



January 13, 2015

Felicia Marcus, Chair
State Water Resources Control Board
1001 I St.
Sacramento, CA 95814
Sent via electronic Mail

RE: Agenda Item 5: CV Salts Progress Update

Dear Chair Marcus and board members,

Our organizations - Clean Water Action, Community Water Center and Leadership Counsel for Justice and Accountability – have participated regularly in the CV SALTS Coalition meetings for several years. We have recently volunteered to join a subcommittee to identify and, if possible, address the still unresolved concerns we have with the proposed Salt and Nutrient Management Plan (SNMP) concept.

We are hopeful that our continued collaboration will facilitate a SNMP that furthers the goals that inform our participation: clean and affordable drinking water for residents whose water is and will be impacted by agricultural discharge, and improvement in groundwater quality. Unfortunately, though, several concerns we have raised for over a year, and some that have arisen in the past several months, remain unresolved. Furthermore, the report accompanying this agenda item lists several recommendations as “near final” notwithstanding concerns we have voiced consistently and publicly with respect to those very recommendations. This apparent indifference to our perspective calls into question the utility of our continued involvement in the process and makes us doubt that the process will develop a solution that successfully meets the goals of the program. We fear that without clear direction from this Board, the SNMP will fail to either secure safe drinking water or promote groundwater protection and remediation. The following specific issues need to be clarified and addressed adequately so that we may successfully reach these goals:

Principles for calculating background water quality and assimilative capacity.

This proposal to rely on assimilative capacity is the backbone of the SNMP concept, yet presents a variety of challenges.

- Proposals to apply new methods of measuring assimilative capacity – which envisions “averaging” water quality over a 3-dimensional area rather than specific points of compliance – will, by design, create a condition of pollution and nuisance in some areas that **will** disproportionately impact the most vulnerable groundwater consumers.
- The concept considers that assimilative capacity exists up to the water quality objective. This is inappropriate as it provides no buffer to guard against variations in discharges and also assumes a precision in our understanding of groundwater hydrology and pollutant loading that doesn’t exist for most aquifers. There is no indication that a sufficient monitoring and reporting program will or realistically could be designed and implemented to accurately characterize the hydrology to that level of precision. That means that the proposal will likely underestimate the impact on communities reliant upon groundwater in those zones.
- The concept allows a regulator to allocate all assimilative capacity to a discharger, failing to consider other dischargers in the area that may too be contributing nitrogen to a basin or sub-basin, as well as nitrate still making its way through the vadose zone.
- It is still unclear how management zones will be identified. Our concern is that they will be drawn in a way that provides assimilative capacity to a given set of dischargers rather than looking at the potentially impacted population or the hydrology of the basin. We are also concerned that assimilative capacity will be calculated based on the full depth of an aquifer, including areas beyond the production zone.

Principles for Potential Alternative Compliance Strategy.

A mitigation or offset program must be designed from the point of view of the parties burdened by permitted degradation and pollution. The proposed offset or mitigation program has not, as currently conceived, committed to fully mitigating the adverse and disproportionate impacts created. Notably there is no assurance that an offset program would mitigate impacts on all affected communities, including those reliant on domestic wells. Furthermore, there is no process defined to determine what an appropriate offset / mitigation program would be, who would receive funding and who would not, how dischargers would be assessed for the increasing costs of mitigation and/or offsets, and how impacted communities would be involved in determining the course of the program.

We feel strongly that any drinking water solution that is funded by dischargers as part of an offset or mitigation program must be developed and administered independently from the dischargers, and be driven by the impacted community. This program should not allow

dischargers to craft offset projects that may represent the best economic solution for themselves, but not the best drinking water solutions for impacted communities in the short or long-term. The best way to ensure that an alternative compliance strategy realizes its goal to mitigate impacts of pollution, the program must be administered independently from a discharger. This concern has repeatedly been dismissed and is not being address adequately through this process.

Inadequate Measures to Protect or Improve Groundwater

The proposal also proposes several policy and basin plan changes that would contribute to pollution or nuisance without requiring measures to protect or improve groundwater quality.

- As proposed, the SNMP and resulting basin plan amendment will permit continued degradation (as well as pollution and nuisance) without rigorously ensuring practices are in place within a strict timeline to end such degradation and restore water quality.
- Among the “ongoing” recommendations is one to reclassify or declassify certain beneficial uses, specifically MUN classifications in to-be-determined areas. We are concerned that this will allow aquifers that have been contaminated to be de-designated for MUN uses, even though many, if not most of these aquifers, will still be a source of supply for domestic well users.
- There has been no progress to define either best efforts or BPTC or a process to determine best efforts or BPTC to reduce degradation, pollution and nuisance. And, reassurances that degradation and pollution will be mitigated through BPTC is not accompanied by any specific numeric or temporal goals or requirements.
- The concept irresponsibly allows degradation up to the Maximum Contaminant Level and does not consider the need to build in a buffer to protect against exceedances and mitigation measures to offset the impacts that degradation will cause, including heightened monitoring and notification responsibilities for drinking water providers. For instance, the proposal defines low vulnerability groundwater at N concentrations below 8 parts per billion, where there is no trend toward degradation. Concentration of 8 as a threshold for high vulnerability is an inappropriate threshold as concentrations of 5 trigger notification and monitoring requirements for drinking water systems. Furthermore, there is not reliable data, nor a clear plan for how data will be developed, that can demonstrate that there is no trend toward degradation.
- Clarify application of a secondary MCL to protect MUN. This recommendation would revise downward water quality objectives for secondary contaminants with no corresponding mitigation requirement.

On a more holistic level, this program does not seem to do or require anything to actually restore or improve groundwater quality related to nutrient management. It is merely legalizing and streamlining the continued pollution and degradation that will continue to occur to our region’s groundwater that serves as the source of local drinking water sources. While it does intend to provide some mitigation for those impacts, our water sources are too important to sacrifice. More

aggressive strategies to *improve* groundwater quality are needed to adequately protect the region's water supply now and into the future.

We ask the Board to give clear direction to the Coalition that their recommended Plan *must* require effective, measurable and feasible methods for reducing salt and nutrient loading and restoring degraded aquifers; comply with state anti-degradation policy; rigorously protect against pollution and nuisance; and include an offset and mitigation program that effectively mitigates the impacts of pollution on all drinking water consumers impacted by current and future degradation and pollution.

We welcome any questions regarding these comments. Should you have any questions, please do not hesitate to contact Phoebe Seaton at pseaton@leadershipcounsel.org or 310-980-6494.

Sincerely,



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