

# CV SALTS: YOUR PERMITS AND YOUR COMMUNITIES

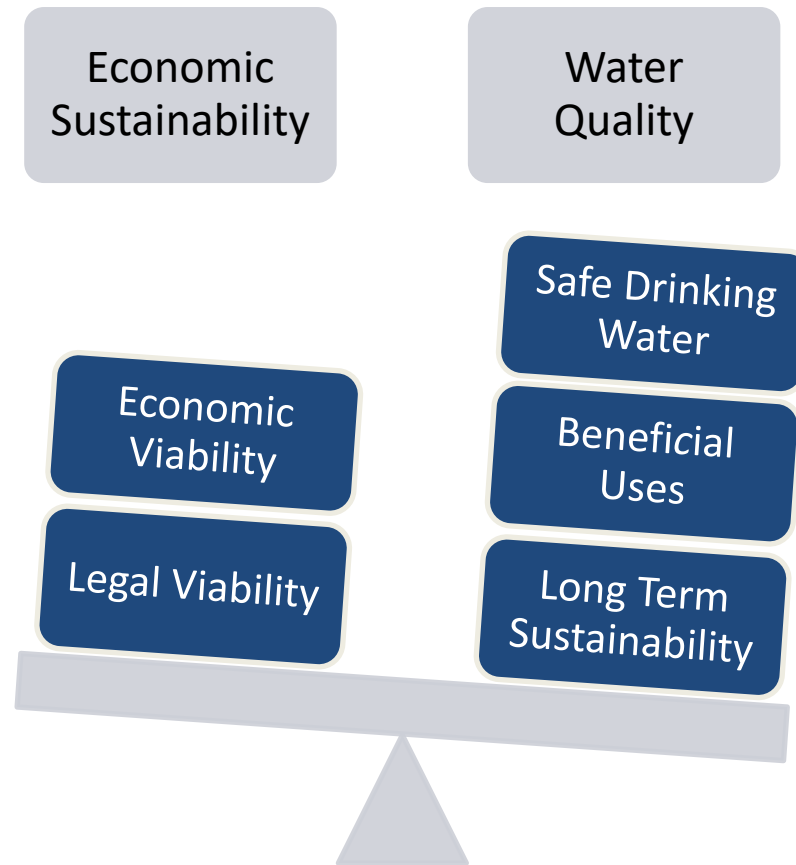
CVCWA 2018 ANNUAL CONFERENCE  
MAY 9, 2018  
TESS DUNHAM  
SOMACH SIMMONS & DUNN

## CV SALTS: Central Valley Salinity Alternatives for Long-term Sustainability

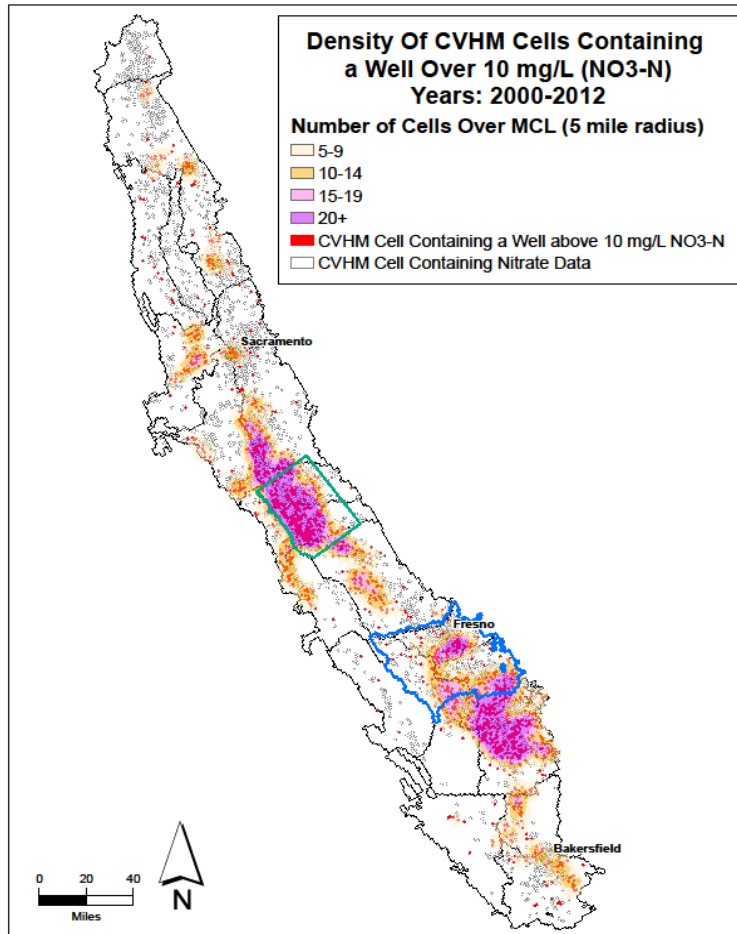
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- Ten year long stakeholder process
- Long term management of salt in surface and groundwater
- Long term management of nitrate in groundwater
- Increased flexibility in regulating discharges of salt and nitrate

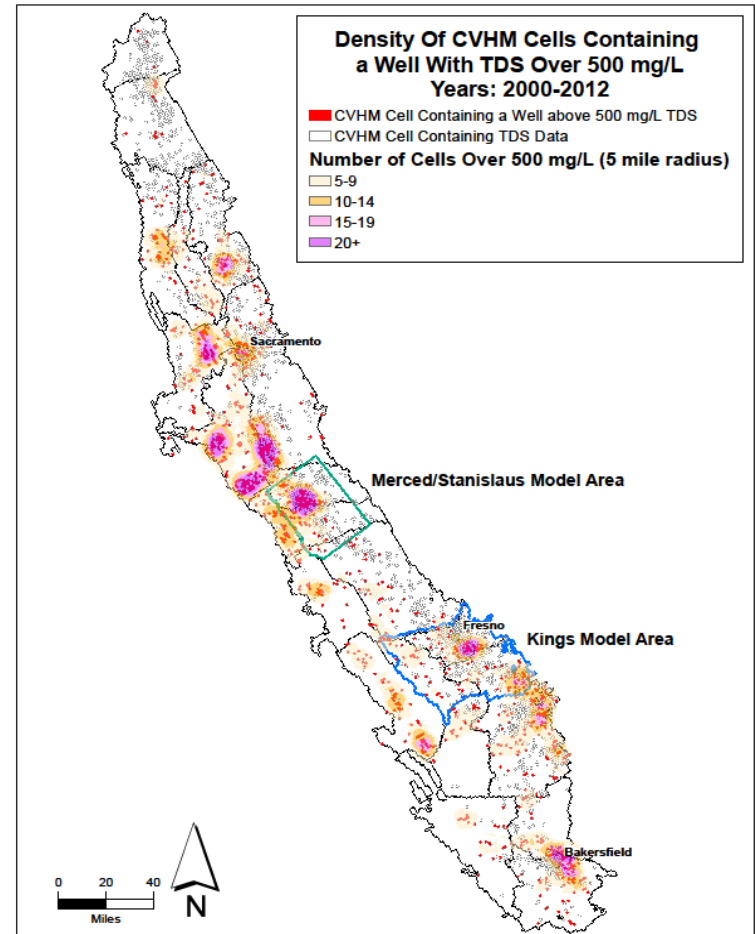
# Balancing Factors



# Groundwaters of the Central Valley Region:

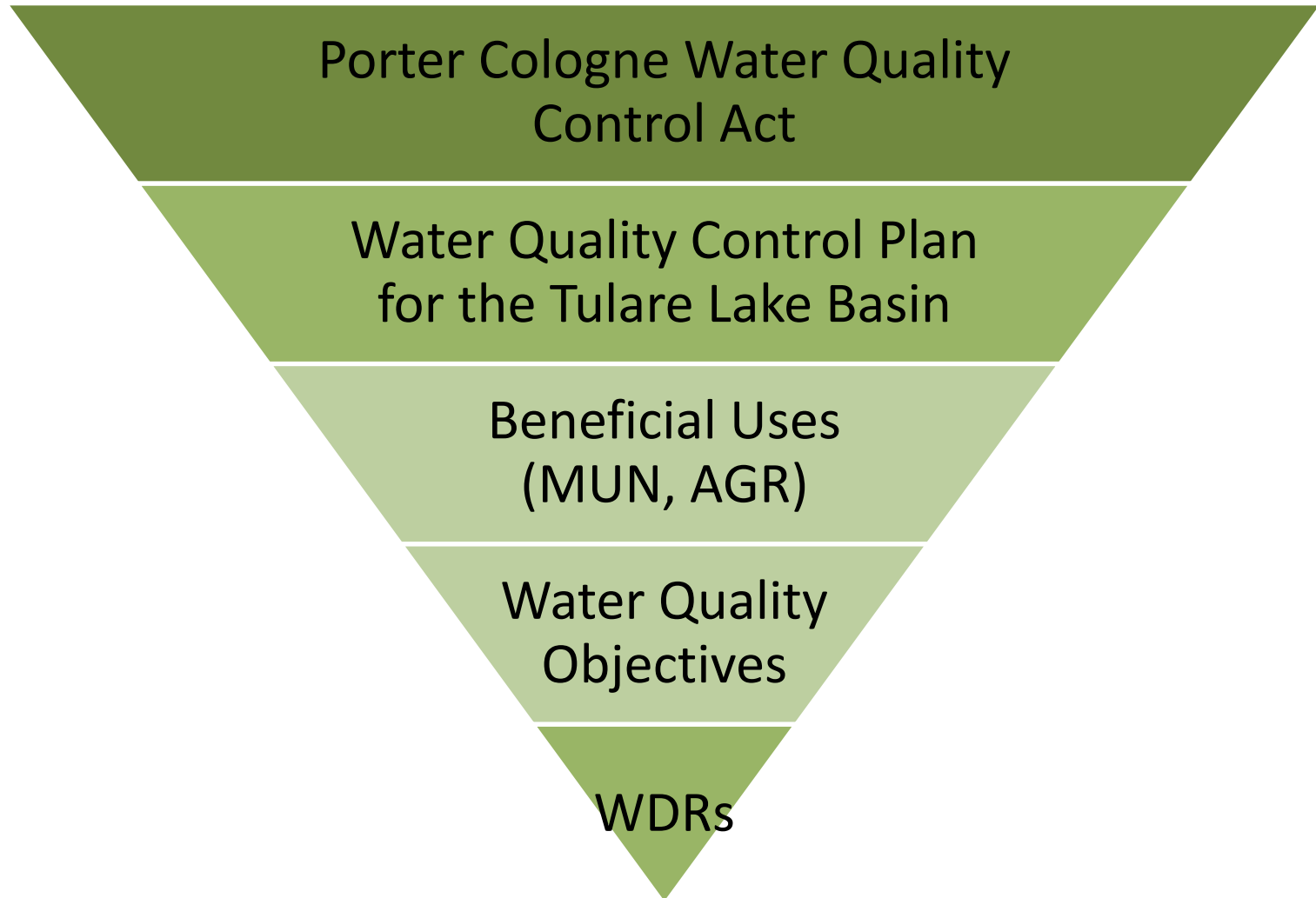


Nitrate



Salinity

# Legal Foundations



# Applicable Water Quality Standards

## MUN

- Nitrate  $<10$  mg/L (as N)
- Salinity (as TDS): 500 - 1,000 mg/L

## AGR

- Salinity (as TDS): varies, but can be as low as 450 mg/L



# Current Permitting Requirements

- In areas where groundwater quality is poor (e.g. does not meet water quality objectives), discharges to the basin must not exceed the applicable water quality objective.

SWRCB WQO #73-04 and WQO #81-05

- In areas where the groundwater quality is good, discharges are generally regulated to prevent further degradation except under special conditions.

SWRCB Res. No. 68-16



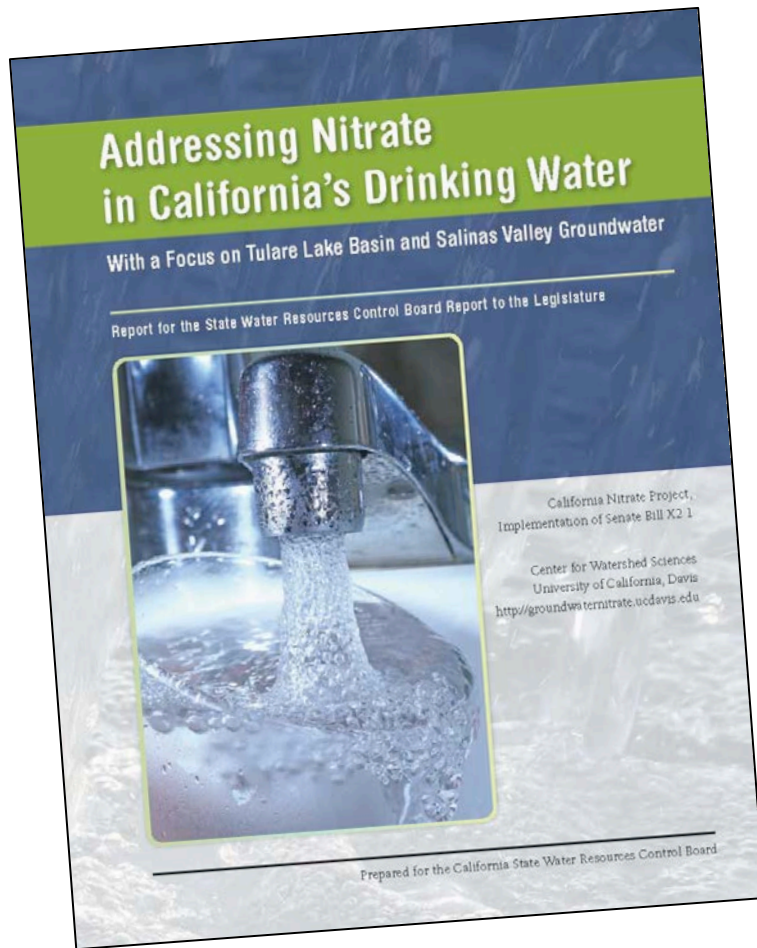
# Existing Water Board Options

Require discharge to meet water quality objective (e.g., must meet 10 mg/L)

Allocate assimilative capacity – if available

Adopt time schedule for meeting objective

Prohibit the discharge



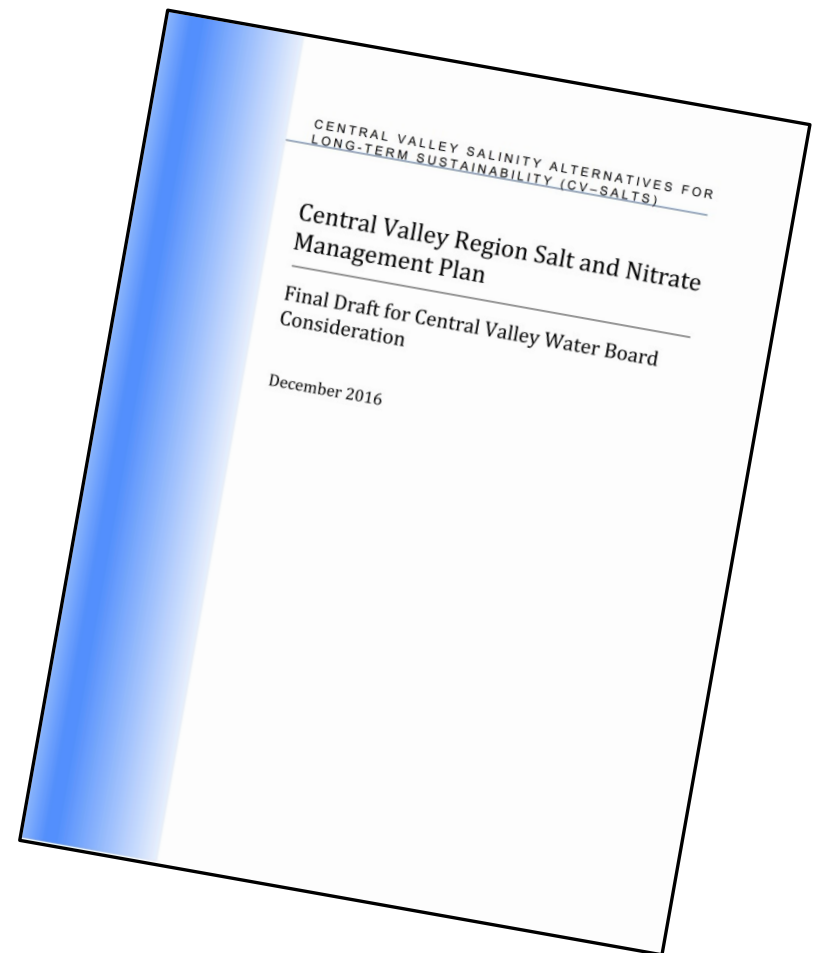
**“The Water Boards will evaluate all existing Waste Discharge Requirements to determine whether existing regulatory permitting is sufficiently protective of groundwater quality...”**

**SWRCB Report to Legislature, 2013**

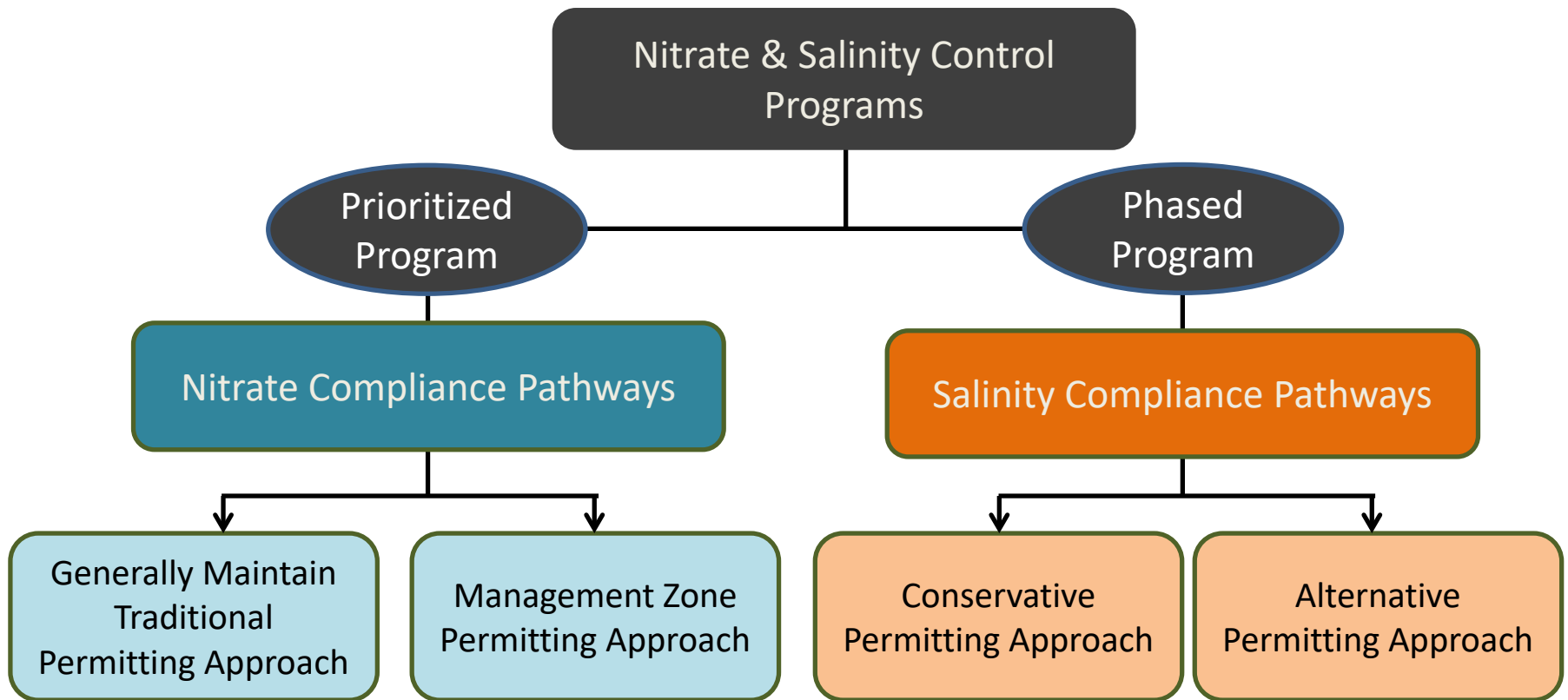
SNMP Requirement (2009)  
AB685: Human Right to Water (2012)  
Dairy Permit Remand (2012)  
DDW moved to SWRCB (2014)  
SGMA (2014)  
Safe Drinking Water Policy (2015)  
SWRCB Res. No. 2016-0010  
CVRWQCB Res. No. 2016-0018  
Salinas Basin Enforcement (2015)  
Kaweah, Tule, Kings Enforcement (2016)

# To Achieve Balance CV SALTS is Creating New Alternative Compliance Options

- Exceptions & Variances
- Offset Projects
- Authorized Degradation
- Phased Implementation
- Management Zones



# The Big Picture – Salt and Nitrate





## Nitrate Control Program

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- Focuses on addressing drinking water issues first
- Provides Regional Board with flexibility in how it regulates nitrate discharges
- Looks to address nitrate in groundwater over the long-term

## New/Revised Regional Board Authorities for Nitrate

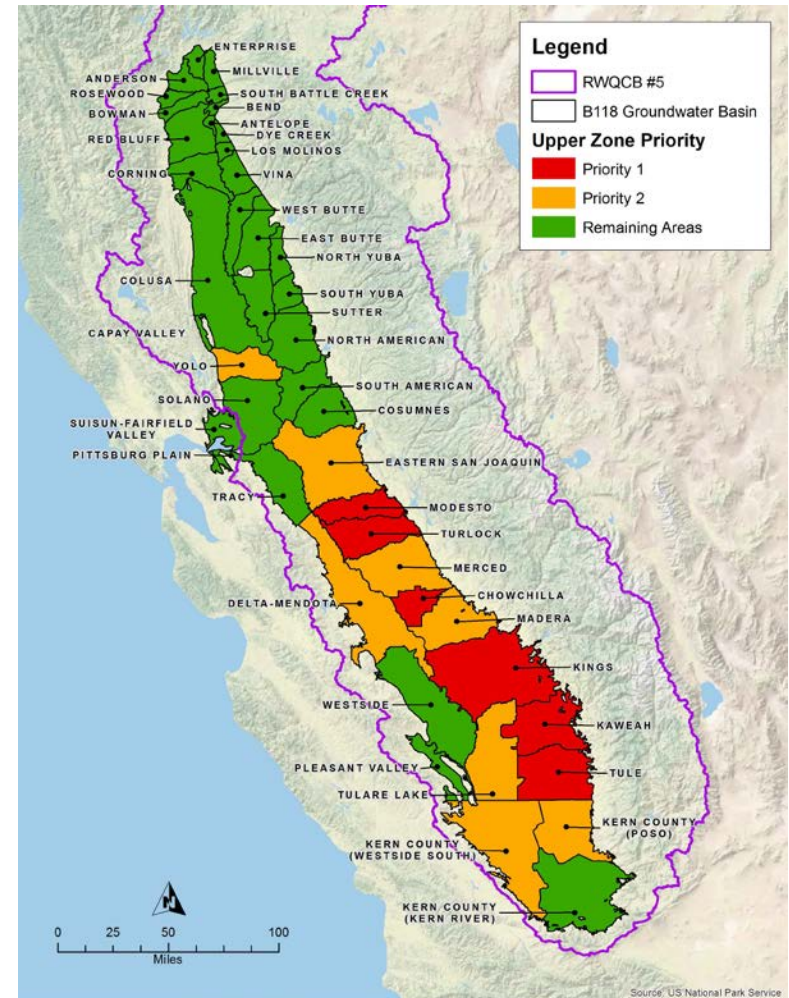
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- Allows for Exceptions to meeting nitrate water quality objective
- Management Zones
  - Alternative for calculating and allocating assimilative capacity
  - Exception for area
- Offset Projects



# Recommended Priority Areas

- Priority 1 Area (Red) – Notice to Comply within one year of Basin Plan amendments becoming effective
- Priority 2 Area (Orange) – Notice to Comply within 2-4 years of Basin Plan amendments becoming effective
- Non-priority Areas (Green) – Implementation to be phased in at a later date



# Priority Groundwater Basins/Subbasins

## Priority 1

No.	Name
5-22.11	Kaweah
5-22.03	Turlock
5-22.05	Chowchilla
5-22.13	Tule
5-22.02	Modesto
5-22.08	Kings

## Priority 2

No.	Name
5-21.67	Yolo
5-22.04	Merced
5-22.14	Kern County (Westside South)
5-22.12	Tulare Lake
5-22.14	Kern County (Poso)
5-22.07	Delta-Mendota
5-22.01	Eastern San Joaquin
5-22.06	Madera

## Nitrate Permitting Strategy: Two Options

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### Individual Permitting Pathway

- Discharger opts to comply as an individual, or third party maintains current approach
- Defines receiving water as shallow groundwater
- Establishes five discharge categories and associated compliance requirements
- Establishes trigger levels for consideration with regard to Board allocation of available assimilative capacity

### Management Zone Pathway

- Dischargers opt to work collectively with other dischargers through a Management Zone
- Management zone is a defined area, e.g., a portion of a larger groundwater basin/subbasin
- Serves as a discrete regulatory compliance unit for compliance

# Need to Address Nitrate Drinking Water

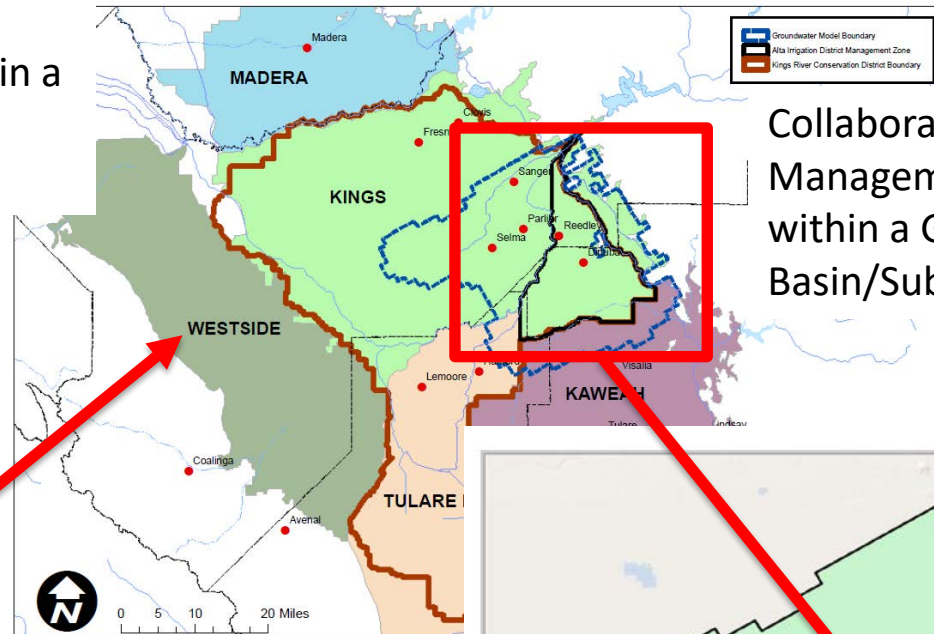
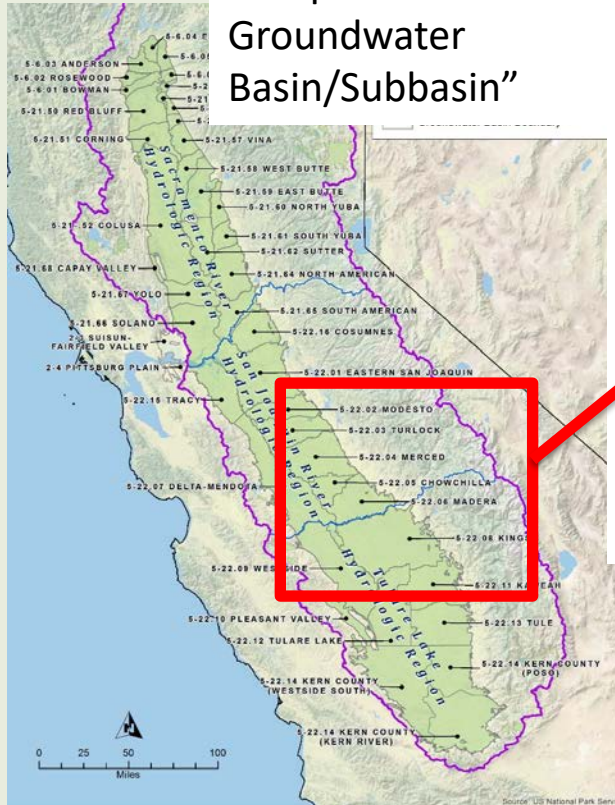
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## Early Action Plans

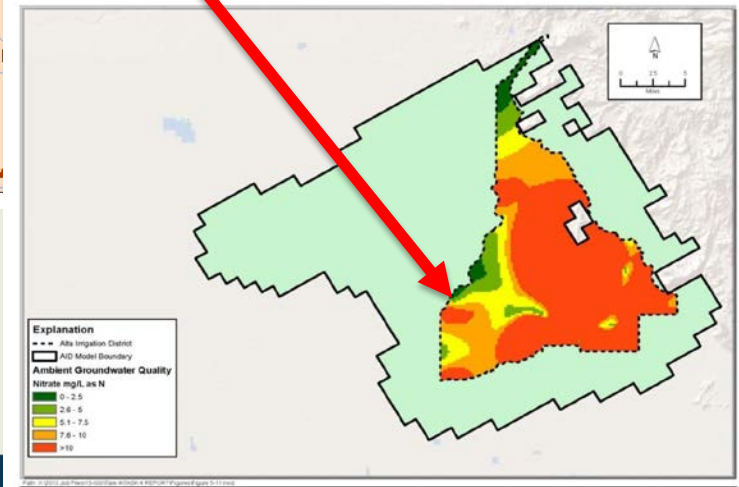
- Identify nitrate contaminated municipal and domestic wells in area that may be impacted by discharge
- Prepare plan for assuring emergency safe drinking water for those impacted
  - May include funding from federal, state, local and other sources

## Management Zone

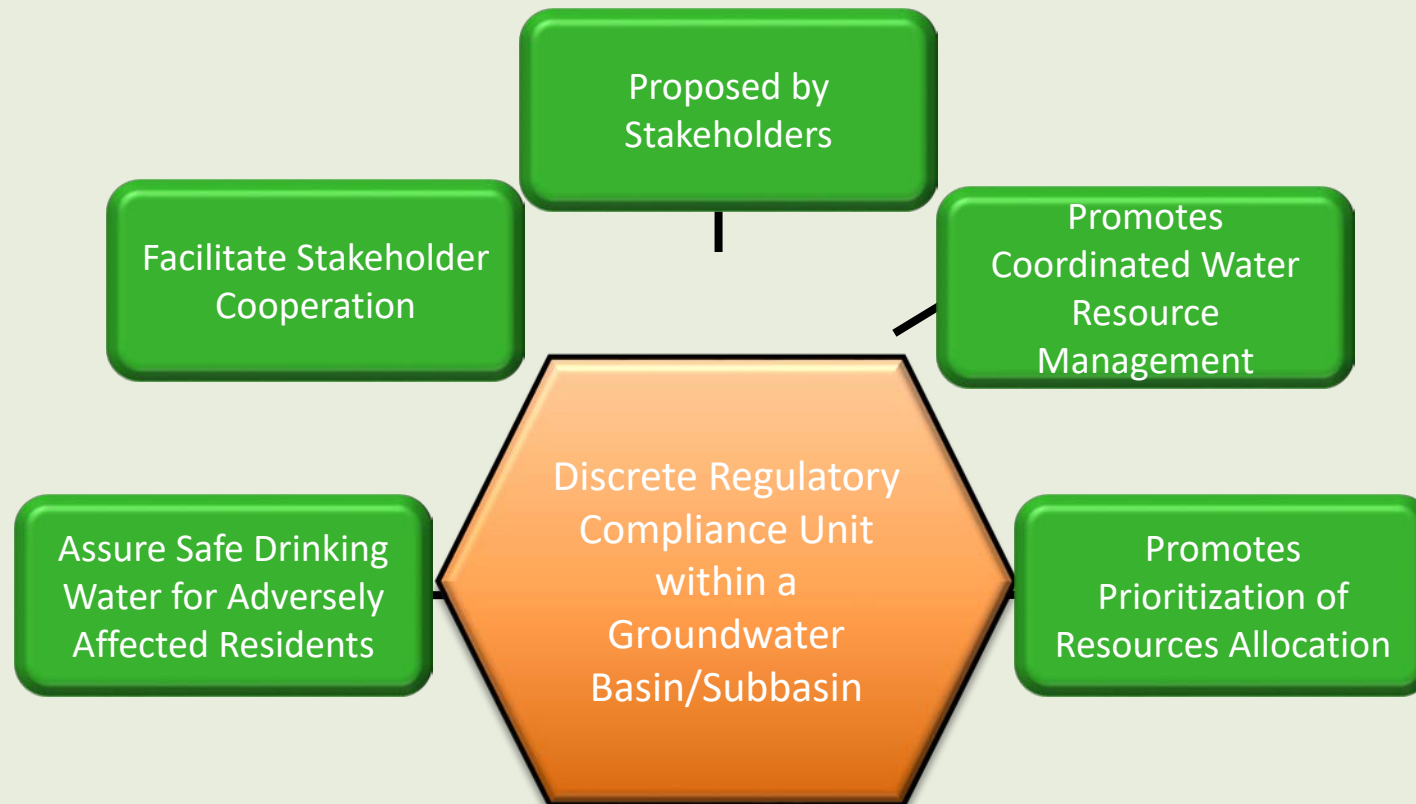
“Discrete Regulatory Compliance Unit within a Groundwater Basin/Subbasin”



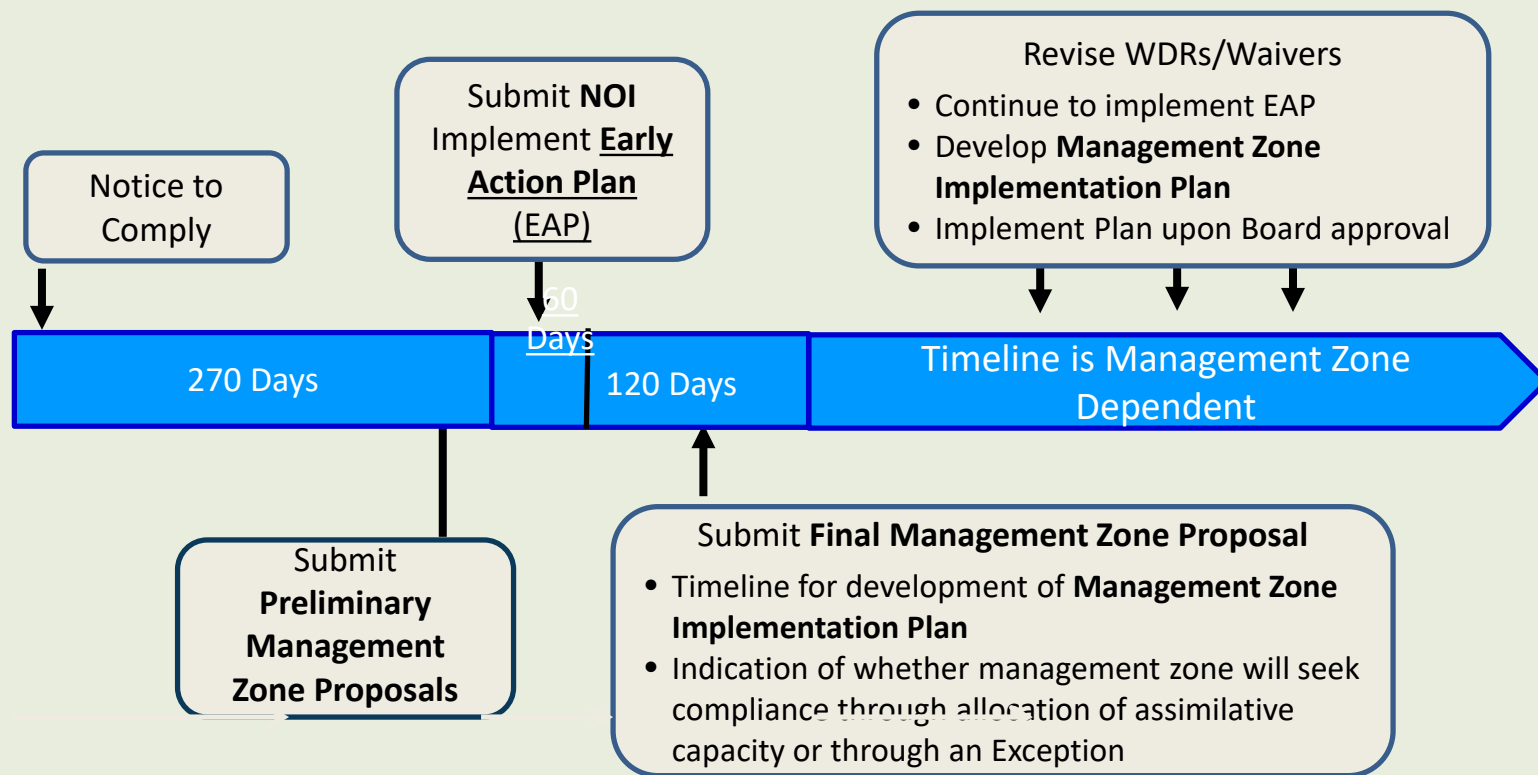
Collaborative Nitrate Management in an Area within a Groundwater Basin/Subbasin



# Management Zone Characteristics



# Timeline





## Salinity Control Program

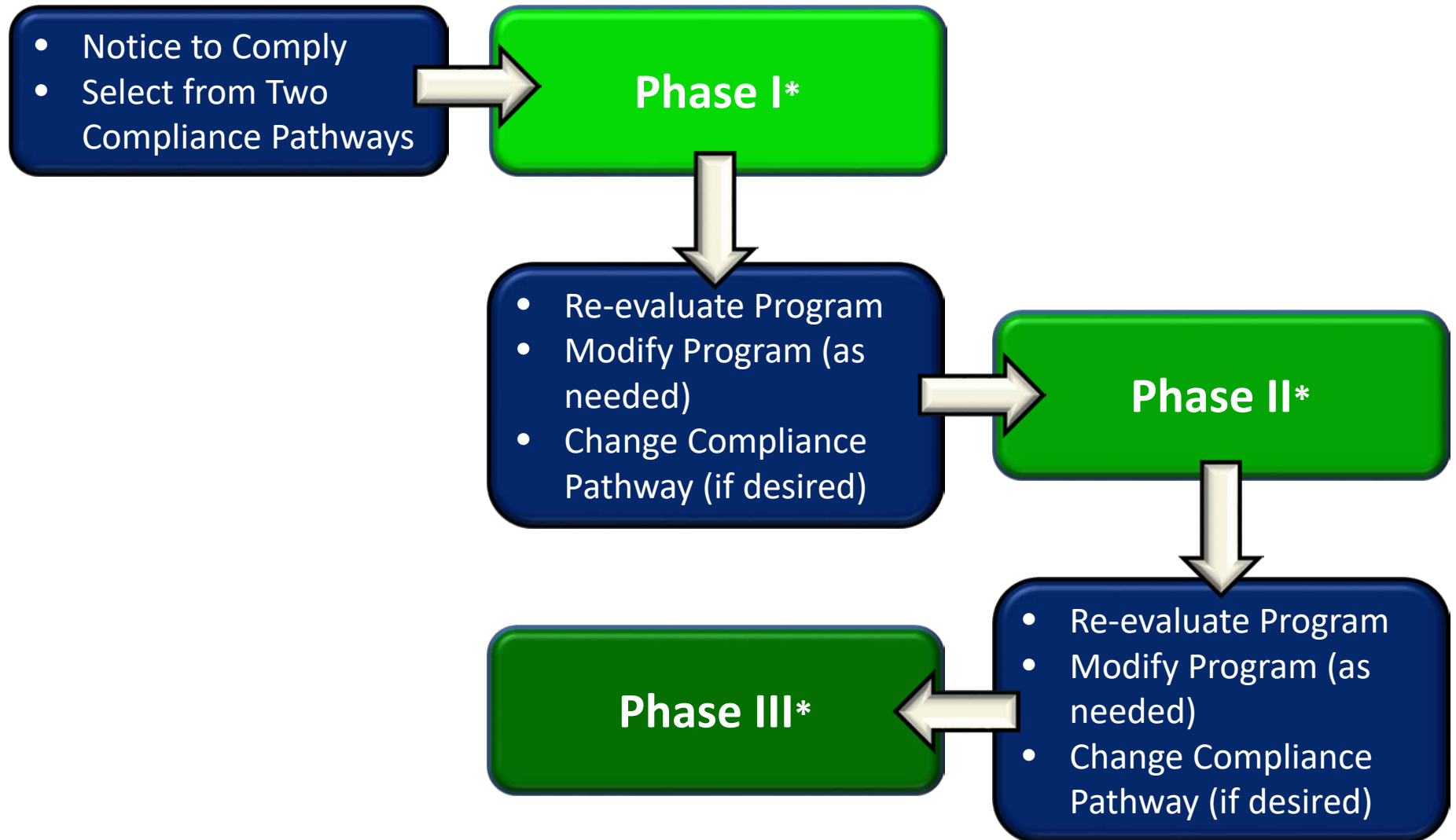
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- Manage rate of degradation
- Implement salt management activities to achieve balance, to the extent reasonable, feasible and practicable
- Protect beneficial uses to the extent reasonable, feasible and practicable

# Phased Salinity Program

- Need more information to develop a long-term management strategy that considers:
  - Differences across hydrologic regions
  - Potential local or sub-regional solutions vs. a broad region-wide solution
  - Other relevant programs such as GSAs
  - Impacts of existing policies/programs that impact salt management
- Resource allocation must be prioritized to focus first and foremost on addressing nitrate drinking water issues
- Stepwise, adaptive process allows time to determine how best to manage salt

# What does Phasing look like?



# What happens during each phase?

Phase	Purpose/Activities
<b>Phase I – Prioritization &amp; Optimization (P&amp;O) Study (10-15 years)</b>	<ul style="list-style-type: none"> <li>• Develop data/information for sensitive/non-sensitive areas for Central Valley hydrologic regions, including guidelines to protect salt sensitive crops;</li> <li>• Identify sources of salinity and actions that impact salinity concentrations;</li> <li>• Evaluate impacts of state policies and programs;</li> <li>• Identify/prioritize preferred physical projects for long-term salt management (e.g. regulated brine line(s), salt sinks, regional/subregional de-salters, recharge areas, deep well injection)</li> <li>• Develop preferred physical project conceptual designs/assess environmental permitting requirements/costs associated with projects;</li> <li>• Identify non-physical projects and plan for implementation; and</li> <li>• Develop a governance structure and funding plan.</li> </ul>
<b>Phase II – Project Development &amp; Fund Acquisition (10-15 years)</b>	<ul style="list-style-type: none"> <li>• Obtain long-term funding;</li> <li>• Complete environmental permitting and engineering/design for physical projects identified in Phase I;</li> <li>• Implement non-physical projects</li> </ul>
<b>Phase III - Implementation (10+ years)</b>	<ul style="list-style-type: none"> <li>• Construct salt management projects as designed in previous phases</li> </ul>

# What are my compliance pathway options for phase I?

Permittees Have the Opportunity to Select a Compliance Pathway at the Beginning of Phase I

## Phase I - Conservative Salinity Permitting Approach

- Source control
- Conservative effluent and/or receiving water limits
- Limited use of assimilative capacity or time schedules
- Eligibility requirements for exception/ variance not met

## Phase I - Alternative Salinity Permitting Approach

- Support funding of P&O Study
- Participate in P&O Study activities, as appropriate
- Continue/maintain existing salt management program
- Eligible for exception/variance

## Ensuring Implementation for POTWs

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### Conditional Prohibition for Salt Control Program

- Applies when a Notice to Comply is received
- Discharges of salt above conservative values prohibited unless following Phase I timelines

### Conditional Prohibition for Nitrate Control Program

- Applies when a Notice to comply is received
- Discharges of nitrate prohibited unless meeting Nitrate Control Program timelines

# Summary of Impact to POTWs

Everyone will need to consider compliance with Salt Control Program within 6 months of Notice to Comply (which is to be issued within 1 year of effective date)

Permittees in priority I areas will need to consider compliance with Nitrate Control Program within 330 days from Notice to Comply (based on priority)

Salt and nitrate permit provisions may change

Depending on discharge quality and permitting circumstances, may need to use alternative compliance

