
Central Valley Regional Water Quality Control Board

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Dear Clean Water Action, Community Water Center, and Leadership Counsel for Justice and Accountability:

The Central Valley Water Board appreciates the time and thought that you have put into commenting on the Early Action Plan (EAP) developed pursuant to the State Water Board Grant (Resolution 2017-0061). With your close connection to the communities and individuals that have the most critical drinking water problems, the Board and the Management Zones sincerely appreciate your help in designing implementation plans that will effectively meet these communities' needs. Using what we believe are some of the most salient excerpts from your comments as a starting point, we provide additional input regarding the Board's expectations.

First, though, the Board wants to note that we will comment to the CV-SALTS Executive Committee that it would be incredibly useful for stakeholders and the public if the EAP included a 1 to 2-page Executive Summary. Although many of us here at the Board are well aware of the policy directives that shape the development of the EAP, the plan should also be accessible to the communities and individuals that will need to engage with the management zone to have their drinking water needs met. Taking the time to write a layperson-friendly Executive Summary would greatly help in those efforts.

Coordination

"[T]hroughout the process to develop MZIPS and EAPs, management zones should coordinate with State Water Board staff working to implement the Safe and Affordable Drinking Water Fund program to ensure coordinated, and not duplicative, activities are occurring"

The Central Valley Water Board wholeheartedly agrees, and engagement efforts are already underway. As you well know, the State Water Board's Safe and Affordable Drinking Water Program came into existence after the Basin Plan Amendments were approved. That's the only reason why coordination with this program was not made an explicit requirement in the Basin Plan. Cooperation and coordination are especially important because the Board is acutely aware that state funds alone will not be enough to address drinking water needs in the Central Valley.

Community Outreach

"[T]he EAP includes no information on how to actually engage communities during the development process. This is a glaring omission and must be fixed by providing a clear proposal for engagement with communities during the EAP process, as the absence of a community engagement proposal as part of EAP development implies that this stage is not a priority."

"The template states that the management zone 'should at a minimum target' nitrate impacted areas identified through modeling. (EAP, 31). However, there is no 'minimum' requirement in identifying potentially impacted residents in the BPA."

"We do acknowledge, and appreciate, the template document also discusses conducting a management zone-wide mailing campaign which will not only target a specific area. But this does not address a significant gap, that there needs to be a plan for reaching tenants, especially where the property relies upon PO Boxes."

"The identified community meetings must be held early and often. The language within this section furthers the, perhaps unintentional, inference that true community outreach will not begin until after EAP submission."

The Board's Basin Plan specifies that an EAP must include, "[a] process for ... coordinating with affected communities, domestic well users and their representatives ...". Furthermore, the Management Zone Implementation Plan must "[d]ocument collaboration with the community and/or users benefitting from any proposed short/long-term activities to provide safe drinking water." When the Central Valley Water Board adopted the CV-SALTS Amendments, the Board understood that one of the most challenging aspects of the program would be coordination with communities whose wells are impacted by nitrates. Although permittees have a great deal of familiarity with technical permit requirements, public outreach and engagement is generally not within their area of expertise.

Nonetheless, effective community outreach is essential to the success of the Nitrate Control Program. It is the Board's expectation that this engagement will begin promptly; by the time the Management Zone Implementation Plan is submitted, the dischargers and/or their representatives should have already been engaging in significant and meaningful conversations with impacted well users. If regulatory uncertainty is an

impediment to early engagement, the Board can review and conditionally approve preliminary community engagement proposals to ensure prompt implementation.

Manner of Providing Replacement Water

“PAWFs should not be put forward as a management zone’s primary strategy or means for providing temporary safe water to impacted communities.”

“Bottled water and POU should not be considered “alternative” sources of water, but instead must be elevated to the primary source of drinking water for impacted communities.”

One of the critical measures of an EAP’s success will be the degree to which it produces solutions tailored to the needs of impacted communities and individuals. However, no “interim” drinking water solution will be perfect; 100% acceptance is a near impossibility, even when extensive community input has been solicited and considered. Ultimately, if community engagement efforts indicate general acceptance of the proposed method(s) of providing replacement drinking water, the Board will consider a project successful, with the understanding that the EAPs are only intended to provide a bridge to more permanent solutions. Feedback from initial engagement efforts have indicated that for some communities, drinking water kiosks may be preferred to exclusive door-to-door bottled water service or point-of-use systems, but other communities may voice different preferences. In developing Early Action Plans, dischargers should be aware that the preferences of the communities they interact with may be quite different based on their individual needs.

Timelines

“[W]e question the management zones interpretation of ‘EAP effective date’ and the corresponding unreasonably long timeline towards providing safe drinking [water]”

“[W]e are looking at a timeline that sets drinking water solutions being offered around 10 months post- EAP submission. One way to fast track the process would be to require EAPs to identify locations and to at least be in the process of obtaining the necessary permits and finalizing contracts by the time of EAP submission.

The intent of the EAPs is to deploy replacement water as quickly as possible in the communities that desperately need it. The Board will be scrutinizing the efforts of the Management Zones to ensure that they meet this goal when the Board evaluates the sufficiency of the EAPs. As mentioned above, in cases where there are readily available options to accelerate deployment of replacement drinking water and where these solutions enjoy community support, the Board can grant early conditional approvals in order to provide the regulatory certainty to groups of dischargers eager to begin providing replacement water.

Miscellaneous Concerns

“[I]t was assumed that any domestic wells within the boundaries of a PWS would not be used for drinking and were removed from this estimation of the number of potentially impacted domestic wells.”

In recent conversations, the authors of the Pilot EAP Proposals have relayed to the Board that they now understand that this assumption was in error and will be corrected in future plans.

“Notice letters must clearly inform the recipient that only nitrates were tested for but that other contaminants may be found in their water, so the household is recommended to test their well for other drinking water contaminants.”

The Board has confronted this issue in other programs, such as the ILRP and in the Cleanup/UST Programs. When the Board or a discharger is testing for only one contaminant or a limited suite of contaminants, the testing limitations must be effectively communicated to well users. Testing done under the Nitrate Control Program is no different – when only nitrates are tested, it should be made clear that other contaminants could still be present at unsafe levels.

“[W]e strongly recommend that management zones contract with a technical assistance provider to provide proper installation and maintenance of POU devices”

In the Board’s view, the dependable maintenance of POUs is just as challenging, if not more so, than the expense associated with installing the devices themselves. The Board would expect any Management Zone that will rely on the deployment of POUs to ensure the effectiveness of the POUs by contracting with entities that have experience in the maintenance of such systems.

“[W]e ask whether if this data will be publicly accessible through reporting to the Regional Water Board or other means.”

The trajectory of the Central Valley Water Board’s data programs is no different than the trajectory of data programs throughout the state – and there is a clear trend to more open, accessible and meaningful data. This includes replacement drinking water data submitted to the Board under the CV-SALTS program. As to the frequency with which this data will be collected and reported, the Board’s expectation that this will vary based on the particular circumstances of individual management zones.

Sincerely,



Patrick Pulupa, Executive Officer

cc: Anne Walters, CV-SALTS Program Manager, Central Valley Water Board
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Encl: EAP Pilot Project Comments