



# CVCWA

## Central Valley Clean Water Association

*Representing Over Fifty Wastewater Agencies*

**TERRIE MITCHELL – Chair, Sacramento Regional CSD**  
**JOSIE TELLERS – Secretary, City of Davis**

**CASEY WICHERT – Vice-Chair, City of Brentwood**  
**KEN GLOTZBACH – Treasurer, City of Roseville**

July 27, 2018

*Via Electronic Mail*

Jeanine Townsend  
 Clerk to the Board  
 State Water Resources Control Board  
 1001 I Street, 24th Floor  
 Sacramento, CA 95814  
[LSJR-SD-Comments@waterboards.ca.gov](mailto:LSJR-SD-Comments@waterboards.ca.gov)

Re: Comment Letter – Revisions to Proposed Delta Plan Amendments

Dear Ms. Townsend and Members of the Board:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to provide comments on the FINAL Substitute Environmental Document In Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay-Sacramento San Joaquin Delta Estuary (Final SED) and the Revised Water Quality Control Plan included in Appendix K to the Final SED (Revised Plan). CVCWA is a non-profit association of public agencies located within the Central Valley region that provide wastewater collection, treatment, and water recycling services to millions of Central Valley residents and businesses. We approach our mission with the perspective of balancing environmental and economic interests consistent with state and federal law.

As a preliminary matter, CVCWA thanks the members of the State Water Resources Control Board (State Water Board) and staff for considering CVCWA's comments on the proposed southern Delta water quality objective for salinity and associated program of implementation presented in its panel presentation to State

Water Board members on December 16, 2016, and submitted in written comments on March 17, 2017. The new language in the Revised Plan goes a long way to address the concerns raised by CVCWA and its members located within the southern Delta that will be impacted by the proposed salinity objective, including the City of Stockton, the City of Manteca, the City of Tracy, and Mountain House Community Services District. As the Revised Plan acknowledges, discharges from these publicly owned treatment works (POTWs) have a de minimis effect on southern Delta salinity. (Revised Plan, at p. 46.) Forcing these POTWs to construct reverse osmosis facilities is cost-prohibitive, and the energy-intensive treatment process will result in significant environmental effects (e.g., brine waste) that outweigh the de minimis impact that less saline effluent would have on the receiving water. (*Id.*)

In this regard, CVCWA respectfully requests several minor, clarifying changes to the Revised Plan to ensure that POTWs are not required to construct reverse osmosis facilities before the technology is feasible for the purpose of controlling salinity in the southern Delta.

**1. Clarify Effluent Limitations Are Applicable Only When There is Reasonable Potential**

CVCWA requests that the State Water Board add language to section vii of the “State Regulatory Actions” portion of section IV.B.1 (Section vii) to make clear that water quality-based effluent limitations are only required when the discharge has the reasonable potential to cause or contribute to an excursion above a water quality objective. (See 40 C.F.R. § 122.44(d).) The current language implies that water quality-based effluent limitations for salinity are automatic for POTWs that are located in the southern Delta. This can be easily fixed by adding the phrase “where they are applicable” to references to numeric water quality-based effluent limitations, as shown in the proposed changes in Attachment 1.

**2. Modify Language on Submittal Included With National Pollutant Discharge Elimination System (NPDES) Permit Renewal Application**

The current version of Section vii in the Revised Plan requires POTWs to submit a significant amount of information in its NPDES permit renewal application “where it is infeasible for POTWs discharging to the southern Delta to comply with traditional numeric water-quality based effluent limitations for salts.” (Revised Plan, at p. 47.) The extent of the information required in the renewal application exceeds the requirements that are typically imposed by the Central Valley Regional Water Quality Control Board (Central Valley Water Board). More importantly, the timing of the requirement is

backwards: the submittal is required only after there is a determination of “where it is infeasible,” yet this is the type of information that would be necessary to develop and support the infeasibility determination.

CVCWA suggests this language be modified so the information is used by the Central Valley Water Board “to determine *if it is infeasible* for POTWs discharging to the southern Delta to comply with traditional numeric water-quality based effluent limitations for salts.” Proposed changes to this effect are included in Attachment 1.

### **3. Add Language Guiding Future Infeasibility Determinations**

At the beginning of Section vii, the Revised Plan correctly summarizes the issues implicated by imposing the proposed salinity objective as an end-of-pipe effluent limitation, including the de minimis impact of POTW discharges on salinity in the southern Delta, the focus on the regulation of water flow to meet salinity objectives, and the high cost and significant environmental effects associated with reverse osmosis facilities. The State Water Board therefore concludes that “reverse-osmosis treatment for POTW wastewater discharges into the southern Delta is currently not a feasible technology for the purposes of controlling salinity in the Southern Delta.” (Revised Plan, at p. 46.) Currently, no guidance is provided on when or how feasibility will be determined. Future feasibility determinations should be guided by the same considerations regarding the propriety of establishing numeric water quality-based effluent limitations for salinity for the southern Delta POTWs. (State Water Board Order No. WQO 2006-0012, *In the Matter of Petition of Boeing Company for Review of Water Discharge Requirements Orders R4-2004-0111, R4-2006-0008, and R4-2006-0036 for the Santa Susana Field Laboratory Issued by the California Regional Water Quality Control Board, Los Angeles Region* (Dec. 13, 2016), p. 15 [“whether a numeric effluent limitation is ‘feasible’ ” concerns “the ability or propriety of establishing such a limit”].) Accordingly, CVCWA requests that language be added to Section vii to direct the Central Valley Water Board to consider these factors in future permitting decisions.

### **4. Add Reference to Water Quality Control Plans**

The last sentence of Section vii in the Revised Plan states that “[w]here appropriate, the Central Valley Regional Water Board may also grant variances in accordance with applicable state and federal law.” CVCWA requests that a reference to “applicable water quality control plans” be added in recognition that the Central Valley Water Board has adopted several pathways in its basin plans for obtaining variances.

State Water Resources Control Board

Re: Comment Letter – Revisions to Proposed Delta Plan Amendments

July 27, 2018

Page 4 of 8

---

All of CVCWA's proposed changes are included in the redline version of the Revised Plan included as Attachment 1 to this letter. Thank you for your consideration. If you have any questions regarding our comments, or if CVCWA can be of further assistance, please contact me at (530) 268-1338, or [eoofficer@cvcwa.org](mailto:eoofficer@cvcwa.org).

Sincerely,



Debbie Webster,  
Executive Officer

Enclosure

## ATTACHMENT 1

Redline changes to Section vii of “State Regulatory Actions” in Section IV.B.1 of Revised Plan, pages 46-48:

- ii- vii. Salinity problems in the southern Delta primarily result from low flows, tidal action, diversions by the CVP, SWP and local water users, agricultural return flows, poor circulation, and channel capacity. As early as the 1991 Bay-Delta Plan, the State Water Board recognized the need to meet the salinity objectives largely through regulation of water flow. This Bay-Delta Plan continues Revised Decision 1641’s obligations on the CVP and SWP to meet the salinity water quality objectives. Overall, discharges from publicly owned treatment works (POTWs) in the southern Delta have only a small effect on southern Delta salinity. Studies show the de minimis influence of POTW discharges on downstream ambient EC levels, both in low and high CVP and SWP export scenarios. The extent to which a POTW can meet salinity water quality objectives in the southern Delta is in part controlled by factors beyond its control, namely flows and circulation patterns, which are largely controlled by tidal action and water diversions. POTW discharges also reflect the EC levels of their source water, which is high in the southern Delta. POTWs are subject to the Clean Water Act and must control their salt discharges. It is reasonable to view the extent to which they must control their discharges in light of the constraints they face, the de minimis effect of their discharge on water quality related to salinity, and this implementation program’s focus on water levels and flows to achieve the salinity water quality objectives. Desalination through reverse-osmosis processes can reduce salinity in POTW effluent, but is energy intensive, may be cost-prohibitive to construct and operate, and may also create brine waste disposal issues in an area that is already challenged by high salts. The State Water Board, therefore, finds that reverse-osmosis treatment for POTW wastewater discharges into the southern Delta is currently not a feasible technology for the purpose of controlling salinity in the southern Delta.

The Central Valley Regional Water Board shall regulate ~~impose discharge controls on~~ in-Delta discharges of salts by agricultural,

State Water Resources Control Board

Re: Comment Letter – Revisions to Proposed Delta Plan Amendments

July 27, 2018

Page 6 of 8

municipal POTW, and other dischargers consistent with applicable state and federal law, including, but not limited to, establishing water quality based effluent limitations and compliance, monitoring and reporting requirements as part of the reissuance of National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act and the regulations thereunder. In most, if not all, cases, it may be infeasible for POTWs discharging to the southern Delta to comply with traditional numeric water-quality based effluent limitations for salts in NPDES permits where they are applicable. In cases where it is infeasible, the Central Valley Regional Water Board shall include in NPDES permits the following types of enforceable effluent limitations:

- (a) A performance-based effluent limitation derived using, at a minimum, the past three years of effluent data and one that considers the potential for drought conditions, changing water sources, and water conservation.
- (b) Best management practices, including but not limited to: (A) an industrial pretreatment program, implemented through local ordinances, that minimizes salinity inputs from all industrial sources of salinity within the POTW's collection system; (B) source control measures, such as reducing salinity concentrations in source water supplies; (C) actions to limit or ban the use of residential self-generating water softeners or imposing salt efficiency standards on such water softeners; (D) a salinity education and outreach program; and (E) ongoing participation in the Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS).

In determining if it is infeasible for POTWs discharging to the southern Delta to comply with traditional numeric water-quality based effluent limitation for salts where they are applicable, the Central Valley Regional Water Board shall consider the influence of POTW discharges on downstream ambient EC levels, factors that affect compliance with the salinity water quality objective beyond the POTWs control including flow and circulation patterns, and the costs and environmental effects of constructing and operating reverse-osmosis treatment.

In addition, where to determine if it is infeasible for POTWs discharging to the southern Delta to comply with traditional numeric

State Water Resources Control Board

Re: Comment Letter – Revisions to Proposed Delta Plan Amendments

July 27, 2018

Page 7 of 8

water-quality based effluent limitations for salts **where they are applicable**, the Central Valley Regional Water Board shall **consider require POTWs to submit** the following information, which shall be submitted with a POTW's application for a renewal of its NPDES permit, except for (e) and (f), which shall be submitted in annual reports:

- (a) An evaluation of whether technological or economic changes have made previously deemed infeasible upgrades to control salinity in the POTW's effluent feasible.
- (b) A survey of industrial sources of salinity regulated by the industrial pretreatment program, along with all annual reports submitted pursuant to that program documenting the implementation of salinity management strategies at the industrial facility within the collection system area.
- (c) Documentation of source control measures taken. If alternative lower-salinity source water supplies were available but not utilized, a justification for not using such supplies shall be provided.
- (d) An evaluation of the efficacy of actions taken to limit or ban the use of residential self-generating water softeners or to impose efficiency standards on water softeners within the POTW's collection system area. This evaluation shall include the estimated number of such water softeners in the POTW's collection system area. If a ban against the use of self-generating water softeners is not instituted, a justification why a ban is not feasible.
- (e) Materials developed and disseminated in support of the salinity education and outreach program.
- (f) Documented proof of participation in CV-SALTS.

Where it is or becomes feasible for a POTW to comply with numeric water quality based effluent limitations for salts, the Central Valley Regional Water Board shall require them in the applicable NPDES permit. In such cases, POTW compliance actions include, without limitation, source control, such as reducing salinity concentrations in source water supplies; pretreatment programs, such as reducing water softener use among water users; and desalination. Where appropriate, the Central Valley Regional Water Board may also grant variances in accordance with applicable state and federal law **and applicable water quality control plan.**

State Water Resources Control Board

Re: Comment Letter – Revisions to Proposed Delta Plan Amendments

July 27, 2018

Page 8 of 8

~~The Central Valley Regional Water Board shall regulate impose discharge controls on in Delta discharges of salts by agricultural, domestic, and municipal dischargers consistent with applicable state and federal law, including, but not limited to, establishing water quality based effluent limitations and compliance, monitoring and reporting requirements as part of the reissuance of National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act and the regulations thereunder. Publicly owned treatment works (POTWs) regulated by NPDES permits that discharge salinity constituents above water quality objectives for EC may qualify for a variance of up to ten years pursuant to the Central Valley Regional Water Board Resolution R5-2014-0074. Actions by POTWs to comply with water quality objectives for EC include, without limitation, source control, such as reducing salinity concentrations in source water supplies; pretreatment programs, such as reducing water softener use among water users; and desalination.~~



---

**From:** Michelle Bracha <mbracha@somachlaw.com>  
**Sent:** Friday, July 27, 2018 11:30 AM  
**To:** LSJR-SD-Comments@waterboards.ca.gov; WQCP1Comments  
**Cc:** Debbie Webster; Brenda Bass; Tess Dunham  
**Subject:** Comment Letter - Revisions to Proposed Delta Plan Amendments  
**Attachments:** 07272018 Comment Letter on Final SED and Revised Bay-Delta Plan (00035400xD2C75).PDF  
**Categories:** Red Category

Good morning,

The attached comments are submitted for your consideration on behalf of the Central Valley Clean Water Association.



**Michelle Bracha** | *Legal Secretary*

500 Capitol Mall, Suite 1000 | Sacramento, CA 95814

**Office** 916.446.7979 | **Direct** 916.469-3816 | **Fax** 916.446.8199 | [mbracha@somachlaw.com](mailto:mbracha@somachlaw.com)  
<http://www.somachlaw.com>

The information contained in this electronic mail transmission is confidential and intended to be sent only to the stated recipient of the transmission. It may therefore be protected from unauthorized use or dissemination by the attorney client and/or attorney work-product privileges. If you are not the intended recipient or the intended recipient's agent, you are hereby notified that any review, use, dissemination, distribution or copying of this communication is strictly prohibited. You are also asked to notify us immediately by telephone at (916) 446-7979 or reply by e-mail and delete or discard the message. Thank you.