



April 14, 2021

Submitted Via Email

Patrick Palupa, Executive Director
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670

Re: CV SALTS Early Action Plans

Dear Mr. Palupa:

Thank you for the opportunity to provide comment on the Tule Management Zone EAP. We are commenting on the Tule EAP separately from the other EAPs because the Tule EAP is wholly inconsistent with the BPA and/or SWB adoption resolution. The EAP also includes a number of exaggerations as to their efforts to engage communities and fails to include critical information necessary to evaluate the adequacy of their efforts. **In short, the Tule Management Zone EAP appears to be a disingenuous attempt to comply with the BPA and meet even the bare minimum required by law and regulation.**

We will go into further detail as to the inadequacies of the EAP but it comes down to the Management Zone failed to conduct any real community outreach and the EAP merely commits the Management Zone to completing requirements related to kiosks that are already mandated by the Replacement Water Settlement Agreement with the State Water Board Office of

Enforcement— which should have been installed over a year ago. The EAP and its proposed solutions were not devised with any community input and the Plan does not allow for any community input or choice as to the solutions that will work for the impacted residents. This Plan does not meet the requirements set out by the basin plan amendment and State Water Resources Control Board (SWRCB) approval resolution and it appears little effort was made to actually comply with the law.

For these reasons the Tule EAP must be found incomplete and the RWB should provide explicit requirements that the Management Zone must incorporate into their Plan within 60 days or be found in violation of the BPA. The Tule Management Zone must complete meaningful outreach and engagement to impacted residents during this 60 day period, incorporate feedback, and begin well testing and delivery of drinking water solutions beginning May 7.

A. Legal Requirements

a. Basin Plan Language

The Central Valley basin plan amendments require that a Preliminary Management Zone Implementation Plan include, among other things, both of the following:

- “An Early Action Plan to address drinking water needs for those that rely on public water supply or domestic wells with nitrate levels exceeding the water quality objective;” and
- “Documentation of process utilized to identify affected residents and the outreach utilized to ensure that they are given the opportunity to participate in development of an Early Action Plan.”¹

Further, the EAP itself must include all of the following components:

(i.) A process to identify affected residents and the outreach utilized to ensure that impacted groundwater users are informed of and given the opportunity to participate in the development of proposed solutions;

(ii.) A process for coordinating with others that are not dischargers to address drinking water issues, which must include consideration of coordinating with affected communities, domestic well users and their representatives, the State Water Board’s Division of Drinking Water, Local Planning Departments, Local County Health Officials,

¹ Amendment Language For The Sacramento River And San Joaquin River Basin Plan And The Tulare Lake Basin Plan (“BPA Language”), p. 47, available at https://www.waterboards.ca.gov/centralvalley/water_issues/salinity/salt_nitrate_bpa/sncp_accepted_bp_language_official.pdf.

Sustainable Groundwater Management Agencies and others as appropriate;

(iii.) Specific actions and a schedule of implementation that is as short as practicable to address the immediate drinking water needs of those initially identified within the management zone, or area of contribution for a Path A discharger, that are drinking groundwater that exceeds nitrate standards and that do not otherwise have interim replacement water that meets drinking water standards; and

(iv.) A funding mechanism for implementing the Early Action Plan, which may include seeking funding from Management Zone participants, and/or local, state and federal funds that are available for such purposes.²

With respect to the timeline for implementation, the BPA states that “[i]mplementation of the Early Action Plan shall begin as soon as is reasonably feasible, but no later than 60 days after submittal, unless the Central Valley Water Board deems the Early Action Plan to be incomplete.”³ If the EAP is incomplete “[a] revised Early Action Plan must be resubmitted and implemented within the time period directed by the Board’s Executive Officer.”⁴

b. SWRCB Resolution

The State Water Resources Control Board (“SWRCB”) approved the Central Valley basin plan amendments pursuant to Resolution No. 2019-0057. The Resolution contains guidance regarding the SWRCB’s interpretation of the basin plan amendments and direction to the Central Valley Regional Water Quality Control Board (“Regional Board”) regarding revisions to the amendments. As relevant to the EAP, the Resolution states the following:

- EAPs are “intended to address the immediate needs of those drinking groundwater from public water supply or domestic wells that exceed the primary maximum contaminant level for nitrate.” (R. 2019-0057 p. 2.)
- “In developing and implementing Early Action Plans...dischargers shall meaningfully consult with affected residents, affected water systems, representatives of environmental justice organizations and other stakeholders. The Central Valley Water Board shall ensure that this consultation occurs...” (R. 2019-0057 p. 4.)
- The Regional Board “shall consult with the State Water Board Division of Drinking Water on its approval and implementation of Early Action Plans...in order to facilitate the employment of effective and appropriate mechanisms for providing drinking water in the

² *Id.* at p. 48.

³ (“BPA Language”) at p. 53.

⁴ *Id.*

short- and long-terms and ensure that the dischargers' provision of drinking water is consistent with any related activities by the Division of Drinking Water.” (R. 2019-0057 p. 4.)

- The Regional Board “shall ensure that affected residents in localized areas within management zones with nitrate concentrations exceeding 10 mg/L (‘hot spots’) are identified and provided access to drinking water through Early Action Plans...” (R. 2019-0057 p. 4.)
- “...Early Action Plans must include a funding mechanism...” (R. 2019-0057 p. 4.)
- The basin plan amendments must be revised to include “a residential sampling program that is designed to assist in identifying affected residents within portions of the management zone where nitrate concentrations in the shallow zone may exceed nitrate concentrations of 10 mg/L and where there are nitrate discharges from regulated sources that may impact groundwater. Such sampling shall occur only with the consent of the current resident, and the availability of such sampling shall be included in the management zone’s outreach efforts.” (R. 2019-0057 p. 8.)

B. Coordination With SAFER

Coordination with the SWRCB’s Safe and Affordable Funding for Equity and Resilience (“SAFER”) Program is critical to the success of both the EAPs and the SAFER Program. The EAP must promptly provide well testing and short-term drinking water solutions to communities and households impacted by nitrate, and at the same time, must work with the Division of Drinking Water and technical assistance providers to ensure that testing for other contaminants and solutions for households and communities impacted by multiple contaminants is provided. Testing for only one contaminant can create a false sense of security if tests come back below the MCL for the tested contaminant or result in the implementation of a “solution” that is ineffectual in providing safe drinking water.

While we appreciate the inclusion of a section on coordination with other safe drinking water programs (Section 5.4), a stronger commitment is necessary to achieve results. The EAP states the Management Zone will coordinate with DDW and other interested parties to identify opportunities to address other contaminants, and in particular to help improve well testing programs to prevent multiple tests conducted on the same well. Unfortunately this purported commitment is not seen anywhere else in the EAP. In fact, in the well testing program section the Management Zone makes clear their expectation that residents who obtain nitrate testing from the Management Zone will be solely responsible for whether or not their well is tested for other contaminants. If the Management Zone is actually committed to ensuring true coordination in order to benefit everyone involved (the Management Zone, residents, and state programs), it must be integrated into the Plan rather than added in as an afterthought.

Required Revisions And Next Steps: The EAP must be revised to include a clear commitment to coordination with other drinking water programs to address holistic drinking water solutions.

Further, the Tule Management Zone must be working with, at a minimum, the Regional Board, SWRCB, and Self-Help Enterprises. We request that a coordination agreement or cost sharing agreement be negotiated and in place as implementation begins, presumably on May 7, 2021.

C. Community Engagement In Developing The EAPs

The Tule Management Zone's engagement activities were woefully inadequate. The Management Zone purports that the EAP was developed in "collaboration with community residents and other stakeholders" in Section 1.4, and goes on to provide an inadequate list of outreach activities the Management Zone has completed thus far. We strongly disagree that the Tule Basin Management Zone can characterize any of the actions it has taken as community outreach, because few to none of the activities described in section 1.4.1 accurately reflect the steps the Tule Basin Management Zone has employed.

a. Commenting on the EAP

In Section 1.4.1 Tule states that stakeholders were granted the opportunity to comment upon the draft EAP with the implication that the Management Zone then took those comments into consideration of a revised draft EAP. What Tule actually granted was less than 72 hours for review and comment upon the draft EAP mere days before the EAP was due to the Regional Water Board. On March 1st the draft EAP was released. On March 3rd we were notified by Tule that comments were due by March 4th in order to be included in the EAP submission to the Regional Board. It appears that comments were not requested so as to influence the EAP, but merely so there was at least one comment letter that Tule Management Zone could include in their official submission.

We would like to address certain issues in the response to comments page found at Appendix B-2. In response to our comment that the timeline for review and comment was unreasonably short Tule's excuse is that as of the end of February they still did not have an MOU in place that would allow public review of the EAP. The EAP requirements are not something that came out of the blue. The CV-SALTS and BPA processes have been on-going for years, and in fact the notices to comply were sent out later than previously planned, giving people ample time both before and after the notices were sent out to form an entity that would be responsible for developing the PMZIP and EAP. Lack of an MOU is an unacceptable excuse for failing to meet the critical BPA requirement of stakeholder review and comment upon the EAP.

In comment #4, the Management Zone summarizes our issue with the lack of outreach to impacted communities. We raised the issue of the Management Zone placing the burden on communities to learn about the Management Zone and to then place themselves on the interested parties list. In response the Management Zone states they have met with PWSs since the release of the EAP. Again, the EAP was released for public review on March 1st, and the EAP was submitted to the RWB on March 8th. We will go into further detail below as to how and why the Management Zone's engagement efforts with PWSs are inadequate, but if indeed meetings took place in that short window, that does not constitute meaningful engagement. Further, the Management Zone

states they “will form an Advisory Committee...to help guide EAP implementation efforts...” However, the BPA clearly requires community input in the **development** of the EAP as well, something Tule clearly did not do.

b. Community outreach and meetings

The first meeting held by the Management Zone took place on December 22, 2020. However, notice of this meeting was only sent to those on the interested parties list. Informational meetings that are designed to introduce people to the Management Zone and its proposed activities must be more broadly noticed. How are people supposed to know they should place themselves on the interested parties list if they never hear about it in the first place? Sharing notices of a “public meeting” to a limited email list does not constitute a public notice. Additionally, notices and outreach activities should be accessible to Spanish speaking communities, and any future outreach activities must be tailored to English speaking residents, monolingual Spanish residents, and in any other language that is spoken by at least 5% of residents within the Management Zone’s jurisdiction.

The only other meeting the Tule Management Zone participated in that was aimed at community engagement was an AGUA Coalition meeting in early February. Our organizations were (and still are) concerned about the lack of community outreach and engagement; thus CWC invited the Tule, Kaweah, and Kings Management Zones to participate in the AGUA meeting. Each management zone was granted five minutes to introduce themselves and provide some basic information about their efforts and plans. We asked the management zones to prepare a one-page factsheet about the management zone, which CWC then translated to Spanish. Community participants at the AGUA meeting live within all three management zone areas, not just the Tule Management Zone. This clearly is neither a substitute for the necessary community outreach efforts that need to be conducted by Management Zones nor anywhere close to adequate to ensure appropriate community input into the Tule Basin Management Zone’s EAP.

Required Revisions And Next Steps: To meet both the letter and intent of the BPA in regards to EAP development, the Regional Board must find Tule’s outreach efforts to be inadequate. The Board should direct Tule Management Zone to immediately hold several publicly noticed meetings aimed at providing basic information to interested parties about the management zone and the EAP, and then to hold several follow-up meetings where the Management Zone elicits feedback from impacted residents as to the drinking water solutions proposed in the EAP. In response to these public forums and feedback, the Tule Management Zone must revise their EAP to incorporate community feedback and needs.

D. Public Water Systems & State Small Water Systems

Tule Management Zone failed to reach out to any of the nitrate impacted water systems until days before the EAP was submitted to the Regional Board. This is despite easily obtainable data available from the SWB’s Human Right to Water Portal, SDWIS, and the Corona Report that we

shared with the Management Zone on January 5th. Just as with private well users, the Management Zone states they will conduct further outreach during EAP implementation, when the BPA requires that impacted parties are supposed to be part of the EAP development and implementation processes.

For many of the systems, the Management Zone only spoke to a single board member or the board's engineer. It should go without saying that a water district's engineer, being an employee and not an elected official, is not the appropriate person to make decisions as to what is a reasonable solution for the contaminated water the system is serving its customers. That discussion needs to take place with the board members, at a public meeting, allowing for a discussion that includes those who are impacted by the unsafe water.

Further, the blame falls entirely on the Management Zone's shoulders for not having heard back from five of the identified systems. These are low-income water systems, which are typically run by volunteer boards, and often only have part-time employees. Providing less than a handful of days for these districts to get back to the Management Zone's request to discuss a matter that the Management Zone has been aware of for over a year is unreasonable. What would have been appropriate is to have reached out early in the process, allowing the systems to provide necessary feedback that could have helped the management zone develop a complete EAP.

Required Revisions And Next Steps: The Regional Board must find Tule Management Zone's outreach to impacted water systems to not be in compliance with the BPA and direct it to conduct real meaningful outreach with these systems' boards and customers. The EAP must then be revised to incorporate the feedback received from the systems and their customers as to what solutions will or will not work for them.

E. Process To Identify Impacted Residents

The EAP appears to use publicly available data on nitrate concentrations within the upper aquifer to create heat maps showing predicted nitrate levels throughout the Management Zone's boundaries. Based on this data, there are approximately 9,535 residents living in areas where the nitrate levels are likely above 10mg/L and an additional 4,460 who live in areas with concentrations between 7.5-10mg/L. While these "heat maps" are helpful tools to make estimates where impacted residents may reside, they are not definitive sources of information. Tule plans to conduct outreach only to residents in the "red" areas where water is expected to be over 10 mg/L, yet that ignores people who may be impacted in the "orange" areas. As the orange area includes homes where the nitrate concentration is predicted to go up to the MCL, outreach must include households in these areas.

Once the Management Zone has the geographic areas with nitrate exceedances identified, they propose to exclude all private well parcels located within the boundaries of a PWS. While in some cases this may be appropriate, without outreaching to such households or checking with the PWS one cannot be sure whether or not the home is connected to the PWS and whether or not the well

is in use for household use. Thus private wells within the service areas of an impacted PWS cannot be categorically excluded as many such wells are used for drinking water.

Required Revisions And Next Steps: Outreach, at a minimum, must include all households in areas where nitrate concentrations are expected to be above 7.5mg/L in order to not exclude anyone with actual nitrate levels exceeding the MCL. Further, private wells within impacted PWS boundaries cannot be excluded without evidence that the well in question is in fact no longer in use.

F. Outreach to Impacted Households

The Tule Management Zone disingenuously claims they conducted “[g]eneral community outreach meetings ... during development of this EAP”. (4-2) The Management Zone held one meeting which was open to the public, but to which only those who were on the interested parties list received notice. The second meeting they are claiming is the AGUA meeting which CWC invited the Tule, Kaweah, and Kings management zones to attend. The AGUA meeting was a chance for the management zones to give brief introductions of who they are, and generally what they will be doing. It was not a comprehensive or in depth outreach meeting where Tule was able to present options and get feedback on their plan. Nor was it a space where a significant number of residents from their jurisdiction were in attendance. While we are appreciative of Tule participating in the AGUA meeting, it is inappropriate for the Management Zone to claim that attendance qualifies as a public outreach meeting or adequate engagement of impacted communities and households.

Other than those two meetings, we are unaware of any other outreach activities the Management Zone conducted to impacted or potentially impacted residents. AGUA members in the Tule Management Zone have not reported receiving any notices from the Management Zone and are only aware of the requirements the BPA places on dischargers because of their attendance at AGUA meetings.

Required Revisions And Next Steps: The Regional Board must find Tule Management Zone’s outreach to impacted residents is not in compliance with the BPA and direct it to conduct real meaningful outreach to and engagement of impacted communities and households. The EAP must then be revised to incorporate the feedback received.

G. Well Testing Programs

The Tule Management Zone EAP requires that tenants obtain permission from their landlords before well testing is performed. It is unclear why this is necessary unless the well is located on an area of a larger property to which the tenant is not permitted access. Where the tenant does not have access to the well, testing at the tap should still be permitted as it is the tenant who is drinking the water, not the landlord. Well testing does not alter any aspect of the property. Under California’s warranty of habitability, homes must be fit for human habitation. Unsafe drinking

water would make a home uninhabitable and thus a tenant has the right to know if the water coming into the home they are living in is safe.

We note that the requirement for permission from the landowner for well testing conflicts with the SWRCB Resolution accepting the Basin Plan Amendments, and that it will likely prevent many residents from accessing well testing and drinking water solutions.⁵

In the case where the water tested does not exceed the MCL but is close, we appreciate that repeat testing will automatically be conducted. What we do have a concern with is where the results are at or nearly 10 mg/L, the Management Zone does not consider that an exceedance and will not be conducting repeat testing for another year. (5-8) Fluctuations in nitrate concentration are not uncommon and it would require a minute fluctuation to send a well at 10mg/L over the MCL. We recommend that any well with a concentration of 9.5mg/L or higher have their well re-tested a month later, then quarterly for the first year. If after a year the well continues to not exceed the MCL, testing can resume being conducted annually.

Finally, the EAP makes no note of how the Management Zone will adequately convey well testing results to residents. Even where there is no nitrate exceedance, the Management Zone must state that just because nitrate in excess of the MCL is not present, does not guarantee that the water coming into the home is safe.

Required Revisions And Next Steps: Well testing programs need to be revamped to better address drinking water concerns and to be more accessible to all those who request it. This means no landlord permission requirement, or at a minimum an alternate procedure for testing where no landlord permission is provided, better repeat testing policies, adequate educational materials as to what the test results do and do not say, and coordination with other programs to provide comprehensive well testing.

H. Drinking Water Solutions

Tule Management Zone's plan for providing drinking water is merely to finally complete their mandated requirement to install three water filling stations from the Drinking Water Settlement. In fact, as discussed below, they propose to do even less. The Settlement requires bottled water provided to anyone unable to access the filling stations (a definition the SWB has stated they interpret very broadly), and the EAP purports to make judgement calls as to what solution is the "most appropriate" for a household. It is highly inappropriate for the Management Zone to make such a call, instead for the majority of circumstances a household must be allowed to determine what is "most appropriate" for them. Exceptions to this can exist where a solutions is not technically feasible for the home (such as where the household may wish for a POU device to be

⁵ SWRCB Resolution, p. 8 ["Such sampling shall occur only with the consent of the **current resident**..."] [emphasis added].

installed but other contaminants are present making a POU an infeasible solution), but the standard must be that households determine what is and is not appropriate for their circumstances.

Required Revisions And Next Steps: Communities must be at the center of the drinking water solutions implemented by the Management Zones. It is not appropriate for Tule to be the determiner of what is an appropriate solution for an impacted household. The BPA and SWB resolution make it clear that solutions must be designed and implemented in conjunction with the communities.

a. Water Filling Stations

The Management Zone states they will install a total of 3 filling stations. The very filling stations that were supposed to have been installed by January 31, 2020 under the conditions of the Drinking Water Settlement. Further, one of the filling stations is proposed to be installed in a community with currently unsafe drinking water. The Tule Water Quality Coalition has shown an inability to install water filling stations even with over two years to find willing sites and complete construction. While we acknowledge that there were some understandable delays in terms of permitting, the fact still remains that the Settlement agreement was finalized by the beginning of January 2019 and communities are still waiting on 2 out of the 3 water filling stations the Tule Coalition is responsible for providing. Further, to our knowledge **no bottled water deliveries have begun**, again in violation of the Drinking Water Settlement.

Should all 3 stations actually be installed within the next few months, there remains the issue that the Management Zone expects that **each** station will serve up to 3,000 residents. This is unacceptable and is likely to result in long lines during peak times such as right after the work day. Even assuming a good rate for filling a jug, it will take a few minutes per 5-gallon jug, which can quickly add up. The EAP does state that they will monitor each station and should high demand be noted they will send out monitors to ensure long lines do not develop. If it appears that excessively long lines are forming the Management Zone will consider additional sites. But again, it has taken over 2 years for the Tule Coalitions to identify only 3 sites for kiosks, with one site requiring additional treatment as the source water is currently contaminated. Choosing a site that requires treatment adds time to the timeline for opening a new kiosk. The management zone must identify additional sites for water filling stations and begin the necessary steps to install water filling stations now, not once a problem is identified.

Required Revisions And Next Steps: Tule Management Zone must immediately begin consulting with communities to determine what their needs are and what drinking water solutions will work best for them. Should there be sufficient demand for water filling stations, then the Management Zone must install kiosks in any and all locations needed to allow adequate and reasonable access, even if that means more kiosks than required by the Drinking Water Settlement. Tule Management Zone cannot rely solely on kiosks or use them as a default solution. It must instead respond to input from impacted communities and households regarding what solutions will work for them..

b. Bottled Water & POU

The EAP creates an unreasonable barrier that an impacted household must overcome in order to obtain bottled water deliveries or the installation of a POU device is to ensure that the “...**management zone deems bottled water [or POU] is the most appropriate option** for that individual situation.” (5-3, 5-4). This is not a decision the management zone gets to make on its own. The BPA and the SWB adoption resolution are both clear that drinking water solutions must be made with the community’s input. The language in the EAP instead puts full power and decision making authority in the hands of the management zone as to whether or not a resident will be forced to obtain water from a water filling station. It cannot be left to the management zone to make a judgment call as to what is the “most appropriate” solution. Impacted households must be allowed to make that determination for themselves.

We would also like to point out that eligibility criteria for replacement water include those “not already enrolled in another replacement water program,” which would potentially pass that responsibility on to one of these other programs if they are deemed “ineligible” without adequate coordination agreements. The focus should rather be on how the Tule Management Zone proposes to contribute to the provision of these pre-enrolled services for participants who are determined to be eligible based on their water quality results. The BPA does not permit a management zone to get a pass on providing safe drinking water just because a household is receiving bottled water from another program. Whereas the BPA requires EAPs to be developed in conjunction with the impacted communities, many other programs throughout the Valley were not developed with input from the community. These programs thus may or may not be adequately meeting the needs of impacted residents. In order to comply with the requirements of the BPA, it is critical that this coordination includes an adequate cost-sharing agreement for both well sampling and analysis, and for replacement water programs to ensure that the SAFER program and other dedicated funding sources are not subsidizing discharger responsibilities.

Required Revisions And Next Steps: Households are at the center of deciding what drinking water solution is most appropriate to meet their needs. Further, the Management Zone does not get a pass on providing safe drinking water to a household merely because that household is receiving bottled water from another program. These other programs are not designed to permit dischargers a pass on paying for solutions to problems the dischargers contributed to. The RWB require adequate cost sharing requirements between the management zones and other drinking water programs.

The Management Zone’s plan for POU’s has a high likelihood of being a significant public health risk. The Management Zone states they will only test for nitrate and if the test comes back in excess of the nitrate MCL, then they will merely “recommend that the resident consider having the well tested for other potential contaminants if seeking installation of a POU System.” (5-7) Many, if not most, of the households that are actively impacted by nitrate contamination in their drinking water are low-income and may not be able to afford the cost of testing for other contaminants. Therefore, at least some homes will accept the POU installation without conducting further testing.

This will create a false sense of security in the safety of their water. Further, there are other contaminants that may be found in the well water that impact the efficacy of the POU device. The Management Zone appears to be aware of this fact: “[i]f any additional water testing is required by the vendor to support the installation of a POU system, this testing will be coordinated with the vendor providing this service.” (5-7, 5-8). They are in effect washing their hands of any responsibility to ensure a safe and reliable solution is provided to homes that wish to have a POU device installed.

Required Revisions And Next Steps: The RWB cannot permit a Management Zone to rely upon POU devices as a drinking water solution unless the management zone ensures a full contaminant testing panel is conducted. To allow otherwise is irresponsible and will result in a serious public health issue. The Management Zone must either pay for the testing themselves or work with other programs, such as the SAFER program, to pay for the testing of other contaminants beyond nitrate.

I. Plans for Implementation

In the schedule for implementation, the EAP lists “conduct follow-up outreach (as needed)” to impacted communities as only occurring in Q3 of this year. However, outreach must be an on-going process. New residents will move into the region, households may have been overlooked in the first few rounds of outreach, and initial outreach may miss people due to language barriers. Further, as the BPA permits continued pollution for upwards of 35 years, more wells will become impacted, thus necessitating outreach to reach future impacted populations.

Given all of the issues we have highlighted in this letter, we are doubtful that the Tule Management Zone will meet their stated target date of July 1, 2021 for replacement water services. As stated previously, the Pixley and Poplar kiosks were supposed to be installed by January 31, 2020, with bottled water deliveries to have begun shortly after the first kiosk was supposed to be installed in April of 2019. Yet only 1 of the 3 kiosks the Tule area is responsible for under the drinking water settlement is currently installed and no bottled water has been provided to the impacted residents within the Tule basin. We see nothing within the EAP that gives us any confidence the Management Zone will meet even this much delayed start date.

Required Revisions And Next Steps: The Management Zone must start outreach, engagement, well testing and delivery of drinking water solutions by May 7, 2021.

J. Funding Mechanisms

The Tule plan goes into no detail as to how funding will go about beyond “each participating discharger has agreed to paying a proportionate share of the costs” (6-3). How will the budgets be determined? What does “proportionate share” refer to? Will costs be split evenly across all participants or will one’s share be determined based off acreage or some other determinant? How will disagreements as to how funds are being spent be addressed? Issues are bound to arise, and without adequate funding, drinking water solutions cannot be implemented. It is beyond

worrisome that the Tule Management Zone has failed to provide these details and leads us to believe that these questions have not been answered even internally.

Required Revisions And Next Steps: The EAP must be revised to provide detailed information on funding mechanisms, anticipated budgets, and mechanisms to increase budgets and funding if needed. The Regional Board should consider the cost estimates in the Corona Report in reviewing proposed funding levels and budgets.

K. Remedies

Between the lack of real substance and quite a number of typos, it is astonishingly clear that this EAP was rapidly thrown together with no real effort or intent to comply with the very first goal of the BPA. The Tule Management Zone has merely repurposed requirements under the drinking water settlement (that are over a year late), without any input from those this Plan is supposed to serve. The drinking water settlement was meant to be a tool to provide water to nitrate impacted residents prior to the implementation of the BPA. It was not intended to replace an EAP. Considering the significant issues apparent with the Tule Management Zone EAP, and the clear lack of effort put into developing this EAP in conjunction with those who are impacted by the Management Zone participants actions, the Regional Water Board must find this plan incomplete. In making this determination the Regional Board should include explicit instructions on what must be included within the revised EAP. A revised EAP should be required 60 days following the finding of incompleteness and failure to meet that deadline must result in a triggering of Pathway A for all participants.

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We appreciate the opportunity to provide comments on each of the early action plans and look forward to continued engagement with the Regional Board and the management zones to ensure that drinking water solutions reach impacted communities and households.

Sincerely,

Debi Ores, Senior Attorney
Community Water Center

Michael K. Claiborne, Directing Attorney
Leadership Counsel for Justice & Accountability

Ngodoo Atume, Water Policy Analyst
Clean Water Action

Sean Bothwell, Executive Director

California Coastkeeper Alliance

Nat Kane, Executive Director
Environmental Law Foundation