3.1 Federal and State Agency Comments and Responses

This section contains comment letters received from federal and state agencies and responses to those comments.

Table 3-2. List of Comment Letters from Federal and State Agencies

Letter	Agency	Comment Letter Signatory
101	U.S. Bureau of Reclamation	Michelle H. Denning, Regional Planning Officer, Mid-Pacific Regional Office
99	California Department of Pesticide Regulation	Lisa Ross, Ph.D., Environmental Program Manager I
120	California Department of Transportation	Tom Dumas, Chief, Office of Metropolitan Planning

3.1.1 Letter 101—U.S. Bureau of Reclamation, Michelle H. Denning, Regional Planning Officer, Mid-Pacific Regional Office

Comment Letter IL101

United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825-1898

IN REPLY
REFER TO:
MP-740
ENV-7.00

Ms. Megan Smith
IFC Kaiser
630 K Street, Suite 400
Sacramento, CA 95814

Subject: Draft Program Environmental Impact Report (PEIR) for a Waste Discharge Regulatory Program for Irrigated Lands within the Central Valley Region

Dear Ms. Smith:

The Bureau of Reclamation appreciates the opportunity to provide comments on the Draft PEIR for the Irrigated Lands Regulatory Program, dated July 2010.

Our goal is to balance the many competing and often conflicting needs among numerous water uses. These needs include urban and industrial, agriculture, fish and wildlife habitat, water quality, wetlands, endangered species issues, Native American tribal trust, power generation, and recreation. Reclamation's Mid-Pacific Region strives to develop and implement a balanced approach to water allocation, serving users while protecting the environment.

Specific concerns in the environmental document that need to be addressed include:

- The effects of various management actions that will reduce flow to receiving waters. State Water Resources Control Board involvement is crucial to ensure water quality actions from this program will not injure downstream users through reduced flows. For example, a major portion of the San Joaquin River is composed of agricultural flows due to wetlands and agricultural management practices. 101-1

- The effects of altering groundwater hydrology patterns and how they relate to adjacent surface water flows. Areas with greater potential for groundwater accretions to surface water flows, such as the Delta, may need more detailed analysis to determine impacts to surface water quality. The groundwater management strategy of this regulatory program should be consistent with the Central Valley Regional Water Quality Control Board's groundwater "Roadmap Program." 101-2

- The need for both coordination and integration with all regulatory programs in the affected watershed to eliminate or minimize redirected impacts. As new regulatory actions come into place for various watersheds or sub-watersheds, flexibility is necessary to allow multiple programs to function without redundant efforts. 101-3

We look forward to working with you to address our concerns. If you have any questions, please contact Mr. Gene Lee, Regional Water Quality Coordinator, at 916-978-5092 or glee@usbr.gov.

Sincerely,

Michelle H. Denning
Regional Planning Officer

cc: Mr. Adam Laputz
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

3.1.1.1 Responses to Letter 101

101-1

The effects of the Long-term ILRP on surface water hydrology are addressed in the Draft PEIR, Chapter 5, Environmental Impacts and Mitigation Measures, Section 5.9, Hydrology and Water Quality, beginning on page 5.9-15. The State Water Board has been participating with the Central Valley Water Board in the development of the ILRP and has reviewed the Draft PEIR.

101-2

See Master Response 7.

101-3

This comment will be considered in development of the Long-term ILRP.

3.1.2 Letter 99—California Department of Pesticide Regulation, Lisa Ross, Ph.D., Environmental Program Manager I

dpr Department of Pesticide Regulation

Mary-Ann Warmerdam
Director

Arnold Schwarzenegger
Governor

Comment Letter IL99

September 27, 2010

Ms. Megan Smith
630 K Street
Sacramento, California 95814

Dear Ms. Smith,

Thank you for the opportunity to review and comment on the draft Program Environmental Impact Report (PEIR) for the Central Valley Regional Water Quality Control Board's (Board's) Draft Irrigated Lands Regulatory Program (ILRP). We share your goal of protecting groundwater from the adverse impacts and degradation that may result from the application of pesticides to irrigated lands in the Central Valley. The following is our review of the draft PEIR.

This review comments on specific elements of four sections of the PEIR that are of most interest to the Department of Pesticide Regulation (DPR). These sections are (1) the Summary; (2) Chapter 5. Environmental Impacts and Mitigation Measures. Agriculture Resources; (3) Technical Memorandum Concerning the Economic Analysis of the Irrigated Lands Regulatory Program; and (4) Appendix A. Staff Report. Arguably, the Staff Report is the most important document because it explains how Board staff analyzed the ICF International analysis of the five alternatives identified by the stakeholder group, and proposes a hybrid alternative. However, since the Board will be considering all five alternatives in addition to the staff-recommended hybrid alternative, we have commented on the other sections as well. In addition, we have provided a summary of DPR's ground water protection program in order to highlight potential areas of coordination with the proposed ILRP.

The Department of Pesticide Regulation Ground Water Protection Program

DPR has had a ground water[1] protection program in place since the early 1980's, and is guided by the mandates of the Pesticide Contamination Prevention Act (PCPA) of 1985 as subsequently amended. Among the mandates is a requirement that all local, county, and state agencies submit all results of well sampling for pesticides to DPR. Another mandate requires DPR to develop a data base of wells sampled for pesticides in ground water. That data base currently contains the results from 22,924 mainly municipal and rural domestic wells sampled for one or more of 336

[1] It should be noted that the DPR convention is to spell ground water as two words, whereas the PEIR and the Pesticide Contamination Act (PCPA) use "groundwater." When describing or referring to the DPR program, we use "ground water." When quoting the PCPA and commenting on the PEIR, we use "groundwater."

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A Department of the California Environmental Protection Agency

pesticide active ingredients and degradation products over 58 counties. The data base contains approximately two million records, each of which represents a chemical analysis for a single pesticide. Sampling has been conducted in over 9500 sections of land, which covers more than six million acres statewide.

The PCPA also requires a formal review of pesticides found in ground water due to legal agricultural use to determine if continued use can be allowed. This formal review includes findings and recommendations made to the DPR Director by a subcommittee comprised of one member each from the State Water Resources Control Board, the Office of Environmental Health Hazard Assessment, and DPR. A formal review has been conducted for eight pesticides (aldicarb, atrazine, bentazon, bromacil, diuron, norflurazon, prometon, and simazine), which the DPR Director decided could be regulated to protect ground water. Regulation of the parent active ingredient means detected degradation products of these active ingredients are also regulated to protect ground water. Aldicarb requires a permit issued by the county agricultural commissioner for all uses and is subject to use restrictions (management practices) designed to protect ground water statewide. The other seven pesticides require a permit for use in sensitive areas (covering 2.3 million acres), where specified use restrictions apply, and are subject to additional use restrictions statewide to protect ground water. The goal of these use restrictions is to reduce pesticide residues to concentrations in ground water that are below the analytical method detection limit.

The PCPA also requires DPR to establish the Groundwater Protection List of pesticides that have the potential to pollute ground water and conduct well sampling to determine whether they have migrated to ground water. DPR has monitored for approximately 40 pesticide active ingredients (and some of their degradation products) on this list in areas with high use, and is developing analytical methods for additional pesticides on the list. Four of those 40 pesticide active ingredients (or their degradation products) have been found in ground water, but the frequency of those detections even in high use areas is extremely low. Of those four, only one appears to meet the conditions that will require a formal review.

DPR has also adopted regulations to protect wellheads statewide from any pesticide "handled" near a well. Handling includes mixing, loading, transferring, and applying (including chemigation); and maintaining, servicing, repairing, cleaning, or handling equipment used in these activities that may contain residues; and working with opened (including emptied but not rinsed) containers of pesticides. The wellhead protection regulations are also designed to protect wellheads from runoff water containing pesticide residues that may originate far from the wellhead.

Backflow prevention regulations are also in place to prevent direct movement of pesticides to ground water that results from backsiphoning of pesticides in tank mixes or being chemigated when a well shuts off.

Finally, DPR is required to report on its Web site annually a summary of reported wells sampled for pesticides, wells with detections of pesticides, the probable source of any detected residues, and actions taken by DPR for nonpoint sources of pesticides and by the state and regional boards for point sources of pesticides to protect ground water from pesticides.

In summary, DPR's ground water protection program tracks results of well sampling conducted statewide for pesticides, samples for pesticides that have the potential to migrate to ground water, formally reviews detected pesticides and requires users of those pesticides to adopt use restrictions designed to reduce residues to below the detection limit, requires property operators to take specific actions to protect wellheads from pesticides including from backflow, and reports annually on its Web site the results of well sampling for pesticides and all actions taken to protect ground water.

Summary of the Most Significant Comments

(1) The PEIR lists DPR as a coordinating agency for the Irrigated Lands Program, and references the DPR groundwater protection program for pesticides. However, the document is vague on just how growers will be able to use DPR's program, especially the groundwater protection program, to implement the ILRP. To minimize duplication of effort and additional costs on growers, we recommend that the PEIR specifically state that groundwater management plans (GWMPs) reference the DPR ground water protection program as a sufficient, or at least a major, element to address pesticides in ground water. Specifically, the following sections from Title 3 of the California Code of Regulations (3 CCR) should be cited: 99-1
Section 6000: Definitions used in various sections dealing with ground water protection, including reference to the document that details the locations of ground water protection areas (GWPAs) by county, township, range, and section of land.
Section 6416: Ground Water Protection Restrictions
Sections 6420-6444 (describe the permit system requirements)
Section 6458: Aldicarb
Section 6484: Bentazon.
Section 6487.1: Artificial Recharge Basins
Section 6487.2: Inside Canal and Ditch Banks
Section 6487.3: Engineered Rights of Way within Ground Water Protection Areas
Section 6487.4: Runoff Ground Water Protection Areas
Section 6487.5: Leaching Ground Water Protection Areas
Section 6609: Wellhead Protection
Section 6610: Backflow Prevention
Section 6624: Pesticide Use Records
Section 6626: Pesticide Use Reports for Production Agriculture

Section 6800(a): Pesticides that have the Potential to Pollute Ground Water based on detections in ground water. 99-1 cont'd

(2) Without more detail, the current proposal could duplicate DPR's ground water protection program, and unnecessarily duplicate ground water protection strategies already in regulation for pesticides. 99-2

(3) ICF International provided a list of pesticides that are constituents of concern (COC). This list was presumably developed so that ICF International could conduct the economic assessment of the five alternatives. The list includes 10 pesticides that have a groundwater flow path. Two of those are pesticides (diuron and simazine) have been confirmed by DPR in groundwater and are subject to current DPR regulations in GWPAs and statewide in canals and ditches and inside artificial recharge zones. Four (carbofuran, demeton, lindane, and molinate) of the remaining eight pesticides are no longer registered for use so mitigation of current use practices is not possible. Modeling and well sampling indicate diazinon and dimethoate will not likely move to groundwater and since methomyl is not primarily applied to soil, it too has a lower potential to contaminate groundwater. Linuron is the only pesticide listed, other than diuron and simazine, whose continued use has potential to contaminate groundwater. Thus, the economic assessment for the pesticide ground water element is based on pesticides with lower potential to contaminate ground water and therefore based on scenarios not likely to be needed in the field. 99-3

(4) The PEIR apparently lists only two management practices to protect groundwater via the runoff pathway: buffer strips and abandoned well protection. These were identified for the purpose of estimating likely costs, and not as required management practices. Since the PEIR assumes buffer strips only apply to sediment-bound pesticides, which do not threaten groundwater, the only measure that applies to water-soluble pesticides, which have been found in groundwater, is abandoned well protection. We recommend that the PEIR include the other pathways to groundwater in runoff areas, such as dry wells, unprotected water wells, temporarily unused wells, and ditches and drainage ponds dug below confining soil layers, as well as the other management practices that DPR has adopted to mitigate runoff of water-soluble pesticides (see 3CCR sections 6487.3 and 6487.4). 99-4

(5) Based on DPR's costs of analyzing pesticides, the PEIR appears to significantly underestimate the costs of analyzing pesticides in groundwater samples. 99-5

(6) The Board PEIR Staff Report states that monitoring wells are needed to test for pesticides in groundwater, and would require installation of monitoring wells. We recommend that staff 99-6

consider the Burow et.al.[2], US Geological Survey (USGS) report that concludes that results from domestic well sampling are not much different from adjacent monitoring wells, and that monitoring wells should only be required when domestic wells are not available for sampling. 99-6 cont'd

(7) The estimated costs of the five alternatives considered vary from $68/acre/year (the current program that does not address groundwater) to $186/acre/year. In the Staff Report, the recommend program alternative implementation cost is estimated to be $492 million per year or $70/acre/year. However, in light of the uncertainties of which pesticides must be sampled and analyzed, where and how often they must be sampled, and the cost of the analysis, we believe it is only possible to estimate a range of implementation costs, which the PEIR has not done. 99-7

(8) Within GWPAs, some of the requirements of the Groundwater Quality Management Plan could be met by citing the locations of GWPAs, the investigations and information DPR used to establish GWPAs, the DPR publications that document efficacy of management practices to reduce movement of pesticides to groundwater, and the requirements that apply within GWPAs. This information should be acknowledged and specified in the PEIR. 99-8

(9) The Board Staff Report states that surface water priority beneficial uses would be aquatic life, drinking water and human consumption. But the report does not give any guidance on what drinking water levels will be used to protect those beneficial uses. Likewise, the antidegradation policy will be applied to groundwater but no guidance is given on what levels would apply in implementing that policy. Without that guidance, the stringency of management practices and the areas to which they will apply cannot be determined and thus the cost of the program cannot be estimated. 99-9

(10) The Staff Report considers those pollutants that cause or contribute to a violation of water quality objectives or degradation of groundwater quality associated with drinking water uses to be priority pollutants. No currently registered pesticide violates water quality objectives in groundwater, but some may degrade groundwater used for drinking water, if the Board determines that levels of pesticides detected in groundwater violate the antidegradation policy. Depending on how the Board interprets levels detected, all pesticides detected in groundwater could be determined to be priority pollutants. This should be defined. In addition, the purpose for designating priority pollutants is unclear. 99-10

(11) In high priority areas, as identified by DPR's GWPAs, it is unclear when Tier 1 vs. Tier 2 requirements will apply. We believe that since 3 CCR section 6800(a) pesticides are already under management practices in GWPAs, which appears to be the principal criterion for a lower priority, GWPA pesticides should be subject to Tier 1 requirements. 99-11

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[2] Burow, K., J.L. Shelton, and N.M. Dubrovsky. 1998. Occurrence of Nitrate and Pesticides in Ground Water Beneath Three Agricultural Land-Use Settings in the Eastern San Joaquin Valley, California, 1993-1995. U.S. Geological Survey Water-Resources Investigations Report 97-4284

(12) Staff are recommending regional ground and surface water monitoring except in the case of "inability of regional monitoring to determine irrigated agricultural waste contributions," in which case individual monitoring would be required. The PEIR does not give any guidance on how staff would determine "inability of regional monitoring to determine irrigated agricultural waste contributions." How will this determination be made? 99-12

(13) The Staff Report contains a flow diagram that asks "High priority surface or groundwater?" If the answer is yes, the waste discharge requirements are Tier 2 for high priority areas, and Tier 1 for low priority areas. If the answer is no, a waiver is issued with Tier 1 requirements. Under what conditions would Tier 1 for low priority areas apply in an area that is classified as "High priority surface or groundwater"? What is the difference between Tier 1 requirements applied under waste discharge requirements and Tier 1 requirements applied under a waiver? 99-13

Comments on the Draft PEIR.

The comments are organized as follows: first, the PEIR chapter and page number are cited, then the "statement" quotes or summarizes the issue, followed by the corresponding "comment." The statements and corresponding comments are numbered consecutively.

I. Chapter 1. Summary

Page 1-2
Statement 1: "Irrigated agricultural lands" "include lands where water is applied to produce crops, fiber, or livestock for commercial sale or use. For the purposes of this draft PEIR, irrigated agricultural lands also include managed wetlands, nurseries, and water districts that accept discharges from irrigated lands." 99-14

Comment 1: The document should define "managed wetlands," or if defined somewhere, have a reference to a Glossary of definitions in the Table of Contents.The document should also specify whether "nurseries" include both wholesale and retail nurseries.

II. Chapter 5. Environmental Impacts and Mitigation Measures. Agriculture Resources.

Page 5-1
Statement 2: One of those practices is "improved water management," which is described as follows: "Improved management of irrigation water application (reduced over-application) and use of water additives to coagulate particles. Results in reduced sediment runoff, less deep percolation to groundwater. No new hardware required and no ground-disturbing activities likely to result." 99-15

Ms. Megan Smith
September 27, 2010
Page 7

Comment 2: The PEIR should be amended to clarify that the improved irrigation water management will do the following: (1) decrease runoff of water-soluble pesticides, nitrates and salts to surface water, (2) decrease runoff of water-soluble pesticides, nitrates, and salts to dry wells, ditches, or drainage ponds that can facilitate movement to groundwater, (3) decrease runoff of relatively insoluble pesticides attached to sediment to surface water, and (4) decrease leaching of water-soluble pesticides, nitrates and salts to groundwater in permeable soil areas. Use of water additives that reduce sediment will also decrease runoff of relatively insoluble pesticides to surface water.

Improved water management of pressurized systems can lead to some improvement in irrigation efficiency but is not likely to result in significant changes in deep percolation to groundwater because pressurized irrigation system efficiencies are relatively high compared to gravity flow systems. This also appears to be the assumption in Table 2-1 in the Technical Memorandum Concerning the Economic Analysis of the Irrigated Lands Regulatory Program where pressurized irrigation is described as only mitigating surface water runoff, not deep percolation. However, it should be noted that these improvements are the most likely to be made by growers because they do not require significant investments in new hardware.

Improved management of gravity flow systems may reduce runoff of water soluble pesticides and sediment-attached pesticides, but is unlikely to significantly reduce deep percolation to groundwater. Shortening irrigation runs, use of surge irrigation (which would require new hardware) or torpedoes to hasten movement of water along furrows can improve irrigation efficiency but in most agricultural soils not enough to significantly minimize pesticide, nitrate and soluble salt leaching that occurs in the top half of the field. However, conversion of gravity flow systems to pressurized systems would significantly increase irrigation efficiency and thus reduce both surface water runoff and deep percolation of water. But since such conversions would require costly installations of "new hardware," growers are less likely to make these changes. These conversions, in most cases, would also require "ground-disturbing activities" to install underground supply pipelines.

These various issues should be addressed in the PEIR, including in the Technical Memorandum addressing economic issues.

99-15 cont'd

Statement 3: Another management practice identified in Table 5.1-1 is "tailwater recovery system," which is described as follows: "Use of tailwater pond to collect surface runoff and prevent flow of sediment and other constituents of concern (COCs); reduces volume of water moving to receiving surface water or groundwater. Includes significant construction effort: construction of ponds, and installation and operation of pumps, often diesel, to recirculate runoff over fields."

Comment 3: Depending on the site of its construction and the operation of a tailwater recovery system, a tailwater recovery system can increase contamination of groundwater. If a tailwater holding area is constructed so as to expose more permeable soil layers than the surrounding soil

99-16

and it is not pumped out frequently or it is not sealed, it can serve to increase groundwater contamination. In a study of drainage water containing pesticide residues and draining into a pond in a shallow groundwater area, Pritchard et al <http://cdpr.ca.gov/docs/emon/grndwtr/manuscript2005.pdf> found that runoff water containing pesticide residues was collected in a pond and subsequently infiltrated within a few days, directly recharging and raising localized shallow groundwater levels. The author concluded that the most practical mitigation measure at this site would be to manage the runoff water that contains herbicide residues by pumping the water out of the pond for reuse in the same or adjacent field, which would reduce the volume of water available for infiltration and decrease the total time for infiltration. 99-16

This information should be included in the PEIR.

Page 5-2

Statement 4: A third management practice identified is "pressurized irrigation," which is described as "Conversion from surface to pressurized irrigation. Reduces volume of water moving to receiving surface water or groundwater, thereby reducing flow of sediment and other COCs to those waters. Fieldwork involved in setting up new irrigation system does not substantially exceed usual field preparation activities.

Comment 4: The meaning of the last sentence needs clarification. Installing a pressurized irrigation system can substantially exceed usual field preparation activities. . It is unclear why the statement does not address impacts beyond "field preparation." Although operating some pressurized irrigation systems, such as solid set sprinkler systems, can substantially decrease usual field preparation activities, other pressurized irrigation systems can require periodic labor to set up, check and periodically move irrigation pipe (hand-move sprinkler systems), which could increase irrigation labor costs depending on the design of the surface irrigation system replaced, or could increase irrigation labor and management costs in the case of drip systems that require more precise monitoring of evapotranspiration, crop water status, integrity of supply lines and performance of emitters to ensure sufficient application of water. These impacts and additional costs should be included in the assessment. 99-17

Statement 5: A fourth management practice identified is "wellhead protection," which is described as follows: "Physical barrier that prevents contaminated surface water from entering groundwater through well shaft. Berms are constructed around wells to prevent runoff from entering, or unused wells are capped with metal welded plates. Minor implementation effort; dirt berm or cover installation does not substantially exceed usual field preparation activities. 99-18

Comment 5: Use of the phrase "entering groundwater through well shaft" implies that the only source of groundwater contamination is through pumping water wells. Another likely source is dry wells, which are used to bypass confining soil layers to reach more permeable soil layers. Although drainage water does not directly enter groundwater, dry wells allow pesticide residues

to bypass the soil microbial zone where most pesticide degradation takes place. Thus, drainage water containing pesticide residues is shunted to more porous soils where continued concentrated volumes of runoff water can leach residues to groundwater. This should be addressed in the PEIR.

The language also refers to capping unused wells with metal welded plates. The Department of Water Resources has developed a state standard for well destruction that appears to address two categories of wells: inactive wells that may be used in the future, and permanently inactive wells (abandoned wells). For temporarily inactive wells, the following language applies: "The top of the well or well casing shall be provided with a cover, that is secured by a lock or by other means to prevent its removal without the use of equipment or tools, to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes in the well. The cover shall be watertight where the top of the well casing or other surface openings to the well are below ground level, such as in a vault or below known levels of flooding. The cover shall be watertight if the well is inactive for more than five consecutive years. A pump or motor, angle drive, or other surface feature of a well, when in compliance with the above provisions, shall suffice as a cover." The standard does not appear to refer to "metal welded plates." The shaft and annular space of permanently inactive wells must be completely filling with sealing material as specified. Thus it appears the analysis assumes there are no permanently inactive (abandoned) wells. Although the basis for this assumption is not given, it serves to reduce the cost impact of this management practice. In addition, this assumption conflicts with the frequent reference to "abandoned wells" throughout the document. These issues should be addressed in the PEIR.

99-18 conf'd

III. Technical Memorandum Concerning the Economic Analysis of the Irrigated Lands Regulatory Program
Chapter 2: Compliance and Management Practice Costs

Page 2-2
Statement 6: Table 2-1. Summary of Water Quality Management Practices Considered for This Analysis

Management Practice	Scope of Practice
Nutrient management	Matches crop need with fertilizer
Irrigation water management	Reduces surface runoff and deep percolation
Tailwater recovery system	Reduces surface water discharge
Pressurized irrigation system	Reduces surface water discharge
Cover crop	Reduces sediment movement, improves infiltration
Buffer strip-sediment trap	Controls sediment movement
Abandoned well protection	Prevents surface water from contaminating GW

99-19

Comment 6: In line 3 of Table 2-1, the scope of practice for the tailwater recovery system is limited to reducing surface water discharge. Although technically correct, it should be noted that reducing surface water discharge can also reduce discharges to groundwater in areas where runoff is the pathway to groundwater. It should also be noted that improperly managed tailwater recovery systems can facilitate pesticide discharges to groundwater.

In line 4 of the table, the scope of practice of the pressurized irrigation system is limited to reducing surface water discharge. The comment made on line 3 also applies. However, if the pressurized system is the result of a conversion from a gravity flow system, "reducing deep percolation" should also be within the scope of practice.

Line 7 of the table addresses abandoned well protection. This conflicts with the management practice specified in "Chapter 5. Environmental Impacts and Mitigation Measures. Agriculture Resources," which addresses wellhead protection in general, including all unprotected wells like dry wells, production wells, unused wells, and abandoned wells. It is not clear why the practice here is limited to abandoned wells.

The PEIR should be amended to address these various issues.

99-19 cont'd

Page 2-3.
Comment 7: Under section 2.2.1.3, Acreage and Grower Data, the reference "Barry, 2010" is either incorrect here or in the Reference section, where it is listed as "Marcus, Barry…."

99-20

Pages 2-6 to 2-8
Statement 8: Section 2.3.1, "When and Where Water Quality Management Practices Are Applied," states that cover crops are used when there are soluble constituents of concern (COC).

Comment 8: This apparently conflicts with Table 2-1, which states that cover crops reduce sediment movement (which is associated with relatively insoluble pesticides) and improves infiltration. It is silent on the topic of surface water discharge (of soluble pesticides). Depending on residence time, cover vegetation can also absorb soluble pesticides.

99-21

Statement 9: This section also states that water quality management practices are applied when there are documented COCs (Figure 2-1,Table 2-5). The practices applied for pesticides were based on the constituent's use by crop type. Therefore, if a constituent is registered for a particular land use type, a management practice is applied to all acres of that land use.

Comment 9: The document does not state whether the management practices are for protection of surface water or groundwater, or both. If for groundwater, management practices should be applied according to the CalVUL model classification that is based on soil types and depth to groundwater, not on land use type, which cuts across soil types. Requiring adoption of a management practice on all acres of a land use for which a pesticide is registered would result in significant unnecessary regulation of the pesticide. The PEIR should specify (or at least discuss)

99-22

how close to a well with a COC detection a grower must be before a water quality management practice would be required.

99-22 cont'd

Statement 10: Table 2-5 lists the constituents of concern identified by ICF International. These are based on 303(d) and other listings or on "Considered a high- or very high–priority constituent by the Central Valley Regional Water Quality Control Board."

Comment 10: This list was presumably developed so that ICF International could conduct the economic assessment of the five alternatives. The list includes 10 pesticides that have a groundwater flow path. Two of those are pesticides (diuron and simazine) that have been confirmed by DPR in groundwater and that are subject to current DPR regulations in GWPAs and statewide in canals and ditches and inside artificial recharge zones. These are also considered high- or very high–priority constituents by the Board. The list also includes demeton, which has not been registered for use for more than 20 years; lindane, which has not been registered for outdoor use for 10 years; carbofuran, whose tolerances were revoked as of the end of 2009 (which essentially ends use) and which EPA plans to formally cancel; and molinate, which has been cancelled and whose use was not allowed after August 2009. DPR has sampled wells for the four remaining pesticides – diazinon, dimethoate, linuron, and methomyl - and not found them in groundwater. The LEACHM model DPR uses to prioritize pesticides on the Groundwater Protection List for monitoring indicates that diazinon and dimethoate are not expected to move to groundwater. LEACHM indicates that dimethoate has some potential to reach groundwater if all applications were to the soil but since most label uses are not soil applications, it would not be expected to reach groundwater. Linuron is the only remaining pesticide that has a realistic potential to move to groundwater. Thus, the economic assessment for the pesticide groundwater element may be based on incomplete and faulty information. Based on DPR's sampling experience and modeling, any monitoring required for pesticides other than diuron, linuron, and simazine, and the pesticides no longer registered for use, is not likely to result in detections.

99-23

Page 2-13

Statement 11: The document states that DPR's leaching and runoff GWPAs were used in Alternatives 2, 3, 4, and 5 to assign management practices and monitoring to various areas of the Central Valley. The leaching flow path is addressed through the implementation of nutrient and water management practices. The runoff portion is covered through two management practices. One is to reroute runoff with buffer strips (sediment traps), and the other is to prevent surface water inflow to abandoned wells. Well protection was based on one well for every 320 acres of land in the areas that are designated as vulnerable to runoff.

99-24

Comment 11: The document does not state what "water management" means, and only applies two runoff measures for pesticides: buffer strips and protection of abandoned wells. Since buffer strips apparently apply only to sediment-bound pesticides (see page 2-2), which do not threaten groundwater, the only measure that applies to the water soluble pesticides that have been found

in groundwater in runoff GWPAs is designed to prevent surface water flow to abandoned wells. This leaves out the other pathways to groundwater, such as dry wells, unprotected water wells, temporarily unused wells, and ditches and drainage ponds dug below confining soil layers. It also leaves out all the other management practices that DPR has adopted in regulation to mitigate runoff as a pathway to groundwater (see 3CCR sections 6487.3 and 6487.4). The PEIR should address those additional pathways and management practices. 99-24 cont'd

Statement 12: Under all alternatives, water suppliers (irrigation or water districts) were assumed to be in full compliance with existing regulations. Because these entities do not apply high- or very high–priority COCs, their existing level of management practices were assumed to be sufficient to be in compliance with ILRP requirements.

Comment 12: This statement is confusing since irrigation and water districts use diuron, which appears to be listed as a high- or very high-priority COC in Table 2-5. 99-25

Page 2-14

Statement 13: A ratio of 1 acre of buffer strip is required for every 30 acres of irrigated lands.

Comment 13: A 40 acre parcel would require 1.33 acres of buffer, or 57,935 square feet. If this were spread over a ¼ mile downslope edge of a 40 acre field (1320 feet), this would result in a 44-foot buffer strip. It is uncertain whether the economic analysis accounts for the loss of production that would be associated with this size buffer zone in many, especially field and truck, crops. This size buffer zone could also conflict with the California Leafy Green Marketing Agreement and the "super metrics" adopted by the California food production industry to address food safety concerns. These issues should be addressed in the PEIR. 99-26

Page 2-16

Statement 14: The diagram indicates that in leaching GWPAs, water management is the management practice specified, and in runoff GWPAs, sediment trap and hedgerow/buffer strips are specified.

Comment 14: Again since the document assumes these practices only mitigate sediment runoff and thus relatively insoluble pesticides, no measures are specified for water soluble pesticides, which are those most likely to move to groundwater. The PEIR should also evaluate the management practices required for the use of pesticides listed in section 6800(a) in runoff GWPAs, which are specified in 3 CCR sections 6487.3 and 6487.4, and include them in the economic analysis. 99-27

Page 2-17

Statement 15: Table 2-9 gives the cost range for specified management practices. For the irrigation water management practice and pressurized irrigation management practice, two sources each are cited for the cost information.

Comment 15: For irrigation water management, the first source is a personal communication, and the second source, Imperial Irrigation District 2007, was not listed in the Chapter 6 99-28

Reference section. Thus, we could not determine the basis for the cost of the irrigation water management practice cost.

For the pressurized irrigation management practice, the first source, "NRCS 2010," leads to a web page with many NRCS technical guides. Without a more specific reference, the source of cost information cannot be determined. The second source, Imperial Irrigation District 2007, was not listed in the Chapter 6 Reference section. Thus, we could not determine the basis for the cost of the pressurized irrigation management practice cost. 99-28 conf'd

Page 2-19

Statement 16: Table 2-10 specifies the surface and groundwater monitoring cost breakdown for use in all program alternatives. The detailed chemistry for 20 COC samples taken once per year is estimated to cost $1500.

Comment 16: If groundwater monitoring is required for the pesticides listed for groundwater concern (8 pesticides), the DPR per pesticide analyte cost is typically $700 (unless a multi-residue screen is developed), which would bring the cost to $5600 per year for pesticide groundwater samples alone, if an analytical method is available. If other pesticides are required to be sampled and an analytical method is not available, the cost to develop a method can be as high as $20,000-$30,000 per analyte, depending on the detection limit required. Therefore, the cost estimates provided do not match the costs based on our experience. 99-29

IV. Appendix A. Staff Report

Page 36.

Statement 17: Figure 12 gives 2 ug/liter (2 ppb) as the "health advisory" level for diuron based on a 2005 USEPA reference.

Comment 17. That reference is not included in the reference section, and a search of that reference online did not show the term "diuron" or "health advisory." The 2 ppb is cited in the 2003 diuron reregistration eligibility decision as a drinking water level of concern. This should be clarified/corrected in the final report. 99-30

Page 48

Statement 18: "When these pesticides are applied to sites with sandy soils, shallow depth to groundwater, and either a wet climate or extensive use of irrigation, the risk of groundwater degradation is high."

Comment 18: While this statement is true, it should also be noted that Tulare County is one of the counties with the most wells contaminated by pesticides. Yet, most soils in the contaminated areas are hardpan soils, not sandy soils. 99-31

Statement 19: "Pesticide impacts on groundwater beneath agricultural areas, like nitrates, are determined most effectively by means of shallow (installed in first encountered groundwater) monitoring wells constructed with short screen lengths (Burow et al. 1998, 2007; Fuhrer et al. 1999; California GAMA Program 2008).

Comment 19: The reference "California GAMA Program 2008" is not listed in the Reference section. A subsequent 1999 report by the Burow, et al[3] (listed in the Reference section) states, on page 44, "In general, the concentrations and frequencies of pesticide detections discussed previously indicate that the ground water sampled from domestic wells was not much different from the ground water sampled at the adjacent monitoring wells." The report concluded, on page 46, "The differences in water quality results between ground water samples from existing domestic wells and monitoring wells installed during the study were generally not significant, although some contrast in the occurrence and concentrations of nitrate and pesticides was observed;" and, on page 47, "The occurrence of pesticides in ground water samples from the different wells indicates that ground water sampled from domestic wells was not much different from the ground water sampled in the adjacent monitoring wells." Based on these results and balancing the cost of installing a monitoring well vs. using those same resources to collect many more domestic well samples, the use of monitoring wells appears to only be justified where sufficient domestic wells are not present or inaccessible. This should be stated in the final report. 99-32

Pages 61-62 and 64

Statement 20: Resolution 68-16 (antidegradation) requires that any activity that results in discharge to existing high quality waters meet waste discharge requirements (WDRs) that result in best practicable treatment and control (BPTC). Several State Water Board water quality orders have evaluated what level of treatment or control is technically achievable using "best efforts." In determining BPTC, the discharger should compare the proposed method to existing proven technology; evaluate performance data (through treatability studies), compare alternative methods of treatment or control, and consider the method currently used by the discharger or similarly situated dischargers. The Regional Water Board may not "specify the design, location, type of construction, or particular manner in which compliance may be had with [a] requirement, order, or decree" (CWC 13360). However, the Regional Water Board still must require the discharger to demonstrate that the proposed manner of compliance constitutes BPTC (SWRCB Order No. WQ 2000-7). 99-33

"The long-term ILRP must comply with the antidegradation policies by requiring that, among others, the requirements implementing the long-term ILRP must result in use of BPTC where irrigated agricultural waste discharges may cause water quality degradation.

[3] Burow, K.R., J.L. Shelton, and N.M. Dubrovsky. 1998. Occurrence of nitrate and pesticides in groundwater beneath three agricultural land-use settings in the eastern San Joaquin Valley, California: USGS Water-Resources Investigations Rep. 97-4284. USGS, Sacramento, Ca.

Comment 20: This appears to be an onerous requirement. For example, the EIR documents identify improved irrigation management, pressurized irrigation, vegetative filter strips, and wellhead protection as four management practices that apply in certain situations. How would the discharger demonstrate these practices to be BPTC, what existing proven technology or control would these practices be compared to, and what "treatability studies" would the discharger use? Without these elements, how would the Board determine what level meets the antidegradation requirements?

99-33 cont'd

Page 122

Statement 21: Table 17 estimates the annualized costs of implementing management practices under the various alternative options to vary from $466 million under alternative 1 (the current program when fully implemented) up to $952 million for alternative 5. Total estimated costs for administration, monitoring, and implementing management practices vary from $478 million in the current program to $1.3 billion dollars for alternative 5. On page 170, the estimated cost of the recommended alternative is $492 million.

Comment 21: Based on the estimated 7 million acres of irrigated lands in the Central Valley (from Table 16, page 119), the annualized costs of implementing management practices would vary from $67/acre ($466million total) under alternative 1 (the current program when fully implemented) up to $136/acre ($952 million total) for alternative 5. The document states these are probably overestimates of actual costs, in large part because growers are already implementing the management practices. However, in light of the uncertainties of which pesticides must be sampled and analyzed, where and how often they must be sampled, and the cost of the analysis, we believe these are not overestimates. In addition, given these uncertainties it would seem reasonable to estimate a range of implementation costs, which the PEIR has not done.

As a point of reference for the pesticides-in-ground-water element only, the estimated ongoing fiscal and economic costs of implementing the DPR groundwater regulations adopted in 2004 were $4.3million or $.61/acre over the 7 million acres covered by the ILRP.

99-34

Page 128

Statement 22: The document lists the potential sources of funds to implement the irrigated lands program, including the federal Farm Bill (e.g., EQIP program), and various state and regional board grant and loan programs.

Comment 22: The EQIP program funds relatively few projects in California compared to the more than 33,000 growers that might need funding.

99-35

Page 131

Statement 23: ICF International only identifies one alternative (#5) that would require installation of substantial numbers of monitoring wells. The other alternatives that would require groundwater monitoring would rely on existing wells.

99-36

Comment 23: The ICF International approach appears to conflict with the Staff Report assessment that monitoring wells are the best way to evaluate pesticides in groundwater on page 48. This conflict should be reconciled, especially in light of Burow et.al. (see comment 19). 99-36 cont'd

Page 140

Statement 24: Staff are recommending regional water quality plans where water quality objectives are not being met with additional requirements to ensure the plans are designed to implement BPTC to minimize degradation. Individual water quality management plans would be required where regional plans have been ineffective.

Comment 24: It is not clear whether there are any areas without some degradation that would require BPTC implementation. Presumably, absence of pesticides in groundwater means neither regional plans nor BPTC implementation would be required. The scale for making those assessments is not clear. How close would a grower have to be to a contaminated well before he/she would have to implement management practices? 99-37

Page 141

Statement 25: Staff are recommending regional ground and surface water monitoring except in the case of "inability of regional monitoring to determine irrigated agricultural waste contributions," in which case individual monitoring would be required.

Comment 25: Guidelines should be given for how staff would determine "inability of regional monitoring to determine irrigated agricultural waste contributions." 99-38

Pages 143+

Statement 26: The footnote on page 143 states "The Central Valley Water Board recognizes that DPR is the lead State agency for regulating pesticide use. In implementing the long-term ILRP, the Board intends to work closely with DPR where waste discharge associated with overspray or other pesticide wastes cause water quality problems."

Comment 26: This statement needs clarification. It could mean that the Board decides that the DPR program is acceptable, in which case there would be no additional costs and regulatory requirements to address pesticides in groundwater. Alternately, it could mean that the Board decides that the DPR program is inadequate and that additional measures would be necessary and additional costs incurred. Without this determination in the PEIR or an acknowledgment of these possibilities and an estimation of the range of costs that might be involved, the assessment of the economic impacts of the ILRP is incomplete. 99-39

Pages 145-146

Statement 27: The approach would be to require more costly general waste discharge requirements in high priority areas, less costly conditional waivers in lower priority areas, discharge prohibitions where coverage under the ILRP program has not been obtained, and no 99-40

regulatory program in areas where irrigated lands would not impact water quality (no such areas have yet been identified).

Comment 27: In the pesticides in groundwater arena, it is uncertain whether GWPAs would be classified as high priority areas that would be subject to the more costly general waste discharge requirements for groundwater protection. If so, growers being regulated by DPR in GWPAs would be subject to additional costly and arguably unnecessary regulatory requirements. We believe that growers adoption of management practices in GWPAs when using 3 CCR section 6800(a) pesticides meets the prioritization criterion of "management practices in place to protect water quality." Thus GWPAs should not be subject to Tier 2 requirements (see below). Tier 1 classification would make more economic sense and be a more efficient and less confusing regulatory framework for DPR's stakeholders. We encourage Board staff to include this in their report.

99-40 cont'd

Pages 150-151

Statement 28: The document gives criteria for determining priority. These are (1) irrigated agricultural operations identified as causing or contributing to a surface or groundwater problem; (2) [operations]located in a high-threat area based on environmental conditions (e.g., DPR/State Water Board groundwater vulnerability area, intensity of operations, geology, proximity to surface water bodies, or in an area of shallow groundwater); (3) management practices in place to protect water quality; and (4) demonstrated non-compliance with ILRP.

Comment 28: Should GWPAs be considered high priority areas? The levels of pesticides found in those areas have not exceeded maximum contaminant levels or other human health guidelines used by U.S. EPA (where health levels exist), and thus have not exceeded water quality objectives. Also, GWPAs could be considered "priority areas" under point (2), but since management practices are in place to protect groundwater quality (prioritization point 3), how would that impact its classification? What is the purpose of including point (3) in the prioritization scheme if these management practices are already in place by DPR in regulation and by growers via permit conditions? The document does not specifically classify GWPAs as "high priority" that would be subject to Tier 2 requirements. Would that be an issue negotiated between the third parties and the Board? Given that uncertainty, how can the Board realistically estimate the costs of the ILRP?

99-41

Page 152

Statement 29: Tier 1 requirements would be applicable in low-priority areas. Figure 22 on page 153 shows that low priority areas subject to Tier 1 requirements can be designated in high priority surface and groundwaters. "These requirements would be aimed to ensure that irrigated agricultural operations maintain or improve the existing level of water quality protection. Management objectives would establish goals for water quality protection that irrigated

99-42

agricultural operations would achieve through implementation of specific management practices. Under this tier, the Central Valley Water Board considers the existing level of management objectives as BPTC, and protective of surface and groundwater quality. Third-party groups would be required to describe the area's existing water quality management objectives in a report to the Central Valley Water Board. Management practices tracking, every 5 years, would be the method by which the Central Valley Water Board would evaluate, in general, whether operations are continuing to meet existing management objectives."

Comment 29: It is our contention that GWPAs should be used as an example of where Tier 1 requirements would apply in high priority groundwaters for pesticides listed in Title 3 of the California Code of Regulations (3CCR) section 6800(a) since appropriate management practices are in place for those pesticides by DPR regulation. 99-42 conf'd

It is uncertain how coalitions would track management practices every five years. Surveys could be conducted but how would survey information be verified? What practices would a grower identify in low priority areas? Would the Board provide the grower any guidance on what types of management practices should be listed, or design a survey with specific questions about management practices? Could the Board disapprove certain management practices? If so, what criteria would the board use for such a determination?

Page 153

Comment 30: In Figure 22, it appears that the "High priority surface or groundwater?" box refers to the classification of pesticides because if the answer to the question "High priority surface or groundwater?" is yes, Tier 2 requirements apply in high priority areas and Tier 1 requirements apply in low priority areas. This should be clarified in the final report. We reiterate that Tier 1 requirements should apply for use of 3 CCR section 6800(a) pesticides in GWPAs because they are subject to management practices by regulation. We also suggest that the Board specify that the coalition consult with DPR on which pesticides to monitor in a particular area. These could be one or more of the section 6800(a) pesticides, based on local use, and one or more of the 6800(b) pesticides based on local use, likelihood of application to soil and to the results of LEACHM modeling DPR uses to prioritize section 6800(b) pesticides for monitoring. 99-43

Pages 154-155 and Appendix D apply to the following group of statements

Statement 31: In high priority groundwater areas, irrigated agricultural operations would be required to implement management practices to achieve BPTC for the COC as part of the groundwater quality management plan (GQMP). 99-44

Comment 31: The goal of DPR's ground water protection program and required management practices is reducing pesticides residues to the California Department of Food and Agriculture Center for Analytical Chemistry's detection limit (currently 0.05 ppb). Would this be consistent with management practices to achieve BPTC for a COC?.

Statement 32: At least every five years, the Board will meet with third-party groups and other interested parties to evaluate the sufficiency of GQMPs. Appendix D, referenced on page 155. 99-45

further describes requirements for both surface water quality management plans (SQMPs) and GQMPs. The SQMP requirements appear similar to the current program. The GQMPs would be required to contain the following: (1) Identification of the groundwater quality management areas and associated constituents of concern addressed by the management plan.

99-45 cont'd

Comment 32: For pesticides regulated by DPR in GWPAs, we propose the coalitions could reference those GWPAs and pesticides and that those should be sufficient to satisfy these requirements.

Statement 33: (2) A summary and assessment of the available water quality data for the aquifers and parameters addressed by the management plan. Available data from existing groundwater quality programs can be used, including but not limited to the State Water Board's Groundwater Ambient Monitoring and Assessment, USGS, DPH, DPR, DWR, and local groundwater management programs.

99-46

Comment 33: We support use of all available data, but only if readily accessible.

Statement 34: (3) Identification of irrigated agriculture source(s)—general practice(s) or specific location(s)—that may be the cause of the water quality problem. If the potential sources are not known, a study design must be included to determine the source(s) or to eliminate agriculture as a potential source. Source identification can include more intensive sampling in the relevant aquifer or field studies to quantify the relevant waste discharge from irrigated lands. In lieu of conducting additional source analysis, the management plan can focus on ensuring that all growers are implementing practices that
achieve BPTC for the constituent(s) of concern.

99-47

Comment 34: Could the monitoring and investigations conducted by DPR in response to detections that resulted in the conclusion in DPR memoranda that the residues were due to nonpoint source agricultural use be used to meet the requirements of this point?

Statement 35: (4) Identification of practices to address the constituents of concern. Where an identified constituent of concern is a pesticide that is subject to DPR's groundwater protection program, the GQMP may refer to DPR's regulatory program for that pesticide and any requirements associated with the use of that pesticide.

99-48

Comment 35: We support this language and recommend equivalent language be added to address the previous statements from pages 154-155.

Statement 35: (5) Evaluation of management practice effectiveness. The approach for determining the effectiveness of the management practices implemented must be described. Acceptable approaches include field studies of management practices at representative sites and modeling or assessment to associate the degree of management practice implementation to changes in water quality.

99-49

Comment 35: Could the GQMP cite DPR field studies demonstrating effectiveness of management practices to meet this requirement? With a median 7-9 year lag time[4] between pesticide application and detection in well water, it will be difficult to associate "the degree of management practice implementation to changes in water quality" within the 5-10 - year compliance timeframes specified on page 159 of the Staff Report. This should be addressed in the PEIR.

99-49 cont'd

Statement 36: (6) Description of outreach to growers. The strategy for informing growers of the water quality issues that need to be addressed and relevant management practices must be described. The outreach strategy must describe the methods that will be used to inform growers and how the effectiveness of the outreach efforts will be evaluated. The third party may conduct outreach efforts or work with the assistance of the County Agricultural Commissioners, U.C. Cooperative Extension, Natural Resources Conservation Service, Resource Conservation District, or other appropriate groups or agencies.

99-50

Comment 36: Could outreach requirements for pesticides regulated in GWPAs be met during permit issuance when county agricultural commissioner staff discuss the various management practice options before agreeing to specify the appropriate practice on the permit?

Statement 37: (7) Tracking of management practice implementation. The process for tracking implementation of management practices must be described. The process must include a description of how the information will be collected from growers, the type of information being collected, how the information will be verified, and how the information will be reported.

99-51

Comment 37: Would this tracking only relate to 3 CCR section 6800(a) pesticides currently used in GWPAs? Or some other set of pesticides that are yet to be determined?

Statement 38: (8) Monitoring plan to track changes in water quality. A monitoring plan for the COC must be prepared to determine whether the management plan is improving water quality. The monitoring plan may need to include other sites or a different depth to groundwater (e.g., monitor first encountered groundwater versus supply wells) or frequency of sample collection to adequately assess the effectiveness of the management plan. Monitoring may include focused studies of selected agricultural management practices, constituents, or physical settings to inform refinement of GMA and constituent prioritization, or of practices that provide needed groundwater protection from degradation by constituents of concern. The monitoring plan must include an associated Quality Assurance Project Plan, and the data must be submitted electronically in a format required by the Central Valley Water Board. The intent of data verification is to provide confidence that the information being reported is accurate. This may

99-52

[4] http://cdpr.ca.gov/docs/emon/pubs/ehapreps/eh9704.pdf

include field visits to a subset of growers reporting their data or other methods to confirm data validity.

Comment 38: This may require coalitions to establish well monitoring networks, similar to DPR's current 70-well network in Fresno and Tulare counties, throughout the state in GWPAs and other areas the Board determines are priority areas for groundwater. DPR's annual cost for sampling and analysis of the network wells is approximately $140,000, using an eight-herbicide active ingredient screen. Costs could be higher or lower depending on the number of pesticides selected for analysis and the analytical costs at the specific laboratory.

The Board should be aware that based on sampling results from the DPR well monitoring network, using the results of monitoring data within the first five year period would be insufficient time to see changes in all wells except a few most responsive wells. Thus, such monitoring is likely to indicate failure of the management practices to protect groundwater. In addition, the staff report does not specify the scope of any required well monitoring, which means that the economic impacts of the ILRP cannot be fully assessed.

99-52 cont'd

Statement 39: (9) Schedules and milestones. Milestones and schedules must be described for the actions to be taken (e.g., outreach, management practice implementation), as well as for the anticipated improvements in water quality (e.g., milestones for declining trends in concentrations of constituents of concern). The schedule for achieving compliance with water quality objectives must be consistent with any compliance dates established in the relevant water quality control plan.

Comment 39: Based on Comment 38, realistic milestones for improvements in groundwater quality are not likely to be consistent with compliance dates discussed in the Staff Report.

99-53

Page 156

Statement 40: Under "Monitoring Provisions," the Board "intends that regional monitoring programs would be coordinated with DPR surface and groundwater monitoring, local groundwater management plans, the Central Valley Water Board Dairy Program, and other existing programs. The primary goal of this coordination is to prevent duplicative monitoring programs. For example, existing water quality data (e.g., Surface Water Ambient Monitoring Program, SWAMP data; DPR groundwater data; etc.) could be used, and the monitoring parameters would be tailored to the farm inputs and water quality issues in the watershed or groundwater basin.

Areas with insufficient information available to determine prioritization would be required to complete assessment monitoring or studies within 5 years of long term program adoption. The goal of the assessment would be to determine whether irrigated agricultural operations are causing degradation of surface or groundwater quality. However, the Central Valley Water

99-54

Board does not intend to monitor every water body in the Central Valley as part of the long-term ILRP. Therefore, "representative" monitoring and other specified information will be considered first in tier classification.

Comment 40: We support coordinated and representative monitoring to minimize monitoring costs of the program. Since the scope of representative monitoring has not been determined, it is uncertain how the Board can estimate the cost of the ILRP program.

99-54 cont'd

Pages 157-158

Statement 41: Under Tier 1 (low priority areas), the surface water element would track management practice implementation and monitor surface water once every five years, and reports results to the Board on the same schedule. For groundwater, growers must participate in regional groundwater monitoring program that would sample and report results every five years. Additional monitoring may be required where there is a water concern.

Under Tier 2 (high priority areas), the surface water element would require monitoring similar to the current program. The groundwater element would require participation in regional groundwater monitoring in coordination with other programs, such as DPR, conducting monitoring as follows:

(1) Regional monitoring for constituents of concern to provide baseline groundwater information and track trends in groundwater quality over time. Pesticide application tracking and associated modeling may be used to evaluate discharges to groundwater in place of monitoring.

99-55

Comment 40: The scope of regional monitoring is not specified. The first reference to COC in this staff report refers the reader to Chapter 4 for COC of groundwater concern. But a "find search" of Chapter 4 found no references to COC. It is uncertain how COC are identified and whether a pesticide detected by coalitions in groundwater would automatically be declared a COC or only if it exceeds some level of concern. This should be clarified in this document, and would apparently be needed to assess the economic impacts of the various alternatives. In addition, couldn't coalitions rely on wells previously sampled by DPR or others to help establish a baseline? Or would they be expected to establish their own baseline data?

Statement 41: (2) Targeted site-specific studies to evaluate the effects of changes in management practices on groundwater quality (this would occur only at a selected number of sites—the Fertilizer Research and Education Program [FREP] would be approached as a potential funding source for this monitoring).

99-56

Comment 41: Is the purpose of regional monitoring for trends also serve to evaluate the effects of changes in management practices on groundwater quality? Does the reference to FREP mean this element only targets fertilizers?

Ms. Megan Smith
September 27, 2010
Page 23

Page 159

Statement 42: Priority Surface Water Issues. Which water bodies are considered priority? Specific water bodies with beneficial uses identified in the Basin Plans; streams tributary to water bodies in the Basin Plan with aquatic life uses based on the "tributary rule"; tributary streams with identified municipal or domestic drinking water intakes; and water bodies with specific compliance time schedules established in the Basin Plans.

Which beneficial uses are considered priority? Aquatic life, drinking water, and human consumption uses in the above water bodies. Which pollutants are considered priority? Those pollutants that cause or contribute to a violation of water quality objectives associated with the priority beneficial uses and water bodies. Compliance time schedule—5 to 10 years. For watershed areas with multiple water body/pollutant issues to address, compliance schedules may be staggered between 5 and 10 years, but cannot exceed 10 years. 99-57

Comment 42: See Comment 38.

Statement 43: Priority Groundwater Issues. Which groundwater aquifers are considered priority?—aquifers with identified municipal or domestic drinking water wells; aquifers in which drinking wells were closed because of exceedances of water quality objectives. 99-58

Comment 43: In the pesticide arena, these two priority criteria are equivalent since the only wells closed because of exceedances of water quality objectives for pesticides are public water supply wells that contain the legacy fumigants - DBCP, 1,2-D, or EDB.

Statement 44: Which beneficial uses are considered priority?—drinking water uses (i.e., municipal and domestic supply). Which pollutants are considered priority? Those pollutants that cause or contribute to a violation of water quality objectives or degradation of groundwater quality associated with drinking water uses. 99-59

Comment 44: We assume that the reference to degradation of groundwater quality is in relation to the antidegradation policy. If so, it is interesting to note that the antidegradation policy is considered a priority for groundwater but not surface water. No currently registered pesticide violates water quality objectives in groundwater. What level will the Board determine is a degradation level for pesticides?

Page 161

Statement 45: Figure 23. Long-Term ILRP Prioritization Scheme Example. 99-60

Comment 45: The text box language describing Sub-area III is incomplete. Should the text box describing "Agricultural parcels" be amended to add "or managed wetlands"? Would Area B be considered low priority?

We appreciate the opportunity to review draft PEIR and look forward to working with you to develop a program that recognizes and builds on existing programs, and minimizes duplication

of efforts that can unnecessarily increase fiscal impacts on state and local agencies and economic impacts on the regulated public.

If you have questions about our comments please contact me or Mr. Mark Pepple of my staff at: mpepple@cdpr.ca.gov or (916) 324-4086

Sincerely,

Original Signature by

Lisa Ross, Ph.D.
Environmental Program Manager I
(916) 324-4116

cc: Mr. Mark Pepple, Staff Environmental Scientist
Dr. John Sanders, Environmental Program Manager II

3.1.2.1 Responses to Letter 99

99-1

The Central Valley Water Board intends to work closely with the California Department of Pesticide Regulation (DPR) in addressing water quality problems associated with pesticide use. The Draft PEIR, Appendix A (pages 79–80), describes some of the potential mechanisms for coordination of the Long-term ILRP and DPR's Groundwater Protection Program and highlights the need for additional, DPR/ILRP coordinated groundwater monitoring for pesticides.

Where pesticides are found in groundwater, management practices required by DPR would be considered a major component of any groundwater quality management plan. Likewise, all sources of groundwater and pesticide information available for the area will be reviewed and utilized to the extent possible (e.g., California Department of Water Resources [DWR], United States Geological Survey [USGS], California Department of Health Services [DHS], Lawrence Livermore National Laboratory, Groundwater Ambient Monitoring and Assessment (GAMA), county data, U.S. Environmental Protection Agency [EPA], and water and irrigation districts). Where the practices are effectively working to meet ILRP goals and objectives, additional practices would not be necessary. However, should feedback monitoring and review determine that the practices are not effective, the Board will work with DPR to determine how to most appropriately use the agencies' respective authorities to ensure implementation of additional practices.

The recommendations to notify and coordinate with DPR on review and approval of groundwater quality management and monitoring plans involving pesticides will be considered in the development of the Long-term ILRP.

99-2

See Comment Letter 96, Response 11.

99-3

See Master Response 17.

99-4

These suggestions will be considered in the development of the Long-term ILRP. Also see Comment Letter 104, Response 58.

99-5

See Master Response 17.

99-6

See Comment Letter 9, Response 10.

With respect to the Burow et al. study, the region under investigation did not have shallow groundwater and the domestic wells were completed in the regional aquifer which was the same depth as the monitoring wells. The use of domestic wells for monitoring areas that have shallow groundwater that is not tapped by the domestic wells would under report the impact.

99-7

See Master Responses 7 and 17.

The cost estimates were developed for a programmatic analysis. See Comment Letter 50, Response 8 and Comment Letter 99, Responses 54 and 55.

99-8

The Central Valley Water Board has been working with DPR in development of the Long-term ILRP. This cooperation will continue as the Board develops implementing mechanisms for the Proposed Program. The detail provided in the documents referenced by the comment is not needed to support the programmatic analysis contained in the PEIR. See Master Response 7.

99-9

Water quality objectives for protection of beneficial uses are established in Central Valley Water Board Water Quality Control Plans (Basin Plans). The ILRP is required to implement Basin Plan requirements—as described in the Draft PEIR, Appendix A, pages 56-57.

Costs have been estimated at the programmatic level for each of the alternatives in the Draft ILRP Economics Report and the Draft PEIR in Appendix A. Also see Comment Letter 99, Response 54.

99-10

See Comment Letter 99, Response 59.

99-11

See Comment Letter 99, Response 40 and Comment Letter 99, Response 1.

99-12

See Comment Letter 99, Response 38.

99-13

The Draft PEIR, Appendix A, Figure 22 (page 153) depicts the selection of implementation mechanisms and tiering under Alternative 6.

Also see Comment Letter 10, Response 4.

99-14

The term managed wetlands is defined in the Draft PEIR on p. 5.7-8. The Long-term ILRP is intended to regulate all lands irrigated to produce crops for commercial purposes that discharge waste to surface or groundwater, including retail and wholesale nurseries that meet this definition.

99-15

Implementation of one of the proposed Long-term ILRP alternatives would likely result in changes in agricultural irrigation practices, including those that involve switching from gravity to pressurized irrigation systems. CEQA directs government agencies to disclose to the public adverse

effects of their discretionary actions. As such, the Draft PEIR does not discuss in depth the relative degree of likely beneficial impacts of the ILRP alternatives. Water quality benefits derived from the management practices analyzed are discussed in the ECR and incorporated into this document by reference. Also see Master Responses 7 and 8.

The Draft PEIR addresses ground disturbing activities associated with changes in irrigation practices (see Table 5.5-8 on page 5.5-25; page 5.8-50, Impact FISH-2; and the general discussion of construction impacts on page 5.7-46, Impact BIO-3).

99-16

The impact analysis specifically discusses the impacts to groundwater from use of tailwater recovery systems (see Draft PEIR, Section 5.9, Hydrology and Water Quality, page 5.9-15).

99-17

See Master Response 17.

99-18

Irrigated lands operators are expected to address all operational practices that result in the discharge of waste to surface or groundwater. The range of management practices analyzed in the Draft PEIR are adequate under CEQA to allow the Central Valley Water Board to consider the likely costs and adverse environmental impacts of the Long-term ILRP alternatives. However, the range of practices are not intended to be comprehensive or represent all the actions growers must take to adequately control discharge of waste to waters of the state.

The general description of wellhead protection (Draft PEIR, page 5-2) referring to welded metal plates was used primarily for estimating costs; it is possible that other means of closing the wells could be implemented. The DWR methods for wellhead closure would be expected to result in a similar level of groundwater protection. Because this is a programmatic evaluation, the impact analysis was not specific to the exact method of wellhead closure; the analysis assumes that any closure method used would prevent the well from becoming a conduit for surface water to enter subsurface aquifers. In addition, the impact analysis did not assume that all wellhead protection would occur only on temporarily inactive wells. The Board assumes that a similar wellhead protection effort could be made on dry wells if these wells were likely to act as conduits for contaminated surface water to enter the groundwater.

99-19

The suggestions will be considered in the development of the Long-term ILRP.

99-20

The personal communication reference provided in the Draft ILRP Economics Report should be Barry, Maurice rather than Maurice, Barry. This does not affect the analysis of the Draft PEIR.

99-21

See Master Responses 7 and 19, and Comment Letter 108, Response 13.

99-22

See Comment Letter 123, Responses 55 and 65 and Comment Letter 100, Response 40.

99-23

See Master Response 17. Also see Comment Letter 99, Response 1.

99-24

See Master Response 7.

99-25

The comment is correct. Irrigation districts use diuron and other pesticides (e.g., for the control of weeds along the banks of a canal). At this time, districts' existing management practices, along with correct use and application of pesticides, are considered adequate to ensure that these pesticides do not end up in waterways. However, should district use of a pesticide (e.g., diuron) cause or contribute to a water quality problem, the Central Valley Water Board would require the district to implement practices to protect water quality. The Board will work with districts to determine whether regulation of their discharge would occur under the Long-term ILRP or under a separate program. Based on the work with five irrigation districts under the current ILRP, the Board does not believe there would be any potential environmental impacts not already addressed in the Draft PEIR; any additional costs for implementing proper pesticide application practices would be minimal.

99-26

See Master Responses 17 and 7.

99-27

The comments suggestion regarding GWPAs will be considered in the development of the Long-term ILRP. Also see Comment Letter 99, Responses 1, 5, and 40.

99-28

See Master Response 17.

99-29

See Master Response 17.

99-30

Information on the water quality objectives for diuron can be found in EPA's November 2009 Drinking Water Standards and Health Advisories Table. This document is available online at: <http://www.epa.gov/region9/water/drinking/files/DWSHATv09.pdf>.

The Draft PEIR, Appendix A has been modified to include this reference. See Chapter 4, Revisions to the Draft Program Environmental Impact Report, page 4-33 in this Final PEIR.

99-31

The statement referenced from page 48 of the Draft PEIR, Appendix A, describes one of the pathways pesticides may reach groundwater, not the only pathway. On page 47, the report provides that "Pesticides migrate to groundwater… primarily through run-in, or leaching." Where run-in is described on page 45: "Run-in transports surface water and its dissolved constituents directly to groundwater through porous or fractured bedrock, sinkholes, or poorly constructed wells." The comment provides a description of an area where leaching may not be the primary pathway of pesticide movement to groundwater. This information will be considered in development of implementation mechanisms under the Long-term ILRP.

99-32

See Comment Letter 99, Response 6. The GAMA reference will be removed and replaced with a National Water Quality Assessment (NAWQA) study (Gilliom, R.J., and Hamilton, P.A., 2006, Pesticides in the Nation's Streams and Ground Water 1992-2002 – A summary, USGS Fact Sheet 2006-3028). See Chapter 4, Revisions to the Draft Program Environmental Impact Report, pages 4-14 and 4-30 in this Final PEIR.

99-33

See Master Response 5.

99-34

See Master Response 17.

99-35

The Central Valley Water Board recognizes that the certainty of funding is low compared to the potential need for assistance. The impact associated with this disparity is discussed in Chapter 5, Section 5.10, Agriculture Resources.

See Master Response 17.

99-36

See Comment Letter 9, Response 10.

99-37

Under Alternative 6, regional groundwater quality management plans would be required in areas where groundwater is vulnerable to waste discharges associated with irrigated agriculture and in areas with water quality problems (i.e., not meeting objectives, degradation) (Draft PEIR, Appendix A, pages 150–151).

With respect to vulnerability zones (DPR and State Water Board), any operations within a vulnerability zone would be required to participate in a third-party regional management plan (see text box on page 151 of the Draft PEIR, Appendix A). Any wastes discharged from irrigated lands to groundwater are of concern, not just pesticides.

Additional information on the areas in which groundwater quality plans will be required will be provided during the continued development of the Long-term ILRP and its enforcing mechanisms.

99-38

The recommendation for individual monitoring where the *"third-party entity fails to provide necessary information"* (Draft PEIR, Appendix A, page 141) is not linked to whether or not the third-party is able to determine irrigated agricultural waste contributions. This statement is intended to notify individuals and third-parties that the Central Valley Water Board will require individual monitoring in cases where the third-party does not provide monitoring and reporting described in ILRP implementation mechanisms. Board authorities in the California Water Code (Section 13267) are applicable to the entity in control of the waste discharge. Therefore, in cases where a third-party violates a monitoring condition, the entities responsible for the waste discharge (irrigated agricultural operations) would be ultimately responsible for ensuring monitoring requirements are met.

99-39

See Comment Letter 96, Response 11 and Comment Letter 99, Response 54.

99-40

Under Alternative 6, the implementation mechanism (general WDRs, or conditional waivers) and priority level (Tier 1 or 2) will be established using existing data that provides information on the following: pesticide impacts, Groundwater Protection Areas, 303(d) listed waterways, nitrate and other nutrient impacts as well as salinity data, depth to groundwater, and soil type (see Priority Factors, page 150, Draft PEIR, Appendix A). Also refer to the highlighted portion of page 151 of the Draft PEIR, Appendix A which explains identification of DPR/State Water Board groundwater vulnerability areas as priority factors.

As stated in the Draft PEIR, Appendix A, under Alternative 6, State Water Board vulnerability zones and DPR Groundwater Protection Areas would be considered high priority (Tier 2) areas for groundwater protection. Regional groundwater quality management plans would be required to describe water quality management practices to be implemented. For use of 6800(a) pesticides, described in this comment, management practices would already be required in Groundwater Protection Areas. While these areas would not be classified as Tier 1 areas, additional practices for 6800(a) pesticides would likely not be necessary because of practices already in place under DPR's program. Also, monitoring would be coordinated among the programs. Therefore, ILRP Tier 2 monitoring for 6800(a) pesticides may not be necessary (e.g., DPR may already conduct monitoring). Also see Comment Letter 99, Response 1.

99-41

Comment Letter 99, Response 1; Comment Letter 99, Response 40; and Comment Letter 99, Response 54.

99-42

The comments suggestion regarding Groundwater Protection Areas will be considered in the development of the Long-term ILRP. Also see Comment Letter 99, Response 40, and Comment Letter 99, Response 1.

Under Alternative 6, third-party groups would be responsible for tracking management practices, developing surveys, verifying information collected, and providing education and guidance on water quality management practices to meet water quality standards. However, the Central Valley Water Board would work with third-parties in approving any water quality management plans. Generally, the Board would not require or disapprove management practices. California Water Code Section 13360 prohibits the Board from specifying the manner of compliance with water quality objectives. The Board would require changes in management in order to ensure water quality objectives and other state policies are met.

99-43

See Comment Letter 99, Response 40.

See Comment Letter 99, Response 1.

These recommendations will be considered in the development of the Long-term ILRP.

99-44

See Comment Letter 5, Response 1 and Master Response 5. The BPTC standard is based on the practice or treatment technology employed rather than a laboratory detection limit. For pesticides associated with DPR's Groundwater Protection Program, the Central Valley Water Board would work with DPR to identify BPTC for any currently registered pesticides detected in groundwater.

99-45

See Comment Letter 99, Response 1.

99-46

The support for utilizing accessible existing groundwater quality data in the ILRP will be considered in the development of the Long-term ILRP.

99-47

Yes, under Alternative 6, monitoring conducted by other programs would be utilized as appropriate (Draft PEIR, Appendix A, pages 156–157).

99-48

See Comment Letter 99, Response 1.

99-49

See Comment Letter 99, Response 1 and Comment Letter 44, Response 2.

Requiring the GQMP to assess performance would be useful; however, this analysis did not consider that specific action.

See Master Response 13. This suggestion will be considered in the development of the Long-term ILRP.

99-50

The Central Valley Water Board agrees that agricultural commissioner participation in this process is a benefit. The Board appreciates all efforts by county commissioners to discuss best practices for protecting water quality with their local growers, including opportunities presented during the pesticide use permitting process.

99-51

See Master Response 7. Also, see Comment Letter 50, Response 8 and Comment Letter 99, Responses 54 and 55.

Tracking of management practice implementation would not track individual constituents. Constituents, including pesticides, would be monitored through the water quality sampling program.

This is a programmatic document. Actual implementation should require a description of the data collection, verification and reporting is done.

Tracking is for practices not constituents. Constituents would be followed with water quality sampling.

99-52

To the extent possible, groundwater monitoring will utilize existing wells. If appropriate wells do not exist in an area or region, installation of a monitoring well(s) will be considered. See Comment Letter 99, Response 36.

The Central Valley Water Board recognizes that a variety of factors affect the time necessary to produce measurable effects to groundwater quality (depth to first encountered groundwater, lithology of the vadose zone and aquifer; travel times within the vadose zone and hydraulic conductivity in the aquifer; the groundwater gradient; pumping activities; and constituent of concern degradation, attenuation, nitrification/denitrification to name a few). It is for this reason that staff included targeted, site-specific studies to evaluate the effects of changes to management practices (Alternative 6, Draft PEIR, Appendix A, page 158). Such targeted studies will be conducted in areas most likely to have relatively rapid aquifer response times (shallow groundwater, granular soils, high groundwater gradients or rapid extraction rates). Based on the effectiveness of a management practice that is subject to this targeted review, a recommendation may be made to implement the management practice in other areas that have similar water quality issues.

See Comment Letter 96, Response 40.

99-53

See Master Response 12 and Comment Letter 1, Response 15.

99-54

The support for coordination of monitoring requirements will be considered in the development of the Long-term ILRP.

Programmatic-level monitoring costs have been estimated for each of the alternatives using information from the current ILRP, Kings River Coalition, DPR, USGS, and groundwater vulnerability models (DPR/State Water Board). The methods for estimating groundwater monitoring and management costs for ILRP alternatives are described in Chapter 2 of the Draft ILRP Economics Report. These costs have been considered at a programmatic level, without detail for any specific area/region or constituent of concern. However, to the extent that DPR or other programs have developed monitoring or required management practices for an existing water quality concern, Alternative 6 is intended to coordinate with these programs. This coordination would work to reduce the costs associated with the ILRP management and monitoring because the costs have been absorbed by other programs. Consequently, the Economics Report may actually overestimate costs for instances where there would be coordination among programs.

99-55

In response to the comment that the term "constituents of concern" is not well defined in the Draft PEIR or Draft ILRP Economics Report, the PEIR has been modified to include the following definition for constituent of concern: "Waste constituent discharged from irrigated agricultural operations with the potential to degrade surface or groundwater quality or contribute or cause exceedances of water quality objectives." See Chapter 4, Revisions to the Draft Program Environmental Impact Report, page 4-29 in this Final PEIR.

The methods for estimating groundwater monitoring costs for ILRP alternatives are described in Chapter 2 of the Draft ILRP Economics Report. These costs have been considered at the programmatic level, without detail for specific area/ region or constituent of concern. For example, page 2-19 of the Draft ILRP Economics Report provides a cost estimate for monitoring basic parameters (e.g., pH, EC, nitrates, E. coli) and up to 20 constituents of concern (organics, boron, selenium). These costs, along with regional monitoring costs from Kings River Coalition, DPR, and USGS were used to estimate the potential costs of groundwater monitoring. During the development of the waivers/ WDRs to implement the ILRP, additional cost analyses may be conducted.

Where appropriate, DPR data as well as other groundwater monitoring data collected through a variety of programs (Dairy General Order, GAMA, DWR, etc.) would be used to establish the existing groundwater characteristics for an area (referred to as "baseline" in the comment). If such information is unavailable or nonexistent, the data would need to be developed through the implementation of a monitoring program. The form of the monitoring program will be determined by the alternative chosen for implementing the Long-term ILRP. Under Alternative 6, groundwater monitoring would be performed using a regional approach that employs existing wells to the extent possible. Also see Comment Letter 9, Response 10.

99-56

It is envisioned the regional groundwater monitoring will be used to investigate water quality in irrigated agricultural areas throughout the Central Valley. Some of these areas have existing water quality data and some do not. In addition to providing initial data, the regional monitoring program will provide information on trends in water quality over time. Nitrate would be one of the

constituents monitored. Additional constituents to be monitored may include pesticides, total dissolved solids, pH, total organic carbon, and any other constituent of concern identified for an area.

Special studies monitoring would be utilized to evaluate management practice changes made to address a water quality concern. Special studies monitoring would be conducted in areas with shallow groundwater, granular soils, and high use of constituents of concern. These factors will allow for a relatively rapid assessment of the effectiveness of the management practice under evaluation. Regional or trend monitoring would likely be much slower in detecting such effects. FREP will be approached for potential funding where appropriate.

99-57

Costs have been estimated at the programmatic level for each of the alternatives in the Draft ILRP Economics Report and the Draft PEIR, Appendix A. Also see Comment Letter 99, Response 55.

99-58

This information will be considered in the development and implementation of the Long-term ILRP.

99-59

In accordance with the Antidegradation Policy, any reduction in water quality, of a "high quality water," would be considered degradation. See Comment Letter 45, Response 16.

The comment correctly indicates that the time schedule prioritization system describes that degradation would be considered for groundwater, but does not specify for surface water. Antidegradation requirements apply to both surface and groundwater. The suggestion that surface water degradation be a factor in time schedule prioritization will be considered in development of the Long-term ILRP.

99-60

See Comment Letter 1, Response 23. Area B would be considered low priority, or Tier 1, as described in Figure 23 (page 161).

3.1.3 Letter 120—California Department of Transportation, Tom Dumas, Chief, Office of Metropolitan Planning

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STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
P.O. BOX 2048 STOCKTON, CA 95201
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Comment Letter IL120

Flex your power!
Be energy efficient!

September 27, 2010

Various Counties including Stanislaus
Draft Program Environmental Impact Report
Waste Discharge Regulatory Program for
Irrigated Lands within the Central Valley Region

Ms. Megan Smith
ILRP Comments
630 K. Street, Suite 400
Sacramento, CA 95814

Dear Ms. Tencati:

The California Department of Transportation (Caltrans) appreciates the opportunity to review and comment on the above subject project. We have circulated a copy to our functional units for review and Caltrans has the following comments:

Environmental

- Caltrans has responsibility for the maintenance and operation of State and Interstate highways within California. Any proposals that would affect the State Highway System are of concern to the Department. Caltrans Stormwater and Hydraulics may have concerns about the effects of potential changes in regulation to irrigation runoff into State highway facilities. This proposal should be reviewed by Stormwater and Hydraulics. 120-1

The Environmental Maintenance Planning Services Branch (MPS) has reviewed the Draft PEIR to identify activities that may occur within Caltrans rights of way and require issuance of Encroachment Permits by Caltrans. Such activities would not be proposed at the program level. Activities undertaken by individuals or "water quality coalitions" to comply with waste discharge requirements or to qualify for waivers from CVRWQCB may require Encroachment Permits from Caltrans; those individuals or coalitions would be responsible for obtaining permits when those activities are proposed. 120-2

As defined in CEQA section 21069, Caltrans would act as a Responsible Agency for projects requiring an Encroachment Permit. An application for an Encroachment Permit must include appropriate environmental studies and a copy of the environmental document adopted by the Lead Agency. These documents should identify Caltrans as a Responsible Agency and should include an analysis of 120-3

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potential impacts to any cultural resources, biological resources, hazardous waste locations, and other resources within Caltrans right of way. Appropriate avoidance, minimization, and mitigation measures should be identified.

120-3 cont'd

Caltrans encourage contacting the Native American Heritage Commissions: 915 Capitol Mall, Room 364, Sacramento, CA, 95814, Telephone (916) 653-4082, Fax (916) 657-5390 for advice on consulting with Native Americans regarding any cultural concerns within the project area.

120-4

If you have any questions, please contact Janet P. Jaramillo at (209) 942-6022 (email: jjaramil@dot.ca.gov) or me at (209) 941-1921. We look forward to continuing to work with you in a cooperative manner.

Sincerely,

Janet P. Jaramillo

-for- TOM DUMAS, Chief
Office of Metropolitan Planning

c: Joshua Mann, Stanislaus County Planning & Community Development

3.1.3.1 Responses to Letter 120

120-1

The ILRP would have no effect on the California Department of Transportation (Caltrans) rights-of-way. Implementation of the proposed Long-term IRLP would improve water quality and would not result in adverse effects related to irrigation runoff that reaches Caltrans facilities.

120-2

This comment will be considered in development of the Long-term ILRP.

120-3

This comment will be considered in development of the Long-term ILRP.

120-4

This comment will be considered in development of the Long-term ILRP.