

**Response to Comments**  
**Comment Deadline: Friday, May 7, 2021 at 5:00 pm**

**Notice of Opportunity for Public Comment, Public Workshop and Public Hearing**  
**for the Amendment to The Colorado River Basin Water Quality Control Plan to Revise the Septic Tank Prohibition**  
**for the Town of Yucca Valley – San Bernardino County**

<b>Comment Letter #</b>	<b>Date</b>	<b>Commenter</b>	<b>Affiliation</b>
Poland-01	4/2/2021	Jennifer Poland	General Public
HDWD-02	4/6/2021	Jonathan P. Abadesco	Chief Financial Officer, Hi-Desert Water District (HDWD)
CVWK-03	4/7/2021	Lauren Chase	Lauren Chase, Coachella Valley Waterkeeper (CVWK)

These comments were considered in revising the draft Amendment documents posted on our [Basin Planning program page](#). The revised documentation will be presented at a public hearing scheduled for June 15, 2020.

<b>Comment Number</b>	<b>Location in Amendment</b>	<b>Comment Summary</b>	<b>Response</b>
Poland-01.01	e.2. Deferred Parcels	The Prohibition language is amended to require deferred parcels to connect if certain criteria are met. The issue with requiring these parcels to connect is the current lack of infrastructure and funding available to make this financially feasible for deferred property owners.	The existing Prohibition already includes provisions requiring deferred parcels to connect to the collection system if specified criteria are met. The Amendment only proposes to add one additional criterion requiring HDWD to make the collection system available to deferred parcels if there are any deferred parcels left fifteen years after the corresponding phase deadline; this change does not change the general mechanism described in the comment. This change ensures that parcels cannot be deferred indefinitely and are ultimately provided with sewer service. This comment does not apply to changes proposed under the Amendment, nor does it propose specific additional changes, and therefore falls outside of the Amendment's scope.  Staff does not propose any changes in response to this comment.

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Poland-01.02	(g) Prohibition exemptions	<p>If a connection is deemed economically excessively burdensome by staff, then an exemption may be granted. This is counterproductive to Section (e)(2) Deferred Parcels because it will be excessively financially burdensome for deferred parcels to connect to the system, since a small group of owners classified in a block of deferred parcels will have to bear 100% of the cost burden of constructing the infrastructure to extend of the sewer system into the deferred area. The infrastructure which includes the extension of sewer pipeline, manholes, paving, engineering plans and environmental studies are currently non-existent for all deferred parcel areas.</p>	<p>This comment does not apply to changes proposed under the Amendment, nor does it propose specific additional changes, and therefore falls outside of the Amendment’s scope. The existing Prohibition already includes provisions allowing certain property owners to obtain an exemption under certain circumstances. The Amendment does propose to revise this section but not in any way that is referenced in this comment.</p> <p>Deferred areas and deferred parcels are defined in Section (a) Definitions, as proposed under this Amendment. These parcels or areas are deferred because the planned segment of the sewer line that could be readily connected to the available centralized sewer system has not yet been constructed due to the installation of the sewer being economically or technically inadvisable, and therefore not required until sufficient development occurs as described in subsection (e)(2).</p> <p>Section (g) Prohibition Exemptions, as proposed, includes the following:</p> <p style="padding-left: 40px;">“Exemptions to the Prohibition shall be considered and may be granted by the Regional Water Board on a case-by-case basis pursuant to an application submitted to the Regional Water Board’s Executive Officer by a discharger. Such exemptions shall be based upon the weight of the evidence demonstrating the existence of unique technical or environmental conditions applicable to the property in question that would make connection to the municipal sewage collection system technically impracticable or economically excessively burdensome. If such circumstances exist, the discharger must also demonstrate that the continued discharge would not pose a significant threat to water quality....”</p> <p>Regional Water Board staff is aware of the possibility that some deferred parcels may request exemptions and does not find these two provisions to conflict with each other. Further, staff disagrees with the conclusion that it will necessarily always be economically excessively burdensome for deferred parcel areas to connect to the sewer; there is not sufficient evidence to establish this premise in every instance.</p> <p>Staff does not propose any changes in response to this comment.</p>

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Poland-01.03	(e)(2) Deferred Parcels	HDWD opted out of being proactive to include these costs, as well as installing the necessary infrastructure for these deferred areas identified in the Basin Plan to connect at a later date. This means that the infrastructure needed for the future deferred parcels to connect is not covered by the Phase 1 State Revolving Fund Loan, or the future Phase 2 State Revolving Fund Loan construction cost estimate created by District consultants.	<p>This comment does not apply to changes proposed under the Amendment, nor does it propose specific additional changes, and therefore falls outside of the Amendment's scope.</p> <p>Staff does not propose any changes in response to this comment.</p>
Poland-01.04	(e)(2) Deferred Parcels	<p>Here is a cost example of connecting one deferred area:</p> <p>Estimated Cost of Extending Infrastructure: \$300,000</p> <p>Number of Deferred Parcels: 7</p> <p>Total out-of-pocket expense per property owner: \$42,857*</p> <p>*Note this is in addition to their current assessment share of the treatment facility and Phase 1 pump stations and mainlines.</p>	<p>Comment noted. As noted in comment Poland-01.02, owners of such parcels may apply for an exemption. This comment does not apply to changes proposed under the Amendment, nor does it propose specific additional changes, and therefore falls outside of the Amendment's scope.</p> <p>Staff does not propose any changes in response to this comment.</p>
Poland-01.05	(e)(2) Deferred Parcels	This will create an excessive financial burden for owners of deferred parcels, particularly for those of residential homes or commercial buildings located in a Phase 1 deferred area that already meet one of the four criteria to mandate a connection prior to the passing of this amendment.	<p>Comment noted. As noted in comment Poland-01.02, owners of such parcels may apply for an exemption. This comment does not apply to changes proposed under the Amendment, nor does it propose specific additional changes, and therefore falls outside of the Amendment's scope.</p> <p>Staff does not propose any changes in response to this comment.</p>

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HDWD-02.01	(e)(2) Deferred Parcels	HDWD is asking for an exception, allowing deferred parcels to connect prior to meeting the criteria currently specified in this Section. The goal is to mitigate the need for deferments where feasible from a parcel owner or group of parcel owners perspective and thus expedite removal of and avoid new septic systems.	<p>Under the proposed revised Prohibition, in Section (a) Definitions, deferred parcels are defined as "parcels where the installation of a municipal sewage collection system is not economically or technically advisable, and is not required, until sufficient development occurs, as described in subsection (e)(2)." This definition does not forbid the installation of a municipal sewage collection system prior to the specified criteria being met, but rather provides that installation of a municipal sewage collection system is not mandated until the criteria are met. Further, proposed Section (e) Alternative Deadlines states that "Phase deadlines shall not apply to certain dischargers and shall be replaced with alternative deadlines as described below," followed by Section (e)(2) Deferred Parcels which states that "The individual prohibition deadlines for all deferred parcels shall be the same as their sewer availability date." With that, the revised Prohibition as currently proposed does not conflict with the possibility of building the collection system and connecting the deferred parcels prior to the deferred area meeting one of the four deferred parcel connection criteria.</p> <p>Staff does not propose any changes in response to this comment.</p>
HDWD-02.02	(e)(2) Deferred Parcels	To allow early connection of deferred parcels, would environmental concerns triggering an environmental review beyond current requirements need to be addressed and/or mitigated?	<p>Early connection of deferred parcels does not conflict with the Prohibition either as currently written or as proposed under this Amendment. Early connection would not increase the potential threat to water quality and does not need to be mitigated.</p> <p>Staff does not propose any changes in response to this comment.</p>
HDWD-02.03	(e)(2) Deferred Parcels	It may be advantageous to incorporate provisions into the Basin Plan allowing for early connection of deferred parcels.	<p>Early connection of deferred parcels does not conflict with the Prohibition either as currently written or as proposed under this Amendment.</p> <p>Staff does not propose any changes in response to this comment.</p>

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HDWD-02.04	(e)(2) Deferred Parcels	HDWD has significant concern with the fourth criterion which requires construction of the collection system after the phase deadline has passed more than 15 years ago. It is probable that in some deferred areas insufficient parcels will have been developed to have met the density-based criteria 1 through 3 at that point. HDWD proposes to remove the fourth criterion. Because this criterion has a 15-year window, there will be sufficient time to evaluate this situation going forward and follow that evaluation with a corresponding Basin Plan Amendment if deemed necessary.	<p>As detailed in Attachment 4 of the Staff Report, the incorporation of a time limit for the deferred parcels is necessary to offset the adverse impacts on water quality of nearly doubling the total number of deferred parcels. Because developing a Basin Plan amendment is a highly resource-intensive process that is being carried out for the third time for this Prohibition, staff advises that the Amendment should be revised at this time in a way that would not foreseeably require any further revisions in the future. If at the time when this criterion is met the sewer construction is not economically feasible in a given deferred area, then those parcels may be granted an exemption per Section (g) Prohibition Exemptions. Note that exemptions are not permanent due to the following provision: "The exemption will be revoked if conditions that the exemption was based on change or become no longer applicable." Therefore, if at a later date the area does meet the density criteria or other changes occur that would make the connection possible, then at that time the Regional Water Board would be able to revoke the exemption and HDWD would be required to build the collection system.</p> <p>Staff does not propose any changes in response to this comment.</p>
CVWK-03.01	N/A	CVWK respectfully requests that the Regional Water Board reject the Amendment as currently proposed. As further explained below, CVWK is concerned the Amendment does not adequately protect water quality and public health.	Comment noted. Please see responses to individual comments below.

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<p>CVWK-03.02</p>	<p>(b) Implementation</p>	<p>In 2016 the Board approved an amendment to the Prohibition extending compliance deadlines by four to six years. The Board is now being asked to further extend compliance deadlines by an additional two to six years. CVWK is concerned that these extensions will substantially delay implementation and undermine the Prohibition's original goals. Waterkeeper believes the Amendment extends deadlines too far into the future without adequate, additional incentives to achieve timely compliance.</p>	<p>The environmental impact of extending these deadlines, along with other proposed changes, is reduced by the following three changes that have occurred since the adoption of the original Prohibition:</p> <p>(1) The nitrate concentrations in the Warren Valley Groundwater Subbasin have decreased to below the water quality objective of 10 mg/L. This may be attributed in part to changes in artificial recharge practices by HDWD in response to USGS findings and recommendations. While the OWTS discharges will still ultimately reach the water table at some concentrations, this change does allow for some more flexibility in the timing of OWTS removal.</p> <p>(2) Since February 2020, the properties in Phase 1 have been connecting to the collection system in stages as the collection system gets installed, which will further decrease nitrate loading. Phase 1 residential parcels are on average smaller in size than Phase 2 residential parcels, which means that Phase 1 has a greater OWTS density and completing it by the end of 2023 will reduce nitrate input into groundwater.</p> <p>(3) In 2012, State Water Board adopted the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy), which has been incorporated into the Basin Plan by reference and regulates eligible OWTS systems. The systems that are deemed to pose a greater threat to water quality based on specified criteria are not eligible to be covered by the OWTS Policy, such as systems discharging more than 3,500 gpd. Such systems will be required to submit a report of waste discharge to the Colorado River Basin Water Board in order to obtain Waste Discharge Requirements, which would be protective of water quality standards.</p> <p>The extended deadlines are based on HDWD's projection of the earliest reasonable dates that they can build the collection system under current circumstances. Originally, HDWD had requested only a 2.5-year extension for Phase 1 and a 1-year extension for Phase 2 due to delays associated with difficulties obtaining funding. However, they later revised their request for Phase 2 to request five additional years, resulting in the current proposed deadline on December 31, 2031. HDWD explained that due to the western Joshua tree's new candidate species status with the California Fish and Game Commission, they have to wait for the Commission to make a decision on whether to list the species as threatened or endangered, which is scheduled to occur by April 2022. Regardless of the outcome, this waiting period accounts for the need for an additional 24-</p>
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			<p>month delay. If the species is listed, then HDWD will require an additional 36 months for a CEQA study and a take permit for the removal of western Joshua trees during the construction of Phase 2. Phase 1 is already under way and will not require these additional steps. If the deadlines are shortened and HDWD is not able to meet them, it would put the Yucca Valley residents in a precarious position where they are required to cease discharging from their OWTS but have no means of complying because the collection system has not been built. However, Regional Water Board staff recognizes that the Amendment as currently proposed does not account for the possibility that the western Joshua tree may not be placed on the threatened or endangered species list, which would allow HDWD to skip the additional 3 years required to conduct a CEQA study and develop a take permit.</p> <p>In response to this comment, staff will revise the Amendment to state that the Phase 2 deadline is December 31, 2028 if the western Joshua tree is not listed as threatened or endangered, or December 31, 3031 if it is listed. The language in the proposed section (b) Implementation will be revised as follows:</p> <p>“Pursuant to Water Code section 13280, the discharge of wastewater from OWTS within Phases 1 and 2 defined in Appendix C of the Basin Plan, shall be prohibited, in accordance with the following schedule:</p> <ol style="list-style-type: none"> <li>1. For Phase 1: by December 31, 2023;</li> <li>2. For Phase 2: <ol style="list-style-type: none"> <li>a. by December 31, 2028 if the western Joshua tree is not listed as threatened or endangered by the California Fish and Game Commission;</li> <li>b. by December 31, 2031 if the western Joshua tree is listed as threatened or endangered by the California Fish and Game Commission;</li> </ol> </li> <li>3. Or when a municipal sewage collection system becomes available, whichever comes first.”</li> </ol>

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CVWK-03.03	(b) Implementation	If the Board is inclined to further extend compliance deadlines as proposed under the Amendment, CVWK suggests the Board revise the Amendment to (i) include an updated schedule of construction milestones for Hi-Desert Water District.	<p>At this time, a detailed schedule for the construction of the collection system for Phase 2 is not yet available. Regional Water Board staff advises that including the detailed milestones is not necessary for Phases 1 or 2 because by nature of such large projects, the collection system for each phase has to be constructed over several years in stages. Additionally, the revised Prohibition would still require annual construction progress reports, which will allow Regional Water Board staff to ensure that HDWD is on track to meet the phase deadlines. Regional Water Board staff is currently in possession of HDWD's Phase 1 stage construction schedule in order to keep track of when to expect connection compliance reports for each stage, and will request a copy of the detailed construction schedule for Phase 2 when it becomes available.</p> <p>Staff does not propose any changes in response to this comment.</p>

<p>CVWK-03.04</p>	<p>(e)(2) Deferred Parcels</p>	<p>If the Board is inclined to further extend compliance deadlines as proposed under the Amendment, CVWK also suggests the Board revise the Amendment to (ii) shorten the fourth connection criterion in Section (e)(2) from “more than 15 years” after the phase deadline’s passing to “more than 7 years,” or sooner at the Board’s discretion.</p>	<p>The incorporation of a time limit for the deferred parcels does not offset the potential environmental impact of the extended phase deadlines (because deferred parcels are not subject to those deadlines), but rather was added to offset the twofold increase in the number of deferred parcels. Under the current Prohibition, there is no time limit for deferred parcels to be connected, meaning that deferred parcels could remain deferred and continue discharging from OWTS indefinitely.</p> <p>Staff believe that the proposed fifteen-year time limit strikes the right balance between providing a firm end date by which the Prohibition must be enacted while still allowing sufficient time for the future connection of deferred parcels, and that it is reasonable and preferable to a shorter time limit of seven years. The key issue is that connection of deferred areas may end up being significantly more expensive than other areas, especially if an area does not meet one of the first three density-based criteria. Notably, HDWD has expressed concern with even the proposed fifteen-year time limit, see comment HDWD-02.04. Commenter Jennifer Poland also expressed concern about the financial feasibility of connecting deferred parcels as expressed in comments Poland-01.02 through Poland-01.05. Including a shorter time limit would only mean that there will be more remaining deferred areas by the time that the fourth criterion is met, and more of those areas will have to apply for exemptions because connection may not be technically and/or financially feasible. Take for example a hypothetical deferred area that would not meet one of the density-based criteria seven years after the prohibition deadline, but would meet them within fifteen years of the prohibition deadline. If the fifteen-year criterion is in effect, then the Regional Water Board will be alerted in the annual Deferred Parcels Status Report that a criterion has been met, and HDWD will then be required to build the collection system on those streets within 2 years. If instead this happens with a seven-year criterion in effect, then there would be a greater risk at that point that the connection may not be financially and/or technically feasible due to the low density, and therefore that whole area may need to apply for an exemption. The exemption may be revoked later if the Regional Water Board becomes aware that conditions have changed such that connection is now feasible, but it may take longer because at that point HDWD will no longer be required to submit Deferred Parcels Status Reports. In the long term, areas that will not be able to connect should be exempted because new and replacement systems will then be required to consist of an Advanced Treatment Unit (ATU), which is more protective of water quality; but if there</p>
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			<p>is a chance that connection may be achieved in the shorter term, then it is best to provide that additional time for such areas to reach the needed density. Therefore, shortening the time limit from fifteen years to seven years will not have the effect desired by CVWK.</p> <p>Staff does not propose any changes in response to this comment.</p>