

May 7, 2018

Ms. Pamela Creedon
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

RE: Proposed Amendments to the Water Quality Control Plans for the Sacramento River and San Joaquin River Basins and the Tulare Lake Basin to Incorporate a Central Valley-Wide Salt and Nitrate Control Plan.

The California League of Food Producers (CLFP) appreciates the opportunity to provide comments on the proposed Basin Plan Amendments. CLFP represents California's \$82 billion food and beverage processing sector. Over 58,000 people are employed in the industry in the Central Valley, and in many rural communities the food processing plants are a major source of local economic growth. CLFP has been active with wastewater discharge regulations for many years and in 2007 published a food processing wastewater land application manual to provide technical guidance to our members.

The Basin Plan Amendments Will Affect Many Food Processing Facilities

CLFP is a charter member of the CV-SALTS Executive Board and has valued its collaboration with other stakeholders and the Regional Board over the last ten years. Food processors collectively account for a relatively small portion of the total annual Valley-wide salt and nitrate loads. However, there are facilities that will be affected directly by the proposed changes in regulations because they have permits for land application sites, or indirectly because they discharge their wastewater to public treatment works. In addition, some of the new compliance costs incurred by farmers may be passed on to processors as higher prices for raw products. Most importantly, food processors want to ensure that the drinking water meets public health standards in the communities where their families and employees live. Everyone in the Central Valley has a stake in this process and achieving the critical long-term goal of improving water quality.

The CV-SALTS Stakeholder-Driven Process Was the Best Way to Develop New Regulations

It was clear at the onset that revising the Basin Plans would be a monumental project and the Regional Board staff did not have the time, funds, or the full range of technical expertise necessary to complete the project within the timeline mandated by the State Water Board. CLFP appreciates that the Regional Board chose to use a stakeholder driven process to review existing regulations and develop the Salt and Nitrate Management Plans and Basin Plan Amendments. Representatives from local communities, water treatment facilities, environmental consulting firms, production agriculture, attorneys, environmental justice

groups, and various government agencies all participated and had ample opportunity to voice their concerns. This collaborative effort has required a lot of time and resources but has resulted in a proposal that has strong support among a wide range of stakeholders. The funds contributed by the Central Valley Salinity Coalition helped to support extensive data collection and technical research which provided a clear understanding of where water quality problems are most dire. These studies established a sound scientific foundation for the final recommendations. Regional Board staff has been willing to think out of the box and consider creative approaches proposed by stakeholders. CLFP commends Board management and staff for the hard work that they devoted to CV-SALTS over the last decade.

Providing Compliance Options to Dischargers Will be the Most Cost-Effective Approach

The Regional Board currently has the authority to prohibit discharges that pose a tangible threat to water quality. Some critics of CV-SALTS may advocate dealing with salt and nitrate problems with a strict compliance approach to regulating discharges and enforcing regulations; essentially dischargers either comply with restrictive limits or cease operations. However, prohibiting discharges and closing farms, food processors, and other businesses would not solve the immediate problem faced by people who do not have safe drinking water, and would cause irreparable economic harm to the very communities the Board seeks to help. Many disadvantaged communities in the Valley do not have the resources to upgrade treatment facilities and need to have a regulatory framework that allows them to work with stakeholders in their region to obtain the necessary funds.

The State and Regional Water Boards expect that meaningful projects to help disadvantaged communities will move forward quickly. The proposed Basin Plan Amendments provide dischargers with compliance options that will incentivize immediate action to address nitrate issues with drinking water. The food processing industry recognizes the compliance will be complicated and costly, but the Plan provides some long-term regulatory clarity and certainty. Industry can, and will, rise to the occasion and find innovative solutions if the regulations provide them the time and flexibility to do so.

Implementing the Nitrate Management Plan Will be Challenging in Many Areas

The Nitrate Management Plan is designed to encourage dischargers located in the priority areas to take actions in the very near future to form management zones and provide replacement drinking water where needed. In the long-term they will be required to go beyond that and formulate and implement plans to improve water quality across that zone. Communities, not regulators, will be primarily responsible for working together to find consensus solutions. This will not be an easy task, and the cost of achieving the goals may be extraordinary in some places. But, considering the alternatives, the proposed Plans are the best way forward.

The time frame proposed for developing and implementing management zones in Priority 1 areas is very short, and there may be numerous stakeholders who will want to be at the negotiating table. Building a consensus for action and a functioning governance structure that includes local governments, irrigation districts, farmers, environmental groups, industry, POTW's and others will be a daunting task. But CLFP is relatively confident that stakeholders

and communities will make this work as it will be in their best interest, and because the regulatory alternative is not acceptable.

A key feature of the Nitrate Management Plan is the provision that discharges can choose to continue to operate with individual permits, albeit with more conservative compliance standards. There are some food processors that can meet the nitrate limit and do not have significant problems in the underlying groundwater. They will be allowed to continue using individual Waste Discharge Requirements if they so choose. The proposed Individual Approach (“Path A”) will give them regulatory certainty for the foreseeable future allowing them to make the necessary plans and investments. All dischargers should be allowed to choose their most cost-effective compliance path. They should not be pressured to join a management zone if they pursue this route and are in compliance with their WDR conditions.

Coordination of Management Zone Activities with SGMA Will Be Essential

As the P&O study and various salinity management zones are developed there must be coordination with the Groundwater Sustainability Agencies (GSA’s) formed under the auspices of the Sustainable Groundwater Management Act (SGMA). This will be difficult as many of the boundary lines will not coincide, regulatory compliance timelines do not coincide, water use and quality can vary greatly across basins and sub-basins, and the organizations may have different governance boards. But collaboration will be essential, and the State Board and Regional Board can play an important role in ensuring active participation by the GSA’s.

Achieving Salinity Balance Will Require a Multi-Phased Comprehensive Approach

The Board and the CV-SALTS stakeholder group recognized that bringing the Valley-wide salt loadings into balance will require a range of activities and will take decades to accomplish. Food Processors will need cost-effective compliance paths. One of the key features of the Plan is that it provides alternative compliance options for discharges.

CLFP strongly supports allowing dischargers to choose during Phase 1 of the Salinity Management Plan to contribute to the Prioritization and Optimization (P&O) either through direct contributions or in-kind services in cooperation with the study entity. Many of our members have undertaken specific studies at their facilities and will continue to do so. The flexibility to conduct on-site studies in cooperation with P&O study and receive fee relief should be a viable option for consideration as the program develops.

The ability to continue to operate under a more traditional permit should continue, and CLFP supports this option included in the Salinity Plan. Discharges will be subject to standards established by the Board and monitoring requirements will continue. This option may not be feasible for some dischargers, but CLFP advocates that having this alternative available provides an incentive for facilities to implement cost-effective measures to reduce salinity levels in their discharges.

Many potential long-term regional and sub-regional options will be considered during the development of the P&O study. CLFP believes that construction of a salinity brine line will be a

necessary part of the solution. The engineering and economic challenges to building this conveyance will be considerable. In addition, stakeholders and regulators will have to decide how to efficiently govern, operate, and fund the facility. But the stakeholders cannot be expected to bear all of the costs incurred. A sustained and aggressive effort by the Board will be necessary to raise the state and federal funds necessary for such as a brine line or other construction projects.

The Drought Provisions in the Plan are Essential

The proposed Basin Plan Amendments have special provisions for periods of drought conditions. Clearly this is essential. It is important to note that as food processors and other industries actively pursue drought-related water conservation measures, a consequence of those efforts may be an increase in the concentration of salts in their discharges. The proposed Plans include provisions for dischargers to petition the Board for interim permit limits during state or local drought emergencies and CLFP supports this option.

The Surveillance and Monitoring Program Will be Necessary to Track Progress

When the CV-SALTS initiative began there were a number of existing data sets regarding groundwater quality, but many were in different formats, lacked contextual information, or were missing data points. The consultants employed to address this problem have done an excellent job of developing a database that can be used to assess water quality in detail in many locations. This effort must continue and coordination of data gathering efforts will be critical. The proposed Plan requires development of a robust database and directs stakeholders to make that happen. CLFP supports and plans to participate in that process.

Participation by the Tulare Lake Basin

A portion of the Tulare Lake Basin has been de-designated for MUN and AGR beneficial uses based on extensive technical analysis. The dischargers and Tulare Lake Drainage District have been active participants in the CV-SALTS initiative and have been working diligently for years to fund necessary research and develop constructive solutions to address local water quality concerns. Due to the de-designations this area should not be subject to the proposed Nitrate or Salinity Control Programs. However, the dischargers are willing to voluntarily participate in Phase 1 of the P&O study to demonstrate their support for the broader initiative to improve regional water quality. CLFP supports their proposal in recognition of their good faith efforts taken to date and the value of keeping those dischargers engaged with the ongoing CV-SALTS initiative.

The Water Quality Fee Structure May Need to be Revisited

Current holders of WDRs are required to pay annual water quality fees and the amount is based on a threat/complexity matrix developed by the State Water Board. The issue of fees was not discussed in detail during the CV-SALTS deliberations but will likely warrant consideration in the future. Individual dischargers may be participating in salinity management zones, contributing to the P&O study, conducting onsite compliance activities, and helping to fund a regional monitoring and surveillance program. They will incur considerable expenses and the funds that they contribute will be directed to addressing water quality concerns. By design, much of the

activity related to the implementation of the Basin Plan Amendments will be managed collectively by stakeholders and this should, in the long term, reduce the Regional Board's personnel requirements for oversight and enforcement. As implementation of the program progresses CLFP believes that the water quality fee structure should be revisited.

Recommendation

CLFP urges the Central Valley Regional Water Board to adopt the Proposed Basin Plan Amendments. The Central Valley Salinity Coalition (CVSC) has provided the Board with a number of substantive comments and CLFP, as a member of CVSC, supports those recommendations.

Regional Board staff has done an excellent job of working with stakeholders to find agreement on a wide range of complicated issues. The Plan is based on excellent technical and legal analysis and is designed to ensure significant improvements in water quality across the Central Valley. CLFP intends to be actively engaged in the implementation process and looks forward to working with Regional Board staff to help achieve the goals of the plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Neenan", with a long horizontal flourish extending to the right.

Rob Neenan
President/CEO

Cc Patrick Pulupa, Regional Water Board
Jeanne Chilcott, Regional Water Board
Glen Meeks, Regional Water Board