



March 22, 2017  
170085:EC

Anne Littlejohn  
Central Valley Water Board  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670-6114

Sent via email to Anne.Littlejohn@waterboards.ca.gov

**Subject: Sacramento River Source Water Protection Program Stakeholder Comments on the proposed Basin Plan Amendments to Establish a Region-wide Municipal and Domestic Supply (MUN) Beneficial Use Evaluation Process in Agriculturally Dominated Surface Water Bodies**

Dear Ms. Anne Littlejohn:

The purpose of this letter is to provide comments from the Sacramento River Source Water Protection Program (SRSWPP) on the proposed Basin Plan Amendments to Establish a Region-wide Municipal and Domestic Supply (MUN) Beneficial Use Evaluation Process in Agriculturally Dominated Surface Water Bodies. The SRSWPP is sponsored by the Cities of Sacramento and West Sacramento, East Bay Municipal Utility District (EBMUD), and the Sacramento County Department of Water Resources, protecting Sacramento River source water quality for over two million customers.

Our program seeks to maintain the high quality of the Sacramento River drinking water supply for the current and future generations. It is our responsibility as water utilities to ensure that our water is both healthful and free of any unpleasant taste, odor, or other undesirable effects. Protecting the quality of the raw water supply is key 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. We do not conceptually oppose de-/re-designation of MUN beneficial use from appropriate agricultural water bodies. However, we are very concerned that the proposed process is insufficient to protect downstream MUN use from unintended potential long-term and cumulative impacts to source water quality.

The water bodies in the Sacramento Valley watershed, including agriculturally dominated water bodies, all contribute to the Sacramento River that provides drinking water for the majority of the Sacramento Metropolitan Area. Furthermore, the Sacramento River is a major water source for the Sacramento-San Joaquin Delta, which provides drinking water for 25 million people. Agriculturally dominated water bodies can be sources of metals, organic carbon, pathogens, and pesticides, which are some of the constituents of special interest to Sacramento River source water protection. We believe that seemingly small impacts to a large number of water bodies in the Sacramento River watershed could cumulatively result in measurable adverse changes to source water pollutant loading.

Since 2012 our program has provided significant constructive stakeholder input on this project to seek protection of public health and welfare, including providing comments on the CEQA scoping and formal

City of Sacramento Department of Utilities  
916-808-1400  
1395 35th Avenue  
Sacramento, CA 95822

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and informal stakeholder input throughout the development of the process. We appreciate that some of our comments have been addressed; however, there are key areas of the proposed Basin Plan Amendment that need substantial changes to provide reasonable water quality protection to assure water quality is not reduced in the future by these designation changes. We also note that the de-designation/re-designation process for agricultural dominated water bodies has never included non-agricultural dominated waterbodies and it would be out of scope to add any other types of waterbodies at this time.

We are submitting the enclosed comments in the following seven key categories, along with specific comments provided on the attached Draft Staff Report and related documents.

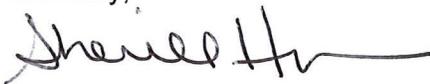
- Importance of protecting source water quality,
- Proposed de-/re-designation process, including consistency with the intent and requirements of the State's Sources of Drinking Water Policy (Resolution 88-63),
- New Limited MUN beneficial use and its water quality objective,
- Monitoring and surveillance program,
- Process for closed recirculating systems,
- Adequacy of environmental and economic evaluation and analysis, and
- Clarification of drinking water technical information.

We request that the Board consider carefully the critical importance of protecting the increasingly limited drinking water supplies in the Central Valley for the long-term. Maintaining source water quality is crucial to providing a drinking water supply that protects public health and welfare at reasonable costs.

While we appreciate the efforts of the Board and Board staff in the stakeholder process, and the opportunity to provide input as the process was being developed, we continue to have significant concerns that we urge the Regional Board to further consider before finalizing the Basin Plan Amendment. This will help ensure that the process provides sufficient long-term protection of drinking water beneficial use, consistency with the intent of the Sources of Drinking Water Policy, the State Antidegradation Policy, and the General State Policy on the Right to Safe, Clean, Affordable, and Accessible Water. For specific comments, please see the attachments to this comment letter.

Thank you for consideration of our requests. If you have any questions, please contact Elissa Callman at 916-808-1424.

Sincerely,



Sherill Huun  
Supervising Engineer

Cc: Jeanne Chilcott, Central Valley Water Board  
Bill Busath, City of Sacramento  
Dan Sherry, City of Sacramento  
Michael Malone, City of Sacramento  
Pravani Vandeyar, City of Sacramento  
Dave Herrmann, City of Sacramento  
Dan Mount, City of West Sacramento  
Chris Kania, City of West Sacramento

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Eileen White, EBMUD  
Hubert Lai, EBMUD  
Forrest Williams, Sacramento County Department of Water Resources  
Tom Pasterski, Sacramento County Department of Water Resources  
Keith Hall, Sacramento County Department of Water Resources  
Carlos Smith, Sacramento County Department of Water Resources  
Dennis Diemer, Woodland-Davis Clean Water Agency  
Tim Busch, City of Woodland  
Bonny Starr, Starr Consulting

Attachments:

- Attachment 1. Region-wide MUN Evaluation Process Basin Plan Amendment Main Report
- Attachment 2. Appendix A - Water Body Categorization Report Template
- Attachment 3. Appendix F - Year-Round Closed Controlled Recirculating System Application Template
- Attachment 4. Appendix G - Seasonally Closed Controlled Recirculating System Application Template
- Attachment 5. Appendix H - Evaluation of Region-wide MUN Evaluation Process Project Alternatives and Options
- Attachment 6. Appendix I - Evaluation of LMUN Water Quality Objectives Options
- Attachment 7. Appendix J - Staff Review Process Checklist
- Attachment 8. Appendix K - No Peer Review Justification
- Attachment 9. Appendix L - Environmental Checklist
- Attachment 10. Supporting Information on Conventional Drinking Water Treatment Filtration

## Comments

### Item 1: Importance of Protecting Source Water Quality

The drinking water industry implements the Multi-Barrier Approach as a key paradigm to provide drinking water, recognizing that there are three distinct protective barriers to protect public health: source prevention, water treatment, and distribution maintenance. The Regional Board's Drinking Water Policy for Surface Waters of the Delta and its Upstream Tributaries includes this concept, which is also consistent with Resolution R5-2016-0018 Adopting the Human Right to Water as a Core Value in Central Valley Water Board Programs and Activities. The proposed Basin Plan Amendment insufficiently discusses and supports the value of source water protection.

Protecting Public Health and Welfare: Degradation of downstream water supplies would likely shift an increasing burden of protecting public health and welfare on to the drinking water suppliers, instead of ensuring that sufficient practical controls are in place to protect downstream MUN use by preventing degradation before it occurs. For example, the region-wide de-/re-designation process, in combination with the proposed secondary MCL policy associated with the Salt Nitrate Management Plan, could result in higher loading of metals or other secondary constituents to upstream water bodies that are tributary to the Sacramento River. Once contaminants are introduced into source water it is very difficult and time-consuming to reverse trends, which then requires water utilities to either shift water supplies (if even possible) or attempt to implement treatment remedies. This degradation in water quality would reduce public health protection and/or public welfare and increase costs of drinking water treatment and residual management.

Drinking water standards are in place to protect public health and welfare. Primary and secondary drinking water standards apply to all community water systems, regardless of size, source type, and the treatment design and processes. In conjunction with MCLs intended to protect public health and welfare in the water served, source water levels are important and are the primary monitoring location for several constituents. Many regulated constituents, including those with secondary MCLs, are not naturally occurring or are typically present at levels below regulatory concern, so monitoring of the source water is critical to identifying changes in their presence in the source water and the necessity of implementing a targeted treatment technology.

We believe it is critical that the Basin Plan references to the drinking water standards need to remain prospective, which means any newly regulated constituents are included. This ensures that the MUN use will be protected consistent with regulatory protections for public health and welfare in the future and will provide long-term protection for drinking water quality concerns.

Maintaining Current Narrative Objectives: It is important to recognize that there are several other narrative objectives in the Basin Plan that are important for MUN source water protection by protecting general water quality; governing constituents which have not yet developed drinking water standards but are known to impact human health; and covering other health, aesthetic, or nuisance issues not covered by numerical limits. We appreciate the inclusion of this concept in the current version of the proposed Basin Plan text, but request that it be further clarified to explain what "other" water quality objectives are referred to. Any changes in the Basin Plan should clearly ensure that the current protections remain in place, including numerical and narrative water quality objectives that are applicable to MUN.

## **Item 2: Proposed De-/Re-Designation Process, Including Consistency with the Intent and Requirements of the Sources of Drinking Water Policy**

We continue to have fundamental concerns on the proposed de-/re-designation process, including the key items discussed below.

Insufficient Problem Identification: The Basin Plan Amendment does not provide sufficient problem identification related to impacts to agricultural dominated waterbodies, which leads to insufficient technical evaluation of potential impacts of the region-wide process and insufficient commitment to ensure long-term protections for downstream MUN use. This is especially evident in the approach for water bodies that are not covered in the State's Sources of Drinking Water Policy (State Board Resolution 88-63) exception for agricultural drains (2b).

Consistency with Sources of Drinking Water Policy: We are concerned that some of the specifics proposed for the MUN de-designation process are not consistent with the intent of the Sources of Drinking Water Policy. For example, the Policy specifically identifies an exception for agricultural drainages (2b), and includes monitoring requirements to ensure downstream MUN protection. The proposed process includes de-designation using this exception for constructed and modified combinations of agricultural drainage and water supply (included in C1 and M1), but no justification is provided for why these combination water bodies have been determined to meet Exception 2b for waterbodies with the primary purpose to convey or hold agricultural drainage. We suggest that the process include a more specific definition for agricultural drainage to provide some reasonable/practical parameters for water bodies that are combinations to ensure that they are being excepted under the Sources of Drinking Water Policy based on the primary purpose of conveying or holding agricultural drainage.

Another example of inconsistency with the Sources of Drinking Water Policy is the lack of clear commitment by the Regional Board to require monitoring of water bodies that are de-designated using exception 2b, to assure compliance with relevant water quality objectives. We continue to have concerns about the sufficiency of available data, and the potential lack of scientific rigor in the Implementation Program's evaluation process. The process lacks specific details and cites the need for flexibility, which can result in inconsistent application and outcomes.

Additional Process Concerns: We believe that the details of the process need further refinement to ensure protection of water quality in downstream MUN water bodies. The following are examples of some of items that warrant further development.

- We are concerned that assumptions of no impact based on no data evaluation, paired with insufficient monitoring data, may lead to approval of a process that changes beneficial use designation for water bodies that actually warrant further evaluation before any change is made.
- We suggest that the Regional Board consider development of a guidance document to assist staff in conducting the water quality evaluations as part of the water body characterizations, as water quality was identified by the Regional Board as a key limiting characteristic to consider in determining the application of the MUN beneficial use. This guidance document should be developed with input from the DDW and drinking water stakeholders.
- The definition of agricultural dominated waters, including both supply and drainage waters, continues to be of concern. Since the definition is based only on the irrigation season (which remains undefined) – not the rest of the year - it may insufficiently represent source water quality risk to downstream water bodies in the non-irrigation season.

- The implementation flowchart and evaluation process do not include an exit off-ramp for systems that are reviewed and determined not to meet de-designation or re-designation requirements. Also, the draft process has not been tested, as the case studies provided no testing of the water body characterization flowchart for recirculating systems or water bodies that don't meet the Sources of Drinking Water Policy Exception 2b. Further, it is unclear if all of the agricultural dominated water bodies that don't fit the Sources of Drinking Water Policy Exception 2b will fit the LMUN definition.
- It remains unclear how alternative water quality objectives may be implemented into NPDES permits, via the Reference Document, prior to formal adoption by the Regional Board into the Basin Plan.
- The draft Staff Report indicates that antidegradation analysis will be conducted through implementation of individual order updates. This would only seem to apply to NPDES permitted facilities and not to the Irrigated Lands Regulatory Program since it is a non-point source program, so it is unclear how antidegradation analysis would be provided for irrigated agriculture considerations. We are concerned that the antidegradation analysis of a large number of discharges affected by the de-/re-designations will not be addressed through the proposed individual order evaluation process.
- The Regional Board should clarify the language found in the proposed text for the Basin Plan Chapter 4, Implementation that ensures protection of all water bodies used for MUN, which reads "The Region-wide MUN Evaluation process will not apply to water bodies that are already listed in Table II-1 of the Basin Plan or water bodies that are currently used for municipal or domestic water supply. Site specific evaluation will be conducted on these water bodies should the beneficial use change." We suggest that the last sentence be removed or revised to ensure that it is not misinterpreted to imply that water bodies used or planned to be used for MUN may have their MUN use designation changed, as well as to make clear that this process is not intended to apply to water bodies listed in Table II-1 with the MUN beneficial use.

We also note that it is our understanding that the first Basin Plan Amendment developed for the four POTWs in the Sacramento River Watershed did not present and utilize a waterbody characterization process applicable to the entire region; all of the water bodies evaluated in that process were determined to meet the exception 2b in the Sources of Drinking Water Policy for agricultural drainage and no use of the flowcharts or process was included in the Basin Plan Amendment.

### **Item 3: Limited MUN New Beneficial Use and Its Water Quality Objective**

The LMUN definition and water quality objective should be further considered, as it is unclear how this beneficial use and its associated Water Quality Objective support potential future use as source water for potable water supply, and further clarification is needed regarding how water quality will be protected in downstream MUN water bodies.

Limited MUN Beneficial Use Definition: The new Limited MUN beneficial use definition is vague and lacks specificity in the actual uses allowed in the waterbody. It does not appear to be protective of current or future MUN use and is not sufficiently protective of downstream MUN use, which is our program's focus. It is essential that the Limited MUN water bodies be managed to prevent downstream impacts, rather than allowing degradation resulting in impact to or impairment of downstream beneficial uses. Increased water treatment downstream should not be relied upon as the mitigation for increased pollution if preventable at the source through practical management.

LMUN Water Quality Objective: The draft LMUN water quality objective lacks specificity and does not provide sufficient guidance to ensure consistent application to all the re-designated water bodies. It is unclear what the actual use of the waterbody is protected for. We do not understand why the federal antidegradation rule and consideration of trends in degradation are not included. We believe that the narrative objective does not sufficiently protect our high quality downstream water supplies from potential future degradation. We request that the definition of the LMUN water quality objective be expanded to add, "and will not create a trend of degradation that impacts any downstream beneficial uses."

Consistency with Intent of Sources of Drinking Water Policy: Since this new beneficial use is essentially providing the same function as the Sources of Drinking Water Policy exceptions, for water bodies that do not meet those criteria, the downstream protections should be equivalent. We recommend that the Regional Board further develop the LMUN related materials to better support protection of the LMUN use and downstream beneficial uses.

Numeric Trigger Language: We request an expansion of the language in Chapter 5 Surveillance and Monitoring, to provide the opportunity for the use of numeric triggers as appropriate to protect the LMUN water bodies for potential future use as source water for potable water use.

#### **Item 4: Monitoring and Surveillance Program**

It is important that the monitoring and surveillance program be implemented in a manner that assures downstream water bodies will continue to be protected for MUN use in the future. We are concerned that the Monitoring and Surveillance Program does not provide assurance of sufficient monitoring and evaluation to support the Board in performing assessment of source water quality changes, identifying degradation early, and implementing action to correct problems, rather than addressing issues after they become a public health or welfare issue. The Basin Plan Amendment should better address how data gaps will be addressed, how downstream water quality changes and cumulative impacts will be evaluated, and who would be the responsible parties that can implement solutions if there are impacts.

Monitoring Requirements: The Sources of Drinking Water Policy clearly requires monitoring of de-designated water bodies that are agricultural drains under Exception 2b. This BPA should include similar requirements for LMUN waterbodies since they are essentially removing the MUN beneficial use in the same procedure. We know that the Sources of Drinking Water Policy includes monitoring de-designated discharges as part of the de-designation process; however, we believe it is reasonable to protect source water quality to instead monitor the next downstream MUN waterbody after the discharge has mixed or blended. In the case of an area with numerous de-designations that enter the next downstream MUN designated waterbody in a similar river reach, representative monitoring may be a helpful, practical approach in the planning of the MUN de-designation monitoring program.

Monitoring Assurance Needs: The BPA should include provisions assuring that the monitoring program will include all applicable water quality objectives associated with the MUN beneficial use, as well as a specific plan to review the data collected and make a determination of compliance. Since water body de-/re-designations may apply to a wide variety of discharger types, the MUN use should be evaluated holistically. The water quality monitoring program should be designed to be able to determine if downstream MUN use is being impacted and if the de-/or re-designated water bodies are contributing to that impact. We do not believe the existing monitoring conducted by others is sufficient to support the MUN de-/re-designations. We hereby incorporate by reference our comments on the existing monitoring programs and the monitoring guide that were included in the SRSWPP's February 20, 2015 Comments on An Amendment to the Water Quality Control Plan for the Sacramento River and San Joaquin River

Basins to Remove the Municipal and Domestic Supply (MUN) Beneficial Use in Twelve Constructed And/Or Modified Water Bodies in the Sacramento River Basin that Receive Treated Municipal Wastewater from the Cities of Biggs, Colusa, Live Oak or Willows.

It appears that existing monitoring programs are planned to be relied upon; however, existing monitoring programs were designed for specific purposes and may not provide sufficient information to support water quality analysis for the region-wide de-/re-designation process. Further, it is unclear how existing monitoring programs for dischargers may be modified in light of changes to the MUN de-/re-designation in their respective receiving waters. We are concerned that if MUN use is removed or re-designated from water bodies, then the associated objectives will be removed and the dischargers will not be required to monitor for those MUN-associated constituents or implement reduction strategies if applicable. Also, it is unclear if the Irrigated Lands Regulatory Program (ILRP) monitoring program provides coverage for all of the types of water bodies being considered in the proposed process - if for example there are water bodies used for agricultural supply that are not waste discharges.

We have gone through the new Live Oak Wastewater Treatment Plant NPDES permit (R5-2016-0039) and observe that all of the MUN-associated water quality objectives were removed from the effluent limits and effluent monitoring requirements with the removal of the MUN beneficial use in the receiving water. The permit includes a brief discussion of the Basin Plan Amendment removing the MUN beneficial use, but there does not appear to be inclusion of any downstream impacts evaluation. The Reasonable Potential Analyses presented in Section IV.C.3 of Appendix F removes the MUN water quality objectives on the receiving water, but does not present any analysis for downstream MUN impacts. The Antibalancing Analysis presented in Section IV.D.3. of Appendix F applied exceptions to the federal regulations to justify elimination of MUN-associated effluent limits and monitoring. It should be noted that several metals were detected in the effluent well above the MUN water quality objectives. Also, receiving water monitoring has been reduced and only includes the immediate receiving water, monitoring has been reduced to one sample per five years, and monitoring only includes selected MUN-associated constituents in the receiving water upstream of the discharge (not downstream). We do not see how this permit evaluates impact to downstream MUN use or allows for collection of sufficient data to evaluate the de-designation's future impact to downstream water bodies. We are concerned that the same approach may be planned during implementation of this region-wide Basin Plan Amendment. However, we are unable to ascertain the scope or significance of this concern since there has been no identification of potentially impacted dischargers in the draft Staff Report.

Long-term Water Quality Evaluation: The Surveillance and Monitoring Chapter does not specify a process for the Regional Board to comprehensively review available data and assess trends of degradation in the de-/re-designated and downstream water bodies for the long-term. The Integrated Report is only prepared periodically and focuses on impairments and overall state of the water, not specific analyses for de-/re-designated water body evaluations over time. The use of Watershed Sanitary Surveys completed by water utilities may provide additional information for Regional Board staff to consider in its evaluation, but would likely not serve as a surrogate since watershed sanitary surveys are required to meet state drinking water requirements for specific purposes, only cover a five-year period, and would not provide the geographic coverage necessary to ensure Basin-wide review of water quality to prevent degradation.

There are insufficient details provided in the Draft Staff Report, proposed Basin Plan Implementation language, and Appendix J to allow for consistent application of the Regional Board water quality evaluation process. For example, there does not appear to be inclusion of evaluation of cumulative impacts of the de-/re-designations over time. We suggest that the Regional Board develop a guidance document to assist staff in conducting the water quality evaluations as part of the water body

characterizations, since the Regional Board identified that water quality is a key limiting characteristic that will be considered in determining the application of the MUN beneficial use. This guidance document should be developed with input from DDW and drinking water stakeholders. We request that there also be recognition of the potential for the need for an earlier evaluation if there is relevant information available from the DDW or water utilities.

We also are concerned about the potential for ending monitoring that is deemed to be complete in the short-term, for constituents that still may have long-term consequences for source water quality. A large amount of the affected discharges will likely be based on agricultural operations, which are well documented to change over time. Over time, crops, management practices, and applied pesticides can change, and this should be accounted for in the long-term monitoring and surveillance program. We recommend that guidance be developed to ensure sufficient long-term monitoring, as well as the ability to reinstate monitoring if a problem or trend is identified at a later date after monitoring is deemed completed.

Long-term Source Water Protection: There are many mentions of reasonable degradation and unreasonable degradation throughout the staff report. We are concerned about the potential for degradation to MUN source water quality, and we request that the Staff Report further clarify these terms, how downstream source water quality will be protected and degradation prevented, and how the Regional Board intends to provide consistency in reviews and determinations to ensure that the regional process has no unintended consequences, including long-term and cumulative effects, that impact public health and welfare.

We request clarification of how discharges will continue to be regulated to protect the downstream MUN beneficial uses after appropriate receiving waters are de-/re-designated, to ensure that there are not cumulative impacts. Clarification is needed on how water quality will be protected in downstream MUN water bodies for water quality constituents that currently exceed the Basin Plan water quality objectives. If there are water bodies that are eligible for re-designation to LMUN but do not carry agricultural discharges, clarification is needed regarding whether long-term protection is afforded by the ILRP.

Because there is potential for other discharges to the de-designated or re-designated water bodies, we are uncertain whether the approach to permit renewal discussed in the draft Staff Report provides sufficient consideration of cumulative effects. We request that the Reasonable Potential Analysis (RPA) defined in Section 1.3 of the State Implementation Plan be reviewed to ensure that the process specifically requires any future discharges to these de-designated or re-designated waterbodies to include evaluation for protection of MUN in the next downstream MUN designated waterbody. If there is not a procedure currently in place, then this Basin Plan Amendment should include a requirement for such action as a routine item. We further note that such future RPAs should also be required to include a complete cumulative effects analysis (as part of CEQA compliance) for that next downstream waterbody, that considers all permitted discharges including agricultural discharges, identifies other de-designations or re-designations that have occurred, and includes water quality information in the evaluation, to ensure that all impacts are being quantified over time, regardless of whether previous RPAs were determined to be de minimus. This would need to be a water body specific assessment.

Also, we recommend that specific language be added to Chapter 5 of the Staff Report and Basin Plan Amendment to provide the opportunity for the Board staff to use trigger limits for protection of downstream water bodies with MUN and LMUN designations as appropriate in the process of issuing WDRs or permits, as discussed in Section 11.4 of the staff report, Ensuring Sufficient Compliance. The current language in

Chapter 5 only discussed protection of MUN water bodies downstream of water bodies re-designated to the LMUN beneficial use.

#### **Item 5: Process for Closed Recirculating Systems**

Information on Downstream MUN Waterbodies and Diversions: We request that the language on identification of downstream diverters that may be impacted by an emergency release be clarified to identify the downstream MUN water bodies as well as existing diversions. Moreover, determining risk to MUN should consider all of the water systems that could be impacted, as it is insufficient to just consider the closest one.

Seasonally Closed Controlled Recirculating System Application: Per Figure X in the staff report, both the Water Body Categorization Report and the Closed Controlled Recirculating System Application are required for submittal. We appreciate the clarification that the full evaluation will be provided for seasonally closed controlled systems. We understand and appreciate the potential for water quality benefits from seasonally closed systems; the full review process allows for consideration of the remainder of the year when the water bodies are not used for agricultural purposes.

#### **Item 6: Adequacy of Environmental and Economic Evaluation and Analysis**

We have significant concerns regarding the adequacy of the environmental and economic evaluation and analysis, including the conclusion that the region-wide process will have less-than-significant water quality impacts. This relates to the core issue discussed in item 2 regarding the lack of data and information substantiating problems that support the need for the Basin Plan Amendment, and inadequate consideration of the potential for long-term and cumulative water quality impacts to downstream MUN water bodies.

Adequacy of Water Quality Evaluation and Analysis: In Section 13 Environmental and Economic Analysis of the staff report, subsection 13.2.5 Summary, it is stated, "Adoption of the proposed amendment would not have any significant effect on the existing physical environment because the amendment would not change any factors affecting existing hydrology or water quality in the affected Ag dominated water bodies or downstream water bodies."

We do not believe that the water quality and environmental evaluations provided in the staff report and associated documents support this conclusion. We recommend that water quality evaluations be conducted, including antidegradation analysis, that incorporate consideration of cumulative effects and the potential for reductions in water quality downstream of the de- and re-designated water bodies and related human health and welfare risks and costs. It is also particularly unclear how this determination was reached for the water bodies that may receive LMUN re-designation, as the premise of the need for the re-designation is that water quality may need to be allowed to be reduced to support use of the water bodies for agricultural purposes and it is unclear what the potential future use for MUN would be.

#### Cumulative Impacts Analysis

Section 13.1.4 Cumulative Impact Analysis includes the following conclusion: "The Environmental Checklist and the analysis contained herein concludes that the proposed Basin Plan Amendments, when addressing the MUN use in other Ag dominated surface water bodies and in closed controlled recirculating systems (other than the SLCC water bodies), would have a less than significant impact on water quality and biological resources." We believe that the analysis of cumulative impacts conducted is insufficient

for various reasons, including lack of supporting information and water quality evaluations, lack of rigor of qualitative evaluations, and absence of review of the cumulative effects of the potential future secondary MCL policy and other policies included in the Salt and Nitrate Management plan.

### Peer Review Justification

We do not agree with the rationale for no peer review, and we believe that it would be important for the Regional Board to obtain peer review, including DDW and the CA Office of Environmental Health Hazard Assessment (OEHHA), especially regarding creation of the new beneficial use LMUN and its associated water quality objective.

It is stated in the staff report that "Appendix K of this Staff Report provides justification that the proposed Basin Plan Amendments do not contain new science that would necessitate peer review required by Health and Safety Code section 57004(d)." Health and Safety Code section 57004(a)(2) states, "'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 proposed LMUN beneficial use and its associated water quality objective clearly fit within this definition for protection of public health.

We also encourage peer review for the de-designation process long-term monitoring program. The waterbody characterization and MUN beneficial use designation process depends on a water quality evaluation to be performed by staff; we believe that it is important for the data presented in the Monitoring Guides to receive a peer review to provide scientific evaluation of that data's applicability and sufficiency for its intended use for this process.

### Economic Evaluation

The economic evaluation is inadequate for several reasons. It lacks any consideration and analysis of drinking water treatment and residual management costs for downstream utilities. Also, although the evaluation includes costs associated with the POTWs that received regulatory relief from Resolution R5-2015-0022, it is unclear how these costs are representative of other POTWs that may be eligible for regulatory relief from the region-wide process. The cost information to support the benefits for agricultural activities also is not clearly representative of the range of water bodies and water quality conditions that will be potentially eligible for de-designation and re-designation consideration via the region-wide process.

## **Item 7: Clarification of Drinking Water Technical Information**

### Regulatory Compliance

We continue to strongly disagree with statements that the only purpose of primary and secondary MCLs is compliance at the tap after treatment. Although drinking water compliance is required in the treated water provided to consumers, monitoring for most constituents is measured in raw water (such as perchlorate and other inorganics, organics, and radiologicals). Moreover, many of these constituents are not anticipated to be present at levels that require implementation of a best available technology for reduction. Other constituents are regulated and monitored in the source water because they can break down during the treatment process and result in impacts in the treated water. For these reasons, evaluation of constituent levels present in raw water is necessary for drinking water suppliers, and such constituents can have significant downstream costs and impacts on treatment processes if they are not

removed efficiently by conventional filtration and require implementation of an alternate treatment process.

DDW Policy Memo 97-005

We continue to disagree with the characterization in the draft Staff Report of DDW Policy Memo 97-005: Guidance for Direct Domestic Use of Extremely Impaired Sources. The intent of the memo is not to prevent water utilities from utilizing these sources, but rather to provide direction on how to utilize extremely impaired sources, such as sources that contain or are likely to contain high concentrations of contaminants, multiple contaminants, or unknown contaminants (such as groundwater subject to contamination from a hazardous waste disposal site), when no other source is available. Many of the agricultural dominated water bodies proposed to be included in the Basin Plan Amendment do not even meet the standards of an extremely impaired source. In fact, the policy states that, "MCLs should not be used to condone contamination up to those levels where the addition of those contaminants can be reasonable avoided". We request that this policy be recharacterized or removed from the draft Staff Report.