

Southwest Office
P.O. Box 29196
San Francisco, CA
94129-0196 USA
Tel: 415/561-FISH
Fax: 415/561-KING



Northwest Office
P.O. Box 11170
Eugene, OR
97440-3370 USA
Tel: 541/689-2000
Fax: 541/689-2500

August 13, 2018



TO: Jeanine Townsend, Clerk
California State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000
Sent via email only

RE: Salt and Nitrate Control Program Basin Plan Amendment Comments

Dear Members of the Board,

Thank you for the opportunity to comment on the most recent basin plan amendments for the Salt and Nitrate Management Control Program. We have attended several meetings on these issues and turned in written comments and all of our issues have been brought up in a timely manner. While we support the efforts to control nitrates in groundwater and support requests to study how this nitrate pollution impacts connected surface water, our comments will be focused on surface water and the ecological disaster occurring in the Sacramento, San Joaquin and Delta watersheds and how the decisions that this board makes impact California's iconic fishing economic, coastal communities and jobs.

While we support the Board's effort to promulgate these amendments, we are opposed to any relaxation of water quality standards or other decisions that will actually make water quality worse in this already highly impacted system including changes to monitoring approaches that weaken the standards. Such relaxations include undefined variances, drought exceptions, and permitted pollutant 'hot spots'. We reiterate here that in many cases the most sensitive and impaired beneficial use for surface water in the project areas is public trust fisheries resources dependent upon cold water, as well as functional and unimpaired spawning and rearing habitats on which these fisheries depend. Commercially harvested salmon fisheries require cold water, especially in the spring and fall, and during drought years, yet it is often not available because of the excessive use of water to dilute high salinity and otherwise impaired discharge for export. Furthermore, fish cannot tolerate hot spots or compliance points.

Despite these well-established concerns, this plan includes drastic drought exceptions to water quality standards that will only exacerbate water quality problems and impact fisheries. We reject the staff report's claim that high salinity water is imported as the evidence suggests that salinity in freshwater supplies in the Central Valley is mainly

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generated by agricultural discharges. These agriculture-related salinity discharges are chemically impaired, resulting in losses to fish populations throughout their ontogeny.

We agree with the stated concerns of agencies including the Contra Costa Water District and Sacramento River Source Water Protection Program that this plan allows pollution to persist for far too long, allows high quality water to be degraded, effectively changes allowable Secondary Maximum Contaminants levels and water quality standards by determining compliance based on dissolved metals levels rather than whole concentrates, includes too many exceptions and variances, and does not include findings of consistency with the state antidegradation policy. The proposed changes to monitoring procedures for water treatment plants do not protect river water quality because river water will not be filtered and tested. The process has thus far served to weaken water quality standards for salinity and chloride at a time when they should be strengthened.

We expressed our concerns that it is not only salt discharges we are concerned about early in this process. Secondary contaminants such as copper, chloride, pesticides, and selenium are known to harm aquatic life at lower compliance levels than what is currently permitted at most water treatment plants. We also expressed concerns that there is no proven cost-effective technology that can remove salt and selenium. We suggested that the board analyze the Fish and Wildlife Service recommendation that 379,000 acres of drainage-impaired lands in the San Luis Unit be retired and suggested that the rights for the associated water be used for dilution and fisheries flows, which could lead to attainment of water quality standards. These suggestions have been ignored and no changes based on our comments have been discussed by the board. It appears that this process has ignored scientific and policy recommendations that could ameliorate this situation in order to facilitate compliance for excessive discharges, threatening public trust fisheries resources, environmental quality, and drinking water supplies.

Therefore, we recommend that these basin plan amendments not be adopted until a proper analysis of their impacts to fisheries occurs, and this analysis include a cumulative effects analysis. At this point it is hard to assess how much damage this plan could do, or continue to facilitate, to fisheries and aquatic life due to the lack of such an analysis. A paragraph in the Environmental Checklist that claims no harm because most harmful actions will come later in the timeline does not fulfill the requirements of CEQA, ignores cumulative impacts at a time when massive new dams and diversions could make freshwater less available for dilution flows, and does not address the fact that the changing of water quality standards and basin plan amendments have the chance to greatly impact Delta ESA listed fish populations and commercially harvested species even without proposed large scale salt removal projects.

We are also concerned that that the 2nd path to compliance, the Alternative Salinity Permitting Process, does not include quantifiable standards and is vague and unenforceable. This path to compliance still relies on studies of major offsite actions, such as the Brine Pipeline and treatment facilities without guarantees that they will be implemented or function properly. This plan wastes time and limited resources that could be put to better use. Furthermore, these actions are full of uncertainties and assumptions. In reality, these large scale proposed actions are unlikely to ever be funded or accepted by communities where discharges would occur.

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We are also concerned that the staff report does not disclose whether water districts that are involved in major settlements with the federal government to control their own discharges can be covered with this taxpayer subsidized plan and how including these discharges impacts water pollution and discharges.

Last, we feel the drought exceptions to this plan are not appropriate. They severely weaken water quality standards and protections. The staff report has no analysis of the impacts of climate change or dwindling water supplies in relation to droughts and does not include predictions on how often these exceptions may be used or the cumulative impacts of lack of water for dilution flows and drought exceptions. Will the drought exceptions make surface waters unusable when dilution flows are unavailable? What does this mean for drinking water and delta fisheries? This is wholly inappropriate and inconsistent with the Porter-Cologne Act and state CEQA guidance on analyzing climate change impacts.

Because of the uncertainties and scientific controversy associated with of this plan, the weakening of water quality standards, the multiple pathways for dischargers to take little to no action to control their discharges, the drought exceptions, and the reliance on a study that includes unproven technology and out-of-area pipeline proposals, we do not support this plan. We feel that unless stronger discharge prohibitions are included, toxic lands are appropriately retired, instream flows are protected so they can be used for dilution and fisheries, and strong and clear standards are applied to all pollutants involved, the problems will persist and CV-SALTS will have been a major waste of time and resources. As it stands CV-SALTS is headed in a direction that will further degrade water quality and environmental resources.

Sincerely,



Noah Oppenheim
Executive Director

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