

Summary of CVSC Member Comments on the Basin Plan Draft Language and Staff Report

These comments were received, and I have attempted to sort them for Discussion at the April 13, 2018 CV-SALTS Executive Committee Meeting or as informal issues mentioned to Regional Board Staff.

After the Discussion Friday, CVSC should meet to decide of any need to go forward as formal comments to the Regional Board for the Record.

Potential Items for Friday

1. In-Kind credit for P&O study in basin plan language Lysa's comment 1.
2. Conditional Prohibition issues Lysa's comment 2.
3. Direction to Other Agencies, other responsible parties Lysa and Debbie comments
4. Issues with Definitions various comments
5. MUN Supply Title 22 citation add short term 1500 Debbie's comment 4
6. Variances and exceptions Debbie's comment 5
7. Fixed Dissolved Solids and Nitrate + Nitrite Debbie's comment 6
8. Nitrate – language on ACPs “except in limited and unique circumstances Debbie's comment 10
9. SAMP – data from management zones noted elsewhere in SAMP Debbie's comment 11
10. Does improving water quality include user protection - Debbie's comment 15
11. Discussion of SAMP language see comment by Vicky
12. SMCL implementation (if materials are ready) Debbie's comment 1.
13. P&O Costs and Fee Setting, if needed.

Comments and Initial Disposition

-----Original Message-----

From: Voight, Lysa <voightl@sacsewer.com>

Sent: Tuesday, April 10, 2018 3:47 PM

To: Tess Dunham <tdunham@somachlaw.com>; dcozad@cvsalinity.org;

Jeanne.Chilcott@waterboards.ca.gov

Subject: Comments for CV SALTS Documents

Please see below my major issues related to the Executive Summary, draft staff report and basin plan amendment text. Because these items are being discussed in workgroups, in the policy meetings, and within the coalition, I'm not providing strikethrough/markups. Let me know if you have any questions. I don't think any of these issues are new:

1. In-kind services aren't mentioned consistently in the Draft Staff Report or basin plan language as a means to contribute to studies. We discussed before that these in-kind services would be similar to the actual nature of the P&O study such as new data collection, monitoring, and modeling. Minimum funding is mentioned, yet another section states: "Participation in the Phase I P&O Study may be done by providing financial, technical and policy support to the P&O Study." Make sure text is consistent/not contradictory.

YOU ARE CORRECT; WE ADDRESSED THIS IN THE JANUARY MEETING. WE ASKED THAT THE COALITION BE ALLOWED TO DETERMINE WHERE "IN-KIND" SERVICES WOULD BE ALLOWED IN THE P&O STUDY ETC. THIS IS PRIMARILY BECAUSE MY EXPERIENCE IS THAT FOLKS PROVIDE LOTS OF REPORTS AND WORK WHICH MUST BE EVALUATED TO DETERMINE IF IT IS OF VALUE AND REQUIRING IT TO BE TAKEN EQUIVALENT TO PAYMENT WILL BE BURDENSOME AND LEAD TO ISSUES. WHERE THE COALITION ASKS FOR IN-KIND WORK, OR IT IS OFFERED AND CAN BE VALUED I KNOW EVERYONE WANTS TO USE IT. WITHOUT STATING IT, "IN-KIND" CAN BE ACCEPTED BUT DOES NOT HAVE TO BE ACCEPTED. THE COMMENTS WE SUBMITTED INDICATE THIS AND RECOMMEND IT IS THE SAME IN ALL AREAS OF THE PLAN. **IT IS LIKELY THAT THE REGIONAL BOARD, OF ITS OWN ACCORD WILL BE SURE THERE IS CONSISTENCY IN THIS AREA BASED ON DISCUSSION THIS WEEK.**

2. I'm confused about the Conditional Prohibition discussed on page 14. Is this new? It isn't clear why Irrigated Lands program is excluded.

MAYBE IT IS TOO HIGHLY SUMMARIZED IN THE EXECUTIVE SUMMARY. THE ILRP PERMITS ARE BEING REVISED AS REQUIRED BY STATE BOARD ACTION SO THEY WILL JUST INCORPORATE THE SAME REQUIREMENTS INTO THEIR ORDER. THIS KEEPS AN UNINTENDED SOUNDBITE "PROHIBITING AGRICULTURE" FROM CREEPING IN. **JEANNE COULD TALK ABOUT THIS MORE IN THE FRIDAY MEETING IF NEEDED. PROVIDED THAT DISCUSSIONS THIS WEEK TAKE CARE OF THIS FOR YOU WE WILL NOT CARRY THIS AS A COMMENT.**

3. Wherever the staff report, basin plan language, or policies state that dischargers or permittees or coalition members will fund components of CV SALTS future activities (P&O Study, Nitrate management, providing drinking water, SAMP, physical and non-physical projects, etc, modify the language to add "...and other responsible parties identified that contribute to salt and nitrate loading" or something equivalent. Thank you for adding a good discussion of other stakeholders in the Executive Summary page 26.

WE WILL CARY THIS AS A COMMENT AND REFERENCE THE IMPLEMENTATION SECTION RELATED TO REQUESTS OF OTHER AGENCIES.

4. The costs for the P&O Study, SAMP, SNMP, etc should be updated. Cost proportions shouldn't be fixed or set until there is agreement in the groups.

THE P&O STUDY SCOPING (FUNDED BY THE STATE BOARD GRANT) WILL BE THE NEXT OPPORTUNITY TO REVIEW POTENTIAL FUTURE COSTS FOR THE P&O STUDY. THE EXISTING COSTS ARE BASED ON THE SCOPE IN THE SSALTS STUDY, AND NO NEW STUDY HAS BEEN DONE. COSTS COULD INCREASE BASED ON THE SCOPE THAT THE GROUP DETERMINES. THE SAMP COSTS ARE BASED ON THE SAMP REPORT WHICH WAS MODIFIED IN THE BASIN PLAN DEVELOPMENT, BUT NO NEW SCOPE IS FINAL FOR IMPLEMENTATION. A SMALL GROUP OF INDUSTRY MEMBERS IS WORKING IN CVSC TO IDENTIFY AN APPROACH THAT WOULD SUPPORT AND PROPORTION THESE COSTS SEPARATELY. THE BASIN PLAN DOES NOT SET THE PROPORTION OR COST. **I WILL TAKE THIS AS A COMMENT TO THE CVSC FEE GROUP.**

5. The RWB should be allowed to re-evaluate the program costs and apportionment for the program(s) components based on findings from the studies, for newly identified responsible parties, reduction or increases in loading from permittees, or other appropriate factors.

I THINK THIS FLEXIBILITY IS WITHIN THE DISCRETION OF THE EXECUTIVE OFFICER BUT CERTAINLY YOU ARE CORRECT CVSC OR WHOEVER PERFORMS THE P&O AND SAMP SHOULD BE ABLE TO JUSTIFY AND ADJUST THE FEES I AM NOT SURE WE NEED A CHANGE TO THE STAFF REPORT FOR IT. **WE CAN TALK MORE ABOUT THIS AS NEEDED I DO NOT THINK THIS IS CARRIED FORWARD AS A WRITTEN COMMENT TO THE BOARD.**

From: Debbie Webster <edofficer@cvcwa.org>

Sent: Tuesday, April 10, 2018 1:50 PM

To: dcozad@cvsalinity.org

Subject: Identification of Issues for CV-SALTS Staff Report/BPA

Hi Daniel, we were able to discuss some of the report which lead to some of these items, but are still working our way through it for now. Here are some areas we identified:

1. Implementing SMCLs – as written, the process is limited to metals, color and turbidity and use of filters as a translator for metals from a total to a dissolved fraction. We are working on some minor edits and source v. finished water for SW drinking water treatment plants to compare with other SMCLs or possibly other constituents as disinfection, and other treatment aspects can play a part. We hope to have the materials by Friday. **I AGREE IF YOU HAVE MATERIALS THIS SHOULD BE DISCUSSED ON FRIDAY.**
2. Conditional Prohibition – we are considering suggesting some language that makes it clear about what happens with permit conditions as we move forward. **THIS SHOULD BE DISCUSSED ON FRIDAY**
3. Phase 1 P&O to Phase 2 process
 - a. We are going to recommend that the Basin Plan note that the RWB will not only “take” what is learned by the P&O study, but that they include language in the Basin Plan that this would be done through a collaborative effort (i.e. a CV-SALTS 2).
 - b. Wordsmith the language so that the current Phase 1 numeric values are not the default consideration and that more might be considered. FROM PAST DISCUSSION, I THINK CLARIFICATION CAN BE MADE; **THIS LIKELY DOES NOT NEED CONVERSATION WITH THE GROUP BUT AN INFORMAL COMMENT.**
4. On ES-11, recommend the following change: For MUN supply, TDS concentrations at or below 500 mg/L are recommended with an upper range of 1,000 mg/L and a short term range of 1500 mg/L to protect human welfare and provide for consumer acceptance (Title 22 of the California Code of Regulations). **THIS MAY NEED DISCUSSION ON FRIDAY, WHILE A FACTUAL STATEMENT THERE MAY BE OTHER IMPLICATIONS AND MAY BE BETTER COVERED IN DROUGHT AND CONSERVATION POLICY.**
5. Variances/excpetions:
 - a. In the variance section (see pg 23 for example or page 99) remove the and when it is not reasonable or feasible to prohibit the discharge language
 - b. Acknowledge that variances are also the appropriate tool when changing a water quality standard. **THIS SHOULD LIKELY BE DISCUSSED ON FRIDAY**

6. We agreed to add Fixed Dissolved Solids and Nitrate + Nitrite or other form as a way to express salinity and nitrate, but did not see those changes. Why? **THIS SHOULD BE DISCUSSED ON FRIDAY**
7. Pg. 34, make sure it is clear that the EO can extend interim milestones as well as the final compliance dates. **THIS LIKELY DOES NOT NEED CONVERSATION WITH THE GROUP BUT AN INFORMAL COMMENT**
8. For the NPDES permitting for the P&O portion, we have some questions and may be suggesting clarifications, especially for a particular class of POTWs. **THIS SHOULD BE DISCUSSED WHEN YOU HAVE CHANGES TOGETHER IF NOT BY FRIDAY.**
9. P&O – no mention is made of in-kind service. Needs to be added **WE HAVE HAD A LONGER DISCUSSION ON THIS ISSUE AND CAN ADDRESS IT FRIDAY IF YOU WISH. MY ADVICE IS THAT YOU DO NOT WANT TO GUARANTEE THAT IN-KIND CONTRIBUTIONS ARE ALLOWED, THEY CAN BE CREDITED IF APPROPRIATE AND VALUABLE. I HAVE BEEN INVOLVED IN SEVERAL PROGRAMS WHERE AN AGENCY'S "IN-KIND" PARTICIPATION WAS TO SEND ALL ITS REPORTS AND MONITORING DATA OR ATTEND A FEW MEETINGS AND CLAIM THEY HAVE PROVIDED IN-KIND SUPPORT. I BELIEVE FOR THE P&O THE CVSC OR LEAD CAN CREDIT IN-KIND AS APPROPRIATE WITHOUT IT IN THE LANGUAGE IF IT MUST BE THERE I RECOMMEND CLARIFYING IT AS REQUESTED AND APPROVED. IT IS VERY HARD TO VALUE PRIOR WORK FOR IN-KIND VALUE.**
10. Nitrate – include the language on ACPs “except in limited and unique circumstances” as agreed. **THIS SHOULD BE DISCUSSED ON FRIDAY TO ASSURE CONSENSUS AND UNDERSTANDING**
11. SAMP – data from management zones – not mentioned here but elsewhere, should it be? **THIS SHOULD BE DISCUSSED ON FRIDAY, I AM NOT SURE, BUT GOOD QUESTION**
12. Other Agency recommendations:
 - a. Fails to recognize the addition of salts or the removal of assimilative capacity in there
 - b. Does not talk to the agencies with jurisdiction over septic's and private wells. **THIS SHOULD BE DISCUSSED ON FRIDAY**
13. Definitions, although some changes were made, it wasn't with what I think we consistently agreed to. **SPECIFICS SHOULD BE DISCUSSED ON FRIDAY**
14. Do 1 and 2d on page 102 contradict?
15. There are several areas where use of a tool (such as offsets) is predicated on improving water quality. Should improving user protection also be included as an option? **THIS SHOULD BE DISCUSSED ON FRIDAY**
16. Footnote 28 needs fixing **ADDRESS AS INFORMAL COMMENT**
17. Offsets note 3 – change pollutant to constituent or class of constituents. **ADDRESS AS INFORMAL COMMENT**

From: Vicki Kretsinger <vkretsinger@lsce.com>

Date: 04/08/2018 13:38 (GMT-08:00)

To: 'David Cory' <farmeratlaw@comcast.net>, Nicole Bell <nbell@krwca.org>

Cc: Nick Watterson <nwatterson@lsce.com>

Subject: Problematic Language in the RB BPA Staff Report re the SAMP

Hi Dave and Nicole:

I was looking at the Regional Board Staff Report for SAMP-related info with the anticipation that there would be very little (i.e., simplified and flexible as discussed during the Executive Committee meeting

just a month or two ago). However, I came across many pages in the Draft Staff Report for the BPA, including the highlighted language below. The text below is exactly what we provided very lengthy comments and criticisms about previously and what should not be in the SNMP or BPA or the Draft Staff Report as anything other than an example and certainly not as guidelines or a template or the SAMP algorithm. The language below may only be in the Draft Staff Report and not in the BPA, but goodness knows how RB staff may refer to this later for more information on how to evaluate other programs like the CVGMC.

It may be that RB staff had many authors helping out with this document and this contribution came from an uninformed staff person drawing upon the original SAMP document. However, it is strongly recommended that a small part of the text get reframed as has been discussed by the Executive Committee and the rest of the text largely eliminated from the Draft Staff Report.

DISCUSS IF NEEDED ON FRIDAY

Thanks,

Vicki

Within two years of the effective date of the Salinity and Nitrate Control Program, the entity leading the effort will submit to the Regional Water Board for approval, a Work Plan and Quality Assurance Project Plan that is compliant with all requirements set forth in this section. Work under the plan will be initiated within 30 days of Regional Water Board approval. Permittees that discharge salt or nitrate in the Central Valley Region shall participate in the preparation of the Program Assessment Report by contributing funding for the preparation of the report and ensuring required information is available to the lead entity. Permittees that discharge salt or nitrate must either gather needed information required by the Work Plan for their area of contribution and provide the information to the lead entity in a format acceptable to the lead entity or permittees must demonstrate their support for the lead entity to gather needed information by submitting documentation of such support from the lead entity. The requirements for participation shall be established by the lead entity and will consider factors such as participation in other existing groundwater quality monitoring programs that will contribute data to the Salt and Nitrate Monitoring Program, resources required to develop and implement the Monitoring Program, including preparation of the Periodic Assessment Reports, and other

factors.

It is anticipated that the groundwater portion of the monitoring program will build off of the most recent version of the CV-SALTS database (Luhdorff & Scalmanini and Larry Walker Associates, 2014) and that the design will build off of the template provided as part of the SAMP (CDM Smith, 2016c) which includes guidelines for defining a monitoring network; appropriate power analyses for determining a sample size; grid cell size selection; and algorithm for monitoring well density.

Based on the SAMP algorithm, two monitoring well networks were established – one for the shallow zone and one for the deep zone. Of the 8,712 wells in the CV-SALTS database for the deep zone, 2,315 were selected by the SAMP algorithm, or approximately 27 percent of the available wells.

Likewise, for the shallow zone, 1,461 of 7,285 wells (20 percent) were selected by the SAMP algorithm. This translates to a well density of about one SAMP well per 9.7 square miles in the deep zone and one well per 15 square miles for the shallow zone. These initial networks should serve as the basis for future adjustments