

**Regional Water Quality Control Board  
Central Valley Region  
Board Meeting – 3/4 June 2026**

**Response to Written Comments for  
Setton Pistachio of Terra Bella, Inc. and Porterville Citrus, Inc.  
Terra Bella Processing Facilities  
Tulare County  
Tentative Waste Discharge Requirements**

At a public hearing scheduled on 3/4 June 2026, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) will consider adoption of Waste Discharge Requirements (WDRs) and a Monitoring and Reporting Program (MRP) for Setton Pistachio of Terra Bella, Inc. (Setton) and Porterville Citrus, Inc. (referred collectively to as Dischargers) Terra Bella Processing Facilities (Facilities) in Tulare County. This document contains responses to written comments received from interested persons regarding the tentative WDRs and MRP (collectively, Tentative Order) circulated on 9 March 2026. Written comments were required to be received by the Central Valley Water Board by 5:00 p.m. on 8 April 2026 to receive full consideration. Timely comments were received from Setton, California Rural Legal Assistance, Inc. (CRLA) on behalf of Terra Bella Voice for Change, and Ms. Jo Anne Kipps.

Written comments are summarized below and consolidated where appropriate, followed by responses from Central Valley Water Board staff (Staff). Staff have also made minor changes to the Tentative Order to improve clarity and correct typographical errors where necessary.

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**6 April 2026 SETTON COMMENTS**

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**SETTON COMMENT 1: Finding 16**

Setton requests that the phrase *“conducting operations beyond what it was authorized to do”* be removed and states that Setton did not conduct unauthorized operations, since the operation was authorized under the WDRs Order 92-191, except that the controls present at the time did not effectively prevent nuisance odors.

**Response:** A 13 May 2020 Notice of Violation issued to Setton states that wastewater at the Facilities was discharged to unauthorized disposal areas in violation of Water Codes Section 13264, Standard Provisions A.4 and A.12. Finding 16 was revised as follows, *“for discharging pistachio wastewater outside of the authorized disposal areas.”*

## **SETTON COMMENTS 2 THROUGH 4, 7, and 9: Various Corrections**

Setton requests revisions of WDRs findings to reflect corrections in the number of hulling pits, the way in which source water is distributed throughout the Facilities, the number of employees at the Facilities, and additional fiber filters used in the treatment system. Setton also requests clarification of monitoring requirements specified by the Revised MRP R5-2019-0802-01.

**Response:** Staff made several revisions to Findings 28, 29, 40 (formerly 39), 65 (formerly 64), 106a (formerly 103), and 107 (formerly 104) to address this comment, as appropriate.

## **SETTON COMMENT 5 AND 6: Observed Nitrate Conditions**

Setton contends that historical nitrate data for Terra Bella are more than 60 years old and likely unreliable due to less advanced analytical methods and long-term agricultural influences such as fertilizer use, rainfall, crop rotation, soil disturbance, and natural soil chemistry changes. Additionally, recent Tule Basin Management Zone maps show regionally elevated nitrate levels, though Terra Bella remains comparatively lower. Because Setton's East and West ponds have operated only since 2014, Setton asserts their contribution to groundwater nitrate is minimal and requests removal of the statement in Finding 70 attributing groundwater degradation to these ponds.

Similarly, Setton requests that the following statement be removed from Finding 102b: *"Elevated nitrogen levels in nearby wells may be associated with the storage of effluent in these unlined ponds."*

**Response:** Staff modified Table 11 to summarize regional groundwater results for salinity constituents and nitrate and added Table 12 to discuss metals in groundwater. Staff modified Finding 70 (now 72) to address regional groundwater impacts but did not remove the reference to the discharge possibly degrading the underlying groundwater with nitrate. No changes were made to Finding 102b. Finding 70 (now finding 72) was modified as follows:

*"Comparing available recent and historical groundwater quality data, the local underlying groundwater concentrations of nitrate and, to a lesser degree, salts (EC) have increased. **As shown in Table 11, elevated Nitrate as N concentrations have been detected in upgradient ~~are present~~ in wells 3.4 miles northeast of the Facilities and near Ducor nearly 5-miles to the south and are indicative of agricultural and industrial activities conducted in the area. However, the elevated nitrate results observed in wells near the existing unlined East and West ponds might suggest possible degradation from the discharge of wastewater to the unlined ponds and/or the LAAs may be contributing to the degradation of the underlying groundwater.***

## **SETTON COMMENT 8: Discharge Specification F.1**

According to Setton, the centrifuge installed prior to the 2025 processing season did not meet expectations. As such, Setton requests revision of Discharge Specification F.1 to

allow flexibility regarding the wastewater treatment technology used to remove solids from wastewater prior to discharge to the LAAs.

**Response:** Staff revised the Discharge Specification to acknowledge equivalent treatment may be used at the Facilities. However, it's important to note that this revision does not alter the effluent limits set by the Tentative Order. The treatment employed at the Facilities, including solids removal, must deliver effluent quality that matches or exceeds that proposed in the September 2025 RWD.

**SETTON COMMENT 10: Provision J.6**

Setton requests an extension for submittal of the Operations and Maintenance (O&M) Plan required by Provision J.6 of the Tentative Order.

**Response:** The required O&M Plan is intended, in part, to outline specific triggers and provide a conceptual approach for adding aerators to ponds and using hydrogen peroxide to manage odors during the processing season. It is important that the plan be submitted before pistachio processing begins in August so that it can be quickly put into action if nuisance odors occur.

No changes were made based on this comment.

**SETTON COMMENT 11: Discharge Specification F.9**

Setton requests clarification concerning Discharge Specification F.9.

**Response:** Discharge Specification F.9 requires the Dischargers to evaluate wastewater containment structures at the Facilities to determine whether there is enough capacity to comply with other requirements in the Tentative Order, specifically those that prohibit overtopping or failures during the rainy season. While Setton's pistachio operations occur during a short timeframe (August to October) and do not extend into the normal rainy months, this requirement is still pertinent due to the citrus operations and potential for stormwater in the Facilities wastewater containment structures.

No changes were made based on this comment.

**SETTON COMMENT 12: Pond Monitoring for Odors**

Setton is requesting that the MRP Table 5, Note 1 be replaced with the following:

*"If nuisance odors are detected by the Discharger or brought to their attention by members of the community or regulatory entities, the Discharger shall investigate the potential nuisance odor using an olfactometer as specified in Table 3-1 Mitigation Measure 3.3-5 of Setton's Mitigation Monitoring & Monitoring Program, CEQA document for the Setton Pistachio Treated Wastewater Land Application Expansion Project. If it is determined that nuisance odors are present, then the Discharger shall monitor the*

*potential source pond at least daily for DO, pH, and odors until the odor issue has been resolved and the DO in the pond is greater than 1.0 mg/L.”*

**RESPONSE.** The current MRP language is consistent with Discharge Specification F.4 of the tentative WDRs, and other adopted WDRs Orders. Additionally, the accuracy of using an olfactometer to determine whether nuisance odors is unclear, and Setton did not provide technical justification to support the use of an olfactometer to detect the presence of nuisance odors.

No changes were made based on this comment.

### **SETTON COMMENT 13: MRP Soil Monitoring Requirements**

Setton requests that the soil monitoring frequency be reduced from semiannually to annually, and the number of samples also be reduced from 8 to 4 (3 from the pistachio farm and 1 from the citrus farm). Setton proposes to collect soil samples after the hulling season, between November and January, and from the irrigation blocks that received the highest wastewater discharge volume that year. Setton contends that since the applied wastewater goes through treatment before application to land; wastewater application is by subsurface drip irrigation; and pistachio wastewater application is only once a year, the requested reduction in the frequency and number of samples required should be sufficient to provide information on potential subsurface soil impact from the discharge to the LAAs.

**RESPONSE:** Semiannual soil sampling during the specified timeframes provides seasonal information on LAA soil concentrations during the processing season, and several months after, allowing for better management and planning of wastewater applications throughout the available LAA. No changes were made to the soil sampling frequencies; however, Staff revised the number of soil sampling locations, as requested, and clarified that soil samples shall correspond to those LAA blocks that receive the most annual wastewater discharge volumes.

### **SETTON COMMENTS 14 AND 15: Various Minor Corrections**

These comments provided suggested corrections to the Tentative Order, including clarification that nitrogen loading in the proposed MRP refers to total nitrogen, and removal of duplicative provisions in the proposed WDRs.

**RESPONSE:** Staff made revisions to the Tentative Order, where appropriate.

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## **8 April 2026 CRLA COMMENTS**

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### **CRLA COMMENTS 1 & 2: Antidegradation Policy and Groundwater Protection**

CRLA contends that the Tentative WDRs violate the State Antidegradation Policy by allowing continued degradation of historically high-quality groundwater, citing nitrate and

salinity concentrations in nearby wells, as high as 18 mg/L and 412 mg/L, respectively. They argue that the Central Valley Water Board has not demonstrated that this degradation provides maximum benefit to the people of the state, noting public health, economic, and social costs to local residents. CRLA asserts that the proposed WDRs fail to protect MUN and AGR uses because they lack enforceable nitrate limits, allow inadequate salinity controls, and do not require feasible treatment or control measures. They further argue that the Order does not require Best Practical Treatment or Control (BPTC), pointing to rising nitrate and salinity concentrations and insufficient treatment and operational requirements. CRLA requests revisions such as reinstating the DAF system, lining all existing ponds, adopting a numeric effluent limit for nitrate, lowering fixed dissolved solids (FDS) performance-based limits, reducing the cycle average BOD loading limit to 50 lbs/ac/day, and requiring earlier submittal of operational and nutrient plans. They conclude that without these measures the Order will not prevent pollution, maintain the highest water quality consistent with maximum benefit, or protect groundwater beneficial uses.

**Response:** First, Staff disagree that the degradation authorized by the Tentative Order will result in pollution or that the Order otherwise fails to prevent pollution. Staff acknowledges historical water-quality concerns at and around the Facility, such as increasing local trends in nitrate and salt concentrations. However, CRLA's focus on existing water quality is misplaced. Existing conditions reflect historic impacts of discharges from the Facilities, among numerous other sources, but do not demonstrate that the Tentative Order will fail to prevent pollution or is inconsistent with the Antidegradation Policy. Nor do past or existing conditions reflect the improved conditions that staff estimate will occur as a result of adoption of the Tentative Order and long-term implementation of the Salt and Nitrate Control Programs. While local groundwater data (i.e., within a two-mile radius from the Facilities East/West ponds) presented in the Tentative WDRs provides support for these trends, similar increases in concentrations have been observed on a broader scale. Groundwater quality observations available from the State Water Board's Groundwater Ambient Monitoring Assessment Program database for wells within a five-mile radius indicate that similar nitrate and salinity concentrations occur in wells upgradient and cross-gradient from the Facilities, which are not likely to reflect impacts from the Facilities' discharge. Of 131 wells with nitrate data within a five-mile radius, 38 wells exceed the nitrate WQO with nitrate concentrations ranging from 11 to about 30 mg/L. Of 72 wells with total dissolved solids (TDS) data within a five-mile radius, 20 wells exceed the observed TDS concentration underlying the Facilities of 412 mg/L, ranging from 438 to 790 mg/L. These data indicate that the local accumulation of nitrate and salts in groundwater is likely tied to regional and legacy influences, such as commercial agriculture, industry, food processing, and other sources.

As discussed in detail in the Antidegradation Policy section of the Tentative Order (Findings 102 through 108), Staff conducted a comprehensive evaluation of the Facility's discharge and underlying groundwater based on available data. Conversely,

CRLA provides no evidence or technical discussion to support its assertions that the discharges of salt and nitrate authorized by the Tentative Order would “likely result in degradation of the underlying groundwater to below high quality;” or that the Order would allow unreasonable impairment of beneficial uses simply because the Order does not mandate a specific wastewater treatment, allows increased wastewater flow, and does not prescribe adequate effluent limits for nitrate and salt.

As detailed in the Tentative Order, the Facilities’ wastewater threatens to pollute underlying groundwater with specific constituents (i.e., organics, salts, nitrogen, iron, and manganese) if it is not properly stored, treated, and discharged. However, the Tentative Order would require improved operational practices and technologies related to waste management, treatment, and disposal (e.g., treatment technologies and practices; nutrient-management measures and performance-based salinity controls designed to minimize further degradation and improve characterization of discharge impacts; land application specifications), as well as monitoring and reporting to evaluate the Discharger’s compliance with Order requirements and assess actual and threatened impacts to water quality. Although the Tentative Order would authorize an expanded discharge, its requirements are tailored to minimize the actual and threatened water quality effects of that expansion.

Moreover, although CRLA insists that the Order must include specific effluent limits for nitrate, it provides no legal citation or technical justification for this alleged requirement because there is none. The Tentative Order includes stringent requirements to ensure the Dischargers mitigate potential impacts to underlying groundwater, as described both above and within the Order. The proposed nitrogen loading from the discharge, based on observed effluent nitrogen concentrations and the maximum authorized volume, is below crop uptake rates established by the UC Davis Fruits and Nuts Research and Information Center and the California Department of Food and Agriculture. As detailed in the Tentative Order, crops grown in the LAAs require more nitrogen annually than will be supplied by the wastewater, resulting in a nitrogen deficit from wastewater applications alone. Therefore, a numeric nitrogen limit is not warranted. The Wastewater and Nutrient Management Plan will provide, among other elements, detailed procedures the Dischargers must follow to ensure reasonable and uniform application of wastewater. This does not constitute a deferral of nitrogen mitigation. The Tentative Order’s requirements, including prohibitions on pollution and specific limits and specifications for controlling nitrate discharges, are appropriate. As described in the Tentative Order’s Antidegradation Findings, the requirements of this Order constitute the best practicable treatment or control (BPTC) for the constituents of concern, which will ensure that pollution or nuisances do not occur and that the highest water quality consistent with the maximum benefit to the people of the state will be maintained. To the extent that the Tentative Order allows some salinity impacts, that is entirely consistent with the requirements of the Salt Control Program.

The Salt Control Program Alternative Permitting Approach, to which the Discharger is subject, allows for limited term degradation and pollution with respect to salinity to accommodate long-term, regionwide development of salt control strategies and technologies and water quality restoration. Dischargers participating in the Alternative Permitting Approach are deemed to be in compliance with requirements that implement the water quality objectives for salinity provided that they contribute to the regionwide Prioritization and Optimization (P&O) Study and maintain current salinity levels in the discharge. The Tentative Order includes performance-based effluent limits for FDS (3,300 mg/L pistachio, 1,700 mg/L citrus) that reflect current treatment capabilities to maintain existing salinity in the discharge and minimize salt impacts to groundwater.

Similarly, the Nitrate Control Program Management Zone Approach, to which the Discharger is subject, provides a pathway for dischargers to obtain exceptions from WDRs that implement the water quality objective for nitrate if they support basin-wide efforts to provide drinking water solutions to nitrate-impacted residents, develop and implement nitrate-reduction strategies, and restore water quality where reasonable, feasible, and practicable. At present, the Discharger is prohibited from causing exceedances of the water quality objective for nitrate; nevertheless, the Discharger is contributing to support provision of emergency drinking water to nitrate impacted residents via the Tule Basin Management Zone.

Contrary to CRLA's assertion that the Tentative Order would allow unreasonable impairment of beneficial uses, the Board has explicitly determined, through its establishment of the Salt and Nitrate Control Programs, that short-term degradation, and possibly even pollution, with respect to salt and nitrate, are acceptable if dischargers of those constituents comply with the applicable requirements of those Programs. This is because participating in and maintaining compliance with these programs supports efforts to mitigate short-term water quality impacts (i.e., providing drinking water and enhanced monitoring to support long-term planning) and efforts to achieve long-term protection of beneficial uses and water quality restoration. (See [Board Resolution R5-2018-0034 and associated Final Staff Report \(May 2018\)](#).<sup>1</sup>)

As a final note, although Staff appreciate CRLA's proposed additions and revisions to the list of requirements that constitute BPTC, it must be noted that these recommendations are not accompanied by technical evidence or demonstration necessary to justify the appropriateness of such requirements nor to determine that they would be the best or most practicable for the Facilities' discharges.

Second, Staff disagree that the degradation authorized by the Tentative Order would be inconsistent with the maximum benefit to the people of the state and disagree that past, present, and future beneficial uses and social and economic costs were not properly considered in making this determination.

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<sup>1</sup>([www.waterboards.ca.gov/centralvalley/water\\_issues/salinity/2018\\_0531\\_sncp\\_bpa\\_final\\_stfrpt.pdf](http://www.waterboards.ca.gov/centralvalley/water_issues/salinity/2018_0531_sncp_bpa_final_stfrpt.pdf))

The Tentative Order was developed with significant consideration of past, present, and future beneficial uses of the water that may be degraded by the authorized discharge. The Tentative Order specifies that the receiving water is designated for the municipal and domestic supply (MUN) beneficial use (Finding 79) and implements water quality objectives (WQOs) established in the Basin Plan to protect that use (Findings 80 – 91). As described above, the Order includes discussion of historic and current groundwater quality trends (Findings 63 – 71) and includes numerous requirements intended to protect the MUN beneficial use in the future. These considerations support the conclusion that the authorized discharge would not unreasonably affect present and anticipated future beneficial uses of receiving waters.

The Tentative Order was also developed with consideration of economic and social costs and benefits and does not solely rely on discharger cost savings in determining that potential degradation is consistent with the maximum benefit to the people of the state. The Tentative Order considers, among other things, the benefits of the Discharger's continuing contribution to the financial health and stability of surrounding communities; the Discharger's contribution to emergency drinking water supplies via its participation in the Tule Basin Management Zone, which reduces public costs associated with treating or replacing nitrate impacted-waters; the Discharger's contribution to long-term, regionwide salt-control and restoration efforts via its participation in the Salt Control Program; and the Discharger's wider contribution to the agricultural economy of the state. On balance, Staff have concluded that the benefits of the degradation that would be authorized by the Tentative Order outweigh the costs. CRLA is entitled to disagree but is incorrect that the Tentative Order "completely ignores economic, health, and other social impacts and costs." As further discussed in the following response, CRLA is also incorrect that the Order fails to consider the potential for odor nuisances.

No changes to the Tentative Order were made based on this comment.

### **CRLA COMMENT 3: Odor Prohibition, Composting, and Enforcement**

CRLA asserts that the Tentative WDRs do not adequately address odor impacts, solids and compost management practices, or associated groundwater risks. According to CRLA, composting operations conducted by the Dischargers generate objectionable odors, as reflected in past odor complaints and Air District investigations, and may contribute additional nitrogen, salts, and other constituents to the underlying groundwater. The comment requests that the Order include compost-specific management requirements in accordance with Section 41700 of the Health and Safety Code, a prohibition on objectionable odors beyond the property boundary, and weekly community reporting of solids and compost activities.

CRLA states that the Tentative Order improperly relaxes the nuisance-odor prohibition (Discharge Specification F.4) contained in the existing WDRs Order 92-191 by adding the phrase "at an intensity that creates or threatens to create nuisance conditions,"

which CRLA believes weakens protections for nearby residents. CRLA asserts that longstanding odor complaints indicate that the Dischargers have a history of noncompliance and that the Tentative Order lacks sufficiently clear and enforceable consequences for odor violations. CRLA requests that the previous prohibition language be reinstated, that specific escalating enforcement steps be included for recurring odor complaints, and that the Dischargers be required to develop an actionable plan to correct low dissolved oxygen conditions in wastewater ponds before the Tentative Order is adopted.

**Response:** The Tentative Order acknowledges that the Facilities have a history of odor issues at the Facilities (see Findings 17 – 19). As documented in Cease and Desist Order (CDO) R5-2020-0038, San Joaquin Valley Air Pollution Control District and Water Board Staff confirmed odors originating from the 350-acre-foot pond. In response to the CDO, the Dischargers made significant modifications to the Facilities to address the objectionable odors, including ceasing use of its 350-acre-foot pond for wastewater storage and modifying its discharge practices so that wastewater is discharged to land application areas via subsurface irrigation. Consequently, the Central Valley Water Board rescinded the CDO in April 2025 (Order R5-2025-0017). The Tentative Order includes specifications to ensure the Dischargers continue to implement these practices to mitigate odor issues at the Facilities and its corresponding discharge. In response to this comment, Staff revised the Discharge Prohibition B.5 of the Tentative Order to clarify that the discharge to the 350-acre-foot pond is prohibited. Staff also revised Discharge Specification F.1 to clarify that disposal of wastewater to the LAA shall be via subsurface irrigation.

The Tentative Order prohibits the creation of nuisance odors and requires the Dischargers to monitor wastewater ponds and implement corrective measures when nuisance odor conditions are identified (Discharge Specification F.4). Staff does not agree with the assertion that the addition of the phrase “at an intensity that creates or threatens to create nuisance conditions” relaxes the prohibition on objectionable odors beyond the Facility boundary. Rather, it aligns the requirement with the statutory definition of “nuisance” in Water Code section 13050. In addition, this language is consistent with other recently adopted WDRs for similar pistachio processing facilities (e.g., WDRs Order R5-2025-0020 for the Dry Ranch Pistachio Processing Facility).

Regarding composting operations, the Board does not have the authority to enforce the referenced Health and Safety Code section and has limited authority to regulate odors that are not related to wastewater treatment and/or disposal. Furthermore, the Discharger hauls screened solids from process wastewater for offsite disposal and does not compost these materials at the Facilities. The Tentative Order does not authorize composting operations to occur at the Facilities and requires proper handling, storage, and disposal of solids to prevent impacts to water quality (Solids Disposal Specifications I.1 through I.6). Additionally, the Tentative MRP already requires the Dischargers to account for nitrogen sources other than wastewater applied to the land application

areas, including finished compost, in loading calculations. The Tentative MRP also requires increased inspection frequency when odor issues arise, along with reporting requirements designed to provide transparency and facilitate timely corrective action. These provisions, combined with the Order's general nuisance prohibition and performance-based operational requirements, provide the Board with authority to address odor or groundwater concerns arising from wastewater treatment and disposal at the Facilities. However, the Board has limited authority to regulate odors associated with typical agricultural practices that do not involve significant discharges of waste to waters of the state, such as the Dischargers' application of finished compost to its LAAs as an agricultural amendment. Nevertheless, the Tentative Order requires the Dischargers to monitor nutrient sources, like compost, used on LAAs, and to outline management practices that make sure these nutrients are applied at agronomic rates in the Wastewater and Nutrient Management Plan.

With regard to CRLA's request for inclusion of prescriptive, escalating enforcement measures, the Tentative Order retains enforceable numeric and performance-based prohibitions and relies on the Board's existing statutory and regulatory enforcement authorities to address violations, rather than prescribing specific enforcement steps within the WDRs Order itself. This is consistent with Board practice. Should evidence indicate that odors persist despite required corrective actions, the Board may pursue enforcement or require additional controls through its existing authorities.

Regarding the dissolved oxygen concerns, the Tentative Order requires submittal of an updated Operations and Maintenance (O&M) Plan (Provision J.6) that includes procedures for maintaining adequate pond conditions. Staff will evaluate the plan upon submittal and will require any additional measures necessary to ensure protection of water quality and prevention of nuisance conditions. Given the anticipated timeline for adoption of the Tentative Order at the June 2026 Board Meeting, the O&M Plan is required to be submitted in July 2026, before the typical start of the pistachio processing season, in August.

#### **CRLA COMMENT 4: Environmental Impact Report (EIR) and Project Changes**

CRLA states that the Tentative Order relies on a 2024 Environmental Impact Report (EIR) prepared by Tulare County for a prior project configuration, but that subsequent project modifications described in the 2025 Addendum (i.e., replacing the combined DAF/FF treatment system with an FF-only system, constructing an additional wastewater pond [Bella Pond], and addition of a centrifuge) constitute substantial project changes or new information requiring preparation of a new or supplemental EIR. CRLA asserts that these changes may result in significant environmental impacts, including increased groundwater degradation and nuisance odors, which were not analyzed in the 2024 EIR. CRLA requests that the Central Valley Water Board prepare an EIR prior to adopting the Tentative Order.

**Response:** The Central Valley Water Board's responsibility under CEQA is to evaluate foreseeable potentially significant impacts to the environment that may result from its

discretionary actions. Any such evaluation must rely upon an assessment of existing physical environmental conditions in the vicinity of the project (i.e., baseline conditions) (see Cal. Code Regs., tit. 14, § 15125) and estimation of foreseeable significant changes that might result from the project approval.

In conducting such an environmental review, the Board must also consider whether other agencies have already evaluated the project that the Board's discretionary action would authorize. In this case, as described in Finding 109 (formerly Finding 106), in 2024, the Tulare County Resource Management Agency certified a final EIR the Facility's wastewater systems and associated land-application practices. The Board, as a responsible agency, was consulted on and commented on the draft EIR before it was finalized and certified. As responsible agency under CEQA (Pub. Res. Code, § 21069), the Central Valley Water Board must conclusively presume that the County's certified FEIR comports with the requirements of CEQA and is valid (Pub. Res. Code, § 21167.3; Cal. Code Regs., tit. 14, § 15231). As a responsible agency, the Central Valley Water Board's CEQA obligations are more limited than those of the lead agency. (Pub. Res. Code, § 21002.1, subd. (d); *RiverWatch v. Olivenhain Muni. Wat. Dist.* (2009) 170 Cal.App.4th 1186, 1201-1202.) Public Resources Code section 21166 and CEQA Guidelines sections 15162 and 15164 set forth the criteria for determining the appropriate additional environmental documentation, if any, to be completed when there is a previously certified EIR covering the project for which a subsequent discretionary action must be taken. Section 15162, subdivision (a), requires preparation of a subsequent EIR or negative declaration for a project under three circumstances: (1) where substantial changes are proposed in a project that involve new significant environmental effects or increase the severity of previously identified effects, (2) where there are substantial changes to the circumstances under which a project is undertaken that involve new or more severe effects, or (3) where new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified, shows that a project will have significant or more severe effects than previously discussed or shows that new or different mitigation measures or alternatives than previously discussed are available, but the project proponents decline to adopt those new or different options.

Here, the Tentative Order would authorize expanded waste discharges to land application areas that are already used for irrigated agriculture, and which were already evaluated in Tulare County's 2024 EIR. To the extent that the Tentative Order would approve a change in treatment systems beyond what was considered in the 2024 EIR and what already exists at the facility (see above, re: baseline conditions), any such change would not foreseeably impact the environment, and CRLA provides no technical evidence or justification that it would. Board staff are well aware that the quality of wastewater being discharged from the Facilities may vary based on a variety of factors, including the treatment system used; this is why the Tentative Order includes other requirements (e.g., prohibition on pollution, land application specifications, monitoring requirements) to mitigate potential impacts caused by that variability and assess the

effectiveness of such mitigation. Moreover, as described in the Tentative Order, any changes to treatment systems authorized by the Tentative Order constitute minor modifications to an existing facility, with minimal to no change from that evaluated in the 2024 EIR, which are explicitly exempt from further CEQA review. (See Cal. Code Regs., tit.14, § 15301.) With respect to the addition of the Bella Pond, which already exists and is already in use, it is not clear what impacts CRLA believes may result from adoption of the Tentative Order. As stated in the Tentative Order, the Bella Pond is equipped with high-density polyethylene liner to prevent the percolation of wastewater from the pond.

On the whole, CRLA provides no technical explanation or legal justification for its conclusion that adoption of the Tentative Order would foreseeably result in more severe environmental impacts than those already assessed in the 2024 EIR.

No changes were made to the Tentative Order based on this comment.

#### **CRLA COMMENT 5: Community Reporting and Transparency**

CRLA requests weekly reporting of solids removal and composting activities to the Terra Bella community, arguing that GeoTracker is insufficiently accessible and content would not be easily understood by community members.

**Response:** The Tentative MRP requires detailed records and quarterly reporting of solids removal, composting, and wastewater operations to GeoTracker, a publicly accessible database. The Discharger must maintain logs and provide data in tabular and graphical formats. The Board encourages community engagement and transparency, and the Discharger may voluntarily provide additional summary reports to the community if desired; however, this is beyond the scope of the Board's authority.

No changes were made to the Tentative Order based on this comment.

#### **CRLA COMMENT 6: Groundwater Monitoring and Domestic Well Protection**

CRLA requests monitoring of domestic wells near the facility and coordination with the Nitrate Reduction Program to provide well testing and bottled water for affected households.

**Response:** As discussed in the Tentative Order, the Discharger participates in the Tule Basin Management Zone pursuant to Nitrate Control Program requirements, which includes outreach, well testing, and provision of replacement water for impacted users. The Tentative Order requires ongoing irrigation water quality monitoring and adaptive management to ensure protection of beneficial uses. The Board will continue to coordinate with Nitrate Management Zones and affected communities to ensure the long and short-term goals of the CV-SALTS programs are implemented. Therefore, Staff contends that additional groundwater monitoring is not needed at this time.

No changes were made based on this comment.

### **CRLA COMMENT 7: Expiration Date for WDRs**

CRLA requests that the WDRs sunset within five years to ensure timely review and compliance.

**Response:** The Tentative Order includes provisions for periodic review and amendment as necessary, and the Board retains authority to revise or rescind the order at any time based on new information, compliance status, or regulatory changes.

No changes were made to the Tentative Order based on this comment.

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### **8 April 2026 JO ANNE KIPPS COMMENTS**

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#### **KIPPS COMMENT 1: Organic Loading Finding Language (Previously Finding 93)**

Ms. Kipps disagrees with the Tentative Order assumption that oxygen diffusion rates recover with depth as wastewater travels through the vadose zone. She states that the required BOD loading rates are based on an unvalidated theoretical model that does not consider reduced oxygen diffusion with depth, and that the amount of oxygen needed to oxidize/attenuate metals exceeds that which is available through the vadose zone. Ms. Kipps requests revisions to Finding 97 (formerly Finding 93), including removal of the phrase *“Many aquifers contain enough dissolved oxygen to reverse the process, but excessive..”*

**Response:** Staff acknowledges Ms. Kipps’ disagreement with the Tentative Order’s findings regarding anoxic (reducing) conditions due to organic overloading. However, staff does not concur that the findings are unvalidated or unsupported.

Central Valley Water Board staff have extensively reviewed groundwater monitoring data and technical reports from a wide range of regulated facilities throughout the Central Valley, including, for example, the City of Fresno and Clovis Regional Wastewater Reclamation Facility (regulated under WDRs Order R5-2018-0080). These reviews consistently demonstrate that while localized reducing conditions (such as those that can mobilize metals like iron, manganese, and arsenic) may develop beneath or immediately downgradient of wastewater application areas, these impacts are typically mitigated by natural attenuation mechanisms as groundwater migrates away from the source.

Staff made slight revisions to Finding 93, now Finding 97) to clarify the potential for decreases in dissolved metals in the vadose zone.

#### **KIPPS COMMENT 2: BOD Loading Rate and Subsurface Drip System**

Ms. Kipps disagrees that a 100 lbs/ac/day loading rate limit is protective of water quality, citing that the limit is based on outdated information, lacks complete peer review, and ignores data suggesting otherwise. She further contends that this loading rate is typically applied to surface irrigation, not subsurface drip systems, which can present

operational issues such as emitter clogging, microbial growth, rodent damage, and root intrusion. Ms. Kipps requests revisions to the Tentative Order to clarify the depth of the subsurface irrigation system, the Dischargers' plans to control reductions of emitter performance, and an explanation for why the Tentative Order does not prescribe effluent limitations for BOD<sub>5</sub> and TSS to reduce emitter clogging as a best practicable treatment or control measure (BPTC), as done in the State General Winery Order. She also requests an explanation for why the BOD loading limit is appropriate for subsurface irrigation systems.

**Response:** Staff revised Finding 48 (formerly 47) to identify the depth of the subsurface drip system.

With regard to emitter performance, effluent is screened by three different filtering systems before discharge to the subsurface irrigation system. Setton has confirmed that it flushes the subsurface irrigation lines with filtered irrigation water annually to minimize or prevent clogging, emitters are rated for solids under 200 microns, and the discharge is slightly acidic, which helps in reducing clogging issues. Setton has not reported any emitter issues since installation of the subsurface irrigation system. Therefore, effluent limitations to prevent clogging are not necessary, at this time. The Tentative Order does include, however, requirements (Provisions J.13 and J.14) to properly maintain all wastewater treatment, control, and related appurtenances, which includes the subsurface irrigation system, to comply with the Order.

To mitigate the overall loading to land, the LAAs have been increased to 961 acres of farmland that are subdivided into 25 blocks. A typical season since 2022 averages 57 days and wastewater is discharged to each block via subsurface irrigation two to three times a season with at least 20 days of rest between applications that allows oxygen time to replenish in the vadose zone.

With regard to concerns about a lack of peer review, the California League of Food Processors Manual of Good Practice was revised in 2024. As part of the 2024 update, the California League of Food Processors conducted a peer-review process by contracting with scientists, professors, and engineers from California Polytechnic State University, San Luis Obispo, and the University of California, Davis. Staff made revisions to Finding 101 (formerly Finding 98) to reflect this information. Ms. Kipps has provided no technical evidence indicating that reliance on the Manual, as revised in 2024, is insufficient or otherwise inappropriate.

Lastly, the Tentative Order provides sufficient discussion and evaluation of the discharge's impact with respect to BOD loading. Given the well-drained soil conditions present at the LAAs, and that oxygen concentrations are generally highest near the surface, the BOD loading limit prescribed by the Tentative Order is appropriate.

### **KIPPS COMMENT 3: Surface Impoundment Locations**

Ms. Kipps requests revisions to the Tentative Order to include a map attachment depicting the locations of all surface impoundments associated with the Facilities and discharge operation, as well as information on the surface areas and working depths of

all ponds, and a description of the liner construction of the 350-acre-foot storm water detention pond. She also requests confirmation that the Padula Pond is on property owned or controlled by the Dischargers.

**Response:** Staff added Attachment E to the Tentative Order, which depicts the locations of the associated surface impoundments, including the Padula Pond, that are owned and controlled by the Dischargers. Impoundment capacities are already listed in the findings. The 350-acre foot pond is no longer part of the wastewater treatment and disposal system at the Facilities, and its construction is outside the scope of the Tentative Order. No other changes were made based on this comment.

#### **KIPPS COMMENT 4: Detention Time v. Hydraulic Retention Time**

Ms. Kipps comments on the use of the term “detention time” rather than “hydraulic retention time,” with regard to the Tentative Order’s requirement that wastewater retained in the treatment system ponds is limited to a two-hour retention time. She references a treatment technology website to clarify differences, which states that the terms are often used synonymously and refer to a theoretical average time water is held in a tank or bioreactor. Additionally, she notes that using “discharge volume” rather than the pond’s fixed design volume to calculate retention time results in unrealistic implied flow rates, about 40 million gallons per day based on the Bella Pond’s storage volume. Ms. Kipps requests an explanation for the use “discharge volume” instead of a constant pond volume to calculate total retention time, and why the pond’s design volume is not used to calculate this value.

**Response:** The two-hour maximum retention time requirement is an operational control intended to prevent conditions that could promote odor generation, such as prolonged stagnation within the wastewater ponds at the Facilities. This requirement is not being applied in the same manner as hydraulic retention time or detention time used in biological treatment systems, where wastewater must be held for a defined period to allow biological or chemical reactions to occur.

The Bella Pond is not designed or operated as a biological treatment unit. As described in the Dischargers’ 2025 RWD, wastewater undergoes solids removal via Filtomatic filters prior to entering the pond, and the system is operated to rapidly convey wastewater through the pond rather than to promote biological reactions.

Using the pond’s maximum design storage capacity would significantly overestimate actual retention time because the pond volume used at any given time depends on inflow and outflow rates. The Dischargers’ September 2025 RWD contends that they have the ability to pump down the Bella Pond, and calculations in the report show that during peak season the Bella Pond would only have approximately 0.144 million gallons of wastewater.

Accordingly, evaluating retention time based on time-weighted pond volumes rather than maximum design storage volume is appropriate to ensure wastewater is being moved through the system promptly and in accordance with odor-prevention objectives.

Staff revised the Tentative Order to clarify that the two-hour retention limit requirement applies to all wastewater ponds and specified that compliance with the Discharge Specification F.4 shall be determined considering time-weighted pond volume, rather than discharge volume. No other changes were made in response to these comments.

#### **KIPPS COMMENT 5: BOD Loading from East/West Ponds**

Ms. Kipps indicates that available aerial images indicate that the East and West Ponds appear to hold wastewater year-round, and requests that Staff revise the Tentative Order to disclose the percolation rates of wastewater impounded in the West and East Ponds and estimate the BOD loading associated with percolation from the ponds, or require the Dischargers to perform field testing to establish pond percolation rates. In addition, Ms. Kipps recommends carrying over 100 lbs/ac/day BOD loading limit to the East and West Ponds or requiring them to be lined.

**Response:** The East and West Ponds contain wastewater for about eight weeks per year during the pistachio processing season and are cleaned out at the end of the processing season in October. As shown in Attachment F of the Tentative Order, storm and irrigation water may be present in the ponds from late October through July, and citrus process wastewater is sent directly to the LAAs. The wastewater retention time limit, aeration, and post-harvest solids removal required by the ponds minimizes the risk of creating reducing conditions during and after the processing season. Therefore, incorporating a BOD loading limit to the ponds is not necessary nor justified. No changes were made based on this comment.

#### **KIPPS COMMENT 6: Potassium Loading**

Ms. Kipps requests that the Tentative Order specify the annual potassium requirements for pistachio and orange crops, discuss the risks associated with excessive potassium, report the yearly potassium applied to LAA blocks, note that pistachios receive up to four times their required potassium, and explain compliance with Specification G.2 and BPTC.

**Response:** Staff have determined that the Tentative Order includes sufficient information regarding the Facilities' discharge and its impacts to groundwater with respect to potassium as a portion of FDS. The findings address potassium concentrations in wastewater and regional groundwater, which indicate that the discharge has not impacted groundwater quality with respect to potassium. Additionally, the Dischargers' participation in the P&O Study and compliance with the performance-based effluent limit for salinity is consistent with the obtaining limited-term exception from meeting WQOs for salinity in accordance with the Basin Plan's Exception Policy.

With regard to reporting the yearly potassium application to the LAA blocks, the Tentative MRP already includes this requirement; however, staff revised the MRP to clarify that both FDS and potassium loading to the LAAs are required to be reported. No other changes to the Tentative Order were made in response to this comment.

#### **KIPPS COMMENT 7: Iron and Manganese**

Ms. Kipps requests that Staff reconsider the designation of the underlying groundwater as poor quality for iron and manganese.

**Response:** Staff reviewed regional groundwater data in a 5-mile radius of the Facilities and summarizes those results in Tables 11, 12, and 13 of the Tentative Order. The data presented indicates that regional groundwater quality is of poor quality for both iron and manganese. However, concentrations of iron and manganese in the Facilities' wastewater are considerably greater than observed source water quality for these constituents, indicating the addition of these constituents in the process system. The source(s) of the elevated iron and manganese in the wastewater is unclear; therefore, Staff added Provisions J.8 and J.9 to the Tentative Order, which require the Discharger to evaluate the potential sources of elevated iron and manganese, and recommend and implement measures to reduce concentrations of these constituents in the discharges from the Facilities.

#### **KIPPS ADDITIONAL COMMENTS**

Ms. Kipps provided multiple suggested corrections to various findings (Findings 1, 2, 3, 4, 36, 39, 50, 52, 64, 92, 97, 101, and 102) in the Tentative WDRs and in the MRP. Including adding chloride, sodium, and potassium in tables for effluent and groundwater and further discussion on BOD loading and elevated potassium concentrations and loadings.

**Response:** Staff made revisions to the Tentative Order, where deemed appropriate. However, not all suggested edits were incorporated, as some were determined to be either unnecessary or addressed in Staff's prior responses.