



CALIFORNIA FARM BUREAU FEDERATION

OFFICE OF THE GENERAL COUNSEL

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Via Email

glenn.meeks@waterboards.ca.gov

May 7, 2018

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

Re: Comments 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

Dear Mr. Meeks:

The California Farm Bureau Federation (“Farm Bureau”) is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home, and the rural community. Farm Bureau is California’s largest farm organization, comprised of 53 county Farm Bureaus currently representing approximately 40,000 agricultural, associate, and collegiate members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California’s resources.

Farm Bureau appreciates the opportunity to provide comments on the Central Valley Regional Water Quality Control Board’s (“Regional Water Board”) 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. Farm Bureau offers the following concerns and comments.¹

Farm Bureau appreciates the Salt and Nitrate Control Program’s inclusion of “non-traditional” regulatory options (including variances, exceptions, offsets, management zones, and assimilative capacity allocations) available to dischargers to provide flexibility, while mitigating the effects from a discharge until a feasible, practicable, and reasonable

¹ Farm Bureau generally supports and incorporates by reference the comments submitted by Theresa Dunham on behalf of the Central Valley Salinity Coalition on May 7, 2018.

means for meeting water quality objectives becomes available. Farm Bureau further appreciates the Salt and Nitrate Control Program’s recommendations to revise the existing Exceptions Policy to add nitrate and boron to the list of chemical constituents that may be authorized for an exception, removal of the sunset provision, and expanding the length of the limitation. Such provisions are necessary since it may not be reasonable, feasible, or practical in some cases to prohibit discharges or issue time schedules for these constituents with the expectation that the discharge can reasonably and feasibly meet applicable water quality objectives in a limited period of time.

In addition to the use of “non-traditional” regulatory options, the specific components of the Salt and Nitrate Control Program for irrigated agriculture must be feasible and reasonable. In revising waste discharge requirements for irrigated agriculture to incorporate the Salt and Nitrate Control Program, the Regional Water Board should seek to develop the most efficient and feasible requirements that accomplishes water quality goals. In enacting the Porter-Cologne Water Quality Control Act (“Porter-Cologne”), the Legislature laid out specific goals and objectives for the state’s waters. The Regional Water Board must conform to all such statutory mandates, including the Legislature’s objective:

The Legislature further finds and declares that activities and factors which may affect the quality of the waters of the state shall be regulated to *attain the highest water quality which is reasonable*, considering all demands being made and to be made on those waters and the total values involved, *beneficial and detrimental, economic and social, tangible and intangible.*²

In its decision in *City of Burbank v. State Water Resources Control Bd.*, the California Supreme Court discussed the Legislature’s intent, confirming its goal “to attain the highest water quality which is reasonable.”³

The use of the term “reasonable” and the “reasonableness” standard is not limited to the express goals laid out in Water Code section 13000. Rather, Porter-Cologne expressly calls for reasonable actions throughout.⁴ Thus, when revising waste discharge

² Wat. Code, § 13000, emphasis added; see also *id.*, § 13240 [“Each regional board shall formulate and adopt water quality control plans for all areas within the region. Such plans shall conform to the policies set forth in Chapter 1 (commencing with Section 13000) of this division and any state policy for water quality control.”].

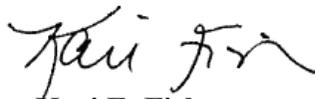
³ *City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 619.

⁴ See, e.g., Wat. Code, § 13241 [calling for water quality objectives that will provide “*the reasonable protection of beneficial uses*” upon mandated review of specific factors including economics (emphasis added)]; *id.*, § 13050(h) [defines “water quality objectives” as “the limits or levels of water quality constituents or characteristics which are established for *the reasonable protection of beneficial uses of water* or the prevention of nuisance within a specific area” (emphasis added)]; *id.*, § 13263 [requiring regional water boards to take into consideration “water quality objectives reasonably required” to protect beneficial uses as well as all provisions of section 13241 when prescribing discharge requirements]; *id.*, § 13267(b)(1) [requiring technical or monitoring program reports for WDRs or

requirements for irrigated agriculture, the Regional Water Board must comply and conform with Porter-Cologne's "reasonableness standard"; that is, evaluate if the activity or control limit will *reasonably* protect the beneficial uses, as well as analyzing the feasibility of such requirements including the costs to agriculture.

Thank you for the opportunity to provide our comments. We look forward to further involvement and discussion with the Regional Water Board on the development of the Central Valley-wide Salt and Nitrate Control Program.

Sincerely,

A handwritten signature in black ink, appearing to read "Kari E. Fisher". The signature is fluid and cursive, with the first name "Kari" being more prominent than the last name "Fisher".

Kari E. Fisher
Senior Counsel

KEF/pkh

conditional waivers to "bear a reasonable relationship to the need for the report and the benefits to be obtained"].