

**RESOLUTION OF
CENTRAL VALLEY SALINITY COALITION INC.**

Resolution 1004
Approved April 25, 2019

In accordance with Article III, Section 1 (a) of the Corporate Bylaws approved by the Membership on the 16th Day of May 2013, the Directors of the Central Valley Salinity Coalition Inc. (CVSC) hereby set policy for the collection of the minimum level of financial support required to be paid for participation in the Prioritization and Optimization (P&O) Study to comply with the requirements of the Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS), Sacramento River and San Joaquin River Basin Plan and the Tulare Lake Basin Plan Salt and Nitrate Control Program, adopted by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) on May 31, 2018.

Whereas, the majority of the CV-SALTS Basin Plan Amendments will become effective upon approval from the State Water Resources Control Board (State Water Board) and the Office of Administrative Law;

Whereas, the Central Valley Water Board in accordance with the conditional prohibition in the Basin Plan Amendments will issue Notices to Comply (NTC) with the Salinity Control Program to permittees, third party coalitions, general order participants, and others regulated within the Central Valley Region (Permittees) within one year of the effective date of the Basin Plan Amendments and the issuance of the first NTC to Central Valley Water Board permittees begins the implementation schedule for the Phase 1 Prioritization and Optimization (P&O) Study Milestones (Phase 1 Implementation date);

Whereas, the CVSC Board of Directors agreed to act as the lead entity overseeing the P&O Study;

Whereas, Permittees may elect to comply with the Salinity Control Program either through the Conservative Salinity Permitting Approach or through the Alternative Salinity Permitting Approach in which participation in the P&O Study is a component;

Whereas, the number and type of Permittees that will choose to participate in and be able to demonstrate consistency with the Conservative compliance pathway is uncertain and considerable uncertainty exists about timing and noticing by the Central Valley Water Board;

Whereas, the estimates made in this Resolution were based on the best available information and feedback from the industries and permit types, and any large underestimates or inaccuracies may require the CVSC Board of Directors to revise participation costs;

Whereas, the first milestone of the P&O Study, the Phase 1 Workplan, is due within six months of the Phase 1 implementation date;

Whereas, the CVSC Board of Directors approved industry allocation and fee ranges for industries or permit types that participate in CV-SALTS, and these fees were vetted with the CVSC members and the CV-SALTS Executive Committee and are intended to fund the estimated cost of the P&O Study;

Whereas, fairness and equity require that no sector or permittee type should be allowed to avoid rightful costs by either delay or evasion and Permittees paying in advance (Early Payments) of the requirement will be credited to encourage early participation;

Whereas, Permittees may meet the terms of the conditional prohibition through the Alternative salinity approach and, in fairness to those who have paid timely, Permittees who pay late will be required to pay back fees, administrative fees, and penalties as appropriate to reduce future costs of participation on a general classification or industry basis;

Whereas, back fees will be based on the effective date of the Conditional Prohibition's earliest compliance date and the fee will be calculated from the due date in the Central Valley Water Board's notice;

Whereas, Permittees who fully meet the terms of the Conditional Prohibition in the Conservative permitting approach would not likely participate in the P&O study, but Permittees that voluntarily chose to do so could have back fees or penalties reduced or waived in accordance with Section vi. based on circumstance;

Whereas, if funding is needed to meet P&O Study Milestones, the CVSC may loan funds to the P&O Fund to initiate work to complete early milestones in anticipation of repayment prior to the end of the Phase 1 P&O Study;

Whereas, Permittees or coalitions of Permittees may advance funding to the P&O Fund and can receive a credit on future indicated fees;

Whereas, funding for the P&O Study is intended to come from a variety of users of water from the Central Valley, not only from entities permitted by the Central Valley Water Board;

Whereas, funding the P&O study benefits from efforts to obtain outside funding that may offset future funding requirements, and such benefits shall primarily accrue to the CVSC members funding CVSC efforts.

Therefore, it is **RESOLVED BY THE DIRECTORS OF THE CENTRAL VALLEY SALINITY COALITION INCORPORATED** as follows:

- i. Record Keeping: The CVSC will set up a separate fiduciary fund for P&O Study funds and expenses. Fees received for the P&O Study shall be recorded into the P&O Study Fund, and this fund shall be used to pay for the P&O Study related costs. Records shall be maintained for transactions into or out of the P&O Study Fund and provide a record of all fee payments received and expenses paid and a record of any early payment credits or late payment fees. Should a Permittee be a participant in the P&O study and choose to no longer participate or pay the minimum required fee, CVSC shall provide that information to the Central Valley Waterboard.
- ii. Initial Fee Payment: Permittees electing to participate in the P&O study will complete Permittee and permit information and submit the required annual fee to be provided proof of participation for compliance under the Alternative compliance path. After this initial fee, annual fees will be billed as described below.
 - a. *Initial Invoice and Proof of Participation*: CVSC will work closely with the Central Valley Water Board and within 30 days from issuance of an NTC or

other notice related to the Salinity Control Program, the CVSC shall send information about the P&O study and an invoice reflecting the appropriate fee for participation in the P&O study to Permittees receiving an NTC. Payments shall be due 28 days prior to the six-month deadline to choose a salinity permitting pathway. Within 21 days of receipt of the minimum payment, the CVSC will provide the participant with a confirmation of payment and participation in the P&O Study for year one by electronic mail.

- b. Early payment of fees is encouraged to allow adequate time to process and confirm participation in the P&O Study. Participation and payment requirements are initiated by the Central Valley Water Board's NTC.
- iii. Annual Renewing Fees: Such fees, which represent the minimum required level of financial support for participation in the P&O study, shall be established by Resolution of the CVSC Board of Directors with input from the CV-SALTS Executive Committee. Notice of the annual fee will be posted on the CV-SALTS website and sent by email to all current participants at least 60 days in advance of the invoice date.
 - a. *Annual Renewing Fee Invoices* will be generated for currently participating Permittees for the approved annual fees with a payment due date not more than 60 days past the Invoice date.
 - b. *Annual Renewing Invoice and Proof of Participation:* Annual invoices will be due not later than 60 days after the date the invoice date was sent. The CVSC will maintain a list of active participants and a list of delinquent participants and will provide such information upon request to the Central Valley Water Board or to any participant in the P&O Study.
- iv. Early Payments: Should any P&O Study participant pay fees in advance of requirements or above the minimum required level, that participant shall be issued a credit against future fees in a manner that limits the lifetime costs to that participant and provides an incentive to participate early. Should a participant wish to significantly prepay for all expected lifetime costs, the Board of Directors could consider a reduction or limitation in the fee due to collection efficiency. Currently, lifetime costs have not been determined and would be approved by the Board of Directors on a case by case basis. Because early work is critical to demonstrating credibility and making progress, initial payments received prior to the earlier of the issuance of a NTC or June 1, 2020, will be credited at 120 percent of the initial year fee.
- v. Late Fees: Should any participant in the P&O study not pay the appropriate Annual Renewing Fee within 90 days from date of the invoice, the minimum participation fee shall be increased by 15 percent (Late Fee), but not less than \$100.00 for each month or portion of a month that the unpaid fee remains due, plus any administrative fees or expenses born by CVSC or its agents to collect the fees. A renewing participant may provide documentation showing that, despite its best efforts, delays outside of its control caused the payment to be late. In such cases, waivers or reductions in late fees, or payment plans may be considered and approved by the CVSC Executive Director or Board of Directors.

- vi. Back Fees: Permittees that initially choose not to participate in the P&O Study, opting for the Conservative compliance path, but who later decide to participate in the P&O study to demonstrate compliance, shall pay Back Fees. Such Permittees shall be deemed a participant in the P&O study only after all applicable back, late, administrative, and other fees are paid to bring them current as though they had joined at the Phase I implementation date. Back fees shall be the sum of the minimum annual participation plus 75 percent Initial and Annual Fee (175%). CVSC may waive all or part of this Back Fee if the entity has fully complied with the Conservative salinity permitting approach, including Central Valley Water Board concurrence with the initial assessment, and later voluntarily joins the P&O Study. The Board may delegate waivers to the Executive Director. Where an entity did not respond to the NTC or could not show compliance with the Conservative salinity permitting approach, late and other fees may apply in addition the Back Fees. Permittees who seek to avoid compliance or are subject to Central Valley Water Board enforcement and elect to participate in the P&O study will be subject to additional administrative fees to cover any CVSC costs and will be above Back Fees or Late Fees identified above.
- vii. Industry Commitment: Industries (by permit type) that have participated in CVSC, agreed to a P&O study Industry or Permit type revenue commitment/percentage commit to adjusting their proposed fees based on actual revenue received from their industry or permit types in the prior year. This revenue includes all back fees and late fees after the first six months. Should revenue received from the industry or permit type be higher than the commitment, future fees for that industry or permit type shall be reduced proportionately. Should revenue fall below the industry or permit type Revenue Commitment, the industry or permit type shall increase fees among participating permittees the following year to make up the shortfall. These commitments are shown as Table 1, in Resolution 1005, which may be revised annually by the Board.
- viii. General Classification Excess or Shortfall: Any industry or permit type that does not make an industry commitment will be considered in the general classification, which includes the Other category and non-committed industries. The Board shall set the fees for Other category permits annually based on P&O study revenue and expense. The CVSC Board may adopt specific Other category fees by permit type, if appropriate. Annually, general classification fees should be no less than their allocation in Resolution 1005; however, because of the variability of participation; excess revenue shall be credited to general category and industry commitment categories. Should the sum of all fees collected total more than the funds required to complete the P&O study, including any basin planning or changes, then required future fees will be reduced for all participants (minus any late, back or administrative fees or contributions for special studies or projects). Should actual revenue performance fall below the projections in the 2019-2020 schedule, the CVSC Board will adjust fees for General Classification participants to reach the revenue targets needed to cover the approved costs of the P&O study.
- ix. Any Permittee who requests the CVSC Board of Directors consider modification or waiver of Annual Renewing Fees, or of Late or Back Fees, shall

provide documentation that they have the support of their industry or associations for their request and their industry or permit type commitment meet their funding commitment with their request.

- x. The CVSC Executive Director may waive some or all of the Late Fees or Back Fees or other penalties if appropriate, such as where the cost of collection is higher than the funds to be collected in accordance with CVSC Board direction and shall report all waivers to the CVSC Board. The CVSC Board will consider waivers above any level delegated to the CVSC Executive Director with appropriate supporting documents.
- xi. CVSC may revise these rules, revise fees and changes or make exceptions upon action and approval by the Board of Directors.
- xii. Nothing in this policy shall restrict the options open to the Corporation to initiate action to collect or recover fees under California law.

This Resolution was adopted by the Directors of the Central Valley Salinity Coalition Incorporated, on the 25th Day of April 2019.

President

CERTIFICATE OF SECRETARY

The undersigned certifies that they are the duly elected and qualified Secretary of the Central Valley Salinity Coalition Incorporated, a Member Benefit corporation and that the foregoing is a true and correct record of a resolution duly adopted by the Board of Directors of the Corporation on this 25th Day of April 2019.

IN WITNESS WHEREOF, I have executed my name as Secretary on the ___th Day of May 2019.

Secretary