices for a lower priority sub-basin. Such a request must include documentation related to the same factors noted above. The request may be provided at any time up to six months prior to the scheduled issuance of a Notice to Comply under that basin’s submittal schedule. Issuance of Notices to Comply for Priority 1 Basins are anticipated by October 2020, while issuance of Notices to Comply for Priority 2 Basins are anticipated between October 2022 and October 2024.

CALIFORNIA ASSOCIATION OF SANITATION AGENCIES (CASA)

Comments were received from Roberta L. Larson, Executive Director representing California Association of Sanitation Agencies on 7 May 2018, expressing support for the proposed Basin Plan Amendments.

RESPONSE: Support noted.

CASA Comment No. 1: CASA supports detailed comments submitted by the Central Valley Salinity Coalition and adoption of the proposed amendments with the Coalition’s recommended clarifying changes.

RESPONSE: See responses to comments from Central Valley Salinity Coalition.

NATURAL RESOURCES DEFENSE COUNCIL (NRDC) AND DEFENDERS OF WILDLIFE (DOW)

Comments were received from Kate Poole representing Natural Resources Defense Council and Rachel Zwilling representing Defenders of Wildlife on 7 March 2018.

NRDC and DOW Comment No. 1: We wish to echo the concerns related to water quality expressed by Zone 7 and CCWD in their comment letter of 4 May 2018, and share their concerns about potential impact to Delta water quality as a result of the proposed amendments.

RESPONSE: See response to comments from Zone 7 and CCWD.

NRDC and DOW Comment No. 2: Central Valley dischargers should be responsible for water quality and environmental problems resulting from their discharges. Other parties, especially federal and state government, should not be required to cover costs of drainage management in Central Valley, which could result in unwarranted cost to taxpayers.

RESPONSE: During the CV-SALTS initiative, it was recognized by the broad base of participating stakeholders that activities within the Central Valley and water from the Central Valley benefit all of California. State and Federal water projects both import water (and salt) to areas within the valley where the salt accumulates and export water which could have been available for dilution and additional assimilative capacity. The complexity of managing salt within the Central Valley is compounded by the management of these water projects.

The implementation of long-term salinity management in the Central Valley is critically important to the long-term sustainability of the Central Valley and its water supply. Failure to control salts will result in a decline of Central Valley surface and groundwater quality at an enormous cost to all water users of Central Valley waters, eventually creating greater hardship for the environment, agriculture, industry, municipal utilities, and the entire economy of the Central Valley and the State. Due to the complexity and far-reaching impacts of salt management in the valley, the Board has determined that all users of Central Valley waters, within and outside of the Board's jurisdictional area, are considered stakeholders responsible for the successful implementation of the Salt Control Plan. Successful implementation will require significant participation and actions by federal, state, local agencies, districts, associations and other entities that use or transport Central Valley's waters. It is recommended that these entities participate in the P&O Study to be done under Phase I, and in the other two phases of the Salt Control Program as appropriate. Participation in the Phase I P&O Study may be done by providing financial, technical and policy support to the P&O Study. This participation is essential as findings from the P&O Study will direct the implementation of physical and non-physical projects in the phased Salt Control Program and coordination.

NRDC and DOW Comment No. 3: The proposed amendments should also specifically address discharge requirements applicable to CVP's San Luis Unit Drainage Area.

RESPONSE: Comment noted. Evaluation of the impacts and potential adjustments to existing programs/projects that impact Central Valley salinity will occur under the P&O Study.

CALIFORNIA LEAGUE OF FOOD PRODUCERS (CLFP)

Comments were received from Rob Neenan, President/CEO representing California League of Food Producers on 7 May 2018, expressing overall support of the proposed basin plan amendments.

CLFP Comment No. 1: CLFP expressed overall support of the proposed Basin Plan Amendments. The following are specific proposed basin plan amendments that CLFP supports:

- Regional Board's use of a stakeholder driven process that brought together representatives from various groups and agencies to review existing regulations and develop the Salt and Nitrate Management Plans and proposed amendments.

- Providing dischargers with compliance options that will incentivize immediate actions to address nitrate issues with drinking water as well as provide some long-term regulatory clarity and certainty.
- Nitrate Control Program allowing dischargers to choose to continue operation under the regulation of an individual Waste Discharge Requirements (proposed Individual Approach “Path A”).
- Salt Control Program allowing dischargers to choose during Phase 1 to contribute to the P&O Study through direct contribution or in-kind services.
- Salt Control Program allowing dischargers to choose to continue operation under a traditional permit (proposed Conservative Permitting Approach).
- Constructing a salinity brine line is a necessary part of the solution.
- Including drought provisions which allows dischargers to petition for interim permit limits during state or local drought emergencies.
- Requiring the development of a robust database that can be used to assess water quality.

RESPONSE: Support noted.

CLFP Comment No. 2: State Board and Regional Board can play an important role in ensuring active participation by Groundwater Sustainability Agencies (GSA’s) during the development of the P&O Study and various management zones.

RESPONSE: Comment noted. Need for such collaboration is identified in the Recommendations for Other Agencies and noted in the Staff Report.

CLFP Comment No. 3: The flexibility to conduct on-site studies in cooperation with P&O Study and receive fee relief should be a viable option for consideration as the Salt Control Program develops.

RESPONSE: Additional language was added to the proposed Salt Control Program to clarify the entity leading the P&O Study may consider contributions in-lieu of direct financial support.

CLFP Comment No. 4: Dischargers who discharge into Tulare Lake Basin portions where MUN and AGR beneficial uses has been de-designated are willing to voluntarily participate in Phase 1 of the P&O Study to demonstrate support to improve regional water quality.

RESPONSE: Comment noted. The Board appreciates dischargers’ effort in improving water quality.

CLFP Comment No. 5: Regional Board should revisit the structure of WDR annual water quality fees.

RESPONSE: Fees for WDRs are established by the State Water Board. The Central Valley Water Board can and does provide recommendations for permitting fees, but cannot require the State Water Board to revisit the structure. Staff can work with stakeholders in providing recommendations to the State Board for fees.

CLFP Comment No. 6: CLFP supports recommendations from Central Valley Salinity Coalition.

RESPONSE: See response to comments from Central Valley Salinity Coalition.

CENTRAL VALLEY SALINITY COALITION (CVSC)

Comments were received from Daniel B. Cozad and David Cory representing the Central Valley Salinity Coalition dated 6 March 2018 and received on 7 March 2018.

CVSC Comment No. 1: The CVSC congratulates all participants in CV-SALTS for successfully completing preparation of the comprehensive Central Valley-wide Salt and Nitrate Management Plan (SNMP), and for implementing the proposed strategies and policies contained in the SNMP in the Draft Amendments to the Water Quality Control Plans for the Sacramento River and San Joaquin River Basins and Tulare Lake Basin to Incorporate a Central Valley-wide Salt and Nitrate Control Program (Draft Amendments). Overall, the CVSC believes that the Draft Amendments and the supporting Draft Staff Report are consistent with the recommendations contained in the SNMP, and the CVSC supports adoption of the Draft Amendments.

RESPONSE: Support noted.

CVSC Comment No. 2: Throughout the Draft Amendments and Draft Staff Report, the term Salt Control Program and Salinity Control Program appear to be used interchangeably. For clarity, the Central Valley Water Board should determine if the program is titled “Salt” or “Salinity” Control Program, and then make such revisions throughout the document accordingly.

RESPONSE: Staff has modified the language in the Staff Report to “Salt” Control Program.

CVSC Comment No. 3: CVSC finds that some portions of the ES are inconsistent with the Draft Amendments, and other information contained in the Draft Staff Report. The Central Valley Water Board will need to update the Executive Summary to reflect any revisions. Our specific comments on the Executive Summary are as follows:

- a) (p. 6) – Under the environmental setting section, the ES states that the Salt and Nitrate Control Program applies to all surface and groundwater within the Central Valley Region. This broad statement is not accurate. Rather, the Salt portion of the Control Program applies to all surface and groundwater within the Central Valley Region, and the Nitrate portion of the Control Program applies to groundwater with a beneficial use designation for municipal and domestic uses (MUN).

RESPONSE: Edit incorporated.

- b) (p. 10) – Under the surface water quality section for the Sacramento River Region, there is a statement that suggests that high levels of salinity are transported from the Sacramento River Region to the Delta and other parts of the Central Valley. The CVSC believes that this statement is misleading. As the data and information indicate, salinity levels in surface waters in the Sacramento River Region are low, and water is of high quality. As such, the levels of salinity being conveyed from the Sacramento River Region to the Delta or the rest of the Central Valley are not significant. We recommend that this sentence be deleted.

RESPONSE: Although salinity concentrations in the Sacramento River are low, the volume of water is high and the overall salt load that is transported into the Delta and throughout California through the water projects is significant. The language has not been changed.

- c) (p. 10) - The surface water quality section states that in the Tulare Lake Region, “water quality is extensively impacted by salinity in this region.” This statement is not supported by the text in the Draft Staff Report (see, e.g., page 149) or by the data provided. We recommend this sentence be deleted, or be clarified.

RESPONSE: The sentence was clarified to note that valley floor surface waters have elevated salinity concentrations.

- d) (p. 11) – With respect to the discussion of salinity in groundwater, a sentence references the recommended and upper ranges of salinity as expressed in secondary maximum contaminant levels (SMCLs). This is a correct but incomplete statement with respect to SMCLs. Title 22 of the California Code of Regulations also includes a short-term value for salinity. To be completely accurate, this sentence should be revised to also reference the short-term value of 1,500 mg/L for TDS.

RESPONSE: The context for the discussion noted is to identify potential areas of concern due to elevated salinity, so no change was made to the referenced text.

CVSC Comment No. 4: The Central Valley Water Board must rely on enforcement authority provided in Water Code section 13304 to require remediation (i.e., restoration) and/or replacement water. With the Draft Amendments, permittees essentially elect to have their permits include such provisions when they decide to pursue alternative compliance pathways. If permittees decide to select an alternative compliance pathway, then they are agreeing to address replacement water and restoration (where reasonable, feasible and practicable) as part of the alternative compliance pathway, and such requirements are then implemented through permit conditions. Permittees that elect to use the Conservative Permitting pathway are not required to prepare such a plan unless the Central Valley Water Board imposes such an obligation pursuant to a Cleanup and Abatement Order issued in accordance with Section 13304 of the California Water Code. To ensure that this concept is clear, the CVSC recommends the following revision:

- (p. 31) – “For goals 2 and 3, the Salinity and Nitrate Control Program recognizes that in some circumstances meeting these goals may not be reasonable, feasible or practicable. Further, the Salinity and Nitrate Control Program does not expand the Regional Water Board’s existing statutory authorities. By selecting an alternative coordinated, multi-discharger management approach, permittees are agreeing to meet the management goals. Specifically, permittees that elect to rely on an Alternate Permitting pathway have voluntarily agreed to provide replacement water, and prepare a long-term plan to restore groundwater quality to meet applicable objectives where it is reasonable, feasible and practicable to do so. Permittees that elect to use the Conservative Permitting pathway are not required to provide replacement water or prepare such a plan unless the Central Valley Water Board imposes such an obligation pursuant to a Cleanup and Abatement Order issued in accordance with Section 13304 of the Water Code. Determinations of reasonable, feasible and practicable are to be decided on a case-by-case basis.”

RESPONSE: The clarification recommended is appropriate, however the location in the staff report (brief introduction to implementation of the Salt and Nitrate Control Program) is out of context. The language was included in Section 2 (Environmental and Regulatory Setting) and Section 4 when discussing potential alternatives.

CVSC Comment No. 5: The CVSC also recommends additional revisions to the Introductory section to ensure clarity with respect to implementation of the long-term Salt Control Program, as well as to better clarify that the Central Valley Water Board will review the program in its entirety at a specified interval.

- a) (p. 31) – The last sentence on page 31 states that, “[l]ong-term implementation of the Salinity and Nitrate Control Program is achieved primarily through Regional Water Board permitting actions (i.e., waste discharge requirements or conditional waivers). With respect to the long-term implementation of the Salt Control Program (i.e., Phases II and III), the CVSC believes that it will take much more than permitting actions to implement a long-term control program for salt in the Central Valley. It is very likely that the cost to implement the Salt Control Program will be extraordinarily high and that it will take major public dollars for capital infrastructure projects to implement. Thus, it is inappropriate to imply that the implementation of the long-term Salt Control Program will be achieved solely through permitting actions on permittees. Everyone in the state contributes to the Central Valley’s salinity issues, and thus everyone in the state will need to be part of the solution in some way.
- b) (p. 32) – At the end of the Introductory section, there should be an additional sentence or paragraph that states that the Central Valley Water Board shall review the entirety of the Salt and Nitrate Control Program at the end of Phase I of the Salt Control Program. Currently, the Draft Amendment is vague as to review of the entire program and further clarification is warranted.

RESPONSE: Staff Report language has been modified to incorporate the proposed clarifications.

CVSC Comment No. 6: The Tulare Lake Basin Plan boron limit of 1 mg/L is not a water quality objective and is not directly tied to protecting any specific beneficial use. To address this issue, the CVSC recommends that the limit of 1 mg/L be deleted throughout chapter 4 of the Tulare Lake Basin Plan. In its place, the CVSC recommends that reference be made to the applicable water quality objective for boron. This will provide the Central Valley Water Board with the discretion to properly interpret the applicable boron objective for the actual agricultural use without unduly limiting boron to 1 mg/L in waste discharges with no proper justification. Further, the CVSC recommends that the boron objectives are applicable to the receiving water and not effluent. (Specific edits recommended to pages 51 and 52 of the draft Staff Report related to boron in Chapter 4 of the Tulare Lake Basin Plan).

RESPONSE: Language throughout Chapter 4 of the Tulare Lake Basin Plan has been revised to remove the 1 mg/L boron limit and replace with a reference to the applicable water quality objective for boron. Additional language specifying the receiving water was not incorporated since objectives are developed to reasonably protect beneficial uses for the water body in question.

CVSC Comment No. 7: The CVSC recommends the following edits to the Draft Amendments:

- a) (p. 52) - Discharges of oil field wastewater that exceed ~~the above maximum~~ proposed boron salinity limits may be permitted to unlined sumps, stream channels, or surface waters if the discharger successfully demonstrates to the Regional Water Board in a public hearing that the proposed discharge will not substantially affect water quality nor cause a violation of water quality objectives.

RESPONSE: This paragraph is not included on page. 52 of the draft Staff Report but was a paragraph from the current Tulare Lake Basin Plan. The paragraph has been deleted and replaced with the following:

Discharges of oil field wastewater to unlined sumps, stream channels, or surface waters shall be regulated consistent with applicable laws, regulations and policies requiring the protection of beneficial uses in surface water and groundwater and the need to prevent nuisance conditions. Limits for the White Wolf subarea are discussed in the “Discharges to Land” subsection of the “Municipal and Domestic Wastewater” section.

CVSC Comment No. 8: The CVSC recommends the following edit on Modification to Management Zone Implementation Plan:

(p. 70.) – Modifications should be able to occur for the benefit of water quality, or for the benefit of user protection. Accordingly, the following sentence should be modified: “Any such modifications should generally be changes that will benefit water quality or user protection in the management zone.”

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVSC Comment No. 9: The CVSC provided the following comment on Requirements for Alternative Compliance Projects:

(p. 73) – In the SNMP, the Central Valley Water Board would retain its discretion to authorize degradation above a trigger level in unique and limited circumstances. This clarification has not been carried over to the Nitrate Control Program.

RESPONSE: Clarification was added to the Requirements for Alternative Compliance Projects.

CVSC Comment No. 10: The CVSC provided the following comment on Conditional Prohibition for Salt and Nitrate:

(pp. 74-76) - The Draft Amendments would limit the Central Valley Water Board’s authority to amending only irrigated lands regulatory program (ILRP) general orders rather than providing additional flexibility to amend other general orders rather than having the conditional prohibition apply. The CVSC believes that this language is too limiting and should be revised to provide the Central Valley Water Board with some discretion to amend other general orders if determined appropriate for early implementation of the Salt and Nitrate Control Program.

RESPONSE: The Conditional Prohibition applies from the time a permittee receives a Notice to Comply until such time that the permit has been updated to incorporate the provisions of the Salt and Nitrate Control Program. The Central Valley Water Board is required to update the ILRP General Orders under the precedential directives of the State Water Board’s East San Joaquin Petition Order, but nothing in the Conditional Prohibition prevents the Central Valley Water Board from updating other general orders or individual permits as determined necessary for early implementation of the Salt and Nitrate Control Program.

CVSC Comment No. 11: The CVSC provided the following comment on Recommendations to Groundwater Sustainability Agencies (GSAs):

(p. 82) – The CVSC agrees that GSA’s should participate and support the Prioritization and Optimization (P&O) study. Further, the Draft Amendments should also be amended to state that GSAs in the Central Valley should also participate in nitrate management zones where appropriate and applicable.

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVSC Comment No. 12: The CVSC provided the following comments on Definitions and Terminology Specific to the Salinity and Nitrate Control Program:

- a) The definitions of “contamination” and “pollution” should be deleted as it is defined in statute.

RESPONSE: Definitions were deleted.

- b) (p. 84) – The definition of “de minimis” discharge should be deleted as it is only used in the Nitrate Control Program and is defined therein.
- c) (p. 86) – The definition of “trigger” should be revised to clarify that triggers are *not* water quality objectives.

RESPONSE to b) and c): Both definitions were retained as stated.

- d) (p. 84) – The definition of “domestic well” should be deleted, or other definitions in statute should be used.

RESPONSE: The definition was replaced with a definition from Department of Water Resources Bulletin 74.

- e) (p. 85) – The definition of “salinity” should be revised to include Fixed Dissolved Solids.

RESPONSE: The salinity definition was revised.

CVSC Comment No. 13: The CVSC provided the following comments on Section 1 – Introduction:

- a) (p. 136 and 139) The CVSC recommends that the Draft Staff Report be revised to clarify that the program addresses salt in surface and ground waters, and nitrate in groundwaters.
- b) (p. 137) – There is a sentence with respect to subsequent project-level analysis that will be required pursuant to the California Environmental Quality Act (CEQA) may in some instances need to be performed by the Regional Water Board. Accordingly, this sentence should be revised to correctly reflect that the Regional Water Board may also be the lead agency on occasion.

RESPONSE: Proposed changes from comment a and b except for page 139 were accepted and staff has modified the language in the Staff Report. Page 139 was

discussing the water quality data reviewed as background and both surface and groundwater were reviewed for historical salt and nitrate concentrations.

CVSC Comment No. 14: The CVSC provided the following comments on Section 2 – Environmental & Regulatory Setting:

- a) (p. 148) – The surface water quality section includes a sentence that states in part that “secondary maximum contaminant levels ... [where] developed to protect drinking water supplied to consumers.” Although the term consumers is intended to reflect that SMCLs are based on consumer preferences, use of the term “protect” leaves the impression that SMCLs are public health standards. We recommend that this portion of the sentence be revised as follows: “... which was developed to protect reflect consumer preferences for drinking water supplied to consumers.”
- b) (p. 149) – Table 2-3 summarizes EC conditions for the various basins. With respect to the Tulare Lake Basin, the table references the Main Drain Canal as having high electrical conductivity (EC) levels above 900 µS/cm during irrigation events. This statement appears to be based on data that was collected prior to 2014 and does not reflect that the Main Drain no longer functions as an agricultural drain. Thus, reference to the Main Drain Canal should be deleted.
- c) (p. 151-152) – The Draft Staff Report includes references to surface water nutrient listings. Such references are inappropriate because surface water nutrient issues are not part of the Draft Amendments at issue here. Thus, we recommend nutrient listings and issues be removed from the Draft Staff Report, or at the very least, the Draft Staff Report should explain that surface water nutrient issues are not at issue in these Draft Amendments.
- d) (p. 177-178) – The Draft Staff Report does not provide proper context and explanation for Table 2-12. We recommend that this table be deleted.
- e) (p. 182) – There is a sentence that references that permittees would be required to clean up the aquifer and mitigate any damage if found to have caused or contributed to nitrate pollution. This is a true statement regarding the Central Valley Water Board’s existing authorities under the Water Code. However, what is not clear from this sentence is that this authority resides within the regional water board’s enforcement authorities under Water Code section 13304 and not within its permitting authority. To ensure clarity, we recommend that this sentence be revised to specifically reference that the mechanism is enforcement authority under Water Code section 13304 – not permitting authority.

RESPONSE: Edits were incorporated to address the comments noted for a) through e) above.

- f) (p. 150) – With respect to the Tulare Lake Basin, the statement regarding EC levels in irrigation and drainage should be removed. This statement appears to be based on data solely from the Main Drain Canal. Data from one drain cannot support such a broad statement. Further, many irrigation and drainage canals on the valley-floor in Tulare Lake Basin Plan are not designated as MUN.

RESPONSE: The statement is correct as written and does not indicate salinity impairment related to MUN. Additional clarification is provided after Table 2-5.

- g) (pp. 171 – 174) – The title of this section is: “Policies Incorporated into the Basin Plans Related to Salt and Nitrate Management.” However, the narrative text that follows does not seem to fit within the description of Basin Plan policies. Rather, the text discusses permitting processes for some of the major categories of permittees that will be subject to the Salt and Nitrate Control Program. Further, the section is divided between surface and groundwater; however, some of the discussions are combined for some permittees. For example, the Irrigated Agriculture paragraph under Surface Water discusses groundwater and nitrogen management plans. The intent and purpose of this section is unknown and should be revised for clarity.

RESPONSE: The title of the section was changed to “Policies and Regulatory Provisions” and provides information on the baseline from which to evaluate the proposed Amendments.

- h) (p. 183) - In discussion regarding interpreting narrative objective to protect AGR, the draft staff report fails to mention the State Board’s precedential Woodland Order (Order WQO 2004-0010). Considering the important impact that this State Board Order has on interpreting narrative water quality objectives for protecting AGR, we recommend that this Order be directly referenced in this section.

RESPONSE: Information on the Woodland Order has been incorporated.

CVSC Comment No. 15: Section 3 – Laws, Regulations, and Policies Relevant to Basin Planning should be revised to carefully distinguish the portions of the Draft Amendments that will be subject to review by the United States Environmental Protection Agency (USEPA), and those that will not. CVSC suggests including a table in this section that specifically identifies the various Draft Amendments, and whether the proposed provisions are subject to state and federal authority, or state authority only.

RESPONSE: A table has been included in the Staff Report that distinguishes when portions of the proposed Amendments become effective: after Office of Administrative Law approval vs. approval by USEPA.

CVSC Comment No. 16: CVSC provided the following comments on Section 3:

- a) (p. 185) – The first sentence on this page uses the phrase “all waters of the United States.” This could be confusing for some as the term used when referencing waters subject to the Clean Water Act is “waters of the United States.” We recommend deleting the term “all” for clarity.
- b) (p. 185) - Footnote 33 should be revised to identify the guidance that is being referenced.

RESPONSE: Both comments have been addressed. The “all” was deleted and footnote 33 (new footnote 35) provides a reference to 80FR51019.

CVSC Comment No. 17: The CVSC provided several comments on Section 4 – Alternatives:

RESPONSE to Comments “a” through “r”: For the following comments, the suggested revisions were either incorporated as presented or alternative revisions capturing the intent of the comment were incorporated.

- a) (p. 201) – The CVSC recommends that additional information be provided here to clarify the Central Valley Water Board’s authorities available for implementing the goals. Specifically, and as stated above, the Central Valley Water Board authority for requiring replacement water and restoration of groundwater basins is contained in enforcement authority under Water Code section 13304. With the Draft Amendments, the Central Valley Water Board’s statutory authorities are not being expanded; rather permittees are being given an option to elect alternative compliance pathways. When permittees elect alternative compliance, they are agreeing to provide replacement water and restoration (wherever reasonable, feasible and practicable) as part of a permit provision.
- b) (p. 201) – The first sentence after the management goals references that these goals are to be met wherever reasonable, feasible and practicable. This qualifier applies to management goals 2 and 3, but not goal 1. This sentence should be clarified. Further, determining if meeting goal 2 or 3 is reasonable, feasible and practicable should be decided on a case-by-case basis. Clarification should be added for this purpose.
- c) (p. 209- 218) – In the discussion regarding implementation of the Salt Control Program, the alternatives section does not discuss or identify the Draft Amendments with respect to de-designated areas. Section 4 needs to be revised to include a discussion and explanation with respect to the Draft Amendments titled “Permitted Discharge to a Water Body Subject to De-designation of a Beneficial Use.”
- d) (p. 218) – As the lead entity, the CVSC believes it important to clarify that the lead entity is responsible for determining what constitutes an appropriate minimum required level of financial support. Accordingly, we recommend that a footnote be included that states as follows: The lead entity shall be responsible for determining the minimum required level of financial support. In some circumstances, and where appropriate, the lead entity may consider in lieu contributions to meet the minimum level of financial support. However, such determinations are at the discretion of the lead entity.
- e) (p. 220) – Consistent with our comments above regarding boron, the *Revisions Specific to the Tulare Lake Basin Plan* subsection needs to be revised to include the recommended changes to boron limits that currently exist in the Tulare Lake Basin Plan.
- f) (p. 220-221) Subsection 4.2.1.2. - As discussed previously above, the CVCS believes it is imperative to explain here that the Draft Amendments are not expanding the Central Valley Water Board’s existing permitting authorities to require replacement water and long-term managed restoration. Rather, when permittees elect an alternative compliance pathway, they are agreeing to implement the management goals as part of alternative compliance.
- g) (p. 220) – Revise the last sentence on page 220 as follows: Current enforcement authority pursuant to Water Code section 13304 authorizes ~~allows~~ the Central Valley Water Board to require mitigation order replacement water if a permitted discharge is causing or contributing to an exceedance that ~~would~~ impacts persons relying on groundwater as their source of drinking water.
- h) (p. 221) – There is a sentence that states, “[a]uthority is currently limited to clean-up activities on a permit-by-permit basis.” This statement is not accurate. Current regional water board authority is limited to clean-up activities through enforcement by issuing a Clean-up and Abatement Order per Water Code section 13304 – not directly through a

permit action. Revise the last two sentences in the paragraph titled *Restore Degraded Groundwater* as follows: Authority is currently limited to clean-up activities pursuant to an enforcement order on a permit-by-permit basis. The proposed alternative is phased to provide long-term, managed restoration where reasonable, feasible and practicable by incentivizing and encouraging alternative compliance for all permittees that discharge salt.

- i) (p. 220-222) – See discussion above under Draft Amendments regarding boron.
- j) (p. 223) – The last sentence of the paragraph for the No Action Alternative needs to be revised to clarify that the Central Valley Water Board’s authority for requiring replacement water and restoration is through an enforcement order under Water Code section 13304 – not through its permitting authority.
- k) (p. 234) – The CVSC disagrees with the statement that allocation of assimilative capacity over 10% is considered a means of alternative compliance. Under the SNMP recommendations, alternative compliance may be triggered if a permittee selecting path A seeks assimilative capacity above the trigger level – not for seeking assimilative capacity over 10%.
- l) (p. 236) – With respect to the number of permittees, for clarification, the paragraph should be revised to note how irrigated agriculture and dairies are counted in the permit numbers since they are subject to General Orders. In other words, their permits were probably counted as 1 permittee, but in fact, the General Orders cover many individual operations and substantial acreage.
- m) (p. 248) – It is our understanding that the Guidelines are guidance. Accordingly, the word “must” needs to be changed to “should” to properly convey that the guidelines are guidance and not mandatory.
- n) (p. 255) – The paragraph titled, *Provide Alternate Water Supplies* needs to be revised to clarify that Central Valley Water Board authority for requiring replacement water is through enforcement authority pursuant to Water Code section 13304. With respect to the discussion for Alternative 2, further clarification needs to be provided that alternative compliance is a parallel pathway whereby permittees are electing to address replacement water through a permit action rather than an enforcement action due to other incentives associated with alternative compliance.
- o) (p. 256) – Clarification should be provided when referencing replacement water and permitting authorities. The following sentence should be revised accordingly: “Alternative 2 will likely result in the more immediate provision of replacement drinking water because permittees using alternative compliance ~~permitted~~ under Alternative 2 will have greater flexibility to deploy resources to provide drinking water due to potentially longer compliance schedules (i.e., these permittees would not be laboring under a goal to restore aquifers in 50 years) and because they would have greater ability to pool resources under the Management Zone option.”
- p) (p. 257) – The second sentence under *Restore Degraded Groundwater* needs to be revised for clarity. We recommend the following revision: “Authority is currently limited to cleanup activities orders on an permit-by-permit order-by-order basis.” Further,

throughout this paragraph, references to “permit-by-permit” should be changed to “order-by-order.”

- q) (p. 259) – The CVSC recommends that Alternative 2 be further modified to clarify that the Program for Implementation of the Nitrate Control Program will be reviewed periodically, and will be reviewed concurrently with review of the Program for Implementation of the Salt Control Program and the end of Phase 1 in 10 years.
- r) (p. 278) – Revise last paragraph before subsection 4.2.6.3 to clarify that water quality based effluent limitations are required where there is reasonable potential.

RESPONSE to Section 4 Comments Related to Surveillance and Monitoring:

- s) (p. 268) – Under subheading: “Monitoring and Surveillance Program Requirements,” the CVSC recommends deleting of paragraphs 2 and 3. These two paragraphs are not consistent with the Draft Amendments and will create confusion. Further, this text may create some confusion given the references to shallow and deep zones, which is terminology that predates efforts to establish Upper and Lower Zones.

Response: Paragraph 2 was revised and paragraph 3 deleted to clarify that it is anticipated that the groundwater monitoring program will build off of information developed under the CV-SALTS initiative and will utilize recommendations from the CV-SALTS SNMP for guidance.

- t) (p. 271) – First full paragraph, regarding last clause, “...and allowing flexibility during work plan development to determine appropriate sampling frequency by location.” On this same page in paragraph before 4.2.4.3, it appears the phrase “sampling frequency” is actually in reference to how data will be analyzed. Accordingly, it is recommended that this text be revised where it first appears to state: “...and allowing flexibility during work plan development to determine appropriate frequency for averaging data collected by existing monitoring and assessment programs to determine ambient concentrations and trends in surface waters.” This will ensure consistency between the phrase and the narrative text.
- u) (p. 271) – For the paragraph before 4.2.4.3, we recommend revising italicized text to state: “Allowing flexibility during work plan development to determine appropriate data averaging periods by location to evaluate ambient concentrations and trends.”
- v) (p. 272) – For the 2nd bullet from top of page, we suggest revising bullet to state: “For the surface water program, flexibility should be provided to identify appropriate data analysis/averaging procedures within the work plan.”

RESPONSE to Comments “t” through “v”: Language was clarified to provide flexibility through the development of the work plan to identify appropriate sampling sites, sampling frequency and averaging periods to evaluate ambient concentrations and trends. Specific proposed wording was not incorporated as the terminology could be interpreted as restricting data to existing monitoring efforts rather than using existing efforts and augmenting if needed with new information.

RESPONSE to Additional Comments on Section 4:

- w) (p. 209) – For Salt Control Program implementation, there are two compliance pathways. On page 209, it states that the Conservative Approach applies to “all permitted dischargers.” First, this sentence should be revised to state that it applies to permitted dischargers of salt. Second, there is confusion as to the applicability of the conservative compliance pathway if the waterbody is not designated for MUN or AGR. The CVSC fully supports the need for permittees in areas where de-designations have occurred to be part of the P&O Study. (See, e.g., p. 45.) However, there is uncertainty with respect to the application of conservative permitting pathways to such areas if MUN and AGR have been de-designated. Clarification on this issue is recommended.

RESPONSE: The Board will have discretion to consider whether salts from these areas are impacting other sensitive basins (i.e., salt drainage into a basin with MUN/AGR objectives). Depending on the potential impact of this, the Board may choose to implement the conservative approach based on potential degradation. This will facilitate the entity to be a part of a long-term management approach for salt (e.g., P&O study).

- x) (p. 222) – As part of Recommendation 4.2.1.3, Central Valley Water Board staff are recommending that consumption use guidelines be evaluated as part of the P&O Study. The CVSC is concerned with this recommendation. First, the Draft Amendments are appropriately removing such consumption use guidelines from the Tulare Lake Basin Plan because their applicability to wastewater today is questionable. Second, the CVSC believes it is inappropriate as part of the P&O Study to evaluate such guidelines for compliance purposes. This could be an expensive, research type project that is inappropriate for the P&O Study. Further, the P&O study is to determine a long-term plan for salt management for the Central Valley, which will hopefully result in all waters of the state eventually meeting salinity standards. Evaluating consumption use guidelines would detract from this primary purpose. The CVSC recommends deleting this proposed staff recommendation.

RESPONSE: While staff agrees that removal of the current consumptive use guidelines is appropriate during the development of the long-term salt management program, the potential use of consumption guidelines as part of a future conservative pathway should be considered as part of the P&O Study. Language has been reworded to clarify that a numeric consumptive use value is not a milestone for the study but that an overall evaluation of potential usefulness is.

- y) (p. 228) - 4.2.2.1.2.3 – Prioritized Approach – Under the current Draft Amendments, the Central Valley Water Board is to review the priorities as proposed for adoption into the Basin Plans no later than January 1, 2024. While such a review is appropriate, the CVSC is concerned that there may be basins or portions of some basins that may not need to be an early priority. Inclusion of such areas in this review could unintentionally take away limited resources from those areas of these basins that truly are a priority for nitrate contamination. Further, as permittees and management zone participants evaluate data and information for compliance with the Nitrate Control Program, they may find that the original nitrate data and information used for prioritization resulted in some basin or portion thereof being improperly prioritized. As currently proposed, there is no defined process for the Central Valley Water Board to review and consider requests for re-prioritization. The CVSC believes that it is in the interest of both the Central Valley Water Board as well as stakeholders to have such a defined process so that resources can be appropriately focused on those areas that truly have nitrate contamination issues.

RESPONSE: Additional clarification has been added. The Central Valley Water Board has the discretion to determine the appropriate timing for the issuance of a Notice to Comply based on additional information provided by the interested party. That information should at a minimum allow the Board to consider factors identified under *Regional Water Board Review of Priorities*. See also response to SJVDA Comment No. 2.

- z) (p. 236) – Many categories or types of dischargers in the Central Valley may not be captured under the Central Valley Water Board’s traditional permitting processes. For example, septic systems are subject to local agency management programs through the state’s onsite wastewater treatment system (OWTS) policy. The Draft Staff Report does not mention or discuss how the Salt and Nitrate Control Policy will apply to these untraditional dischargers. Considering the potential impact such discharges may have on groundwater quality, the CVSC recommends that there be some plan to include them in implementation of the Salt and Nitrate Control Program.

RESPONSE: Additional information has been added under *Implementation of Permitting Approaches* that notifications and updates will also be required for Local Agency Management Programs (LAMPS) that cover Onsite Wastewater Treatment Systems (septic systems).

- aa) (p. 248) – The CVSC disagrees with the statement that “in most cases, the request for granting assimilative capacity” will trigger need for alternative compliance. This would imply that Category 3 dischargers trigger alternative compliance, which is not what has been discussed as part of the CV-SALTS Executive Policy discussions.

RESPONSE: The section identified has been revised to indicate that alternative compliance would typically be required for granting assimilative capacity above the trigger.

- bb) (p. 259) – There is a recommendation that the Guidelines for Alternative Compliance Projects be expanded to include additional criteria. Unfortunately, however, it does not appear that these additional criteria are included in the Draft Staff Report. Thus, the CVSC is unable to comment on the proposed additional criteria.

RESPONSE: The missing guidelines were related to check-in periods and coordinated reviews with stakeholders that could be impacted by implementation activities, both of which had been inconsistently discussed in various alternatives. The final recommendation was to include stakeholders who could foreseeably be impacted by implementation practices over a 20-year horizon as part of evaluations every 5 years for the first 20 years, and every 10 years thereafter.

- cc) (p. 262) – Consistent with our comment above with respect to the Conditional Prohibition language, the CVSC comments here that the Central Valley Water Board should have additional discretion to revise other general order for early implementation and not limit such action to only ILRP general orders.

RESPONSE: See response to **CVSC Comment No. 10**.

- dd) (p. 317) – The CVSC supports the proposed alternative to allow use of filtered samples using a 0.45-micron filter in accordance with federal regulations for the next ten years, or

until translator is developed. We also understand that if such translators are not developed, then at the end of the 10-year period, the default will be to use total samples. Further, the CVSC also understands that the need for translators may extend beyond metals and may also be necessary for constituents such as color and turbidity. The current Draft Amendments are focused on metals, which is likely appropriate. However, the Draft Staff Report (and perhaps the Draft Amendments) should acknowledge the need for future changes that also consider the application of translators to other constituents besides metals.

RESPONSE: The language for the implementation of SMCLs in regulatory activities has been revised to clarify initial filtration to remove total suspended solids prior to analyses using “total” methodology with opportunity for additional scientific information to be provided to the Central Valley Water Board to support alternative analytical methods to determine compliance. See responses to City of Sacramento, Sacramento River Source Water Protection Program.

ee) (p. 321) – Please delete recommendation with respect to consumption use guidelines.

RESPONSE: See response to **CVSC Comment 17(x)**.

CVSC Comment No. 18: The CVSC provided the following comments on Section 5 – Antidegradation:

- a) (p. 327) – The last sentence of section 5.2.1.1. states that the Salt Control Program is consistent with the State Antidegradation Policy. We believe that the intent of this statement is that it is consistent with both the State and Federal Antidegradation Policies and not just the state’s policy. This sentence should be revised accordingly.
- b) (p. 328) – In the first paragraph, there is a reference to the date of the adoption of the Salt Control Program. We believe that the correct terminology for this sentence should be “after the effective date” rather than adoption date.
- c) (p. 339) – Under section 5.3.2.1, the second paragraph, there is a reference to the fact that permittees participating in a management zone will need to develop Early Action Plans. For clarity, this paragraph or sentence should also note that individual permittees will also need to develop Initial Action Plans if they are causing nitrate in domestic or public supply wells to exceed the nitrate water quality objective.
- d) (p. 342) – With respect to the sentence for *Consistency with the Federal Antidegradation Policy*, it should clearly state that the Federal Antidegradation Policy does not apply because the Nitrate Control Program applies only to nitrate in groundwater.
- e) (p. 345) – The last sentence under section 5.5 appears to be incomplete.

RESPONSE: All recommended suggestions or alternative clarifying language were incorporated.

CVSC Comment No. 19: The CVSC provided the following comments on Section 6 – Consistency with Laws, Plans & Policies:

- a) (p. 346) – The penultimate sentence on this page should be revised as follows: The proposed Basin Plan Amendments do not designate, remove or revise beneficial uses for surface waters.

Response: This clarification was not included as the proposed amendments do not remove or revise any beneficial uses—surface or groundwater.

- b) (p. 347) – Subsection 6.1.1.2 identifies the Variance Policy and SMCLs as being the only two Draft Amendments that may have any impact on NPDES permitting procedures. The Central Valley Water Board should consider if the Drought and Conservation Policy should also be considered as impacting NPDES permitting procedures.

RESPONSE: Additional clarification was added on the use of Drought and Conservation interim limits as the interpretation of the narrative water quality objectives when setting water quality based effluent limits under the Variance Policy.

- c) (p. 349) – Subsection 6.1.1.4 should note that future Basin Plan Amendments for Phases II and III of the Salt Control Program may have an impact to wetlands and any such impacts will be considered and evaluated in conjunction with the future amendments.

RESPONSE: The following changes will be made to Subsection 6.1.1.4:

The proposed Basin Plan Amendments will not adversely affect or have net loss to current wetlands. The amendments do not directly involve the construction of new buildings, services, or other facilities by the Central Valley Water Board that would change the landscape and impact wetlands. Therefore, these laws and regulations pertaining to wetland loss are not applicable to the proposed Basin Plan Amendments. *Construction of any project for an out-of-valley salinity solution may require wetland mitigation and/or permits under Clean Water Act section 404 and Section 10 of the Rivers and Harbors Act. Any impacts to wetlands will be considered and evaluated when those projects are proposed, or when the Basin Plans are amended once those projects are known.*

- d) (p. 353) – Under subsection 6.1.4, there is a general reference to multiple permittees working collectively in a management zone. It is important to recognize that the intent and purpose of management zones is not just for permittees to work collectively but also for permittees to work with local agencies, GSAs, municipalities, and others with respect to management of nitrate.

RESPONSE: Additional language was added to clarify the intent for all stakeholders with in a management zone to work collaboratively to manage nitrate.

- e) (p. 354) – Under section 6.1.5, there is a reference to the Drought and Conservation Policy. The CVSC believes that there may be other climate change benefits associated with alternative compliance for both Salt and Nitrate Control Programs. Such benefits should be identified here. For example, under alternative compliance for Phase 1 of the Salt Control Program, permittees will avoid building energy-intensive treatment facilities while we determine the ultimate, valley-wide approach for controlling salinity. Similarly, the Nitrate Control Program will minimize the need for individual facility and farm nitrate

treatment because we are looking to implement long-term managed restoration of our groundwater basins for nitrate.

RESPONSE: Until the completion of the P&O Study and proposals for Management Zone implementation, it is premature to document potential climate change benefits. During the Phase I review, more information will be available on the framework moving forward for salt management as well as implementation plans for Priority 1 and Priority 2 nitrate management basins.

- f) (pp. 358-359) – The Draft Staff Report properly evaluates the consistency of the Draft Amendments with the state’s Nonpoint Source Policy. However, the narrative text does not appear to consider the Exceptions Policy and how it works in conjunction with the Nonpoint Source Policy. The CVSC believes that the Exceptions Policy is consistent because it includes requirements for consistency with the 3 management goals, which includes long-term managed restoration of groundwater basins (where reasonable, feasible and practicable) to meeting water quality objectives. Thus, there is a “high likelihood” of achieving water quality objectives over the long-term, or in the alternative, if not reasonable, feasible and practicable, the beneficial uses will need to be reevaluated.

Response: The Board agrees. However, no changes are being proposed. The language as drafted considered the use of exceptions, as authorized under the modified Exceptions Policy, under the Salt and Nitrate Control Programs and thus the analysis is consistent.

- g) (p. 358) – The third bullet on this page states in parenthesis that feedback mechanisms are “(defined by the Court as adequate monitoring of the effectiveness of management practices)...” If the Court reference here means the Sacramento Superior Court’s decision with respect to the Central Coast agricultural waiver program, then the CVSC disagrees with the appropriateness of this reference. The Sacramento Superior Court decision in question has been appealed to the Third District Court of Appeal. With this appeal, the Sacramento Superior Court has acknowledged in an order that the court’s decision is stayed pending this appeal. Thus, there is no applicable court definition with respect to what constitutes an appropriate feedback mechanism, and the statement in parenthesis should be omitted.

Response: The language has been removed

An NPS control implementation program shall include feedback mechanisms ~~(defined by the Court as adequate monitoring of the effectiveness of management practices)~~ so that the Regional Board, dischargers, and the public can determine whether the program is achieving its stated purpose(s).

- h) (p. 361) – The last paragraph on this page mentions variances but fails to mention exceptions. There may be limited situations where non-NPDES discharges of salinity to an impaired surface water may need to obtain an exception. While this is unlikely to happen in Phase I of the Salt Control Program, it may occur in Phase II or Phase III. Thus, a reference to exceptions for non-NPDES discharges may be appropriate here.

RESPONSE: Clarification was added.

- i) (p. 362) – In the discussion with respect to the OWTS policy, the Draft Staff Report should be amended to state that the Central Valley Water Board will consider compliance and consistency with the Salt and Nitrate Control Program in future Local Area Management Plan considerations.

RESPONSE: Clarification was added.

- j) (pp. 364-365) – Similar to our comment above, non-NPDES dischargers may be subject to load allocations as expressed in total maximum daily loads. Accordingly, the impact of these policies on such dischargers should be considered in this section as well.

RESPONSE: Clarification was added.

CVSC Comment No. 20: (p. 369) – Under section 7.1.5, there is a statement that the proposed Draft Amendments will have no direct impacts to aesthetics, and agricultural and forestry resources. However, this statement appears to conflict with the Environmental Checklist and the conclusion that the Draft Amendments would have a potentially significant impact on these resources. This conflict should be resolved.

RESPONSE: The paragraph following the one noted clarifies that there are no foreseeable “direct” impacts from the adoption of the amendments since the amendments themselves are not physical projects, but there are potentially significant “indirect” impacts that may occur.

CVSC Comment No. 21: The CVSC appreciates that developing an economic analysis for the long-term implementation of the Salt and Nitrate Control Program is difficult, and that the estimated cost impacts to agriculture beyond the first 10 years is highly speculative. Accordingly, as the program is implemented over time, it will be necessary for the Central Valley Water Board to update such cost estimates and the economic impacts of this program on the Central Valley. Thus, re-evaluation of costs should occur when the Basin Plan Amendments are reviewed by the Central Valley Water Board.

RESPONSE: Comment noted and such evaluations will need to be updated at any time the implementation program is revised through a Basin Plan Amendment.

CVSC Comment No. 22: The CVSC provided the following comments on Appendix C – Regulation of Waste Discharges in the Central Valley:

- a) (p. C-1) – The second sentence states that discharges to surface waters are regulated under NPDES permits. This statement is only partially true. Discharges to waters of the United States from point sources are regulated under NPDES permits – nonpoint source discharges (which includes return flows from agriculture) are not. This statement needs to be revised for clarity.
- b) (p. C-1) – Similar to the comment immediately above, the first paragraph under the heading for surface water discussions general requirements and compliance with NPDES permits, and then references agricultural discharges to surface waters. This could be confusing as agricultural discharges are specifically exempt from NPDES permit requirements in the Clean Water Act. This clarification should be added.

RESPONSE to a) and b): Clarification added to sections.

- c) (p. C-14) – In its discussion regarding the East San Joaquin WDR, the Draft Staff Report states that this WDR is currently under review by the State Water Board. This section should be updated to reflect that the State Water Board has completed its review of the East San Joaquin WDR, and adopted an order on February 7, 2018.
- d) (p. C-15 – C-16) – This section pertaining to specific requirements regarding salinity, nitrate and secondary MCL Parameters should be updated to reflect the new, increased nitrate provisions from the State Water Board’s February 7, 2018 order that are being imposed on growers in the East San Joaquin watershed, and that will be imposed on other growers in the Central Valley.

RESPONSE to c) and d): Updated information was added to Appendix C.

CVSC Comment No. 23: (p. G-1) – Appendix G contains a list of considerations when implementing SMCLs. The introductory paragraph currently uses the word “shall,” which should be changed to “may.”

RESPONSE: The “shall” was changed to “should”.

CVSC Comment No. 24: (p. H-1) – Appendix H contains guidelines for what constitutes an acceptable Alternative Compliance Project. Because these are guidelines, they are discretionary and not mandatory. As such, the word “must” in the last sentence of the introductory sentence needs to be changed to “should.”

RESPONSE: Change was incorporated.

SACRAMENTO RIVER SOURCE WATER PROTECTION PROGRAM (SRSWPP)

Comments were received from Elissa Callman, Senior Engineer representing Sacramento River Source Water Protection Program on 7 May 2018.

SRSWPP Comment No. 1: The SRSWPP seeks to maintain the high quality of the Sacramento River drinking water supply for the current and future generations. The comments provided in this letter also relate to protection of the high quality of the American River water supply. It is our responsibility as water utilities to ensure that our water is both healthful and free of any unpleasant taste, odor, or other aesthetic effects. Protecting the quality of the raw water supply is crucial to ensuring that treated water quality not only meets the primary and secondary drinking water standards, as required by the Division of Drinking Water (DDW), but moreover is the best quality that we can reasonably provide to protect public health and welfare.

RESPONSE: The Board commends and shares this commitment to water quality.

SRSWPP Comment No. 2: The SRSWPP has been tracking and participating in the Salt and Nitrate Management Program (SNMP) development since the CEQA Scoping was published in 2013. We have provided formal and informal written comments, attended and participated in Central Valley Regional Water Quality Control Board (Regional Board) and CV-Salts meetings, and submitted constructive input and suggestions for solutions related to non-salinity Secondary Maximum Contaminant Levels (SMCLs). We would like to note that Resolution R5-2017-0031 specifically directed Regional Board staff to initiate basin planning actions "considering, where appropriate, those recommended by the SNMP, along with the written and oral testimony received by the Board at the 9 March 2017 hearing." We request that the Draft Staff Report acknowledge this (Section 1: Introduction [Draft Staff Report, p. 130] or Executive Summary

[Draft Staff Report, p.5]). The SRSWPP provided written comments to Regional Board in February 2017, as well as oral comments at the March 2017 Regional Board hearing.

RESPONSE: The Central Valley Water Board appreciates all of the prior comments submitted by SRSWPP during the SNMP development process. The draft resolution to adopt the proposed Basin Plan Amendments acknowledges the receipt of these and numerous other comments from interested stakeholders. All such comments will be included in the official administrative record for the subject Basin Plan amendments.

SRSWPP Comment No. 3: The focus of our comments is related to proposed changes affecting the non-salinity Secondary Maximum Contaminant Levels (Secondary MCLs). We are concerned that some aspects of the Proposed BPA related to Secondary MCLs may result in unintended consequences to the quality of the Sacramento River and American River surface water that we use for our municipal drinking water supplies. We appreciate that Regional Board staff has worked to acknowledge some of our concerns, including coordination with the DDW and affirmation of the continued applicability of existing policies.

RESPONSE: The Board agrees with SRSWPP and implements its regulatory programs, including elements contained in the proposed amendment, to avoid any unintended consequences that may adversely affect water quality in the Sacramento River or the American River. The proposed Basin Plan Amendments are intended to clarify and memorialize permitting policy and procedure related to Secondary MCLs. The new language implements a more stringent practice than what is implemented currently to set requirements for Secondary MCLs in WDRs and other orders. Therefore, adoption of this language will not increase the risk of unintended consequences. The Implementation Guidelines described in Appendix G to the Staff Report are intended to help guard against that possibility.

SRSWPP Comment No. 4: We believe that new concepts and language in the Proposed BPA related to the MUN beneficial use water quality objectives, developed subsequent to the most recent public review opportunity at the January 2018 Regional Board workshop, have resulted in significant changes that have taken away from the balance previously achieved.

RESPONSE: The new text posted for public comment in March of 2018 was intended to reduce, not aggravate, some of the concerns raised by SRSWPP and others at the Board workshop held in January of 2018. In some cases, it appears that the new text produced just the opposite effect and has since been revised again to better reflect our mutually-shared goals. Additional details are provided in subsequent responses to comments below.

SRSWPP Comment No. 5: Source water protection is the first step in a "multi-barrier" approach to providing safe drinking water. This approach is acknowledged and supported in the Regional Board's Central Valley Drinking Water Policy for Surface Waters of the Delta and its Upstream Tributaries (Drinking Water Policy). It states, "While source water protection is the first barrier, it is not intended to provide pristine water that does not require treatment but rather, to prevent source degradation from requiring additional treatment and placing more reliance on the treatment process. High quality source waters minimize public health risk if there is a breakdown in the treatment process." The Sacramento River watershed, including the American River watershed, is nearly 25,000 square miles and includes many types of activities and dischargers, most of which are regulated by permits from the Regional Board. We rely on Regional Board management programs as an essential part of preventing degradation of the

high quality of the Sacramento and American River watersheds. The SRSWPP supports a multi-barrier approach to protecting the MUN beneficial use and believes that any changes to the Basin Plan should be based on sound science related to the risk to the MUN beneficial use. All fractions of a constituent discharged into receiving waters contribute to the total loading of the constituent to the source water. Many constituents, including some with non-salinity Secondary MCLs, have the potential to change physical characteristics once they enter the ambient waters and can also be impacted by in-stream fate and transportation factors such as transformation and accumulation. The impacts of total loading to surface waters should be considered in any process to assess the risk to the MUN beneficial use. MUN designated surface water supplies are treated by water suppliers for the total load of a constituent in the water supply, based on analysis of the total concentration of a constituent. If total loading increases, then the water treatment must be increased to ensure removal and minimize the potential for breakthrough. Conventional drinking water treatment reduction rates are constituent-specific, highly variable between constituents, and do not provide particle removal to a specific size. If source water protection does not prevent increases in total loading, then community water systems will be required to implement additional treatment to provide the same level of protection to its consumers.

RESPONSE: The Board agrees that our regulatory programs are not only an important component of source water protection, but that we are required to implement our requirements to ensure water quality of sources waters is protected. The proposed amendment does not eliminate the Board's obligation to comply with the state and federal antidegradation policies and to ensure downstream uses are protected. Total loading is considered by the Central Valley Water Board during these analyses. The Implementation Guidelines described in Appendix G to the Staff Report explicitly state that the effects on receiving water quality and downstream drinking water treatment operations should be considered when WDRs are developed for the Secondary MCLs.

SRSWPP Comment No. 6: The proposed Amendment Language changes the existing standard to monitor only the dissolved portion (as represented by a filter size of 0.45 microns [um]) of the discharge concentration for Secondary MCL compliance in an attempt to compare it to some representation of treated drinking water, and subsequently increases the risk to the MUN beneficial use. Insufficient technical information has been presented, related to the exclusion of total loading and the use of dissolved analysis to represent treated drinking water quality, to make a scientifically sound determination that this proposed change in methodology is justifiable. We do not support the approach as presented.

RESPONSE: All references to "dissolved" analyses and to using a 0.45 micron filter have been deleted from the proposed Basin Plan amendment. The Regional Board is not proposing to revise the water quality objectives for Secondary MCLs. The proposed text for Chapter 4 has been revised to specify a filter size (1.5 microns) that Staff believes more closely approximates the level of filtration that normally occurs in conjunction with conventional drinking water treatment for raw surface water supplies or as water percolates through the vadose zone. The revised text for Chapter 4 also makes clear that the Regional Board has the authority to specify a different filter size where necessary to more accurately represent site-specific conditions based on scientific evidence submitted for their consideration and after consultation with Division of Drinking Water and public comment. In all cases, filtered and unfiltered samples will continue to be analyzed using the acid-soluble (total recoverable) method.

SRSWPP Comment No. 7: The Regional Board articulates three main goals for the Salt and Nitrate Control Program, including: to ensure a safe drinking water supply. This is described further as a "...safe, reliable drinking water supply..."(Draft Staff Report, p.201). Secondary MCLs are a critical aspect of safe, reliable water, as they affect community water system's ability to treat water affordably to meet standards and ensure public confidence in the quality of drinking water provided. In addition, Secondary MCL constituents can impact human health, as well as welfare. Eight of the 12 non- salinity SMCLs have an associated human health threshold, including primary MCLs and Action Levels, California Notification Levels, and USEPA Health Advisories. Increases in the total concentration of any Secondary MCL constituents may result in an increase of human health risk from these constituents.

RESPONSE: The Secondary MCLs were established to protect human welfare. As such, the Board implements them in a manner to protect that use. There are other water quality objectives that have been derived to protect human health, such as Primary MCLs. The Board is required to consider all existing and potential uses when establishing its requirements to protect water quality. Nothing in these proposed Basin Plan Amendments alters, revises or removes this requirement. The proposed clarifications in the Chemical Constituents section of the Basin Plan apply solely to the parameters identified in Tables 64449-A and 64449-B and only when evaluating compliance with the Secondary MCLs for those parameters. The proposed Basin Plan amendment does not alter how the Regional Water Board establishes WDRs or effluent limits to implement other water quality objectives, such as a Primary MCL or the California Toxics Rule, for the same chemical constituents. Nor does the Basin Plan amendment alter the fundamental precept that where multiple water quality objectives exist for the same chemical constituent, the discharger must meet the most stringent of the applicable permit conditions. The proposed Basin Plan Amendments do not alter other applicable policies or plans not specifically addressed by the proposed Basin Plan Amendments, such as the SIP, or the manner in which they are applied.

SRSWPP Comment No. 8: Any proposed changes to the Basin Plan should ensure that long-term degradation of Secondary MCL constituents in the MUN source waters is prevented.

RESPONSE: The proposed Basin Plan Amendment does not alter the Board's obligation to comply with the State Antidegradation Policy when issuing any permit that may authorize degradation of high-quality waters. See response to **SRSWPP Comment No. 5**.

SRSWPP Comment No. 9: The Proposed BPA, Draft Staff Report, and associated appendices do not specifically recognize the overall value of constituents with Secondary MCLs for protecting both human welfare and health. Secondary MCLs are in place to protect public welfare and apply to all community water systems, regardless of size, source type, and the treatment design and processes. The concentrations of the Secondary MCLs are set to protect against aesthetic and organoleptic impacts, and are based on the total concentration of each constituent.

RESPONSE: The proposed text for Chapter 4 of the Basin Plan has been revised to explicitly acknowledge that the Secondary MCLs were intended to protect public welfare for chemical constituents that may adversely affect the taste, odor, appearance or consumer acceptance of drinking water. See response to **SRWSPP Comment No. 7** regarding public health.

SRSWPP Comment No. 10: Degradation of source waters may result in increased public health risk as well as risk of impacts to the drinking water's aesthetics. There is no acknowledgement in the Proposed BPA of the associated human health thresholds for 8 of the 12 constituents on Table 64449-A of Title 22, Section 64449: Secondary Maximum Contaminant Levels and Compliance - see table below. The constituents that also have primary MCLs and applicable Notification Levels (which will apply under Title 22 Section 64449.2) must continue to be enforced in accordance with those water quality objectives, based on total analysis (Aluminum, Copper, Manganese, MTBE, Thiobencarb). The Proposed BPA needs to more fairly represent that the non-salinity SMCLs not only protect human welfare, but that many of them have additional values that are intended to protect human health and reaffirm that those other water quality objectives continue to apply.

RESPONSE: See response to **SRWSP Comment Nos. 7 and 8.**

SRSWPP Comment No. 11: The Draft Staff Report (Subsection 6.1.3, p.352) discusses consistency with the Water Code Section 106.3, including the proposed revisions to the Secondary MCLs. Similar to other sections of the report, there is no acknowledgement that many of the constituents with Secondary MCLs also have an associated threshold for the protection of human health. The potential impact to the constituents that also represent risk to human health should be evaluated and discussed to ensure that there will be no impact to human health. The Draft Staff Report (Section 4.2.10.3, p.319) presents recommendations regarding the language to clarify Secondary MCL use, including: "The proposed changes apply only for the purpose of interpreting and implementing the SMCLs. Some SMCL constituents (e.g., priority pollutants) have separate water quality objectives intended to protect aquatic life. The proposed change would not change these other objectives or the manner in which compliance with these objectives is currently assessed." It is essential that the above language be modified to include that there are primary drinking water standards for several of the Secondary MCL constituents. The text should be revised to state, "Some SMCL constituents (e.g., priority pollutants and primary MCLs) have separate water quality objectives intended to protect aquatic life and human health." The text should also clarify that the permitting process must include all objectives that apply to the MUN beneficial use, and their designated method for compliance. The text should be revised to state, "The proposed change would not change these other objectives or the manner in which they are evaluated for permit inclusion and compliance with these objectives is currently assessed."

RESPONSE: Board staff agrees with this comment and have made appropriate modifications to the Staff Report along the lines suggested.

SRSWPP Comment No. 12: The Regional Board declares that the revisions to the Water Quality Objectives in Chapter 3 and implementation in Chapter 4 are intended to "clarify the intent and use of applying SMCLs in permitting actions by staff" (Draft Staff Report, Executive Summary, p.25). There is no specific definition in the Proposed BPA of what the Regional Board believes is the "intent and use [purpose] of SMCLs". The text of the Draft Staff Report should clearly articulate the value and applicability of Secondary MCLs as protecting the MUN beneficial use.

RESPONSE: Chapter 4 was revised to add text that describes the purpose and intent of the Secondary MCLs is to protect public welfare from contaminants that may adversely affect the taste, odor, appearance or consumer acceptance of drinking water.

SRSWPP Comment No. 13: Section 2 of the Draft Staff Report describes the Basin Plans, including the MUN water quality objectives. The text (Subsection 2.2.1, p.166) presents the need for explanatory language related to the SMCLs. This text, as well as in other places of the Draft Staff Report (Subsection 4.2.10.1.1, p. 303, Subsection 5.4, p.342), implies that the constituents in Table 64449-A need additional context for implementation, which is not accurate. For the non-salinity constituents in Title 22, Section 64449, Table 64449-A there is a single MCL listed and there is no need to further interpret the levels.

RESPONSE: Board staff acknowledges that the constituents in Table 64449-A are expressed as a single concentration for each Secondary MCL and that there is no need to further interpret these levels. However, there is a need to describe how the Board evaluates compliance with these levels. Citing the entirety of §64449 in Title 22 provides context that supports the Board's permitting approach.

SRSWPP Comment No. 14: Adding new contextual text from Title 22, Section 64449 relates to interpreting the Table 64449-B salinity constituent ranges presented (Draft Staff Report, Executive Summary, p.25). Subsection 2.3 of the Draft Staff Report (p. 183) presents a discussion of the Implementation of the Secondary MCLs to protect MUN beneficial use. The first paragraph of this subsection is totally focused on salinity Secondary MCLs and the text should be modified to be clear. The first sentence should be clarified to add salinity, "Lack of guidance or policy in the Basin Plans for implementation of salinity secondary MCL-based objectives..." The Draft Staff Report (Section 4.2.10.3, p.319) presents recommendations regarding the language to clarify Secondary MCL use, including: "The Basin Plans should be amended to incorporate implementation provisions recognizing the contextual information in Title 22, Division 4, Chapter 15, Article 16, especially §64449 and §64449.2 and clarify consideration of natural background conditions, compliance assessment time period, and sample type - as appropriate to clarify use of SMCLs." It is necessary to revise the first part of the statement to explain that contextual text of Section 64449 is related only to Table 64449-B. The Draft Staff Report should be clarified throughout to explain that contextual language is specific to interpreting the data ranges of salinity constituents in Table 64449-B.

RESPONSE: The Central Valley Water Board did not intend for the added context provided by §64449 in Title 22 to be limited exclusively to the discussion of the Secondary MCL Consumer Acceptance Ranges shown in Table 64449-B. Context was needed to ensure consistency in Central Valley Water Board actions regarding the regulation of Secondary MCLs provided in Tables 64449-A and B, allow similar flexibility to the Central Valley Water Board as that afforded water utilities when implementing the Secondary MCLs, and to assist staff in determining compliance with all Secondary MCLs.

SRSWPP Comment No. 15: Finally, incorporation of Title 22, Section 64449.2 prohibits the exceedance of the California Notification Levels for iron and manganese as part of water quality objectives. These Notification Levels are based on total concentrations, and the Draft Staff Report should make clear how Regional Board will incorporate these numbers into the permitting process.

RESPONSE: When the Secondary MCLs were adopted into the Basin Plan as water quality objectives it was done by reference to Tables 64449-A and 64449-B only. Section 64449.2 describes the eligibility requirements for a community water system to receive a waiver from compliance with Secondary MCLs identified in Table 64449-A. As such it is not applicable for purposes of this amendment.

SRSWPP Comment No. 16: The SRSWPP believes that there are significant errors and insufficiencies related to the evaluation of non-salinity Secondary MCL constituents from Table 64449-A. Throughout the proposed BPA documents there is reference to Secondary MCLs, with extensive discussion and presentation of data and standards related only to salinity constituents. Consistently, there is a lack of equal presentation on the non-salinity constituents (Draft Staff Report, Executive Summary, MUN Water Quality Objectives, p.9). We believe that the supporting data provided in Appendix A is insufficient to assess impacts of the proposed changes on the MUN beneficial use.

RESPONSE: As noted in prior SRSWPP's comments, the Secondary MCLs in Table 64449-A are expressed as single concentrations. Therefore, considerably less discussion is required because there is no need to explain how to develop WDRs from a range of values as must be done for the salinity constituents in Table 64449-B. Moreover, the proposed amendment is not proposing to change any of the water quality objectives in Table 64449-A, so little discussion is needed. The Board is clarifying how it implements compliance with Secondary MCLs and explains why it chose this approach. Finally, the Implementation Guidelines presented in Appendix G to the Staff Report make it clear that the Board intends to develop WDRs for Secondary MCLs in a manner that avoids causing a significant adverse impact to MUN beneficial uses downstream of the discharge. We note, however, that many of the guidelines provided in Appendix G are considered and analyzed by staff when setting regulations for all beneficial uses and not just those associated with Secondary MCLs.

SRSWPP Comment No. 17: In addition, there is significant misrepresentation on the findings of our published Sacramento River Watershed Sanitary Survey 2015 Update. Our concerns on this issue were also presented in our comments from February 2017 on the CV-Salts Salt and Nitrate Management Plan. We believe that these errors and insufficiencies resulted in a significant effect on the outcome of the environmental analysis determination regarding impact to the MUN beneficial use in Appendix K, Section IX. The Draft Staff Report (Subsection 2.1.2.1, p.151) presents a very limited discussion of surface water quality related to non-salinity Secondary MCL constituents, with Appendix A cited for additional data. Appendix A only presents a summary data table and box plot graphs for selected constituents. There is no data evaluation presented. It should be noted that Appendix A does not include presentation of any data for two Secondary MCLs: color and MTBE.

RESPONSE: The data presented in Appendix A is solely to provide a general overview of certain water quality parameters in the surface and groundwaters of the Central Valley; it was not intended to substitute for the findings needed to support approval of specific WDRs in a given discharge permit. Site-specific data and analysis must be considered when specific WDRs come before the Board for approval.

SRSWPP Comment No. 18: The SRSWPP previously commented to Regional Board in February 2017 that the Department of Water Resources (DWR) Northern California Operations has an on-going Sacramento River Watershed Coordinated Monitoring Program (CMP) with substantial data collected on several Secondary MCL metals throughout the watershed, with quarterly frequency and including both total and dissolved analysis. This data set would have substantially supported evaluation of the risks of these metals to the MUN beneficial use, as well as the variability in dissolved and total fractions. This data was not included in the Draft Staff Report; we are submitting selected data with this comment letter to support our concerns and be considered as part of the evaluation (**Attachment 1**).

RESPONSE: Staff acknowledges and appreciates receipt of the data submitted by SRSWPP. It was carefully considered, as was similar data that was provided by others. All of this information will be evaluated again as staff seeks to develop appropriate WDRs. The Board is required to protect beneficial uses, comply with state and federal antidegradation policies and prevent significant adverse impacts on downstream water agencies. Comments presupposing that the Board intends to implement the Secondary MCLs in a manner that is inconsistent with these obligations lack any basis in fact and is unsupported by the Board's previous permitting decisions.

SRSWPP Comment No. 19: The Draft Staff Report makes the claim that aluminum, iron, and manganese are present in particulate form (Subsection 7.1.5.1.3, p.372 and Appendix K, Section IX) and therefore will remain unchanged in most discharges due to controls for sediment. In addition, it is stated that the concentration of these metals in wastewater effluent are controlled by treatment and yet in National Pollutant Discharge Elimination System (NPDES) permits with an effluent limit for these Secondary MCL constituents, it appears to usually be a Water Quality Based Effluent Limit (WQBEL), not a Technology Based Effluent Limit (TBEL).

RESPONSE: The commenter does not clearly understand the regulations that apply to establishing permit requirements in NPDES permits. The Board is required to evaluate limitations that are technology based and water quality based and then the most conservative limit must be established in a NPDES permit. This means that dischargers subject to NPDES permits must meet the more conservative limits where applicable and implement appropriate treatment or control measures to meet those limits. To imply a discharge may be subject to less stringent standards if subject to a water quality based effluent limits is not correct.

SRSWPP Comment No. 20: There is insufficient information and analysis presented in the Draft Staff Report to support the statement that discharges will remain unchanged, such as a comparison of paired dissolved and total concentration samples. The data presented for metals in the Sacramento River in Appendix A is over 15 years old and does not provide paired data sets; therefore, any comparison of total and dissolved is invalid. See attached DWR CMP data set for selected constituents, including aluminum, iron, and manganese. This is a large data set for locations along the Sacramento River with paired dissolved and total analysis, between 2010 and 2017. The data shows that frequently the dissolved concentrations can account for a large percentage of the total load of these constituents, and on average account for 15-25 percent. The claim in the Draft Staff Report that dissolved levels of aluminum, iron, and manganese are insignificant is directly contradicted by the DWR data. There are peaks of all of these metals above their respective Secondary MCLs, and times when the dissolved concentrations alone can exceed the Secondary MCLs for aluminum and iron. Therefore, an analysis of potential impacts from the change from total to dissolved analysis for metals on the MUN beneficial use should have been conducted.

RESPONSE: The statement that the "discharges will remain unchanged" is based on the Board's expressed intent to implement the Secondary MCLs in a manner that assures that outcome. The statement was not based on an inference about how the ratio of dissolved and total metals might change in the environment. Staff is well aware that water quality monitoring data indicates that the ambient instream concentration of dissolved aluminum, iron and manganese sometimes "peaks" above the applicable Secondary MCLs. However, compliance with Secondary MCLs is not evaluated based on peak values but rather based on annual averages using a minimum of four quarterly

samples. Regardless, staff has revised the proposed language for Chapter 4 to indicate that the Regional Board may require that unfiltered samples also be analyzed when necessary to assess general trends in receiving water quality, implement the state's Antidegradation Policy and evaluate potential downstream impacts.

SRSWPP Comment No. 21: Turbidity and color are summarily dismissed as constituents of concern in the Proposed BPA (Draft Staff Report, Subsection 7.1.5.1.3, p.372 and Appendix K, Section IX, p.K-28 to K-29) without complete analysis. These constituents serve as surrogates of overall water quality, represent risk from other measurable constituents (such as organic and inorganic matter and microbiological organisms), and have more important correlations, most significantly as indicators of the presence of pathogens in a water supply and a driver of the type and amount of drinking water treatment provided. Turbidity represents a wide spectrum of particle sizes and each particle can serve as a host for other constituents of concern to adhere to. Risk to the MUN beneficial use from turbidity is not specific to a particle size. The turbidity evaluation presented in Appendix K, Section IX only considers impacts from one type of activity in the watershed (wastewater discharges), rather than all potential sources. Color is monitored in unfiltered water related to the MUN beneficial use and considered a critical indicator of potential water quality concerns.

RESPONSE: The Board acknowledges turbidity and color are important measures of water quality. They are included as water quality objectives in the Basin Plan. The Staff Report does not "summarily dismiss" these constituents but, rather, emphasizes that the water quality objectives for all Secondary MCLs (including turbidity and color) remain unchanged by the proposed Basin Plan amendment. The Staff Report merely acknowledges that based on publicly available reports that, in general, water supply agencies do not currently appear to have a significant problem meeting drinking water standards for color and turbidity.

SRSWPP Comment No. 22: Although other Basin Plan narrative and numerical water quality objectives exist for these constituents, it is difficult to tell how the MUN water quality objectives from the Chemical Constituents section of the Basin Plan would compare to these when determining which one is stricter and would be applied to WDRs under the State Implementation Policy (SIP) since each receiving water has unique water quality characteristics and no evaluation was conducted in the Proposed BPA.

RESPONSE: See response to **SRSWPP Comment No. 7**

SRSWPP Comment No. 23: There is a statement in the Draft Staff Report (Subsection 2.1.2.1, p.151) regarding the ability to meet Secondary MCLs in the treated water at the Sacramento River water treatment plants, as well as discussion in the environmental analysis (Subsection 7.1.5.1.3, p.372-373). This statement is true, but we believe that it has been presented to imply that the drinking water purveyors do not identify aluminum, iron, or manganese as constituents of concern. We disagree with this implication and believe it is important to accurately characterize the findings and recommendations of the Sacramento River Watershed Sanitary Survey 2015 Update (Starr Consulting et. Al, 2015). This report included a detailed review of raw water aluminum, iron, and manganese concentrations due to their potential for discharge to the watershed, periodic elevated levels in the raw water, and potential for water treatment impacts. This included review of additional data from DWR. Although the drinking water treatment plants are able to treat water to meet the Secondary MCLs for the three metals, the evaluation identified that source water concentrations and the sources contributing to those were identified as of potentially of concern and the report recommended that the water utilities

continue to monitor raw water and coordinate with DWR over concern of increasing source water levels that may lead to treatability concerns.

RESPONSE: The statement referenced in the Draft Staff Report is not intended to imply that drinking water purveyors "do not identify aluminum, iron or manganese as constituents of concern", and should not be construed as such. Staff agrees that it is useful to continue monitoring raw water and coordinating with DWR to ensure that treatability problems do not increase in source waters.

SRSWPP Comment No. 24: The Draft Staff Report (Subsection 4.2.10.2, p.312) includes a discussion of the application of Secondary MCLs when measuring compliance. The first bullet in this section states that high TDS and EC concentrations exist, and then references Table 64449-A. This statement should be corrected to remove the reference to Table 64449-A, or the Draft Staff Report needs to be expanded and revised throughout to provide basis for a statement that high background concentrations exist for the other non-salinity SMCL constituents.

RESPONSE: The Staff Report has been revised to include reference to other constituents in addition to TDS and EC. It was not the intention of the Central Valley Water Board to ignore that there may be naturally occurring background concentrations of other constituents we regulate in addition to TDS and EC.

SRSWPP Comment No. 25: The Draft Staff Report (Subsection 2.1.2.1, p.151) describes CWA 303(d) Listed Impairments and states that there are no listings of metals for the protection of MUN in the Sacramento River Hydrologic Region. Although this is true, the Draft Staff Report later clarifies (Section 7.1.5.1.3, p.372) that two creeks in the Sacramento River Hydrologic Region have a Total Maximum Daily Load (TMDL) for Copper and Zinc for the protection of aquatic life. It is more accurate to clarify throughout the Proposed BPA and associated documents that the TMDL exists, even if it is not related to the MUN beneficial use.

RESPONSE: Both subsections referenced by this comment are accurate as written and have not been revised. The proposed Basin Plan Amendments is implementing a Salt and Nitrate Control Program. There is no need to include a detailed discussion of the TMDLs for Copper and Zinc to protect aquatic life because the proposed Basin Plan amendment for salt and nitrate has no effect on these TMDLs.

SRSWPP Comment No. 26: The Draft Staff Report also presents a review of surface water discharge types that may contribute Secondary MCL constituents. We would like to note that under industrial dischargers (Subsection 2.2.1, p.172) hatcheries should be identified as potentially contributing non-salinity Secondary MCL constituents and that other industrial dischargers, such as mines also have the potential to discharge non-salinity Secondary MCL constituents.

RESPONSE: Staff acknowledges that hatcheries, mines and other industrial dischargers also have the potential to discharge non-salinity Secondary MCLs. All relevant water quality characteristics are carefully considered if and when the Regional Board issues WDRs for such discharges.

SRSWPP Comment No. 27: Related SRSWPP Previous Comments on SNMP Antidegradation Analysis by LWA: Ambient Surface Water Quality Conditions (Attachment 6 to SRSWPP Feb 2017 Comments). Data used for aluminum, iron, and manganese needed 10 samples to be

included: 10 samples over a 27-year period are wholly insufficient to characterize the range of water year types, seasons, and trends over time. This is supported by review presented in the Sacramento River Watershed Sanitary Survey 2015 Update. 2 years of data is also insufficient to characterize the broad range of water quality variability. This is supported by review presented in the Sacramento River Watershed Sanitary Survey 2015 Update. All constituents with Secondary MCLs will be impacted and are of interest. The SRSWPP suggested review of the DWR Sacramento River CMP data. Data for aluminum, iron, and manganese was limited in time, and quite old. Evaluation should be based on total concentration since that is the standard for drinking water regulatory compliance evaluation.

RESPONSE: The Central Valley Water Board utilizes all relevant and available data as provided through the State Water Board CEDEN and USGS databases and reflects best available data from those sources that meets data quality standards established by the State Water Board. This data will be augmented by additional data collected under the SAMP. The Central Valley Water Board is aware of the data collected by DWR. However, this data is not part of CEDEN at this time.

SRSWPP Comment No. 28: Related SRSWPP Previous Comments on SNMP Substitute Environmental Documentation by LWA: Water Quality - Surface Water (Attachment 4 to SRSWPP Feb 2017 comments) Median values are not sufficient for evaluation of SMCL issues. In addition, ranges and averages and annual, possibly running annual averages should be included. [with regard to summary of Secondary MCL constituents, now Appendix A, Table A-1; the evaluation does not represent all constituents with secondary MCL. Missing color, MTBE, Odor, TDS, EC.

RESPONSE: Use of the median is an appropriate manner to evaluate environmental data. The median value is representative of a typical value in a dataset. It is an actual data point in the dataset, and is not subject to skew as a result of outliers, unlike the mean value. It is commonly used to provide useful information regarding the central value of an environmental data set.

SRSWPP Comment No. 29: The SRSWPP believes that insufficient data analysis was conducted to evaluate the potential for increased loading to the MUN designated water bodies if compliance with the water quality objectives for the Secondary MCL constituents is revised from total analysis to dissolved analysis. We request that additional data, factors, and conditions be included in the evaluation as described above.

RESPONSE: The draft Basin Plan amendment has been revised so that it no longer implies that the water quality objectives for the Secondary MCL constituents will be based on dissolved analysis. Instead, compliance will continue to be assessed total recoverable method. However, that method will be applied to samples that have been filtered to reduce the unintended influence of total suspended solids (TSS) on the analysis. The revised Basin Plan amendment also states that the Board may also require unfiltered samples to be analyzed concurrently in order to evaluate water quality trends, assess downstream impacts and conduct anti-degradation analysis. Also, see response to **SRSWPP Comment No. 6.**

SRSWPP Comment No. 30: Chapter 3 of the Basin Plan presents the water quality objectives associated with various beneficial uses, which are part of the water quality standards to protect the beneficial uses. The SRSWPP began participating in this program when the CEQA Scoping identified potential changes to the Salinity Water Quality Objectives. During our participation in

this process over the past five years, there was no discussion of a plan to expand the scoping of this program to include any constituents with Primary MCLs or to clarify or quantify the efficacy of drinking water treatment.

RESPONSE: The scope of the proposed Basin Plan amendment has always included the chemical constituents identified as Secondary MCLs. The fact that some of these chemical constituents may also have Primary MCLs is self-evident but irrelevant because the proposed Basin Plan amendment makes no changes to any of the Primary MCLs or the methods used to evaluate compliance with the Primary MCLs. Nor does the proposed Basin Plan amendment seek to clarify or quantify the efficacy of drinking water treatment. Rather, it merely recognizes water supply agencies must comply with state and federal treatment requirements including filtration of most surface water sources.

SRSWPP Comment No. 31: The Proposed BPA includes new language in the first paragraph of Chemical Constituents in Chapter 3 (Amendment Language, p. 29-30) that will apply to all MCLs, duplicate existing policies already in Basin Plan (the SIP), and make scientific determination regarding drinking water treatment efficacy without supporting information. Proposed changes to the first paragraph of Chemical Constituents in Chapter 3 are more than editorial and have the potential to have significant impact on all MCLs as currently written. The deletion of "At a minimum,." removes a protection related to all the MCLs, including primary MCLs that are protective of human health. The addition of new text after this, "...As set forth herein, unless there is an approved site specific objective.", again applies to all MCLs and is duplicative of the existing implementation policies already located in the Basin Plan and therefore unnecessary.

RESPONSE: The proposed text has been revised to avoid deleting the phrase "at a minimum." The new text ("unless there is an approved site-specific objective") is somewhat duplicative but deemed necessary in order to avoid the possibility that the phrase "at a minimum" might be misinterpreted to supersede other provisions in the Basin Plan related to proper application of site-specific objectives.

SRSWPP Comment No. 32: Finally, the text added after the Regional Board acknowledgement of treatment requirements significantly alters the statement from one of fact to one of scientific determination. "The Regional Water Board acknowledges that specific treatment requirements are imposed by state and federal drinking water regulations on the consumption of surface waters under specific circumstances such that some MCLs may not be appropriate as an untreated surface water objective without filtration or consideration of site-specific factors." This new text makes a scientific determination regarding the efficacy of drinking water treatment related to all MUN water quality objectives, including primary and secondary MCLs, without any presentation of scientific facts to support such statement. Numerous locations of the Draft Staff Report address this proposed new language related to expansion of the statement of fact regarding drinking water treatment (Subsection 2.2.1, p.166, Subsection 2.3, p. 183, Subsection 4.2.10, p. 301, Subsection 4.2.10.2, p.312, and others). Any revision or expansion of this statement would require sound science to translate it to a representation of the efficacy of drinking water treatment related to all MCLs. We believe this revision goes against the CV-SALTS guiding principal to, "Base decisions on sound science." (Subsection 4.1.2, p.196). We request that all the proposed changes to the first paragraph in the Chemical Constituents subsection of the Chapter 3 in the Basin Plan be removed.

RESPONSE: The text in question has been revised to separate the ideas presented in to two separate sentences. Both are true but were not intended to be read in the manner

suggested by this comment. The Staff Report is not making a new scientific determination regarding the efficacy of drinking water treatment. Rather, staff is simply relying on the fact that most surface waters must be filtered, and must meet certain turbidity specifications, in order to meet federal and state treatment requirements. Title 22 allows compliance with Secondary MCLs to be determined from samples collected following such treatment. Similarly, discharges to groundwater have been filtered through the vadose zone and the State Board has directed that such factors may be considered when evaluating compliance with WDRs. The proposed Basin Plan Amendments implements a more conservative approach with respect to Secondary MCLs than is typically practiced by staff currently when establishing permit requirements.

SRSWPP Comment No. 33: The new paragraph focused on Secondary MCLs includes the term "natural background concentration". However, this term is not defined in the Definitions and Terminology of the Draft Staff Report (p.83-86). There is a similar term "Naturally-Occurring Background Concentration", but this is only related to groundwater. Since this is a significant addition to the water quality objectives, we believe a clear definition is necessary. If it cannot be provided in this Proposed BPA, then the Regional Board should consider including it in the next Triennial Review.

RESPONSE: "Natural background concentration" is a phrase found in the existing Basin Plans (see, for example page IV-17.00 in the Water Quality Control Plan for the Sacramento River and the San Joaquin River). The proposed Basin Plan Amendments is not proposing a change to this existing language.

SRSWPP Comment No. 34: The Draft Staff Report includes recommendations for Secondary MCLs in Subsection 4.2.10.3 (p.320). An important recommendation is, 'It may be appropriate to develop guidelines in conjunction with the Division of Drinking Water and affected stakeholders in the future to support the Basin Plans to further describe how the following existing Basin Plan language would be considered when developing WDRs for discharges to inland surface waters: "The Regional Water Board acknowledges that specific treatment requirements are imposed by state and federal drinking water regulations on the consumption of surface waters under specific circumstances.'" We support development of guidelines to more consistently and scientifically implement Secondary MCLs in discharge permits to ensure protection of the MUN beneficial use. The SRSWPP concurs with this recommendation and suggests that it be implemented prior to adding any new text to the water quality objectives in the Basin Plan.

RESPONSE: Board staff has worked closely with the Division of Drinking Water to develop the proposed Basin Plan Amendments clarifying proper implementation procedures when developing WDRs for the Secondary MCLs. The proposed Basin Plan amendment preserves the Regional Board discretion to make appropriate site-specific adjustments to the default procedures where warranted. In such cases, staff will continue to consult with DDW and will receive public comment before it is changed.

SRSWPP Comment No. 35: The Draft Staff Report (Subsection 6.1.1.1, p. 346) provides a review of the Clean Water Act Federal Requirements for Review of Water Quality Standards. Standards are defined as the beneficial uses and their associated water quality criteria. The Draft Staff Report indicates that no changes are made to beneficial uses; therefore the federal requirements do not apply. There is no consideration of the proposed revisions to the water quality objectives for the Secondary MCLs (including changes in the text for Basin Plan Chapters 3 and 4), which are identified throughout the Draft Staff Report. This appears to be an

error in determination and that federal requirements should apply. The Draft Staff Report should be revised to address the proposed revisions to the water quality standards related to Secondary MCL constituents and the potential impacts to the MUN beneficial use.

RESPONSE: The proposed Basin Plan Amendments make no changes to the existing water quality objectives for Secondary MCLs for surface or groundwaters. It should also be noted that federal jurisdiction and requirements do not apply to groundwater objectives. See response to **SRSWPP Comment Nos. 6, 29 and 30.**

SRSWPP Comment No. 36: Chapter 4 of the Basin Plan presents the program of implementation to achieve water quality objectives, including surveillance to determine compliance with objectives. Revisions or additions to Chapter 4 should not revise the objectives identified in Chapter 3. The Proposed BPA includes language in Chapter 4 that will prescribe "...the use of dissolved metal to set and measure compliance with metal constituents (aluminum, copper, iron, manganese, silver and zinc) in Table 64449-A as well as turbidity and color." (Amendment Language, p.111).

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29 and 30.**

SRSWPP Comment No. 37: The SRSWPP strongly opposes the use of dissolved analysis (using analytical methods with a 0.45um filter) to set and measure compliance with the Secondary MCL water quality objectives and believes that this is a de facto change in the water quality objectives. We believe this text effectively revises the water quality objectives from Chapter 3 to be represented only by the dissolved concentration of these constituents, which is technically inaccurate since community water system compliance with MCLs is determined based on total analysis and filtration at 0.45um does not represent conventional drinking water treatment, therefore underestimating the risk to the MUN beneficial use. By providing flexibility to determine compliance using the dissolved fraction (Draft Staff Report, Executive Summary, Table ES-1, p.16), the Regional Board has essentially changed the water quality objectives. We recommend continuing the current use of total analysis for compliance determination for all Secondary MCLs, until an alternate analytical method or process can be scientifically supported.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29 and 30.**

SRSWPP Comment No. 38: Subsection 4.2.10.2 of the Draft Staff Report includes a discussion of the application of Secondary MCLs when measuring compliance. The third bullet (p.312-313) presents a discussion on measuring compliance with Secondary MCLs. The text implies that drinking water suppliers' use of total metals analysis for compliance is inconsistent with federal law; this is incorrect and should be revised or removed because we use the total analytical method to measure the concentration of constituents in drinking water.

RESPONSE: The Staff Report agrees this section needs better clarification. It has been revised to better describe what is required when sampling for compliance with SMCLs.

SRSWPP Comment No. 39: There is a critical statement regarding water treatment requirements on p.313, but no reference is provided for footnote 97. A reference should be provided.

RESPONSE: Revisions to the text described in response to **SRSWPP Comment No. 38** has removed this footnote.

SRSWPP Comment No. 40: The second paragraph (p.316) does not accurately represent monitoring requirements for surface water supplies. We would like to clarify that many source waters have levels of Secondary MCL constituents below the associated limit, and therefore specific treatment is not required to be implemented for those constituents. We suggest that the exact text of Title 22 Section 64449 (b) be inserted as follows: "Each community water system shall monitor its groundwater sources or distribution system entry points representative of the effluent of source treatment every three years and its approved surface water sources or distribution system entry points representative of the effluent of source treatment annually for the following:".

RESPONSE: The comment does not specify precisely how the referenced paragraph is inaccurate. There is no need to quote the exact text of §64449(b) verbatim because the footnote provided cites that same section of Title 22. In any case, nothing in the staff report can be construed to revise to revise or supersede the plain language of Title 22.

SRSWPP Comment No. 41: Subsection 4.2.10.2 of the Draft Staff Report (p.313) also presents limited information on drinking water particle removal. We disagree with the text identified in the second paragraph of the third bullet in this discussion regarding the stakeholder input on particle size range and we request that it be revised. The SRSWPP provided Figure 4-10 (p.315) to the Regional Board and CV-Salts as an example of how the use of a 0.45 um pore filter analysis process would underestimate the risk to treated drinking water, not as a means to substantiate a scientifically appropriate method for compliance determination. Conventional filtration is implemented by all the SRSWPP agencies and the figure clearly shows this particle size removal range as greater than 1 um. The range in the text and on the figure must be corrected to show a minimum of 1 um particle removal. Drinking water treatment provided does not equate to filtration of samples for analysis of dissolved fraction at 0.45 um. It is clear that the use of a 0.45um filter does not represent the risk to the MUN beneficial use, if assuming that risk is only applied at the treated water quality.

RESPONSE: The proposed Basin Plan amendment text has been revised along the lines suggested by this comment. See response to **SRSWPP Comment Nos. 6, 29 and 30.**

SRSWPP Comment No. 42: Subsection 6.1.3 discusses consistency with the Water Code Section 106.3, including the proposed revisions to the Secondary MCLs (p. 352). Here the text specifically states, "...compliance with the chemical constituent water quality objectives using filtered samples to reflect treatment practices prior to distribution to consumers.". This indicates that the use of a filtered sample in the Proposed BPA is intended to represent the treatment provided by drinking water suppliers. Therefore, it is clear that a substantial range exists for particle reduction in conventional drinking water treatment and that the table in itself provides insufficient scientific determination to identify an appropriate means for compliance determination for the protection of the MUN beneficial use. The use of a filter at 0.45um in the analysis for compliance with the water quality objectives clearly under-represents the risk to the protection of the MUN beneficial use, contrary to what is presented in the Draft Staff Report (Table 1-1, p.135) and in disagreement with 40 CFR Section 131.11(a) that requires water quality criteria be based on sound scientific rationale.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29 and 30.**

SRSWPP Comment No. 43: The use of filtered analysis for compliance with Secondary MCLs provides an oversimplified solution, without sufficient technical justification, to the concern that

total concentrations may be over conservative to dischargers. The use of filtered analysis at 0.45 um is not supportable based on comparison to drinking water treatment efficacy as a representation of the risk to the MUN beneficial use. Colloids are defined as particles ranging from 1 nanometer to 1000 nanometers (or 1 micron), and can often include metals. This would include particles that would both pass through and be rejected by a 0.45 micron filter for the dissolved metal test. There is no definitive particle size removal in conventional water treatment (it is not a physical barrier treatment process), so this is an excellent example of how the proportion of metals removed in drinking water treatment will not be well represented by the dissolved metal analysis.

RESPONSE: See response to **SRSWPP Comments Nos. 6, 29 and 30.**

SRSWPP Comment No. 44: Secondary MCLs are set based on the effect of total levels of constituents.

RESPONSE: The chemical constituents identified in Tables 64449-A and 64449-B of the Basin Plan were adopted by reference. The Basin Plans do not specify whether the Secondary MCLs are based "total levels" or not. As the State Board noted in the Lodi order, none of the surrounding text of Title 22 §64449 was included when these water quality objectives were established. Consequently, the current Basin Plan is simply silent on the matter. However, based on consultation with DDW, water suppliers are to analyze samples for total levels to demonstrate compliance with maximum contaminant levels specified in Title 22 for water it supplies to consumers. Therefore, the proposed Basin Plan amendment retains the SMCLs expressed as total recoverable. However, the proposed Basin Plan amendment seeks to clarify that samples are to be filtered prior to analyzing for total levels to determine compliance with Secondary MCLs. This approach has been reviewed with DDW and they are supportive of this approach.

SRSWPP Comment No. 45: Impacts can be caused by either the dissolved or particulate fraction. Water utilities do not filter samples prior to analysis because it would be a misrepresentation of the total risk of the concentrations of these constituents.

RESPONSE: Staff agrees, water utilities do not filter samples after they are collected and prior to analysis. Drinking water utilities are required to measure total fractions for Secondary MCL constituents by monitoring their groundwater sources or monitoring their distribution system entry points following source treatment in drinking water they provide. However, groundwater undergoes some natural filtration as that water moves through the vadose zone, and nearly all surface water sources required filtration of the drinking water prior to entering the distribution system. Therefore, in most cases, the water used to demonstrate compliance with the SMCLs has been filtered before the representative samples are collected. Under current regulatory requirements, wastewater dischargers rely on unfiltered samples to assess compliance with SMCLs in the receiving water. This may overestimate the potential consumer acceptance impact on the actual quality of downstream drinking water delivered to consumers after treatment. In addition, for discharges to groundwater, filtration through natural soils or man-made systems significantly reduces the concentration of total suspended solids, including aesthetically objectionable minerals such as iron, manganese, and aluminum. Evaluating Secondary MCL compliance using an unfiltered sample collected near the point of discharge fails to take into consideration the natural soil filtration or after treatment and may result in the Board imposing conservative limitations on wastewater dischargers that are not required to protect water quality and downstream uses.

SRSWPP Comment No. 46: If an alternate compliance strategy for contaminant compliance determination is desired beside the use of total concentrations of Secondary MCLs, such as a modified numerical objective or other translation process, then those should be proposed and thoroughly evaluated, including a peer- review since it will involve scientific basis, prior to amending Basin Plan language.

RESPONSE: The proposed Basin Plan amendment is not recommending an alternate compliance strategy through the use of translators and is not proposing new or revised objectives. See response to **SRSWPP Comments Nos. 6, 29, 30 and 45.**

SRSWPP Comment No. 47: The Draft Staff Report (Subsection 4.2.10.2, p.316-317) includes the concern about the potential for over conservative measure and impact to the dischargers. However, there is little acknowledgement that the proposed change to dissolved analysis will underestimate the risk to the MUN beneficial use, as represented in treated drinking water. By converting compliance from total to dissolved analysis for constituents in Table 64449-A, the Regional Board is allowing the potential for a significant increase in the discharge of these constituents. Portions of total constituents that are larger than 0.45um will not be evaluated and considered in compliance determination or reasonable potential analysis due to filtering of samples.

RESPONSE: See response to **SRSWPP Comments Nos. 6, 29, 30 and 45.**

SRSWPP Comment No. 48: Subsection 4.2.10.2 of the Draft Staff Report includes technical inaccuracies in this discussion. The fourth and fifth paragraphs (p.316) provide significant opinion on metals analysis and water and wastewater treatment with no technical references provided. These statements should be supported by scientific data and references. The eighth paragraph (p.317) provides a reference for dissolved metals analysis in accordance with 40CFR136. A review of this reference, specifically Part 136.3, does not provide any analytical method for dissolved metals. In addition, 40CFR122.45(c) states that all NPDES permit effluent limits for metals must be expressed in total analysis. These two technical points should be clarified and corrected.

RESPONSE: See response to **SRSWPP Comments Nos. 6, 29, 30 and 45.**

SRSWPP Comment No. 49: Subsection 5.4 second paragraph of the Draft Staff Report (p. 342) inaccurately characterizes the proposed Amendment Language related to the use of dissolved analysis for more than Secondary MCL metals, and the text should be expanded to include turbidity and color per the proposed Amendment Language. This is important to clarify as part of the antidegradation analysis.

RESPONSE: The proposed Basin Plan Amendments have been revised.

SRSWPP Comment No. 50: The application of an analytical test other than total to constituents beyond metals is inconsistent with the Division of Drinking Water Memo titled, "Sampling and Compliance with MCLs When Applying Them as Objectives in Wastewater Regulatory Program - Revised", and dated December 6, 2017.

RESPONSE: See response to **SRSWPP Comments Nos. 6, 29, 30 and 45.**

SRSWPP Comment No. 51: The Draft Staff Report states in several locations (including Subsection 5.4.3.1 (p. 344), Subsection 7.1.5.1.3 (p. 372-373) and others) that the "SMCL

Revisions are consistent with existing permitting practices." A review of some existing NPDES permits in the Sacramento Valley indicates that some permits are currently evaluated for Secondary MCLs compliance based on total analysis, calculated on an annual average as per a WQBEL. There are a few instances when a TBEL also created a maximum daily or average monthly effluent limit for these constituents, but this was uncommon. The proposed change to dissolved analysis would not be consistent with those orders, and this should have been evaluated as part of the environmental analysis. Allowing revision to compliance based on only a portion of the total load (dissolved water concentrations) could allow a discharger to increase the total discharge to the receiving water, thus degradation could occur.

RESPONSE: Staff agrees there may be permits that have not been renewed or revised and still reflect the past practice. The use of dissolved fractions to determine compliance with Secondary MCLs is typically used by staff but there remain inconsistencies due to permit specific conditions. The proposed amendments will ensure consistent treatment of secondary MCLs throughout all permits issued by the Regional Water Board. The Regional Water Board notes that many of its NPDES permits establish effluent limits for many of the secondary MCL constituents that were not established based on secondary MCL thresholds to protect public welfare. These limits are typically established to protect aquatic life or human health, which are more stringent water quality objectives than secondary MCLs. This will not change as a result of the proposed amendments. Nevertheless, the proposed text has been revised to make it clear that the Board can require that both filtered and unfiltered samples be analyzed when and where it may be necessary to properly implement the state Antidegradation Policy.

SRSWPP Comment No. 52: Subsection 7.1.5.1.3 (p. 372-373) of the Draft Staff Report presents an environmental analysis for additional Secondary MCL constituents. We disagree with the determination of no contribution to an adverse water quality condition if the method of compliance is revised from total to dissolved analysis. We believe that if compliance is revised to be only based on a portion of the total loading of a constituent to a receiving water, then the potential exists for a discharger to increase the dissolved concentrations up to the Secondary MCL, and particulate concentrations even higher, and subsequently increase the loading to a receiving water. We do not believe that there has been adequate evaluation and consideration of the impact of converting compliance from total to dissolved analysis to determine that no potentially significant adverse environmental impacts will occur in receiving water bodies.

RESPONSE: The proposed Basin Plan amendment been revised to indicate the proposed procedures are more conservative than the procedure currently used by the Regional Board to evaluate compliance with the Secondary MCLs. Since these procedures are more conservative, it was reasonable for the Board to conclude that no significant change in water quality was likely to occur. See response to **SRSWPP Comment Nos. 6, 29, 30 and 45.**

SRSWPP Comment No. 53: Chapter 4 of the Basin Plan presents the program of implementation to achieve water quality objectives, including surveillance to determine compliance with objectives. Revisions or additions to Chapter 4 should not revise the objectives identified in Chapter 3. The Proposed BPA includes new language related to implementation of Secondary MCLs. Of primary concern to the SRSWPP is the presentation of a new process to develop a "...translator to convert the dissolved objective to effluent limitations based on total metals." [sic] (Amendment Language, p.111). Also of concern is clarity needed in the new text related to salinity constituents and implementation factors when developing WDRs.

RESPONSE: The draft Basin Plan amendment has been revised to delete the text in Chapter 4 proposing the use of translators. See response to **SRSWPP Comment Nos. 6, 29, 30 and 45.**

SRSWPP Comment No. 54: The proposed Amendment Language regarding the development of a "translator" is a recent addition and the SRSWPP has had limited time to review it; we find it vague and confusing as written (Amendment Language, p.111). It is unclear what translation is intended to be achieved (i.e. comparison of raw and treated water quality or representation of the portion of a constituent that contributes to the human welfare impact). It is unclear what purpose the translator would actually serve. Is the translator intended to define an analytical method that includes an appropriate filtration pore size to represent the risk to the MUN beneficial use in treated drinking water or is it to create ratios to convert the dissolved analysis to an equivalent concentration in treated drinking water? The use of the term "translator" immediately becomes associated with the current aquatic life translator process, which converts dissolved objectives for aquatic life to total metals analysis based on decades of toxicity studies. If the Regional Board determines to include text related to an interpretation concept we would strongly recommend the use of a different term. Subsection 4.2.10.2 of the Draft Staff Report includes a discussion on measuring compliance with Secondary MCLs, including text on the proposed creation of a "translator" (p. 316-317). This text is also vague and ambiguous. It is unclear by whom and how the translator would be created, what purpose the translator would actually serve, and how it would be used. There is no justification or scientific basis provided for why selected topics should be accounted for in its creation. The SRSWPP believes that there needs to be significant revision to this proposed text.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 55: The SRSWPP continues to disagree with the use of dissolved analysis (with a 0.45 um filter) for compliance with Secondary MCLs (p.111), as discussed in the comment section above. We recognize that the Regional Board would like to pursue an alternate method to determine discharger compliance with the Secondary MCLs, but we do not see any sound science to support the current use of the existing dissolved analysis method and application of a translator. In addition, we want to continue to note that we believe in the multi-barrier approach and that the total load of a constituent from a discharger should be considered as a potential impact to the MUN beneficial use. The focus on translation of discharge water quality directly to treated drinking water quality eliminates the potential fate and transport of these constituents in the receiving waters and subsequent changes in downstream water quality. The added text states that the objectives are new and now based on the dissolved concentrations. The SRSWPP disagrees with the proposed Amendment Language, "the dissolved objective.", that states that Secondary MCL water quality objectives are based on dissolved analysis (at 0.45 um). We also disagree with the process to translate "up" from a dissolved analytical result to represent the actual risk to MUN beneficial use. There is no science presented to support such an approach for the MUN beneficial use and it does not seem sound that the use of a filtered sample analytical result could be projected "up" to represent the risk of unknown concentrations of larger particle sizes of the Secondary MCL constituents.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 56: The proposed Amendment Language includes, "Pursuant to the above paragraph, for a period of no more than 10 years or upon development of a translator, reasonable potential analysis will be conducted based on dissolved metals data using a 0.45-

micron filter in accordance with Federal Regulations, 40 CFR Part 136. In cases where effluent limitations are required per federal NPDES regulations, the permit will allow development of a translator to convert the dissolved objective to effluent limitations based on total metals." [sic] (Amendment Language, p.111). The SRSWPP would like to note that this statement is incorrect and again clarify that the Secondary MCL water quality objectives are currently based on total analysis, unless the Regional Board is herein proposing to revise the actual water quality objective. This is significant because there is no science presented in the Proposed BPA to support revision of the Secondary MCL water quality objectives to a dissolved fraction, as no studies or analysis were conducted to determine what portion of the metals contributes to the aesthetic impact or what particle size clearly represents the risk to the MUN beneficial use. In addition, the new text focuses only on point source discharger permits (NPDES), through the Reasonable Potential Analysis, with no explanation as to how it may apply to non-point discharge permits (other WDRs). There is no clarity on by whom or how the translator may be developed. There is no clarity on what would happen in ten years if no translator is developed. We assume that this language was developed in an attempt to create a method to implement the recommendation from the DDW in the December 2017 memorandum, regarding an "alternate test" from total analysis; moreover, additional technical information and supporting science would be necessary to develop an appropriate method to represent treated drinking water.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 57: Section 4.2.10.3 of the Draft Staff Report (p.319-320) presents recommendations to provide clarifying language for using Secondary MCLs. This includes: "It is appropriate for dischargers to work collaboratively with Board staff and water purveyors to better understand natural background conditions, trends and filtration procedures that better represent area treatments systems supplying drinking water. Until translators are identified by water body segment, water body or basin, it is appropriate to utilize dissolved samples when measuring compliance with metals identified in Table 64449-A as well as turbidity and color. Volatile constituents should continue to be analyzed using total methods." As discussed previously, the SRSWPP disagrees with the use of dissolved analysis for compliance determination at this time. It is scientifically unsupportable. We recommend that this be revised to total analysis and allow for development of either a new analytical method or a translation process to be developed for Secondary MCLs to represent the risk to the MUN beneficial use. We would note that the DDW memo only represented an opinion on the use of an alternate analytical test method related to Secondary MCL metals, and expansion of that to any other constituents or translation process would be beyond the memo's content.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 58: The SRSWPP believes that the approach of the January 2018 Regional Board staff draft, which utilized the concept of development of an appropriate analytical filter test method from the December 2017 DDW memo, is a better approach. Another possible approach is the use of total analysis and development of a process to translate "down" to account for the risk to the MUN beneficial use. Either way, any process to revise the method of compliance with the Secondary MCL water quality objectives should be based on and supported by science and subject to an external peer-review.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 59: If a translator approach is used, there needs to be more clear language on the approach regarding purpose, responsibility for completion, applicability to permitting, timing, consequences if not completed, factors included in development, and scientific basis.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 60: In addition, we request confirmation from the Regional Board whether 40 CFR 131.13 applies to this policy and if it will require USEPA review and approval. We are very concerned that the Regional Board is proposing to change the methodology for compliance, and thus the water quality objectives first, while deferring the development of a scientifically based translator to support the methodology after the fact. We are providing an example of potential changes to the proposed Amendment Language for Chapter 4, Implementation, related to the translator in Attachments 2 (Clean Version) and 3 (Edited Version).

RESPONSE: EPA will review the proposed amendments for only those portions that fall under their review and approval authority. It does not apply to those portions of this amendment that falls outside their authority. See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 46.**

SRSWPP Comment No. 61: The second paragraph of the proposed additions specifically discusses and addresses salinity Secondary MCLs, including those in Table 64449-B. The first sentence of the paragraph needs to be revised to clarify that these are only related to salinity Secondary MCLs (p.110). "Secondary MCLs related to salinity are identified in"

RESPONSE: Comment accepted. Revision was made.

SRSWPP Comment No. 62: The third paragraph of the proposed additions mandates that the Regional Board "shall consider" site specific factors in implementing Secondary MCLs, including those from Section 4.2.10 of the Draft Staff Report (p.110). We are concerned that the mandate increases regulatory burden for Regional Board and suggest that this be revised to "... **may shall** consider.". In addition, the section referenced does not contain any factors within the section and it should be more appropriately noted as 4.2.10.3, or even more specifically Appendix G (p.320).

RESPONSE: Comment accepted. Revision was made.

SRSWPP Comment No. 63: Section 4.2.10.3 of the Draft Staff Report (p.319-320) presents recommendations to provide clarifying language for using Secondary MCLs. This includes: "To address concerns expressed related to source water protection, several considerations were identified for use during the development of WDRs. These considerations are listed in Appendix G." The stated purpose of these considerations, or site-specific factors, in Appendix G is to address concerns related to source water protection for drinking water consumers (Draft Staff Report, Executive Summary, Table ES-1, p.16 and Chapter 4, 4.2.10.3, p.320). We appreciate the Regional Board's inclusion of source water protection by including considerations for WDR implementation.

RESPONSE: Comment noted.

SRSWPP Comment No. 64: The list of factors/considerations presented in Appendix G appear to be based on items previously proposed in the SNMP, which provide consideration to offsetting the impact of the discharge rather than source water protection, and may allow introduction of material that is inconsistent with existing policies that protect the MUN beneficial use. The SRSWPP has reviewed Appendix G and finds that most of our previously identified comments and suggestions have not been included or addressed here. We are providing a marked-up version of Appendix G for consideration to ensure source water protection concerns related to the MUN beneficial use are properly addressed, see Attachment 4.

RESPONSE: No changes were made in response to this comment. Although the proposed Basin Plan amendment includes provisions to establish a new Offsets Policy, no mention of that policy or offsets in general appears in Appendix G. Several of the site-specific factors enumerated in Appendix G are explicitly intended to assure source water protection by evaluating the net effect of discharges on water quality, cumulative and collectively, with particular emphasis on the potential to adversely affect downstream drinking water systems.

SRSWPP Comment No. 65: The Proposed BPA and supporting documents do not consistently present a strategy for a cumulative and long-term surveillance and monitoring program for non-salinity Secondary MCL constituents in surface waters. The development and implementation of an assessment program for data related to these constituents is needed to adequately evaluate the potential for long-term degradation related to Central Valley-wide implementation of proposed changes to the Basin Plan. The Surveillance and Monitoring Program (SAMP) for Surface and Ground Water is designed to focus on salinity and nitrate, but is not consistent in its presentation for inclusion of non-salinity Secondary MCL constituents. The BPA Language does not include evaluation of impacts to non-salinity constituents as an overarching goal and it is not included in the management questions (Amendment Language, p.77). However, the Work Plan for Surface Water Requirements (Amendment Language, p.78) does include the possibility of including non-salinity SMCLs. Finally, the Program Assessment Report Requirements (Amendment Language, p.79) does require an assessment of water quality conditions and trends every five years, in accordance with the Work Plan.

RESPONSE: While the SAMP certainly emphasizes monitoring efforts related to salinity and nitrate, this is not its exclusive focus. As noted in the comment, the SAMP Workplan specifically references the need to evaluate water quality related to the Secondary MCLs and the Board fully expects the SAMP to do so. It is premature to presume that the SAMP will be inadequate with respect to monitoring for Secondary MCLs. As the final SAMP is still under development, the concerns raised by this comment can best be addressed by SRSWPP actively participating in that effort.

SRSWPP Comment No. 66: We are concerned that the proposed significant changes to implementation of Secondary MCLs should have required inclusion of impacts assessment as per the Basin Plan (Section 4.2.4, p. 262).

RESPONSE: See responses to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 67: There are discussions of this in other sections of the Draft Staff Report (Table 1-1, p.133, Section 4.2.4, p.262) and these present a conflicting determination of the inclusion of non-salinity Secondary MCLs. In subsection 4.2.4.1.2 (p.268-269) there is a discussion on the surface water requirements for the monitoring and surveillance program. The introductory paragraph only addresses salinity, but the bullets include other Secondary MCLs.

We believe that the Basin Plan Language and Draft Staff Report need to consistently present how non-salinity Secondary MCLs will be implemented in the SAMP and consider Basin Plan requirements and the Salt and Nitrate Control Program goals, which includes a safe, reliable drinking water supply.

RESPONSE: Comment accepted. Text was revised to include “and other secondary MCLs” after the word “salinity” in the first paragraph.

SRSWPP Comment No. 68: In addition, the Draft Staff Report (Subsection 4.2.4.2, p.271) presents an evaluation of alternatives for the SAMP. There is a discussion on the limiting of Secondary MCL constituents assessed. This incorrectly presents the proposed method for evaluating compliance with Secondary MCLs and it needs to be corrected to reflect the text from the Proposed Amendment Language.

RESPONSE: Comment noted, the text has been revised to correctly reflect the proposed amendment language.

SRSWPP Comment No. 69: Finally, the Draft Staff Report (Subsection 4.2.4.3, p.271-272) presents the recommendations for the SAMP. The second bullet proposes to limit the evaluation of Secondary MCLs to those that are impacted by the proposed amendments. We would like to clarify that the proposed amendments include revision to the method of compliance determination for the majority of Secondary MCLs and therefore should include any of those listed.

RESPONSE: No change was made in response to this comment. Routine evaluation of all Secondary MCLs occurs in a number of different water quality monitoring programs. As the SAMP is being developed, these programs will be assessed and, if necessary, augmented. In addition, additional water quality sampling and analysis for Secondary MCLs may be required as part of the permitting process, where warranted, in order to address the factors described in Appendix G to the staff report.

SRSWPP Comment No. 70: State regulations require the Regional Board to seek early public consultation, in part to seek input on significant impacts to be analyzed. The late revisions to non-salinity Secondary MCLs and MCLs in Chapters 3 and 4 of the Basin Plan were not identified to the public prior to the Proposed BPA publication on March 23, 2018. The Draft Staff Report (Subsection 4.2.10.1.2, p.304) presents a summary of alternatives to provide additional clarity on the use of Secondary MCLs. The Draft Staff Report includes a reference to Appendix D, containing Table D-10, which presents alternatives discussed during the stakeholder process. This document was prepared to compare suggestions provided by stakeholders through the January 2018 version of the Proposed BPA. The new text in Chapter 3 and the use of dissolved analysis and a translator in Chapter 4 were never presented during those discussions and therefore this summary document does not include any alternatives related to the new topics. While the environmental regulations applicable to exempt regulatory programs note that scoping may assist in resolving concerns of affected local agencies; here the lack of scoping has contributed to SRSWPP's concerns.

RESPONSE: The draft Basin Plan amendment has been revised to delete the proposed use of dissolved analyses and translators in response to substantive concerns raised in public comments and not because of any failure to provide proper notice. See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 71: Another continued concern the SRSWPP has, is the lack of problem statements for non-salinity Secondary MCL constituents in the Central Valley and wastewater treatment plant impacts identified as critical factors in the environmental analysis. The Draft Staff Report (Executive Summary, p.6) does not provide an explanation or supporting materials as to why there is a need to address non-salinity Secondary MCLs. There is no presentation of a problem existing for dischargers' compliance related to non-salinity Secondary MCL constituents. The limited ambient data presented in Appendix A shows that these constituents were not determined by Regional Board to be of concern. This lack of a problem does not support revising the water quality objective to be based on a dissolved fraction, rather than the total, without sound science to support that it represents the risk to the MUN beneficial use. The Draft Staff Report (Subsection 4.2.10.2, p.316-317) includes a discussion on measuring compliance with the Secondary MCLs. Generally, the argument presented includes the concern over the potential for over conservative measurement and impact to the dischargers. However, nowhere in the Draft Staff Report is there a description of a problem that exists with dischargers related to non-salinity SMCLs. There is little acknowledgement that the proposed change to dissolved analysis will under estimate the risk to the MUN beneficial use, as interpreted in treated drinking water.

RESPONSE: The draft Staff Report explains that, in the Lodi case (WQO No. 2009-0005), the State Board noted that while the Basin Plan adopted the Secondary MCLs by reference to Tables 64449-A and 64449-B, none of the surrounding text from §64449 of Title 22 was included. The Board believe this text provides important context and has long relied on it to fashion an appropriate implementation strategy for the Secondary MCLs. In addition to Lodi, many communities in the region were subject to very stringent standards due to the Board's past practices of implementing secondary MCLs in a very conservative manner. Some communities were able to resort to alternative surface water supplies where available. Others were left with no feasible manner to meet the requirements and have been provided sufficient time schedules while CV-SALTS worked towards a solution. In all cases these facilities were required to maintain current levels of salinity discharges when feasible and to implement salinity management and reduction programs. Because of this the Board altered its approach to regulating secondary MCLs to be more consistent with Title 22 and it also took into consideration the fact that objectives for toxic metals are expressed as dissolved fractions. The proposed Basin Plan amendment is more conservative than the Board's current permitting procedures and is more consistent with how secondary MCLs should be evaluated to reduce the potential for confusion and misinterpretation in the future. The Board is particularly concerned that evaluating compliance with Secondary MCLs in untreated source waters is not consistent with the intent or plain language of Title 22. It is also inconsistent with the Water Code's fair and reasonable standard for regulating discharges and could result in overly stringent limitations not needed to protect water quality. Finally, the Board is also concerned that compliance with secondary MCLs must be addressed in order to reduce the risk of inappropriately concluding waters may be classified as "impaired waters" and be included on the state's 303(d) list. The revised draft Basin Plan amendment does not propose to change the water quality objectives or rely on the "dissolved fraction" to determine compliance with Secondary MCLs. The default filter size has been increased from 0.45 microns to 1.5 microns to reduce the risk of underestimating the potential impact on downstream drinking water treatment operations. See response to **SRSWPP comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 72: Finally, the Draft Staff Report (Subsection 7.1.6) presents the no action alternative analysis. The fourth paragraph of this section includes a statement that

wastewater discharges would require the implementation of new treatment processes to remove certain metals (p. 375), and is restated further down in this section (p. 376). There has been no evidence provided in the Draft Staff Report to indicate that wastewater treatment plants in the Central Valley are in jeopardy of compliance with Secondary MCL metal constituents or other non-salinity Secondary MCL constituents. If this line of argument is included in the environmental analysis as a potentially significant impact, a sufficient problem statement and evaluation should be included.

RESPONSE: Page 375 of the draft Staff Report acknowledges the fact that, where discharges have the potential to exceed water quality objectives, new treatment processes may be needed to assure compliance with applicable permit limits. Therefore, it is essential that the procedure used to determine whether Secondary MCLs are likely to be exceeded or not be explained clearly in the Basin Plan. See response to **SRSWPP Comment No. 71**.

SRSWPP Comment No. 73: Throughout the document, there is inconsistent presentation of the proposed revisions to Chapters 3 and 4 of the Basin Plan as revisions to water quality objectives. Some sections of the Draft Staff Report declare them as revisions to water quality objectives (Executive Summary, Table ES-1, p.16) while other sections declare them as clarifications to the water quality objectives (Table 1-1, p.135). The SRSWPP believes that the proposed Amendment Language in Chapters 3 and 4 of the Basin Plan related to non-salinity Secondary MCLs are all revisions to the water quality objectives. This includes specific revisions in Chapter 3 as well as the new text for implementation in Chapter 4. Implementation by the use of dissolved analysis for compliance as a revised water quality objective was discussed previously in this comment letter and is confirmed throughout the Draft Staff Report (Subsection 6.2.11, p.360, Subsection 6.3.5, p. 365, and others). The revision of the water quality objectives for MUN should incorporate consideration of the factors set forth in Water Code section 13241, should be based on sound science, should be subjected to USEPA review and approval, and include a peer review.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53**.

SRSWPP Comment No. 74: The Draft Staff Report (Subsection 4.2.10.2, p.313) includes a discussion on the consideration of natural background. Here, the Regional Board confirms that this text is already in the Basin Plan and is being copied from Chapter 4 - Implementation to Chapter 3 - Water Quality Objectives. The inclusion of natural background as a limit for Secondary MCLs constituents in Chapter 3 does not appear to be necessary since implementation language already exists in Chapter 4 and will be included in Appendix G. We are concerned that this constitutes a revised water quality objective in Chapter 3 (Amendment Language, p.29).

RESPONSE: No revision was made in response to this comment. Staff acknowledges that reaffirming the need to consider natural background concentrations is somewhat redundant with similar text found elsewhere in the Basin Plan. In this case, staff believes the redundancy is necessary in order to prevent any misunderstanding that the phrase "At a minimum..." somehow supersedes the need to consider natural background. It does not revise the water quality objectives for Secondary MCLs, it merely recognizes that the water quality objective should be based on the natural background concentration where that concentration for a given chemical constituent is greater than the applicable Secondary MCL. This is exactly how the Basin Plan has been interpreted to-date and the clarification is intended to ensure it continues to be interpreted similarly in the future.

SRSWPP Comment No. 75: Subsection 5.4 of the Draft Staff Report presents the antidegradation analysis for Secondary MCLs. The introductory paragraph (p.342) needs to be expanded to include the Secondary MCL constituents in Table 64449-A. Also, the proposed Amendment Language represents a revision to the water quality objectives and this should be clearly stated in this section.

RESPONSE: Comment noted and text revised. Also see response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 76: California Health and Safety Code Section 57004 requires the Regional Board to complete a peer review prior to adopting a final rule if that rule includes scientific basis. "Scientific basis" and "scientific portions" mean those foundations of a rule that are premised upon, or derived from, empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or the environment." The Regional Board's proposed Amendment Language to convert from its current compliance approach to dissolved analysis compliance with Secondary MCLs to represent the risk to the MUN beneficial use has been presented as the foundation of the changes in Chapters 3 and 4 of the Basin Plan. However, the assumptions that the Regional Board has relied upon are considered a "scientific basis" and should be predicated on scientific findings and a peer review should have been conducted.

RESPONSE: The revised draft Basin Plan Amendments do not propose to change the water quality objectives for Secondary MCLs. Under Health and Safety Code section 57004, formal scientific peer review is not required for the provisions related to the Secondary MCLs, because the Board is not relying on new "empirical data or other scientific findings, conclusions, or assumptions" to "establish[] a regulatory level, standard, or other requirement" with respect to the Secondary MCL-related provisions of the proposed Basin Plan Amendments. (Health & Saf. Code, § 57004, subd. (a)(2).) However, the Board notes that it had certain components of the Salt and Nitrate Control Programs peer reviewed because those elements placed reliance on technical studies and analysis developed pursuant to the CV-SALTS initiative.

SRSWPP Comment No. 77: As described in the Draft Staff Report, under the Clean Water Act water quality standards include both the beneficial use designations as well as the water quality criteria associated with them (Chapter 6.1.1.1, p.346). An analysis of the revisions to the water quality criteria proposed in this Proposed BPA should trigger a review of the water quality standards for these constituents and this is not evaluated in the Draft Staff Report.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 78: The Draft SED, as reflected by Appendix K, does not include an adequate discussion of the potentially significant adverse environmental impacts that may occur as a result of revising the technique for measuring compliance with non-salinity Secondary MCLs to a dissolved standard in Chapter 4 of the Basin Plan. This evaluation should have been completed before the development and inclusion of a placeholder for a translator in the Basin Plan, and since the evaluation wasn't completed, the translator concept has been added to the Basin Plan without the support of any scientific study. The Regional Board's analysis of the concept in Appendix K (p.K-27) is limited to noting that the current approach may be over conservative and acknowledging that that adopted approach of a 0.45-micron filtered sample "may not represent the level of filtration utilized by water treatment facilities drawing from the source water." The environmental analysis dismisses the potential impacts with unsupported

generalized assumptions (see p.K-28: treatment process will not be modified to take advantage of less stringent effluent quality requirements, many wastewater service areas in the Central Valley have relatively little industry, the presence of elevated aluminum, manganese and iron in surface water is mostly related to particulates). In contrast, a significant portion of our comments are devoted to explaining out the potential for reasonably foreseeable significant adverse environmental impacts arising from the revised compliance measurement techniques.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 79: The Draft Staff Report Subsection 5.4.1 (p. 343) is titled "Degradation that may occur under the SMCL Revisions" and yet there is no discussion of potential degradation in this section. We believe that the potential for degradation of non-salinity Secondary MCL constituents was underestimated in the environmental analysis and that this section should be expanded to include potential impacts to these constituents.

RESPONSE: See responses to **SRSWPP Comment Nos. 51 and 52.**

SRSWPP Comment No. 80: Appendix K acknowledges that in some cases, the proposed compliance approach may affect the degree to which dischargers control non-salinity SMCLs (p.K-28), but the analysis does not consider any factors that must be considered when establishing or revising water quality objectives, including the economic effect on community water systems.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53.**

SRSWPP Comment No. 81: Section 8 of the Draft Staff Report presents the findings of an economic analysis for the no project alternative and the proposed project alternative. The analysis related to drinking water was limited only to the safe supply of drinking water for those groundwaters impacted by nitrate (Subsection 8.1.3.1, p.384-386). There was no consideration of the potential impacts of revisions to the objectives for non-salinity SMCL constituents, which is consistent with the lack of scoping for these constituents to this process.

RESPONSE: The Staff Report explains why the proposed clarifications to Chapters 3 and 4 regarding Secondary MCLs are not expected to result in any significant economic impacts to water supply agencies. The related Antidegradation Analysis and text of Appendix G also affirm the Regional Board's intent to continue implementing the Secondary MCLs in a manner that minimizes the risk of such adverse impacts just as it has in the past.

SRSWPP Comment No. 82: We are concerned that the finding of less than significant water quality impacts is based on insufficient data evaluation, technical errors, and lack of consideration of potential for long-term and cumulative impacts regarding Secondary MCL constituents. This technical error leads to other portions of the environmental review not having sufficient consideration of these impacts and lack of inclusion of sufficient alternatives.

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29, 30, 45, 53, 77 and 79.**

SRSWPP Comment No. 83: The Draft Staff Report (Subsection 5.5, p. 345) indicates that antidegradation analysis will be performed for specific projects. There is no process identified in the Proposed BPA to complete a cumulative analysis of the Basin-wide impact of the changes

to the non-salinity Secondary MCL constituents if the antidegradation analysis will be conducted permit by permit.

RESPONSE: The obligation to consider the long-term collective and cumulative impacts to receiving waters is an existing requirement of the State Antidegradation Policy. The proposed Basin Plan amendment and related Staff Report acknowledge the need to comply with that policy when discharge permits are issued. It is not necessary to identify the specific process that will be used to complete the required evaluations as part of the proposed Basin Plan amendment nor is it possible to do so given the enormous complexity of the Central Valley's water resources system and the wide-variety of site-specific factors that should be considered. The Board has long held that it is best to undertake an antidegradation analysis on a case-by-case basis and understands that, in doing so, it must assess the cumulative and collective impacts of all discharges to the same waterbody over time. See also response to **LCJA, et al. Comment No. 30**.

SRSWPP Comment No. 84: Appendix K, Section XVII - Utilities and Service Systems did not include potential impacts to municipal drinking water systems. We believe that this was another important omission. For example, water treatment and residual management facilities may need to be modified to address increased total loads from Secondary MCL constituents. More intensive water treatment and impacted residual management facilities can result in environmental effects that would need to be mitigated, such as increased residual waste management and higher costs.

RESPONSE: As stated in the Staff Report, the proposed Basin Plan amendment is not expected to result in significant impacts to downstream drinking water systems and the Board has consistently affirmed its intent to implement the Secondary MCLs in a manner that meets this expectation. The factors identified in Appendix G are intended to ensure that these issues are evaluated as new WDRs come before the Board for consideration.

SRSWPP Comment No. 85: SRSWPP Comment Letter Attachments 2 & 3. SRSWPP Example for Proposed Language in Chapter 4 of the Basin Plan Related to the Use of a Translator (Clean Version and Edited Version, respectively).

RESPONSE: See response to **SRSWPP Comment Nos. 6, 29, 30, 45 and 53**.

SRSWPP Comment No. 86: The SRSWPP requests the Regional Board add additional language to the lead-in paragraph in Appendix G to ensure that Appendix G only addresses effluent limits and does not conflict with existing laws, plans, and policies related to development of site-specific water quality objectives that vary from the adopted Basin Plan water quality objectives. There needs to be language provided in the Appendix regarding the limit to application of these considerations to develop effluent limits versus the development of site-specific water quality objectives.

In addition to this particular overarching comment, in several places SRSWPP suggested rearranging the text of bulleted items in Appendix G.

RESPONSE: The title of Appendix G has been revised to make clear that the guidance is intended to apply when developing WDRs for the Secondary MCLs.

Staff considered each of the editorial changes and concluded that these changes did not improve the clarity of the existing document and were not necessary.

SRSWPP Comment No. 87: Appendix G, second bullet. There is no definition of the term "naturally occurring background concentrations" in the BPA, or in the Current Basin Plan. We request that the RB develop and include a definition for this term.

RESPONSE: See response to **SRSWPP Comment No. 33.**

SRSWPP Comment No. 88: Appendix G, fourth bullet. We recommend revising the wording of this bullet to replace "improve" with alternate wording such as "affect" or "impact", in order to scientifically account for all potential changes in source water quality, whether improvements or reductions.

RESPONSE: The wording of the bullet has been revised along the lines suggested by this comment.

SRSWPP Comment No. 89: Appendix G, fifth bullet. We request that the language specifically confirm that the entire MUN designated water bodies continue to be protected, in conjunction with mixing zones when applicable. This is important to provide good sanitary practice of protecting source water quality upstream of intakes, allow for early detection of upstream problems before they travel downstream to our intakes, and protect the future use in the entire water body.

RESPONSE: The Water Code requires the Board to regulate discharges in a manner that ensures compliance with applicable water quality objectives that have been established to protect existing and reasonably probable beneficial uses in the receiving water. Nothing in the proposed Basin Plan amendment related to the Secondary MCLs alters this fundamental legal obligation.

SRSWPP Comment No. 90: Appendix G, fifth bullet. We recommend that the potential cost impacts for MUN use be included in a later bullet focused on impacts to water system.

RESPONSE: Change was not made. Cost to water systems is addressed when staff is appropriately evaluating downstream impacts.

SRSWPP Comment No. 91: Appendix G, sixth bullet. This should be revised to take into account other attenuation factors incorporated into compliance, such as mixing zones and dilution.

RESPONSE: To address these concerns, the bullet has been revised to read, "The practicality and feasibility for wastewater dischargers to achieve compliance with SMCLs that could be expressed as discharge limitations and/or receiving water limitations in their permits or orders (including consideration of source control and pollution prevention programs, treatment alternatives, the cost for achieving compliance, the availability of alternative water supplies for drinking water, ability to pay, and other economic factors including the cost of non-compliance)." An additional bullet was added to read, "Evaluation of other beneficial uses and their applicable water quality objectives that may apply to constituents assigned secondary MCLs for the protection of public welfare."

SRSWPP Comment No. 92: Appendix G, sixth bullet. We recommend that this language be moved to the following bullet on impacts to water systems, as shown in the mark-up.

RESPONSE: See response to **SRSWPP Comment No. 86.**

SRSWPP Comment No. 93: Appendix G, eighth bullet. This section of Title 22 was not specifically added to the Basin Plan in the Proposed Amendment Language and was not evaluated. This needs to be removed.

RESPONSE: Section 64449.4 is referenced in the Appendix G because it provides relevant context for how to derive appropriate WDRs for Secondary MCLs. It may not be reasonable to enforce strict compliance with drinking water standards for discharges to a given waterbody where the state has already determined that the drinking water agencies downstream of such discharges are exempt from those same requirements. This is simply a factor the Board should consider but does not ordain what decision the Board must make in such cases. Since it does not constrain the Board's discretion, it need not be added to the Basin Plan itself or removed from the list of factors that should be considered in Appendix G.

SRSWPP Comment No. 94: Appendix G, tenth bullet. We recommend the revisions as shown. If RB prefers to include a more detailed bullet, we recommend that evaluations should include consideration of fate and transport factors that may increase concentrations, as well as those that may reduce concentrations. For example, if evaluating reduction due to soil adsorption then should include potential for increases due to soil resuspension during high flow events or anaerobic condition occurrence.

RESPONSE: Appendix G already makes clear that the Board should consider how the discharge will affect downstream water quality and indicated that fate and transport modeling may be necessary in some cases.

Note: where a particular response to comment cross-references another response to comment, every effort has been made to identify the specific cross-references that are most directly on-point. However, there may be other relevant response that also address the same issue that were not specifically enumerated in the cross-reference. Staff recommends that readers consider all the Comments and Response holistically with one another rather than in isolation.

CONTRA COSTA COUNTY WATER AGENCY (CCCWA)

Comments were received from Ryan Hernandez, Manager representing Contra Costa County Water Agency on 4 May 2018.

CCCWA Comment No. 1: Many of our residents rely on the Delta for their municipal, industrial and irrigation water supplies, for their livelihood, and recreation. The quality of Delta water is, therefore, a major interest for the County and its residents. The County supports the important issues raised in CCWD and Zone 7' s May 4 letter.

RESPONSE: Comment noted. See responses to **ZONE 7 & CCWD Comment Nos. 1 and 4** pertaining to how these proposed amendments are consistent with Delta WQOs.

CCCWA Comment No. 2: The proposed Basin Plan Amendments are not protective of downstream water quality in the Delta and fail to comply with State policy for the Delta with respect to the 2009 Delta Reform Act. The proposed amendments would allow the current degradation of Delta water, due to contaminated discharges into the upstream tributaries, to continue for at least 15 more years.

RESPONSE: See responses to **ZONE 7 & CCWD Comment Nos. 1 and 4**.

CCCWA Comment No. 3: The Draft Staff Report (Page 5) is inadequate because it fails to include the management goals (and State Policy) of restoring and sustaining the Delta ecosystem, and improving water quality in the Delta. The Draft Staff Report also fails to achieve the 2009 Delta Reform Act's inherent objective of achieving water quality bioobjectives in the Delta (Water Code, § 85020(e).)

RESPONSE: Water Code section 85020, subdivision (e) states that an objective that is to be considered a coequal goal for management of the Delta is the, "[improvement of] water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta." The proposed Basin Plan Amendments are consistent with that goal.

CCCWA Comment No. 4: The Draft Staff Report (Page 10) finds that water quality is good in the Delta region. This is not correct with respect to salinity. Salinities (in terms of total dissolved solids, chloride, and bromide) have increased.

RESPONSE: The Staff Report has been edited to recognize several Delta waterways that have been listed as exceeding salinity concentrations to protect agricultural supply, with some areas also noted as exceeding secondary MCLs.

CCCWA Comment No. 5: If the Regional Board and State Water Resources Control Board focused on contributing to a cure for the salinity problem, symptoms would be greatly reduced. This would involve regulations or encouragement of projects that reduce salinities in the Delta and reduce the salinity of the water exported from the Delta to the Valley.

RESPONSE: The proposed Salt Control Program is, in fact, focused on a cure, rather than simply addressing the symptoms created by salinity problems in the Central Valley. The Salt Control Program is focused the implementation of salinity management activities to achieve long-term sustainability and to pursue long-term managed restoration where reasonable, feasible and practicable. The proposed amendments recommend that The California Environmental Protection Agency, the California Department of Fish and Wildlife and the Delta Stewardship Council should participate in the P&O Study to ensure that proposed solutions found through the study are sound and will not adversely impact our resources or the Delta.

CCCWA Comment No. 6: A long term, sustainable, solution, for the Delta would reduce exports from the Delta during dry periods. This in turn would increase Delta outflows and reduce the salinity of water in the Delta. This would reduce the tonnage of salt exported south into the San Joaquin Valley and subsequently improve wastewater discharge and agricultural drainage salinities.

RESPONSE: Comment notes. Issues pertaining to exports from the Delta are outside the scope of these proposed amendments.

CCCWA Comment No. 7: The Draft Staff Report (page 13, Table ES-1) recommends that Phase I of the Salinity Control Program should be a Salinity Prioritization and Optimization Study (P&O Study) to convert current conceptual management projects into feasibility studies. While this P&O Study will be useful, it does not justify extending the current deadline of June 30, 2019, after which the Central Valley Water Board is prohibited from approving any salinity variances. The Regional Board should not continue to "kick the can down the road" by extending the Salinity Variance Program for an additional 15 years.

RESPONSE: Staff disagree that the extension of the Salinity Variance Program is to “kick the can down the road”. See responses to **USEPA Comment Nos. 4 and 6**. Any applicant for a variance must participate in the P&O Study, which is expected to result in overall improvements to water quality in the Central Valley.

CCCWA Comment No. 8: Following the example of the continual reduction of salt (and selenium) load limits in the Grassland Bypass Program Use Agreements, the cap on discharge salinities could be initially set at an EC of 1,600 μSiem and reduce to 900 μSiem over a limited amount of time and then be further reduced to 700 μSiem (consistent with the State Water Resources Control Board's Water Rights Decision 1641 water quality standard for the San Joaquin River at Vernalis of 700 μSiem , April-August.) This so-called "glide path" for reducing salt loads over time has been successfully achieved by the Grassland Bypass Program and could be applied to other discharges throughout the Central Valley.

RESPONSE: The commenter is correct that the Grassland Bypass Program has gradually reduced salinity loads in surface water (Lower San Joaquin River). However, this reduced load to surface water equates to a higher load to the groundwater basin because salt moves with water, and recycling the water increases the salt load applied back to land. Therefore, shifting salt loads from surface water to groundwater is not a long-term sustainable solution for the Central Valley. The Salt Control Program takes a holistic approach to developing long-term, sustainable solutions for achieving salt balance and restoration.

CCCWA Comment No. 9: The Draft Staff Report (page 80) recommends the U.S. Federal Legislature should establish the Central Valley Salinity Act to develop a Central Valley Salinity Control Program and authorize the construction, operation, and maintenance of certain works in the San Joaquin and Tulare Lake Hydrologic Regions in the Central Valley to control the salinity of water delivered to users in the Central Valley and the State. It is not realistic to expect Reclamation to support new legislation that would establish new federal drainage facility obligations. However, Reclamation should be encouraged to work together with State agencies, including the Department of Water Resources, to develop a sustainable Delta solution to restore the Delta ecosystem while improving water supply reliability and improving water quality in the Delta, as discussed in page 10 of the Draft Staff Report.

RESPONSE: The federal Bureau of Reclamation has obligations that include the protection of the State's water quality vis-à-vis water rights conditions, amongst other legally-binding obligations. It is reasonable to expect that Reclamation will be a partner in helping to secure legislation to enhance water quality consistent with their existing obligations.

CCCWA Comment No. 10: The discussion of Consistency with State Water Board Policies (Section 6.2) and State Water Board Resolution 68-16 contains no finding of whether the Basin Plan Amendments are actually consistent with this State Antidegradation Policy. Instead there is a reference back to Section 5. That section merely describes Resolution 68-16 but provides no findings.

RESPONSE: The commenter may have been reviewing the wrong section of the draft Staff Report. The entire Section 5 discusses the proposed Salt and Nitrate Control Program's consistency with the State and federal antidegradation policies.

CCCWA Comment No. 11: The Draft Basin Amendments are not consistent with the State's antidegradation statutes. The proposed amendments are also not consistent with maximum benefit to the people of the State of California because they contribute to continued degradation of water quality in the Delta, the source of drinking water for more than 23 million Californians.

RESPONSE: See responses to **ZONE 7 & CCWD Comments Nos. 1 and 4.**

CCCWA Comment No. 12: The County disagrees with the Regional Board's finding (in Section 7.1.7 Statement of Overriding Consideration) that the substantial and significant benefits of adopting the proposed Basin Plan Amendments outweigh the unavoidable potentially significant adverse environmental impacts that could occur as a result of the adoption of the proposed Basin Plan Amendments. Delaying implementation of protective discharge limits for salinity by 15 years and allowing discharges at salinities above the State Water Resources Control Board's Municipal and Industrial (M&I) water quality standards for the Delta will result in significant impacts to the drinking water quality of a significant number of Californians.

RESPONSE: See responses to **ZONE 7 & CCWD Comment Nos. 1 and 4.**

CCCWA Comment No. 13: The SWRCB's M&I daily chloride standard of 250 mg/L chloride applies for every day of the year and is equivalent to an EC of about 1,053 uS/cm in the Delta. The proposed effluent limits of 1,600 uS/cm and 2,200 uS/cm as a 30-day running average both exceed this important Delta water quality standard.

RESPONSE: The proposed amendments do not alter, revise or supersede the salinity requirements and standards established through the Bay-Delta Plan. Electrical conductivity WQOs (700/1000 EC) are being attained in the LSJR at Vernalis and the 3-mile long LSJR segment between Vernalis and the Stanislaus River has been delisted in the [2014 Integrated Report](#).

CCCWA Comment No. 14: The Draft Staff Report states: "Though the Salinity Control Program will likely have the indirect effect of allowing limited surface water degradation to occur, water quality degradation would be minimized through the application of variance criteria. Therefore, the impact to surface water quality degradation as result of implementation of Phase I of the Salinity Management Strategy would be expected to be less than significant." Is the Regional Board suggesting that because the effluent limits will remain high, or will be waived, for another 15 years, the quality of water is not considered degraded relative to these less protective effluent limits? San Joaquin River water quality is currently degraded and serious action to reduce effluent loadings, and reduce that degradation, should not be postponed for another 15 years.

RESPONSE: The proposed Basin Plan Amendments have been designed to accomplish salinity load reductions over time. Current loading levels are generally expected to be maintained during the first phase of the Salt Control Program. The quoted language is not intended to suggest that the Board does not consider the water to be degraded, but rather that degradation is not expected to get significantly worse over the initial phase of the Salt Control Program.

VALLEY WATER MANAGEMENT COMPANY (VWMC)

Comments were received from Russell Emerson, Manager representing Valley Water Management Company on 7 May 2018, expressing general support of the proposed basin plan amendments.

RESPONSE: Support noted.

VWMC Comment No. 1: Chapter 4 of the Tulare Lake Basin Plan contains a boron limit of 1 mg/L and the derivation of this limit is generally not known. The boron limit is unnecessary and unreasonable to be applied as an effluent limit to affected dischargers. The commenter references site-specific water quality objectives for boron adopted for the Lower San Joaquin River (regulated under the Sacramento/San Joaquin Rivers Basin Plan) to support the position that the proposed Basin Plan Amendments should make changes to the Tulare Lake Basin Plan to regulate boron in the same manner as salts.

RESPONSE: The Central Valley Water Board reviewed available documents and found that the oilfield-specific boron limit was adopted and approved when the Tulare Lake Basin Plan was developed. Available evidence indicates that this limit was intended to limit degradation from boron, which can cause significant impacts on crop yields.

Simply imposing a numeric effluent limit to a discharge without making certain determinations as to the beneficial uses to be protected by that limit, as the language in the Tulare Lake Basin Plan currently does, is inconsistent with the Board's current regulatory process. Therefore, the numeric limit has been removed and replaced language that indicates that the Board will apply appropriate water quality objectives for boron to protect underlying beneficial uses.

Although the Board can reasonably make this concession to VWMC, it lacks the evidence to entirely overhaul the Board's regulation of boron. The prior Basin Plan Amendment cited by VWMC, in which the Board previously found that controlling for salinity in the Lower San Joaquin River also would allow the waters to meet a site-specific objective for boron, was supported by thorough technical evaluations that were subjected to independent scientific peer review and vetted through a public process. There is no such similar analysis that would allow the Board to draw the conclusion that the conditions imposed by the Salt Control Program would also result in the protection of beneficial uses from the impacts due to boron across the basin. The Board notes that the Salt Control Program was the focus of a 12+ public process that included extensive technical analysis that demonstrated that a basin-wide management approach was the only way to deal with salinity impacts. No parallel work has been done with respect to boron to support a similar conclusion. The Board remains open, however, to making such considerations as the Salt Control Program is in its implementation phases.

VWMC Comment No. 2: Remove both salinity and boron from Chapter 4 of the Tulare Lake Basin Plan. There is no justification for maintaining the disparity in how salinity and boron are treated in one of the three sub-regions of the Central Valley. VWMC proposes to remove "1 mg/L boron" and add "discharges shall not cause the receiving water to exceed an applicable water quality objective for boron..." to the basin plan language under the following headers: Irrigated Agriculture (page 51), Discharges to Navigable Waters (page 51), Discharges to Land (Page 51 and 52), and Oil Field Wastewater (page 52). The commenter supports the revision to ensure that the Regional Board would consider "...*the proximity to agriculture, types of local*

crops, climate, irrigation type and leaching, crop stage, harvest frequency, and other site-specific factors...” prior to imposing an effluent limit on discharges. VWMC also suggests modification to the Alternatives section of the draft staff report (page 220) to explain that boron limit is being removed for the same reasons as salinity limits.

RESPONSE: While language has been revised to reference the appropriate water quality objective for boron, technical studies commiserate with the studies completed for salinity under the CV-SALTS initiative have not been conducted. (See response to VWMC Comment No. 1) The salinity limits are being replaced with an overarching Salt Control Program which has not yet been developed for boron.

VWMC Comment No. 3: Sections of the Basin Plan that talks about the Poso Creek Subarea and the White Wolf Subarea should be modified similar to Comment No. 2 as the limits provided in these sections are not water quality objectives.

RESPONSE: Special studies were conducted for the Poso Creek Subarea and White Wolf Subarea to determine the limits which were adopted into the Basin Plan following appropriate amendment procedures including vetting through a public process. The commenter is correct that the limits are not water quality objective. Rather, the limits were developed to protect current and potential future beneficial uses of the areas identified. These limits are not being revised.

VWMC Comment No. 4: Incorporate boron into the definition of “Salinity” in the Basin Plan Amendments and regulate boron as a constituent of salinity/salt under the Conservative or Alternative Salinity Permitting Approaches. VWMC proposes the following changes to the basin plan language in Chapter 4 of the Tulare Lake Basin Plan:

- a) Page 85: Modify the “Salinity” definition to include boron.
- b) Page 100: Modify the Exception Policy to include boron as a constituent of salinity. With this change, there would be less need for a boron-specific exception process within the policy.
- c) Treat discharges of boron like other discharges of salinity such as requiring boron dischargers to participate in the P&O Study, add boron to Surveillance and Monitoring Program, and add boron threshold of 1 mg/L for AGR protection to the Conservative Salinity Permitting Approach on page 326, 330, and elsewhere where 700/900 EC threshold are discussed.
- d) Page K-47: Add boron to the definition of Salinity
- e) Page 370: Add boron to the list of constituents of concern to water quality degradation with the proposed project.
- f) Page 284: Remove “have not yet been developed for boron...” language.

RESPONSE: See response to **VWMC Comment Nos. 1 & 2.** Distribution and transport of boron throughout the Central Valley may or may not be consistent with constituents currently defined under salinity and incorporated under the Salt Control Program. Until

technical evaluations consistent with those conducted for salt are completed for boron, staff does not have the scientific foundation to presume that the Salt Control Program provisions apply equally to boron.

VWMC Comment No. 5: Justification for implementing requests related to boron include:

- a) The alternative is partially included in Appendix D—Alternatives (page 51) and
- b) The environmental review and antidegradation analyses are broad enough to cover boron as part of salinity.
- c) Boron acts like a salt and has many of the same regulatory/treatment issues.
- d) Boron is a constituent of concern, just like salinity
- e) There are several examples of salt and boron being regulated together in the Central Valley in many contexts. VWMC references several projects and basin plan amendments where salt and boron were regulated together.

RESPONSE: While staff agrees that boron has been identified as a constituent of concern in specific areas within the Central Valley, the scientific foundation to incorporate boron under the umbrella of the Salt Control Program has not been developed (see response to **VWMC Comment No. 4**). The example of salt and boron being regulated together is in reference to work completed on the Lower San Joaquin River—a process that has been progressively refined through three separate Basin Plan Amendments (in 1986, 1996 and most recently in 2018). For each amendment, rigorous technical studies received independent scientific review to verify the relationship of boron concentrations to measures of electrical conductivity or total dissolved solids (i.e. measures of salt concentrations). The relationships are site specific and have not been evaluated in the majority of the Central Valley.

VWMC Comment No. 6: VWMC expresses support for the changes to the SMCL Policy but objects to maintaining the prospective incorporation of all new primary and secondary MCLs as water quality objectives. Valley Water suggests removing this language from the existing Basin Plans:

~~"This incorporation by reference is prospective, including future changes to the incorporated provisions as the changes take effect."~~

RESPONSE: The sentence describing "incorporation by reference" is an existing provision of the Basin Plan, and the proposed Basin Plan Amendments make no changes to that existing text. The Board is not required to re-justify those parts of the Basin Plan that remain unaltered by the proposed amendments. To imply otherwise would obligate the Board to re-justify each and every provision of the current Basin Plans if and when any amendment was proposed, no matter how limited the scope of that amendment might be.

No such obligation has ever been imposed for the hundreds of considered since the Basin Plans were first enacted nearly 50 years ago. The language at issue is an existing

provision of the Basin Plan and objections to that text should have been raised and adjudicated at the time it was first proposed for approval. The complaint now raised by VWMC is not timely, and the Board has no obligation to respond. Staff recommends that the commenter submit this suggestion to the Regional for further consideration during the upcoming Triennial Review process.

VWMC Comment No. 7: VWMC makes objections citing to Water Code section 13241 as a reason why the Board should not be allowed to maintain existing Basin Plan Language that prospectively incorporates MCLs as water quality objectives. VWMC states that although MCLs were formerly adopted by the Department of Public Health, they are now adopted by the State Water Board's Division of Drinking Water (DDW), and DDW does not conduct a Water Code section 13241 analysis when it adopts MCLs. VWMC contends that the offending language cannot be maintained because prospective incorporation does not allow the Board to consider the factors set forth in Water Code section 13241 before the new standards would apply to its actions.

RESPONSE: As described above in response to **VWMC Comment No. 6**, the sentence describing "incorporation by reference" is an existing provision of the Basin Plan, and the proposed Basin Plan Amendments make no changes to that existing text. The Board notes that the Board's prospective incorporation of health standards has been subject to court review (*California Ass'n of Sanitation Agencies v. State Water Resources Control Bd.* (2012) 208 Cal.App.4th 1438, 1468) and found to be legally justified. Since the legal standards under which the State Water Board's Division of Drinking Water adopts drinking water standards did not substantively change when the drinking water program was transferred to the State Water Board from CDPH, this legal conclusion remains intact.

VWMC Comment No. 8: VWMC makes objections citing to CEQA as a reason why the Board should not be allowed to maintain existing Basin Plan Language that prospectively incorporates MCLs as water quality objectives. VWMC states that DDW does not conduct a CEQA analysis considering the potential environmental effects of implementing the new standard as a water quality objective in the Central Valley when DDW adopts the MCLs. Maintaining the prospective incorporation by reference allows the Board to abdicate its responsibility to conduct analyses required under CEQA before the new standards would apply. VWMC states that if the Board wants to incorporate a new MCL in to the Basin Plan, the Board should conduct an environmental review under CEQA instead of incorporating drinking water standards by reference. For example, adoption of a more stringent MCL might require a water agency to build additional infrastructure in order to comply. Under CEQA, the Central Valley Water Board should analyze, disclose, and mitigate for these reasonably foreseeable impacts. No Regional Board analysis has properly and comprehensively considered the potential environmental changes caused by automatically turning new MCLs into WQOs.

RESPONSE: As described above in response to **VWMC Comment No. 6**, the sentence describing "incorporation by reference" is an existing provision of the Basin Plan, and the proposed Basin Plan Amendments make no changes to that existing text. Since there are no revisions proposed to this existing text, no discretionary action is occurring, and no CEQA review is required. VWMC's objections to existing provisions of the Basin Plan that were adopted many years ago are not timely raised or germane to the proposed amendments now being considered by the Board.

VWMC Comment No. 9: On May 10, 1995, the Office of Administrative Law ("OAL") issued a Notice of Approval and Disapproval, and Reasons for Approval and Disapproval of Parts of a Rulemaking Action on the 1994 Central Valley Basin Plan Amendments (OAL File No. 95-0328-01). This approval/ disapproval decision on the 1994 Central Valley Basin Plan determined that "[a] prospective incorporation-by-reference (one that automatically incorporates future changes to an incorporated document) is of dubious validity." *Id.* at pg. 10 (emphasis added).

RESPONSE: It is important to note that, despite the stated concern, the OAL did not disapprove this particular provision of the Basin Plan, and allowed the provision to take regulatory effect. (See Cal. Code Regs., tit. 23, § 3940.)

VWMC Comment No. 10: All water quality objectives are required to be reviewed and updated periodically under both state and federal law. 33 U.S.C. §1313(c)(1); Water Code §13143.

RESPONSE: The Board satisfies this requirement by conducting periodic reviews of its Basin Plans and prioritizing changes as determined by the Board in the Board's triennial review. VWMC is free to propose that the Board revisit the "prospective incorporation by reference" language when it conducts its triennial review.

VWMC Comment No. 11: The continued use of the prospective incorporation-by-reference method of adopting water quality objectives further violates the requirement that affected state and local agencies be consulted with and their concerns be considered, the applicable public notice and participation requirements of the Water Code, and the requirement that changes to a Basin Plan must be approved by the State Board before those changes become effective. See Water Code sections 13240, 13244, and 13245. The Board cannot defer or delegate its required analysis to any analysis previously undertaken by another agency.

RESPONSE: The issue of whether adequate public notice and opportunity for public comment has been provided should be addressed by DDW during the revision of Title 22 MCLs. The commenter is entitled to raise concerns about how any proposed change to the MCLs might be translated into a water quality objective through the existing "prospective incorporation by reference" provision of the Basin Plans when a new MCL comes before the State Water Board for approval.

VWMC Comment No. 12: The Board should consider removing all references to the MCLs. As stated on pg. 311, "Several [5 of the 9] other Regional Water Quality Control Boards have not adopted SMCLs as water quality objectives in their respective Basin Plans. Instead, these other Boards rely on narrative water quality objectives to regulate mineral concentrations where necessary to protect water supply systems that may be adversely affected by a given discharge." Therefore, this should have also been an alternative duly considered.

RESPONSE: The comment presumes that the Board is engaged in a wholesale process to reconsider the validity of the MCLs. That is not the case. The Board is merely responding to the direction given in the Lodi case (WQO No. 2009-0005) wherein the State Board noted that while the Basin Plan included the Secondary MCLs identified in Title 22, §64449 (Tables A & B) it failed to include any of the surrounding text from Title 22 that explains how the enumerated values should be applied when developing related waste discharge requirements. The proposed Basin Plan Amendments seek to correct this unintentional omission. The Regional Board's goal was focused on clarifying the existing requirements by referencing the entirety of §64449 to provide proper context.

Since this is intended to memorialize not change current permitting practices, there is no obligation to evaluate alternatives that extend well beyond this limited purpose.

Further, of the five Regional Water Boards that have not adopted SMCLs into their Basin Plans, all but one still prospectively incorporate the MCLs into their Basin Plans:

Central Coast Water Board	Waters shall not contain concentrations of [organic or] inorganic chemicals in excess of the maximum contaminant levels for primary drinking water standards specified in California Code of Regulations, Title 22, Division 4, Chapter 15, Sections 64431 and 64433.2. This incorporation-by-reference is prospective, including future changes to the incorporated provisions as the changes take effect.
Lahontan Water Board	Waters designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCLs) based upon drinking water standards specified in the following provisions of Title 22 of the California Code of Regulations, which are incorporated by reference into this plan: Table 64431-A of Section 64431 (Inorganic Chemicals), Table 64444-A of Section 64444 (Organic Chemicals), and Table 64678-A of Section 64678 (Determination of Exceedances of Lead and Copper Action Levels). This incorporation is prospective, including future revisions to the incorporated provisions as the revisions take effect.
Colorado River Water Board	Waters designated as MUN shall not contain concentrations of chemical constituents in excess of the maximum contaminant level (MCL) or secondary maximum contaminant level (SMCL) based upon drinking water standards specified in the following provisions of Title 22 of the California Code of Regulations, which are incorporated by reference into this plan: Table 64431-A of Section 64431 (Inorganic Chemicals), Table 64431-B of Section 64431 (Fluoride), Table 64444-A of Section 64444 (Organic Chemicals), Table 64449- A of Section 64449 (Secondary Maximum Contaminant Levels-Consumer Acceptance Limits), and Table 64449-B of Section 64449 (Secondary Maximum Contaminant Levels-Ranges). This incorporation-by-reference is prospective including future changes to the incorporated provisions as the changes take effect.
San Diego Water Board	Waters designated for use as domestic or municipal supply (MUN) shall not contain concentrations of inorganic chemicals in excess of the maximum contaminant levels set forth in California Code of Regulations, Title 22, Table 64431-A of section 64431 (Inorganic Chemicals) which is incorporated by reference into this plan. This incorporation by reference is prospective including future changes to the incorporated provisions as the changes take effect. (See Table 3-4).

Other Requested Changes Provided By VWMC

VWMC Comment No. 13: *Page 15—Executive Summary and Page 134—Section 1: Introduction:* Add boron to the Exception Policy language.

RESPONSE: Revision added.

VWMC Comment No. 14: *Page 18—Executive Summary*

Change “will” to “may” as each of the listed items may not be required.

“Dischargers electing the alternative permitting approach ~~will~~may be required to...”

RESPONSE: The suggested change was not incorporated since the term “as appropriate” is already included.

VWMC Comment No. 15: *Page 89-98 and 99-104—Variance Policy and Exception Policy*

Make clear that variances and exceptions can apply to both effluent limits and water quality objectives. Without the clarification, a variance couple apply just to discharge limits and could result in the water quality objective being exceeded instream if variance does not also apply there. Also, exceptions should be granted for both the groundwater underlying a discharge and the discharge limits.

RESPONSE: The proposed Basin Plan Amendments are consistent with applicable federal regulations, which allow variances to water quality standards, which would cover both concerns (effluent limits and water quality objectives). Exceptions may be granted for both compliance with groundwater limitations and discharge limits; the language currently proposed does not restrict the use of variances to one or the other.

VWMC, Comment No. 16: Pgs. 110-111 - Secondary MCL Policy - The current Basin Plans fail to incorporate the annual average application of the MCLs as applied to drinking water, thereby allowing the criteria to potentially be imposed as daily or instantaneous maxima, weekly averages, or monthly averages, when those time steps are not appropriate and are much more stringent than contemplated by the MCLs to protect human health.

RESPONSE: The text of the proposed Basin Plan amendment for Chapter 3 (Water Quality Objectives) has been revised to state that compliance with the Secondary MCLs in Tables 64449-A and 64449-B shall be determined based on an annual average or, in some cases, another long-term average as appropriate.

VWMC Comment No. 17: *Appendix G and Secondary MCL Policy*

Incorporate the need for a new 13263/13241 and CEQA analysis anytime new MCLs are applied to require new limits in discharge permit in accordance to *Burbank* decision.

RESPONSE: See response to **VWMC Comment Nos. 6, 7, 8 and 11.**

VWMC Comment No. 18: *Page 174—Section 2: Environmental & Regulatory Setting*

There is no mention of oil fields in the Industrial section or otherwise.

RESPONSE: Additional information has been incorporated.

VWMC Comment No. 19: *Page 331—Section 5: Antidegradation Section 5.2.2.3*

Needs to discuss removal of salinity and boron limits from Tulare Lake Basin Plan.

RESPONSE: No additional degradation is expected from the removal of the salinity and boron limits from Tulare Lake Basin Plan. Any degradation that would occur from

discharges currently regulated by these provisions is adequately described in the existing antidegradation analysis.

VWMC Comment No. 20: *Page C-12—Appendix C*

Industrial Section incorrectly states the following as it applies to the Tulare Lake Basin:

“Oil field WDRs include limitations for EC, chloride, and boron based on Basin Plan objectives.”

While these may be accurate in the Sacramento/San Joaquin River Basin, these limitations are not necessarily based on WQOs in the Tulare Lake Basin.

RESPONSE: The section was revised to remove the reference to water quality objectives.

VWMC Comment No. 21: *Page K-35—CEQA analysis of Mineral Resources*

The determination of “No Impact” on mineral resources is inaccurate. The proposal may significantly impact oil and gas exploration and production. The imposition of an onerous and long Exception process for any boron discharge will effectively proscribe oil and gas exploration in some regions of the Tulare Lake Basin.

RESPONSE: Exceptions place conditions and timelines on discharges when those discharges cannot meet applicable water quality objectives to protect beneficial uses in waters that could be affected by the discharges. The Board, by adopting the Exceptions Policy and by expanding it to include boron, is creating a regulatory path forward for discharges that may not currently be able to meet applicable water quality objectives. There is no evidence, nor any fair argument being made, that adoption of the proposed Basin Plan Amendments will create any new obstacles to oil and gas exploration.

ARVIN-EDISON WATER STORAGE DISTRICT (AEWSD)

Comments were received from Jeevan Muhar, Engineer-Manager representing Arvin-Edison Water Storage District on 7 May 2018.

AEWSD Comment No. 1: Concern about the Proposed Project relates to the significant water quality impacts that it may have on AEWSD's surface water supplies, particularly its Friant-Kern Canal supplies, water management programs, and the associated negative impacts on crops in AEWSD. No support is provided for the Staff Report's statement that salt concentrations in surface waters of the Central Valley are expected to remain at similar levels or improved somewhat, especially with regard to the high quality water from Millerton Lake that supplies the Friant Kern Canal (FKC).

RESPONSE: The Salt Control Program is expected to result in maintenance in salt loads over the short-term, and reduction in salt loads over the long term. Surface water availability is subject to variability based on climactic fluctuations that the Board has no control over. However, the expected reductions in salt loading is expected to result in improvements in surface water quality over time.

AEWSD Comment No. 2: Multiple current and proposed groundwater banking projects dischargers into the FKC entail introduction of groundwater and/or non-Millerton Lake supplies into the FKC. Allowing continued degradation of FKC water for decades to come ensures that the quality of surface water in FKC will worsen. The Water Board proposes to address this situation by granting use of assimilative capacity and issuing variances. AEWSD obtains water at the end of FKC and will suffer adverse direct, indirect and cumulative effects, including the effects of assimilative capacity and variances assigned to upstream users by the Water Board.

RESPONSE: The Board infers that the comment is discussing both discharges that are regulated under the Nitrate Control Program and the Salt Control Program. Under the Nitrate Control Program, no significant impacts to surface waters are expected. Despite widespread nitrate impacts in groundwater, there are no surface water quality impairments for nitrate within the San Joaquin River Basin. For impacts related to the Salt Control Program, see response to **AEWSD Comment No. 1**.

AEWSD Comment No. 3: The CEQA evaluation and the proposed mitigation measures in the Substitute Environmental Document (SEO), including relevant portions of the Water Board Staff Report, are inadequate and must be re-examined to, among other things, identify and evaluate feasible alternatives and mitigation measures necessary to avoid or reduce significant and potentially significant impacts on FKC and AEWSD water quality.

RESPONSE: It is unclear what the impacts to FKC and AEWSD water quality the commenter is referring to. All impacts of the proposed Basin Plan Amendments were assessed in the SED, along with a lengthy discussion of alternatives and their varying effects on surface water quality. The proposed Basin Plan Amendments represent the most effective way of addressing both salt and nitrate impacts on a basin-wide scale.

AEWSD Comment No. 4: Moreover, if the Water Board allows degradation of quality of FKC water received by AEWSD, then the Water Board must recognize that compliance with provisions of Salinity Control Program will be more difficult for AEWSD customers.

RESPONSE: As expressed in the prior response, the Board does not anticipate significant additional degradation in surface waters as a result of the adoption of the proposed Basin Plan Amendments.

THE WONDERFUL COMPANY (TWC)

Comments were received from Melissa Poole, Senior Counsel/Director of Government Affairs representing The Wonderful Company on 7 May 2018.

TWC Comment No. 1: Wonderful commends the Water Boards and staff for their commitment to this process and for working with industry and other stakeholders to develop a program that is protective of water quality and appropriately considers on-the-ground conditions in the Central Valley.

RESPONSE: Support noted.

TWC Comment No. 2: "Implementation of Reasonable, Feasible and Practicable Efforts to Control Salt," should be determined on a case-by-case basis. Doing so will provide more tailored management approaches for regulated entities, which will increase effectiveness of compliance measures and allows the Water Board's expectations of reasonable, feasible and practicable to advance concurrently with technologies and economies of scale.

RESPONSE: The propose Salt and Nitrate Control Program was designed to account for the diversity of the region and allow local entities (or groups of entities under collaborative processes) to develop solutions appropriate for their areas of concern. The proposed program also incorporated overall reviews every 10 to 15 years which are to include a review of new technologies.

TWC Comment No. 3: Please define the term “zone of contribution” and clarify whether zone of contribution and area of contribution are the same for purposes of the CV Salts Program. If they are different, please define “area of contribution” as well.

RESPONSE: The two terms are used interchangeably.

TWC Comment No. 4: The Tulare Lake Basin Plan boron limit of 1 mg/L is not a water quality objective, and is not directly tied to protecting any specific beneficial use. Thus, retaining this limit of 1 mg/L lacks justification and purpose. To address this issue, Wonderful recommends that the limit of 1 mg/L be deleted throughout chapter 4 of the Tulare Lake Basin Plan. In its place, Wonderful recommends that reference be made to the applicable water quality objective for boron. This will provide the Central Valley Water Board with the discretion to properly interpret the applicable the actual agricultural use without unduly limiting boron to 1 mg/L with no proper justification.

RESPONSE: Comment noted and revision incorporated.

TWC Comment No. 5: Please clarify whether an entire management zone is considered a zone of contribution.

RESPONSE: The boundaries of an approved Management Zone need not encompass all the potential effects of the discharges that occur within a management zone, but the Management Zone Implementation Plan must account for all effects outside of the zone.

TWC Comment No. 6: Surveillance and monitoring requirements should not be duplicative of requirements in other programs, namely the Irrigated Lands Regulatory Program (ILRP) and/or the Sustainable Groundwater Management Act (SGMA). The CV Salts Program requirements should complement rather than duplicate the requirements of other programs.

RESPONSE: One of the overarching goals of the Surveillance and Monitoring Program is to *“Maximize the use of existing monitoring programs to provide needed data and avoid duplication of efforts.”*

NORTHERN CALIFORNIA WATER ASSOCIATION & SACRAMENTO VALLEY WATER QUALITY COALITION (SVWQC)

Comments were received from Bruce Houdesheldt, Director of Water Quality representing the Northern California Water Association and the Sacramento Valley Water Quality Coalition (SVWQC) on 7 May 2018.

SVWQC Comment No. 1: The SVWQC noted appreciation for the commitment by the Central Valley Water Board and senior management to complete the comprehensive Central Valley-wide Salt and Nitrate Management Plan and believes that the framework of policies will have far reaching and long lasting benefits to water quality.

RESPONSE: Support noted.

SVWQC Comment No. 2: The SVWQC has reviewed and supports the comments submitted by Tess Dunham on behalf of the Central Valley Salinity Coalition.

RESPONSE: Support noted. See responses to CVSC comments.

SVWQC Comment No. 3: The Draft Staff Report includes references to surface water nutrient listings. Such references are inappropriate because surface water nutrient issues are not part of the Draft Amendments at issue here. Thus, the SVWQC supports the CVSC recommendation that nutrient listings and issues be removed from the Draft Staff Report, or at the very least, explain that surface water nutrient issues are not at issue in these Draft Amendments.

RESPONSE: Clarification was added to the Staff Report.

SVWQC Comment No. 4: Under the surface water quality section for the Sacramento River Region, there is a statement that suggests that high levels of salinity are transported from the Sacramento River Region to Delta and other parts of the Central Valley. The SVWQC supports the CVSC view that this statement is misleading. As the data and information indicate, salinity levels in surface waters in the Sacramento River Region are low, and water quality is of high quality. As such, there are not significant levels of salinity being conveyed from the Sacramento River Region to the Delta or the rest of the Central Valley. The SVWQC supports the recommendation that this sentence be deleted.

RESPONSE: See response to **CVSC Comment No. 3b**. Although concentrations of salt may be low in the water, total load of salt is high and is transported throughout California via the state and federal water projects.

SVWQC Comment No. 5: The SVWQC agrees with the CVSC comment to add language “where appropriate and applicable” to GSAs participation and support of the P&O study. Further, the Draft Amendments should also be amended to state that GSAs in the Central Valley should also participate in nitrate management zones where appropriate and applicable. There are GSAs outside the Valley floor that have neither salinity nor nitrate water quality issues.

RESPONSE: Additional language has been added.

SVWQC Comment No. 6: It is requested that the Basin Plan included specific language on naturally occurring Boron in Cache Creek in the ‘natural background concentration’ section (Chapter 4). Boron in Cache Creek is a perfect example for this regulatory concept. In the Cache Creek area, a *Boron Reduction Study Work Plan* is not needed or an exception be necessary.

RESPONSE: The proposed language was not incorporated. Information on natural background concentrations may be considered in the development of effluent limits which may negate the need for an exception. If an exception is pursued, the *Boron Reduction Study Work Plan* would include information on background conditions as part of the evaluation of appropriate reduction goals.

SVWQC Comment No. 7: The SVWQC requests clarification that the language on Page 304 addresses the surface water exceedances for Boron and not require the preparation of and

implementation of a Boron Reduction Study Work Plan, or a boron based watershed management plan. (Page 284).

- The SRSJR Basin Plan states that, “*These objectives do not require improvement over naturally occurring background concentrations.*”
- Both the SRSJR and TLB Basin Plans include the following text within Chapter 4 of the Basin Plans (Policy for Application of Water Quality Objectives): *However, the water quality objectives do not require improvement over naturally occurring background concentrations. In cases where the natural background concentration of a particular constituent exceeds an applicable water quality objective, the natural background concentration will be considered to comply with the objective.*

RESPONSE: See response to **SVWQC Comment No. 6.**

SVWQC Comment No. 8: The SVWQC notes that they are prepared to work with the Regional Water Board to achieve the over-arching management goals and priorities of the Salt and Nitrate Control Program.

RESPONSE: Continued participation noted and appreciated.

KERN RIVER WATERSHED COALITION AUTHORITY, BUENA VISTA COALITION, CAWELO WATER DISTRICT COALITION, KAWEAH BASIN WATER QUALITY ASSOCIATION, KINGS RIVER WATERSHED COALITION AUTHORITY, TULE BASIN WATER QUALITY COALITION, WESTSIDE WATER QUALITY COALITION

Comments were received from Ms. Nicole M. Belle, Manager representing the Kern River Watershed Coalition Authority, et al. on 7 May 2018.

Kern River Watershed Coalition, et al. Comment No. 1: The Coalitions believe that the Draft Amendments and the supporting Draft Staff Report are consistent with the recommendations contained in the SNMP. The Tulare Lake Basin ILRP Coalitions support adoption of the Draft Amendments with the recommended edits.

RESPONSE: Support noted.

Kern River Watershed Coalition, et al. Comment No. 2: The Tulare Lake Basin ILRP Coalitions support the comments provided by the Central Valley Salinity Coalition.

RESPONSE: See response to comments from Central Valley Salinity Coalition.

Kern River Watershed Coalition, et al. Comment No. 3: We think it is important to note that notwithstanding the typical complexity and density of policy language, the use of long sentences and paragraphs make the amendments and supporting documentation even more difficult to read and understand. Specific examples of language that could be simplified include:

- Appendix J, page ? – Paragraph that begins with “Once a Management Zone Implementation Plan...” This sentence needs to be clarified.
- Appendix J, page ? – Publicly Owned Treatment Works/Point Source Industrial Discharge section – paragraphs are very long.
- Recommendations for Implementation to Other Agencies – first paragraph should be broken up into at least two to make it more clear.

RESPONSE: Appendix J has been clarified; however, the paragraphs discussing each discharge category have been left whole. The first paragraph for the *Recommendations to Other Agencies*” has been divided into two.

Kern River Watershed Coalition, et al. Comment No. 4: Page 10 of the Executive Summary of the Draft Staff Report characterizes surface water in the Tulare Lake Basin area as “extensively impacted by salinity.” This statement is incorrect and inconsistent with data provided in Appendix A and language in the main report. The Executive Summary should be revised to reflect the description in the main text of the Staff Report of surface waters in the Tulare Lake Basin.

RESPONSE: Page 10 was revised to clarify that elevated levels of salinity occur throughout the Tulare Lake Basin.

Kern River Watershed Coalition, et al. Comment No. 5: Appendix A contains several charts summarizing data points evaluated for surface water quality in the Tulare Lake Basin. Data is summarized for 4 monitoring sites including the Main Drain Canal at Highway 46. This data set should not be considered representative of current conditions within the Main Drain or considered representative of other agricultural drains in the TLB for the following reasons; 1) The collected data set doesn’t include information collected since 2014, 2) The Main Drain no longer functions as an agricultural drain, 3) The Main Drain “watershed” is relatively small, and isolated periods of flow typically fall in the 10 csf range.

Specifically, staff should revise the following:

- The Executive Summary should be revised to reflect the description in the main text of the Staff Report of surface waters in the Tulare Lake Basin.
- Data for only a single agricultural drain was evaluated. This data should not be considered representative of all agricultural drainages in the Tulare Lake Basin area. Text should not summarize irrigation drainage in general as reflective of a single sampling site.

RESPONSE: The Executive Summary was revised and the Staff Report indicates that elevated salinity levels can occur in agricultural drains and that the valley floor is comprised primarily of agricultural drains and supply channels.

Kern River Watershed Coalition, et al. Comment No. 6: Appendices are somewhat inconsistent in providing timelines. For example, timelines are provided for Notice to Comply and Notice of Intent, but not for the Final Management Zone Proposal. If this schedule depends on Executive Officer approval, then that should be clarified.

RESPONSE: Appendices were reviewed for consistency. It is not clear where the inconsistency was detected. Under the Nitrate Control Program, timelines are dependent on Basin Priority with Final Management Zone Proposals due within 180 days of submitting the Preliminary Management Zone Proposal unless the timeline is extended by the Executive Officer.

Kern River Watershed Coalition, et al. Comment No. 7: Appendix I – The language here is confusing about what ILRP permittees do and don’t have to do. This could be clarified better in the paragraph beginning “During Phase 1 of the Program...” In this paragraph, it sounds like

they don't get a NTC, but that is likely not the intent. Again, page numbers here would be helpful for reference.

RESPONSE: Page numbers have been included in all the Appendices and clarifications incorporated. All permittees discharging salt will receive a Notice to Comply within one year of effectiveness of the proposed Basin Plan Amendments (i.e. within one year of Office of Administrative Law for permittees discharging to groundwater or regulated under non-NPDES permits and within one year of USEPA approval for permittees regulated under the NPDES program).

Kern River Watershed Coalition, et al. Comment No. 8: At the end of Appendix J, under Irrigated Lands – Third Party Programs, it is concerning that the EAP must be implemented 60 days after the submittal of the Preliminary MZ Proposal, even though that timeframe represents the review period, and when permittees can still decide if they are joining the MZ or not. How will the lead entity of the MZ know how to implement the EAP if it has not had the opportunity to confirm all participants? Also, during the same timeframe, the Final MZ Proposal has to be prepared, and multiple other tasks, and it seems like all these tasks pile up within this 60-day timeframe. We suggest that the timeframe be extended.

RESPONSE: The purpose of Appendix J is to provide examples with respect to how the Nitrate Control Program would apply to certain categories of dischargers. Appendix J does not in itself set the timeframe for implementation of the Early Action Plan (EAP). However, in response to the timeframe for implementation as set forth in the Nitrate Control Program, it is not expected that the EAP would be implemented in its entirety within 60 days after submittal, rather that implementation would begin. The EAP sets forth the process for identifying affected residents, the process for coordinating with others, a proposed schedule of implementation, and the proposed funding mechanism. After the 60-day period, it is anticipated that permittees would start implementing the processes identified in the EAP, which may include processes for obtaining funding. Further, the 60-day period is in addition to the 270 days for priority 1 areas and 1 year for priority 2 areas for developing the EAP. The proposed time frame is reasonable, considering the immediate need to address drinking water for those affected.

Kern River Watershed Coalition, et al. Comment No. 9: In the last paragraph of Appendix J, there is no timeline provided, though there are timelines provided for other requirements described earlier in the appendix. It would be helpful if this was more consistent. The only place the timeline for the Final MZ Proposal is mentioned is in Table N-5.B of the staff report. It would be helpful to have it here as well, to be consistent with other descriptions. Also, it would be helpful to be more consistent with timelines – by expressing them in either days or months on timelines/due dates, instead of switching back and forth.

RESPONSE: Comment noted. The first sentence is revised as follows: Within a reasonable time frame, but no longer than six months after receiving a the Management Zone Implementation Plan is complete, the Central Valley Water Board will ~~need to~~ provide notice and opportunity for public comment on the Implementation Plan and hold a hearing to consider adoption.

Kern River Watershed Coalition, et al. Comment No. 10: Appendix J, Page 7, Path B Permittees – Preparation and Participation in a Management Zone, second paragraph. It seems that for coalitions, the MZ Implementation Plan would include a lot of information from the MPEP of the ILRP program. These two efforts should likely be cross-referenced, because for

agriculture, it may take years (as the MPEP effort acknowledges) to find what the management practices are that give the best results in specific areas. For point dischargers, the Implementation Plan may be more specific, but for coalitions of non-point dischargers, it will highly depend on the results of the MPEP.

RESPONSE: The requirements associated with a Management Zone Implementation Plan include short and long-term schedules for implementation, which can easily accommodate efforts and information being obtained through the MPEP processes that are being implemented by the irrigated agricultural coalitions. To better note the potential interaction between the two efforts, the following sentence was revised:

For example, the long-term plan may include, but is not limited to, management practices identified by irrigated agricultural coalitions through the Management Practices Effectiveness Program that permittees are and will be growers will need to implement implementing to address nitrate loading to groundwater.

Kern River Watershed Coalition, et al. Comment No. 11: Page 43, Bullet point no. 2: “Regional Board will require dischargers to continue to implement reasonable, feasible and practicable efforts to control levels of salt in discharges. Such efforts may include, but are not limited to, implementation of management practices that are designed to reduce salt in discharges...” We are unclear about what this means for agriculture. The only way to reduce salt in a discharge of water from an agricultural field is to apply more water (using irrigation) to dilute it, which is contrary to water conservation practices. Growers can’t realistically control nonpoint agricultural discharges of salt without using more water.

RESPONSE: Staff recognizes the difficulty for agriculture to reduce concentrations of salt within their discharge without diluting with better quality water or retaining discharge on site to reduce impacts to downstream surface water bodies while potentially impacting groundwater quality. The practice of reducing salt loads through more efficient irrigation practices is well documented. The P&O Study will evaluate reasonable, feasible and practicable management efforts to control salt throughout the Central Valley and it is anticipated that agricultural coalitions will be actively participating in the effort.

Kern River Watershed Coalition, et al. Comment No. 12: Page 43, introductory paragraph and Page 44, section titled “Permitted Discharge to a Water Body Subject to De-designation of Beneficial Use” (bottom of page 44): We support the joint comments made by the Tulare Lake Drainage District and the Tulare Lake Basin Water Storage District, which state: “Now that the MUN and AGR beneficial use de-designations have been completed, we request the Salt Control Plan be clarified to apply to areas where there is a MUN or AGR groundwater beneficial use. This clarification to the Salt Control Program should be made in the introductory paragraph on page 43 and in the section titled “Permitted Discharge to a Water Body Subject to De-designation of Beneficial Use” (bottom of page 44). It should be reflected that based upon a P&O Study, a discharge in an area where there is not a MUN or AGR groundwater beneficial use designation should not be subject to the Salt Control Program.”

RESPONSE: See response to Tulare Lake Drainage District and Tulare Lake Basin Water Storage District Comment No. 1.

Kern River Watershed Coalition, et al. Comment No. 13: The definition/explanation of Management Zone still needs to be clarified in the language. It needs to be explicitly stated that

MZs can comprise multiple permits. It is not mentioned in any of the references to MZs, descriptions, or in Table N4.

RESPONSE: Comment noted. Table N-4 was revised as follows:

Defined area that serves as a discrete regulatory compliance unit for complying with the Nitrate Control Program for multiple permittees.

Kern River Watershed Coalition, et al. Comment No. 14: We assume that agricultural coalitions, acting as a third party with one permit that applies to many growers, will have the choice of choosing Path A or B. However, if the coalition chooses Path A, it seems unlikely that an initial assessment (and other requirements under Path A) for a coalition would be possible. For example, how would the discharge of a coalition be categorized into the categories required by Path A?

RESPONSE: Categorization of discharges would be based on coalition areas and ambient conditions within the various coalition areas rather than on a member by member basis. Like with all permittees, coalitions will have the option to choose Path A or B for all or part of the coalition area. In other words, there may be parts of a coalition where it is more appropriate for the coalition members in that area be part of a management zone, while other members in other parts of the coalition area may determine that Path A is more appropriate. With respect to an initial assessment, the Draft Amendments clearly note that groundwater assessments already prepared by an irrigated agricultural coalition may satisfy the initial assessment requirements for all or part of areas within the coalition boundaries.

Kern River Watershed Coalition, et al. Comment No. 15: If the coalition chose Path B, because this is what the policy is designed to incentivize, would the physical boundaries of the coalition necessarily require that the coalition be in a management zone with other dischargers that are within that physical boundary?

RESPONSE: As noted above, parts of a coalition may choose Path B and others may choose Path A. Further, there may be several Management Zones within a single coalition physical boundary area. For those portions of a coalition that are part of a Management Zone, the Management Zone should include all permittees that have selected to participate in a Management Zone.

Kern River Watershed Coalition, et al. Comment No. 16: How is the zone of contribution applied in a MZ situation? The glossary says area of contribution. These terms should be used consistently. We assume they mean the same thing; if so, only one term should be used, and if not, they should each be defined.

RESPONSE: The term Zone of Contribution does not apply in management zones. Rather, Management Zone boundaries and implementation provisions should be set appropriately to address contributions from all Management Zone participants.

Kern River Watershed Coalition, et al. Comment No. 17: It seems obvious that the MPEP of the ILRP, which is already established, should dovetail and not duplicate the SAMP, and that the MPEP should be emphasized from an agricultural perspective.

RESPONSE: Clarification has been added to the Surveillance and Monitoring language to emphasize the use of existing program in order to leverage resources and avoid duplication.

Kern River Watershed Coalition, et al. Comment No. 18: On pages 51 through 52, the Draft Amendments identify specific revisions to the Tulare Lake Basin Plan for salinity limits. However, as currently proposed, these Draft Amendments do not address the issue of boron. The Tulare Lake Basin Plan boron limit of 1 mg/L is not a water quality objective and is not directly tied to protecting any specific beneficial use. To address this issue, we recommend that the limit of 1 mg/L be deleted throughout chapter 4 of the Tulare Lake Basin Plan. In its place, we recommend that reference be made to the applicable water quality objective for boron. Further, we recommend that the Boron limits apply to the receiving waters and not effluent.

RESPONSE: The boron limits have been revised to reference applicable water quality objectives for boron. The addition of receiving water language is not necessary due to the change from “limit” to “appropriate objective”.

Kern River Watershed Coalition, et al. Comment No. 19: Drought and Conservation Policy: We are unclear why boron is not included here but it is included in the Exceptions policy. A drought and conservation policy that does not include boron might be ineffective because allowances are made for other constituents that will change during drought, but not for boron, which will still have typical year limits.

RESPONSE: The Lower San Joaquin River case study was utilized to evaluate appropriate ranges of EC and TDS protective of crops under different conditions utilizing the Hoffman Model (Hoffman, 2010). The findings from these evaluations served as the basis for interim salinity limits proposed in the policy. During the case study, independent scientific peer review and the public comment process provided several recommendations for the development of a similar model for boron for use in the future. Such a model was not developed or reviewed for these amendments so there is no basis for recommending appropriate interim boron limits that would be protective of a percentage of sensitive crop yields during dry years. Staff does not have any foundation on which to base proposed interim boron limits related to drought and/or conservation.

Kern River Watershed Coalition, et al. Comment No. 20: The Tulare Lake Basin ILRP Coalitions encourage the Central Valley Regional Water Quality Control Board to adopt the proposed Basin Plan Amendments, with suggested edits requested within, as this will be the best path forward for addressing important water quality issues. The TLB ILRP Coalitions will continue to be actively engaged in the implementation process and look forward to working with Regional Board staff to help achieve the goals of the plan and address any issues that arise.

RESPONSE: Staff appreciates continued participation by the TLB ILRP Coalitions.

SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT (REGIONALSAN)

Comments were received from Lysa Voight, Senior Civil Engineer representing Sacramento Regional County Sanitation District on 7 May 2018.

REGIONALSAN Comment No. 1: We understand that recommendations for changes and final language for many of the issues discussed in the CV-SALTS meetings will not be available by

the May 7, 2018 comment deadline. We trust that the Regional Water Board will continue to work with the CV-Salts Coalition and stakeholders to resolve recently identified and future issues in a collaborative and fair manner as has been the spirit of the CV-SALTS working groups and meetings.

RESPONSE: Comment noted.

REGIONALSAN Comment No. 2: A holistic approach is needed to manage salinity and nitrates. While regulated dischargers may impact water quality, sources, other factors and actions also affect salinity and nitrate. Regional San recommends that the State and Regional Water Boards place an emphasis and priority on working with other federal and state agencies to identify and account for all sources and activities that impact salinity including; seawater intrusion, water releases and diversions, groundwater pumping, natural sources, etc. A similar effort to identify all sources of nitrate contamination in groundwater should occur in impacted areas.

RESPONSE: Staff agree that a holistic approach is needed to address salinity and nitrate water quality impacts in the Central Valley and the proposed basin plan amendments reflect this. As recognized in the Executive Summary of the Staff Report, implementation of the Salt Control Program will require significant actions and participation by federal, state, local agencies, districts, associations and other entities that use or transport Central Valley's waters. Studies conducted under the CV-SALTS initiative did identify primary sources and activities that impact salinity in the Central Valley. However, one of the main tasks for the Salt Control Program's Phase 1 P&O study will be the further refinement of information to a local scale on the sources of salinity and actions that impact salinity in surface and ground waters. The Staff Report recognizes that entities that utilize and benefit from Central Valley waters should be active participants in the P&O Study and overall Salt Control Program.

REGIONALSAN Comment No. 3: A similar effort to identify all sources of nitrate contamination in groundwater should occur in impacted areas.

RESPONSE: Considerable research has been conducted on the sources and legacy contamination issues of nitrate in the Central Valley, especially in the 2012 report for the State Water Board to the Legislature, *Addressing Nitrate in California's Drinking Water with a Focus on Tulare Lake Basin and Salinas Valley Groundwater* (Harter et al., 2012). As with the Salt Control Program, the Nitrate Control Program's Management Zone permitting pathway will consist of multiple stakeholders working together to identify and manage nitrate sources at the local scale, while ensuring safe drinking water and moving towards balanced nitrate loading and restoration.

REGIONALSAN Comment No. 4: The Water Boards should work diligently with other federal and state agencies to identify additional responsible parties and additional stakeholders. Water quality impacts, including those of salinity and nitrates, can only be addressed effectively and fairly through a holistic assessment and solutions. Other identified responsible parties should participate in funding, data evaluation, studies, and taking other required actions described in the Proposed Amendments, Draft Staff Report, and Policies to ensure program success.

RESPONSE: See response to **REGIONALSAN Comment No. 2**. An addition was made to the Executive Summary under the heading "Recommendations to Other Agencies" to clarify that an ongoing effort will be required to identify responsible parties and to

determine their financial responsibility and needed level of participation. Language was also added to the proposed Basin Plan Language under the header “Salt and Nitrate Control Program” highlighting the need for broad stakeholder involvement.

REGIONALSAN Comment No. 5: Recommended language provided as an addition to Table S-2 reflecting Comments 2 and 3 above for funding and participation by other agencies and responsible parties.

RESPONSE: The commenter’s recommended language was not accepted for Table ES-1 or Table 1-1, which summarize major components of the Salt and Nitrate Control Program. See **REGIONALSAN Comment No. 4** regarding the additional clarification that was included in the Staff Report and proposed Basin Plan Language.

REGIONALSAN Comment No. 6: Request that other areas that require actions related to water quality impacts within the Executive Summary, Proposed Amendments, Draft Staff Report, and Policies be revised to reflect participation of other responsible parties.

RESPONSE: See response to **REGIONALSAN Comment No. 4**.

REGIONALSAN Comment No. 7: We recommend a commitment, as stated in several sections of the Proposed Amendments and the Draft Staff Report, that the Regional Water Board provide future periodic review and update of the actual expenditures, cost estimates, and funding responsibility as the program progresses. These updates should include fair proportions for newly identified responsible parties. Updates should be provided at milestones such as;

- At each specified report-back period,
- Upon development of funding plans for studies, project design, or project construction,
- Upon approval of actions for management zones,
- At major milestones and at completion of Phases 1, 2, and 3 of the program.

RESPONSE: Staff agree that periodic reviews and financial updates are important. While the proposed amendments do not include the specific frequency requested by the commenter, additional language was added to the Basin Plan Language in the introduction to specify that the Salt and Nitrate Control Program will be reviewed in its entirety prior to initiation of Phase II of the Salt Control Program or a time period not to exceed 15 years from the effective date of the proposed Amendments. Additional clarification was also provided in Section 8 Economic Analysis that the Central Valley Water Board will update applicable cost estimates during future Basin Plan Amendments concurrent with phased program reviews identified under the Salt Control Program.

REGIONALSAN Comment No. 8: We recommend that stakeholders be given the opportunity to comment publicly on revised or proposed funding plans and implementation plans for major projects or actions.

RESPONSE: Stakeholders will be given an opportunity for public review and comment on Management Zone Implementation Plans associated with Pathway B of the Nitrate Control Program. In addition, future program reviews and Basin Plan Amendments associated with the Salt and Nitrate Control Program will be conducted through a public process.

REGIONALSAN Comment No. 9: Additionally, there should be an identified relationship between beneficiaries of capital improvement projects and funding responsibility for those projects.

RESPONSE: Comment noted. The P&O will be developing the details of the potential projects, benefits, costs and how activities will be funded.

REGIONALSAN Comment No. 10: The section of the Staff Report (page 112) providing the estimated ranges of costs for Agriculture related to the Salt Control Program, the Nitrate Control Program, and the Surveillance and Monitoring Program should be updated to reflect more accurate costs for Agriculture, and it should be completed to include cost estimates for all dischargers/permittees and identified responsible parties. This section should be revisited and revised accordingly as the program proceeds and as specific plans and as studies are developed.

RESPONSE: State law requires that basin plans indicate estimates of the total cost and identify potential sources of funding of any agricultural water quality control program prior to its implementation. (Wat. Code § 13141.) State law does not require this type of requirement in the basin plans for other types of industries. The costs of implementing the proposed Amendments are reasonable considering the size and the geographic area affected by the Amendments and considering the economic costs identified in a 2009 study if no changes were made to current management strategies (Howitt, et. al, 2009). Economic costs will be revisited during any future proposed amendments to the Salt and Nitrate Control Programs.

REGIONALSAN Comment No. 11: Section 8, Economic Analysis, of the Staff Report should also be updated to include economic impacts to all affected parties when this information is known. This section should also be updated to include economic impacts to all affected parties when this information is known.

RESPONSE: A section was added to Section 8 (page 403) Economic Analysis of the Staff Report under the heading “Future Review and Evaluation of Costs” which clarifies that updates on cost estimates for agriculture will be made during future Basin Plan Amendments concurrent with phased program reviews identified under the Salt Control Program. Assigning precise numerical percentages for financial responsibility for non-agricultural entities, including determining economic impacts to all affected parties, would require the Board to engage in an undue amount of speculation at this point. However, the Board will continue to track economic impacts as information is developed through the course of implementing the proposed Basin Plan Amendments.

REGIONALSAN Comment No. 12: The CV-SALTS Coalition, stakeholders, and other interested or responsible parties should be given the opportunity to comment publicly on updates and changes to costs and economic analysis.

RESPONSE: See REGIONALSAN Comment No. 11. Updates to applicable cost estimates will be updated through a public process during future Basin Plan Amendments concurrent with reviews identified under the Salt and Nitrate Control Program.

REGIONALSAN Comment No. 13: Recommend moving the list of potential funding sources relating to agriculture (page 112) in the draft Staff Report into its own section, indicating that the

listed funding sources should be investigated for all SNMP program components and responsible parties. Additional funding sources should be added to this list and investigated for funding potential as they are identified in the future. The identification of major funding sources for CV-SALTS should be an early action to ensure that there is adequate funding to address impaired and impacted waters.

RESPONSE: Recommendation not incorporated. See responses to **REGIONALSAN Comment Nos. 7, 10 11**, above.

REGIONALSAN Comment No. 14: We support the comments provided by the Central Valley Salinity Coalition (CVSC), and also support comments submitted by the Central Valley Clean Water Association (CVCWA) on the Proposed Amendments, Draft Staff Report, and related policies.

RESPONSE: Support of CVSC and CVWA comments noted.

CALIFORNIA FARM BUREAU FEDERATION (CFBF)

Comments were received from Kari E. Fisher, Senior Counsel representing California Farm Bureau Federation on 7 May 2018.

CFBF Comment No. 1: Appreciates the Salt and Nitrate Control Program's inclusion of "non-traditional" regulatory options (including variances, exceptions, offsets, management zones, and assimilative capacity allocations) available to dischargers to provide flexibility, while mitigating the effects from a discharge until a feasible, practicable, and reasonable means for meeting water quality objectives becomes available.

RESPONSE: Support noted.

CFBF Comment No. 2: Farm Bureau further appreciates the Salt and Nitrate Control Program's recommendations to revise the existing Exceptions Policy to add nitrate and boron to the list of chemical constituents that may be authorized for an exception, removal of the sunset provision, and expanding the length of the limitation. Such provisions are necessary since it may not be reasonable, feasible, or practical in some cases to prohibit discharges or issue time schedules for these constituents with the expectation that the discharge can reasonably and feasibly meet applicable water quality objectives in a limited period of time.

RESPONSE: Support noted.

CFBF Comment No. 3: In addition to the use of "non-traditional" regulatory options, the specific components of the Salt and Nitrate Control Program for irrigated agriculture must be feasible and reasonable. In revising waste discharge requirements for irrigated agriculture to incorporate the Salt and Nitrate Control Program, the Regional Water Board should comply and conform with Porter-Cologne's "reasonableness standard"; that is, evaluate if the activity or control limit will reasonably protect the beneficial uses, as well as analyzing the feasibility of such requirements including the costs to agriculture.

RESPONSE: "Feasibility" and "reasonability" are factors considered throughout the components of the proposed Salt and Nitrate Control Program. For example, the Nitrate Control Program recognizes that full compliance with reaching balance and managed restoration may not be reasonable, feasible or practicable in all circumstances. In such cases, the discharger is responsible for providing the Central Valley Water Board with all

necessary information to show why full compliance with these goals are not reasonable, feasible or practicable and implement actions that are. The Salt Control Program also considers reasonable, feasible and practicable actions in meeting their management goal of protecting beneficial uses and pursuing long-term managed restoration. Section 8 identifies the calculated costs to agriculture with a focus on Phase I activities (first 10 to 15 years of the program). These costs will be re-evaluated as the program is adjusted in the future.

SOUTH DELTA WATER AGENCY (SDWA)

Comments were received from John Herrick representing South Delta Water Agency on 7 May 2018.

SDWA Comment No. 1: The “Phased Salt Control Program” is to be implemented in phases “*with each of the three phases having a **duration of ten to fifteen years.***” [Emphasis added] Thus, after six decades of adverse salt impacts to southern Delta agriculture, the Regional Board’s plan is to take 30-45 years to address the problem. This means that the regulatory efforts of the State of California to protect beneficial uses of the San Joaquin River take somewhere around 100 years. During that time, southern Delta farmers will simply have to live with adverse impacts to crops caused by CVP introduced salts because neither the SWRCB or the Regional Board will take any meaningful actions.

RESPONSE: Staff disagree that it will take 100 years to protect beneficial uses of the San Joaquin River or the Delta. The Salt Control Program proposed through this Basin Plan Amendment does not alter, revise or supersede the requirements and standards established through the Bay-Delta Plan that apply to permittees that discharge salt to the Delta. The proposed Salt Control Program does not alter, revise or supersede the Delta Strategic Plan approved by the Central Valley Water Board in 2008 and updated in 2014. Electrical conductivity WQOs (700/1000 EC) of water entering the Delta are being attained in the LSJR at Vernalis and the 3-mile long LSJR segment between Vernalis and the Stanislaus River has been delisted in the [2014 Integrated Report](#).

SDWA Comment No. 2: In order to remedy the problem one must undertake one or a combination of the following:

- A. Decrease the salts being imported into the area.
- B. Dilute the salts before they enter the River.
- C. Concentrate or remove the salts from the drainage water, and
- D. Remove the concentrated salts via a drain or other transport.

RESPONSE: Staff agree and the proposed Salt Control Program does not prevent any of these actions.

SDWA Comment No. 3: There is no need for further studies and no need for stakeholder processes to discuss the issues. These controlling facts are completely absent from the proposed Amendments. The documents do not even make the distinction between the normal concentration of salts due to beneficial uses and the importation of million of tons of foreign salts into the valley. Instead, the Regional Board now seeks to embark upon a repetition of past efforts and spend millions of dollars to simply delay enforcing standards which would protect those who are being injured.

RESPONSE: Staff disagree that no further studies are needed. While studies conducted under the CV-SALTS initiative did identify primary sources and activities that impact salinity in the Central Valley on a larger scale, one of the main tasks for the Salt Control Program's Phase 1 P&O study will be the further refinement of this information to a local scale. Information gathered during the P&O study can be applied to Phases 2 and 3, when the planning and implementation stages occur for long-term sustainability projects.

SDWA Comment No. 4: The only parties who have been suffering the direct impacts of the degraded River are southern Delta farmers. Yet the proposed Amendments make no effort to ease the burden they bear. The current effort only eases the burden on those who discharge highly concentrated foreign salts in order to protect their discharges.

RESPONSE: See response to **SDWA Comment No. 1.**

CENTRAL VALLEY CLEAN WATER ASSOCIATION (CVCWA)

Comments were received from Debbie Webster, Executive Officer representing Central Valley Clean Water Association on 7 May 2018.

CVCWA Comment No. 1: CVCWA greatly appreciates the time and effort that the Central Valley Regional Water Quality Control Board (Regional Board) has invested into the development of the Proposed Amendments and the leadership you have shown through the Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) stakeholder process. CVCWA also appreciates the opportunity to work extensive with other stakeholders participating in CV- SALTS, which has led up to the development of the Proposed Amendments.

RESPONSE: Appreciation noted.

CVCWA Comment No. 2: CVCWA was one of the first members of the Central Valley Salinity Coalition (CVSC), a group of stakeholders that have supported [the effort] through funding and participation and CVCWA has worked with and supports the written comments provided by the CVSC on the Proposed Amendments. To the extent that comments were included in the CVSC's letter, we are generally not repeating them here unless we are offering specific suggested language changes, or our request is somewhat different.

RESPONSE: See response to comments from Central Valley Salinity Coalition.

CVCWA Comment No. 3: CVCWA believes that the actions to achieve the goals of both the Nitrate and Salinity Control Programs are of statewide and national significance. The Salt and Nitrate Management Plan (SNMP) requires that the State and Regional Water Boards coordinate with other federal, state, local agencies, districts, associations and other entities that use, transport, or otherwise impact the Central Valley's waters. A key recommendation is that responsible parties must be identified and must participate in and provide proportional funding to the SNMP components as appropriate. The aggregate costs for the full implementation of the proposed nitrate control program and the salinity control program as estimated in Chapter 8 are

CVCWA recommends the following specific edits to address their comments on a wider participation to successfully reach the goals of CV-SALTS:

- a) Pages 31, 131, and 202

Modify the statement “Long-term implementation of the Salt and Nitrate Control Program is achieved primarily through Regional Water Board permitting actions (i.e., waste discharge requirements or conditional waivers)” to include a discussion of participation, including funding and support, by other State and Federal agencies, users and those benefitting from Central Valley waters.

- b) Page 17 should be revised to read:

The Salt Control program is structured to encourage dischargers of salinity and parties responsible for the movement of salinity throughout the Central Valley and those that use Central Valley waters outside of the Central Valley to participate and fund the P&O Study.

Page 26, above the section titled “Recommendations to Other Agencies,” add the following paragraph to the Executive Summary

Funding and Participation by Other Agencies and Responsible Parties

Parties other than existing permittees contribute to salt and nitrate loading in the Central Valley. All users of Central Valley waters, within and outside of the Regional Water Board’s jurisdictional area, are considered stakeholders responsible for the successful implementation of the Salt Control Plan. Significant participation and actions by federal, state, local agencies, districts, associations and other entities that use, transport, or otherwise impact the Central Valley’s waters will be required to fully implement the SNMP. These amendments propose recommended actions that should be taken by other governmental and public agencies and organizations to implement the Salt Control Program. A key recommendation applicable to all responsible parties identified is for these entities participate in the P&O Study to be done under Phase I, and in the other two phases of the Salt Control Program as appropriate. Participation in the Phase I P&O Study may be done by providing financial, technical and policy support to the P&O Study. An ongoing effort will be required to identify responsible parties, and to determine their financial responsibility and other necessary actions.

- c) Page 13 of the Executive Summary, the Proposed Amendments describe a third- party coalition of regulated dischargers will manage and fund the P&O Study. It would be more accurate to rephrase this sentence to read: “A third party entity made up of a coalition of regulated dischargers and other entities contributing to the salt problems in the Central Valley and benefitting from use of Central Valley waters outside of the Central Valley will manage and fund the P&O Study.”
- d) Page 31 first sentence, last paragraph: Add a paragraph after this that states: “Additional implementation authorities, affected responsible parties, and required actions related to salinity and nitrate control will be determined in Phase I.”

RESPONSE: The majority of recommended revisions in a) through d) above or wording reflecting the intent of the recommendations, has been incorporated. For recommendation b) above, some language was added to the existing paragraph on Recommendations to Other Agencies to incorporate the funding element.

- e) Page 34, under Phase I, add a bullet item on pages 34 that states: “Coordinate with state and federal agencies to identify other responsible parties and their requirements for participation and funding.”
- f) Page 77, the Proposed Amendments state that “Permittees that discharge salt or nitrate in the Central Valley Region” shall participate in preparing necessary reports for the Surveillance and Monitoring Program (SAMP). It is more accurate for this section to refer not only to permittees discharging salt or nitrate, but to include reference to the fact that other entities using water from the Central Valley can contribute to salt and nitrate problems in the Central Valley. These entities should also contribute to Program Assessment Reports and other elements of the SAMP.

RESPONSE to e) and f) above: The Central Valley Water Board does not have the authority to require participation and funding by other entities but has including recommendations for participation and funding in the proposed *Recommendations for Other Agencies*.

CVCWA Comment No. 4: Early in the implementation of Phase I of the Salt Control Program, key information about the costs and funding of Phase I must be determined. Such information includes: (1) the comprehensive costs of implementing the P&O Study, SAMP, Central Valley Salinity Coalition membership, and any other costs associated with the Salt and Nitrate Management Plan; and (2) the apportionment of these costs among dischargers and the other responsible parties who have not yet been identified. CVCWA requests that page 403 of the Staff Report and the Proposed Amendments themselves clearly articulate mechanisms to compel other entities who share responsibility for salt issues in the Central Valley, to participate financially in the P&O Study and SAMP. This could be through D-1641 or other water rights permits.

RESPONSE: See response to **e) and f) of CVCWA Comment No. 1**. Under the Recommendations to Other Agencies, potential participation in the P&O Study is recommended as part of water rights permits that impact accumulation of salt in inland areas or the reduction of assimilative capacity of surface and groundwater.

CVCWA Comment No. 5: CVCWA offers the following clarification to the Basin Plan Amendment language for the conditional prohibition on salt discharges in the second paragraph on page 74:

For permittees subject to the Conditional Prohibition, the prohibition shall apply from the time of receiving a Notice to Comply until such time that the permittees’ existing waste discharge requirements or conditional waivers regulating the discharge of salts are updated or amended to reflect requirements of Phase I of the Salinity Control Program, or until such time that the Regional Water Board affirmatively notifies the permittee that their permit complies with the Phase I of the Salt Control Program without the need for further update or amendments. Until such time as the discharger receives a Notice to Comply, the relevant waste discharge requirements or conditional waiver provisions, including any applicable compliance schedule, governing the discharge of salts shall remain in force.

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 6: There is inconsistency in the conditional prohibition on salt discharges language between the proposed basin plan language and the staff report. The basin plan language (page 45 and 74) provide that dischargers must notify the Regional Board of the compliance pathways they have selected within 6 months of receipt of the Notice to Comply whereas, the staff report (page 260) provides that dischargers must decide which compliance pathway they will use under the Salt Control Program within 6 months of the effective date of the Proposed Amendments.

RESPONSE: Staff has modified the language in the Staff Report to clarify six months from the receipt of the Notice to Comply.

CVCWA Comment No. 7: Regional Board should consider issuing a blanket NPDES permit amendment for all existing NPDES permittees who have elected the Alternative Salinity Permitting Approach within 6 months of adoption of the Proposed Amendments.

RESPONSE: Comment Noted. Staff is investigating the most efficient and effective manner in updating NPDES permits after approval of the proposed Amendments by USEPA.

CVCWA Comment No. 8: Requests the same modification (suggested changes to salinity conditional prohibition) be made to conditional prohibition for discharges of nitrate to groundwater. This will ensure that dischargers, including POTWs, know the applicable limitations on discharges of nitrate. CVCWA proposes the following changes to page 75.

“For permittees subject to the Conditional Prohibition, the prohibition shall apply...Until such time as the discharger receives a Notice to Comply, the relevant waste discharge requirements or conditional waiver provisions governing the discharge of nitrate shall remain in force.”

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 9: Recommends clarification to text on page 19 and 224 to be consistent with the text on page 57 and 229 regarding applicability of the Nitrate Control Program to non-basin areas rather than traditional permitting of nitrate outside the control program. CVCWA proposes the following changes:

“In areas of the Central Valley where there are no identified groundwater basins or subbasins, the Nitrate Control Program does not apply unless the Executive Officer of the Regional Water Board determines based on the specific facts of the discharge that it should be subject to the Nitrate Control Program and the Executive Officer of the Regional Water Board notifies the discharger accordingly will apply when the Regional Water Board’s Executive Officer determines it is necessary and appropriate to address nitrate discharges to localized groundwater.”

RESPONSE: Staff has modified the language in the Staff Report to meet the intent of the proposed revisions.

CVCWA Comment No. 10: Requests the following changes to the Conditional Prohibition definition on page 84.

“Conditional prohibitions of discharge can be established in the Basin Plan for any type of discharge. (Wat. Code § 13243) A waste, or the discharge of certain types of waste, will not be permitted, unless specific conditions are met. A conditional prohibition established in the Basin Plan is directly enforceable by the Regional Board even in the absence of WDRs or a waiver regulating the discharge or discharger.

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 11: Request the following revisions to text discussing Phase I and Phase II re-evaluation to ensure engagement of stakeholders in the review process.

a) Pages 46-47 and 218

“Upon completion of Phase I, and prior to initiation of Phase II of the Salt Control Program, the Regional Water Board will re-evaluate the Conservative and Alternative Salinity Permitting Approaches applicable under Phase I of the Salinity Control Program. The Regional Board shall consider re-convening a stakeholder group to assist in the re-evaluation. In this re-evaluation, the Regional Water Board shall consider ~~use~~ the findings of the P&O Study, results from surveillance and monitoring programs, ~~considerations~~ proposals for use of other permitting options or approaches, and progress made towards meeting the overarching goals of the Salt Control Program, to re-evaluate the Conservative and Alternative Salinity Permitting Approaches applicable under Phase I of the Salinity Control Program. Based on the findings of this re-evaluation, the Regional Water Board may modify or re-adopt the Phase I permitting approaches and policies (e.g., variance and exceptions), to make thereby making them applicable to Phase II. Such amendments must be completed prior to the initiation of Phase II of the Salinity Control Program.”

b) Page 206

“Based on the findings of the P&O Study, through a stakeholder and public process, the Regional Water Board will review the Basin Plan and consider whether modifications to the Basin Plan are required to facilitate implementation of Phases II or III.”

c) Page 209

“Prior to implementation of Phase II, through a stakeholder and public process, the Regional Water Board must review the Salinity Control Program and reconsider compliance pathways for Phase II.”

RESPONSE to Comment No.11 a) through c): Staff agrees that stakeholders should be engaged in the review of the Salt and Nitrate Control Program and has included the following language: “...*The Central Valley Water Board will re-evaluate the Conservative and Alternative Salinity Permitting Approaches applicable under Phase I of the Salt Control Program. The Central Valley Water Board shall consider convening a stakeholder group to assist in the re-evaluation...*”

CVCWA Comment No. 12: Recommends participation in the P&O Study be applicable to both effluent limits and receiving water limits. (Page 44 and 214).

RESPONSE: This provision was changed as recommended.

Full participation in the P&O study as documented and confirmed by the lead entity overseeing the P&O Study shall be found by the Regional Water Board to provide for in lieu or alternative compliance to receiving water limits *or effluent limits* based on salinity.

CVCWA Comment No. 13: Recommends additional clarification on nitrogen speciation to the following:

a) Page 31

Include the footnote (as is on page 51) at the header of the Salt and Nitrate* Control Program.

*“The implementation provisions in this Nitrate Control Program apply to discharges of nitrate to groundwater. To extent that the Regional Water Board uses other forms of nitrogen speciation (e.g., total Nitrogen and nitrite + nitrate) to address nitrate discharges, this Control Program would also apply in those circumstances.”

RESPONSE: The recommended change was not included at the location suggested as the information was too detailed for the introductory language. Clarification on speciation is included as part of the definitions and the Exceptions Policy.

b) Page 100

“For the purposes of this program, salinity and its constituents include, and are limited to, the following: electrical conductivity, total dissolved solids, chloride, sulfate and sodium. Nitrate includes nitrate and other forms of nitrogen speciation (e.g. total inorganic nitrogen (TIN) and total Kjeldahl nitrogen (TKN)) used to address nitrate in groundwater.”

RESPONSE: Proposed revision incorporated.

CVCWA Comment No. 14: The summary discussion of groundwater discharges of municipal wastewater in the staff report does not acknowledge prior direction from the Regional Board that must make specific findings to justify applying a total nitrogen effluent limitation in a municipal discharger’s waste discharge requirement. CVCWA proposes the following changes to reflect current state of regulations relating to total nitrogen effluent limitations (pg.100).

“Effluent limitations are often included for nitrate, or in certain situations for another nitrogen species (e.g., total nitrogen). However, when effluent limitations for other nitrogen species are used, the limitation must be accompanied by findings showing substantial justification for using another nitrogen species. The effluent limit should be set to account for the actual amount of nitrogen that is expected to convert to nitrate in the receiving waters after undergoing transformations in the soil profile.”

RESPONSE: Central Valley Water Board permit findings provide adequate basis for implementing effluent limits. Where the limit is based on a constituent without a numeric objective (e.g., total nitrogen), permits specify the basis and numeric value upon consideration of the narrative objective and protection of beneficial uses.

CVCWA Comment No. 15: Recommends breaking sentence referring to electrical conductivity in the Tulare Lake Basin into a separate paragraph because it relates to a different constituent (pg 100).

RESPONSE: Paragraph remains unchanged.

CVCWA Comment No. 16: The discussion on page C-11 does not acknowledge that the Regional Board must find a substantial justification for imposing an effluent limitation for total nitrogen. It also incorrectly implies that there is a MCL for total nitrogen or that the appropriate translation between nitrate and total nitrogen is the same. CVCWA proposes the following changes:

“Effluent limitations are also included for nitrate or total nitrogen and are set equal to the MCL of 10 mg/L nitrate as N. Effluent limitations for other nitrogen speciation such as total nitrogen must be accompanied by findings showing substantial justification for using a different nitrogen speciation, which does not have an MCL and is distinguishable from nitrate, and the limitation must be adjusted to account for the amount of nitrogen that is expected to convert to nitrate in the receiving waters after undergoing transformations in the soil profile.”

RESPONSE: See response to **CVCWA Comment No. 14.**

CVCWA Comment No. 17: For consistency with text that allows time schedule for future management zones (page 66) in the Nitrate Control Program, CVCWA proposes adding the following as a footnote to the text on page 20, 21, 54 and 224:

... or in circumstances when a management zone is not an available option.*

The discharger shall indicate how they intend to comply with the Nitrate Control Program, i.e., Path A or Path B, if a management zone exists.*

* If a Management Zone does not exist at the time of application, the Regional Water Board may use its discretion to issue a time schedule to the discharger for complying with the Nitrate Control Program through a later formed Management Zone.

RESPONSE: No additional footnotes were added. The text provides sufficient clarity that the Board retains all existing authority including the ability to issue time schedules to meet program requirements.

CVCWA Comment No. 18: On page 201, there is an expanded description of the Nitrate Control Program Goals which includes complying in all areas as soon as possible and can be interpreted to include all areas, even without groundwater basins or where not necessary. CVCWA proposes the following changes to be consistent with the Nitrate Control Program.

“The need to ensure a safe, reliable drinking water supply is the highest priority for the management of nitrate under the Salt and Nitrate Control Program and is to be complied with as quickly as possible. in all areas Groundwater Basins within the Central Valley Region have been prioritized to address the most impacted areas first.”

RESPONSE: No addition revision was added. Sufficient clarity exists in the current language.

CVCWA Comment No. 19: Additional text edits are needed for clarity and consistency as it relates to NPDES permitting and/or consistency between NPDES and non-NPDES programs for the following:

- a) To provide consistency between the text and table, and between programs, the following edits are recommended to Table S-1 (page 38) and Table 4-3 (page 207):

A Limited new or expanded allocation of assimilative capacity. Consideration if may be authorized only where a permittee can demonstrate that the impact of the new discharge or the increased discharge is temporary or de minimis. a Determinations are subject to the discretion of the Regional Water Board.

RESPONSE: The tables noted are summaries and have not been changed.

- b) Page 40—clarify that permit limits are set only if required by reasonable potential. CVCWA proposes the following changes:

“1. Permit Provisions – Permit limitations, if required, shall be set as follows:”

- c) Clarify that changes triggering the provisions for salt and/or nitrate are due to increases in concentration or mass. CVCWA proposes the following changes:

Page 46 and 217

“A new permittee, or existing permittee seeking a permit modification due to a substantial and/or material change which increases salt concentration or load to from a facility, shall indicate how the permittee intends to comply with the Salt Control Program at the time of application and provide the required information to support the decision, as described above.”

Page 340

“(after a permittee in a prioritized basin receives a Notice to Comply or plans on making a material change to their discharge that increases nitrate in the discharge and subjects them to the Nitrate Control Program) will be for the permittee to conduct an initial assessment of groundwater conditions and to characterize nitrate conditions in their discharge.”

RESPONSE to b) and c): Proposed revisions have been incorporated.

- d) Page 41 and 212—revise for consistency as it (1) provides clarity that was discussed and agreed to during CV-SALTS discussions, (2) provides uniformity with areas of the document where changes were triggered by increases in discharges and (3) provides consistency in approaches between ground and surface water for salts.

“The Regional Water Board may consider maintaining any previously approved allocations of assimilative capacity, if there have been no material changes to the discharge and the previously approved allocation was granted with the support of an antidegradation study or analysis.”

RESPONSE: Proposed revisions have not been incorporated. This change to the language would limit the Board’s flexibility. A material change could be very minor and not impact the mixing zone size, or impact any beneficial uses. In these instances, the Board may want to continue the mixing zone.

CVCWA Comment No. 20: CVCWA appreciates the Proposed Amendments’ implementation language concerning translators. Attachment A is a memorandum for inclusion in the record that summarizes raw and finished water concentrations data to demonstrate the removals that occur in Central Valley drinking water treatment plants. This data supports the continued use of dissolved measurements in the NPDES permitting program and the future use of translators to recognize the removals of Secondary MCLs that occur prior to delivery of finished tap water to drinking water users. This data also illustrates that Secondary MCL constituents are not currently a significant problem to drinking water agencies in terms of compliance with Safe Drinking Water Act Secondary MCL requirements in finished water.

RESPONSE: The proposed Basin Plan amendment has been revised to remove all reference to "dissolved" measurements and the development of "translators." This was done to make it clear that the Board is not proposing to adopt new water quality objectives for Secondary MCLs. Instead, the revised language states that compliance with the Secondary MCLs for metals will be assessed using a sample that has been passed through a 1.5 micron filter to reduce suspended solids (consistent with the procedure specified in EPA Method 160.1). This approach more closely approximates the level of filtration that occurs in conjunction with conventional drinking water treatment then would using the 0.45 micron filter normally employed when attempting to characterize compliance with "dissolved" metals objectives that are intended to protect aquatic life. The Board may adjust the filter size where necessary to more accurately represent site-specific conditions based on scientific evidence submitted for their consideration and after consultation with Division of Drinking Water and public comment.

The Board appreciates receiving the data and analysis provided by CVCWA which appears to indicate that local water treatment plants are consistently complying with the Secondary MCLs in their finished tap water. The Board believes that it is equally important to emphasize our commitment to implement the Basin Plan in a manner that ensures continuing compliance with the Secondary MCLs without imposing unnecessary new treatment obligations on either the drinking water purveyors or the permitted dischargers.

CVCWA Comment No. 21: The Proposed Amendments’ implementation language currently limits the availability of translators for Secondary MCLs to only metals, color, and turbidity. There are other constituents with Secondary MCLs for which translators may be warranted.

Accordingly, CVCWA requests that the following revisions be made to the Proposed Amendments on page 111 to broaden the discussion of translators:

"For receiving waters that are not exempt from surface water filtration requirements, the use of dissolved ~~samples metal~~ to set and measure compliance with metal constituents (aluminum, copper, iron, manganese, silver and zinc) in Table 64449-A as well as turbidity, odor threshold, and color.

Pursuant to the above paragraph, for a period of no more than 10 years or upon development of a translator, reasonable potential analysis will be conducted based on dissolved ~~metals~~ data using a 0.45-micron filter in accordance with Federal Regulations, 40 CFR Part 136. In cases where effluent limitations are required per federal NPDES regulations, the permit will allow development of a translator ~~to convert the dissolved objective to effluent limitations based on total metals~~.

Unless translators are developed, aAfter 10 years from effective date, ~~or within one year after appropriate translators are developed if before 10 years, translators will be used to conduct reasonable potential analysis~~ will be assessed using total ~~metals~~ effluent data and to establish limitations in NPDES permits, where required under federal regulations for ~~metal~~ constituents in Table 64449-A.

Appropriate studies will be conducted during the 10 years to establish the appropriate guidance and application of translators ~~to be used to convert total to dissolved fractions~~. Translators may be determined by water body segment, water body or region, taking into account the location of existing drinking water treatment facilities, current state and federal drinking water treatment requirements and existing treatment capabilities, and the anticipated change in source water at the drinking water treatment facility."

RESPONSE: See response to **CVCWA Comment No. 20**.

CVCWA Comment No. 22: Similar changes suggested in the above Comment No. 25 should be made to the language on Page 306 of the Staff Report for consistency.

RESPONSE: See response to **CVCWA Comment No. 20**.

CVCWA Comment No. 23: CVCWA agrees that in implementing the current Basin Plan language which recognizes treatment requirements, it is appropriate for dischargers to work collaboratively with Regional Water Board staff and water purveyors to better understand natural background conditions, trends, and filtration and disinfection procedures that better represent area treatments systems supplying drinking water. It also may be appropriate to develop guidelines in conjunction with the Division of Drinking Water and affected stakeholders in the future to support how the following existing Basin Plan provision would be considered when assessing waterbodies and developing WDRs for discharges to inland surface waters:

"The Regional Water Board acknowledges that specific treatment requirements are imposed by state and federal drinking water regulations on the consumption of surface waters under specific circumstances."

RESPONSE: The Board appreciates CVCWA's acknowledgement that successful implementation of the proposed Basin Plan language will require significant input and collaboration with the drinking water treatment system operators and the Division of Drinking Water. The draft Guidelines published as Appendix G to the Staff Report are intended to affirm the Regional Board's commitment to those same principles.

CVCWA Comment No. 24: Secondary MCLs are applicable to community water systems. CVCWA suggests when the text in the Proposed Amendments is specifically talking about Secondary MCLs as they relate to drinking water standards of Title 22, the term "community water systems" rather than MUN or municipal and domestic supply should be used. To the extent the discussion is about the water quality criteria, the latter would be appropriate.

RESPONSE: While it is true that Title 22 applies the Secondary MCLs to "community water systems," it is not true that the Board intended to restrict these protections solely to such systems when the Secondary MCLs were subsequently adopted into Chapter 3 (Water Quality Objectives) of the Basin Plans. The Board is committed to provide similar levels of protection regardless of how drinking water is produced or distributed. This commitment is consistent with the values expressed in Section 106.3 of the Water Code and State Board Res. No., 2016-0010 and Regional Board Res. No. R5-2016-0018, all of which affirm the human right to safe, clean affordable and accessible water adequate for human consumption. These policies do not limit such protection to only those connected to a community water system.

CVCWA Comment No. 25: [T]he Short Term range is also under the umbrella of Title 22 regarding human welfare and consumer acceptance.

RESPONSE: The proposed Basin Plan amendment includes text that explicitly acknowledges that the Short-Term values for some Secondary MCLs may be used temporarily under certain conditions as is described in Section 64449(d)(3) of Title 22.

CVCWA Comment No. 26: CVSC proposes the following changes related to applicability of SMCLs and Short Term Values:

a) Page 11

"For community water systems ~~MUN-supply~~, TDS concentrations at or below 500 mg/L are recommended with an upper range of 1,000 mg/L and a short-term range up to 1,500 mg/L to protect human welfare and provide for consumer acceptance (Title 22 of the California Code of Regulations)."

b) Page 159

"For ~~municipal and domestic supply~~ community water systems, TDS concentrations at or below 500 mg/L are recommended with an upper range of 1,000 mg/L and a short-term range up to 1,500 mg/L to protect human welfare (such as limiting corrosion of pipes) and provide for consumer acceptance."

RESPONSE to a) and b): Proposed short-term range language for comments a and b were accepted. Staff has made modifications to the Staff Report.

CVCWA Comment No. 27: The goals for the Salt and Nitrate Monitoring Program includes a reference to developing “statistically-defensible ambient water quality determinations and trends.”. The phrase “statistically-defensible” should be removed and replaced with “sufficiently robust”, the language used in the Proposed Amendments. CVCWA recommends using the phrase “sufficiently robust” on pages 14, 226, and elsewhere when describing the goals of the Surveillance and Monitoring Program.

RESPONSE: Language was revised to “statistically representative” per discussion with the CV-SALTS Executive Committee.

CVCWA Comment No. 28: The Proposed Amendments under Surveillance and Monitoring Program should recognize the use of SAMP data reports as a default source on page 65. CVCWA proposes the following changes:

“May use default information in or referenced by, the Central Valley SNMP (2016), periodic assessments provided through the Surveillance and Monitoring Program, or provide supplemental information that includes water quality conditions in the shallow and upper zones; ...”

RESPONSE: The language was not revised since the context is when a permittee receives a Notice to Comply which is likely to occur prior to data being available from the proposed Surveillance and Monitoring Program.

CVCWA Comment No. 29: Requests that the 10-year maximum duration for a variance under the proposed Variance Policy be removed and replaced with a reference to the necessary justification an applicant must provide. CVCWA proposes the following changes: \

“A variance or any renewal thereof shall be for a time as short as feasible and shall not be granted for a term longer than ~~ten years~~ justified in the applicant’s request.”

RESPONSE: Proposed changes were not accepted. Variance are to be temporary so a 10-year term is appropriate. The approved Variance may be renewed if sufficient justification is provided.

CVCWA Comment No. 30: Page 95—the following should be removed or modified to be applicable to variances, which are a surface water tool.

“No proven means exist at present that will allow ongoing human activity in the basin and maintain groundwater salinity at current levels throughout the basin.”

RESPONSE: Removed “groundwater” to be consistent with variances.

CVCWA Comment No. 31: Page 95—Recommends the Salinity Variance sunset date to be extended from 15 years to 20 years or at a minimum, 16 years from the Notice to Comply.

RESPONSE: Proposed changes were not accepted. The proposed sunset date is consistent with Phase I of the proposed Salt Control Program which is scheduled for completion within 10 years, but which can be extended for an additional five years.

CVCWA Comment No. 32: Page 97: paragraph F—Requests that the following the first sentence regarding the necessary demonstration for a salinity variance, the proposed amendment should state that if such a showing is not able to be made, a salinity variance could still be approved through the use of the general variance authority that exists in the basin plans.

RESPONSE: Proposed changes were not accepted. The additional language is not necessary. The authority to grant variances under the general authority is not being changed.

CVCWA Comment No. 33: Page 23—Language used regarding when variances are commonly employed is not consistent with the purpose and use of variances. CVCWA proposes the following changes:

“Variances are most commonly employed when there is no feasible, practicable or reasonable means for a point source discharge to surface water governed under the federal Clean Water Act, to meet water quality standards, when evaluating if a beneficial use or water quality standard is appropriate and attainable, or when a use or standard is unattainable today (or for a limited period of time) but feasible progress could be made toward attaining the designated use and criterion in the future. ~~and it is not feasible, practicable or reasonable to prohibit the discharge.~~”

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 35: Page 44: paragraph 2—The discussion related to NPDES surface water discharges choosing the Alternative Salinity Permitting Approach appears to limit the availability of variances to only those dischargers that cannot meet receiving water limits. It is unclear why variance availability is limited in this fashion. This should be expanded to include those dischargers who cannot meet applicable effluent limitations, as well.

RESPONSE: See response to **CVCWA Comment No. 12.**

CVCWA Comment No. 36: Page 46 and 217—Variances should be included as one of the options for the Regional Board in case where a time schedule order (TSO), Compliance Schedule, or previously approved variance expires in Phase I. CVCWA proposes the following changes:

“If the permittee has an approved salinity-related Time Schedule Order, ~~or~~ Compliance Schedule, or variance that expires prior to the completion of the Phase I P&O Study, the Regional Water Board, at its discretion, may extend the Time Schedule Order or Compliance Schedule, or renew or grant a variance, as appropriate and allowed by other applicable policies.”

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 37: Page 6—Under the main environmental setting heading, CVCWA proposes the following changes:

“The Salt and Nitrate Control Program is applicable to waters apply to all surface and groundwater within the Central Valley Region. The Salt Control Program applies to all surface and ground water with MUN and AGR designations and the Nitrate Control Program applies to all groundwaters with a MUN designation.”

RESPONSE: Clarification language was added to the Staff Report on page 6.

CVCWA Comment No. 38: Page 10—Under the surface water heading, the Proposed Amendments state that one water body in the Sacramento River Region is impaired for nutrients. CVCWA requests that this statement be deleted, since it is not indicative of a human health-based nitrate problem and may be misleading, particularly given the fact that this statement immediately follows discussion of the primary MCL for nitrate.

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 39: Page 10—The statement that salt is exported from the Sacramento River region to the Delta and the San Joaquin and Tulare Lake regions should be revised or removed. The statement implies that Sacramento River salinity is the cause or a contributor to the salinity issue in the San Joaquin and Tulare Lake regions. High salinity exports occur when riverine freshwater inflows are low and water project pumps in the Delta and tidal action draw saline water from the Bay. If the statement is not removed, it should be moved to the Delta Region description two paragraphs down in the Staff Report.

RESPONSE: Proposed changes were not accepted. Salt moves with water and although the Sacramento River has low salinity concentrations, the volume of water carries significant salt loads which remain after the water is consumptively uses.

CVCWA Comment No. 40: Page 11—Under the salinity in groundwater heading, the Proposed Amendments state that concentrations of salt are anticipated to have a severe impact on irrigated agriculture. This assertion is based on information contained in the Ayers and Westcot, 1985 study, which is known to be a conservative basis for assessing impacts to agriculture. The actual impact would depend on crop type, irrigation practices, and other factors. CVCWA requests that the Proposed Amendments acknowledge the conservatism of the statement made and the factors that control salt impacts on crops. Additionally, the discussion of salt concentrations in MUN supplies should include the short term range maximum: “For MUN supply, TDS concentrations at or below 500 mg/L are recommended with an upper range of 1,000 mg/L, and a short-term range up to 1,500 mg/L, to protect human welfare and provide for consumer acceptance...”

RESPONSE: Proposed changes were partially accepted. The proposed change regarding adding a short-term range has been incorporated into the report; however, no additional discussion was provided on Page 11 related to the conservatism of the Ayers

and Westcot study. The particular section noted is being utilized specifically to indicate broad, potential problem areas which need further evaluation which are proposed under the P&O Study.

CVCWA Comment No. 41: Page 11—Under the nitrate in groundwater heading, the Proposed Amendments state that elevated nitrate levels occur in central and eastern portions of the valley floor rather than along the west side. It is requested that this statement be modified to state that “elevated levels of nitrate mostly occur in the San Joaquin Valley.” This revised statement is more consistent with the information provided in Table B-2.

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 42: Page 143 and 145, both the Sacramento River and Tulare Lake Land Cover and Land Uses sections should include information on mountain ranges including the Sierras, Tehchapi, Coastal Range and Foothills.

RESPONSE: Comment noted.

CVCWA Comment No. 43: The propose Amendments are clear that the Executive Officer has the authority to extend completion dates for the Priority and Optimization Study (P&O Study) and Management Zones, but is silent that this authority also extends to milestones, which are included in many locations of the Proposed Amendment. CVCWA recommends this authority be clear:

a) Page 34

“the completion date, and interim milestones for any phase....”

b) Page 41—Add the following at the end of the first paragraph under the Phase 1 Alternative Salinity Permitting Approach heading:

“At the discretion of the Regional Water Board Executive Officer, the completion date or milestones may be modified or extended”

c) Page 205

“At the discretion of the Regional Water Board Executive Officer, the completion date for any phase or milestone may be modified or extended up to five years based on the need to develop Basin Plan amendments to support implementation of the next phase, reduction in anticipated staff resources, or other factors.”

RESPONSE to a) and c): Proposed changes were partially accepted. Language proposed in “a)” was incorporated; language proposed in “b)” was not since the following paragraph provided recommended clarification; and language proposed in “c)” was slightly modified but contains same intent.

CVCWA Comment No. 44: The Tulare Lake Basin Plan on Page IV-5 contains a forward that we recommend be updated for consistency with CV-SALTS, the Proposed Amendments and

the SNMP. Other specifics are unclear if they should remain in the Basin Plan or if they should be updated or removed. CVCWA proposes the following changes:

“Degradation of ground water in the Tulare Lake Basin by salts is unavoidable without a plan for removing salts from the Basin. A Salt and Nitrate Management Plan (SNMP) was developed in 2016. A valleywide drain to carry salts out of the valley remains the best technical solution to the water quality problems of the Tulare Lake Basin. The drain would carry wastewater generated by municipal, industrial, and agricultural activities, high in salt and unfit for reuse. While other management actions are being evaluated and planned for, the only other solution is to manage the rate of degradation by minimizing the salt loads to the ground water body.”

RESPONSE: Changes have not been incorporated in these proposed Amendments but may be incorporated during future clarifications to the Basin Plan to identify the Salt and Nitrate Control Program.

CVCWA Comment No. 45: The following is for consideration of appropriateness given the Proposed Amendments:

- a) Long-term continuous biological monitoring would be required. (*Note that this may not be necessary if this is by pipe rather than drain.*)
- b) The Regional Water Board also encourages proactive management of waste streams to control and manage salts that remain in the Basin. Application or disposal of consolidated treated effluents should be to the west, toward the drainage trough of the valley. (*Siting to be determined by the P&O Study.*)
- c) If feasible, salts in waste streams should be processed for reuse to reduce the need to import salt. Salt import should be reduced by assuring that imported water is of the highest quality possible. Water conveyance systems used to import water into the Basin should not be used to transport inferior quality water. (*Since recycled water from the SF Bay area is a component of the P&O study, this may be inconsistent with the last two points.*)

RESPONSE: It is inappropriate to changes these considerations until completion of the P&O Study.

CVCWA Comment No. 46: Page 51 and 52—Revise language concerning source control as follows to be consistent with CV-SALTS:

“The incremental increase in salts from use and treatment must be controlled to the extent that is reasonable, feasible and practicable possible.”

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 47: User Protection is a primary goal of CV-SALTS and the Proposed Amendments and therefore in addition to improvements in water quality, should be a reason for justification for modifications, prioritizations and offsets. See CVSC letter. CVCWA proposes the following changes:

a) Page 70

“Any such modifications should generally be changes that will benefit water quality or user protection in the management zone.

b) Page 107: Paragraph 1

“However, offsets may also be used to incentivize implementation of some large-scale projects such as a regional regulated brine line or establish a mitigation fund to provide safe drinking water, provided that the offsets still result in a positive net effect on receiving water quality or user protection.”

RESPONSE:

- a) Proposed changes were accepted and staff has modified the language in the Staff Report.
- b) Proposed changes were not accepted as any offset project must be linked to improvement in the receiving water body’s quality for substantially the same constituent.

CVCWA Comment No. 48: Recommends the revisions to page 99 below to clarify that a permittee may be in one or both programs, not necessarily both and that exceptions, like variances, are an appropriate tool when a water quality standard should be changed.

“The Regional Water Board finds that it is reasonable to grant exceptions to the discharge requirements related to the implementation of water quality objectives for salinity, nitrate and boron for non-NPDES dischargers to surface water, and for discharges to groundwater ~~in order to allow for development and implementation of the SNMPs~~ if the permittee is actively participating in the implementation of the long-term Salt and/or Nitrate Control Program and it is either infeasible, impracticable or unreasonable to prohibit the discharge, or it is preferable to have a discharger and/or area specific and time-limited exception rather than a more lasting water quality standard revision, or where a water quality standard should be revised.”

RESPONSE: Part of the proposed changes were accepted and staff has modified the language in the Staff Report to meet the intent of the comment.

CVCWA Comment No. 49: Page 101 reads as if mitigation responsibilities may be appropriate for all exceptions, including salt and/or boron. CVCWA recommends this to be clarified.

“(6) Requirements associated with seeking and approving an exception shall include, but are not limited to: eligibility criteria, mitigation responsibilities (for nitrate), monitoring/reporting obligations, and expectations relevant to implementing the SNMP Management Goals.”

RESPONSE: Proposed changes were not accepted as mitigation may be required for other constituents and the section noted covers both nitrate and boron.

CVCWA Comment No. 50: Regarding the Offsets Policy, both the Executive Summary and the language of the Proposed Amendments provide that offsets are available when “the combined

net effect on receiving water quality is functionally-equivalent to or better than that which would have occurred by requiring the discharger to comply with its [Waste Discharge Requirements] at the point of discharge.” (Proposed Amendments, page 15.) The phrase “functionally-equivalent to or” should be removed from this sentence and the substantially similar sentence on page 107 because these words create an unattainable constraint in a spatial context, and are unnecessary.

RESPONSE: Proposed changes were not accepted. Details provided under the requirements clarify use and expectations applicable to offsets.

CVCWA Comment No. 51: Recommends the following edit on page 107 so that this paragraph aligns with paragraph 1 on page 107 which recognizes the benefits of regional projects.

“In most cases, an offset project for nitrate or salt discharges should be located within the same groundwater basin/subbasin or management zone as the regulated discharge and is applicable to groundwater only.”

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 52: As discussed in CV-SALTS Executive Policy meetings, offsets should be allowed for the same class of constituents. CVCWA proposes the following changes to page 108.

“(3) Offsets should be for the same ~~pollutant~~ class of constituents.”

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 53: Hydrologic conditions, i.e. rainfall, are part of an overall salt and/or nitrate balance and should be accounted for, as directed in the Woodland Order and consistent with the Dixon Site Specific Objective and the Lower San Joaquin River salinity objectives archetypes. CVCWA recommends the following modification to Goal 2 on page 201:

“The nitrate mass balance will need to account for hydrologic conditions, as well as nitrate taken up by crops and losses of nitrate from the nitrogen cycle in soil, including denitrification in the root zone by soil microbial activity and volatilization to the atmosphere. Current regulatory activities are moving toward this goal through source control activities.”

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 54: Fixed Dissolved Solids (FDS) are appropriate to add to the list of salinity constituents, as another measurement of salinity. CVCWA proposes the following changes:

a) Page 85

“SALINITY: For purposes of implementing the Salt and Nitrate Control Plan, the definition of “salinity” and “salt” includes only: electrical conductivity, total dissolved solids, fixed dissolved solids, chloride, sulfate, and sodium.”

b) Page 100

“For the purposes of this Program, salinity and its constituents include, and are limited to, the following: electrical conductivity, total dissolved solids, fixed dissolved solids, chloride, sulfate and sodium.”

RESPONSE: Proposed changes from comments a and b were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 55: On page 16, edit the text in the table on secondary MCLs to reflect that averaging periods are recommended as part of the SMCL objectives, rather than implementation in the Proposed Amendments:

RESPONSE: Proposed changes were accepted and staff has modified the language in the Staff Report.

CVCWA Comment No. 56: Under Chapter 3 Water Quality Objectives, CVCWA proposes the following changes:

“Determine compliance based on annual average of sample results for surface water and appropriate long-term averages for groundwater.”

RESPONSE: The proposed changes were not accepted; however, staff has modified the language in the Staff Report to clarify annual averaging for surface water, appropriate long-term averages for ambient groundwater, and annual averages for discharge limitations prescribed in Waste Discharge Requirements to groundwater.

CVCWA Comment No. 60: Under Chapter 4 Implementation, CVCWA proposes several recommendations for *Application of Secondary Maximum Contaminant Levels to Protect Municipal and Domestic Supply* including clarifying use of “Short Term” levels, providing flexibility to determine compliance using tests other than total for aluminum, color, copper, iron, manganese, silver, turbidity and zinc, and removing the reference to a compliance time period.

RESPONSE: Several changes have been incorporated into the proposed SMCL amendments which address the recommendations noted by the commenter.

CVCWA Comment No. 61: On Page 19, the text infers the prioritization is through the basin plan and through the SNMP. The language should be consistent regarding prioritization. CVCWA suggests revise the text for consistency or establish process for prioritizing basins and remove or revising footnote 5.

RESPONSE: Clarification has been added to the text.

JOE DIGIORGIO

Comments were received from Joe DiGiorgio, Professional Engineer, Nexgenum, on 7 May 2018.

DIGIORGIO Comment No. 1: Why is achieving a salt balance stated as a primary goal for salinity management when it has very little to do with the resultant salinity of the waters being protected? For one example, an area with zero salt movement in or out of an area, that grows crops or has cooling towers using local water, will salinize over time as the water is consumptively used. As another example; large amounts of salt may be imported in high quality water, that if used for groundwater recharge, may dramatically lessen the salinity of the water in a management area.

RESPONSE: Comments noted. Based on the Initial Conceptual Model (ICM) Studies (ICM Task 5 and ICM Tasks 7 & 8 Reports), approximately 7 million tons of salt accumulates within the Central Valley each year, mostly through the consumptive use of surface water, especially in areas with little precipitation or where natural river flows have been diverted and no longer flush accumulating salt out of these areas (such as in the Southern San Joaquin Valley) or water is imported into closed basins (such as the Tulare Lake Basin). A first step for overall salt management within the Central Valley is to mitigate this accumulation of salt. The influx of salt into the valley has to be balanced by the export of salt out of the valley, whether that export be through the use of desalinization plants and a regulated brine line, as recommended in the CV-SALTS Salt and Nitrate Management Plan, or through some other mechanism. To address the accumulation of salt, the first phase of the Salt Control Program, the Prioritization and Optimization Study (P&O Study), is intended to develop the necessary projects to achieve salt balance within the Central Valley, as well as identify other measures that could reduce overall groundwater salinity, such as recharge of groundwater with excess stormwater flows or as the commenter has mentioned, recharge with imported, high quality surface waters.

DIGIORGIO Comment No. 2: Has consumptive use been assessed as a primary driver of salinization in the modelling used to assess economic costs that result from salinization and its management?

RESPONSE: It was unclear from the comment whether the commenter was referring to the calculation of economic cost if salinity management did not change in the Central Valley (Howett, et al., 2009) or if the economic cost referred to is the cost to agriculture identified in Section 8 of the Staff Report. Consumptive use of imported surface water for agricultural irrigation was considered in both evaluations. However, the initial cost estimates in Section 8 are preliminary and will be further refined during the Salt Control program's initial phase through the P&O Study.

DIGIORGIO Comment No. 3: Has the dissolution of solids as water is applied to the ground (i.e. rainfall and irrigation) been assessed as the primary source of salinity in a basins' waters in the modelling used to assess economic costs and management of salinity? For example, see figure below:

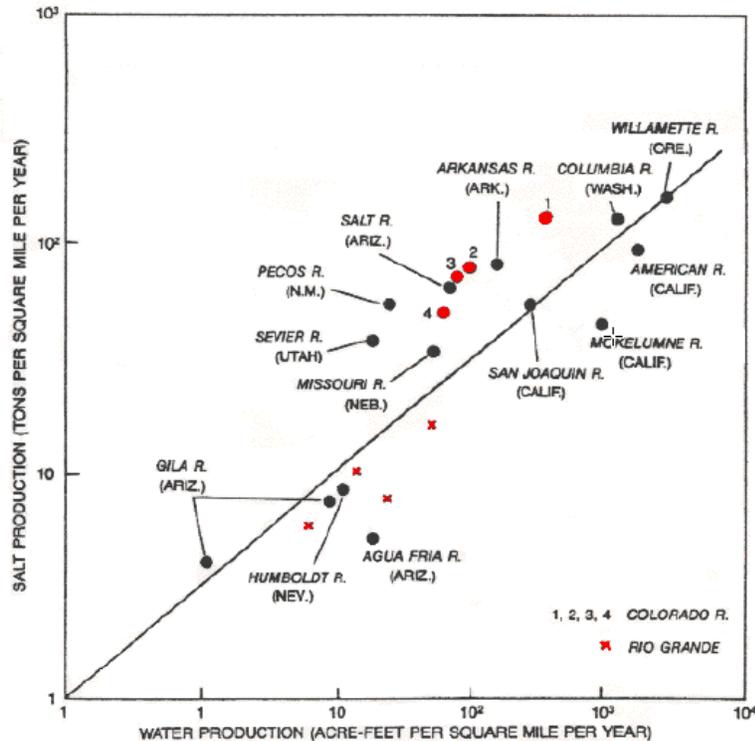


Figure reference: Pillsbury, A.F. 1981. The Salinity of Rivers. Scientific American. 245(1):54-65

RESPONSE: Dissolution of solids from applied water was assessed as a source of salinity during the Initial Conceptual Model Study modeling and was considered in the initial estimated costs. The WARMF model was used to estimate salt load to groundwater for the Initial Analysis Zones (IAZs), which includes a salt component from dissolution of soils. The estimated net salt accumulation mass generated from the ICM work was then utilized in the Strategic Salt Accumulation Land and Transportation Study (SSALTS) to help determine what salt management measures and/or salt management projects would be needed to attain salt balance and also to develop the high level conceptual cost for those measures and projects. However, as indicated in our response to Comment 2., these initial cost estimates are very conceptual and will be further refined during the Salt Control program's initial phase, the P & O Study.

DIGIORGIO Comment No. 4: If points 2 and 3 are not accounted for, how accurate can the stated costs for salinity management be?

RESPONSE: As indicated in our responses to Comments 2 and 3, both of these salinity sources were accounted for in the modeling effort for Initial Conceptual Model Studies, therefore the estimated cost are of sufficient accuracy for the intended use as a high level conceptual cost estimate.

DIGIORGIO Comment No. 5: If points 2 and 3 are not accounted for, how effective can resultant management efforts be?

RESPONSE: See response to **DIGIORGIO Comment No. 4.** Both salinity sources were accounted for in the modeling effort for Initial Conceptual Model Studies and

therefore the high level conceptual salinity management efforts proposed should be reasonably effective. However as noted above, these salt management efforts are preliminary and more detail conceptual designs for salt management projects and measures will be developed during the P & O Study, initial phase of the Salt Control Program.

LEADERSHIP COUNSEL FOR JUSTICE & ACCOUNTABILITY (LCJA), CLEAN WATER FUND (CWF), COMMUNITY WATER CENTER (CWC), AND ENVIRONMENTAL LAW FOUNDATION (ELF)

Comments were received from Michael K. Clairborne, Attorney representing Leadership Counsel for Justice & Accountability, Deborah Ores, Attorney and Legislative Advocate representing the Community Water Center, Jennifer Clary, Water Programs Manager representing the Clean Water Fund and Nathaniel Kane, Staff Attorney representing the Environmental Law Foundation, on 7 May 2018.

First, note that the comment letters received prior were taken into consideration in the development of the Basin Plan Amendments, which were substantively different in many respects from the SNMP. Therefore, we will be only responding to the comments in this letter, which address the proposed Basin Plan Amendments.

LCJA, et al. Comment No. 1: Commenter expresses concerns that the process was inadequate. “Decisions were made at the last minute with limited review time, and our comments and amendments were not given adequate consideration.”

RESPONSE: The Central Valley Water Board has been committed, for over a decade, to a protracted stakeholder process that has provided more opportunities for participation by the public and by all affected stakeholders than any other regulatory effort that the Central Valley Water Board has ever engaged in. Due consideration was given to comments made by environmental justice advocates. As initially envisioned, CV-SALTS was not a program to address nitrates. The Board and participating stakeholders dramatically changed the scope of the proposed project in response to comments from environmental justice advocates.

LCJA, et al. Comment No. 2: There has been little outreach to people who will be most impacted by this amendment.

RESPONSE: This comment is not supported by the administrative record, which is filled with examples where the Board and entities participating in the CV-SALTS process provided forums for discussion with those that would be affected by the regulatory process. These forums were attended by affected persons and their representatives.

LCJA, et al. Comment No. 3: Insufficient detail as to how the goals will be achieved.

RESPONSE: The goals of the proposed Basin Plan Amendments will be achieved through the regulatory provisions that will be added to the Basin Plans. Achieving the three goals will be a lengthy iterative process where the public and affected stakeholders will be able to monitor and provide input on progress towards meeting those goals.

LCJA, et al. Comment No. 4: Commenter seeks greater requirements for management zones, including “a duty to continually look for and test potentially impacted wells and provide safe drinking water to newly-discovered impacted residents in a timely fashion, written

assurances of how and when permanent drinking water solutions will be provided, a requirement that communities who are paying for nitrate treatment receive assistance or be reimbursed, [and] an acknowledgement that the application of assimilative capacity on a large scale will result in pollution hot spots and a requirement that these hot spots will be identified and particular wells tested.” The commenter makes general recommendations that these issues be addressed.

RESPONSE: Management Zone proposals, which can be submitted by dischargers who elect that particular compliance pathway, will undergo extensive review by both the Central Valley Water Board and the public. The following is from the Basin Plan Amendment language applicable to Management Zones:

- Where groundwater within the Management Zone boundary, and groundwater impacted by those permittees within the Management Zone boundary, is being used as a drinking water supply, and where those drinking water supplies are impacted by nitrates and exceed or are likely to exceed nitrate drinking water standards in the foreseeable future, Management Zone participants will ensure the provision of safe drinking water to all residents in the area adversely affected by those dischargers of nitrates from those that are participating in the Management Zone.
- Ensure the provision of safe drinking water for the Management Zone through stakeholder coordination and cooperation.

LCJA, et al. Comment No. 5: Commenter states that the proposed Basin Plan Amendments undermine ILRP Orders, which require compliance in 10 years. The Commenter suggests requiring all dischargers come into compliance with water quality standards in 10 years.

RESPONSE: As extensively documented in the materials supporting the Board’s Staff Report, it is technically infeasible for most agricultural dischargers to consistently comply with a nitrate standard of 10 mg/L in the groundwater beneath their agricultural lands. Implementation of the proposed Basin Plan Amendments will include amendments to the ILRP Orders to make them consistent with the revised Basin Plans following the adoption of the proposed Basin Plan Amendments.

LCJA, et al. Comment No. 6: Commenter takes issue with the fact that Goal #3 only requires restoration of impacted aquifers, “where reasonable, feasible, and practicable.” Commenter states that this is “an abdication of the Board’s authority and responsibility to protect water quality for beneficial uses.”

RESPONSE: The Central Valley Water Board is vested with the authority to formulate and adopt water quality control plans, which designate beneficial uses to be protected, water quality objectives, and a program to meet the objectives. (Wat. Code, §§ 13050, subd. (j), 13240.) Considerations of economic and technical feasibility are required elements of any basin planning exercise. (Wat. Code, § 13241.) In weighing these considerations, and by making difficult decisions, the Board is by no means abdicating its authority.

LCJA, et al. Comment No. 7: Commenter notes that “alternative options for defining shallow groundwater for individual dischargers [as opposed to the 10% of domestic wells]” are not protective of water quality. Commenter notes that averaging will create “impacts [that] will be felt most by communities of color reliant on domestic wells and small water systems.”

RESPONSE: Given the extreme variability of the Central Valley Region, binding the Board to a single means of defining shallow groundwater would not make sense. The Basin Plan is formulated with a default option that will allow flexibility where such flexibility is warranted.

LCJA, et al. Comment No. 8: Commenter states that “[w]e assume [assimilative capacity] is at the individual discharger level (though we reiterate the need for field-level determination of assimilative capacity, rather than at the discharger level) rather than based off the entire Coalition’s geographic scope but want to ensure this is clarified.”

RESPONSE: The expense and futility of conducting a field-by-field characterization of underlying groundwater conditions, much less concentration fluctuations that have occurred since 1968, is well documented in the materials supporting the Staff Report. Should a Coalition determine that groundwater beneath their facilities, as measured in the shallow zone, meets the conditions of the Path A Permitting Approach, the permittee could be permitted through that approach.

LCJA, et al. Comment No. 9: CV-SALTS management zones allow dischargers to, “avoid mitigating the impacts of nitrate contamination on communities who have, often at high cost to their customers or themselves, already begun treating their water.” Although the commenter notes that the proposed Basin Plan Amendments do not prohibit this, Commenter states that, “it must be clear within the proposed Basin Plan Amendments that they are included within the path towards a sustainable solution for all communities dealing with an active source of nitrate contamination.”

RESPONSE: The Nitrate Control Program intentionally prioritized the provision of drinking water for those who are currently relying on drinking water that is impacted by nitrates. While communities that have proactively addressed their drinking water problems are not as high of a priority, they will be given a full opportunity to participate in the Management Zone approval process, which requires public outreach and participation.

LCJA, et al. Comment No. 10: Averaging nitrate concentrations across management zones will allow nitrate contamination to get progressively worse, because relatively little horizontal mixing will occur. Commenter states that this will result in impacts to “communities of color reliant on domestic wells and small public water systems.” Commenter suggests that averaging only be allowed where “horizontal mixing will occur.”

RESPONSE: This comment is unsupported. Averaging nitrate concentrations in management zones is a metric to judge progress towards balance and aquifer restoration; permittees must still make significant and meaningful efforts to reduce nitrogen loading rates. Collaborative efforts to address impacts to drinking water supplies as prescribed by the Nitrate Control Program will ensure that there will not be adverse impacts to any community as a result of the adoption of the proposed Basin Plan Amendments.

LCJA, et al. Comment No. 11: Groundwater protection targets required in the East San Joaquin Petition, “are only one means of source control and will not ensure restoration of the Valley’s groundwater basins.”

RESPONSE: Agreed. The intent of the Management Zone strategy is to allow a wide range of regulatory tools to be used to address nitrate impacts – groundwater protection targets are but one of those tools.

LCJA, et al. Comment No. 12: Commenter suggests that the boundaries of groundwater management zones could be drawn to exclude communities that have been impacted by dischargers participating in the management zone.

RESPONSE: The Board expects the drawing of Management Zone boundaries to be one of the largest challenges in implementing the Nitrate Control Program. The drawing of Management Zone boundaries will be subject to a public process that will allow communities to participate in developing sustainable drinking water solutions for impacted water users within the boundaries of the Management Zone. Complete Management Zone Implementation Plans must, “[consider] areas outside of the Management Zone that may be impacted by discharges that occur within the Management Zone boundary areas.”

LCJA, et al. Comment No. 13: The Staff report is inconsistent in stating that management zones cannot be larger than a basin. Commenter contends that management zones, “in no circumstance should be larger than a sub-basin.” Commenter suggests that, “[i]f the regional Board wants to allow for a governance structure that covers multiple management zones which spans more than one basin or subbasin then this must be clarified within the basin plan amendment.”

RESPONSE: Upon review of the proposed Basin Plan Amendments, the Board cannot find the inconsistency that commenter points out. Governance of a management zone should be allowed to cover multiple basins, if permittees determine that this is a cost-effective way of conducting the necessary technical studies and arranging for financing. The commenter appears to be primarily concerned with “hot spots,” but such areas must be mitigated under the applicable provisions of the Nitrate Control Program:

The Final Management Zone Implementation plan must include [an identification of] how emergency, interim and permanent drinking water needs for those affected by nitrates in the Management Zone area are being addressed ... how a drinking water supply that ultimately meets drinking water standards will be available to all drinking water users within the Management Zone boundary, and the timeline and milestones necessary for addressing such drinking water needs ... how the Management Zone plans to achieve balanced nitrate loadings within the management zone (to the extent reasonable, feasible and practicable) ... a plan for establishing a managed aquifer restoration program to restore nitrate levels to concentrations at or below the water quality objectives to the extent it is reasonable, feasible and practicable to do so [and] [documentation of] collaboration with the community and/or users benefitting from any proposed short/long-term activities to provide safe drinking water...

LCJA, et al. Comment No. 14: Commenter states that the Early Action Plan is, “currently the only Action Plan pertaining to Management Goal 1.” The commenter suggests that there is an inconsistency in that the Early Action Plan requires the dischargers participating in a management zone to identify impacted wells, but the Notices of Intent only require the use of “readily available” groundwater quality data. Communities that are already paying for replacement drinking water should not be “penalized” for doing so. Commenter recommends

that a “Safe Drinking Water Plan” be added to the management zone requirements, and that the Safe Drinking Water Plan mandate the continual identification and testing of newly contaminated wells.

RESPONSE: See response to **LCJA, et al. Comment No. 13** to see the other actions required of permittees regulated under Management Zones. As to the perceived inconsistency between the data requirements, that relates to the fact that 1) permittees must identify impacted wells, and 2) permittees must characterize the groundwater affected by nitrate discharges within the Management Zone boundary, and potential effects on downgradient aquifers. The identification of impacted wells may require additional well sampling. However, in keeping with the intent of the Nitrate Control Program that permittee’s efforts should be focused more on rectifying nitrate problems than on hydrogeologic characterization efforts, only readily available groundwater quality data may be necessary for characterizing the aquifers potentially affected by permittees in the Management Zone.

LCJA, et al. Comment No. 15: Generally, Alternate Compliance Project requirements are not sufficiently robust. Commenter recommends that ACP’s “must include language not only around identification of communities currently impacted by nitrates contamination, but also a plan for ongoing outreach to communities who may be impacted by nitrates contamination in the future and those communities not identified within an early action plan, as well as frequent testing requirements.

RESPONSE: Ongoing outreach and continuous assessment are components of Management Zone Implementation Plans and would also be required of Alternate Compliance Projects where the implementation of such projects could potentially threaten to cause impacts to drinking water users whose wells are not impacted at the time the Alternate Compliance Project is approved.

LCJA, et al. Comment No. 16: The Staff Reports states that an ACP must prioritize the provision of drinking water to communities where there are “significant nitrate water quality concerns.” “Significant” should not be used.

RESPONSE: The use of the term “significant” differentiates those whose drinking water supplies have nitrate impacts that do not render the water unusable (i.e., below the MCL) and those impacts that are above the applicable water quality standard.

LCJA, et al. Comment No. 17: Commenter recommends that ACPs be crafted to “address all communities impacted by nitrate from current and historic sources of nitrates discharges.” This would include impacts from previous landowners and dischargers.

RESPONSE: The Nitrate Control Program is designed to address legacy pollution through the development of long-term strategies that work towards the goals of nitrate balance and aquifer restoration, while ensuring safe drinking water supplies are provided while those efforts are ongoing.

LCJA, et al. Comment No. 18: ACPs must include clear requirements for demonstrating how participants will achieve balance and restoration, and a timeline for completing such projects.

RESPONSE: The proposed Basin Plan Amendments include the following minimum conditions that all ACPs must satisfy:

(1) Identification of public water supply and domestic wells that exceed nitrate water quality objectives and that are within the discharge areas zone of contribution;

(2) A schedule, with identified milestones, for addressing those nitrate-related drinking water issues; and,

(3) Identification of steps to be taken to meet the management goals of the Nitrate Control Program, which may be phased in over time.

LCJA, et al. Comment No. 19: Exceptions, “do not comply with the Porter-Cologne Water Quality Control Act, the State Antidegradation Policy, the Nonpoint Source Policy or other laws.” Commenter recommends removing the Exceptions Policy or completely replacing it with a policy that requires complete compliance in ten years.

RESPONSE: The Porter-Cologne Water Quality Control Act, the State Antidegradation Policy and the Nonpoint Source Policy all allow compliance timelines longer than 10 years, if such timelines are “as short as practicable.” Studies conducted under the CV-SALTs effort demonstrated that the restoration of many of the Central Valley’s nitrate-impacted aquifers cannot occur in 10 years, even if all nitrate discharges immediately cease (i.e., complete cessation of most agricultural practices in the Central Valley). Imposing an arbitrary 10-year threshold for would not further efforts to meet the goals of the SNMP, and would result in the imposition of timelines that defy practicability concerns.

LCJA, et al. Comment No. 20: Offsets, “must have a hydrologic connection to the site of the discharge such that the discharger complies with water quality objectives.”

RESPONSE: The definition of “offset” as proposed by the commenter virtually eliminates all actions that would result in significant and meaningful reductions in nitrate loading if such actions were not employed at the precise place where a discharge was occurring. This defeats the very purpose for an offset. The commenters concerns appear to be that the use of an offset would allow for the creation of a “hot spot” at the point at which the discharge occurs (because the impacts of the discharge would be mitigated by an offset that would not be in the immediate proximity of the discharge). The Nitrate Control Program requires that any hot spot be mitigated by the provision of safe drinking water to anyone potentially affected by the hot spot.

LCJA, et al. Comment No. 21: Offsets must, “be time-limited and [must] have regular status reports to the Board to ensure that the discharger is diligently working towards meeting water quality objectives and no needing that offset.” Commenter states that the time limit should be ten years, with reports to the Board at five years.

RESPONSE: As per the Offsets Policy, offsets are “[p]roposed by the permittee as an Alternative Compliance Project (ACP).” The proposed Basin Plan Amendments include minimum conditions for ACPs that require any ACP proposal include defined milestones and regular reporting. As described in the response above, the arbitrary imposition of a ten-year limit is inconsistent with the goals of the SNMP.

LCJA, et al. Comment No. 22: Commenter recommends that the Board require, as a condition of authorizing an offset, that the discharger test domestic and state small water

systems to ensure vulnerable communities are not harmed by an offset project. Testing should occur more frequently when nitrates exceed 75% of the MCL.

RESPONSE: See response to **LCJA, et al. Comment No. 18.**

LCJA, et al. Comment No. 23: “The Amendments do not protect groundwater for the use and enjoyment of the people of the state, and in adopting the Amendments, the Regional Board will not be regulating water quality to “attain the highest water quality which is reasonable.” Rather, the Amendments permit degradation of groundwater quality caused by discharges of nitrate which could be avoided by changes in management practices, crop selection and control technology such as upgraded dairy lagoon liners.”

RESPONSE: The proposed Basin Plan Amendments are intended to do exactly what the commenter asks of the Board, in that they will prompt changes in management practices to ensure the protection of beneficial uses.

LCJA, et al. Comment No. 24: The proposed Basin Plan Amendments elevate the importance of irrigation and other non-domestic uses of water above that of the domestic use of water for drinking and cooking, which is contrary to state policy and Water Code section 106.

RESPONSE: The provision of the Water Code referenced here relates to the fact that under California’s appropriative water rights regime, municipal supplies have primacy over others. Water Code section 106.5 provides additional clarification:

It is hereby declared to be the established policy of this State that the right of a municipality to acquire and hold rights to the use of water should be protected to the fullest extent necessary for existing and future uses, but that no municipality shall acquire or hold any right to waste water, or to use water for other than municipal purposes, or to prevent the appropriation and application of water in excess of its reasonable and existing needs to useful purposes by others subject to the rights of the municipality to apply such water to municipal uses as and when necessity therefor exists. (Wat. Code, § 106.5.)

The proposed Basin Plan Amendments do not interfere or otherwise supersede any existing right to the use of groundwater or surface waters.

LCJA, et al. Comment No. 25: The commenter expresses, “significant doubts about the long-term sustainability of a regulatory program that allows degradation of Central Valley groundwater basins in exchange for provision of replacement water.”

RESPONSE: If the only requirement placed on permittees under the Nitrate Control Program was the provision of drinking water in exchange for the right to degrade and pollute groundwater, the commenter’s concerns would be meritorious. However, the Nitrate Control Program places many conditions on discharges to ensure that nitrate loading will be reduced in a significant and meaningful manner.

LCJA, et al. Comment No. 26: The commenter takes issue with the “de minimis” category of discharges regulated under the Nitrate Control Program, stating “[n]o provision of Porter-Cologne authorizes the Regional Board to abandon its duty to regulate discharges by categorizing certain discharges as “de minimis” and thus unworthy of regulation.” The

commenter contends that this category results in discharges that “are likely to cause exceedances at some point in the future ... (e.g., and exceedance in twenty-one years).”

RESPONSE: Under the Nitrate Control Program, it is not true that de minimis discharges will not be regulated. “De minimis” refers to a degradation threshold – permittees that fall under this threshold will not be required to conduct a detailed hydrogeologic analysis, because discharges that fall under the threshold have demonstrated that they will only cause minimal degradation. Such discharges will still operate under waste discharge requirements that will require the protection of beneficial uses.

LCJA, et al. Comment No. 27: The proposed Basin Plan Amendments, by allowing for horizontal and vertical averaging across portions of a groundwater aquifer, do not require compliance with water quality objectives, in violation of applicable provisions of the Water Code. Furthermore, the commenter contends that “lengthy exceptions” and “offsets that may take place far from the location of the discharge” are legally impermissible.

RESPONSE: The position being taken by the commenter appears to be that the proposed Basin Plan Amendments do not adequately protect beneficial uses if the 10 mg/L water quality objective is not met at every single discreet point in a groundwater aquifer. While conceptually pure, this position does not reflect the hydrologic complexities inherent in regulating a complex groundwater system. Even a drinking water well screened at an interval of a few feet will result in hydrologic mixing that makes it infeasible to rigidly enforce a numeric metric in each drop of water in an aquifer. The Board is afforded a great deal of discretion in developing Basin Plans to ensure the reasonable protection of beneficial uses. (Wat. Code, §§ 13050, subd. (j), 13240.)

As for the contentions that “lengthy” exceptions or offsets render the proposed Basin Plan Amendments inconsistent with statutory authority, the commenter does not point to a single law or policy that would limit the Board’s discretion in this regard. The Water Code clearly vests the Board with the authority to address water quality issues through time schedules, and no limitation is placed on the use of those time schedules except that they “shall not permit any unnecessary time lag” and that they be periodically reviewed and updated, when necessary, to assure the most rapid compliance.” (Wat. Code, § 13300, Cal. Code Regs., tit. 23, § 2231.) As supported by the Staff Report and the materials used to develop the Staff Report, the proposed Basin Plan Amendments do just that.

LCJA, et al. Comment No. 28: “The Basin Plan Amendments violate the [Nonpoint Source Policy] because they allow discharges of nitrate to continue indefinitely at levels that cause or contribute to exceedances of water quality objectives and because they allow the Regional Board to simply abandon restoration of contaminated groundwater basins ... the Regional Board has no authority to refuse to limit discharges simply on the basis that the reduction is not “reasonable,” “feasible,” or “practicable.” ... the [Nonpoint Source Policy] requires much more than working towards a goal; it requires a high likelihood of success.”

RESPONSE: This is a mischaracterization of the Nitrate Control Program. The proposed Basin Plan Amendments will result in significant and meaningful reductions in nitrate loading to groundwater and receiving water. Only if many years of enhanced management practices, nitrate load reduction strategies, and user protection fail to provide reasonable protection of beneficial uses will the Board consider the de-designation of the MUN beneficial use from any aquifers that once supported that use.

Characterization of the proposed Basin Plan Amendments as drawing that conclusion at this point is inaccurate.

LCJA, et al. Comment No. 29: The commenter contends that under the Water Code, the Sources of Drinking Water Policy, and the Nonpoint Source Policy, “the Regional Board may not abandon groundwater basins when it determines that restoration of such basins is difficult or costly.” The proposed Basin Plan Amendments state that the Board may, at some point in the future, determine that it is neither reasonable, feasible nor practicable to restore water quality in an impacted aquifer even after efforts are made to balance nitrate loading. The commenter categorizes such text as effecting “a dramatic shift in California water policy ... [that] creates sacrificial aquifers where that pollution would prevent any current use of the water for domestic use.” The commenter states that this contravenes the Sources of Drinking Water Policy and the Nonpoint Source Policy, and “also represents a policy determination that profits from agriculture are a higher priority for this Regional Board than protecting the groundwater of the state.”

RESPONSE: See response to **LCJA, et al. Comment No. 28.** In adopting the proposed Basin Plan Amendments and in implementing the Nitrate Control Program, the Board is taking a dramatic step forward in working to reduce nitrate loading and attain aquifer restoration, while providing adequate protection of drinking water users while those efforts are underway. Currently regulatory strategies have been proven inadequate to this task. Moving in a more proactive direction is both consistent with the Sources of Drinking Water Policy and the Nonpoint Source Policy and is at odds with the idea that, “profits from agriculture are a higher priority for this Regional Board than protecting the groundwater of the state.”

LCJA, et al. Comment No. 30: The Staff Report’s discussion of compliance with the State Antidegradation Policy “wholly fails to apply relevant legal standards,” particularly because the Staff Report, “fails to mention or apply *Asociación de Gente Unida por el Agua v. Central Valley Regional Water Quality Control Bd.* (2012) 210 Cal.App.4th 1255.” Commenter contends that the Staff Report fails to conduct a case-by-case analysis of changes in water quality that considers the reasonableness under the circumstances at the site.” Commenter further argues that the Staff Report, “does not affirmatively demonstrate compliance with the State Antidegradation Policy.”

RESPONSE: The *State Antidegradation Policy*, as interpreted by the court in *Asociación de Gente Unida por el Agua v. Central Valley Regional Water Quality Control Bd.* (2012) 210 Cal.App.4th 1255 (*AGUA*), requires that high-quality waters “be maintained until it has been demonstrated to the State that any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water, and will not result in water quality less than that prescribed in the policies.”

The Staff Report and its supporting documentation provide such a demonstration. As explained in more detail in the responses provided below, the Board can reasonably conclude that adoption of the proposed Basin Plan Amendment is consistent with the maximum benefit to the people of the state, and the fundamental reason the Board engaged in the process of developing the proposed Basin Plan Amendments was to ensure that all practicable measures would be employed to ensure that discharges throughout the Central Valley will not unreasonably affect present and anticipated beneficial use of such water, and will not result in water quality less than that prescribed by any applicable Policy.

However, the “case-by-case analysis” requested by the commenter is more appropriately conducted when the Board is actually reviewing those waste discharge requirements that would themselves authorize degradation of waters of the state (the proposed Basin Plan Amendments do not directly authorize an “... activity which produces or may produce a waste or increased volume or concentration of waste”). When proposals are made to the Board (such as Management Zone Implementation Plans) that will require updates to waste discharge requirements, the Board can and will consider whether the permittees will employ best practicable treatment or control of their discharges necessary to ensure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the State will be maintained. Consistent with the State Antidegradation Policy, the Board’s evaluation of whether the pollution control technologies employed by a discharger will result in “best practicable treatment or control of the discharge” is conducted at the time that the Board sets permit limitations in waste discharge requirements. It is only at that point can the Board reasonably ascertain whether the pollution control technologies proposed to be employed by the discharger(s) will result in best practicable treatment or control of the discharge, since “best practicable treatment or control” is intended to be a dynamic standard.

It is worth noting that the general permit at issue in *AGUA* was one in which the Board imposed a regulatory standard from an applicable regulation that was later found not to be “best practicable treatment or control” because knowledge about wastewater pond design had evolved since the time the pond design standards were incorporated into Title 27 of the California Code of Regulations. The costs of pollution control technologies change, making technologies that once were impracticable practicable. New pollution control technologies will come on the market that will unseat what is currently considered the “best” pollutant control technology. Therefore, it is inappropriate for the Board to make conclusions as to the future cost-effectiveness and relative efficacy of treatment or control technologies at the time the Basin Plan Amendment is adopted, rather than at the time waste discharge requirements are issued.

Instead of defining what should be considered “best practicable treatment or control” at the time the Board revises the Basin Plan, it is reasonable for the Board to simply ensure that any proposed Basin Plan Amendment will be both consistent with the State Antidegradation Policy and will not interfere with the Board’s ability to make determinations as to whether or not a discharger’s treatment or control should be considered “best practicable treatment or control” when the Board issues or modifies waste discharge requirements in the future.

LCJA, et al. Comment No. 31: Commenter contends that the Staff Report “makes no attempt at a baseline analysis,” and does not discuss available data to determine what percentage of waters in the Central Valley are high quality and which will be degraded under this proposal.” Commenter notes that the Central Valley Water Board is required to, “consider available data and make an affirmative finding that the Basin Plan Amendments will permit degradation of high quality waters,” and must then, “make a thorough and honest attempt to determine what portion of waters in the relevant area are high quality with respect to nitrate, which must inform the discussion regarding how significant the degradation of high quality waters will be.”

RESPONSE: The NIMS Study, one of the main documents cited in the Staff Report, was an extraordinarily ambitious (and expensive) study that documented nitrate impacts

throughout the Central Valley. It is hard to envision what more could be expected in a baseline analysis for a project intended to apply to an area the size of the Central Valley.

LCJA, et al. Comment No. 32: The commenter contends that the Staff Report fails to demonstrate that adoption of the proposed Basin Plan Amendments would be consistent with the maximum benefit to the people of the State, as required by the State Antidegradation Policy. Specifically, the commenter contends that because the proposed Basin Plan Amendments would allow significant degradation to continue and because, “the vast majority of residents of the San Joaquin Valley rely on groundwater for drinking water,” the Board should not be allowed to make a finding of “maximum benefit.” Further, the commenter suggests that the “economic” and “social” costs weigh against a maximum benefit finding.

RESPONSE: Environmental and social costs are discussed at length in the Staff Report. If the proposed Basin Plan Amendments neglected to contain provisions for providing safe drinking water to those whose groundwater wells are impacted by permittees regulated under the Nitrate Control Program, the commenters’ remarks would have merit. However, the extensive requirements requiring community engagement and the provision of safe drinking water allows the Board to find that the proposed Basin Plan Amendments comply with the State Antidegradation Policy.

LCJA, et al. Comment No. 33: The commenter suggests that by failing to consider all the environmental aspects of nitrate degradation, the State Antidegradation Policy analysis is incomplete.

RESPONSE: The State Antidegradation Policy pertains to water quality degradation, and the requirements associated with authorizing such degradation. Speculative potential impacts to air quality, which are relevant to an overall environmental analysis, are not a factor that falls under the purview of the State Antidegradation Policy.

LCJA, et al. Comment No. 34: The commenter states that, “the currently operative regulatory framework provides more protection to groundwater. As such, this factor also weighs against a maximum benefit finding.”

RESPONSE: The “current operative regulatory framework” has resulted in widespread adverse impacts to water quality throughout the Central Valley, and, as described in the SNMP, provides a regulatory foundation inadequate to the task of rectifying water quality in aquifers that have been impacted by nitrates.

LCJA, et al. Comment No. 35: The commenter contends that, by unreasonably affecting present and anticipated beneficial uses, the proposed Basin Plan Amendments do not comply with the State Antidegradation Policy.

RESPONSE: Current groundwater quality in many areas of the Central Valley has become impaired due to historical activities within the region. As described in the Staff Report, the proposed Basin Plan Amendments represent a means of addressing these impacts and restoring impaired waters.

LCJA, et al. Comment No. 36: The commenter states that, “the standard for determining compliance with water quality objectives has never been, and has not been revised to, a “volume-weighted average water quality” in a large (and as of yet undefined) horizontal and vertical area,” which is not consistent with State Policies. Commenter further states that, “[n]o

statutory authority or applicable policy that we are aware of authorizes indefinite exceptions that may exceed fifty (50) years.”

RESPONSE: The Water Code grants the Regional Water Boards considerable discretion in deriving implementation programs to achieve compliance with water quality objectives (see response to **LCJA, et al. Comment No. 27**) and no statute, regulation, or policy places limits on the Board’s ability to authorize time schedules for achieving compliance where such time schedules are as short as practicable.

LCJA, et al. Comment No. 37: The commenter contends that the proposed Basin Plan Amendments will not result in the use of best practicable treatment or control to limit degradation, contravening the State Antidegradation Policy.

RESPONSE: See response to **LCJA, et al. Comment No. 30**. As waste discharge requirements are revised to bring dischargers into compliance with the Nitrate Control Program, the Board will be continually assessing proposed methods of compliance and making determinations as to whether such methods are considered “best practicable treatment or control” of the wastes in the discharge.

LCJA, et al. Comment No. 38: The commenter contends that the Nitrate Control Program does not comply with the Federal Antidegradation Policy because there is a connection between groundwater and surface waters.

RESPONSE: The Federal Antidegradation Policy states that, for waters other than Outstanding National Resource Waters²:

Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected, [and], where the quality of the waters exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the State finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the State’s continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the State shall assure water quality adequate to protect existing uses fully. Further, the State shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.

There are no nitrate water quality impairments listed for any surface water body potentially affected by the proposed Basin Plan Amendments. Furthermore, under the proposed Basin Plan Amendments, nitrate loading is expected to be reduced as the applicable provisions of the Nitrate Control Program are implemented, and so there is no “lowering of water quality”³ that is expected to occur under the proposed Basin Plan Amendments. Lastly, conditions imposed by the Nitrate Control Program will continue to

² No water affected by the proposed Basin Plan Amendments is considered an Outstanding National Resource Water.

³ In surface waters subject to the jurisdiction of the federal Clean Water Act, which does not include groundwater.

require that all cost-effective and reasonable best management practices be implemented for nonpoint sources. The proposed Basin Plan Amendments are wholly consistent with the Federal Antidegradation Policy.

LCJA, et al. Comment No. 39: The commenter contends that the proposed Basin Plan Amendments do not comply with the Reasonable and Beneficial use doctrine because the proposed Basin Plan Amendments will render significant quantities of groundwater in the Central Valley Region unsuitable for the MUN beneficial use.

RESPONSE: The doctrine of reasonable and beneficial use applies to usufructuary water rights (a right to use the water, not a traditional ownership right). Groundwater rights are subject to the doctrine of correlative rights (*Katz v. Walkinshaw* (1903) 141 Cal. 116, 124.) and to the doctrine of reasonable and beneficial use (Cal. Const., art. X, § 2). However, nothing in the proposed Basin Plan Amendment would infringe upon any existing or future right to use groundwater, nor will the proposed Basin Plan Amendment in any way affect the applicability of the doctrine of reasonable and beneficial use to groundwater extractions.

LCJA, et al. Comment No. 40: The commenter contends that, “degradation of surface water caused by nitrate discharges to hydrologically connected groundwater triggers the public trust doctrine” and that the proposed Basin Plan Amendments do not comply with this policy.

RESPONSE: The public trust doctrine applies to the State’s trustee duties with respect to navigable surface waters. The public trust doctrine is a common law doctrine originating in Roman law. (“By the law of nature these things are common to mankind – the air, running water, the sea and consequently the shores of the sea.” (Institutes of Justinian 2.1.1.)) The public trust applies to those resources for which states have taken ownership of by virtue of their admission to the Union. (*City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515, 521.) The courts have defined the state’s ownership interest as “not of a proprietary nature ... the state holds such lands in trust for public purposes, which have traditionally been delineated in terms of navigation, commerce, and fisheries.” (*City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 482.) The California Supreme Court has extended the scope of the public trust doctrine to tidal and navigable bodies of water. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 435.) However, the proposed Nitrate Control Plan is not expected to have any effect on tidal and navigable bodies of water in terms of either water supply or water quality, and as such, the public trust doctrine does not apply.

LCJA, et al. Comment No. 41: The commenter contends that the Environmental Analysis contained in the Staff Report K is in many ways similar or identical to the analysis previously provided with the SNMP. The commenter then states that, “[o]ur prior comments are thus incorporated by reference and resubmitted.”

RESPONSE: The Substitute Environmental Document is distinguishable from the prior Environmental Analysis associated with the Salt and Nutrient Management Plan (a different, but related, document that did not itself make any changes to the Basin Plans). However, it appears that the comments are nearly identical, and so incorporation of prior comments is unnecessary.

LCJA, et al. Comment No. 42: The commenter states that the Substitute Environmental Document does not contain a reasonable range of alternatives.

RESPONSE: The entirety of the Staff Report, not simply the checklist, is considered part of the SED (cite). The Staff Report provides a detailed discussion about not only the proposed Basin Plan Amendments, but also about the other alternatives considered throughout the 12-year development of the proposed Basin Plan Amendments. This discussion considers the effects of those alternatives and ways in which these effects might be minimized. Many of the proposed alternatives would not meet the three overarching goals of the CV-SALTS initiative. These alternatives are thoroughly discussed in the Staff Report and its appendices. Ultimately, the SED, “need not study in detail alternative[s] that [are] infeasible or that the lead agency has reasonably determined cannot achieve the project's underlying fundamental purpose.” (*In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, citing *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 574.) CEQA, “establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an [SED]; each case must be evaluated on its facts, which in turn must be reviewed in light of the statutory purpose.” (*Goleta, supra*, at 565, Cal. Pub. Res. Code § 21000 et seq.; Cal. Code Regs. tit. 14, §§ 15126.6, 15151.) The alternatives discussion in the SED is sufficient to satisfy applicable regulatory requirements for this certified regulatory program.

LCJA, et al. Comment No. 43: The commenter contends that the Environmental Analysis is deficient because it does not discuss the implications of the No Project Alternative in a sufficiently careful and factual manner, and engages in speculation and conjecture.

RESPONSE: The SED is more akin to a “Program EIR” as defined in California Code of Regulations, title 14, section 15168, and thus does not engage in speculation and conjecture about the minute details of subsequent projects that may require environmental review.⁴ As with a Programmatic EIR, “[s]ubsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.” (Cal. Code Regs., tit. 14, § 15168.)

LCJA, et al. Comment No. 44: The commenter contends that the Environmental Analysis does not adequately discuss enforceable and feasible mitigation measures.

RESPONSE: Much of the discussions in the 12 years the proposed Basin Plan Amendments were in development revolved around appropriate ways of defining and mitigating potentially adverse impacts associated with compliance time schedules for compliance with the Salt and Nitrate Control Programs. Mitigation measures, as discussed during 12 years of meetings, are thoroughly incorporated into the project proposal itself.

LCJA, et al. Comment No. 45: The conclusions in the Substitute Environmental Document are not supported by substantial evidence, and that the Substitute Environmental Document is not sufficient as an information document.

RESPONSE: The Staff Report and the underlying studies conducted by the CV-SALTS initiate inform the environmental analysis contained in the Substitute Environmental Document.

⁴ When Management Zones are approved and incorporated into WDRs, additional CEQA review may be required.

LCJA, et al. Comment No. 46: The commenter states that a finding in the Substitute Environmental Document that states that there will be a less than significant impact on groundwater supplies is not supported by substantial evidence.

RESPONSE: The SED finds that there will ultimately be a less than significant impact on groundwater *supplies* because the regulatory regime for groundwater aquifers in a sustainable manner has fundamentally changed after the passage of the SGMA legislation (Part 2.74 of Division 6 of the Water Code, beginning with Section 10720). The proposed Basin Plan Amendments have been designed to complement these parallel regulatory efforts.

LCJA, et al. Comment No. 47: The commenter states that a finding in the Substitute Environmental Document that states that there will be a less than significant impact on greenhouse gas emissions and air quality supplies is not supported by substantial evidence. The commenter states that these findings, “are incorrect and not supported by substantial evidence because the Staff Report is answering the wrong question. The Proposed Project alters existing regulations related to nitrate loading, waste discharge requirements, and exceptions. The correct question, then, is not whether fertilizer application rates in the future are expected to be greater than current fertilizer application rates, but whether rates will be greater in the future under the Proposed Project or the No Project Alternative.”

RESPONSE: CEQA does not prescribe any particular way of determining baseline conditions (“Neither CEQA nor the CEQA Guidelines mandates a uniform, inflexible rule for determination of the existing conditions baseline.” *Communities for A Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 328.) In this case, the Board has defined baseline air quality conditions as they would be under current implementation of the regulatory framework that is now in place. Nitrogen fertilizer levels are expected to fall under the proposed Basin Plan Amendments, with a resultant decline in air quality impacts.

LCJA, et al. Comment No. 48: The commenter states that the Board is not exercising its independent judgment, as required pursuant to CEQA.

RESPONSE: This claim is unsupported. The Board has, throughout the process, acted independently of any individual and interest group, and is fully prepared to exercise its independent judgment in deliberating on the proposed Basin Plan Amendments.

LCJA, et al. Comment No. 49: The commenter challenges the economic analysis in the Staff Report, contending that a report by Eler & Kalinowski, Inc. suggests that the household bottled water usage rate in the economic analysis is low. The commenter incorporates prior comments by reference, which include criticisms for “exclud[ing] communities larger than 5,000 residents” and placing reliance on 2010 census numbers, rather than population projections. Commenter suggests that, “reliance on the economic analysis prepared by a third party retained by a coalition of dischargers appears to be an improper delegation of the Regional Board’s authority and duties.”

RESPONSE: The Board will continue to verify economic impacts as the proposed Basin Plan Amendments are being implemented. The conflicting bottled water usage rates and reliance on the most recent census data vs. projections do not significantly affect the overall economic analysis. Furthermore, reliance on outside analysis, when such analysis is independently considered by the Board, is not problematic.

LCJA, et al. Comment No. 50: The commenter contends that the proposed Basin Plan Amendments will have a disparate negative impact on protected classes, in violation of the law. Commenter cites as evidence findings that, “Latino and low-income communities are less likely to have access to adequate healthcare, water treatment, and substitute water sources, which further aggravates these disparate impacts.” Commenter contends that The Basin Plan Amendments authorize waste discharges without requiring the means to locate residents and communities in the Central Valley served by domestic wells or unregulated small systems with nitrate exceedances. The impact of this policy will be disparately and negatively felt by communities of color, and are thus discriminatory and in violation of state law.

RESPONSE: The proposed Basin Plan Amendments, in particular the Nitrate Control Program, represent an effort by the Central Valley Water Board to address ongoing and legacy pollution caused by a wide range of activities in the Central Valley. The proposed Basin Plan Amendments will apply equally throughout the Central Valley, and were crafted with specific provisions, including terms in the Nitrate Control Program, to find and address nitrate-impacted wells, including domestic wells and unregulated small systems. No prima facie case of disparate impact has been demonstrated by the commenter. In fact, the majority of efforts undertaken pursuant to the Nitrate Control Program will be conducted in areas where DAC and DUCs are most concentrated in the Central Valley.

LCJA, et al. Comment No. 51: The commenter contends that, “the failure to adequately protect groundwater violates California's Fair Employment and Housing Act, California Government Code 12900, et seq., which guarantee all Californians the right to hold and enjoy housing without discrimination based on race, color or national origin.”

RESPONSE: Government Code section 12955 defines unlawful practices for the purpose of the California Fair Employment and Housing Act. The Board’s action of adopting the proposed Basin Plan Amendments does not fall within any category of unlawful practices articulated in the statute.

KERN COUNTY WATER AGENCY (KCWA)

Comments were received from Curtis Creel, General Manager representing Kern County Water Agency on 7 May 2018.

KCWA Comment No. 1: The Staff Report states that to protect all beneficial uses, the Regional Water Board may apply limits more stringent than MCLs (page 29). The methodology used to determine if a more stringent water quality control standard is needed is unclear. Water quality standards are a critical factor in the water operations of the Agency, including the operation of local groundwater banking projects. The Program should include a discussion of the process and specific criteria that would be used to determine if a more stringent water quality standard is needed.

RESPONSE: The commenter is discussing the clarifications to the Chemical Constituent section of the Water Quality Objectives Chapter in the Basin Plans related to use of Secondary MCLs. The Secondary MCLs are being utilized as water quality objectives to protect the municipal and domestic supply beneficial use. Some beneficial uses such as agricultural supply and/or aquatic life may require more stringent criteria to be reasonably protected. The wording in the staff report reflects the need for the Central Valley Water Board to evaluate existing and potential beneficial uses within the water body under consideration and ensure that any water quality objective utilized to regulate

discharges is reasonably protective of all the designated uses. The Board must also consider potential degradation of high quality waters when determining discharge limits.

KCWA Comment No. 2: The Salinity Control component of Program has the potential to significantly impact groundwater management in Kern County, including the operation of local groundwater banking projects. Cost-benefit analyses should be conducted during each of the three phases of the Salinity Control Program to ensure the management practices and projects do not unduly impact water management and water users in Kern County.

RESPONSE: Staff appreciates the recognition that the proposed Salt Control Program has the potential to significantly impact groundwater management not just in Kern County but throughout the Central Valley and encourages Kern County Water Agency to fully participate in the Phase I P&O Study to ensure that recommended implementation options dovetail and support water banking projects. During the reviews of each Phase, economic analyses of proposed activities will need to be conducted prior to revision of the Salt Control Program.

ALMOND ALLIANCE OF CALIFORNIA (THE ALLIANCE)

Comments were received from Andrea Harvey-York, Manager representing Almond Alliance of California on 7 May 2018, expressing support of the proposed basin plan amendments.

RESPONSE: Support noted.

The Alliance Comment No. 1: Support Central Valley Salinity Coalition comments and incorporate them by reference.

RESPONSE: See response to comments from Central Valley Salinity Coalition.

References

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- Howitt, R., Kaplan, J., Larson, D., MacEwan, D., Medellin-Azuara, J., Horner, G., & Lee, N. (2009). *The Economic Impacts of Central Valley Salinity. Final Report to the State Water Resources Control Board Contract 05-417-150-0*. Davis: University of California Davis.
- Luhdorff & Scalmanini and Larry Walker Associates. (2016). *Region 5 Updated Groundwater Analysis and High Resolution Mapping for Central Valley Salt and Nitrate Management Plan*. Retrieved from <http://www.cvsalinity.org/index.php/committees/technical-advisory/conceptual-model-developments/171-updated-groundwater-quality-analysis-for-central-valley.html>
- Starr Consulting et al. (2015). *Sacramento River Watershed Sanitary Survey 2015 Update Report*. Retrieved from https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/docs/Sacramento/citysac-26.pdf