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Subject: FW: CIPA Comments on CVSALTS Regulatory Package
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Sent: Friday, May 04, 2018 12:38 PM

To: Karl Longley <karll@csufresno.edu>; Pulupa, Patrick@Waterboards <Patrick.Pulupa@waterboards.ca.gov>; Creedon, Pamela@Waterboards <Pamela.Creedon@waterboards.ca.gov>; Chilcott, Jeanne@Waterboards <Jeanne.Chilcott@waterboards.ca.gov>

Cc: Meeks, Glenn@Waterboards <Glenn.Meeks@waterboards.ca.gov>; Rock Zierman <rock@cipa.org>; Willie Rivera <willie@cipa.org>

Subject: CIPA Comments on CVSALTS Regulatory Package

Re: Comments on Amendments to the Water Quality Control Plans for the Sacramento River and San Joaquin River Basins and Tulare Lake Basin to Incorporate a Central Valley Salt and Nitrate Control Program, Draft Staff Report

Karl, Patrick, Pamela, Jeanne, good afternoon,

On behalf of the California Independent Petroleum Assn. (CIPA), a client, please accept this email as comment on the draft staff report for water quality plan amendments and incorporation of the Salt and Nitrate Control Programs (SNCPs) to the three Central Valley major river basins.

CIPA's 450 members are mostly medium and small employers living and working in the CV-SALTS program region, and appreciate this opportunity to work with the Board, staff and stakeholders. CIPA is a Central Valley Salinity Coalition (CVSC) member, and looks forward to fully participating in the forthcoming unprecedented public-private partnership in CV-SALTS.

We offer general and specific comments. On a general level...

CIPA recognizes CV-SALTS was, until recently, primarily an agricultural water quality management program. We welcome the opportunity to acquaint the CVWB with our members' long history of environmentally sensitive petroleum production water management and to provide our hydrogeologic knowledge for CV-SALTS.

The Draft Report in several places calls for CV-SALTS to incorporate all major IND and MUN dischargers, which we endorse.

CIPA members and the CVWB recently collaborated over the course of several months to complete the General Orders for WDRs on Oil Field Discharges to Land (Pond Orders). The Pond Orders must

be incorporated into this regulatory process, particularly as compliance vehicles for the Prioritization & Optimization (P&O) Study and Conditional Prohibition (CP).

CIPA supports the recognition of regional economic growth as one of the five over-arching goals. Likewise, we concur with the three prioritized management goals to ensure a safe drinking water supply, achieve balanced salt and nitrate loading and implement long-term, managed aquifer restorations where feasible, reasonable and practicable. Aquifer restoration, we note, is a complex regional determination that must, indeed, be feasible, reasonable and practicable.

There are many references to utilizing existing data and research, which we support, and to broad data-gathering efforts for the entire Central Valley surface and ground waters, which we strongly oppose.

With regard to existing data, we recommend the report list all relevant State water databases and how they will be used for CV-SALTS. Several are mentioned in different places in the text, such as CEDEN, but there should be a reference list. CIPA also recommends using existing water studies that have been performed throughout the years, such as those done for western Kern County.

Sustainable Groundwater Management Act (SGMA) compliance is cited. During the CV-SALTS discussions, there were repeated comments about recognizing in CV-SALTS data-gathering and monitoring the SGMA Groundwater Sustainability Agencies (GSA) research and projects. We call for the addition of specific references to incorporating SGMA GSA research and data.

Above all, we reference CWC 13267b1: *“The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”*

On a specific level, we offer the following detail comments in the order presented by the full Draft Report.

The Salt Control Program (SCP) P&O Study will identify groundwater basins that may serve as salt management areas, with de-designation BPAs for beneficial use. We strongly support this concept, and ask for a definition of “salt management areas” and an example. (pages 17-18)

The SCP CP does not apply to dischargers under the Irrigated Lands Regulatory Program (ILRP) General Orders, whose compliance will be governed by amendments to the orders. We respectfully request the same recognition and treatment for the Pond Orders. (23)

CIPA welcomes the opportunity for future collaboration on monitoring procedures to periodically assess control programs and to re-evaluate if appropriate. Also, to develop representative water quality and trend information. Thank you for recognizing we will maximize the use of existing monitoring programs.

In addition, we respectfully request that staff requests for data be tightly focused on monitoring directly related to the project, both technically and geographically. (25)

As noted above, we support the CVWB determination, due to complexity and far-reaching salt impacts, that all water users are stakeholders responsible for successful implementation of the SCP.

Thank you for including technical (in-kind) support for the P&O Study as part of full participation. (26, 217)

Under the Salt & Nitrate Control Plan (SNCP) CP, for certain other permittees subject to General Orders, CVWB will hold a hearing on amendments within 18 months of SNCP approval. Again, CIPA requests the Pond Orders be incorporated, including operating waivers applied during the CVWB process. (31)

The P&O Study evaluates de-designation BPAs for suitability as salt management areas. CIPA supports, with a definition of salt management area and examples of the anticipated operational aspects. (43-45)

CIPA respectfully requests that monitoring costs be reasonable and within scope of SNMP. A tight and continuing focus must be maintained. While it is desirable to gather salient, comprehensive data for the Central Valley's surface and groundwater sources, this is a public purpose and must be managed in this manner.

For example, we are asked to provide answers to questions such as: "What are the ambient conditions and trends of salinity in surface waters throughout the Central Valley?" This is overly broad. Ambient conditions and trends must be directly related to salinity, boron and nitrates in a specific geographical area. "Throughout the Central Valley" must be appropriately designated to the basin, sub-basin or project area.

Also, it is noted P&O participants must fund the monitoring report "and any additional activities necessary to ensure that all required information is available to the lead entity." "Additional activities" and "all required information" are overly broad and unnecessary, given the specificity of the control programs. CIPA recommends these phrases be deleted

And, under Surface Water, the Work Plan is supposed to include "ambient water quality conditions and trends for selected SMCLs...not necessarily limited to salinity-related SMCLs." Yet again, overly broad – the conditions and trends can be clearly listed in the Work Plan, which must focus on salinity, not other "selected SMCLs."

The lead entity determines adequacy and submits report every 5 years, which is a suitable interval. We add, however, that in the absence of noncompliance or escalating trends, the report requirements be reduced. CIPA supports the proposal that the groundwater monitoring program will utilize data collected by existing monitoring programs. (77-79)

We appreciate and may formally support the recommendation to the Legislature to assist in funding

the P&O Study and other elements of the control programs. This is a public health program and continuing General Fund support is wholly appropriate.

While we recognize the effort to broaden CV-SALTS participation, CIPA does not support including the water rights permitting process. Inclusion of the water rights permitting process will only result in litigation and delay.

The Dept. of Conservation should be added to the list of consulted State Departments. (81)

The CVWB is to hold yet another public hearing on a salinity variance. Sufficient public process will be invested in launching CV-SALTS. Though we appreciate due transparency, we ask that downstream public hearings for variances, exceptions and like granular steps be minimized, according to statute. (95)

Again, we are confronted with overly broad scoping when, under F(d), the variance holder must conduct "(a)ny additional monitoring..." This should be carefully and precisely defined. (98)

"The Conditional Discharge Prohibition will establish enforceable conditions until the Regional Water Board revises permits to incorporate applicable requirements from the Control Program or determines that existing permit requirements are adequate." CIPA asks: What is the anticipated time frame to resolve the transition from CP to CVWB WDR revision / determination? (202)

Level of P&O participation is determined by CVSC, including consideration of ambient conditions and "proportional contribution of salts and other factors as determined appropriate." CIPA asks: What is the source for defining and determining ambient conditions? How is proportional contribution of salts determined? What are other factors? (206)

The P&O study will ultimately "implement reasonable, feasible and practicable efforts to control salinity." While we appreciate the characterization of permittee control measures, CIPA inquires if Pond Order compliance is included as reasonable, feasible and practicable? (213-214)

For SCP compliance, participation in P&O Study "by providing minimum level of funding required or in-kind support..." We appreciate the inclusion of in-kind. (216-217)

SNCPs are, as written, primarily implemented through WDR and waivers. CIPA asks: How do Pond Orders fit in? (260)

CPs are the preferred option. We support this language on page 261, with emphasis added: *"Once the Salt and Nitrate Program is in effect, as well as its accompanying Conditional Prohibition of Discharge, any discharges of salt or nitrate would be prohibited unless the discharge was consistent with the implementation provisions in the proposed Basin Plan Amendments. Tracking participation may be difficult, but individual permits would not need to be modified before early implementation measures could be required by the Board (e.g. participation in the P&O Study or meeting conservative limits for salt and/or developing Early Action Plans to provide safe drinking water supplies to groundwater user impacted by elevated nitrate levels)."*

Reporting is required every 3 years – it should be 5 years to conform with other areas in the report. Requiring the program to “capture region-wide trends in surface and groundwater quality as well as impacts of specific management activities” is overly broad and burdensome. (262-263)

We concur and strongly support the notation that monitoring programs should “rely on local, regional and subregional monitoring programs to maximum extent possible.” (265)

On pages 266-267, the language again is overly broad, vague and exceeds the scope. We respectfully point out that much of the following is the responsibility of the water boards to incorporate in their overall management:

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

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

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

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

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

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

Under groundwater requirements, the Oil and Gas Regional Monitoring Program is listed as a data source, which we support. (270)

When applying for a salinity variance, an individual discharger should not have to prepare and implement a Salinity Reduction Study Work Plan – this is the responsibility of either the CVSC or a project / regional coalition, and should be noted as such. (276)

While we requested and support the addition of boron to the exceptions process, we strongly oppose numeric standards and a watershed-level boron management plan as outside the capacity and scope of this regulation. (284-285) CIPA associates with the detailed comments and remedies for boron put forth in the Valley Water Management letter.

CIPA, through CEO Rock Zierman, Regulatory Affairs Director Willie Rivera and me will be fully involved in this collaborative venture to protect and advance drinking water protection. Our members would be pleased to provide fully qualified technical support and operational expertise.

Glad to answer questions,
Bob

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