

To: Steve Wolosoff, GEI
Richard Meyerhoff, GEI
Tess Dunham, KSC
Rick Whetsel, SAWPA

Date: July 3, 2023

From: Pat Boldt, WRCAC
Jim Klang, TBL Consultants, LLC

RE: Comments on Draft TMDL Section 9

TMDL DRAFT Section 9. California Environmental Quality Act Comments

Western Riverside County Agriculture Coalition (WRCAC) and TBL Consultants, LLC (TBL) are providing the following comments to advance a common understanding of the revised TMDL Agricultural watershed conservation efforts and the California Environmental Quality Act's (CEQA) required project review. The list of comments below pertains to required determinations about how this project (the 2023 TMDL Revisions) affect Agriculture.

Section 9.1 – Regulatory Setting Comments

1. First Paragraph on page 1 states:

“However, the program is subject to other provisions in CEQA, including the policy of avoiding significant adverse effects on the environment where feasible. This is to be presented in a substitute document which includes, at a minimum, a description of the proposed activities and either: (1) alternatives to the activities and mitigation measure to avoid or reduce any significant or potentially significant effects that the Proposed Project may have on the environment; or (2) a statement that the Proposed Project would not have any significant or potentially significant effects on the environmental as supported by a checklist or other documentation.”

This paragraph is significant as it sets the tone for the rest of Section 9. Of critical note is how the word “including” in the first line, will be used throughout the remainder of the Section. This Section’s use of the word “environment” includes a review of adverse effects on Agriculture and Forestry Resources; the complete list of environmental factors is found on page 24.

Furthermore, the first full paragraph on page 2 states:

“The analysis must consider a reasonable range of environmental, economic, and technical factors, population and geographic areas, and sites.”

And,

“Where specific data are not available, the Santa Ana Water Board may utilize numerical ranges and averages but is neither required nor encouraged to engage in speculation or conjecture.”

The following review of Section 9, by WRCAC representatives will refer to these narrative excerpts by the phrase “**Section 9.1 required avoidance of significant adverse effects.**”

2. Last Paragraph on page 2 states:

“In fact, the Santa Ana Water Board believed that regular review and revision is so critical to ultimate success that it adopted an Implementation Plan specifying that the TMDLs be “re-evaluated at least once every three years to determine the need for modifying the load allocations, numeric targets or implementation schedule” (Santa Ana Water Board 2004a; see Task #14 on page 21 of 22). Doing so provides reasonable assurance of continued progress toward attainment of water quality standards and protection of beneficial uses in Lake Elsinore and Canyon Lake.”

However, as Tess pointed out in the May 2023 TMDL Task Force meeting, due to the extended Phase 2 and 3 implementation schedule and the associated special studies, insufficient data will be gathered in the first five-years to perform a meaningful assessment of the need to modifying load allocations, numeric targets or implementation schedule. This critical point should be conveyed clearly in this section.

Section 9.2 Proposed Project Description Comments

1. Section 9.2.2 Proposed Project; first paragraph on page 3 states:

“This action includes revised numeric targets for water quality within the lakes (see Section 3) and WLAs and LAs (see Section 6) to govern the discharge of excess nutrients from non-point sources and point sources, respectively.”

However, this discussion omits an important discussion about how the allocation and reduction framework metrics differ between 2004 and 2023. The 2004 TMDL was based on a lump sum sector Ag Nutrient Discharge allowed loading, which was used to cost-effectively achieve Phase 1 compliance for all sectors, simply by factoring calculating the Ag loading for the remaining acres. Because of the substantial Ag acreage attrition which reduced Ag nutrient discharges this provided sufficient additional loading reductions for all sectors to achieve the Phase 1 allocation. This framework and metric are no longer being used and Ag allocation reduction comparisons must now use a per acre basis; essentially increasing Ag compliance reduction requirements.

2. Section 9.2.2.1 Numeric Targets; second paragraph on page 4 contains a typo or an author’s bookmark that should be corrected. “Table 5-9n”, has two issues: 1) the “n” may be a bookmark for the author and should be removed, and 2) the table referenced in the 2004 TMDL is not the table with the data mentioned.
3. Section 9.2.2.2 Allocations; the first paragraph should be expanded to better explain the following two topics:

- a. A comparison of the two different approaches that the 2004 TMDL and the current revision is using states:
“In the 2004 TMDLs, allocations were estimated as the external nutrient load that would achieve the in-lake nutrient numeric targets determined to be protective of uses.”

This sentence could further explain that with the data available and the time’s current lack of in-lake treatment systems and Lake Elsinore modifications the modeling scenarios applied to evaluate reduction requirements achieved WMOs by reducing external nutrient loadings.

And,

“Concentration of nutrients in runoff from a reference watershed were estimated from monitoring conducted from the San Jacinto River at Cranston Guard Station, which is a watershed that is primarily undeveloped. These water quality data serve as the basis for all allocations for point and non-point sources in the proposed revision to the TMDLs, and results in a reduction to the total allowable nutrient loading to Lake Elsinore and Canyon Lake”

These sentences reflect only the narratives in the 2020 DRAFT revisions to the TMDL, and do not explain that there will be two additional implementation phases added to the 2004 TMDL’s implementation plan. Furthermore, it does not address there is disagreement with what the true reference watershed condition should be, and this will be addressed in the new Phase 2. Acknowledgement that the Lake Elsinore WQOs are also being evaluated, due to the historic records that demonstrates for most years it operates as a terminal lake with no discharge, and includes years where it completely dried up. Currently LEMP, LEAMS and the use of reclaimed wastewater for supplemental water additions have altered Lake Elsinore; these efforts have completely changed its physical, biological, and chemical interactions. But not always for the better, as in the case of the RWQCB’s listing for Cyanobacteria.

In addition, the last sentence is missing a period.

4. Section 9.2.2.3 Required Load Reductions, Subtitle Land Use Change; the list of years in the first sentence on page 6 should be corrected to list:

“2007,2010,2014, 2016, 2018, 2021-2022”

5. Section 9.2.2.3 Required Load Reductions, Subtitle Runoff Retention within Upper Watershed; the mention of upstream lakes should include Mystic Lake after Menifee Lakes on page 7.
6. Section 9.2.2.3 Required Load Reductions, Subtitle Mystic Lake; the mention of upstream lakes should include more details to expand on what is known, and what is not known, about Mystic Lake on page 7.
 - a. We now understand Mystic Lake continues to subside and add retention capacity.

- b. Since the 2004-2005 wet season, the existing precipitation rates have not caused an overflow.
 - c. High rates of precipitation multiple years in a row may cause an overflow.
 - d. However, we do not fully understand the current and future retention capacity of Mystic Lake before an overflow occurs.
- 7. Section 9.2.2.3 Required Load Reductions, Subtitle Loads from CAFOs; On page 8, the description of CAFOs should include:
 - a. The 25-year 24-hour retention of runoff requirement is for the production lot area, and another restriction exists for applying a CAFO's manure within the basin.
 - b. The description of the proposed revision of the TMDLs recognizes the efforts made by the CAFOs (above), and should include a statement that the number of dairies and head count is significantly reduced since 2004.
 - c. There is also a pending non-dairy CAFO permit that will be addressed by this revision.
- 8. Section 9.2.3 TBL appreciates your patience with the Section 3 comments regarding nitrates. The supporting documents reviewed by TBL included a 2009 study by Horne that indicated the EVMWD supplemental water nitrogen forms were mainly ammonia and nitrate, as well misunderstanding the revised TMDL language and annual Lake Elsinore Aeration and Mixing System nutrient offset credit annual accounting reports which discuss the aeration system, but do not detail that the large bubble aeration system is to vertically mix the water column and provides only a very minor oxygenation benefit. These quick reviews were driven by both the expedient timeline and limitations of financial resources as the WRCAC membership declines. However, after being enlightened by the true nature of the LEAMS design TBL was able to review a Horne et al. 2021 report Review of the Two Current Mixing Systems In Lake Elsinore with Recommendations for Improving Water Quality report and a couple of the Lake Elsinore and Canyon Lake Watersheds Nutrient TMDL Monitoring annual reports by Wood Environmental. This changes previous comments specific to nitrate building, but this change transfers to TKN as a persistent nutrient of concern that is proven to be increasing in Lake Elsinore. The next comment provides more detail supporting the concern that EVMWD supplemental water associated loading of nutrients are a dominant factor of the current day impairment issues, regardless of the huge benefit the added water volume itself provides Lake Elsinore.
- 9. Section 9.2.3 Identification of Reasonably Foreseeable Methods of Compliance, second paragraph on page 8 reads:

“For more than 30 years Lake Elsinore has been managed to stabilize the lake level with a targeted surface elevation of 1,240 ft. This management strategy is contrary to the natural condition, which results in a periodically dry lake (see Section 2.2.2). Managing the lake to keep it “wet” changes the water quality dynamics of the lake not only for nutrients but other constituents such as salinity and DO. Regardless, a wet-lake management strategy ensures support of existing recreational beneficial uses. The program of implementation under the revised TMDLs proposes to continue this lake management approach.”

WRCAC does not support the way that this paragraph describes the current condition in Lake Elsinore. WRCAC justifies not supporting this depiction based on the following findings from monitoring and studies about the existing conditions that are in direct conflict with this paragraph's statement:

- Specifically, the statement “Regardless, a wet-lake management strategy ensures support of existing recreational beneficial uses.” is false. The past additions of EVMWD have been associated with high loading rates of nutrients as documented in the Table 4-10 within Section 4 Source Assessment.
- The revised TMDL Section 4 page 35 under 4.2 Supplemental Water states: “In years when there is little or no overflow from Canyon Lake, the discharge of reclaimed water to maintain lake levels is the largest source of new external nutrient loads to Lake Elsinore.”
- There is increasing concern with Cyanobacteria and a new Lake Elsinore impaired water listing for this issue. Cyanobacteria can emit a toxin that harms or kills mammals, and thereby affects and may prevent various recreational uses.
- The current supplemental water addition is designed to be accompanied by LEAMS in-lake credits to offset the associated nutrient loadings.
- In the report prepared for EVMWD, by Dr. Alex Horne and Michael Anderson (2021) entitled: REVIEW OF THE TWO CURRENT MIXING SYSTEMS IN LAKE ELSINORE WITH RECOMMENDATIONS FOR IMPROVING WATER QUALITY, the author’s completed both a linear regression trendline (for TP and TN data by year as the independent variable) and a multiple-linear regression model using both year and mean depth to document that the concentrations of nutrients has been increasing over time.

The first liner regression trendline indicates that both TP and TN concentrations have been building since the year 2000. However, as Fig. 24 presents the R^2 for TP is 0.14 and for TN is 0.20, which even for water quality data is a low fit result. This indicates that concentration per year only explains 14 and 20 percent of the increase in concentration.

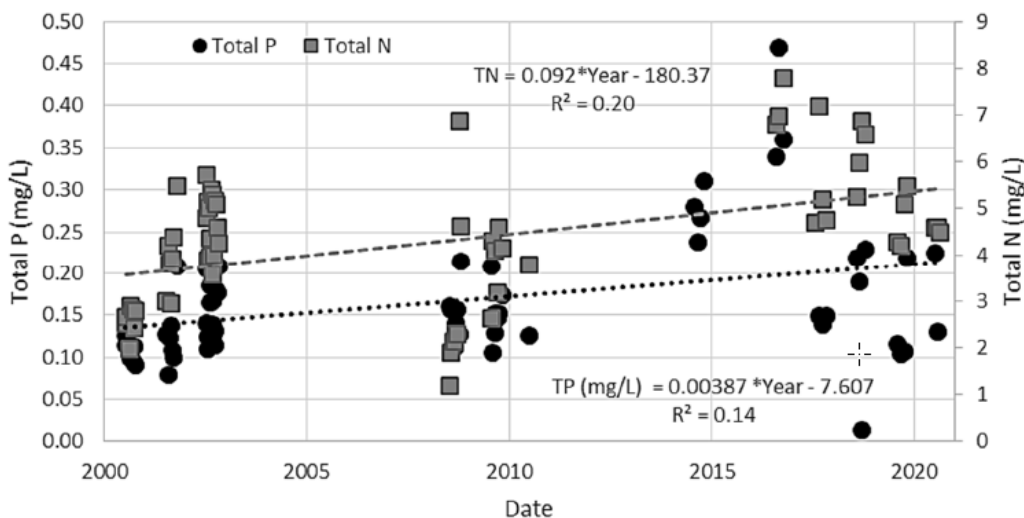


Fig. 24. Summer concentrations of total P (left axis) and total N (right axis) over time in Lake Elsinore under nominal lake levels and external loading.

However, the multiple-linear regression model using both year and mean depth as independent variables also yielded statistically-significant ($p < 0.001$) relationships that captured 20% and 62% of the variance in total P and total N, respectively. Especially for TN, where the two independent variables are able to explain 62

percent of the increase in concentration, the statistical fit for water quality data in my professional experience is considered to be a good fit. And, according to Table 4-10 in Section 4, TN additions from the use of supplemental were substantially higher than TP additions in all years; ranging from an average of phosphorus loading being just over a 1/8th of the nitrogen loading up to a max value of phosphorus loading only being 1/5th of the annual TN loading.

Furthermore, Horne et al., concluded that:

“The 95% confidence interval for the rate of increase over time of total P was 0.00174 – 0.0062 mg/L/yr (or 1.7 – 6.2 µg/L/yr) and 0.049 - 0.114 mg/L/yr for total N. This indicates that total N and total P concentrations have increased slowly in the lake over the past two decades even when correcting for differences in lake level, and implies that the axial flow pumps and diffused aeration system are not providing sufficient control on nutrient levels to offset inputs associated with recycled water supplementation.”

$$\text{Total P (mg/L)} = 0.00396 * \text{Year} - 0.0197 * Z_{\text{mean}} (m) - 7.728 \quad (1a)$$

$$\text{Total N (mg/L)} = 0.081782 * \text{Year} - 1.1204 * Z_{\text{mean}} (m) - 156.393 \quad (1b)$$

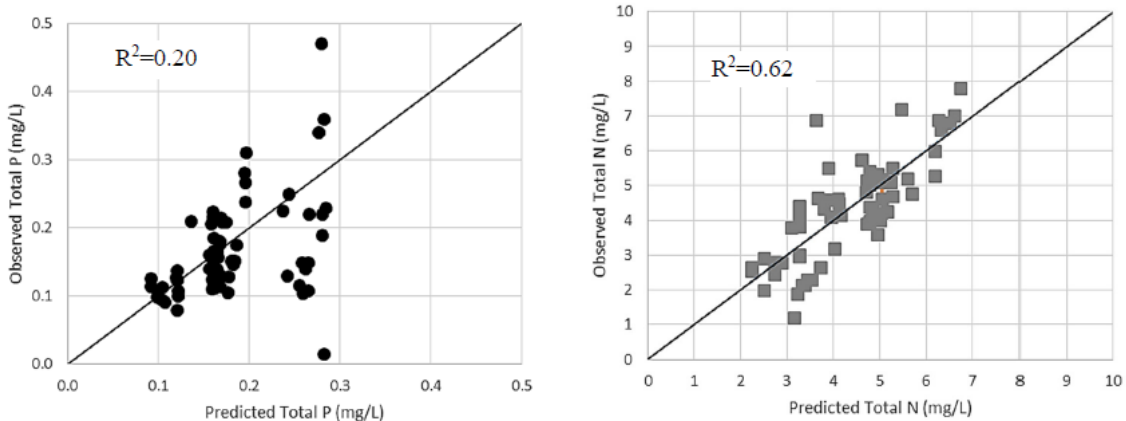


Fig. 25. Plot of observed and bivariate (date and mean depth) regression model-predicted concentrations of total P and total N with 1:1 line.

- f. Horne et al., also included a simplified mass balance analysis of Lake Elsinore’s water balance and TP and TN. Several key take aways were presented. First the predicted and observed lake volumes was able to be greatly improved and resulted in a good fit. Secondly, unlike the water balance the comparison of TP observed and TP predicted was missing key loss mechanisms. For TP loss from the water column occurs principally by settling out of the water column. The simplified mass balance also found that sediment resuspension of nutrients predictions where over projected and TN monitored values did not always align with TP results. This was theorized to be due to a short lifetime of suspension for particles in the water column in low lake level conditions and therefore not being captured by monthly monitoring, sampling locations are in the center of the lake and may miss the

occurrences in the downwind regions, resulting in the need for more intensive sampling in space and time to capture these events. And states: “Notwithstanding, low lake levels present multiple challenges, many of which are not amenable to improvement by aeration/mixing.” This analysis also refers to the increase in nutrient concentrations over time (Item d above) as a valid finding. This analysis emphasizes how complex the Lake Elsinore nutrient cycling really is, and the great need for more information before drawing conclusions and recommendations. This supporting information will assist in justifying the use of a longer 3-phase implementation schedule.

- g. Specifically, in regards to the sentence: “The program of implementation under the revised TMDLs proposes to continue this lake management approach.” WRCAC stresses due to the linkages between supplemental water and the requirements to have credit offsets for the associated EVMWD nutrient loading it cannot continue this existing lake management approach. Furthermore, in the last TMDL Task Force meeting a discussion was held specifically on the limited effectiveness of LEAMS and its doubtful future. If an adequate level of alternative in-lake credit generation cannot be secured in Phase 2 of the implementation schedule, then consideration of continued use of EVMWD discharges as supplemental water becomes even more challenging. Other than changing the WQOs for Lake Elsinore, what alternatives to continued discharge of the current reclaimed water as supplemental water, and its nutrient loading exist?
9. Section 9.2.3 Identification of Reasonably Foreseeable Methods of Compliance, subtitle External nutrient load controls, second bullet page 10 states:

“... Implemented watershed BMPs include elimination of manure spreading, construction of berms to retain runoff on-site, and implementation of winter crop rotations to provide buffers during wet weather. AgNMP implementation also involved implementation of significant in-lake controls described below. In 2023, the Santa Ana Water Board adopted General Waste Discharge Requirements for Irrigated Lands in the San Jacinto River Watershed (Santa Ana Water Board 2023). This Order, which requires agricultural operators in the San Jacinto River watershed to “implement reliable and effective management practices to control, minimize, or eliminate pollutants from their agricultural operations to surface water and groundwater,” constitutes the approved AgNMP under the Nutrient TMDLs (Santa Ana Water Board 2023.”

WRCAC recommends adding a narrative that explains there was a Conditional Waiver for Agricultural Dischargers that was in place prior to the AgWDR, and had very similar requirements for surface water protection. In addition, WRCAC believes that there is a large change in compliance measurement in the revised TMDL’s nutrient discharged loading; going from a lump sum compliance goal to one being based on a per acre load estimation process. These changes along with the large decline in irrigated Ag cropland and non-irrigated cropland acres, as well as a substantial reduction in the number of dairies and their animal head count should be discussed prior to Section 9.4.3.2 Agriculture and Forestry Resources. Even evaluating the lose based on a percent reduction would help readers understand that the attrition taking place in Ag in this watershed is sizable. Discussions about this lose with Ag operators often mentions the ever-increasing regulations make it more desirable to take the land sales opportunity to

just get out from under the large growth regulatory bureaucracy. The loss in Ag operations affects those that remain because as the cost of regulatory compliance is going up at the same time they are losing the benefits from having an economy-of-scale by working with a large membership to share the cost of common elements like monitoring, reporting and educational requirements. At what point should de minimus status be granted to agriculture to allow the remainder of Ag operations to survive? Protection of Ag Prime Farmland is a CEQA requirement.

10. Section 9.2.3 Identification of Reasonably Foreseeable Methods of Compliance, subtitle In-lake Water Quality BMPs, third bullet, on page 11 states:

“Supplemental Water Addition -EVMWD continues to discharge tertiary treated effluent to Lake Elsinore to maintain lake levels. Since 2007 EVWMD’s reclaimed water discharges to Lake Elsinore have averaged about 5,250 AFY. While the addition of reclaimed water stabilizes lake water levels and improves water quality, variations in the lake level and water quality can still be substantial. In fact, without the addition of reclaimed water hydrologic models for Lake Elsinore suggest complete lakebed desiccation would likely have occurred in 2016.”

The addition of supplemental water is currently directly predicated upon having LEAMS offset credits available. These credits are no-longer available, or at best are available only in some future years. Plus, if EVMWD is using the LEAMS generated credits, the other sectors do not have an offset option in order to meet the “natural condition” based watershed reference condition the revised TMDL is basing allocations upon.

11. Section 9.2.3 Identification of Reasonably Foreseeable Methods of Compliance, subtitle In-lake Water Quality BMPs, fourth bullet, on page 11 states:

“LEAMS – This project relies on a combination of slow turning propellers submerged in the lake and shoreline compressors that disperse air from pipelines anchored to the bottom of the lake to circulate water. Constructed in 2007, this project continues to operate.”

This statement is misleading. While LEAMS is being operated, it is no longer effective. Because the supplemental water program uses LEAMS to offset the associated nutrient loading added to Lake Elsinore, this in-lake treatment must be effective or replaced with an effective program to allow the Supplemental Water Addition to continue.

12. Section 9.2.3.2 Additional Implementation Actions, Subtitle Implementation of Supplemental Water Quality Controls, first paragraph beginning on page 11 states:

“The effectiveness of existing water quality controls, or equivalent, as described in Section 9.2.3.1, will be evaluated for implementation in Lake Elsinore and Canyon Lake under the revised TMDLs. The responsible entities with WLAs and LAs in either lake will evaluate the preference for alternative controls or need for additional controls early in the implementation of the revised TMDLs. As previously described, such supplemental water quality controls could be implemented under both the existing TMDLs and the revised TMDLs. Therefore,

the revised TMDLs are not anticipated to substantially change the manner or types of water quality controls that could be implemented in the future, and thus, the Proposed Project would not result in the need for additional supplemental water quality controls than would otherwise occur. Table 9-1 provides an initial list of potential supplemental water quality controls that may be considered for implementation in the future (see additional discussion in Sections 7 and 10); other water quality controls not included in the table may be considered as well.”

WRCAC’s literature review as presented in comment 9, requests that this statement be adjusted to represent the known current conditions. A narrative that clearly states that the supplemental water program’s discharged water quality requires nutrient offset credits to not harm the environment, and that these credits are no longer being provided by existing systems.

13. Section 9.2.3.2 Additional Implementation Actions, Subtitle Actions Recommend for Implementation by Other Agencies, the sentence on page 12 that reads:

“The Santa Ana Water Board will also work with the United States Department of Agriculture/USFS on revisions to, or implementation of, the San Bernardino National Forest and the Cleveland National Forest Management Plans to manage the discharge of nutrients from federally owned lands to reduce nutrient loads to the maximum extent practicable to the expected nutrient load from the watershed reference condition.”

Does not include any discussion of periods of intense runoff and nutrient loading such as after wildfires. A summary of the wildfire history in this watershed would be beneficial for the reader with regards to how catastrophic events and associated nutrient loads will be managed.

14. Section 9.2.3.2 Additional Implementation Actions, Subtitle Special Studies, the first bullet item – last sentence on page 16 that reads:

“To establish a larger dataset to validate the representation of reference nutrient concentrations in the San Jacinto River watershed, the Phase 2 revised TMDLs implementation plan includes a special study to validate the basis for the Phase 2 interim targets and allocations being representative of the reference watershed condition.”

WRCAC suggests expanding this discussion to be clearer regarding the uncertainties regarding limited data, and use of the median or 25th percentile currently projected values.

Section 9.3 Environmental Setting Comments

15. Section 9.3.1 Surrounding Land Uses and Setting, second paragraph on page 19:
 - a. Using the annual average approximate precipitation value of 11 inches does not adequately describe the rainfall patterns in this semi-arid desert. There is a wet season that this annual average ignores as well as the documented pattern of

years of extend drought, with approximate rainfall totals of 4 or 5 inches; to very wet year totals of well over the long-term average.

- b. This paragraph's last sentence is an ideal location to discuss the loss of Ag operations in this watershed. And, you should consider putting in not only the total acres, CAFOs and animal head numbers lost but sum the data up with percentages lost.
16. Section 9.3.2 Lake Elsinore, first paragraph last sentence on page 19. The historic physical features of Lake Elsinore are provided with some detail (i.e., surface water acres, average depth and included years where it became a dry lakebed), however no introductory discussion regarding the changes made is provided for the current physical conditions to prepare the reader for what follows.
 17. Section 9.3.2 Lake Elsinore, second to last paragraph, last sentence on page 20 reads:

“Monitoring data indicate that with the exception of periods of stratification Lake Elsinore is typically well-mixed with a limited thermocline.”

This sentence is too simple, everyone will know the lake is well mixed except when it is stratified. Therefore, WRCAC recommends a qualifying word like “infrequently”, or an estimated frequency of stratified periods should be added.

Section 9.4 Environmental Issues Comments

18. Section 9.4.1 Overview, second paragraph on page 25, and the Agriculture and Forestry Resources bullet regarding the list of environmental factors according to the Association of Environmental Professionals 2023. Towards the end of the paragraph, the sentences that read:

“Should any new or modified water quality controls be implemented to support compliance with the revised TMDLs in the future, a project specific environmental review pursuant to CEQA would be conducted by the lead agency (i.e., the agency that will carry out the supplemental project) at that time. Any potential project-specific environmental impacts that might be associated with the water quality control project would be addressed during that process.”

Specifically, the quoted paragraph above is not an appropriate sequence of required steps for the CEQA. The Agricultural AgWDR, and previously existing CAFO permit have already been listed, and require operators to comply with **the** current EPA approved TMDLs. Ag operators are already in compliance with the 2004 TMDL allocations.

Also, Section II in the Section 9.4.3.2 Agriculture and Forestry Resources table requests an evaluation regarding Converting Prime Farmland, or Farmland of Statewide Importance to non-agricultural use. Working with existing GIS data WRCAC previously collated to Determination of Critical Areas in a field for the WQIag 2019 Pilot test, there were approximately 3,889 acres, from a list of 30 farm operations evaluated, of fields with soil symbols that are listed as Prime Farmland in the California Department of Conservation's Farmland Mapping and Monitoring Program, Soil Candidate Listing for Prime Farmland and Farmland of Statewide Importance for Riverside County. This is just

a small sample set of the high potential larger number of acres because the Critical Area Determination only selects the largest sloped soil in a field that occupies 25 percent of the area or more. So, if a Prime Farmland Soil was not the dominant slope within the field, the soil Prime Farmland soil symbol was not recorded as part of the field's Determination of Critical Soil evaluation process.

Additionally, the supporting discussion for the Table, on page 29, includes the following language:

“Proposed Revision to the TMDLs: The Proposed Project would revise the existing nutrient TMDLs for Lake Elsinore and Canyon Lake. This revision would not result in any physical changes that would result in conversion of agricultural land to non-agricultural use or otherwise affect agriculture and forestry resources or operations.

Reasonably Foreseeable Methods of Compliance: The Proposed Project would not necessarily result in the implementation of new water quality controls or other compliance methods that would not otherwise already be required to comply with the existing TMDLs.

Finding of Significance: No impacts are anticipated, and no mitigation is necessary.”

WRCAC does not believe this finding to be valid due to the following reasoning:

- a. Regarding the Revision to the TMDLs statement: The second paragraph that begins on page 24, as an introduction to the Section 9.4.1 Overview states:

“In formulating answers to the checklist questions, the environmental effects of the Proposed Project were evaluated in the context of the existing regulatory and environmental setting (see Sections 9.1 and 9.3 respectively). Social or economic changes related to a physical change in the environment were also considered in determining whether there would be a significant effect on the environment; however, adverse social and economic impacts alone are not considered significant effects on the environment. §15382 of the State CEQA Guidelines defines a significant effect on the environment as, “a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.””

Regarding to the end statement that “A social or economic change related to a physical change may be considered in determining whether the physical change is significant.” WRCAC’s position is that the required changes from this project will be associated with much higher compliance costs and the findings should be that the physical change and related economic change is significant. WRCAC realizes that it is tempting to default to high land prices and urban development as the primary

cause of conversion of farmland to urban land uses. However, in the discussions with farmers who are working to comply and have already left farming in southern California their frustration in the added bureaucracy and costs of compliance were a factor in their decision to take advantage of the opportunity to sell their land. It is important to consider the farmers that have made it through the farm recessions that have occurred since the early 1970s are cunning individuals who enjoy the quality of life that farming provides. Quality of life considers profit, but also considers their work environment's many other attractive attributes.

On April 6th of this year, WRCAC gave a presentation and an associated memo regarding our Questions and Discussion for the LE/CL Nutrient TMDL Ag Sector at a meeting hosted by Barbra Barry (RWQCB). GEI, Tess Dunham, and multiple representatives from the RWQCB were in attendance. As part of that presentation WRCAC compared the TMDL fees + the WQIag Evaluation Technical Assistance Cost + State fees for the AgWDR program with an older example of a farm enterprise budget for a 300-acre alfalfa crop in the Central Valley. This example most likely does not and would not apply to the costs of inputs and current commodity prices experienced in the San Jacinto River Watershed. However, the maximum profit secured under best commodity sales price versus lowest input total cost, was a \$1,100 per year profit for the 300-acre crop. In comparison, if the operation is a member of the EMWD led TMDL San Jacinto Collation group the net cost in 2022 was approximately \$4,000 for the fees listed above. Furthermore, if the farm operation cannot join EMWD's collation group because they are not a purchaser of EMWD's irrigation water their cost for state fees alone is approximately \$10,000 and they still need to submit an annual field monitoring evaluation. Therefore, even though the farm enterprise budget is outdated and for a region next door, the magnitude that the fees for compliance requirements have had over the past years and are foreseen in the future will cut deeply into any existing profit margin if not eliminate and cause debt. Under the 2004 TMDL, the allocation for Ag, and cumulative reductions pooled with Ag have been met by attrition of the number of With the current proposed revised TMDL framework this is no longer an option.

- b. Regarding the statement paragraph beginning with "**Reasonably Foreseeable Methods of Compliance**": This revision to the TMDL most certainly will require more BMPs to be implemented on the field, or the purchase of more offset credits (if offset credits are even available in the future), because the stated watershed reference condition that is required to be achieved by all dischargers is "natural conditions" (i.e., nonanthropogenic loading rates).
- c. Regarding the statement paragraph beginning with "**Finding of Significance**": WRCAC representative's CEQA findings position for Agriculture is that based on the above information in this comment and supporting materials, WRCAC representatives cannot support or justify anything but a CEQA finding for Ag prime land use losses other than a Positive Declaration finding, without a more detailed-formal evaluation being conducted by GEI with such a conclusion. Another alternative, is to greatly reducing the regulatory costs and reduction requirements in existing documents before State approval of this revised TMDL. This strong position is made based on the facts that Prime Farmland has been, and will continue to be, converted into urban land uses due to the high compliance costs from existing regulatory requirements which were setup in advance to enforce this revised TMDL

allocations. Because existing regulatory requirements enforce the requirements of this revised TDML, this revised TMDL is the “CEQA regulated Project”. The CEQA finding as written in Section 9, passes the CEQA responsibility on to other regulatory tools which already exist.

19. Section 9.4.3.21 Mandatory Findings of Significance, Table Item b), page 57: Item b) states:

“b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of an action are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future actions)?”

And,

Item b) on page 58 states:

“Proposed TMDLs Revision: The Proposed Project would revise the existing nutrient TMDLs for Lake Elsinore and Canyon Lake. As discussed throughout this section, this revision would not have significant adverse effects on the environment, and thus, would not cause or add to a cumulative impact.

Reasonably Foreseeable Methods of Compliance: As discussed throughout this section, the Proposed Project would not necessarily result in the implementation of new water quality controls or other compliance methods that would not otherwise already be required to comply with the existing TMDLs. Thus, no cumulative impacts are anticipated.

Finding of Significance: No impacts are anticipated, and no mitigation is necessary.”

WRCAC has documented the high cost of monitoring and reporting, the loss of irrigated and non-irrigated farmland, which contains acres that are classified as Prime Farmland according to the classifications used by the California Department of Conservation’s Farmland Mapping and Monitoring Program, Soil Candidate Listing for Prime Farmland and Farmland of Statewide Importance for Riverside County. These concerns have been brought forward for months, and some of them for years; yet this Section’s finding ignores the long-term loss of Ag operations and the likelihood that further discharge restrictions will drive further operations out of business.