



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

May 4, 2018

Glenn Meeks
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

Dear Mr. Meeks,

Thank you for the opportunity to review and comment on the Amendments to the Water Quality Control Plans for the Sacramento River and San Joaquin River Basins and the Tulare Lake Basin (Basin Plans) to Incorporate a Central Valley-Wide Salt and Nitrate Control Program, Draft Staff Report, March 2018. We appreciate the efforts of the Regional Board staff to keep us informed during the development of the Basin Plan amendments. We appreciate the need for a long-term vision and overarching framework for managing salt and nitrate in the Central Valley. The EPA has the following comments on the proposed Basin Plan amendments:

1. The proposed amendment states that, "...the numeric value of 700 $\mu\text{S}/\text{cm}$ EC (as a monthly average) shall be considered to be a conservative value that is protective of the AGR beneficial use. This value is for use only as indicated here for the Conservative Permitting Approach and shall not be considered a water quality objective." If adopted as a legally binding value that establishes the desired condition of the waterbody, this may be a new or revised water quality criterion and subject to CWA 303(c) review and approval.¹ Alternatively, does the value reflect an effluent limitation for National Pollutant Discharge Elimination System (NPDES) permits? If so, is it based on something other than the underlying designated uses and associated criteria?
2. The proposed amendment would clarify that the "Upper" Secondary Maximum Contaminant Levels (SMCLs) are the applicable water quality criteria and in addition, the "Short Term" SMCLs may be authorized on a temporary basis during droughts. How will these Short Term SMCLs be reflected in NPDES permits? Is it anticipated that the Short Term SMCLs would be protective of the underlying designated uses?
3. The proposed amendment describes an Alternative Salinity Permitting Approach via a Prioritization and Optimization Study (P&O). The draft staff report states that, "The Regional Water Board shall apply the following principles to permits being issued for authorizing discharges of salt to surface waters subject to NPDES permits under the federal Clean Water Act... Full participation in the P&O study as documented and confirmed by the lead entity

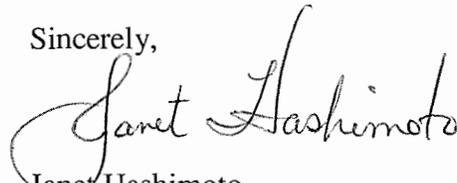
¹ For further information see What Is a New or Revised Water Quality Standard Under CWA 303(C)(3)? Frequently Asked Questions, October 2012. <https://www.epa.gov/sites/production/files/2014-11/documents/cwa303faq.pdf>.

overseeing the P&O Study shall be found by the Regional Water Board to provide for in lieu or alternative compliance to receiving water limits based on salinity.” It is unclear as to how future permits with this provision will be structured. If any permittee has existing numeric limits for electrical conductivity (EC), then will these limits be retained? If not, then please explain what permit conditions for EC will be in effect. Additionally, if the Regional Board intends to provide variances in the future to permittees, then the Regional Board should define the numeric value from which the permittee is seeking a variance. If the WQBEL is based on something other than the underlying designated uses and associated criteria, then a water quality standards variance may need to be adopted and would also be subject to CWA 303(c) review and approval. Furthermore, any variance should be consistent with 40 CFR 131.14 and show incremental progress in water quality. The current salinity multi-discharger variance relied on case studies in the “Technical Evaluation of a Variance and Interim Salinity Program, Larry Walker Associates” (2012). If extension of this variance continues to rely on the same case studies, the data should be analyzed and updated if necessary to ensure that the conclusions are still valid.

4. The proposed Basin Plan amendments would establish interim salinity permit limits (not to exceed an EC concentration of 2,200 $\mu\text{S}/\text{cm}$) for dischargers during periods of drought (compared to the 700 $\mu\text{S}/\text{cm}$ EC limit under the “conservative salinity permitting approach”). Is it anticipated that the interim salinity limits at this level would be protective of the underlying designated uses and associated water quality criteria? If not, then would the Regional Board expect to adopt a water quality standards variance?

We appreciate the opportunity to provide input on the draft amendments as well as the productive discussions we have had with staff concerning this issue. If you have any questions, please contact me at (415) 972-3452 or Hashimoto.Janet@epa.gov, or Stephen Maurano of my staff at (415) 972-3477 or Maurano.Stephen@epa.gov.

Sincerely,



Janet Hashimoto

Manager, Water Quality Assessment Section

cc: Jeanne Chilcott, RB5
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