

**Regional Water Quality Control Board
Central Valley Region
Board Hearing – 10/11 August 2017**

**RESPONSE TO WRITTEN COMMENTS ON
A BASIN PLAN AMENDMENT TO ESTABLISH A REGION-WIDE MUNICIPAL AND
DOMESTIC SUPPLY (MUN) BENEFICIAL USE EVALUATION PROCESS IN
AGRICULTURALLY DOMINATED SURFACE WATER BODIES**

At a public hearing scheduled for 10 and 11 August 2017, the Central Valley Regional Water Quality Control Board (“Central Valley Water Board” or “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 establish a region-wide MUN beneficial use evaluation process in agriculturally dominated surface water bodies and remove the MUN beneficial use from 231 constructed or modified Ag drains in the San Luis Canal Company District.

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 23 January 2017 to 24 March 2017. The Central Valley Water Board conducted a public hearing to receive oral comments on 23 February 2017. This document contains responses to written and oral comments submitted to Central Valley Water Board staff during this period.

This “Response to Comments” is organized into four main sections and an appendix. Section 1 addresses broad issues identified during the stakeholder and public comment period. Section 2 addresses oral comments identified during the 23 February 2017 Board Hearing. Section 3 addresses general written comments pertaining to the proposed Basin Plan Amendments and/or the draft Staff Report. Section 4 is a memo evaluating the proposed amendment received from the State Water Resources Control Board Division of Drinking Water as requested during the 23 February 2017 public hearing. Appendix A contains additional responses to comments and proposed edits that were inserted into a copy of the draft Staff Report that was submitted by the Sacramento River Source Water Protection Program in addition to their oral comments and comment letters dated 23 February and 22 March 2017.

Oral/Written comments were received by:

Name, Title Organization (Submittal Date)	Broad Issues	Comments	
		Oral	Written
Ms. Elissa Callman, Senior Engineer Sacramento River Source Water Protection Program and City of Sacramento Department of Utilities (February 23, 2017; March 22, 2017)	X	X	X
Mr. Dennis Westcot Ms. Valerie Kincaid, Attorney San Joaquin River Group Authority (February 23, 2017; March 23, 2017)		X	X

Name, Title Organization (Submittal Date)	Broad Issues	Comments	
		Oral	Written
Ms. Debbie Webster, Executive Officer Central Valley Clean Water Association Ms. Roberta L. Larson, Executive Director California Association of Sanitation Agencies (February 23, 2017; March 24, 2017)		X	X
Ms. Debra Liebersbach, Water Planning Department Manager Turlock Irrigation District (February 23, 2017, March 23, 2017)		X	X
Ms. Melissa Thorne, Attorney Valley Water Management Company (February 23, 2017; March 2?, 2017)		X	X
Mr. David Cory San Joaquin Valley Drainage Authority Western San Joaquin River Watershed Coalition San Luis Canal Company (February 23, 2017)		X	
Mr. Robert Gore California Independent Petroleum Association (February 23, 2017)		X	
Mr. Tim Johnson, President and Chief Executive Officer Ms. Theresa Dunham, Attorney California Rice Commission (February 23, 2017, March 23, 2017)		X	X
Ms. Cindy Paulson, Executive Director California Urban Water Agencies (March 23, 2017)	X		X
Mr. Matthew Mitchell United States Environmental Protection Agency, Region IX (March 23, 2017)			X
Ms. Sherill Huun, Supervising Engineer Sacramento River Source Water Protection Program (Dated: March 22, 2017 Received: March 23, 2017)	X		X
Mr. Russell Emerson, Manager Valley Water Management Company (March 23, 2017)			X

Name, Title Organization (Submittal Date)	Broad Issues	Comments	
		Oral	Written
Ms. Kari Fisher, Associate Counsel California Farm Bureau Federation (March 24, 2017)			X
Mr. Dennis Tristao, Executive Director California Safflower Growers Association (March 24, 2017)			X
Ms. Erica Maharg, Managing Attorney San Francisco Baykeeper, California Sportfishing Protection Alliance, Pesticide Action Network – North America, Environmental Justice Coalition for Water (March 24, 2017)	X		X
Ms. Theresa Dunham, Attorney African-American Farmers of California, Buena Vista Coalition, California Citrus Mutual, California Cotton Ginners & Growers Association, California Fresh Fruit Association, California Association of Sanitation Agencies, California Farm Bureau Federation, East San Joaquin Water Quality Coalition, Kaweah Basin Water Quality Association, Kern River Watershed Coalition Authority, Nisei Farmers League, Western Agriculture Processors Association, Western Growers Association, Western Plant Health Association, Westside San Joaquin River Watershed Coalition (March 24, 2017)			X

SECTION 1: BROAD ISSUES

This section contains Board staff responses to broad issues identified during the public comment period.

BROAD ISSUE 1: ADEQUACY OF PROPOSED MONITORING AND SURVEILLANCE PROGRAM TO PROTECT DOWNSTREAM WATER BODIES WITH THE MUN USE

General Comments: Proposed process is not sufficient to ensure adequate monitoring of discharges from de-designated or LMUN water bodies, assure compliance with relevant water quality objectives, and protect downstream water bodies with existing MUN use.

RESPONSE:

The proposed Basin Plan Amendments utilize Exception 2b in the *Sources of Drinking Water Policy* to justify the de-designation of MUN beneficial use designations in water bodies that were designed or modified to hold or convey agricultural drainage. Consistent with Exception 2b, discharges are required to be monitored to ensure compliance with all relevant water quality objectives. Monitoring is an important component of the proposed implementation program for both de-designated and LMUN water bodies to ensure there are no unreasonable impacts to downstream MUN-designated water bodies. To fulfill these monitoring objectives, the proposed monitoring assessments for each application will consider activities within and downstream of the area under consideration. These case-by-case monitoring assessments, described in section 10 of the draft Staff Report, ensure that relevant water quality objectives will be monitored to prevent potentially unreasonable water quality impacts. The proposed Basin Plan amendments lay out a process to determine whether new data is needed to complete the assessments.

Staff developed Comprehensive Monitoring Guides to assist with the implementation of the monitoring assessment process included in the proposed amendments. The Comprehensive Monitoring Guides include detailed major basin monitoring information for Central Valley Water Board's monitoring programs as well as other entities. These guides are maintained by Central Valley Water Board staff internally and are available online. The guides will be updated and expanded every 3 to 5 years in conjunction with any Basin Plan Amendments to implement the proposed evaluation process.

In addition to considering the relevant monitoring applicable to each area under consideration, the draft Staff Report lays out a process for Board staff to evaluate water quality constituents of concern and to identify data gaps. At a minimum, staff will review the California Integrated 303(d) and 305(b) Report and may also review documents such as the ILRP's Management Plans, NPDES self-monitoring reports, DDW's Watershed Sanitary Surveys and, as applicable, other outside data sources.

Based on their review, Board staff may either determine that current monitoring is sufficient, or that additional monitoring requirements are needed to ensure no unreasonable impacts to downstream water quality.

Water quality results for any existing or additional monitoring added as a condition of interim designations will be evaluated as part of the Basin Plan Amendment process for final beneficial use designation. The proposed Basin Plan Amendments specify that where additional monitoring is required to demonstrate that any change in a MUN designation will not result in unreasonable impacts to water quality in downstream water bodies, such monitoring efforts will remain in effect at least until such a demonstration is made. The monitoring requirements may be altered or reduced consistent with applicable regulatory requirements.

Dischargers who initiate new discharges or who make changes in the character, location or volume of their discharge will be responsible for ensuring that the new discharge or the change to the existing discharge does not result in unreasonable impacts to water quality downstream.

The proposed Basin Plan Amendment language also specifies that, as resources permit, the Central Valley Water Board staff will work with other agencies and regional monitoring programs to conduct Title 22 source water monitoring in key MUN-designated watersheds such as the Sacramento, San Joaquin and Feather Rivers every 3-5 years

to support the Integrated Report process and the Watershed Sanitary Surveys (see Section 1, Broad Issue 2 below for more information on these reports).

The combination of required activities will ensure that relevant water quality objectives will continue to be met and downstream uses protected.

BROAD ISSUE 2: CUMULATIVE IMPACTS AND LONG TERM PROTECTION OF DOWNSTREAM MUN WATER BODIES

General Comments: Staff Report does not provide a sufficient review of potential cumulative impacts to downstream water bodies that supply the MUN use and the proposed process does not ensure the long term protection of those water bodies from cumulative impacts.

RESPONSE: The discussion on cumulative impacts has been expanded within section 13.1.4 (Cumulative Impact Analysis) and additional discussion on potential economic impacts was added as section 13.2.3.4 (Water Purveyors). In addition, the Environmental Checklist (Appendix L) was also expanded to include further discussion of the less-than-significant impacts to biological resources, water quality, and utilities and services.

Chapter 13.1.4 reviews, in detail, the three resource categories (Water Quality, Biological Resources, and Utilities and Services) of the Environmental Checklist that had a “less than significant impact” finding (the other resource categories had a “no significant impact” finding). The analysis contains a detailed review of the potential cumulative impacts from agricultural, stormwater, and NPDES permitted discharges. These discharger categories form the vast majority of regulated entities whose permits may be affected by permit revisions that would potentially occur following the adoption of the proposed Basin Plan Amendments.

As discussed in the cumulative impacts analysis, agricultural activities have been ongoing within the Central Valley for over a century, and the majority of the constructed, modified, and ag dominated natural water bodies have been an integral part of established agricultural production activities for several decades. Despite the blanket MUN designation in the Board’s Basin Plans that applied the MUN beneficial use to nearly all waterbodies within the Valley, dischargers have traditionally operated as if Exception 2b in the Sources of Drinking Water Policy was self-implementing, and have not taken measures to ensure that water quality in their ag drains and supply channels met Title 22 MCLs designed to provide potable water supply without treatment. When faced with the question of whether it would be reasonable for the Board to start requiring dischargers to implement costly measures to ensure that ag drains and supply channels could supply drinking water without treatment, the Board determined that it was more reasonable to instead initiate efforts to reassess the MUN designations within these waterbodies – an effort that ultimately led to the development of the proposed Basin Plan Amendments. Because most dischargers that discharge into waterbodies whose MUN uses could be de-designated or refined under the proposed Amendments have *not* been treating their wastewater to standards designed to be protective of the MUN beneficial use, concerns about significant worsening of water quality following the adoption of the proposed Amendments are unsubstantiated. The Board anticipates that water quality after utilization of the proposed categorization process will, to a great extent, simply mirror the existing water quality within the agricultural network today; any

incremental additional pollutant loading that could occur as permits are revised to account for the changes in beneficial use designations is expected to be quite limited. Additionally, the Board will still be required to protect the remaining beneficial uses in the water bodies whose beneficial uses have changed as well as the beneficial uses in downstream water bodies, and will still be required to comply with the *State Antidegradation Policy* when authorizing any actions that could degrade high-quality waters.

With the implementation of these amendments, the ILRP General Orders will still require that the coalitions ensure that grower practices are protective of designated beneficial uses in the area represented by their monitoring programs. The representative monitoring program established by the ILRP will remain in place even after changes are made to MUN beneficial use designations, and the coalitions will still be required to develop and implement regional water quality management plans if water quality problems are discovered.

With regard to point-source dischargers, any new or expanded discharge into an Ag dominated surface water body will be required to comply with NPDES permit limitations developed to protect the designated beneficial uses for the receiving water body. When a permittee proposes a new or expanded discharge, they must submit a new report of waste discharge to the Board, which would include a new antidegradation analysis and staff would conduct a Reasonable Potential Analysis (RPA) before a renewed NPDES permit can be issued. The RPA determines the need for water quality-based effluent limitations (WQBELs) with consideration given to the beneficial uses and applicable water quality objectives of the receiving water. However, the potential impacts of the discharge to downstream water bodies with different beneficial uses (e.g., MUN) must also be considered through the antidegradation analysis and could result in additional controls. Therefore, even if the MUN beneficial use is removed from a water body that receives NPDES discharges, the dischargers would demonstrate there is no unreasonable impact to the surface water bodies that may be influenced by the discharge. Any degradation of water quality within the direct receiving water body and downstream water bodies would have to comply with the *State Antidegradation Policy* and approved by the Central Valley Water Board. Therefore, it is expected that there would be minimal changes in water quality relative to existing conditions, and such changes are not expected to be cumulatively significant.

Changes to the MUN beneficial use in Ag dominated water bodies will also not change the way Municipal Storm water permits are administered or cause a significant cumulative impact from stormwater discharges to downstream water quality. A primary focus of the program is on Best Management Practices (BMPs) to minimize water quality impacts from storm runoff and monitoring efforts will continue to address 303(d) listed pollutants and other constituents of concern for the remaining beneficial uses designated in the Ag dominated water bodies and their downstream water bodies.

In addition to the assurances granted by the Central Valley Water Board's permitting and enforcement processes, the Central Valley Water Board is committed to working with other agencies and regional monitoring programs to conduct Title 22 source water monitoring in key MUN designated watersheds such as the Sacramento, San Joaquin and Feather Rivers every 3-5 years in support of the 303(d) and 305(b) Integrated Report process and the Watershed Sanitary Surveys, required of water suppliers by the Division of Drinking Water.

As described in Section 1, Broad Issue 1, staff will review the most recent California Integrated 303(d) and 305(b) Report and other available water quality information with each application it receives.

While the proposed implementation program described above utilizes a multifaceted and coordinated approach to ensuring the long term protection of downstream MUN water bodies, the Staff Report does recognize the potential for increased loading of some constituents, even though such increases may not result in exceedances of regulatory thresholds designed to protect beneficial uses. Increased concentrations of certain constituents, such as turbidity, aluminum, iron and manganese may also result in increased costs to adjust treatment practices (e.g. coagulation/filtration) prior to delivery to consumers. Though certain monitoring and treatment costs may increase, the Board expects such cost increases to cause a less than significant cumulative impact because current practices are not anticipated to change significantly and the Board will still place restrictions on pollutant increases that result from changes to and/or increases of discharges to a system as described above.

BROAD ISSUE 3: CONSISTENCY WITH THE *SOURCES OF DRINKING WATER POLICY*

General Comments: Proposed process is not consistent with the *Sources of Drinking Water Policy* (Resolution 88-63) because: 1) Exception 2b is being applied to water bodies that carry a combination of agricultural drainage water and supply water and 2) water bodies that do not meet the exceptions are designated with a LMUN beneficial use designation

RESPONSE: Exception 2b applies to systems designed or modified with the primary purpose of conveying or holding agricultural drainage waters. Exception 2b does not require that *only* Ag drainage be conveyed or held in these systems to meet the exception, rather, that the primary purpose of construction and/or modification is to convey agricultural drainage. The categorization flow chart within the proposed amendment has been clarified to highlight this intent.

In an effort to recycle, blend and/or conserve water, Ag operators have modified many systems to convey a combination of Ag drainage and supply water. The amount of each type of water source may fluctuate from day to day and from year to year, depending on water availability and crop needs. However, if the water body was designed (constructed) for the primary purpose of holding or conveying agricultural drainage, or a modification was made to the water body for the primary purpose of holding or conveying agricultural drainage, the water body is eligible to meet Exception 2b.

The proposed region-wide MUN evaluation process also assigns a refined LMUN beneficial use designation to Ag dominated water bodies that do not meet Exception 2b of the *Sources of Drinking Water Policy*, but that may provide limited potential as a source of MUN due to inherent characteristics. This LMUN beneficial use component of the proposed amendments is also consistent with the *Sources of Drinking Water Policy* because the Board will continue to protect these limited, but potentially suitable, MUN sources rather than removing the MUN beneficial use designation.

BROAD ISSUE 4: APPLICATION AND PROTECTION OF THE LIMITED-MUN BENEFICIAL USE

General Comments: Concern with the application and proposed water quality objective of the Limited-MUN (LMUN) beneficial use. Specifically, there is concern that the LMUN definition is too vague and that its narrative water quality objective is not protective of the water body and downstream beneficial uses.

RESPONSE: The LMUN beneficial use applies to water bodies that do not meet exceptions in the *Sources of Drinking Water Policy* and may only provide limited potential as a source of MUN due to inherent characteristics such as intermittent flows and/or naturally elevated background constituent concentrations. The proposed definition for the LMUN beneficial use is:

Uses of water for municipal and domestic supply in Ag dominated water bodies where the use is limited by water body characteristics such as intermittent flow, management to maintain intended Ag use and/or constituent concentrations in the water body

The proposed water quality objective for LMUN is:

Water quality and downstream beneficial uses will be protected consistent with the state antidegradation policy.

State Water Board Resolution 68-16, the Statement of Policy with Respect to Maintaining High Quality of Waters in California (*State Antidegradation Policy*) generally prohibits the Central Valley Water Board from authorizing activities that will result in the degradation of high-quality waters unless the Board makes certain findings. The *State Antidegradation Policy* states, in relevant part:

1. Whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will 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.
2. Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or purposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.

The new water quality objective for LMUN emphasizes that “water quality and downstream beneficial uses” must be protected consistent with the *State Antidegradation Policy*. This consistency requires the Central Valley Water Board to ensure that, when it issues permits to dischargers that have the potential to degrade high-quality waters, the discharge will not result in violations in surface water quality (both in the receiving water and downstream). In addition, when issuing permits to dischargers that discharge into LMUN water bodies that are considered high-quality waters, the Board will still be required to consider whether dischargers have considered

best practicable treatment or control (BPTC) as well as whether the degradation will be consistent with the maximum benefit to the people of the state

For example, if a discharge to a LMUN water body that is upstream of a MUN water body is causing a slight amount of degradation in downstream water quality in a waterbody that is considered high quality for the constituent at issue, the Board will not necessarily require the discharger to comply with primary or secondary MCLs within the LMUN water body. However, the discharger is not given a free pass to completely disregard water quality, since surface water quality (both in the receiving water and downstream) must be protected consistent with the *State Antidegradation Policy*. Before the discharge could be permitted, the Board would need to find that the discharger is using BPTC, that the discharge is not causing an exceedance of the MCLs in the *downstream* MUN water body, and that any degradation is consistent with the maximum benefit to the people of the State.

SECTION 2: ORAL COMMENTS

This section contains Board staff responses to oral comments identified during the 23 February 2017 Board Hearing.

SACRAMENTO RIVER SOURCE WATER PROTECTION PROGRAM

Comments were received from Ms. Elissa Callman, Senior Engineer, City of Sacramento, Department of Utilities representing Sacramento River Source Water Protection Program on 23 February 2017.

Sacramento River Source Water Protection Program Comment No. 1: Lack of sufficient problem identification, which leads to insufficient technical evaluation of potential impacts of the region-wide process and inefficient commitment to ensure long-term protection for downstream MUN use.

RESPONSE:

When the Central Valley Water Board incorporated the *Sources of Drinking Water Policy* into its Basin Plans, all surface and ground waters were designated as supporting the MUN use unless they were already listed in the Basin Plans as a water body that does not support MUN. The California Title 22 primary and secondary Maximum Contaminant Levels (MCLs) are the water quality objectives identified in the Basin Plans to protect the MUN beneficial use. These MCLs were developed to protect the consumer, i.e. ensure that the water being consumed is safe to drink and does not impact the welfare of the consumer (e.g. corrode pipes). Maintaining these objectives in all surface water bodies, including agricultural drains, translates maintaining the ability to drink directly out of the water body in question, regardless of whether that water body has any reasonable capacity to provide municipal and domestic supply. Such objectives result in overly conservative restrictions, especially to dischargers trying to conserve water and maximize limited resources through water recycling and reuse. Over 6,500 such water bodies were identified within the Central Valley in 1992 (ISWP, 1992). The economic cost for four POTWs within the Sacramento Valley provided a case example of impact of meeting the MCLs in an agricultural drain (Central Valley Water Board, 2015).

The draft Staff Report also provides a detailed evaluation of potential environmental impacts of the proposed amendments in Chapter 13 and Appendix L. See response to

[Section 1, Broad Issue 2](#) above for the response pertaining to the cumulative impacts analysis and the assurances provided by these amendments for the long term protection of downstream MUN water bodies.

Sacramento River Source Water Protection Program Comment No. 2: Concerned whether some of the specifics proposed for the MUN de-designation process are consistent with the intent of the *Sources of Drinking Water Policy*: 1) applying Exception 2b to water bodies that have a combination of drainage and supply water and; 2) lack of clear commitment by Regional Board to require monitoring of water bodies that are de-designated using Exception 2b.

RESPONSE:

- 1) See response to Section 1, Broad Issue 3 on use of Exception 2b
- 2) See response to Section 1, Broad Issue 1 for more detail on the Board's process to ensure adequate monitoring of water bodies that are de-designated using Exception 2b.

Sacramento River Source Water Protection Program Comment No. 3 (LMUN): The new Limited MUN beneficial use definition is vague and lacks specificity in the actual uses allowed in the water body. It does not appear to be protective of current or future MUN use and is not sufficiently protective of downstream MUN use. The LMUN water quality objective doesn't directly provide any water quality protections via the *State Antidegradation Policy* and provides less protection than the *Sources of Drinking Water Policy* exceptions.

RESPONSE:

The proposed LMUN beneficial use definition is:

"Uses of water for municipal and domestic supply in Ag dominated water bodies where the use is limited by water body characteristics such as intermittent flow, management to maintain intended Ag use and/or constituent concentrations in the water body".

Staff developed this definition with the input of stakeholders over a series of project stakeholder meetings. The general feedback staff received was that the LMUN definition should focus more on the limiting characteristics of the water bodies where the LMUN use would apply, rather than need for treatment for potable use. The proposed definition above is broad enough to cover the wide variety of Ag dominated water bodies across the region that provide limited potential as a source of MUN due to inherent characteristics. Chapter 7.1.2 of the draft Staff Report provides more detail on the development of this definition.

Water Bodies designated as Limited MUN will require that the Board regulate discharges consistent with the *State Antidegradation Policy*. The *State Antidegradation Policy* prohibits the Board from issuing permits that will result in the degradation of high-quality waters unless the Board finds that: the degradation will not result in violations of applicable water quality objectives; the degradation will not unreasonably affect beneficial uses; the discharger will employ best practical treatment or control of the wastes to minimize degradation; and the degradation is consistent with the maximum benefit to the people of the state. In this way, the LMUN water quality objective does provide direct water quality protections.

See response to Section 1, Broad Issue 4 for more detail on the LMUN beneficial use and application in this process.

Sacramento River Source Water Protection Program Comment No. 4 (LMUN): We recommend that a solution be developed to include trigger language in the water quality objective or other solutions to prevent degradation of these water bodies and downstream MUN water bodies.

RESPONSE: While triggers are not explicitly used in the water quality objective for LMUN, there is additional language added as guidance in the proposed Basin Plan Language that notes that the Board, when imposing monitoring requirements in connection with the issuance of waste discharge requirements, may use numeric triggers for chemical constituents, pesticides, and radionuclides concentrations. Triggers serve as an early warning system and may be used to evaluate impacts to beneficial uses and to ensure appropriate management practices are undertaken to protect those uses. Numeric water quality triggers are already incorporated as part of the ILRP program to both protect the water body being monitored as well as water bodies represented by the monitoring location.

Sacramento River Source Water Protection Program Comment No. 5 (Implementation Program): We continue to have concerns about the sufficiency of available data, and rigor in the Implementation Program's evaluation process. The process lacks specific details and cites the need for flexibility, which can often result in inconsistent application and outcomes.

RESPONSE:

There is a comprehensive review and verification process in place that staff will undertake during the Implementation Program. The following four steps provided in the draft Staff Report outline the review process:

1. Verification of Water Body Category Designations
2. Verification of MUN diversions within and downstream of the area in review
3. Review of area's water quality to identify constituents of concern
4. Review of existing water quality monitoring in and downstream of the water bodies identified in the report

Standardized report and staff review templates were also developed for this process. Based on the outcome of the review and verification step for each application, staff will develop recommendations for interim water body category designations, MUN beneficial use designations, and implementation requirements. As part of the recommendation, staff will identify any data gaps in existing monitoring and/or control program efforts to track and assess potential constituents of concern within or downstream of the water bodies being evaluated. This information will guide staff's recommendation as to whether existing monitoring and surveillance efforts are adequate or whether changes and/or additions are needed to evaluate potential future impacts of refining and/or de-designating MUN in the water bodies identified including protection of relevant water quality objectives required under the *Sources of Drinking Water Policy*. If monitoring data gaps are identified, monitoring and surveillance options may include requirements for a change in existing regulatory monitoring requirements or the issuance of separate orders requiring the submission of the necessary information.

See response to Section 1, Broad Issue 1 for more information.

Sacramento River Source Water Protection Program Comment No. 6: We continue to be concerned with the definition of ag dominated waters, including both supply and drainage waters. Since the definition is based only on the irrigation season (which remains undefined) – not the rest of the year – it may insufficiently represent risk to downstream water bodies in the non-irrigation season.

RESPONSE: The definition of Ag dominated is “*Systems designed or modified for the primary purpose of conveying or holding waters used for or resulting from agricultural production, and/or water bodies with greater than 50 percent of the flow dependent on agricultural operations for greater than 50 percent of the irrigation season*”. The irrigation season is not explicitly defined because it may vary throughout the region and may depend on the types of crops that are being grown and the water year type. This definition is used to identify surface water bodies in the region that are significantly influenced by agricultural activities. The definition is not used to make a beneficial use determination. The proposed MUN evaluation process uses a water body categorization framework to further characterize the different types of Ag dominated surface water bodies. The MUN beneficial use designations that have been proposed for the different water body categories do not apply only during the irrigation season. For water bodies that do not meet the criteria to have MUN de-designated, the MUN use may be refined to Limited-MUN which uses antidegradation as a means to protect water quality, which may seasonally vary.

Sacramento River Source Water Protection Program Comment No. 7: We are concerned that assumptions of no impact, paired with insufficient monitoring data, may lead to approval of water bodies that warrant further evaluation before approval of changes in their beneficial use designation.

RESPONSE: These amendments propose a comprehensive evaluation and public review process for determining the appropriate level of MUN protection in Ag dominated surface water bodies. As part of this process, proposed MUN beneficial use designations will first be available for public review before being approved on an interim basis and appended to the Reference Document. The recommendations will then receive further evaluation as part of a public review process prior to the adoption of a beneficial use designation into the Basin Plans. Water quality results for any existing or additional monitoring added as a condition of interim designations, will be evaluated as part of the Basin Plan Amendment process.

Sacramento River Source Water Protection Program Comment No. 8 (Implementation Flow Chart): The implementation flow chart does not show an exit off-ramp for systems that are reviewed and determined to not meet de-designation requirements.

RESPONSE: The exit off-ramps for systems that are reviewed and determined to not meet de-designation requirements are outlined in the Water Body Categorization (WBC) Flow Chart, and not in the implementation flow chart. The WBC flow chart determines water body categories by characteristics and identifies whether they meet the criteria to undergo the MUN evaluation process. The flow chart is utilized during the initial stage of the process. Water bodies that do not meet the criteria outlined in the WBC flow chart will not go through the remaining steps of the process. A verification step is included to ensure correct categorization.

Sacramento River Source Water Protection Program Comment No. 9 (Implementation Flow Chart): The case studies provide no testing of the water body characterization flow chart for recirculating systems or water bodies that didn't already meet the *Sources of Drinking Water Policy Exception 2b*.

RESPONSE: The majority of Ag dominated surface water bodies that were categorized as part of the Inland Surface Water Plan in 1992 were constructed or modified water bodies that meet Exception 2b of the *Sources of Drinking Water Policy*. The 1992 evaluation identified over 6000 constructed or modified water bodies as opposed to 160 Ag dominated natural water bodies. The Sacramento POTW and the SLCC case studies represented typical areas for the evaluation. However, staff also worked closely with stakeholders and program managers to walk through potential scenarios and develop test case examples (such as a year-round closed recirculating system in the Tulare Lake Basin and practices utilized for seasonally closed recirculating systems historically utilized for rice production) for other Ag dominated water body categories. The water bodies proposed as eligible for a LMUN designation and recirculating systems do have unique considerations that have been addressed by these proposed amendments. In particular, recirculating systems by their very definition have been modified to hold agricultural drainage and thereby meet Exception 2b of the *Sources of Drinking Water Policy*.

See response to Section 1, Broad Issue No. 4 for more information on how the process addresses Ag dominated natural water bodies.

Sacramento River Source Water Protection Program Comment No. 10 (Monitoring and Surveillance Program): 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.

RESPONSE: See response to Section 1, Broad Issues 1 & 2

Sacramento River Source Water Protection Program Comment No. 11 (Monitoring and Surveillance Program): It would be helpful for the Basin Plan Amendment to 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.

RESPONSE: See response to Section 1, Broad Issues 1 & 2

Sacramento River Source Water Protection Program Comment No. 12 (Monitoring and Surveillance Program): 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.

RESPONSE: See response to Section 1, Broad Issues 1 & 2

Sacramento River Source Water Protection Program Comment No. 13 (Monitoring and Surveillance Program): 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.

RESPONSE: Refining the MUN beneficial use to a LMUN use does not equate to removing future potential use as a municipal and domestic supply; the LMUN use more accurately recognizes that such a future use may be limited due to the natural characteristics of the water body. The amendments include similar monitoring requirements for both de-designated and LMUN water bodies.

Sacramento River Source Water Protection Program Comment No. 14 (Environmental Review): 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 the Division of Drinking Water and the CA Office of Environmental Health Hazard Assessment (OEHHA), especially regarding creation of the new beneficial use LMUN and its associated water quality objectives.

RESPONSE: The proposed amendment contains no new science and therefore is not subject to the independent scientific peer review requirement of Health and Safety Code Section 57004. Such a peer review is separate from consultations with agencies with specific insight or who may be impacted by proposed amendments. Central Valley Water Board staff have met several times with representatives of Division of Drinking Water (DDW) during the development of this amendment project. Staff have also reached out during the public comment period to the Division of Drinking Water and OEHHA to solicit their comments and feedback on these amendments. Although a response has not been received by OEHHA, a memo dated 30 June 2017 was received by DDW, who found the proposed amendments appropriately protective of existing and potential MUN. This memo is included as Section 4 in this response to comments document and has been posted and added to the Administrative Record.

Sacramento River Source Water Protection Program Comment No. 15 (Environmental Review): We are concerned that the conclusion of less than significant water quality impacts for the regionwide process is based on insufficient data evaluation and consideration of the potential for long-term and cumulative water quality impacts to downstream MUN water bodies.

RESPONSE:

See response to Section 1, Broad Issue 2.

The conclusion of less than significant water quality impacts stems from the analysis of changes from baseline conditions. Agricultural activities have been ongoing within the Central Valley for over a century and the majority of constructed, modified and ag dominated water bodies have been an integral part of established agricultural production activities for several decades including progressive increased reuse of limited water supplies. As mentioned above, dischargers had traditionally operated as if Exception 2b in the *Sources of Drinking Water Policy* was self-implementing, and did not undertake measures to ensure that water quality in their ag drains and supply channels met Title 22 MCLs. As the Board began to focus regulatory scrutiny on these practices, the Board determined that, rather than immediately impose limits designed to protect the MUN beneficial use in ag drains and supply channels, it would be more reasonable to place dischargers (including ILRP and NPDES permittees) on time schedules that allowed dischargers and the Board to explore alternate regulatory avenues before requiring

costly infrastructure upgrades. Because most dischargers are still operating under those time schedules, significant changes to management due to the formal implementation of the exception are not anticipated; water quality within the agricultural network today mirrors to a great extent anticipated water quality after utilization of the exception. While there may be some water quality degradation in Ag dominated surface water bodies and closed controlled recirculating systems where the MUN use is de-designated or designated to LMUN, discharges would continue to be regulated under WDRs to comply with water quality objectives for the remaining designated beneficial uses, and to not cause exceedance of applicable MUN water quality objectives in downstream water bodies. In establishing WDRs for these discharges, the Central Valley Water Board would continue to consider the degree to which any water quality degradation should be allowed relative to effects on these downstream beneficial uses, and water body specific uses, by making findings regarding the consistency of the issued WDRs with the *State Antidegradation Policy*.

Sacramento River Source Water Protection Program Comment No. 16 (Environmental Review): The economic analysis lacks consideration and evaluation of drinking water treatment and residual management costs.

RESPONSE: Chapter 13 of the draft Staff Report contains the Environmental and Economic review of the proposed amendments and a new section 13.1.4.3 to discuss potential impacts to Utilities and Service Systems has been included. Since agricultural dischargers are not currently managing their discharges to meet primary and secondary MCLs for protection of the MUN beneficial use, it is not expected that there will be a significant change to conditions in the future that would cause a cumulatively significant increase in drinking water treatment and residual management costs. Revisions to the Environmental Checklist have been made to acknowledge that while the Board expects that water purveyors may need to incur additional monitoring costs, those costs are not expected to be significant. When individual permits are being considered by the Board (new or revisions to existing permits to renew or account for changes in existing discharge), potential economic impacts would be included as part of the antidegradation analyses, should the permit authorize the degradation of any high-quality waters. The Board would need to find that the discharge change is consistent with the *State Antidegradation Policy* and results in maximum benefit to the people of the state prior to approving any change.

CENTRAL VALLEY CLEAN WATER ASSOCIATION

Comments were received from Ms. Debbie Webster, Executive Officer, Central Valley Clean Water Association expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted,

Central Valley Clean Water Association Comment No.1: We are concerned about the MUN designation in effluent dominated water bodies.

RESPONSE: Comment noted. Although it is beyond the scope of this project, this concern will be considered during the next triennial review process of the Basin Plan, scheduled to begin during 2017

TURLOCK IRRIGATION DISTRICT

Comments were received from Ms. Debra Liebersbach, Water Planning Department Manager, Turlock Irrigation District expressing support for the proposed Basin Plan Amendment and provided an example of how the process would benefit Turlock Irrigation District's efforts to reuse and recycle water.

RESPONSE: Example and support noted.

VALLEY WATER MANAGEMENT COMPANY

Comments were received from Ms. Melissa Thorne, Attorney, Valley Water Management Company expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted.

Valley Water Management Company Comment No. 1: Concerned about the "as needed" basis implementation and the time it will take to de-designate water bodies because dischargers may be subject to Prop 65 lawsuits during the process or during interim.

RESPONSE: With the "As Needed Basis" option, Ag dominated surface water bodies are evaluated for the MUN beneficial use only as needed or desired by an interested party, such as a local water agency, irrigation district or the Central Valley Water Board. The time it may take to undergo the MUN evaluation will vary depending on the size and complexity of the area under consideration. Bundling multiple water bodies allows the overall process of 3-5 years to be considerably faster than pursuing individual water body-by-water body Basin Plan amendments each requiring the same time. The extended time is necessary to allow for adequate staff review and validation as well as public input.

Valley Water Management Company Comment No. 2: Recommends taking a look at other Sources of Drinking Water exceptions that would apply for water bodies that do not meet Exception 2b, in place of LMUN designation.

RESPONSE: Exception 2b was the most relevant exception for the MUN evaluation process in Ag dominated water bodies since it pertains specifically to agricultural drainage. Including the review of other exceptions was considered during the initial project development stakeholder meetings, but it was determined that these evaluations added unnecessary complexity to the overall process, since only one exception in the *Sources of Drinking Water Policy* needs to be met in order to remove the MUN use. These Basin Plan amendments do not preclude separate evaluations of the MUN beneficial use in individual water bodies using the other exceptions.

SAN JOAQUIN TRIBUTARIES AUTHORITY

Comments were received from Mr. Dennis Westcot, San Joaquin River Tributaries Authority expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted.

San Joaquin River Tributaries Authority Comment No. 1: Recommends addition of “and rainfall runoff” to the Ag drainage definition in the staff report- to be consistent with the Irrigated Lands Regulatory Program.

RESPONSE: Staff agrees that consistency is important between related programs. The Board’s Irrigated Lands Regulatory Program regulates all types of “waste discharges from irrigated lands” which can include tailwater, subsurface drainage, stormwater and even aerial drift. For consistency, the definition of “Ag drainage” has been revised to “*Water leaving an agricultural field either from irrigation practices or precipitation.*” Since Exception 2b of the *Sources of Drinking Water Policy* specifically provides an exception to the Municipal and Domestic Supply (MUN) beneficial use designation for water in “systems designed or modified for the primary purpose of conveying or holding agricultural drainage waters” additional clarification has been added to the categorization flowchart and review process as to determining primary purpose of construction and/or modification.

An example of such a determination would be a situation where a constructed ag dominated water body may have flood gates to allow storm water flows leaving agricultural fields (agricultural drainage) to enter in order to maintain the integrity of the channel. However, the conveyance was constructed primarily as an irrigation supply channel and drainage from those same agricultural fields is prevented from entering the system during the irrigation season. The primary purpose of the constructed ag water body would be irrigation supply and it would be designated with a Limited MUN beneficial use. The LMUN use recognizes that during part of the year MUN may be limited in part based on the storm flows, maintenance activities and/or natural background constituent concentrations.

SAN JOAQUIN VALLEY DRAINAGE AUTHORITY, WESTERN SAN JOAQUIN RIVER WATERSHED COALITION, & SAN LUIS CANAL COMPANY

Comments were received from Mr. David Cory, representing San Joaquin Valley Drainage Authority, Western San Joaquin River Watershed Coalition, & San Luis Canal Company expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted.

CALIFORNIA RICE COMMISSION

Comments were received from Mr. Tim Johnson, President and Chief Executive Officer, California Rice Commission expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted.

California Rice Commission Comment No. 1: Recommends the thibencarb MCL noted in the Basin Plan language should continue to be applied in the Sacramento Valley as it has been historically.

RESPONSE: Comment noted. These amendments do not change the application of the thibencarb MCL in the Basin Plan.

CALIFORNIA INDEPENDENT PETROLEUM ASSOCIATION

Comments were received from Mr. Robert Core, President and Chief Executive Officer, California Independent Petroleum Association expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted.

SECTION 3: WRITTEN COMMENTS – STAFF REPORT BODY

This section contains Board staff responses to individual comment letters received during the comment period.

SAN JOAQUIN TRIBUTARIES AUTHORITY

Comments were received from Ms. Valerie Kincaid, Attorney, O’Laughlin & Paris LLP, representing the San Joaquin Tributaries Authority on 23 March 2017, expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted.

San Joaquin Tributaries Authority Comment No. 1: We would like to suggest one minor modification to the definition of “Ag Drainage” in the accompanying staff report since the current definition is limited and inconsistent with how the definition of Ag Drainage is applied under the Clean Water Act and the Board’s Irrigated Lands Regulatory Program. We would suggest it be reworded as follows:

Ag Drainage – Water leaving an agricultural field, either from irrigation practices or precipitation.

RESPONSE: See response to Section 2, San Joaquin Tributaries Authority Comment No. 1.

CALIFORNIA RICE COMMISSION

Comments were received from Ms. Theresa Dunham, Attorney, Somach Simmons & Dunn, representing the California Rice Commission on 23 March 2017, expressing general support for the proposed Basin Plan Amendment.

RESPONSE: Support noted,

California Rice Commission Comment No. 1: Considering the original intent and purpose of the specific water quality objective for thiobencarb, and the fact that the secondary maximum contaminant level is set at the same level, it is appropriate as part of these Draft Amendments to delete the specific water quality objective of 1.0 ug/L for thiobencarb. Accordingly, we recommend that the thiobencarb water quality objective language be amended as follows:

~~“Waters designated for use as domestic or municipal (MUN) shall not contain concentrations of thiobencarb in excess of 1.0 ug/L.”~~

RESPONSE: The proposed Basin Plan Amendments only include moving the language under the heading “Municipal and Domestic Supply (MUN)” in Chapter 3 Water Quality Objectives. An amendment to the thiobencarb water quality objective and conditional prohibition associated with the objective is outside of the scope of the proposed Basin Plan Amendments. Such changes may be considered in the next triennial review process of the Basin Plan which will be initiated in 2017.

California Rice Commission Comment No. 2: We further recommend that the conditional prohibition language be modified to incorporate the original intent and purpose of this language as it was adopted with respect to the Rice Pesticides Program, which was to apply this prohibition to rice pesticide discharges in the Sacramento River Basin. Our amendments for the conditional prohibition language are as follows:

“Effective immediately for molinate and thiobencarb and on 1 January 1991 for carbofuran, malthion and methyl parathion, the discharge of irrigation return flows within the Sacramento River Basin containing these pesticides is prohibited unless the discharger is following a management practice approved by the Board. ...Also, the management practices as applied to the discharge of irrigation return flows within the Sacramento River Basin must ensure that discharges of thiobencarb to waters designated as municipal or domestic water supplies will comply with the 1.0 ug/L secondary maximum contaminant level ~~water quality objective~~ for this pesticide.”

RESPONSE: See response to Section 3, California Rice Commission Comment No. 1 above.

CALIFORNIA URBAN WATER AGENCIES

Comments were received from Ms. Cindy Paulson, Executive Director, California Urban Water Agencies on 23 March 2017.

California Urban Water Agencies Comment No. 1: The proposed amendment to utilize the exception 2b of the *Sources of Drinking Water Policy* to de-designate the MUN beneficial use in water bodies that are characterized as Constructed Ag Drainage/Combo (C1) and Modified Ag Drainage/Combo (M1) is inconsistent with the policy. We request that a better definition of the Combo water bodies be included to ensure that they are indeed designed or modified for the primary purpose of conveying or holding agricultural drainage waters.

RESPONSE: See response to Section 1, Broad Issue No. 3 and Section 2, Sacramento River Source Water Protection Program Comment 2. Clarification has been added to the categorization flowchart and in the report template on the need to determine primary purpose. See also response to Section 2, San Joaquin Tributaries Authority Comment No. 1.

California Urban Water Agencies Comment No. 2: CUWA requests that language be added to state the evaluation will consist of reviewing information on the specific water bodies that are under consideration for de-designation to determine if existing monitoring conducted on the discharge from those water bodies is adequate.

RESPONSE: See response to Section 1, Broad Issue No.1.

Staff's review and verification process includes a monitoring and surveillance assessment as described under Section 10.2.2.2.1 and 10.2.2.2.2 of the staff report. The proposed amendments do not require water quality information on each of the water bodies that may be considered or on the discharge from each individual water body. Based on the categorization of Central Valley water bodies in 1992 (ISWP, 1992), over 6,000 water bodies may be evaluated under this process, and the majority of the water bodies are tributary to each other. Monitoring evaluation will focus on reasonable assurance that relevant water quality objectives will be met should a dedesignation move forward. The San Luis Canal Company case study focused on representative monitoring needed to consider potential impacts from a system of 231 water bodies rather than individual monitoring points for each of the 231 water bodies.

Staff will review information on any water quality monitoring identified by the Applicant. In addition, staff will evaluate water quality monitoring information in and downstream of the water bodies or system. This review includes evaluating monitoring conducted by Central Valley Water Board's regulatory programs as well as outside agencies and entities. Staff will address a series of questions related to water quality and monitoring as part of each review. One of these questions is whether additional monitoring is necessary to fill data gaps in existing monitoring.

As part of the staff recommendations, staff will identify any data gaps in existing monitoring and/or control program efforts to track and assess potential constituents of concern within or downstream of the water body or system being evaluated. This information will guide staff's recommendation as to whether existing monitoring and surveillance efforts are adequate or whether changes and/or additions are needed to evaluate protection of relevant water quality objectives when refining and/or de-designating MUN in water bodies identified consistent with the *Sources of Drinking Water Policy*. Impacts from new or changes to discharges in the future will be evaluated as part of the Board's permitting processes.

California Urban Water Agencies Comment No. 3: CUWA request that existing water quality conditions be documented in water bodies that are proposed to be de-designated to establish baseline conditions and that monitoring of discharge from those water bodies are required. We request that the Central Valley Water Board conduct a cumulative impact analysis with each request to de-designate water bodies.

RESPONSE: See response to Section 1, Broad Issues No.1 and 2.

For each report and/or application, the proposed amendments would require staff review and verification of water quality constituents of concern within and downstream of the water body or system identified by the Applicant. In addition, staff would review documents such as the California Integrated 303(d) and 305(b) report, ILRP's Management Plans, NPDES self-monitoring reports, DDW's Watershed Sanitary Surveys and other outside data sources. This assessment provides staff with water quality information representative of conditions in and downstream of the water body or system under consideration. It is not reasonable or consistent with the overall intent of the *Sources of the Drinking Water Policy* to conduct individual baseline water quality assessments and cumulative impact analyses for every water body that goes through the process (potentially over 6000 water bodies). The cumulative impact analysis for this process is part of the CEQA requirements for this project and has been conducted utilizing information that is representative of the overall impact as is addressed in the draft Staff Report and also discussed under Broad Issue #2.

California Urban Water Agencies Comment No. 4: CUWA requests that the Central Valley Water Board conduct a review of existing water quality data for MUN-designated water bodies and for the San Joaquin River at Vernalis and prepare an existing conditions report that would establish the basis for judging whether water quality is degraded as a result of implementing these Basin Plan Amendments.

RESPONSE: See response to Section 1, Broad Issues 1 & 2.

An assessment was completed for the Lower San Joaquin River, downstream of the San Luis Canal Company to the first MUN intake for the City of Stockton in the Delta. See Appendices D and E of the draft Staff Report. These assessments would be conducted concurrently with basin plan amendments to de-designate and/or refine the MUN use. As such, they would provide an ongoing water quality record to evaluate degradation.

California Urban Water Agencies Comment No. 5: CUWA request that the Basin Plan Amendment require periodic assessment of data collected and preparation of a report analyzing trends in water quality.

RESPONSE: See response to Section 1, Broad Issues 1 & 2.

For each Applicant, staff will go through the review and verification process of the report and/or application that is submitted. During this process, staff reviews and verifies the most up to date documents or reports regarding constituents of concern and monitoring programs. Should there be a change to water quality conditions or monitoring, these documents or reports will be able to indicate such changes. In addition to the review and verification process that occurs to establish recommendations for interim designations, monitoring assessments will be updated prior to the bundled adoption of water bodies into the Basin Plan. In addition, as resources permit, Central Valley Water Board staff will work with other agencies and regional monitoring programs to monitor chemical constituents, pesticides, and radionuclides contained in the Title 22 of the California Code of Regulations approximately every 3 to 5 years in major water bodies identified with existing or potential MUN use to support the Integrated Report process and the Watershed Sanitary Surveys.

California Urban Water Agencies Comment No. 6: CUWA requests that the section of the Staff Report that describes the Drinking Water Policy be modified to clarify that the implementation action triggered by monitoring at a public water system are specific to Cryptosporidium and Giardia and do not apply to any of the other constituents evaluated in the Drinking Water Policy development process.

RESPONSE: Clarification has been added to the Staff Report as requested.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION IX

Comments were received from Mr. Matthew Mitchell, United States Environmental Protection Agency, Region IX on 23 March 2017.

United States Environmental Protection Agency, Region IX Comment No. 1: The Staff Report (pp. 19-21) says that the removal of MUN use from agricultural dominated waters that convey or hold agricultural drainage may be consistent with 40 CFR §131.10(g)(1),

§131.10(g)(3), and §131.10(g)(4); however, in its removal of MUN use for waters in the San Luis Canal Company District, the Staff Report does not include further analysis to explain why the use removal meets the relevant §131.10(g) factors.

RESPONSE: When establishing, designating or revising beneficial uses that are not “fishable/swimmable” beneficial uses (like MUN and LMUN) in water bodies subject to federal jurisdiction, 40 CFR section 131.10 subdivision (a) requires that the states take into consideration the use and value of the water body or water bodies where the beneficial use will be modified. The considerations that must be made as part of a “use and value” determination have been clarified in section 3.2.1 and the overlap with state requirements in section 3.8.1 of the Staff Report.

Through the proposed process, regardless of whether a water body falls under federal jurisdiction, the applicant must provide hydrologic characteristics of the water bodies under consideration and potential impacts to downstream water bodies so that in combination with staff evaluation, the Board can make a determination on (Section 3.8.1):

- The use and value of the water body as a public water supply;
- The impact that the change could have on the protection and propagation of fish, shellfish, and wildlife;
- The impact that the change could have on recreation in and on the water;
- The use and value of the water body for agricultural, industrial, and other purposes, including navigation.

Additional information has been added to Section 7.3 (*Removal of the MUN Beneficial Use from 231 Water Bodies in the San Luis Canal Company Study Area*) to identify the information submitted and clarify the review process.

SACRAMENTO RIVER SOURCE WATER PROTECTION PROGRAM

Comments were received from Ms. Sherill Huun, Supervising Engineer, Sacramento River Source Water Protection Program on 23 March 2017.

Sacramento River Source Water Protection Program Comment No. 1 (Protecting Source Water Quality): 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.

RESPONSE: See response for Section 1, Broad Issue No. 2 and Section 2, Sacramento River Source Water Protection Program Comment No. 16

Sacramento River Source Water Protection Program Comment No. 2 (Protecting Source Water Quality): 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 request further clarification to explain what “other” water quality objectives are referred to.

RESPONSE: The proposed basin plan language in the Water Quality Objectives chapter under the heading “Municipal and Domestic Supply (MUN)” has been modified to read:

In addition to other applicable water quality objectives including but not limited to narrative and site specific, the following sections specifically address waters designated for use as domestic or municipal supply (MUN).

Sacramento River Source Water Protection Program Comment No. 3 (Insufficient Problem Identification): The Basin Plan Amendment does not provide sufficient problem identification related to impacts 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).

RESPONSE: See response to Section 2, Sacramento River Source Water Protection Program Comment No. 1

Sacramento River Source Water Protection Program Comment No. 4 (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*. There is no justification for why combination water bodies have been determined to meet Exception 2b.

RESPONSE: See response to Section 1, Broad Issue No. 3 and Section 2, Sacramento River Source Water Protection Program Comment 2.

Sacramento River Source Water Protection Program Comment No. 5 (Consistency with Sources of Drinking Water Policy): There is a lack of clear commitment to require monitoring of water bodies that are de-designated using Exception 2b, to assure compliance with all relevant water quality objectives.

RESPONSE: See response to Section 1, Broad Issue No. 1

Sacramento River Source Water Protection Program Comment No. 6 (Consistency with Sources of Drinking Water Policy): 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.

RESPONSE: See response to Section 1, Broad Issue No. 1

Sacramento River Source Water Protection Program Comment No. 7 (Additional Process Concerns): 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 further evaluation before any change is made.

RESPONSE: See response to Section 2, Sacramento River Source Water Protection Program Comment No. 7

Sacramento River Source Water Protection Program Comment No. 8 (Additional Process Concerns): 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 LMUN beneficial use. This guidance document should be developed with input from the DDW and drinking water stakeholders.

RESPONSE: Comment noted.

Sacramento River Source Water Protection Program Comment No. 9 (Additional Process Concerns): 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.

RESPONSE: See response to Section 2, Sacramento River Source Water Protection Program Comment No. 6

Sacramento River Source Water Protection Program Comment No. 10 (Additional Process Concerns): The implementation flow chart and evaluation process do not include an exit off-ramp for systems that do not meet de-designation requirements.

RESPONSE: See response to Section 2, Sacramento River Source Water Protection Program Comment No. 8

Sacramento River Source Water Protection Program Comment No. 11 (Additional Process Concerns): The case studies provided no testing of the water body characterization flow chart for recirculating systems or water bodies that do not meet the *Sources of Drinking Water Policy* Exception 2b.

RESPONSE: See response to Section 2, Sacramento River Source Water Protection Program Comment No. 9

Sacramento River Source Water Protection Program Comment No. 12 (Additional Process Concerns): It is unclear if all of the agricultural dominated water bodies that do not fit the *Sources of Drinking Water Policy* Exception 2b will fit the LMUN definition.

RESPONSE: The water body categories with proposed LMUN designations include Ag dominated natural water bodies and constructed or modified supply channels. The categorization flow chart identifies conditions that characterize these types of water bodies with general conditions limiting LMUN, such as intermittent flow. See response to Section 1, Broad Issue No. 4 for more information on the LMUN beneficial use.

Sacramento River Source Water Protection Program Comment No. 13 (Additional Process Concerns): It is unclear how alternative water quality objectives may be implemented into NPDES permits, via the Reference Document, prior to a formal adoption by the Regional Board into the Basin Plans.

RESPONSE: Interim limits will be implemented in NPDES permits based on interim beneficial use designations in the same way as it implements permits based on beneficial uses designated in the Basin Plans, with the exception that the limits will only be valid for a finite period, which shall not exceed 5 years. An allowance for an up to 3-year extension to this period may be granted with Central Valley Water Board Executive Officer Approval. See response to Section 1, Broad Issue No. 2 for more information on NPDES permitting requirements.

Sacramento River Source Water Protection Program Comment No. 14 (Additional Process Concerns): 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

RESPONSE: The Board will continue to implement the *State Antidegradation Policy* when authorizing any discharge of waste in individual permits as well as in General Orders, including those required under the Irrigated Lands Regulatory Program. See also Broad Issue #1.

Sacramento River Source Water Protection Program Comment No. 15 (Additional Process Concerns): Suggest removal or revision of the last sentence 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.

Basin Plan, Chapter 4, Implementation- “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 evaluations will be conducted on these water bodies should the beneficial use change.”

RESPONSE: Staff has modified language in the Staff Report:

“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. Such water bodies would continue to be eligible for site specific beneficial use evaluations.”

Sacramento River Source Water Protection Program Comment No. 16 (Additional Process Concerns): The first Basin Plan Amendment developed for the four POTWS in the Sacramento River Watershed did not present and utilize a water body characterization process applicable to the entire region; all of the water bodies evaluated in that process were determined to meet 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.

RESPONSE: The amendment project for the four POTWs in the Sacramento River included the Water Body Categorization Flow Chart within the individual water body

categorization reports to help consistently categorize twelve Ag dominated surface water bodies receiving NPDES discharges as constructed or modified to convey ag drainage. These proposed categories are presented in their individual water body categorization reports. Since adopting the categorization flow chart and MUN evaluation process was not the objective of that project, these items were purposely not included as amendments to the Basin Plan.

Sacramento River Source Water Protection Program Comment No. 17 (LMUN): 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. Further clarification is needed regarding how water quality will be protected in downstream MUN water bodies.

RESPONSE: See response to Section 1, Broad Issue No. 4

Sacramento River Source Water Protection Program Comment No. 18 (LMUN): The new LMUN beneficial use definition is vague and lacks specificity in the actual uses allowed in the water body. It does not appear to be protective of current or future MUN use and is not sufficiently protective of downstream MUN use.

RESPONSE: See response to Section 1, Broad Issue No. 4

Sacramento River Source Water Protection Program Comment No. 19 (LMUN WQO): It is unclear what the actual use of the water body is protected for. We do not understand why the federal antidegradation rule and consideration of trends in degradation are not included. Suggests LMUN water quality objective be expanded to add, “and will not create a trend of degradation that impacts any downstream beneficial uses.”

RESPONSE: The federal antidegradation policy would apply independently of the proposed LMUN water quality objective in those water bodies that are subject to federal jurisdiction, and thus there was no need to include it. The suggestion to add the phrase “and will not create a trend of degradation” to the LMUN water quality objective would not be consistent with the *State Antidegradation Policy*, because such a change does not allow for a demonstration that the highest water quality will be maintained consistent with maximum benefit to the people of the State while continuing to ensure beneficial uses are protected.

Sacramento River Source Water Protection Program Comment No. 20 (LMUN consistency with *Sources of Drinking Water Policy*): Since the LMUN 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 protection should be equivalent. Recommends further development of the LMUN related materials to better support protection of the LMUN use and downstream beneficial uses.

RESPONSE: See response to Section 1, Broad Issue 4

Sacramento River Source Water Protection Program Comment No. 21 (LMUN Numeric Trigger Language): Requests an expansion of the Chapter 5 Surveillance and Monitoring

language to provide the opportunity for the use of numeric triggers as appropriate to protect the LMUN water bodies for potential future use as a source for potable water use.

RESPONSE: See response to Section 1, Broad Issue No. 4 and Section 2, Sacramento River Source Water Protection Program Comment No. 4.

Sacramento River Source Water Protection Program Comment No. 22 (Monitoring and Surveillance Requirements): 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.

RESPONSE: See response to Section 1, Broad Issues No. 1 & 2.

Sacramento River Source Water Protection Program Comment No. 23 (Monitoring and Surveillance Requirements): Suggestion to include similar Exception 2b requirements for LMUN water bodies since they are essentially removing the MUN beneficial use in the same manner. Monitoring should take place at the next downstream MUN waterbody after the discharge has mixed or blended.

RESPONSE: See response to Section 1, Broad Issue No. 4

Sacramento River Source Water Protection Program Comment No. 24 (Monitoring Assurance Needs): Recommend including provisions assuring that the monitoring program will include all applicable MUN water quality objectives, as well as a specific plan to review the data collected and to make a determination of compliance. We do not believe the existing monitoring conducted by others is sufficient to support the MUN de-/re-designations.

RESPONSE: See response to Section 1, Broad Issue No. 1.

Sacramento River Source Water Protection Program Comment No. 25 (Monitoring Assurance Needs): Concern 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.

RESPONSE: Prior to any change in beneficial use designation, staff will evaluate relevant monitoring applicable to each area under consideration. The draft Staff Report lays out a process for staff to evaluate water quality constituents of concern and identify data gaps. If the MUN use is removed or refined to a LMUN use, the dischargers to the water body may no longer have to comply with drinking water MCLs or CTR criteria for the protection of human health for the consumption of drinking water and organisms (where applicable) within the water body. However, these amendments include monitoring provisions consistent with the requirements of the *State Antidegradation Policy* and Exception 2b of the *Sources of Drinking Water Policy* to ensure the long-term protection of downstream water quality. See response to Section 1, Broad Issue No. 1 for more information on potential monitoring requirements for dischargers.

Sacramento River Source Water Protection Program Comment No. 26 (Monitoring Assurance Needs): 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.

RESPONSE: ILRP uses representative monitoring sites for specific coverage areas that serve as indicators of changes in water quality from any of the different types or categories of water bodies that exist therein.

Sacramento River Source Water Protection Program Comment No. 27 (Monitoring Assurance Needs): We have gone through the new Live Oak Wastewater Treatment Plant NPDES permit (R5-2016-0039)....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 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.

RESPONSE: Staff agrees that the findings in the Live Oak Wastewater Treatment Plant do not clearly document all the steps that lead to final permit conditions.

For every NPDES permit renewal, the Board conducts a thorough review of effluent data, receiving water data, and other information regarding the discharge quality, quantity, and potential to cause or contribute to an exceedance of water quality objectives in the receiving water. The Board also considers whether there is a material change in the discharge that could cause degradation of a high quality water.

In practice, this analysis is conducted considering the location where the discharge may have the most effect on the receiving water (generally at the discharge point, where there is the minimum dilution available). Generally, this practice ensures that the Board considers the worst-case conditions when developing permit requirements. However, the NPDES regulations do not limit this analysis to only consider this point. Where the board has information indicating that the discharge may impact a downstream beneficial use, permit conditions would be required to ensure protection of beneficial uses. Examples of this scenario can be seen in analyses conducted for the recent Turlock and Modesto NPDES permit which considered analysis of the discharges potential effect on nutrients in San Luis Reservoir. Another example includes the NPDES permit for the City of Vacaville, which considers downstream MUN beneficial uses which are not applicable in the immediate receiving water.

In consideration of Live Oak's NPDES permit renewal, Board staff considered the available data, information on the treatment plant, and whether the City's discharge was expected to change in character during the 5-year renewal term. Because the discharge quality and quantity was not expected to change during the 5-year renewal term, and because data provided during the development of the Basin Plan Amendment for four POTWs in the Sacramento River Basin indicated that under current conditions there was no reasonable scenario where the discharge could cause or contribute to an exceedance of MUN objectives in downstream water bodies, the permit does not include requirements for monitoring downstream water bodies or additional conditions. This

information also led staff to the conclusion that no new degradation would occur under the renewed permit, which informed the permit's findings.

The antidegradation write up in Section I.V.4 of the permit states that the Order does not allow for an increase in flow or mass of pollutants to the receiving water and the renewed permit's effluent and receiving water monitoring are sufficient to identify whether the quality/quantity of the discharge is changing in such a way that might cause or contribute to exceedance of water quality objectives in surface waters. Should changes occur, every permit includes re-opener provisions in order to address these types of situations. Furthermore, the 5-year renewal frequency of the NPDES permit will ensure the board considers any future changing conditions in permitting discharges to these waterways.

Future permits for facilities with de-designated MUN beneficial uses will include more direct discussion on evaluation of these considerations.

Sacramento River Source Water Protection Program Comment No. 28 (Long-term Water Quality Evaluation): The monitoring and surveillance 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.

RESPONSE: See response to Section 1, Broad Issue No. 2.

Sacramento River Source Water Protection Program Comment No. 29 (Long-term Water Quality Evaluation): 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. 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.

RESPONSE: Comment noted. (Same comment Section 3, Sacramento River Source Water Protection Program Comment No. 8)

Sacramento River Source Water Protection Program Comment No. 30 (Long-term Water Quality Evaluation): 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. 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.

RESPONSE: The Central Valley Water Board staff will continue doing overall reviews of water quality reports like the Integrated Report and Watershed Sanitary Surveys (see response to Section 1, Broad Issues 1&2) to evaluate problems or trends. These amendments do not alter how the Board's regulatory programs (such as ILRP, NPDES and Storm Water programs) operate and enforce the requirements of their monitoring programs. In addition, the California Surface Water Ambient Monitoring Program (SWAMP) designs their monitoring programs to address overall quality and trends in California's surface waters.

A reinstatement or additional monitoring may be required if a negative trend is detected. A 13267 order, requiring dischargers to submit technical reports related to their discharge, may apply if a significant change in water quality is detected.

Sacramento River Source Water Protection Program Comment No. 31 (Long-term Source Water Protection): Requests further clarification of “reasonable degradation” and “unreasonable degradation”

RESPONSE: The *State Antidegradation Policy* uses the word “unreasonably” as follows: “Whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will 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.”

There are no precise regulatory definitions in place to define “reasonable” or “unreasonable” specifically to allow for discretion by the Board as they consider changing environments, mandates and priorities (e.g. new policies focused on increase recycling and reuse as well as human right to safe water supplies). Examples of unreasonable that may be considered include the fundamental alteration of the environment, imposing undue financial or administrative burden, and/or posing appreciable threat to personal or public safety. Recent guidance included in the CV-SALTS Salt and Nitrate Management Plan (SNMP, 2017) identified the following as “reasonable” considerations for a maximum benefit finding:

- Net improvement in water quality
- Increased use of recycled water
- Protects infrastructure or industries deemed vital to national security, public safety, public health and environment
- Causes less adverse environmental impact than more stringent limitations
- Accommodates important social and economic growth

Sacramento River Source Water Protection Program Comment No. 32 (Long-term Source Water Protection): Requests 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.

RESPONSE: See response for Section 1, Broad Issue No. 2

Sacramento River Source Water Protection Program Comment No. 33 (Long-term Source Water Protection): Requests clarification 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.

RESPONSE: The Clean Water Act requires water bodies that have been listed as impaired for a certain constituent (i.e. are on the 303(d) impaired water body list) have a time schedule developed to address impairments through a TMDL or other regulatory control program and ensure that standards are met.

Sacramento River Source Water Protection Program Comment No. 34 (Long-term Source Water Protection): Clarification is needed regarding whether long-term protection is afforded by the ILRP for water bodies that are eligible for LMUN designation, but do not carry agricultural discharges.

RESPONSE: See response to Section 3, Sacramento River Source Water Protection Program Comment No. 26 above.

Sacramento River Source Water Protection Program Comment No. 35 (Long-term Source Water Protection): Requests 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 water bodies to include evaluation for protection of MUN in the next downstream MUN designated water body.

RESPONSE: NPDES dischargers must conduct a Reasonable Potential Analysis (RPA) to determine the need for water quality-based effluent limitations (WQBELs) with consideration given to the beneficial uses and applicable water quality objectives of the receiving water. When warranted (i.e. where the waste discharge may impact beneficial uses), the potential impacts of the discharge to downstream water bodies with different beneficial uses (e.g., MUN) will also be considered and could result in the need for discharge requirements to protect the downstream water body. Furthermore, the discharge's impact must be considered in the antidegradation analysis. Therefore, even if the MUN beneficial use is removed from a water body that receives NPDES discharges, the dischargers must demonstrate that any degradation does not cause unreasonable impacts to the downstream MUN or LMUN water bodies and is consistent with the *State Antidegradation Policy*.

Sacramento River Source Water Protection Program Comment No. 36 (Long-term Source Water Protection): Requests future RPAs should be required to include a complete cumulative effects analysis (as part of CEQA compliance) for that next downstream water body, which 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.

RESPONSE: RPAs are conducted for NPDES permits and, depending on the type of constituent, procedures are based on State Implementation Policy methodology or the EPA's Technical Support Document. RPAs are not required as part of other Board regulatory programs and are not part of CEQA compliance. Basin Plan Amendment projects are required to be CEQA compliant and therefore the cumulative effects analysis for these amendments is included in the draft Staff Report. See response to Section 1, Broad Issue No. 2.

During the antidegradation analysis for any new or changed discharge, potential degradation of downstream water bodies caused by the discharge must be evaluated and found consistent with the policy. Should the Board find that impairments exist in MUN designated water bodies, TMDLs or other appropriate control measures must be adopted to ensure that the impairments are rectified with implementation measures identified for all controllable sources causing or contributing to the impairment.

Sacramento River Source Water Protection Program Comment No. 37 (Long-term Source Water Protection): Recommend 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.

RESPONSE: See response to Section 1, Broad Issue No. 4 and Section 2, Sacramento River Source Water Protection Program Comment No. 4.

Sacramento River Source Water Protection Program Comment No. 38 (Closed Controlled Recirculating Systems): Requests 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. 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.

RESPONSE: Staff report was updated in Appendix G (Seasonally-closed Controlled Recirculating System Application Template), section 5.b.3, to request information on the proximity of the system to any MUN diversion that may be influenced by a discharge from the recirculating system instead of only the nearest MUN diversion.

Sacramento River Source Water Protection Program Comment No. 39 (Environmental and Economic Analysis): We have 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....recommend 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-/re-designated water bodies and related human health and welfare risk and costs.

RESPONSE: See response to Section 1, Broad Issue No. 2.

Sacramento River Source Water Protection Program Comment No. 40 (Environmental and Economic Analysis): It is unclear how the no significant effect to the existing physical environment determination was reached for the water bodies that may receive LMUN designation, as the premise of the need for the 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.

RESPONSE: A designation of LMUN is based on the existing characteristics of the water body in question, not an anticipated change in use. A narrative water quality objective that uses the *State Antidegradation Policy* for the LMUN beneficial use does not automatically mean that water quality in that water body will be allowed to be degraded to support use for agricultural purposes. See response to Section 1, Broad Issue No. 4 for more information on the LMUN use.

Sacramento River Source Water Protection Program Comment No. 41 (Cumulative Impact Analysis): 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 including the Salt and Nitrate Management Plan.

RESPONSE: See response to Section 1, Broad Issue No. 2. The cumulative impacts analysis does not include potential regulations that have not been adopted by the Board, such as potential future secondary MCL policy and Salt and Nitrate Management Plans. The potential regulations are still in development and may change substantially if and before they are adopted.

Sacramento River Source Water Protection Program Comment No. 42 (Peer Review Justification): Request peer review, including DDW and CA Office of Environmental Health Hazard Assessment (OEHHA), especially regarding the LMUN beneficial use and its associated water quality objectives.

RESPONSE: See response to Section 2, Sacramento River Source Water Protection Program Comment No. 14.

Sacramento River Source Water Protection Program Comment No. 43 (Peer Review Justification): 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.

RESPONSE: The establishment of the LMUN beneficial use designation and its water quality objective does not establish a health-based standard that relies upon empirical data or other scientific findings, conclusions, or assumptions. Instead, the Board will require that water bodies designated as supporting the LMUN beneficial use comply with a narrative water quality objective that will solely reference the existing *State Antidegradation Policy*. No other new regulatory levels, standards, or other requirements will be established by the new water quality objective.

Sacramento River Source Water Protection Program Comment No. 44 (Peer Review Justification): Encourage peer review for the de-designation process long-term monitoring program. The water body 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.

RESPONSE: Staff has determined that the proposed Basin Plan Amendments do not contain new science that would require an external peer review under Health and Safety Code section 57004. The proposed amendments establish monitoring requirements that rely on readily available monitoring data such as site information, constituent, and frequency from existing monitoring programs (compiled into Comprehensive Monitoring Guides). Staff have the appropriate expertise to conduct an evaluation of current monitoring and surveillance activities, such as those implemented through ILRP,

SWAMP, and NPDES programs and evaluate the data's applicability and sufficiency for this process. These individual programs regularly evaluate water quality data to determine compliance with program objectives, including protection of beneficial uses. In addition, as part of Section 303(d) and Section 305(b) of the federal Clean Water Act, water quality information is periodically compiled and evaluated as part of the California Integrated Report to assess overall surface water quality.

Sacramento River Source Water Protection Program Comment No. 45 (Economic

Evaluation): Economic evaluation lacks consideration and analysis of drinking water treatment and residual management costs for downstream utilities.

RESPONSE: See response to Section 2, Sacramento River Source Water Protection Program Comment No. 16.

Sacramento River Source Water Protection Program Comment No. 46 (Economic

Evaluation): It is unclear how the costs of the four POTWs that received regulatory relief from Resolution R5-2015-0022 are representative of other POTWs that may be eligible for regulatory relief from the region-wide process.

RESPONSE: The costs for the four Sacramento River Basin cities provide an economic benchmark for other POTWs that may be eligible to apply for the Region-wide MUN evaluation process.

Sacramento River Source Water Protection Program Comment No. 47 (Economic

Evaluation): 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.

RESPONSE: The Preferred Project alternative benefits agricultural activities by providing a process for evaluating the appropriate MUN beneficial use designation in Ag dominated surface water bodies that do not currently provide the MUN use. The No Action alternative requires all unlisted water bodies, including thousands of constructed or modified agricultural drains, meet primary and secondary MCLs for the protection of the MUN use.

Chapter 13 of the draft Staff report provides an economic evaluation of the proposed amendments and includes various cost estimates for different management activities like water treatment, holding water on-farm, or piping discharges through a district-level recirculation system. The San Luis Canal Company (SLCC) serves as an example of what it would cost an agricultural area of that size to comply with meeting the primary and secondary MCLs at the end of every field. Farmed acreage and length of water bodies within SLCC are provided and can be used to extrapolate potential costs for different areas.

Sacramento River Source Water Protection Program Comment No. 48 (Clarification of

Drinking Water Technical Information): Disagree with statements that the only purpose of primary and secondary MCLs is compliance at the tap after treatment. Some 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. Evaluation of constituent levels present in raw water is necessary as 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.

RESPONSE: The Division of Drinking Water evaluates compliance with MCLs based on samples collected at either individual wells, treatment facilities or the point of distribution to evaluate the quality of the water that will be delivered to a customer "at the tap" in order to protect human health and welfare. Monitoring the constituents in the source water is a practical approach taken by water purveyors to minimize treatment costs while providing acceptable and safe supplies.

Sacramento River Source Water Protection Program Comment No. 49 (Clarification of Drinking Water Technical Information): Disagree with characterization in the draft Staff Report of DDW Policy Memo 97-005: Guidance for Direct Domestic Use of Extremely Impaired Sources. 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. 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 re-characterized or removed from the draft Staff Report.

RESPONSE: The Policy Memo noted in the comment specifically listed agricultural drainage, recycled water, urban runoff and effluent dominated streams as examples of extremely impaired sources (Division of Drinking Water, 1997). While the policy does not preclude the use of impaired sources, it does state that extremely impaired sources with known or suspected contaminants "should not be considered for direct human consumption where alternatives are available. No change was made to the staff report except to move the discussion to section 12.3.15.

TURLOCK IRRIGATION DISTRICT

Comments were received from Ms. Debra Liebersbach, Water Planning Department Manager, Turlock Irrigation District on 23 March 2017, expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted.

Turlock Irrigation District Comment No. 1: TID encourages the Regional Board to change the "Ag Drainage" definition in the staff report to include agricultural drainage leaving a field due to precipitation, as well as irrigation. Such a change would ensure the program remains consistent with the Regional Board's Irrigated Lands Program, and other state and federal programs.

RESPONSE: See response to Section 2, San Joaquin Tributaries Authority Comment No. 1.

VALLEY WATER MANAGEMENT COMPANY

Comments were received from Mr. Russell Emerson, Manager, Valley Water Management Company on 23 March 2017, expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted.

Valley Water Management Company Comment No. 1: Instead of referring to SWRCB Resolution No. 88-63 for the *Sources of Drinking Water Policy*, the following Regional Board resolution (Nos. 89-056 and 89-098) should be cited in the Amendments and related documents as the authority for the action proposed.

RESPONSE: As the State Water Board explained in State Water Board Water Quality Order 2002-0015 and supported by *California Association of Sanitation Agencies v State Water Resources Control Board* (2012) 208 Cal.App.4th 1438, the Office of Administrative Law (OAL) determined that the provisions of Resolution 88-63 were regulations subject to the requirements of the California Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.). But the Legislature subsequently amended the Government Code to provide a different process for OAL review of any plans, policies, guidelines or revisions adopted pursuant to the Porter-Cologne Act after June 1, 1992, and exempting them from the rulemaking provisions of the APA. These provisions also grandfathered in the plans, policies and guidelines adopted prior to June, 1992, except for any that were the subject of a civil action as of the effective date of the new statutes. (Gov. Code, § 11353, subd. (c).) Thereafter, OAL approved the 1995 Central Valley Basin Plans which incorporated Resolution 88-63.

Since both adopted and approved Basin Plans reference State Water Board Resolution 88-63 in making designation of MUN to water bodies that do not have beneficial use and when specifying when the Board might consider making exceptions to MUN designations, it is appropriate for the proposed amendment and supporting documentation to reference State Water Board Resolution 88-63.

Valley Water Management Company Comment No. 2: Expressly acknowledge that the MUN use being de-designated was not an existing use and was, at most, a potential use. This distinction is important particularly for surface waters for which USEPA must review and approve use designations as part of the federal water quality standards.

RESPONSE: The Central Valley Water Board has not provided or implemented different regulatory requirements for uses that are designated “potential” versus “existing.” For practical application, when the Sources of Drinking Water Policy was incorporated into the Basin Plans, the MUN use was designated on all surface and groundwaters unless the water body was listed in the Basin Plan as not supporting MUN. The proposed evaluation process is not applicable to water bodies already listed with uses in Table II-1 or those currently providing municipal or domestic supply.

The term “existing” as used in the Basin Plan does not have the same meaning as the definition in Title 40 Code of Federal Regulations section 131.3(e). The Central Valley Water Board makes findings, as appropriate, on whether or not a use is “existing” as defined in Title 40 Code of Federal Regulations section 131.3(e) when the Board evaluates beneficial uses for a water body. The staff report discusses the existence of MUN uses and provides justification for the staff recommendations for the water bodies that are a part of this project. The proposed amendment to add a standardized region-wide process to the Basin Plans requires evaluation of the existence of MUN uses prior to categorizing the agricultural water body No MUN or LIMITED-MUN. See also the discussion under Section 3, USEPA Comment No. 1.

Valley Water Management Company Comment No. 3: The proposed Basin Plan language discusses “constructed or modified” for a C or M designation, when Resolution 89-098 (and even SWRCB Resolution No, 88-63) uses the phrase “designed or modified”. Correct the language of the designations as Designed, not Constructed.

RESPONSE: In the 1992 ISWP staff report, C – Ag dominated constructed water bodies were found to be one of the primary categories in identifying Ag dominated water bodies. This category was further broken down into the following:

(C1) – *Constructed facilities designed to carry agricultural flows or drainage.*

(C2) – *Constructed facilities designed to carry irrigation water and may, at times, carry recycled return flows.*

(C3) – *Natural dry washes that have been altered and now carry agricultural supply water or return flows during time periods.*

The definition used for constructed water bodies is consistent with the phrase “designed” from the *Sources of Drinking Water Policy*. There was general consensus during the stakeholder meetings in selecting the 1992 ISWP flowchart as the foundation for the updated water body categorization flowchart used for the region-wide MUN evaluation process. Staff finds that the use of the term “constructed” is synonymous with the use of the word “designed”.

Valley Water Management Company Comment No. 4: The amendments must make it clear that MUN-based water quality objectives (such as MCLs or CTRs criteria) do not apply in the de-designated channels or LMUN channels, but will be monitored in downstream MUN-designated waters to ensure that the appropriate drinking water quality objectives are maintained.

RESPONSE: The proposed basin plan amendment identifies water quality objectives that apply to protect water bodies designated with MUN or LMUN. No additional wording has been added to clarify that MCLs do not apply above and beyond the discussion in Section 13.1.4.1. A general removal of CRT criteria would not be appropriate as some of the human health related criteria may also apply to water bodies designated with recreational beneficial uses, not just municipal and domestic supply.

Valley Water Management Company Comment No. 5: Remove the following sentence from the Chemical Constituents and Radioactivity objects: “This incorporation-by-reference is prospective, including future changes to the incorporated provisions as the changes take effect” and “This incorporation-by-reference is prospective, including future changes to the incorporated provisions as the changes take effect,” respectively.

RESPONSE: Such change is not within scope of this proposed Basin Plan Amendments. This change can be suggested for consideration in the next triennial review process of the Basin Plan, starting in 2017.

Valley Water Management Company Comment No. 6: Either broaden the applicability of the proposed Amendments to all exemptions criteria in the *Sources of Drinking Water Policy*, or

begin a new Basin Planning process to address these other criteria in a similar streamlined manner once these Amendments have been approved.

RESPONSE: See response to Section 2, Valley Water Management Company Comment No. 2. The Central Valley Water Board would also like a streamlined process to address other criteria in the Sources of Drinking Water Policy. Issue 4 of the 2014 Triennial Review Work Plan is to address effluent dominated water bodies and has been identified in the Triennial Review Work Plan as a basin planning priority. See the following:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/2014tr_tlb_work_plan_final.pdf

CALIFORNIA FARM BUREAU FEDERATION

Comments were received from Ms. Kari Fisher, Associate Counsel, California Farm Bureau Federation on 24 March 2017, expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted.

CENTRAL VALLEY CLEAN WATER ASSOCIATION & CALIFORNIA ASSOCIATION OF SANITATION AGENCIES

Comments were received from Ms. Debbie Webster, Executive Officer, Central Valley Clean Water Association & Ms. Roberta Larson, Executive Director, California Association of Sanitation Agencies, on 24 March 2017, expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted.

Central Valley Clean Water Association & California Association of Sanitation Agencies

No. 1: We believe that a similar region-wide evaluation process should be established for effluent-dominated water bodies, which are very similar in nature to agriculturally dominated surface water bodies.

RESPONSE: The proposed Basin Plan Amendments is only focused on establishing a region-wide evaluation process for agriculturally dominated surface water bodies. The Central Valley Water Board would also like a streamlined process to address other criteria in the Sources of Drinking Water Policy. Issue 4 of the 2014 Triennial Review Work Plan is to address effluent dominated water bodies and has been identified in the Triennial Review Work Plan as a basin planning priority. See the following:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/2014tr_tlb_work_plan_final.pdf

Central Valley Clean Water Association & California Association of Sanitation Agencies

No. 2: Review of the supporting documentation for adoption of the proposed 1,2,3-Trichloropropane MCL fails to include any reference to use of the value as a Basin Plan water quality objective, and fails to consider the factors specified in Water Code section 13241. We

believe that the Central Valley Basin Plans should be amended to delete this incorporation by reference.

RESPONSE: Such change is not possible with the proposed Basin Plan Amendments because it is not within the scope of the proposed project. This change may be considered in the next triennial review process of the Basin Plan which is being initiated in 2017.

CALIFORNIA SAFFLOWER GROWERS ASSOCIATION

Comments were received from Mr. Dennis Tristao, Executive Director, California Safflower Growers Association on 24 March 2017, expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted.

California Safflower Growers Association No. 1: Desire that the timeframe for application review period to be held to a minimum.

RESPONSE: We agree that the goal of this process is to hold the application review period to a minimum. However, due to priorities, complexity of study and the amount of comments, the timeframe for application or report review period may vary.

SAN FRANCISCO BAYKEEPER, CALIFORNIA SPORTFISHING PROTECTION ALLIANCE, PESTICIDE ACTION NETWORK – NORTH AMERICA, AND ENVIRONMENTAL JUSTICE COALITION FOR WATER

Comments were received from Ms. Erica Maharg, Managing Attorney, representing San Francisco Baykeeper, et al. on 23 March 2017.

San Francisco Baykeeper, et al. Comment No. 1: The *Sources of Drinking Water Policy* sets forth affirmative requirements for designation of surface and ground waters as supporting the MUN beneficial use; however, it does not set forth required conditions or elements for de-designation for the MUN beneficial use once the designation has been applied. Thus, once a water body is designated as MUN, it cannot be de-designated even if it properly falls under an exception in the policy.

RESPONSE: The *Sources of Drinking Water Policy* specified that the Regional Boards “can conform [their] Water Quality Control Plans to this policy by amending the plans to incorporate the policy; and ... the State Board must approve any conforming amendments pursuant to Water Code section 13245.” The Central Valley Water Board incorporated the *Sources of Drinking Water Policy* into their two Basin Plans along with its exceptions. The Basin Plans further state that, where the Board finds that one of the exceptions applies, it may remove the municipal and domestic supply beneficial use designation for the particular body of water through a formal Basin Plan amendment and a public hearing. The proposed Basin Plan Amendment is entirely consistent with the *Sources of Drinking Water Policy* as implemented in the Basin Plans.

Furthermore, as the State Water Board has stated, “a Basin Plan amendment is the appropriate vehicle to designate and de-designate uses and ... Resolution 88-63 is a tool to use in determining designations.” (*In Re Curtis D. Quinones and Vapor Cleaners*,

Inc., State Water Board Order WQ 2006-0010, see also In the Matter of Review on Own Motion of Waste Discharge Requirements Order No. 5-01-044 for Vacaville's Easterly Wastewater Treatment Plant, State Water Board Order No. WQO 2002-0015.)

San Francisco Baykeeper, et al. Comment No. 2: The proposed Basin Plan Amendments do not meet Exception 2b because the water which may be de-designated under the Basin Plan Amendment is far broader than the waters listed in Exception 2b. Nowhere has the Staff Report supplied a rationale as to why the C1 and M1 water bodies fit the very limited category of waters in Exception 2b.

RESPONSE: See response to Section 1, Broad Issue No. 3

San Francisco Baykeeper, et al. Comment No. 3: The proposed Basin Plan Amendments do not meet Exception 2b because it does not require monitoring to assure compliance with downstream water quality objectives.

RESPONSE: See response to Section 1, Broad Issues No. 1 & 2.

San Francisco Baykeeper, et al. Comment No. 4: The Staff Report fails to show how the proposed Basin Plan Amendments meet the requirements of the *State Antidegradation Policy*. The Regional Board must revise its analysis to account for changing agricultural discharges.

RESPONSE: Chapter 12 of the draft Staff Report contains an antidegradation analysis describing how water bodies that have their MUN use removed or refined to LMUN will continue to be regulated under the *State Antidegradation Policy* when the Board prescribes waste discharge requirements (including NPDES Permits), issues conditional waivers, or issues water quality certifications that authorized waste discharges to those water bodies. This continued regulation under the *State Antidegradation Policy* includes agricultural dischargers. Chapter 13 of the draft Staff Report evaluates the environmental impacts of these proposed amendments and concludes that these amendments are not expected to significantly change or alter current agricultural practices.

San Francisco Baykeeper, et al. Comment No. 5: The LMUN designation violates the *Sources of Drinking Water Policy*, is unclear, and fails to protect downstream waters.

RESPONSE: See response to Section 1, Broad Issues No. 2 & 3.

San Francisco Baykeeper, et al. Comment No. 6: The proposed Basin Plan Amendments improperly delegate discretionary decisions and Basin Plan Amendments to Regional Board staff. The de-designations are changes to water quality objectives and cannot be implemented until the Regional Board, State Board, and EPA have approved them.

RESPONSE: The Reference Document alluded to in the comment documents proposed revisions of beneficial uses based on an approved and transparent review that is consistent with the *Sources of Drinking Water Policy* requirements. The proposed revisions allow interim permit limits not to exceed 5 years (an allowance for an up to 3-year extension to this period may be granted with Central Valley Water Board Executive Officer). This interim period allows time for bundling groups of revisions to undergo

public review as part of a Basin Plan Amendment process to consider de-designating or refining the MUN designation.

San Francisco Baykeeper, et al. Comment No. 7: The proposed Basin Plan Amendments must undergo peer review. The monitoring and surveillance program proposed must meet specific requirements to assure protection of water quality objectives, including downstream uses; whether or not the monitoring proposed sufficiently meets this standard is a scientific finding. De-designating waters to LMUN requires specific findings that the water bodies have inherent limiting conditions that justify less-protective designations. Such a finding should be based on scientific evidence.

RESPONSE: Staff has determined that the proposed Basin Plan Amendments do not contain new science that would require an external peer review under Health and Safety Code section 57004. The proposed amendments establish monitoring requirements that rely on readily available monitoring data such as site information, constituent, and frequency from existing monitoring programs (compiled into Comprehensive Monitoring Guides) to conduct an evaluation of current monitoring and surveillance activities, such as those implemented through ILRP, SWAMP, and NPDES programs. These individual programs regularly evaluate water quality data to determine compliance with program objectives, including protection of beneficial uses. In addition, as part of Section 303(d) and Section 305(b) of the federal Clean Water Act, water quality information is periodically compiled as part of the California Integrated Report to assess overall surface water quality. The categorization flow chart identifies conditions that characterize Ag dominated natural water bodies and supply channels that would have general conditions limiting MUN, such as intermittent flow.

As part of the overall process, water body categorization reports are required which contain specific information on the hydrological characteristics of the water bodies under consideration. An evaluation of the information including review of construction and management records and site visits as appropriate will be conducted by staff. The evaluation process provides information that can be utilized as part of a use and value determination. An expanded discussion on Use and Value determinations has been added to the Staff Report in sections 3.2.1 and 3.8.1. Please see response to comment Section 3, USEPA, Comment No. 1 for further discussion.

The combination of information provided and additional staff surveys and evaluation provide the necessary level of documentation to refine a MUN use to a LMUN use.

AFRICAN-AMERICAN FARMERS OF CALIFORNIA, BUENA VISTA COALITION, CALIFORNIA CITRUS MUTUAL, CALIFORNIA COTTON GINNERS & GROWERS ASSOCIATION, CALIFORNIA FRESH FRUIT ASSOCIATION, CALIFORNIA ASSOCIATION OF SANITATION AGENCIES, CALIFORNIA FARM BUREAU FEDERATION, EAST SAN JOAQUIN WATER QUALITY COALITION, KAWEAH BASIN WATER QUALITY ASSOCIATION, KERN RIVER WATERSHED COALITION AUTHORITY, NISEI FARMERS LEAGUE, WESTERN AGRICULTURE PROCESSORS ASSOCIATION, WESTERN GROWERS ASSOCIATION, WESTERN PLANT HEALTH ASSOCIATION, WESTSIDE SAN JOAQUIN RIVER WATERSHED COALITION

Comments were received from Ms. Theresa Dunham, Attorney, representing African-American Farmers of California, et al. on 24 March 2017, expressing support for the proposed Basin Plan Amendment.

RESPONSE: Support noted.

African-American Farmers of California, et al. Comment No. 1: Encourage the Central Valley Water Board to use a similar process in the near future to determine proper application of aquatic life beneficial uses.

RESPONSE: Upon completion of this Basin Plan Amendment project, the Central Valley Water Board is planning a Phase 2 of this effort that will evaluate the appropriate protection of other beneficial uses in Ag dominated surface water bodies such as the aquatic life beneficial uses.

References

Central Valley Water Board. (1992). *Inland Surface Water Plan Staff Report*.

Central Valley Water Board. (2015). 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. Retrieved from http://www.waterboards.ca.gov/centralvalley/water_issues/salinity/mun_beneficial_use/mun_bp_amend_docs/2015april_mun_potw_stfrpt.pdf

Division of Drinking Water. (1997). Policy Memo 97-005 Policy Guidance for Direct Domestic Use of Extremely Impaired Sources. California Department of Health Services. Retrieved from http://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/documents/dwdocuments/memo97-005.pdf

SECTION 4: State Water Resources Control Board, Division of Drinking Water Memo on Region-wide MUN Evaluation Process



State Water Resources Control Board
Division of Drinking Water

TO: Pamela Creedon, Executive Officer
Central Valley Water Board

FROM: Darrin Polhemus, Deputy Director
DIVISION OF DRINKING WATER

DATE: June 30, 2017

SUBJECT: Region-wide Municipal and Domestic Supply (MUN) Beneficial Use Evaluation Process in Agriculturally (Ag) Dominated Surface Water Bodies

A handwritten signature in blue ink, likely belonging to Darrin Polhemus, the Deputy Director mentioned in the "FROM" field.

Based on review of available documents and discussions with your staff, the proposed amendment has laid out a process that appropriately identifies constructed and modified ag dominated water bodies that have not previously provided, nor are expected in the future to provide, municipal and domestic supply consistent with the intent of exception 2b of the Sources of Drinking Water Policy (Resolution 88-63). It can be a reasonable outcome, after following the evaluation process detailed in basin plan amendment, to de-designate the MUN use from these water bodies as long as discharges are monitored to assure compliance with all relevant water quality objectives. From the perspective of the Division of Drinking Water, and its role in protecting sources waters, we agree with the basin plan amendment's requirement that an applicant initiating a new discharge or making a material change to the character, location or volume of an existing discharge bears the burden of ensuring that information (e.g., water quality data) are available to ensure that the change would not result in unreasonable impacts to water quality in downstream water bodies. In addition, the designation of a Limited MUN use based on inherent characteristics appropriately balances the potential for future use with the reality of existing conditions. Our joint primary interest is that the process ensures adequate protection of both potential and existing MUN use in water bodies downstream of constructed agricultural drains as well as within and downstream of water bodies that receive a Limited MUN designation. Based on our review of the basin plan amendment, the monitoring and surveillance program identified in combination with the regulatory programs in place appropriately provide the needed level of protection.

cc: Jeanne Chilcott, Planning Program Manager, CVRWQCB
Adam Laputz, Assistant Executive Officer, CVRWQCB
Robert Brownwood, Assistant Deputy Director, DDW

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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