

# Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program

## Salt Control Program

### Proposed Modifications to the Basin Plans to Incorporate a Salt Control Program

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#### WATER QUALITY CONTROL PLAN FOR THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS

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#### CHAPTER IV - IMPLEMENTATION

- The following paragraphs are proposed for addition to the SRSJR Basin Plan's *Chapter IV. Implementation* within the proposed Salt and Nitrate Control Program at a location in the Chapter to be determined.

### Salt Control Program

The Program for Control and Permitting of Salinity Discharges in the Sacramento-San Joaquin River Basins and in the Tulare Lake Basin (Salinity Control Program) applies to all surface and ground waters. This Salinity Control Program will be implemented in conjunction with and not replace the requirements of the *Control Program for Salt and Boron Discharges into the Lower San Joaquin River (LSJR)* adopted by Central Valley Water Board Resolution R5-2017-0062,<sup>1</sup> requirements of the Bay-Delta Plan, or other plans or programs **or more conservative site specific salinity objectives** adopted by the Regional Water Board or State Water Board.

#### **Program Overview**

Based on the CV-SALTS SNMP and its supporting studies, salt concentrations in surface and ground waters generally continue to increase over time under existing water quality management programs and strategies to control salt. Given these findings, the SNMP identified the need for implementation of a salinity management strategy with the following goals:

- Control the rate of degradation through a “managed degradation” program;
- Implement salinity management activities to achieve long-term sustainability and prevent continued impacts to salt sensitive areas;
- Where reasonable, feasible and practicable, protect beneficial uses by maintaining water quality that meets applicable water quality objectives and pursuing long-term managed restoration; and
- Protect beneficial uses by applying appropriate antidegradation requirements for high quality water.

**The SNMP and supporting studies noted that in areas with significant salt concerns an evaluation of available options to manage salt locally shows that even with the use of existing management tools, the volume and mass of unmanaged salt is high.** Therefore, the need exists for local or sub-regional solutions as well as broad region-wide projects that will export salt out of the Central Valley. Additional studies are still needed to further define the range of solutions for surface and ground waters that may be deployed within

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<sup>1</sup> In the LSJR Basin, management activities are addressing salinity impact to surface water but are not sufficient to address the long-term accumulation in the basin as a whole.

## Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program

each Central Valley hydrologic region to prevent continued impacts to salt sensitive areas in the Central Valley Region.

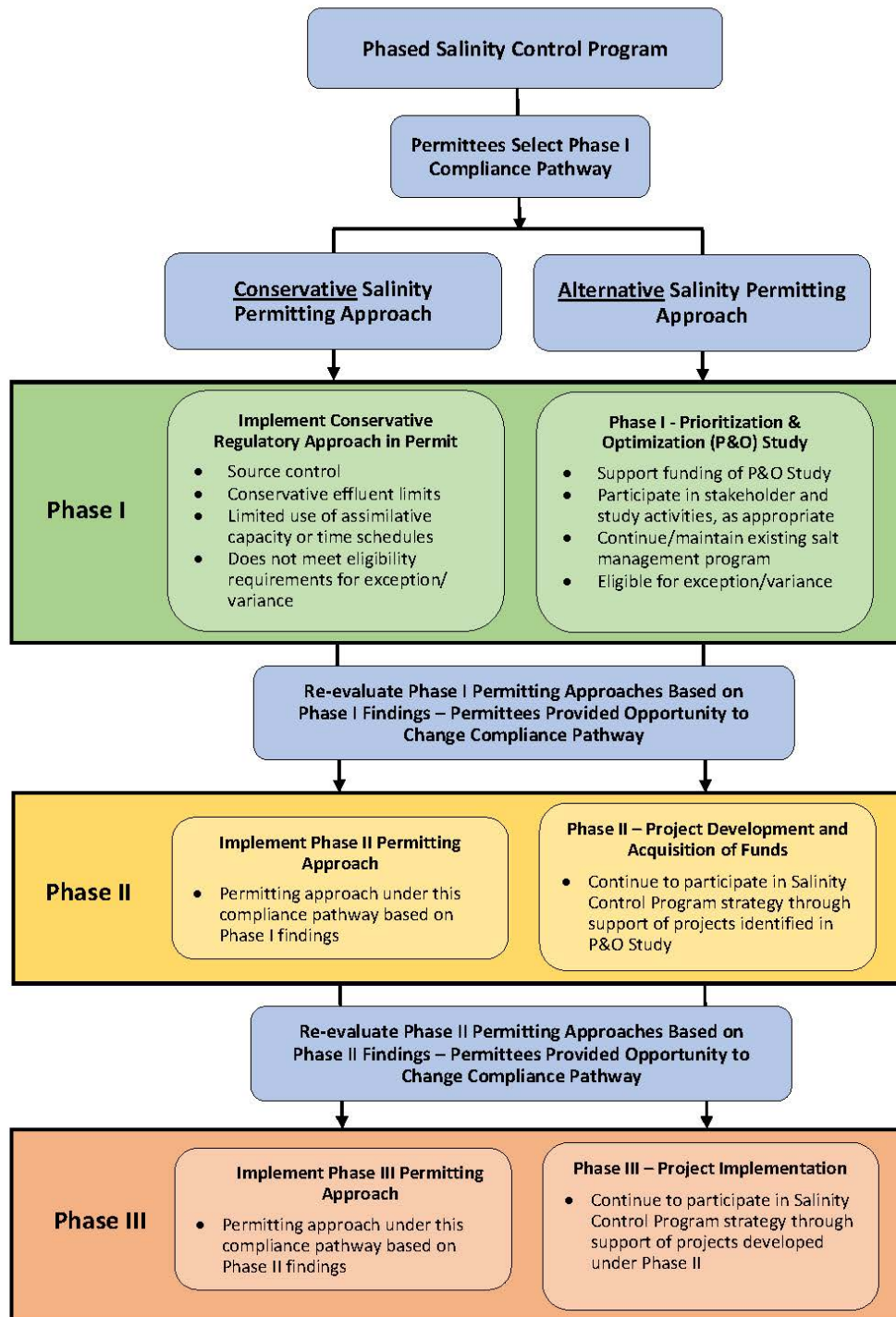
Given the need for these studies, the Regional Water Board will implement a phased Salinity Control Program consistent with the goals of the salinity management strategy. All permitted discharges shall comply with the provisions of this program. Two pathways to compliance are available during each phase:

1. **Conservative Salinity Permitting Approach**, utilizes the existing regulatory structure that under Phase I focuses on source control, use of conservative effluent limits and limited use of assimilative capacity and/or time schedule orders. Prior to initiation of Phases II and III of the Salinity Control Program, the Conservative Approach may be modified through a Basin Plan amendment based on findings from the previous phase.
2. **Alternative Salinity Permitting Approach**, is an alternative approach to compliance through implementation of specific requirements during one or more phases, rather than application of conservative effluent limits. Under Phase I of this alternative, permittees must support facilitation and completion of the Salinity Prioritization and Optimization Study. General requirements under each phase of the alternative approach are described below. Prior to initiation, these requirements may be adjusted under Phases II and III based on findings from the previous phase. **If the concentrations of constituents in a land-discharged waste are sufficiently high to prevent the waste from being classified as "inert waste" under 27 CCR, Section 20230, the discharge of such waste may not be permitted under the Alternative Salinity Permitting Approach.**

### **Phased Control Program**

The Salinity Control Program will be implemented in three phases with each of the three phases having a duration of ten to fifteen years (Figure 1). Some portions of a subsequent phase may occur or be initiated prior to the end of an existing phase. At the discretion of the Regional Water Board Executive Officer, the completion date for any phase may be modified or extended. The findings from each phase will inform the next phase, allowing for implementation of an adaptive management approach to salt management in the Central Valley Region.

**Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans  
to Incorporate a Salt and Nitrate Control Program**



**Figure 1. Salinity Control Program Pathways to Compliance**

## **Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program**

The phases of the Salinity Control Program are based on the activities occurring under the Alternative Salinity Permitting Approach, as follows:

Phase I – Prioritization and Optimization Study (P&O Study) - The P&O Study will facilitate the development of a long-term Salinity Control Program to achieve the goals of the salinity management strategy by coordinating and completing tasks and securing funding. The P&O Study will:

- Develop groundwater and surface water-related salinity data and information for sensitive and non-sensitive areas for hydrologic regions within the entire Central Valley Region, including guidelines to protect salt sensitive crops;
- Identify sources of salinity and actions that impact salinity in surface and ground waters;
- Evaluate impacts of state policies and programs;
- Identify and prioritize preferred physical projects for long-term salt management (e.g. regulated brine line(s), salt sinks, regional/subregional de-salters, recharge areas, deep well injection, etc.);
- Develop the conceptual design of preferred physical projects and assess the environmental permitting requirements and costs associated with each of these projects;
- Identify non-physical projects and plan for implementation; and
- Develop a governance structure and funding plan.

The P&O Study will inform Phases II and III of this Salinity Control Program. Based on the findings of the P&O Study, the Regional Water Board will consider modifications to the Basin Plan to facilitate implementation of Phases II or III.

Phase II – Project Development and Acquisition of Funds - Phase II of this Salinity Control Program will begin no later than at the end of Phase I, but some activities may be initiated during Phase I. Phase II includes the following key elements:

- Using available funding sources, complete the engineering design and environmental permitting of preferred physical projects identified in Phase I;
- Initiating or continuing implementation of preferred non-physical projects identified during Phase I and, if appropriate, identification of new preferred non-physical projects and the process or milestones for implementation; and
- Identifying and securing the funding to implement the preferred physical projects.

Phase III – Project Implementation - During Phase III, construction of preferred physical projects will be completed, unless already completed during Phase II. For large-scale capital projects, such as construction of a regulated brine line, construction may occur over multiple phases and additional time may be required to complete full build-out of the project.

### ***Salinity Control Program Implementation***

Permittees will be subject to Phase I of the Central Valley Salinity Control Program until **\*\*date\*\*** (ten years from the effective date of the Basin Plan Amendments). Phase I may be extended up to five years at the discretion of the Regional Water Board Executive Officer based on the need to develop Basin Plan

## Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program

Amendments to support implementation of Phase II, reduction in anticipated staff resources, or other factors. Table 1 depicts the key components of the two pathways to regulatory compliance under the Phase I Salinity Control Program. The Regional Water Board retains its discretion to adjust the established requirements on a case by case basis. However, because the Regional Water Board finds that implementation of the Salinity Control Program is best achieved through implementation of the Alternative Salinity Permitting Approach, application of such discretion will be limited under the Conservative Salinity Permitting Approach.

**Table 1. Comparison between the Conservative and Alternative Salinity Permitting Approaches during Phase I**

Conservative Salinity Permitting Approach	Alternative Salinity Permitting Approach
<p><u>All Discharges</u></p> <ul style="list-style-type: none"> <li>• Apply conservative assumptions for interpretation of the narrative objectives and application of numeric water quality objectives to protect AGR and MUN beneficial uses</li> <li>• Limited availability of a compliance or time schedule to meet a salinity-related effluent limit or waste discharge requirement</li> </ul> <p><u>Groundwater Discharge and Non-NPDES Discharge</u></p> <ul style="list-style-type: none"> <li>• Limited new or expanded allocation of assimilative capacity in groundwater</li> <li>• Receiving water compliance determined using shallow groundwater</li> <li>• Does not meet eligibility requirements for an exception</li> </ul> <p><u>NPDES Surface Water Discharge</u></p> <ul style="list-style-type: none"> <li>• A new or expanded allocation of assimilative capacity may be authorized only where a permittee can show that the impact of the discharge is temporary or <i>de minimus</i></li> <li>• Does not meet eligibility requirements for a variance</li> </ul>	<p><u>All Discharges</u></p> <ul style="list-style-type: none"> <li>• Participate in the Phase I Prioritization and Optimization Study throughout its duration</li> <li>• Continue implementing reasonable, feasible and practicable efforts to control salinity through <b>performance based triggers</b>, including:               <ul style="list-style-type: none"> <li>– Salinity management practices</li> <li>– Existing pollution prevention, watershed, and/or salt reduction plans</li> <li>– Monitoring</li> <li>– Maintenance of existing discharge concentration or loading levels of salinity</li> </ul> </li> </ul> <p><u>Groundwater and Non-NPDES Discharges</u></p> <ul style="list-style-type: none"> <li>• Deemed in compliance with salinity limits/eligible for a salinity exception</li> </ul> <p><u>NPDES Surface Water Discharges</u></p> <ul style="list-style-type: none"> <li>• Eligible for a salinity variance</li> </ul>

When Phase I of the Salinity Control Program is initiated, permittees will elect to be permitted either under the Conservative Salinity Permitting Approach or the Alternative Salinity Permitting Approach for the duration of Phase I. However, it is the intent of the Regional Water Board to encourage permitted surface water and groundwater dischargers to choose to participate in the Alternative Salinity Permitting Approach in order to address long-term management of salinity throughout the Central Valley.

During Phase I of the Salinity Control Program, a permittee may submit a written request to the Executive Officer of the Regional Water Board to change its selected compliance pathway. This request must include documentation regarding how the permittee will comply with the requirements applicable to the compliance pathway it is now requesting to be permitted **under and the basis for the change**. If the permittee requests to change from the Alternative to the Conservative Permitting Approach during Phase I,

## **Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program**

the permittee must have provided the minimum required financial support to the P&O Study at the time the request is made. The Executive Officer will consider granting the request

Upon completion of each phase and prior to the implementation of the next phase of the Salinity Control Program, the Regional Water Board will re-evaluate the existing permitting approaches. Following this re-evaluation, permittees will be provided the opportunity to change their compliance pathway selection at the beginning of Phases II and III.

### **Phase I Conservative Salinity Permitting Approach**

The Conservative Salinity Permitting Approach applies to all permitted dischargers, unless the permittee elects to participate in the Phase I Alternative Salinity Permitting Approach. Under the Conservative Salinity Permitting Approach, the Regional Water Board shall develop permit conditions based on the requirements established below.

#### *Groundwater and Non-NPDES Surface Water Discharges*

The Regional Water Board shall apply the following principles to permits being issued for authorizing discharges of salinity to groundwater, or for authorization of discharges of salinity to surface waters that are not subject to NPDES permits under the federal Clean Water Act.

1. *Interpreting Narrative and Numeric Water Quality Objectives* – When the Regional Water Board interprets or applies water quality objectives for the purpose of establishing waste discharge requirements or conditions in a conditional waiver for salt, the Regional Water Board shall use conservative assumptions. Where site-specific water quality objectives have been adopted in the Basin Plan for a waterbody, these objectives are not affected by the Salinity Control Program.
  - (a) AGR Beneficial Use Protection - The Regional Water Board shall apply a conservative, protective agricultural goal for electrical conductivity. The Regional Water Board intends to utilize a conservative goal of 700  $\mu\text{S}/\text{cm}$  electrical conductivity (EC) (as a monthly average) during Phase I of the Salinity Control Program. For discharges where a site-specific agricultural goal has been developed and/or previously applied to the discharge, the Regional Water Board shall continue to apply that value, as appropriate.
  - (b) MUN Beneficial Use – For protection of this beneficial use, the Regional Water Board shall apply water quality objectives in a manner consistent with the SMCLs and intends to use the recommended SMCL of 900  $\mu\text{S}/\text{cm}$  EC (as an annual average) as a conservative goal during Phase I of the Salinity Control Program.
2. *Setting Permit Provisions* — Establishment of permit provisions will consider the following:
  - (a) Surface Water — The discharge cannot cause or contribute to an exceedance of the salinity objective in the receiving water.
  - (b) Groundwater — The discharge cannot cause or contribute to an exceedance of a salinity objective **within the shallow groundwater**.
3. *Allocation of Assimilative Capacity* – The Regional Water Board will limit new or expanded allocations of assimilative capacity. If a permittee has previously received an allocation of assimilative capacity, and

## Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program

the allocation was granted with the support of an antidegradation study or analysis, then the Regional Water Board may consider continuing the previously approved assimilative capacity.

4. *Salinity Exception* - Permittees operating under the Phase I Conservative Salinity Permitting Approach do not meet eligibility requirements for a salinity exception.
5. *Issuance of Time Schedules* – The Regional Water Board will limit use of time schedules for achieving compliance with salinity limitations and will use its discretion to limit the time allowed in the event that a time schedule is deemed necessary under the particular circumstances associated with that discharge.

### NPDES Surface Water Discharges

The Regional Water Board shall apply the following principles to permits being issued for authorizing discharges of salinity to surface waters that are subject to NPDES permit provisions as required by the federal Clean Water Act.

1. *Interpreting Narrative and Numeric Water Quality Objective* - When the Regional Water Board interprets or applies water quality objectives for the purpose of conducting a reasonable potential analysis and establishing a permit effluent limit (if reasonable potential is found), the Regional Water Board shall select applicable salinity water quality objectives using conservative assumptions. Where site-specific water quality objectives have been adopted for a waterbody in the Basin Plan, these objectives are not affected by the Salinity Control Program.
  - (a) *AGR Beneficial Use Protection* - The Regional Water Board shall apply a conservative, protective agricultural goal for electrical conductivity. The Regional Water Board intends to utilize a conservative goal of 700  $\mu\text{S}/\text{cm}$  EC (as a monthly average) during Phase I of the Salinity Control Program. For discharges where a site-specific criterion has been developed and/or previously applied to the discharge, the Regional Water Board shall continue to apply that value, as appropriate.
  - (b) *MUN Beneficial Use* – For protection of this beneficial use, the Regional Water Board shall apply water quality objectives in a manner consistent with the SMCLs and intends to use the recommended SMCL of 900  $\mu\text{S}/\text{cm}$  EC (annual average) as a conservative goal during Phase I of the Salinity Control Program.
2. *Setting Permit Provisions*—Unless previously allocated assimilative capacity, permit provisions shall be established to ensure that the discharge cannot cause or contribute to an exceedance of the salinity objective in the receiving water.
3. *Allocation of Assimilative Capacity (i.e., mixing zone/dilution credit)* – The Regional Water Board will limit new or expanded allocation of assimilative capacity in surface water (i.e., mixing zone/dilution credit) and will consider whether a permittee can show that the impact of the discharge is temporary or *de minimus*, such that reduction of water quality will be spatially localized or temporally limited with respect to the waterbody. The Regional Water Board may consider maintaining any previously approved allocations of assimilative capacity, if there have been no material changes to the discharge.
4. *Salinity Variance* – Permittees operating under the Phase I Conservative Salinity Permitting Approach do not meet eligibility requirements for a salinity variance.

## Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program

5. *Compliance Schedule* – Where a reasonable potential finding has been made and the permittee is unable to comply with a water quality-based effluent limit, the Regional Water Board will use its discretion to limit the use of compliance schedules authorized by the State Water Board Compliance Schedule Policy for achieving compliance with salinity-based effluent limits, and will use its discretion to limit the time allowed in the event that a compliance schedule is deemed necessary under the particular circumstances associated with the discharge.

### **Phase I Alternative Salinity Permitting Approach**

Permittees may elect to be permitted for discharges of salinity by participating in the Phase I Alternative Salinity Permitting Approach. Permittees electing to participate in the Phase I Alternative Salinity Permitting Approach are given the opportunity to participate collectively in the P&O Study with other permittees, the Regional Water Board and other stakeholders, including those importing and benefitting from water supplies from the Central Valley, to work toward full implementation of the Salinity Control Program. Key milestones for the P&O Study are identified in **Table 2 and outlined in Figure 2.**

Where the P&O Study does not meet the milestones established in Table 2 or where the Regional Water Board finds reasonable progress is not being made towards achieving the milestones, the Regional Water Board will notify the permittees that selected the Alternative Salinity Permitting Approach of its findings through public notice that includes a required schedule for completion of the P&O Study milestones. **Failure to comply with the requirements in the notice will result in all permittees that elected to be permitted under the Phase I Alternative Salinity Permitting Approach to be subject to the requirements of the Conservative Salinity Permitting Approach.**

**\*\*\*HOW DO WE FIT IN THE CONDITIONAL PROHIBITION FOR PHASE I?\*\*\***



## Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program

**Table 2. Key Phase I Prioritization and Optimization Study Milestones**

Implementation Schedule	Milestone/ Deliverable	Minimum Requirements
6 months from Notice to Comply	Phase I Workplan	<p><i>Workplan to include:</i></p> <ul style="list-style-type: none"> <li>• Detailed P&amp;O Study task descriptions</li> <li>• Cost estimate for each task</li> <li>• Task completion schedule</li> <li>• Stakeholder participation elements</li> </ul>
Within 12 months from Notice to Comply	Phase I Funding & Governance Plan	<p><i>Complete Phase I implementation planning:</i></p> <ul style="list-style-type: none"> <li>• Establish the entity and procedures for governance of the P&amp;O Study</li> <li>• Secure sufficient funding to complete the P&amp;O Study</li> </ul>
Annually upon anniversary of Notice to Comply	Annual Progress Report	<p><i>Annual Report to summarize:</i></p> <ul style="list-style-type: none"> <li>• Progress on Workplan execution</li> <li>• Status of Phase I funding and expenditures</li> <li>• Stakeholder participation</li> </ul>
5 years from Notice to Comply	Interim Project Report	<p><i>By Central Valley Hydrologic Region, identify:</i></p> <ul style="list-style-type: none"> <li>• Recommended preferred physical projects with recommended next steps for development</li> <li>• Recommended non-physical projects and a schedule for implementation</li> </ul>
9 years from Notice to Comply	Long-term Governance Plan for Phases II and III	<p><i>Governance Plan that establishes:</i></p> <ul style="list-style-type: none"> <li>• Describes planned implementation approach for <b>Phases II &amp; III</b></li> <li>• Governance structure including: <ul style="list-style-type: none"> <li>– Stakeholder roles and responsibilities</li> <li>– Committees responsible for development of policies, technical documents, BMPs and funding</li> </ul> </li> </ul>
9 years from Notice to Comply	Long-term Funding Plan for Phases II and III	<p><i>Funding Plan that establishes:</i></p> <ul style="list-style-type: none"> <li>• Financial approach for long-term funding including sources and funding types (grants, bonds, loans, etc.)</li> <li>• Approach for the equitable management and funding of long-term, large-scale salinity management projects</li> </ul>
9 years from Notice to Comply	Basin Plan Amendment Recommendations	<p><i>As needed, recommended amendments to Basin Plans to:</i></p> <ul style="list-style-type: none"> <li>• Facilitate implementation of Phase II of the Salinity Control Program</li> <li>• As appropriate, modify the Conservative or Alternative Salinity Permitting Approaches;</li> </ul>
10 years from Notice to Comply	Final Project Report	<ul style="list-style-type: none"> <li>• <i>For preferred physical projects:</i> <ul style="list-style-type: none"> <li>– Conceptual designs</li> <li>– Assessment of environmental permitting requirements</li> </ul> </li> <li>• Status of implementation of non-physical projects per Interim Project Report with recommendations for modifications, as needed</li> </ul>

## Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program

The Regional Water Board shall develop salinity-related permit conditions based on the requirements established below. Permitted salinity discharges shall be implemented in a manner consistent with state and federal antidegradation policies (State Water Board Resolution No. 68-16 and 40 CFR §131.12), as applicable. **If the concentrations of constituents in a land-discharged waste are sufficiently high to prevent the waste from being classified as "inert waste" under 27 CCR, Section 20230, the discharge of such waste may not be permitted under the Alternative Salinity Permitting Approach.**

### *Groundwater and Non-NPDES Surface Water Discharges*

The Regional Water Board shall apply the following principles to permits being issued for authorizing discharges of salinity to groundwater, or for authorization of discharges of salinity to surface waters that are not subject to NPDES permits under the federal Clean Water Act.

1. *Participation in P&O Study* - Permittees electing the Alternative Salinity Permitting Approach shall be required to participate in efforts related to conducting the P&O Study including providing the minimum required level of financial support. The level of participation would vary based on salinity in the discharge, local conditions or other factors. The needed level of participation would be established by the lead entity (i.e., Central Valley Salinity Coalition [CVSC]) that is overseeing the P&O Study. The lead entity must confirm adequate participation by the permittee(s) until the P&O Study is completed; or, until such time that the Regional Water Board otherwise revises the applicable waste discharge requirements and/or conditional waiver. The timeframe for completion of the P&O Study is expected to be ten years from the effective date of this Salinity Control Program but may be extended by the Regional Water Board Executive Officer for a period of up to five years.
2. *Setting Permit Provisions* - Adequate participation in the P&O study, as confirmed by the lead entity overseeing the P&O Study, shall be found by the Regional Water Board to provide compliance with effluent limitations, receiving water limits, or other applicable provisions based on salinity.
3. *Implementation of Reasonable, Feasible, and Practicable Efforts to Control Salinity* - The Regional Water Board will require continued implementation of reasonable, feasible and practicable efforts to control levels of salinity in discharges. Such efforts may include, but are not limited to, implementation of management practices that are designed to reduce salinity in discharges; implementation of pollution prevention plans, watershed plans, and/or salt reduction plans that help to reduce salt loads in discharges to groundwater or surface water; and, monitoring for salinity in surface water or groundwater as part of existing local, watershed-based or regional monitoring programs, in coordination with monitoring under the SNMP.
4. *Maintain Current Discharge Concentrations for Salinity or Mass Loading Levels* - To the extent feasible, reasonable, and practicable (and while accounting for conservation, salinity levels in the water supply source, and some appropriate increment of growth), the Regional Water Board may use its discretion to adopt performance-based limits **or action levels** to the extent the Regional Water Board finds it appropriate and necessary for salinity for permittees electing the Alternative Salinity Permitting Approach.

## Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program

### *NPDES Surface Water Discharges*

The Regional Water Board shall apply the following principles to permits being issued for authorizing discharges of salinity to surface waters that are subject to NPDES permits under the federal Clean Water Act.

1. *Participation in P&O Study* - Permittees electing the Alternative Salinity Permitting Approach shall be required to participate in efforts related to conducting the P&O Study including providing the minimum required level of financial support. The level of participation would vary based on salinity in the discharge, local conditions or other factors. The needed level of participation would be established by the lead entity (i.e., CVSC) that is overseeing the P&O Study. The lead entity must confirm adequate participation by the permittee(s) until the P&O Study is completed; or, until such time that the Regional Water Board otherwise revises the applicable NPDES permit. The timeframe for completion of the P&O Study is expected to be ten years from the effective date of this Salinity Control Program but may be extended by the Regional Water Board Executive Officer for a period of up to five years.
2. *Requirements for Ensuring Reasonable Protection of Beneficial Uses* - Adequate participation in the P&O study as confirmed by the lead entity overseeing the P&O Study shall be found by the Regional Water Board to provide compliance with receiving water limits based on salinity. To the extent that the discharge in question is found to have reasonable potential for causing or contributing to a violation of an applicable salinity water quality objective pursuant to applicable federal regulations, the discharge is eligible for a salinity variance pursuant to the Salinity Variance Policy.
3. *Implementation of Reasonable, Feasible, and Practicable Efforts to Control Salinity* - The Regional Water Board will continue to require implementation of reasonable, feasible and practicable efforts to control levels of salinity in discharges. Such efforts may include, but are not limited to, implementation of management practices that are designed to reduce salinity in discharges; implementation of pollution prevention plans, watershed plans, and/or salt reduction plans that help to reduce salt loads in discharges to surface waters; and, continued monitoring for salinity in surface water as part of existing local, watershed-based or regional monitoring programs, in coordination with monitoring under the SNMP.
4. *Maintain Current Discharge Concentrations for Salinity or Mass Loading Levels* - To the extent feasible, reasonable, and practicable (and while accounting for conservation, salinity levels in the water supply source, and some appropriate increment of growth), the Regional Water Board may use its discretion to adopt performance-based limits to the extent the Regional Water Board finds it appropriate and necessary for salinity for permittees electing the Alternative Salinity Permitting Approach.

### **Permitted Discharge to a Water Body Subject to De-designation of a Beneficial Use**

The P&O Study will establish a program for the long-term management of salts in the Central Valley, including identifying locations that may serve as salt sinks. For example, a groundwater basin that has had one or more beneficial uses de-designated due to salinity may be a considered a potential location for establishment of a salt management area. Accordingly, under the Phase I Salinity Control Program:

- Permittee(s) that selects either the Conservative or Alternative Permitting Approach and then requests the de-designation of one or more beneficial uses from a surface water body or all or part of a groundwater basin based on salinity shall participate in the P&O Study even after the beneficial use de-

## **Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program**

designation is approved by providing the minimum level of required financial support throughout the Phase I program.

- Permittee(s) that discharges to a surface water body or a groundwater basin where one or more beneficial uses were de-designated due to salinity prior to the beginning of Phase I of the Salinity Control Program shall participate in the P&O Study by providing the minimum level of required financial support.

### **Process to Initiate Phase I of the Salinity Control Program**

This section establishes the process and schedule to initiate Phase I of the Salinity Control Program and select a pathway of compliance during Phase I. For permittees that select the Alternative Salinity Permitting Approach, nothing here prevents, or should be interpreted to prevent, permittees from implementing elements of the Phase I P&O Study prior to receiving a Notice to Comply.

All permitted dischargers are subject to the Conditional Prohibition of Salinity Discharges (Section ##) upon receipt of a Notice to Comply.

#### *Existing Discharges*

The Regional Water Board shall issue a Notice to Comply with the Salinity Control Program to existing permittees in the Central Valley Region within one year of the effective date of the Basin Plan Amendments. Within six months after receiving the Notice to Comply, existing permittees shall notify the Regional Water Board of its decision of whether to be permitted under the Conservative Salinity Permitting Approach or the Alternative Salinity Permitting Approach. Based on the selection of the permitting approach, the permittee shall comply with the following requirements:

- *Conservative Salinity Permitting Approach* – A permittee that selects this approach must submit an assessment of how the discharge will comply with the conservative requirements set forth in the Conservative Salinity Permitting Approach. The permittee shall submit this assessment to the Regional Water Board with the notification to the Regional Water Board of its permit compliance pathway decision. If the Regional Water Board does not concur with the findings of the assessment, the Regional Water Board will request a Report of Waste Discharge with a deadline for submittal.
- *Alternative Salinity Permitting Approach* – A permittee that selects this approach shall participate in the Phase I P&O Study by providing the minimum required level of financial or in-kind support throughout Phase I as determined by the lead entity overseeing the P&O Study. The permittee shall provide documentation of the required support with the notification to the Regional Water Board of its permitting decision. If the permittee has an approved salinity-related Time Schedule Order or Compliance Schedule that expires prior to the completion of the Phase I P&O Study, the Regional Water Board, at its discretion, may extend the Time Schedule Order or Compliance Schedule, as appropriate.

#### *New or Substantively Modified Discharges*

A new permittee, or existing permittee seeking a permit modification due to a substantial and/or material change to a facility, shall indicate how the permittee intends to comply with the Salinity Control Program at the time of application and provide the required information to support the decision, as described above.

#### *Failure to Comply*

## **Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program**

Any permittee that does not submit a response to the Notice to Comply within the required six-month period may be subject to enforcement action. Permittees subject to enforcement for failure to respond to the Notice to Comply may still select the Alternative Salinity Permitting Approach, but may be subject to additional fees or penalties in addition to providing the minimum required level of financial support.

A permittee that elects to participate in the Alternative Salinity Permitting Approach must continue to provide the minimum required level of financial or in-kind support to the P&O Study throughout the duration of Phase I of the Salinity Control Program. Where a permittee fails to comply with this requirement, the Regional Water Board may require the permittee to comply with the requirements of the Conservative Salinity Permitting Approach after giving appropriate notice.

### **Salinity Control Program - Phase I to Phase II Re-Evaluation**

Upon completion of Phase I and prior to initiation of Phase II of the Salinity Control Program, the Regional Water Board will use the findings of the P&O Study, results from surveillance and monitoring programs, considerations **for use of other permitting options or approaches**, and progress made towards meeting the overarching goals of the Salinity Control Program to re-evaluate the Conservative and Alternative Salinity Permitting Approaches applicable under Phase I of the Salinity Control Program. Based on the findings of this re-evaluation, the Regional Water Board may modify the Phase I permitting requirements to establish Conservative and Alternative Salinity Permitting Approaches applicable to Phase II. Where modification to the Phase I permitting approaches requires a Basin Plan amendment, this amendment will be completed prior to the initiation of Phase II of the Salinity Control Program.

Prior to the initiation of Phase II of the Salinity Control Program, the Regional Water Board will notify all existing permittees in the Central Valley Region of the salinity-related permitting approaches applicable to Phase II. This notification will occur regardless of whether any changes were made to the Phase I permitting approaches. The purpose of the notification is to provide the opportunity for permittees to change the compliance pathway selected for Phase I. A permittee that elects to change its compliance pathway shall submit the following **within 180 days** of the Regional Water Board notification:

- A permittee that elects to change from the Alternative to the Conservative Salinity Permitting Approach shall submit an assessment of how its discharge will comply with the requirements of the Conservative Salinity Permitting Approach applicable at the beginning of Phase II of the Salinity Control Program. If the Regional Water Board does not concur with the findings of the assessment, the Regional Water Board will request a Report of Waste Discharge with a deadline for submittal.
- A permittee that elects to change from the Conservative to the Alternative Salinity Permitting Approach shall comply with the requirements of the Alternative Salinity Permitting Approach applicable at the beginning of Phase II of the Salinity Control Program and provide documentation to the Regional Water Board that it is providing the minimum required Phase II level of financial or in-kind support.

Permittees that elect to continue with the same compliance pathway in Phase II as was selected for Phase I shall notify the Regional Water Board by letter of its decision within 180 days of the Regional Water Board notification. This letter shall include the following, as appropriate:

- If the Regional Water Board revised the Conservative Salinity Permitting Approach requirements for Phase II, a permittee that elects to continue under this compliance pathway under Phase II shall submit

## **Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program**

an assessment of how its discharge will comply with the revised Conservative Salinity Permitting Approach requirements. If the Regional Water Board does not concur with the findings of the assessment, the Regional Water Board will request a Report of Waste Discharge with a deadline for submittal.

- A permittee that elects to continue to be permitted under the Alternative Salinity Permitting Approach under Phase II shall demonstrate that it has provided the minimum required Phase II level of financial or in-kind support.

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## Draft Proposed Modifications to the Sacramento-San Joaquin Rivers and Tulare Lake Basin Plans to Incorporate a Salt and Nitrate Control Program

Figure 2. General Outline of Key Elements to be Included in Phase I P&O Study

Category	Year of Implementation									
	1	2	3	4	5	6	7	8	9	10
Stakeholder Coordination	Stakeholder Coordination Meetings (as needed frequency)									
	SGMA GSA Coordination Meetings (as needed frequency)									
Strategic Planning	Regulatory and Policy Evaluations								Phase II Planning, including Basin Plan amendment recommendations	
Governance	Governance Plan – Formation and Structure					Implementation and Refinement of Governance Plan				
Funding	Funding Plan and Financing Strategy					Implementation/Refinement of the Funding Plan and Financing Strategy				
Prioritization & Salinity Management Analyses	Prioritization/Salt Management Analyses to Support Identification of Salt Management Projects				Interim Report					
Conceptual Design of Salt Management Project						Concept Design for Subregional Salt Management Projects and Regional CVBL Project in Final Report				
Special Studies				Groundwater Quality Trace Constituent Study						
			Emerging Tech Update No. 1			Emerging Tech Update No. 2			Emerging Tech Update No. 3	
						Recycled Water Imports Study				
								Stormwater Recharge Master Plan Study		