

COMMENT LETTER

**Contra Costa Water District
(CCWD)**



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February 19, 2009

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San Luis & Delta-Mendota Water Authority
P.O. Box 2157
Los Banos, California 93635

Judi Tapia
U.S. Bureau of Reclamation
South-Central California Office
1243 N Street
Fresno, California 93721

Subject: Draft EIS/EIR for Continuation of the Grassland Bypass Project

Dear Mr. McGahan and Ms. Tapia:

Contra Costa Water District (CCWD) appreciates the opportunity to comment on the Draft Environmental Impact Statement/Environmental Impact Report for the Grassland Bypass Project, 2010-2019 (EIS/R). This EIS/R evaluates the proposed action to extend the Grassland Bypass Use Agreement (Use Agreement) through December 31, 2019.

CCWD depends on the Sacramento-San Joaquin Delta to supply water to over half a million people in eastern and northern Contra Costa County, and therefore works to protect Delta water quality from degradation. CCWD participated in the development of the first Use Agreement in 1995, the existing Use Agreement in 2001, and the Use Agreement extension.

CCWD recognizes that, despite good faith efforts by the Grassland area farmers to manage and reduce their drainage and meet the selenium and salinity load targets, difficulty in acquiring funding has delayed the development of treatment and disposal technology required to reduce selenium loads to meet the existing deadline of zero discharge by the end of 2009. Under the Use Agreement extension, Grassland Area farmers will continue to discharge both selenium and salt to the San Joaquin River and Delta using a portion of the San Luis Drain, but the selenium and salt load targets, fines for exceedance of the load targets, and new mitigation fees are designed to achieve the ultimate goal of zero discharge by or before the end of 2019.

The goal of zero discharge was established to protect both Delta water quality and the Mud Slough fish and wildlife ecosystem. The proposed action eliminates salt and selenium drainage impacts with an in-Valley solution, rather than with discharge to the San Joaquin River, consistent with the San Luis Drainage Feature Re-evaluation Record of Decision issued by the U.S. Bureau of Reclamation in March 2007. The EIS/R does screen out an alternative to extend the San Luis Drain to the San Joaquin River below the Merced River; CCWD agrees that this Mud Slough Bypass Alternative is not an acceptable alternative.

If you would like to discuss these comments, please do not hesitate to call me at (925) 688-8083, or Lucinda Shih at (925) 688-8168.

Sincerely,

A handwritten signature in black ink, appearing to read "Leah Orloff". The signature is fluid and cursive, with the first name "Leah" and last name "Orloff" clearly distinguishable.

Leah Orloff
Water Resources Manager

LO/LHS:wec

cc: Gary Bobker, The Bay Institute
Hal Candee, Natural Resources Defense Council
Tom Graff, Environmental Defense Fund
John Kopchik, Contra Costa County
Richard Denton, Richard Denton & Associates

RESPONSE

CCWD

Contra Costa Water District
Leah Orloff, Water Resources Manager

February 19, 2009

Comments noted and considered.

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COMMENT LETTER

**San Joaquin River Group Authority
(SJRGGA)**



O'Laughlin & Paris LLP

Attorneys at Law

VIA ELECTRONIC MAIL AND US MAIL

February 9, 2009

Joseph C. McGahan (jmcgahan@summerseng.com)
Drainage Coordinator
San Luis & Delta-Mendota Water Authority
P.O. Box 2157
Los Banos, CA. 93635

**Re: Draft Environmental Impact Statement/Environmental Impact
Report for the Continuation of the Grassland Bypass Project, 2010-
2019, SCH# 2007121110**

Dear Mr. McGahan:

We have reviewed the draft EIR/EIR for the Grassland Bypass Project and offer following comments on behalf of the San Joaquin River Group Authority ("SJRG"). The SJRG's member agencies include the Oakdale Irrigation District, Modesto Irrigation District, South San Joaquin Irrigation District Turlock Irrigation District, City and County of San Francisco, and the San Joaquin River Exchange Contractors Water Authority. The SJRG and its member agencies have been active participants in developing and administering the Vernalis Adaptive Management Plan ("VAMP") and in managing Stanislaus River flows in cooperation with the United States Bureau of Reclamation ("Reclamation"). Involvement in such issues has given the SJRG and its member agencies extensive knowledge and experience pertaining to flow and salinity conditions in the South Delta and at the monitoring stations at Vernalis.

First, there are no such terms as "impaired water," or "impaired body of water," or "impairment." The Clean Water Act and federal regulations use the term "water quality limited segment" to refer to waters classified, pursuant to §303(d)(1)(A) of the Clean Water Act as either currently out of compliance with applicable water quality objectives or not expected to comply with applicable water quality objectives. (33 U.S.C. §1313(d)(1)(A); C.F.R. tit. 40, §130.2(j).) The EIR/EIS should therefore use the term "water quality limited segment" to refer to waters on the §303(d) List of Water Quality Limited Segments. It also needs to distinguish between pollution, pollutants, and factors specifically resulting in or contributing to a §303(d)(1)(A) classification, the last of which would perhaps best be referred to as a "water quality limiting factor" or "water quality limiting condition."

SJRG-1

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Furthermore, the EIR/EIS analysis of salinity conditions at Vernalis is also incorrect in its assessment of compliance with water quality objective (“WQO”) for salinity at Airport Way Bridge near Vernalis (“Vernalis Salinity WQO”) and inconsistent with assessments of the same data by the SJRGA, Reclamation, and the Central Valley Regional Water Quality Control Board (“Regional Board”). (EIR/EIS, p. 4-45.) According to the EIR/EIS, the 700 $\mu\text{mhos/cm}$ 30-day running average WQO for April through August was exceeded 54 percent of the time from 1986 through 1997. The 1,000 $\mu\text{mhos/cm}$ WQO for the September through March period was exceeded 13 percent of the time. This is impossible, because the current Vernalis Salinity WQO has only been effective since 1995.

SJRG-2

Initially, the salinity WQO at Vernalis was based on Water Right Decision 1422 (“D-1422”), which approved Reclamation’s water right applications to appropriate water from the Stanislaus River at New Melones Reservoir for power generation, preservation and enhancement of fish and wildlife, recreation, and water quality control. D-1422 required Reclamation to release water to maintain a mean monthly total dissolved solids (“TDS”) of 500 ppm or less in the San Joaquin River at Vernalis.¹ (D-1641 EIR, p. VIII-13.)

In 1978, the State Water Board adopted both the 1978 Delta plan, which revised the water quality objectives for the Delta, and Water Right Decision 1485 (“D-1485”), which implemented the objectives. The 1978 Delta Plan established a two-phase approach regarding Vernalis salinity objectives. In the first phase, the existing objective of 500 ppm maximum 30-day running average of mean daily TDS would become effective after New Melones Reservoir became operational. The phase two objectives were a 700 $\mu\text{mhos/cm}$ and 1,000 $\mu\text{mhos/cm}$ maximum 30-day running average of mean daily EC from April 1 through August 31 and from September 1 through March 31, respectively. The phase two objectives would become effective only upon completion of suitable circulation and water supply facilities in the interior South Delta. Although D-1485 ordered the Department of Water Resources (“DWR”) and Reclamation to implement most of the water quality objectives of the 1978 Delta Plan, but the Vernalis salinity objectives were not included in the decision. Therefore, the requirements of D-1422 remained in effect. (D-1641 EIR, p. VIII-13.)

SJRG-3

The 1991 Bay-Delta Plan (also referred to as the “1991 Salinity Plan”) revised the water quality objectives in the 1978 Delta Plan. The magnitude of the Vernalis salinity objectives was not changed in the 1991 Bay-Delta Plan, but the implementation schedule was changed. The plan called for the year-round Vernalis salinity objective of 500 ppm TDS to be replaced by the seasonal objectives of 700 $\mu\text{mhos/cm}$ and 1,000 $\mu\text{mhos/cm}$ EC from April 1 through August 31 and from September 1 through March 31, respectively, no later than 1994. However, the State Water Board did not adopt a water right decision implementing the provisions of the 1991 Bay-Delta Plan and Reclamation remained

¹ See State Water Resources Control Board, *Final Environmental Impact Report for Implementation of the Water Quality Control Plan for the Bay/Delta* (State Clearinghouse No. 97-122056) (Nov. 1999) (“D-1641 EIR”).

responsible for meeting the water quality objective of 500 ppm TDS contained in D-1422. (D-1641 EIR, p. VIII-13.)

The 1995 Bay/Delta Plan revised the water quality objectives in the 1991 Bay/Delta Plan. The seasonal objectives at Vernalis of 0.7 mmhos/cm and 1.0 mmhos/cm EC from April 1 through August 31 and from September 1 through March 31, respectively, were retained and became effective immediately. (D-1641 EIR, p. VIII-14.) On June 8, 1995, the State Water Board adopted Water Right Order (“WRO”) 95-6, which makes the water rights of the State Water Project (“SWP”) and the Central Valley Project (“CVP”) consistent with their implementation of the 1995 Bay-Delta Plan. This action allowed the SWP and the CVP to operate their facilities in accordance with the 1995 Bay-Delta Plan while the State Water Board prepared a long-term water right decision to implement the plan. Among other provisions, WRO 95-6 also required Reclamation to release stored water from New Melones Reservoir to comply with 1995 Bay-Delta Plan Vernalis Salinity WQO. WRO 98-09 extended WRO 95-6 until the end of 1999. (D-1641 EIR, p. VIII-14.) In 1999, the water right phase of the 1995 Bay-Delta Plan program of implementation culminated in the adoption of Water Right Decision 1641 (“D-1641”), wherein the State Water Board found that the “actions of the Central Valley Project (“CVP”) were the principal causes of the salinity concentrations exceeding the objectives at Vernalis.” The State Water Board therefore conditioned all of the CVP permits, not just those for New Melones, upon meeting the Vernalis Salinity WQO.²

SJRG-3

There has also been consensus among the SJRGA, those developing the CALSIM II planning model, and even the Regional Board,³ that the Vernalis Salinity WQO has been met, without fail, since 1995.⁴ The EIR/EIS, however, notes that less than 100 percent compliance with the Vernalis Salinity WQO has occurred since then based on weekly grab-bag samples obtained by the Regional Board. However, compliance with the Vernalis Salinity WQO has always been determined based on data obtained by the VNS/VER USGS/SWR/Reclamation CDEC station (Interagency C-10).

SJRG-4

In addition, since the Vernalis Salinity WQO an objective expressed as a running average, the determination of compliance begins on the last day of the averaging period.⁵ If the objective is not met on the last day of the averaging period, then all days in the averaging period are considered out of compliance. The Vernalis Salinity WQO requires

SJRG-5

² See State Water Resources Control Board, *In The Matter of Implementation of Water Quality Objectives for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary; a Petition to Change Points of Diversion of the Central Valley Project and the State Water Project in the Southern Delta, and a Petition to Change Places of Use and Purposes of Use of the Central Valley Project*, Revised Decision 1641 (March 29, 2000) (available in 1999 WL 1678482 (Cal.St.Wat.Res.Bd.))

³ The State Water Resources Control Board and the Regional Board have acknowledged on multiple occasions that the Vernalis Salinity WQO has been met since 1995, in particular when responding to public comment on the San Joaquin River Salt & Boron Total Maximum Daily Load.

⁴ Given that the current Vernalis Salinity WQO was not adopted until 1995, if no exceedance occurred since 1995, then no exceedances have ever occurred.

⁵ See 2006 Bay-Delta Plan, p. 13 fn 2 (“Determination of compliance with an objective expressed as a running average begins on the last day of the averaging period. The averaging period commences with the first day of the time period for the applicable objective. If the objective is not met on the last day of the averaging period, all days in the averaging period are considered out of compliance.”)

a maximum 30-day running average mean daily electrical conductivity of 700 $\mu\text{mhos/cm}$ from April 1 through August 31, the irrigation season, and 1,000 $\mu\text{mhos/cm}$ the rest of the year. Since the Vernalis Salinity WQO changes in April, determination of compliance with the April-August objective begins on April 30. Properly assessing compliance with the Vernalis Salinity WQO, based on the rule for interpreting running averages, and using the Interagency C-10 daily EC data leads to the conclusion that the Vernalis Salinity WQO has been met since 1995. Since the current Vernalis Salinity WQO only became effective in 1995, it also leads to the conclusion that the Vernalis Salinity WQO has never been exceeded.

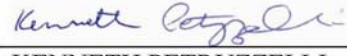
SJRG-5

The SJRGA supports the Grasslands Bypass Project. It will help cleanup the San Joaquin River and reduce pollution. However, the San Luis & Delta Mendota Water Authority must use the correct baseline information in conducting its environmental assessments.

SJRG-6

Very truly yours,
O'LAUGHLIN & PARIS LLP

By:


KENNETH PETRUZZELLI

RESPONSE

SJRG

San Joaquin River Group Authority
Kenneth Petruzzelli, O’Laughlin & Paris LLP

February 9, 2009

SJRG-1

The commenter discourages the use of “impaired water”, “impaired body of water”, or “impairment” in reference to 303(d) water quality limited segments. The commenter suggests the use of the terms “water quality limited segments”, “water quality limiting factors” or “water quality limiting condition”.

Although the USEPA did not comment on this, revisions have been made to EIS/EIR sections as indicated below, and none of these revisions changes the conclusions regarding impacts/effects.

4.1.1.1 *Area of Potential Impacts*

Conversely, irrigated agriculture development has historically led to water quality problems in the lower San Joaquin River to the extent that it has been listed as an ~~impaired waterbody~~ water quality limited segment by the California State Water Resources Control Board (State Board) under Section 303(d) of the Federal Clean Water Act (CWA) (State Board 1999a, 2006a). The Central Valley Regional Water Quality Control Board (Regional Board) has approved the delisting of the San Joaquin River at Vernalis for salinity and the San Joaquin River (from the Merced River to the Delta Boundary) and all of Salt Slough for selenium (Se) in June 2009.

4.1.2.2 *Regional and Project-Specific Regulatory Background*

The lower San Joaquin River has been designated an ~~impaired waterbody for salinity and boron~~ water quality limited segment under CWA Section 303(d) for salt and boron. Pursuant to the Section 303(d) listing, the Regional Board prepared the TMDL for the control of salt and boron discharges into the lower San Joaquin River in July 2004 (Regional Board 2004b). The San Joaquin River at Vernalis has been approved by the Regional Board for delisting for salinity.

4.1.2.3.1 *Development of the Total Maximum Monthly Load (TMML)*

The lower San Joaquin River, between Mud Slough and the Merced River, is designated by the State Board as an ~~impaired waterbody for Se~~ water quality limited segment under CWA Section 303(d) for Se (State Board 2006a). Previous listings designated the San Joaquin River as ~~impaired for Se from a water quality limited segment from Mendota Pool to Vernalis for Se~~ (State Board 1999a). However, the Regional Board has approved the delisting of the San Joaquin River from the Merced River to the Delta Boundary and Salt Slough for Se.

4.1.5.9 San Joaquin River at Vernalis (River Mile <77)

Water quality at Vernalis is of concern because this is the current compliance point for EC objectives. The State Board under CWA Section 303(d) has listed this ~~site as an impaired waterbody for~~ segment of the river as being water quality limited with respect to salt and dissolved oxygen. However, the San Joaquin River at Vernalis has been approved by the Regional Board for delisting for salinity. All criteria established by the State Board have been met for delisting and, therefore, the State Board and USEPA are expected to approve delisting for salinity as well. The Regional Board also has approved the delisting of the lower San Joaquin River and Salt Slough for Se.

SJRG-2

The commenter states that the EIS/EIR analysis of salinity conditions at Vernalis is also incorrect in its assessment of compliance with water quality objectives (“WQO”) for salinity at Airport Way Bridge near Vernalis (“Vernalis Salinity WQO”) and inconsistent with assessments of the same data by the SJRG, Reclamation, and the Central Valley Regional Water Quality Control Board (“Regional Board”)....

Revisions to the text and Figure 4-28 have been made as indicated below, and these corrections do not change the conclusions regarding impacts/effects on water quality. The compliance assessment of CDEC data from Station VNS indicates that the EC was not above the WQO during water year 2002-2007. The reference to CALFED 2000 has been removed.

4.1.5.9.4 Water Quality

The CDEC Station VNS site is located just downstream of the inflow from the Stanislaus River; thus, water quality is typical of surface flow and is likely to be the best of any of the river sites (Regional Board 2008). Constituents of concern in the San Joaquin River at Vernalis include salt (characterized as EC) and dissolved oxygen. Se and boron concentrations are typically below WQOs.

~~Elevated salinity concentrations have resulted in exceedances of WQOs for the San Joaquin River in previous years. The 700 µmhos/cm 30-day running average EC WQO for the San Joaquin River near Vernalis for the April to August period has been exceeded 54 percent of the time from 1986 through 1997. The 1,000 µmhos/cm WQO for the September to March period has been exceeded 13 percent of the time (CALFED 2000).~~

EC data was obtained for CDEC Station VNS (CDEC 2008). For Water Years 2002–2007, EC ranged from 197 90 to 1,200 1,060 µmhos/cm, with an average of 610 560 µmhos/cm. This is equivalent to approximately 60 50 to 740 660 mg/L TDS, with an average of 380 350 mg/L TDS, when the EC-TDS ratio of 0.62 was used. EC was above below the 30-day running average WQO during this period 11 percent of the datapoints, or 35 out of the 314 of the Regional Board weekly field measurements (Figure 4-28). 30-day average concentrations were above the WQO during 2002 to 2004 and during 2007.

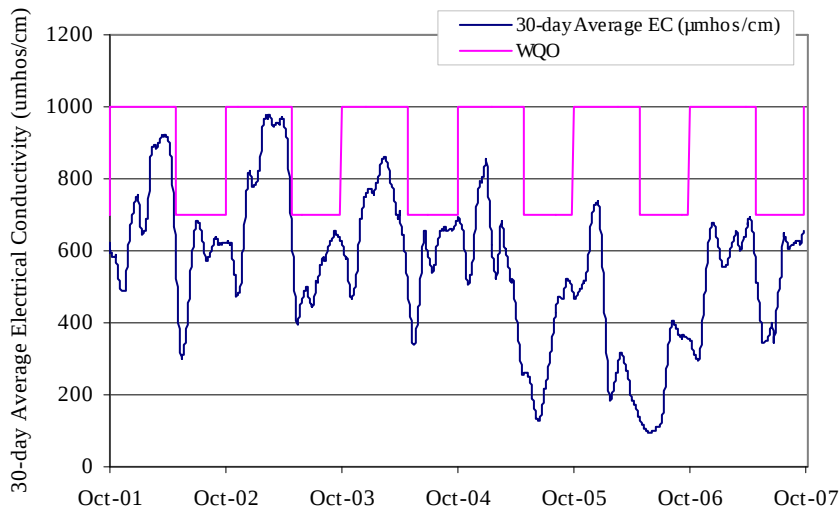


Figure 4-28 Electrical Conductivity in San Joaquin River at Vernalis for Water Years 2002–2007

SJRG-3

The commenter describes the regulatory background associated with D-1641 and the salinity WQO at Vernalis. Comment noted and considered.

SJRG-4

The commenter states that...the Vernalis Salinity WQO has been met, without fail, since 1995. ...compliance with the Vernalis Salinity WQO has always been determined based on data obtained by the VNS/VER USGS/SWR/Reclamation CDEC station (Interagency C-10).

EC data obtained from CDEC Station VNS for water years 2002-2007 was analyzed in lieu of weekly grab samples obtained by the Regional Board (as indicated in response to comment SJRG-2). Analysis of this data indicates that the WQO has been met during this period.

SJRG-5

The commenter states that in addition, since the Vernalis Salinity WQO [is] an objective expressed as a running average, the determination of compliance begins on the last day of the averaging period...Since the Vernalis Salinity WQO changes in April, determination of compliance with the April-August objective begins on April 30....

The compliance assessment indicated in response SJRG-2 is consistent with this methodology.

SJRG-6

The comment is that ...the San Luis & Delta Mendota Water Authority must use the correct baseline information in conducting its environmental assessments.

Comment noted and considered. Revisions to the compliance assessment utilize EC data obtained from VNS/VER USGS/SWR/Reclamation CDEC station (Interagency C-10) in lieu of weekly grab samples obtained by the Regional Board.

COMMENT LETTER

**Stanislaus County Environmental Review
Committee (STAN)**



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STANISLAUS COUNTY ENVIRONMENTAL REVIEW COMMITTEE

January 26, 2009

Joseph C. McGahan, Drainage Coordinator
San Luis & Delta-Mendota Water Authority
PO Box 2157
Los Banos, CA 93635

**SUBJECT: ENVIRONMENTAL REFERRAL – NOTICE OF AVAILABILITY
(NOA) OF A DRAFT ENVIRONMENTAL IMPACT STATEMENT /
ENVIRONMENTAL IMPACT REPORT FOR THE CONTINUATION
OF THE GRASSLAND BYPASS PROJECT, 2010-2019**

Mr. McGahan:

The Stanislaus County Environmental Review Committee (ERC) has reviewed the subject project and has no comments at this time.

The ERC appreciates the opportunity to comment on this project.

Sincerely,

Raul Mendez, Senior Management Consultant
Environmental Review Committee

cc: ERC Members

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RESPONSE

STAN

Stanislaus County Environmental Review Committee
Raul Mendez, Senior Management Consultant

January 26, 2009

No response is required.

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COMMENT LETTER

**City of Stockton
(STOC)**



CITY OF STOCKTON

DEPARTMENT OF MUNICIPAL UTILITIES

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March 23, 2009

Via Facsimile and First Class U.S. Mail

Ms. Judi Tapia
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Mr. Joseph C. McGahan
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Draft EIS/EIR for Grasslands Bypass Project, 2010-2019 (SCH # 2007121110)

Dear Ms. Tapia and Mr. McGahan:

The City of Stockton (City) submits these comments on the Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Grasslands Bypass Project (GBP), 2010-2019. The City is concerned with the proposal, which would further delay implementation of adopted water quality standards for salinity and selenium in the San Joaquin River, and would potentially further jeopardize water quality standards compliance in the Bay-Delta. The delay in compliance with standards will adversely affect the City and many other entities for a number of reasons. Most importantly, the delay in compliance with such standards further threatens the ecological health of the Bay-Delta at a time when all of California is looking to protect the Bay-Delta from further degradation, and to identify necessary actions to improve Bay-Delta water quality.

Further, delay in compliance by the GBP may require municipalities and others to spend unnecessary resources that are being required to comply with these same water quality standards on a more-timely basis. For example, the GBP would delay compliance of the Selenium (Se) water quality objective, which is set at 5 ug/L as a 4-day average, from October of 2010 to December of 2019. This would allow the GBP to continue its discharges of 54 ug/L (daily average concentration) of Se for an additional nine (9) years. (See EIS/EIR at p. ES-2.) In the meantime, the same water quality objectives apply immediately to other downstream portions of the San Joaquin River and the Bay-Delta. (See 40 C.F.R. § 131.36(b)(10)(ii); see also Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and



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Estuaries of California (SIP) at p. 20, fn. 3.) Where such objectives apply immediately, other dischargers that have reasonable potential to cause or contribute to a violation of the objective will receive final effluent limitations that require immediate compliance, unless subject to an adopted time schedule order. This may require other dischargers to develop alternative water supply sources, or upgrade treatment plants at a cost of millions of dollars for no environmental benefit because GBP's discharge will continue to degrade water quality for an additional nine years. Thus, the City and others may be significantly impacted by the delay of implementation of the water quality objectives in question.

I. Identification of Water Quality Objectives

The City is concerned that the EIS/EIR fails to properly identify applicable water quality objectives for salinity and boron for certain reaches of the San Joaquin River and for Mud Slough, and evaluate impacts to these objectives accordingly. Although the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan) may not include adopted numeric objectives for these constituents that apply to certain water bodies, the Basin Plan most certainly includes water quality objectives that are applicable. In particular, the Basin Plan includes a narrative water quality objective for chemical constituents, which reads in part as follows: "Waters shall not contain chemical constituents in concentrations that adversely affect beneficial uses." (Basin Plan at p. III-3.00.)

STOC-1

When dealing with narrative water quality objectives, the Basin Plan requires the Regional Water Quality Control Board (Regional Water Board) to interpret narrative objectives with relevant numeric criteria and guidelines developed and/or published by other agencies and organizations. (Basin Plan at p. IV-17.00.) In fact, the Regional Water Board interprets narrative water quality objectives when adopting NPDES permits, waste discharge requirements and conditional waivers for irrigated agriculture. Considering the frequency with which these interpretations occur, there is ample information and evidence to suggest how the narrative water quality objectives for these water bodies should be interpreted. Thus, the EIS/EIR should identify the numeric criteria that the Regional Water Board uses to interpret the narrative chemical objectives for these same or similar reaches, and evaluate impacts in light of these criteria accordingly.

II. Alternatives

The City is concerned that the EIS/EIR fails to consider a meaningful range of alternatives that would enable attainment of the current water quality objectives for salinity and/or Se. The requirement to meaningfully evaluate alternatives has been described by courts as the "linchpin" or "heart" of an EIS/EIR. Under federal case law interpreting NEPA, agencies have been required to evaluate alternatives that were substantially different than the proposed action.

STOC-2

None of the alternatives proposed in the EIS/EIR addresses the primary problem of the ongoing failure to meet adopted Basin Plan salinity and Se objectives that have been determined to be necessary to protect water quality and beneficial uses of the San Joaquin River. Both the No Action Alternative and Alternative Action seem to have been constructed as straw men designed to rationalize the adoption of the dischargers' preferred alternative, which would enable them to continue to avoid meeting water quality standards necessary for the protection of the environment, to the detriment of downstream communities and the environment. It is not apparent that any serious effort was made to develop an environmentally superior alternative.

It is unclear why many of the existing drainage management activities that are noted as part of the proposed action (see section 2.2.21.3) would necessarily stop under the No Action Alternative. For example, why is a "no tailwater policy" part of the proposed action (EIS/EIR at p. 2-20) but not a reasonably foreseeable element of the No Action Alternative? Are the Grassland Area Farmers (GAF) unwilling to take action to minimize the significant adverse impacts of their agricultural activities without regulatory relief?

The EIS/EIR should evaluate an alternative that involves cessation or maximum minimization of discharge through a combination of actions, such as crop idling, crop substitution for low-water requiring crops, and/or maximum conservation through implementation of water-minimizing irrigation techniques such as drip irrigation.

III. Proposed Action

What is the basis for the ten-year period for the GBP? What is the evidence supporting the EIS/EIR's claim that treatment technology to achieve the current Basin Plan objectives is unavailable and/or infeasible? The EIS/EIR seems to presume that funding for the improvements needed to reduce the significant environmental impact from agricultural practices in the Grasslands area is the responsibility of someone other than those causing the impact. (See, e.g., p. 1-4, "the GAF were not able to obtain adequate funding for treatment and disposal technology to fully implement zero discharge by the 2010 deadline.")

What technology is available or assumed to become available during the GBP life that might enable the proponents to attain the current Basin Plan objectives for salinity and/or Se? What is the estimated cost of such technology and how much time would be required to implement it? What are the anticipated sources of funding for necessary treatment technology? Is it reasonable to assume the GAF would be in a position to implement the 2001 requirements by 2019, or will the GAF be back in ten years asking for another extension or worse, a further relaxation of standards?

The EIS/EIR (p. 2-19) states that the implementation date of the final phase (Phase III) of the San Joaquin River Improvement Project in-valley treatment "is presently unknown, in part because inadequate funds have been available for

STOC-2

STOC-3

development of economically viable treatment/salt disposal alternatives." What is the evidence supporting the statement that inadequate funds are available? What efforts have been made by the GAF to fund these efforts; how much money has been raised or committed to date; what is the anticipated cost of Phase III?

The EIS/EIR on page 4-70 (Impact 4.2.4.2.4) identifies a significant impact of the Proposed Action from increased sediment accumulation in the Drain and states that mitigation would include sediment removal. What specific actions will be required for sediment removal and what impacts are associated with such actions? It seems likely that sediment removal has the potential to result in significant adverse impacts to air quality and water quality, at a minimum, and also impacts to biological and cultural resources.

STOC-3

IV. No Action Alternative

It appears that farmers in the GBP area would not be willing to make their best efforts to reduce the ongoing significant impact to wildlife and water quality from their agricultural practices. For example, the EIS/EIR (p. 2-7) states that under the No Action Alternative the "no tailwater policy will likely not stay in effect," causing an increase in the total volume of water that is to be managed. What is the basis for the conclusion that the no tailwater policy would be abandoned and what is the GBP proponents' justification for abandoning an environmentally beneficial action?

The EIS/EIR (p. 2-2) states that the GAF cannot manage more than 23,000 acre-feet of the estimated 26,400 acre-feet estimated annual drainage production of the region without additional "projects." What type of projects are needed and what is their cost? What options are available for additional source control and what is the cost?

Further, the EIS/EIR states that increased recycling under the No Action Alternative would cause crop types to shift from salt-sensitive crops to salt tolerant crops (p. 2-7) including cotton. Cotton requires a significant amount of water; is it reasonable to assume given drought conditions and ever-tightening water allocations due to limitations on Delta exports that farmers would switch to high water using crops, versus non-irrigated agriculture, such as grazing?

STOC-4

The EIS/EIR (p. 7-12) states that the No Action Alternative is "inconsistent with other General Plan policies pertaining to the continued vitality and viability of agriculture," citing Fresno County General Plan Goal LU-A. What is the basis for this conclusion? Agricultural use could include grazing, which would not require irrigation and thus would avoid the drainage impacts altogether. Nothing in the cited General Plan policies requires that agricultural practices attain maximum profitability or that any particular type of agricultural use be maintained in order to demonstrate vitality or viability.

V. Alternative Action

The EIS/EIR (p. 2-22) states:

The only other reasonable alternative is known as the 2001 Requirements Alternative and is similar to the proposed action in all respects except the Se and salt load discharged to Mud Slough would be limited to those in the 2001 Use Agreement (i.e., less stringent allowances).

Why does the Alternative Action not provide for Mud Slough mitigation? The EIS/EIR should evaluate an environmentally superior alternative that would include all feasible beneficial actions.

STOC-5

VI. Surface Water Resources

The threshold of significance for impacts to surface water resource in the EIS/EIR fails to account for possible harm from continuing loads of salt and Se. The EIS/EIR (p. 4-48) states:

An impact would be considered adverse and significant if it resulted in an increase in the frequency of exceedances of WQOs over what was measured under existing conditions (Water Years 2002-2007).

This sole and unduly narrow criterion ignores other relevant metrics of significance suggested by the CEQA Guidelines, including whether the GBP would "substantially degrade water quality." The criterion also fails to consider potential harm to beneficial uses that might occur even without an increase in frequency of exceedances of WQOs. For example, Se is considered to be bioaccumulative. Although the concentration of Se may not increase the total mass of Se will continue to bioaccumulate in the environment and harm applicable beneficial uses.

STOC-6

The City appreciates the opportunity to provide these comments on the EIS/EIR. Please advise the City when the Final EIR and responses to comments are available and put the City on the mailing and notice list for receipt of notice of any hearing on the GBP and EIS/EIR. Pursuant to CEQA, Public Resources Code section 21092.2, please provide the City with a copy of any Notice of Determination filed for the GBP.

Thank you.

Sincerely,



MARK J. MADISON
DIRECTOR OF MUNICIPAL UTILITIES

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RESPONSE

STOC

City of Stockton
Mark J. Madison, Director of Municipal Utilities

March 23, 2009

STOC-1

The commenter is concerned that salt and boron WQOs are not identified for segments of the SJR and Mud Slough where the Basin Plan does not have numeric objectives. The commenter suggests developing numeric criteria for these reaches by investigating NPDES permits, WDRs, and conditional waivers for irrigated agriculture to find evidence of how narrative objectives are interpreted. Furthermore, the commenter suggests that impacts should be evaluated in light of these suggested criteria.

In the EIS/EIR, salinity and boron impacts are evaluated for Mud Slough, the SJR between Mud Slough and the Merced River, and the SJR downstream of the Merced River (see Section 4.2.4 and Table 4-28). For the comparison of alternatives, relative concentrations are evaluated as well as the applicability of WQOs to the reach. The significance criteria were based on the frequency of exceedances in these WQOs.

For EC, the Basin Plan has a numeric objective for Vernalis. Salinity impacts to the SJR downstream of the Merced River were evaluated with respect to concentrations at Vernalis and the frequency of exceedance of the Vernalis WQO. Salinity impacts to Mud Slough and for the SJR between Mud Slough and Merced River were evaluated with respect to relative concentrations but not to WQO exceedances, because Basin Plan objectives are not applicable to these reaches. The impact evaluation for boron was similar has been corrected. See response CVRWQCB-1.

The numeric WQOs in the Basin Plan are based upon both water quality criteria and the beneficial use of the waterbody. When these WQOs are achieved, beneficial uses are considered to be protected and water quality is not considered to be degraded. Although effluent limitation in NPDES permits and WDRs may suggest alternative targets for the specific reach that had the discharge, the Basin Plan numeric WQOs are more appropriate for use as significance criteria.

STOC-2

The commenter in paragraph 2 states that the project has failed to meet selenium and salinity basin plan objectives. This is not true, selenium performance goals (applicable prior to the full implementation of objectives) and objectives have been met at all times at the San Joaquin River compliance point. In addition salinity objectives have been met at all times at the Vernalis compliance point. See response CVRWQB-11.

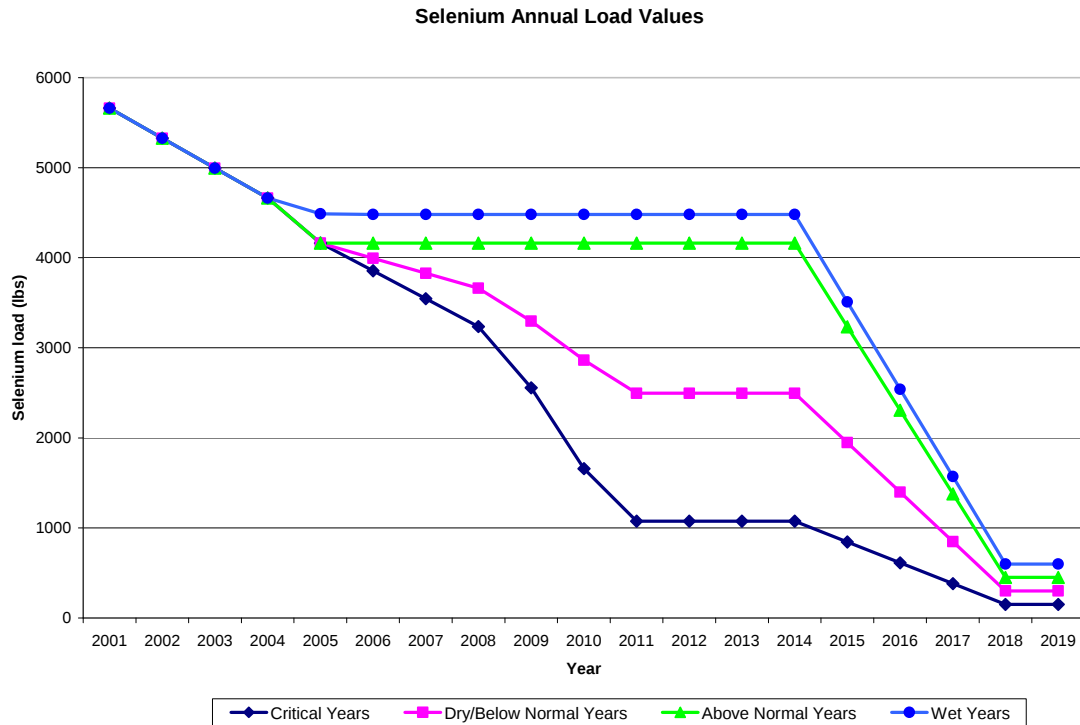
STOC-3

The GBD have to date expended approximately \$104 million to date including:

- Grant Funding - \$66,000,000
- Loan Funding (Farmer repays) – \$15,000,000

- District Funding (Farmer funded) - \$23,000,000

The proposed time extension is for a 10 year period with significant reductions and incentives for reducing loads and getting out of the Drain early (See attached figure and proposed Use Agreement in Appendix A of the EIS/EIR).



As part of a Integrated Water Resources Management Grant a pilot plant was proposed for the summer of 2009 precisely to answer the questions that are posed regarding feasibility and cost. This work has progressed to the stage of awarding a contract to construct a pilot treatment plant to NA Water. This work was suspended by the State of California and has not been restarted.

The Sediment Management Plan (SMP) is contained in Appendix B. As stated in Section 2.2.1.2.3, the SMP specifies appropriate disposal or reuse actions based on applicable human health, ecological risk, and hazardous materials standards for Se on the assumption that these standards are protective of human health and environmental resources. Possible agricultural lands for sediment disposal have been identified in close proximity to the Drain. These lands will be subject to monitoring to avoid ponding that could impact birds and other terrestrial species. See also response to comment USFWS-5.

STOC-4

Management of the drainage in the GDA is an ongoing coordinated effort. If the ability to provide drainage is eliminated it may not be possible for the farmers to also continue to retain tailwater on farm.

The writer misstates the comment on page 2-2. The EIS/EIR states that “With current source control activities, recycling, drainage reuse, approximately 23,000 acre-feet per year **could** be managed”. (Emphasis added).

Cotton was just given as an example of a crop that can withstand higher salinity levels as opposed to the current crops such as melons, asparagus and tomatoes. Selection of crops would be determined by the respective farmers.

Concerning the comment about Fresno County General Plan Goal LU-A, the No Action Alternative would not promote the *long-term* conservation of productive agricultural lands. While the reuse facility could handle drainage in the short term, eventually it would salt up and become unproductive and force farmers to reuse 100 percent of their drainwater which would reduce the productivity of their lands. While grazing is a productive use of land, it does not have the same economic impacts (income and employment) as does irrigated agriculture with high value crops. Under No Action, growers respond to rising salinity levels by changing their cropping pattern, and the expected total output impact is reduced by 11 percent and the total income impact is reduced by 8 percent between 2014 and 2019 (Appendix G, page 27).

STOC-5

The 2001 alternative would not allow discharge to Mud Slough as water quality objectives are required to be met.

STOC-6

As described in Section 4.1.2.1, water quality objectives are adopted by the RWQCB based on protection of beneficial uses. Beneficial uses, WQOs, and the implementation program for achieving the WQOs for the Project Area are stipulated in the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (1998 Basin Plan) (Regional Board 1998a). The WQOs for selenium were established to protect aquatic life beneficial uses, and when these WQOs are achieved, beneficial uses are considered to be protected and water quality is not considered to be degraded. These WQOs were selected based on the best available data that met quality assurance criteria at the time of adoption. In addition to the evaluation of water quality, bioaccumulation of selenium was evaluated in Section 6. This bioaccumulation evaluation was based not on water quality objectives but on site-specific bioaccumulation data and the most recent applicable toxicity data available.

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COMMENT LETTER

**Stockton East Water District
(SEWD)**

February 19, 2009

VIA ELECTRONIC MAIL AND FASCIMILE

Mr. Joseph C. McGahan
Drainage Coordinator
San Luis & Delta Mendota Water Authority
P.O. Box 2157
Los Banos, California 93635
jmcgahan@summerseng.com

Ms. Judi Tapia
Bureau of Reclamation
South Central California Area Office
1243 N Street
Fresno, California 93721
jtapia@mp.usbr.gov

Re: Stockton East Water District/Comments on Draft EIR/EIS Grasslands Bypass
Project, 2010-2019

Dear Mr. McGahan and Ms. Tapia:

The following comments are submitted by Stockton East Water District (SEWD) on the Draft Environmental Impact Statement/Environmental Impact Report (Draft EIS/EIR) for the Continuation of the Grassland Bypass Project for the period January 1, 2010 through December 31, 2019.

General Comments

Once again we are please that one of the project purposes is "promoting continuous improvement of water quality in the San Joaquin River." However, as with previous environmental documentation for this project, this Draft EIS/EIR fails to evaluate the significant adverse impact that its continuation has on San Joaquin River water quality and fails to provide adequate mitigation to reduce the significant adverse impact.

SEWD-1

The District has for many years been advocating the need for the water users causing the water quality problem in the San Joaquin River to take necessary steps to improve water quality in the lower San Joaquin River. The 2010 Use Agreement contains salt load reductions goals and incentive fees for failing to meet salt reduction loads. Consideration must be given to requiring the Authority to provide dilution flows to mitigate salt loading and increased salinity concentrations. Alternatively, Reclamation should utilize fees collected pursuant to the Use Agreement to purchase dilution water to mitigate the adverse impact caused by continued use of the drain.

SEWD-2

While we are encouraged by the efforts to improve water quality in the San Joaquin River, this Draft EIS/EIR fails in many respects to provide the necessary information in order to determine the environmental impacts associated with implementation of the Project and must provide further analysis in order for the Project to proceed.

Detailed below are specific comments to the Draft EIS/EIR that the District believes must be addressed.

Specific Comments

Section 1.1 – History of Project – Page 1-2, Second full paragraph: This paragraph discusses the need to amend the Waste Discharge Requirements for the project and states that a Report of Waste Discharge is due January 1, 2009. Please provide this office with a copy of the submittal to the Regional Board.

SEWD-3

Section 2.2.1.2.1 – Proposed 2010 Use Agreement – Page 2-11: This section states that "salt is to be managed similar to the 2001 Use Agreement wherein Se loads are the management constraint and salt loads decline with declines in Se." We believe that the continued use of this Project should be predicated on mandatory salinity load and concentration reductions. Salt loads and salinity concentrations reductions must be mandated by any revised Use Agreement, and failure to include this in the Use Agreement or as an Alternative renders this Draft EIS/EIR legally deficient.

SEWD-4

Section 4.1.2.3. – Selenium Total Maximum Monthly Load for Discharges from the San Luis Drain – Pages 4-9 to 4-13: This section includes a description of the monthly and average annual loads and concentrations necessary to meet the selenium water quality objective at Crows Landing. A similar analysis must be undertaken to evaluate what salinity loads and concentrations would be necessary to achieve a salinity objective of 0.7 EC/1.0 EC for the irrigation/non-irrigation season. This analysis is required as the Regional Board is moving forward with salinity objectives upstream of Vernalis. While we do not know what the objectives will be, it is prudent to use the downstream objective as a worst case scenario.

SEWD-5

Section 4.1.3.3 – Sump Flows – Page 4-16: This section describes EC concentrations occurring and average annual flows coming from the sumps utilized in the project area. This section should discuss the amount of these flows that reach the San Joaquin River and propose mitigation, in the form of dilution or otherwise, to cure the significant adverse impacts of these salinity concentrations entering the San Joaquin River.

SEWD-6

Section 4.1.3.4 – Recycled Drainage – Page 4-17: This section describes the selenium concentrations in recycled water. This section must include an analysis for salinity concentrations and the impacts associated with discharge of this into the San Joaquin River, and propose mitigation, in the form of dilution or otherwise, to cure the significant adverse impacts of these salinity concentrations entering the San Joaquin River.

SEWD-7

Section 4.1.5.1.3 – Flows – Page 4-23: The paragraph on the top of 4-23 states that "flows through the Drain are highly managed and tend to have the highest concentrations of salt, Se, and boron during the pre-irrigation season, with concentrations decreasing throughout the year to a minimum during the nonirrigation

SEWD-8

season (Regional Board)." This section should include the data and specifics regarding the "highest" concentrations, what are they and describe when they occur? How do these high concentrations during the pre-irrigation season affect downstream water quality?

SEWD-8

Section 4.2.2.2 – Proposed and Alternative Waste Load Allocations: This section should propose salinity load limits as described in comment on Section 2.2.1.2.1 – Proposed 2010 Use Agreement – Page 2-11 above.

SEWD-9

Section 4.2.2.4.6 San Joaquin River (Merced River to Crows Landing or Vernalis) – Pages 4-57-4-58: These pages make reference to improving water quality as a result of the Project. What amount of reduction in salt load and concentration will be achieved? This section should specifically set forth the "predicted" decreases in salinity concentration, not simply conclude that decreases will occur. Figure 4-33 shows TDS concentrations at Station N and Vernalis. How do these predicted monthly averages compare to the No Action Alternative and existing conditions? How can one conclude that water quality improvements are being achieved when there is nothing to compare it to? Figure 4-33 shows TDS concentrations at Vernalis – what assumptions are made regarding releases made from New Melones to achieve these TDS values?

SEWD-10

Section 4.2.2.4.6 – San Joaquin River (Merced River to Crows Landing or Vernalis) – Page 4-58, Second full paragraph: This paragraph states: "[w]hen the beneficial effects of dilution from downstream tributaries that discharge to the San Joaquin River between Crows Landing and Vernalis are included in the analysis, predicted TDS concentrations were below this objective." What assumptions are made for flows from New Melones Reservoir? The Authority and Reclamation cannot continue to assume that releases will continue for the purposes of dilution flows, especially in light of the fact that the Regional Board will be adopting salinity objectives upstream of Vernalis. This Draft EIS/EIR must evaluate the effects of implementation of the Project on downstream water salinity and mitigate Project must propose mitigation, in the form of dilution or otherwise, to cure the significant adverse impacts of these salinity concentrations entering the San Joaquin River.

SEWD-11

Section 4.2.2.4.6 – San Joaquin River (Merced River to Crows Landing or Vernalis) – Page 4-58, last paragraph: The last paragraph states "Reduction in San Joaquin River flow upstream of Vernalis that would require increases in New Melones releases to meet the Vernalis flow objective would be a significant adverse impact in comparison to existing conditions." This section must describe the effects on New Melones AND MITIGATION IN THE FORM OF ADDITIONAL WATER must be provided to reduce this to a level of no effect. Failure to propose mitigation measures renders this Draft EIS/EIR legally deficient.

SEWD-12

Section 4.2.4 – Impact and Mitigation Summary: This section must be revised to incorporate the additional analysis and conclusion resulting from the evaluation requested in the above comments.

SEWD-13

What is extremely frustrating about the entire analysis contained in Chapter 4 Surface Water Resources is the complete failure to inform the public on the real consequences of this action. Reclamation releases water from New Melones on the Stanislaus River to meet the water quality objective for salinity at Vernalis. The unanswered question in the analysis is what impact will there be on salinity values at Vernalis by implementing the selenium loads proposed in the 2010 Use Agreement. Will there be a reduction in releases from New Melones to meet the Vernalis salinity objective? What will be the impact on New Melones from the reduction in flow in the San Joaquin River? Will this reduction trigger additional releases to meet the Vernalis flow objective, if so, how will this significant adverse impact be mitigated?

SEWD-14

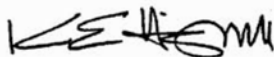
The issue that must be clearly addressed is whether more water will be required for dilution flows from New Melones by implementation of the Project? Moreover, nowhere in the analysis is there a clear depiction of what assumptions are made about New Melones water quality releases or New Melones operations in general. In the models used for analyzing this project, how much water was assumed to be released from New Melones for water quality or other purposes? These questions must be answered in order to draw a conclusion on the impacts of implementing the Project.

Section 15 – Mitigation Monitoring and Reporting Program: This section must be revised to include mitigation measures for the salinity impacts from the Project and MUST INCLUDE MITIGATION for the significant adverse impact identified on in the last paragraph on page 4-58 regarding reduction in flows in the San Joaquin River triggering increased releases from New Melones.

SEWD-15

We appreciate the opportunity to comment on this Draft EIS/EIR and look forward to reviewing future analysis on the impacts to San Joaquin River water quality from implementation of the proposed project.

Very truly yours,



KARNA E. HARRIGFELD
Attorney-at-Law

KEH:md

cc: Mr. Kevin Kauffman, Stockton East Water District

RESPONSE

SEWD

Stockton East Water District
Karna E. Harrigfeld, Attorney-at-Law

February 19, 2009

SEWD-1

The commentor's conclusion is incorrect. The baseline for determination of significant adverse impact to water quality under CEQA is the existing condition. Because the Grassland Bypass Project reduces selenium and salt in its discharges to the San Joaquin River via Mud Slough over the Project period 2010 – 2019, in comparison to the period 2002-2007, there is no significant adverse impact and no additional water quality mitigation is required.

SEWD-2

The Vernalis water quality objective for salinity is being met, and this Project continues to reduce salinity loads contributed to the San Joaquin River over the project period. Additional dilution flows are not a component of the Project. The only fees under the Use Agreement are incentive fees, which are currently slated to be invested in further salinity and other pollutant reductions strategies which will provide a long term contribution to reducing lower San Joaquin River salinity.

SEWD-3

A copy of the ROWD is attached (follows response SEWD-15).

SEWD-4

The new Use Agreement has mandatory salinity load reductions; see Appendix A of the EIS/EIR, page 34. There are not salinity or selenium concentration requirements in the new Use Agreement. Concentrations are incorporated into the selenium and salinity TMDLs that have been adopted by the Regional Water Quality Control Board.

SEWD-5

The only current salinity objectives are at Vernalis and are being met. The process to establish upstream objectives is ongoing. The Regional Board must conduct its own analysis to determine the reasonableness of particular objectives for a particular reach, and that information is not yet available. Thus, it is premature to assume what the objectives would be, and this EIS/EIR is not required to conduct speculative analysis.

SEWD-6

Section 4.1.3.3 describes the quality of tile sumps within the GDA to characterize water sources in that portion of the Project Area. The effect of discharges from the GDA in the San Joaquin River under the Proposed Action is described in Sections 4.2.2.4.5 and 4.2.2.4.6 and is determined to be beneficial, due to the continuing decreases in discharges that remove salts from the River in comparison to exiting conditions. In addition, as previously stated the Vernalis salinity objectives are being met (see Section 4.1.5.9.4 on page 4-45 of the EIS/EIR). Therefore, mitigation is not required.

SEWD-7

See response to SEWD-6. Since the beginning of the GBP, the salinity load has been reduced by 72 percent (from 237,530 tons in water year 1995 to 66,254 tons in water year 2008).

SEWD-8

See Section 4.1.5.8.4 on page 4-44 for reporting of salinity and boron concentrations. Figure 4-26 summarizes monthly discharges of boron at Crows Landing as compared to the downstream water quality objective at Vernalis, which indicates the effects from pre-irrigation season discharges from October 2001 through October 2007, and Figure 4-30 provides the same information at Vernalis. Figure 4-27 displays the Crows Landing monthly salinity data for the same time period, and Figure 4-28 provides the information for Vernalis.

SEWD-9

The proposed Use Agreement has salinity load limits; see Appendix A, page 34.

SEWD-10

The EIS/EIR is required to analyze the impacts to the environment. As Water Quality Objectives for salinity have been set by the Regional Water Quality Control Board to protect water quality in the San Joaquin River, determining if the Proposed Action will meet this objective does determine the impact to the environment and a comparison between the existing condition and/or the No Action is not required. The EIS/EIR assumes releases from New Melones are similar to historic releases that occurred during 2002-2007 for each given water year type as discussed in Section 4.1.5.9.4, because the measurement is taken just downstream of the inflow from the Stanislaus River.

SEWD-11

See Section 4.1.5.9.3 for a discussion of flow in the San Joaquin River at Vernalis and response SEWD-10 above. Salinity objectives upstream of Vernalis have not yet been set so that analysis of the effects of the GBP on specific upstream objectives and the consequential potential effects on New Melones operations cannot at present be determined.

In August 2005, an analysis was made to develop a set of actions to achieve current water quality objectives for salinity on the San Joaquin River at Vernalis and other purposes. This analysis was performed by the San Joaquin River Water Quality Management Group (SJRWQMG), a voluntary and open stakeholder-based workgroup. The analysis was summarized in a report titled: *Summary Recommendations of the San Joaquin River Water Quality Management Group for Meeting the Water Quality Objectives for Salinity measured at Vernalis and Dissolved Oxygen in the Stockton Deep Water Ship Channel*. For salinity one of the main recommendations was full implementation of the Westside Regional Drainage Plan. (This plan is discussed in the EIS/EIR on page 4-70 under the Cumulative Effects Section and is referenced on page 19-15). Page 12 of the SJRWQMG report states: "Early on, the effects of the West Side Regional Drainage Plan (including the San Joaquin River Improvements Project – SJRIP) were shown to be the most powerful action among the alternatives in reducing salinity levels in the Lower San Joaquin River." The analysis calculated that with implementation of the actions in the report (mainly implementation of the SJRIP) additional water storage would remain available in New

Melones Reservoir for other purposes in the amount of 23,000 acre-feet in a critical year and 8,000 acre-feet per year over the 73-year period of analysis (1922-1984). The SJRIP is part of the Proposed Action in the EIS/EIR and is discussed in many locations (see index).

Changes in New Melones Reservoir Operations resulting from reductions in drainage discharges were also analyzed in the *San Luis Drainage Feature Re-evaluation FEIS/EIR* Appendix D, pages D-2 through D-31 (Reclamation 2006), located at http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=61). For that analysis CalSim II was used to predict how New Melones Reservoir Operations were affected by reductions in river flows and the subsequent improvement in salinity resulting from decreases in GAF discharges. Results of the analysis indicated the average annual New Melones water quality reservoir releases would decrease by 11,000 AF/year. Average monthly releases increased in November, December, and January but decreased in March - August as a result of improvements in water quality (Figure D2-20 in FEIS/EIR, Reclamation 2006). In conclusion, New Melones Reservoir releases for Vernalis compliance would decrease as a result of the Proposed Action, a beneficial effect.

SEWD-12

While flows from the San Luis Drain would be decreased over the term of the GBP as shown in Table 4-26 by water year type, so would the salts discharged into the San Joaquin River. The combination of these two factors results in the overall changes to New Melones Reservoir Operations described above in response SEWD-11. Based on the additional analyses described in that response, the potential for GBP to affect New Melones releases to meet the Vernalis flow and salinity objectives is substantially diminished, i.e., would not require increased releases, and the language from page 4-61 has been revised to reflect the additional information:

Annual modeled discharge volume for the San Luis Drain is presented in Table 4-26. Reduction in San Joaquin River flow upstream of Vernalis ~~that would require increases in New Melones releases to meet the Vernalis flow objective would be a significant adverse impact in comparison to existing conditions~~ associated with the GBP are offset by the reduction in needed dilution flows due to improvements in salinity as drainage water is removed from the San Joaquin River. As a result, New Melones Reservoir Operations are beneficially affected by the Proposed Action. The frequency with which salinity concentrations would be higher than applicable water quality objectives is predicted to decrease over existing conditions.

SEWD-13

While additional information has been provided in response to the SEWD comments, no additional analysis is required for this EIS/EIR, and Section 4.2.4.2.3 does not need to be changed.

SEWD-14

See responses SEWD-10 through 12. All reductions in flow from the GBP are accompanied by reductions in salt loads, and together, these changes result in an overall reduction in water releases from New Melones over existing conditions.

SEWD-15

The MMRP does not need to be revised because the original paragraph on page 4-61 was a hypothetical statement of the issue looking at flow quantity and did not reflect the salinity load reductions which accompany the flow reductions. Also see response SEWD-12.



December 30, 2008

Pamela Creedon, Executive Officer
Central Valley Regional Water Quality Control Board
3443 Routier Road, Suite A
Sacramento, Ca 95827-3098

SUBJECT: Report of Waste Discharge; Grassland Bypass Project

Dear Pamela:

The San Luis & Delta Mendota Authority and the U.S Bureau of Reclamation have been issued Waste Discharge Requirements (Order No. 5-01-234) for operation of the Grassland Bypass Project through December, 2009. Attached is a completed Report of Waste Discharge Form 200 to extend the waste discharge requirements for the period of January 1, 2009 through December 31, 2019.

The back-up information for the characterization of the discharge is contained in a draft EIS/EIR for this project titled "Grassland Bypass Project, 2010-2019, EIS and EIR, Draft December 2008" prepared for the US Bureau of Reclamation and the San Luis & Delta Mendota Water Authority. This document has been provided to you under separate cover.

We are requesting that these waste discharge requirements be issued prior to December 31, 2009, in order to be in place upon expiration of the current Waste Discharge Requirements and commencement of the next phase of the Grassland Bypass Project.

We look forward to working with you and if you should have any questions, please give me a call.

Very truly yours,

Joseph C. McGahan
Drainage Coordinator for the Grassland Bypass Project

Enclosure

Cc: Dan Nelson, SL&DMWA
Donald R. Glaser, USBR, Sacramento
Mike Delamore, USBR, Fresno

42 SIXTH STREET

SUITE 7

P.O. BOX 2157

LOS BANOS, CA

93635

209 826-9696

209 826-9698 FAX

CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCYState of California
Regional Water Quality Control BoardAPPLICATION/REPORT OF WASTE DISCHARGE
GENERAL INFORMATION FORM FOR
WASTE DISCHARGE REQUIREMENTS OR NPDES PERMIT

I. FACILITY INFORMATION

A. Facility:

Name: Grassland Bypass Channel Project			
Address: N/A			
City:	County:	State:	Zip Code:
Contact Person: Joseph C. McGahan		Telephone Number: 559-582-9237	

B. Facility Owner: (See note on last page)

Name: San Luis & Delta-Mendota Water Authority			Owner Type (Check One) 1. ☐ Individual 2. ☐ Corporation	
Address: P.O. Box 2157			3. ☒ Governmental Agency 4. ☐ Partnership	
City: Los Banos	State: CA	Zip Code: 93635	5. ☐ Other: _____	
Contact Person: Daniel G. Nelson		Telephone Number: 209-826-9696	Federal Tax ID: 521717350	

C. Facility Operator (The agency or business, not the person):

Name: Same as Owner			Operator Type (Check One) 1. ☐ Individual 2. ☐ Corporation	
Address:			3. ☐ Governmental Agency 4. ☐ Partnership	
City:	State:	Zip Code:	5. ☐ Other: _____	
Contact Person:		Telephone Number:		

D. Owner of the Land:

Name: N/A, Various Owners			Owner Type (Check One) 1. ☐ Individual 2. ☐ Corporation	
Address:			3. ☐ Governmental Agency 4. ☐ Partnership	
City:	State:	Zip Code:	5. ☐ Other: _____	
Contact Person:		Telephone Number:		

E. Address Where Legal Notice May Be Served:

Address: Same as Above		
City:	State:	Zip Code:
Contact Person:	Telephone Number:	

F. Billing Address:

Address: Same as Above		
City:	State:	Zip Code:
Contact Person:	Telephone Number:	

CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCYState of California
Regional Water Quality Control Board

APPLICATION/REPORT OF WASTE DISCHARGE GENERAL INFORMATION FORM FOR WASTE DISCHARGE REQUIREMENTS OR NPDES PERMIT



II. TYPE OF DISCHARGE

Check Type of Discharge(s) Described in this Application (A or B):

☐ A. WASTE DISCHARGE TO LAND☒ B. WASTE DISCHARGE TO SURFACE WATER

Check all that apply:

- | | | |
|--|--|---|
| ☐ Domestic/Municipal Wastewater Treatment and Disposal | ☐ Animal Waste Solids | ☐ Animal or Aquacultural Wastewater |
| ☐ Cooling Water | ☐ Land Treatment Unit | ☐ Biosolids/Residual |
| ☐ Mining | ☐ Dredge Material Disposal | ☐ Hazardous Waste (see instructions) |
| ☐ Waste Pile | ☐ Surface Impoundment | ☐ Landfill (see instructions) |
| ☐ Wastewater Reclamation | ☐ Industrial Process Wastewater | ☐ Storm Water |
| ☒ Other, please describe: <u>Agricultural Drainage Water</u> | | |

III. LOCATION OF THE FACILITY

Describe the physical location of the facility.

1. Assessor's Parcel Number(s)
Facility:
Discharge Point:

2. Latitude
Facility:
Discharge Point: 37° 15' 40" N

3. Longitude
Facility:
Discharge Point: 120° 54' 20" W

Discharge Point: 400 feet North and 600 feet West of the SE Corner of
Section 6, T.8 S., R. 10 E., MDB&M.

IV. REASON FOR FILING

- | | |
|---|--|
| ☐ New Discharge or Facility | ☐ Changes in Ownership/Operator (see instructions) |
| ☐ Change in Design or Operation | ☒ Waste Discharge Requirements Update or NPDES Permit Reissuance |
| ☐ Change in Quantity/Type of Discharge | ☐ Other: _____ |

V. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Name of Lead Agency: San Luis & Delta-Mendota Water AuthorityHas a public agency determined that the proposed project is exempt from CEQA? ☐ Yes ☒ No

If Yes, state the basis for the exemption and the name of the agency supplying the exemption on the line below.

Basis for Exemption/Agency: _____

Has a "Notice of Determination" been filed under CEQA? ☐ Yes ☒ No

If Yes, enclose a copy of the CEQA document, Environmental Impact Report, or Negative Declaration. If no, identify the expected type of CEQA document and expected date of completion. Draft EIR/EIS prepared and in public review
Final EIR Certification by Fall 2009

Expected CEQA Documents:

☒ EIR ☐ Negative DeclarationExpected CEQA Completion Date: Fall 2009



APPLICATION/REPORT OF WASTE DISCHARGE GENERAL INFORMATION FORM FOR WASTE DISCHARGE REQUIREMENTS OR NPDES PERMIT



VI. OTHER REQUIRED INFORMATION

Please provide a COMPLETE characterization of your discharge. A complete characterization includes, but is not limited to, design and actual flows, a list of constituents and the discharge concentration of each constituent, a list of other appropriate waste discharge characteristics, a description and schematic drawing of all treatment processes, a description of any Best Management Practices (BMPs) used, and a description of disposal methods.

Also include a site map showing the location of the facility and, if you are submitting this application for an NPDES permit, identify the surface water to which you propose to discharge. Please try to limit your maps to a scale of 1:24,000 (7.5' USGS Quadrangle) or a street map, if more appropriate.

VII. OTHER

Attach additional sheets to explain any responses which need clarification. List attachments with titles and dates below:

See Draft EIR/EIS titled "Grassland Bypass Project 2010-2019 EIS and EIR" dated December 2008.

You will be notified by a representative of the RWQCB within 30 days of receipt of your application. The notice will state if your application is complete or if there is additional information you must submit to complete your Application/Report of Waste Discharge, pursuant to Division 7, Section 13260 of the California Water Code.

VIII. CERTIFICATION

"I certify under penalty of law that this document, including all attachments and supplemental information, were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Print Name: Daniel G. Nelson

Title: Executive Director

Signature: D. G. Nelson

Date: Dec. 30, 2008

Note: The San Luis Drain, a part of the Grassland Bypass Project, is owned by the U. S. Bureau of Reclamation

FOR OFFICE USE ONLY

Date Form 200 Received:	Letter to Discharger:	Fee Amount Received:	Check #:
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