

RESPONSE TO COMMENTS

Supplemental Program Environmental Impact Report for the Irrigated Lands Regulatory Program

The Central Valley Regional Water Quality Control Board (Central Valley Water Board) is the lead agency under the California Environmental Quality Act (CEQA) and has provided an opportunity for the public to submit written comments on the proposed Supplemental Program Environmental Impact Report (SPEIR) for the Irrigated Lands Regulatory Program (ILRP). The purpose of this SPEIR is to evaluate environmental impacts for proposed implementation of the Salt and Nitrate Control Program through the ILRP Waste Discharge Requirements General Orders (General Orders). This SPEIR only evaluates project-level impacts that were not already analyzed in the March 2011 ILRP Program Environmental Impact Report (PEIR) or the Salt and Nitrate Control Program Substitute Environmental Document (SED). These impacts pertain to air quality, climate change, and transportation and circulation. These impacts were addressed by adding a new Alternative (Alternative A) that analyzes the Salt and Nitrate Control Program and the impacts that were not fully analyzed in the SED. Alternative A is not meant to be a stand-alone alternative, but rather to be used in conjunction with any other alternative in the PEIR. The proposed SPEIR identifies the following potential significant and unavoidable adverse impacts for Alternative A: 1) air quality; 2) cumulative climate change impacts; and 3) traffic impacts.

The proposed SPEIR was released for public review on 8 February 2021 with the 45-day comment period ending on 25 March 2021. The public notice stated that the Central Valley Water Board would only consider certification of the proposed SPEIR and will not be re-considering other aspects of the original ILRP PEIR. Additionally, the proposed Salt and Nitrate Control Program implementation is a separate project and is not addressed in this response to comments unless indirectly through responses regarding the proposed SPEIR.

Two comment letters received by the deadline were submitted by:

1. Sherill Huun, Sacramento River Source Water Protection Program (SRSWPP)
2. Lucinda Shih, Contra Costa Water District (CCWD)

Comment Letter 1 (SRSWPP)

1-1 Adequacy of Antidegradation Assessment

Comment summary:

In the original Salt and Nitrate Control Program response to public comments, the Central Valley Water Board stated that the appropriate time to consider the State

Antidegradation Policy long-term collective and cumulative impacts of the application of non-salinity Secondary Maximum Contaminant Levels (SMCLs) would be when discharge permits are issued, on a case-by-case basis. SRSWPP has concerns that the SPEIR does not adequately address this impact assessment, and requests clarification of how the Central Valley Water Board intends to undergo this analysis for these General Orders, as well as future permits that will be updated to implement the Salt and Nitrate Control Program.

Response:

During each permit adoption or renewal, the Central Valley Water Board evaluates on a case-by-case basis whether permits require an updated (or new) antidegradation analysis. With sufficient data and similar characteristics in a geographic area, antidegradation analysis can be applied on a regional scale. This is especially true of an antidegradation analysis for nonpoint source general orders where a general assessment of existing water quality data is appropriate. (State Water Resources Control Board Order 2018-0002, p.77-78.) The SPEIR is focused on the environmental impacts from the ILRP Salt and Nitrate Control Program and the antidegradation analysis is done when adopting the General Orders or other permitting actions.

The current phase of ILRP Salt and Nitrate Control Program implementation does not involve projects that directly impact water quality due to non-salinity SMCLs. The SED for the comprehensive Salt and Nitrate Control Program states that the revisions to the SMCLs would have a less-than-significant impact to water quality degradation. It is currently unknown what additional project-level changes for the ILRP General Orders will occur in future phases of the Salt and Nitrate Control Program ILRP implementation (such as projects due to Management Zone Implementation Plans or results from the salinity Prioritization and Optimization Study). However, any future changes that necessitate an update of the antidegradation analysis will be evaluated as required by the State Antidegradation Policy. Because the current implementation of the Salt and Nitrate Control Program in the IRLP does not involve non-salinity SMCLs, no analysis of the non-salinity SMCLs was required in the SPEIR.

Central Valley Water Board staff has considered the potential for ILRP discharges to cause degradation for these constituents due to implementation of the Salt and Nitrate Control Program updated consideration of the “filtered” fraction for SMCL compliance in the SED. Staff is unaware of any evidence that considering the “filtered” fraction for these constituents would lead to any further degradation than the degradation already contemplated prior to the SMCL revisions in the Salt and Nitrate Control Program. This finding is due to the following: 1) Many of these constituents are naturally occurring, and agriculture does not generally apply them in substantial amounts (e.g., iron, manganese, aluminum; however, this is not true for others like copper); 2) The constituents for which agricultural operations are a source are generally regulated to protect more restrictive beneficial uses and have much lower objectives under these beneficial uses (e.g., copper and aluminum have much lower aquatic life numeric

objectives); 3) There have not been any management plans triggered for SMCLs prior to the Salt and Nitrate Control Program Basin Plan Amendments adoption; therefore, consideration of the “filtered” fraction would not change any existing management plans; and 4) Central Valley Water Board staff is not aware of any management practices employed by irrigated agriculture solely for reductions of SMCL constituents indicating that implementation of the “filtered” fraction for the ILRP would not change practices or resulting water quality. For more analysis of antidegradation in the General Orders, please see the Response to Comments document for the revised tentative General Orders.

1-2 Impacts to Drinking Water Treatment Plants

Comment Summary:

SRSWPP has concerns about the lack of consideration of potential impact to drinking water treatment plants under the Utilities and Service Systems section in the Environmental Checklist (Attachment A). These concerns stem from the Salt and Nitrate Control Program allowance of pre-filtering source water samples and the indirect potential to increase SMCL constituent loading from dischargers.

Response:

The proposed SPEIR only addresses environmental impacts that were not covered in the ILRP PEIR or the Salt and Nitrate Control Program SED. (Public Res. Code section 21159.2, subd.(b).) The Utilities and Service Systems section of the Environmental Checklist that is mentioned in the comment is referenced from the original Salt and Nitrate Control Program SED, which has already been adopted and approved. The SED is conclusively presumed to comply with the requirements of CEQA since there was no legal challenge of the SED. (Public Resources Code section 21167.2.) Therefore, no changes to the SPEIR are necessary at this time.

1-3 Lack of Non-Salinity SMCLs Constituents in Cumulative Evaluation

Comment Summary:

SRSWPP has concerns that non-salinity SMCLs constituents impacted by the application of SMCLs in the Salt and Nitrate Control Program are not addressed in the Cumulative Surface Water Quality Conditions assessment. This subsection is in the Mandatory Findings of Significance section of the Environmental Checklist (Attachment A).

Response:

The proposed SPEIR only addresses environmental impacts that were not covered in the ILRP PEIR or the Salt and Nitrate Control Program SED. (Public Res. Code section 21159.2, subd.(b).) The Cumulative Surface Water Quality Conditions subsection of the Mandatory Findings of Significance section of the Environmental Checklist that is mentioned in the comment is referenced from the original Salt and Nitrate Control

Program SED, which has already been adopted and approved. The SED is conclusively presumed to comply with the requirements of CEQA since there was no legal challenge of the SED. (Public Resources Code section 21167.2.) Therefore, no changes to the SPEIR are necessary at this time.

Comment Letter 2 (CCWD)

2-1 SPEIR Inadequate Due to Lack of Water Quality Impacts Analysis

Comment summary:

CCWD has concerns that the Hydrology and Water Quality section of the Environmental Checklist reports potentially significant water quality impacts from implementation of the Salt and Nitrate Control Program but fails to provide quantitative analysis or mitigation measures for these impacts. CCWD notes that changes to regulations from implementation of the Salt and Nitrate Control Program could lead to water degradation, such as full participation in the Alternative Salinity Permitting Approach absolving dischargers from the requirement of meeting numeric water quality standards.

Response:

The proposed SPEIR only addresses environmental impacts that were not covered in the ILRP PEIR or the Salt and Nitrate Control Program SED. (Public Res. Code section 21159.2, subd.(b).) The Hydrology and Water Quality section of the Environmental Checklist (Attachment A) that is mentioned in the comment is referenced from the original Salt and Nitrate Control Program SED, which has already been adopted and approved. The SED is conclusively presumed to comply with the requirements of CEQA since there was no legal challenge of the SED. (Public Resources Code section 21167.2.) Therefore, no changes to the SPEIR are necessary at this time.

2-2 SPEIR Fails to Quantify Current Salinity and Evaluate Impacts of Maintaining Existing Salinity Levels

Comment summary:

The Alternative Salinity Permitting Approach requires dischargers to maintain existing salinity levels to the extent reasonable, feasible, and practicable. The SPEIR fails to provide information on current salinity levels of applicable discharges and surface water bodies in order to be able to assess future salinity levels against that baseline. Additionally, it does not address the impacts to water quality of allowing existing salinity levels to be maintained rather than reduced with required compliance with water quality objectives, or discharges allowed to exceed existing salinity levels when meeting the standard was not reasonable, feasible, or practicable.

Response:

The impacts to salinity from the ILRP will depend on which pathway ILRP coalitions decide, and at this time it is not known what pathway the coalitions will take. Under the

Alternative Permitting Approach, the Salt and Nitrate Control Program requires dischargers to continue to implement reasonable, feasible, and practicable efforts to control levels of salt in discharges. The requirement of maintenance of current salinity discharge concentrations or loading levels is at the discretion of the Central Valley Water Board where appropriate and necessary.

During the Salt and Nitrate Control Program implementation through the ILRP General Orders, the ILRP coalition members will be required to continue implementing reasonable, feasible, and practicable efforts to control salinity. As discussed in the Salt and Nitrate Control Program SED, in the Salt Control Program subsection of the Hydrology and Water Quality Section on the Environmental Checklist, there are no anticipated changes to ILRP practices or BPTC from Salt and Nitrate Control Program implementation. Salinity is difficult to control in agricultural discharges, and the ILRP dischargers are currently implementing all known reasonable, feasible, and practicable measures to control salinity. In the Order WQ-2018-0002, the State Water Resources Control Board (State Water Board) concurred that there were no additional BPTCs required for ILRP to implement. State Water Board Order WQ-2018-0002, p. 80.) Because there were no project-level changes from the analysis in the Salt and Nitrate Control Program SED, no further analysis on salinity was required in the SPEIR.

ILRP coalitions will continue to collect salinity data as part of their General Order requirements and this data will be supplemented by salinity data from the Salt and Nitrate Control Program Surveillance and Monitoring Program during implementation. In addition to data collection, the Surveillance and Monitoring Program will include evaluation of regional ambient salinity conditions as well as regional salinity trends over time in surface and groundwaters.

2-3 A Quantitative Analysis of Potential Water Impacts is Needed for Implementation in Individual Permits

Comment Summary:

During the Basin Plan Amendment process for the Salt and Nitrate Control Program, no quantitative analysis of potential water quality impacts was provided. The Central Valley Water Board indicated that the impact analyses would be preferable to undertake during implementation in individual permits, so that site-specific factors could be considered. CCWD states that the proposed SPEIR should reflect this and properly analyze the potential water quality impacts resulting from the implementation of the Salt and Nitrate Control Program through the ILRP General Orders.

Response:

Central Valley Water Board staff has reviewed available data and management practices for salinity and nitrate discharges associated with irrigated agriculture. Existing surface and groundwater quality data collected by the ILRP have adequately characterized regional impacts of agricultural discharge for these constituents (e.g.,

surface and groundwater data, MPEP analysis, and groundwater protection target development). The models and data sets developed/considered are continually being updated and evaluated under the ILRP's iterative approach to assessment and implementation of practices. Existing data have also been thoroughly reviewed and prioritized in regional analyses for groundwater under the BPA further helping to understand areas of concern for ILRP and other programs.

The Salt and Nitrate Control Program generally requires: 1) Nitrate: implementation of management practices to ultimately comply with the Order's limitations with the allowance of time to come into compliance (up to 35 years) provided the Salt and Nitrate Control Program's provisions are met (e.g., replacement drinking water where needed, community outreach, etc.); 2) Salinity: essentially continue to minimize salts in existing discharges while implementing the Prioritization and Optimization Study to find long-term solutions for managing salinity.

The Salt and Nitrate Control Program SED evaluated current agricultural operations, and there is no evidence to suggest increasing salinity or nitrates from these operations with the implementation of the Salt and Nitrate Control Program. On the contrary, ongoing implementation of fertilizer management practices (A/R review), ongoing water minimization and efficiency practices, and implementation of groundwater protection targets under the ILRP will lead to reduced sources of salt and nitrates. In consideration of this information, the SED included review of potential impacts of irrigated agricultural discharges and the current understanding of how implementation of the Salt and Nitrate Control Program may affect the discharges.

Additionally, just as the adoption of the Basin Plan Amendments for the Salt and Nitrate Control Program did not directly result in additional water quality degradation, nor does the current phase of proposed implementation of the Salt and Nitrate Control Program through the ILRP General Orders change the analysis done in the Salt and Nitrate Control Program SED. Therefore, a quantitative analysis of potential water quality impacts beyond the original Salt and Nitrate Control Program SED is not required at this stage of ILRP implementation. This is due to the fact that the proposed SPEIR addresses impacts that are affected by project-level changes resultant from the current ILRP implementation of the Salt and Nitrate Control Program, and no changes are anticipated from this implementation that would impact water quality.

It is currently unknown what additional project-level changes will occur in future phases of the Salt and Nitrate Control Program ILRP implementation (such as projects due to nitrate Management Zone Implementation Plans and the salinity Prioritization and Optimization Study) that may impact water quality. However, any future ILRP Salt and Nitrate Control Program implementation projects that may necessitate a quantitative analysis of potential water quality will be evaluated as required by CEQA and the State Antidegradation Policy.

2-4 SPEIR Lack of Cumulative Impacts Analysis

Comment Summary:

In the Mandatory Findings of Significance section of the Environmental Checklist, the SPEIR disclosed significant cumulative impacts from the proposed project but failed to analyze the impacts.

Response:

The proposed SPEIR only addresses environmental impacts that were not covered in the ILRP PEIR or the Salt and Nitrate Control Program SED. (Public Res. Code section 21159.2, subd.(b).) The Mandatory Findings of Significance section of the Environmental Checklist that is mentioned in the comment is referenced from the original Salt and Nitrate Control Program SED, which has already been adopted and approved. The SED is conclusively presumed to comply with the requirements of CEQA since there was no legal challenge of the SED. (Public Resources Code section 21167.2.) Therefore, no changes to the SPEIR are necessary at this time.

2-5 Drought and Conservation Policy in SPEIR Inconsistent with Salt and Nitrate Control Program Basin Plan Amendments

Comment Summary:

The Salt and Nitrate Control Program Basin Plan Amendments limits the use of the Drought and Conservation Policy, including not being applied during Phase 1 of the Salt Control Program, nor used as a multi-discharger variance program, and specification of a time limit for interim permit limits that exceed specified levels in Table 64449-B. CCWD requests this language from the Basin Plan Amendments be included in the proposed SPEIR.

Response:

The Drought and Conservation Policy was discussed in the Hydrology and Water Quality section of the Environmental Checklist from the original Salt and Nitrate Control Program SED, which has already been adopted and approved. The SED is conclusively presumed to comply with the requirements of CEQA since there was no legal challenge of the SED. (Public Resources Code section 21167.2.) The proposed SPEIR only addresses environmental impacts that were not covered in the ILRP PEIR or the Salt and Nitrate Control Program SED. (Public Res. Code section 21159.2, subd.(b).) As this was already evaluated in the original SED, and no new impacts regarding the Drought and Conservation Policy are anticipated based on the proposed SPEIR evaluation, no analysis in the SPEIR is warranted at this time.

Though the language addition recommended by CCWD is valid regulatory language, it is not required to be referenced in the SED. It is still a valid part of the Basin Plan Amendments regulations and leaving that language out of a reference document does not invalidate the regulatory enforcement and validity of that language.