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(Signed November 3, 1995)

Karl Longley  
California Regional Water Quality Control Board  
Central Valley Region  
3443 Routier Road, Suite A  
Sacramento CA 95827-3098

Subject: Basin Plan Amendment for the San Joaquin River

Dear Chairman Longley:

As you may be aware, the San Luis & Delta-Mendota Water Authority (Water Authority) has developed a Regional Management Plan for the management of agricultural drainage water in the Grasslands Basin. This plan begins the process of identifying and implementing the proper strategies for controlling selenium discharges and meeting water quality objectives. As part of its plan, the Water Authority has proposed the interim use of a portion of the San Luis Drain (the Drain) as a conveyance of agricultural drainage water from the Grasslands Basin to Mud Slough and the San Joaquin River. This proposal requires that Reclamation sign a Use Agreement which permits such use. Use of a portion of the Drain as a conveyance of agricultural drainage could have benefits for the wetland channels through which agricultural drainage now flows. However, use of the Drain could also have certain other environmental impacts, including water quality impacts such as those regulated by the Central Valley Regional Water Quality Control Board (Regional Board).

Discussions among the many interested parties focussed on the development of measures which would minimize negative environmental impacts and assure progress towards improving water quality in the long-term. Specifically, the interested parties discussed the issues of accountability, selenium load reductions, and long-term selenium and drainage management. As a result of these discussions, the following environmental commitments, among others, have been made:

- \* A commitment to develop a drainage entity under a Joint Powers Agreement among several of the Grassland Basin irrigation and drainage districts with authority sufficient to provide regional drainage management.

- \* A commitment to remove agricultural drainage flows from 93 miles of the Grassland Basin wetland channels, including Salt Slough, so as to free them for delivery of freshwater supplies for refuges made available pursuant to the Central Valley Project Improvement Act.
- \* A commitment to specific monthly and annual selenium load values which assure that water quality in the San Joaquin River will not worsen as a result of the proposal. (Parties agree that the existing selenium load values such as those in Appendix A, will be reviewed and modified as appropriate. Such modifications shall be implemented through the reopener provisions in the Waste Discharge Requirements.)
- \* A commitment to specific monthly and annual selenium load values which assure that within 2 years, the Water Authority will implement actions sufficient to reduce selenium loads to the River by at least 5 percent per year up through the end of the 5th year.
- \* A commitment to operate the Drain under a Waste Discharge Requirement issued by the Regional Board.
- \* A commitment to develop a long-term Regional Drainage Management Plan which incorporates, where applicable, the recommendations of the San Joaquin Valley Drainage Program.

As water quality impacts are the purview of the Regional Board, the parties have developed a series of consensus recommendations which, if implemented, we believe can support interim use of a portion of the San Luis Drain and result in the reduction of selenium discharges to the San Joaquin River over time. Reclamation has drafted an Environmental Assessment and Finding of No Significant Impact which describes the proposal as a field experiment designed to evaluate approaches to agricultural drainage management. There is no commitment, at this time, to approve long-term use of the Drain.

As such, the recommendations below focus on water quality measures to be applied up through the end of the 5th year only. Nonetheless, it is the intention of the parties that these recommendations be folded into a long-term water quality control strategy through which the Regional Board ultimately assures compliance with water quality objectives.

The Use Agreement allows for use of the Drain for an initial 2-year period, commencing from the date of first use of the Drain. Renewal of the agreement for an additional 3 years is contingent upon the Regional Board's adoption of a Basin Plan Amendment and Waste Discharge Requirement consistent with the recommendations outlined below. We therefore urge your careful consideration of the following:

1. The parties agree that for the purpose of establishing selenium load reductions, the following water quality objectives are now applicable:
  - a. 5 ppb selenium, measured as a 4-day average, in the San Joaquin River and Mud Slough and
  - b. 2 ppb selenium, measured as a monthly mean, in Salt Slough and the wetland channels.

The selenium load reductions proposed will not necessarily achieve these objectives by the end of the 5th year, and thus a long-term implementation schedule will be required.

(Please note that the parties have not reached consensus on the appropriate long-term water quality objectives. However, the parties have committed to participate in a cooperative review process by which to evaluate any new scientific information relevant to the subject.)

2. The Regional Board has the authority under State law to adopt and enforce Waste Discharge Requirements (WDR's) on any proposed or existing discharge including those from non-point sources (Porter-Cologne Water Quality Control Act, Chapter 4, Article 4). The parties agree that an enforceable WDR is the appropriate implementation tool to establish a compliance schedule for achieving water quality objectives, and that said enforceable WDR should include a combination of regulatory-based best management practices and effluent limitations incorporating the Selenium Load Values set forth in Appendix A. References in the balance of this letter to WDR's or "effluent limitations" mean those terms as described in this paragraph.

Therefore, it is the parties' consensus recommendation that the Central Valley Regional Water Quality Control Board:

3. Adopt a Basin Plan Amendment which develops a long-term strategy by which to achieve compliance with the water quality objectives for the San Joaquin River and its tributaries. The Basin Plan Amendment should include the adoption of water quality objectives and an implementation plan and schedule, including a WDR, which outline the steps necessary to achieve compliance. Adopted water quality objectives should reflect the consensus agreement identified in #1 above.
4. Issue a WDR as the mechanism for implementing the long-term strategy, including compliance with the 2 ppb selenium objective in Salt Slough and the wetland channels, except for the 6 miles of Mud Slough as addressed in the FONSI.

5. Include in the WDR monthly and annual effluent limitations which serve, at a minimum, to ensure that use of the Drain does not result in exceedances of current, or "without project," selenium levels. These limitations should apply up through 2 years from the date of first use of the Drain have Recommended effluent limitations are those designated as "Selenium Load Values" and included in Appendix A.
6. Include in the WDR monthly and annual effluent limitations which provide for measurable reductions in current selenium loads. Recommended effluent limitations are also included in Appendix A. The recommended reductions represent a 15 percent reduction in selenium loads by the end of the 5th year. It is understood that load reductions of this sort are only a first step and do not fully protect against the environmental impacts which may result from selenium discharges during months when water levels are low in the San Joaquin River. The development of a long-term load reduction strategy must take into account such environmental factors as the river's assimilative capacity.

(Please note that the recommended selenium values contained in Appendix A diverge somewhat from the Total Maximum Monthly Load [TMML] values calculated by Regional Board staff. The TMML may provide an appropriate method for achieving water quality objectives in the long-term. However, the parties have not developed a consensus position on this matter.)

7. Require that the permit application include an interim Drainage Management Plan by which the Water Authority will achieve the effluent limitations up through the end of the 5th year. The approved plan should be made a part of the Waste Discharge Requirement.
8. Include in the WDR a re-opener clause which allows for good cause re-evaluation of the effluent values in accordance with State law and limitations consistent with the State's standard permit language.
9. Require in the WDR the submittal of an approvable long-term Regional Drainage Management Plan within 1 year of issuance of the WDR. The long-term Regional Drainage Management Plan must present the on-farm and district level activities the Water Authority will orchestrate so as to achieve water quality objectives, incorporating, as appropriate, the recommendations of the San Joaquin Valley Drainage Program.
10. The parties recommend a drainage incentive fee system to provide incentives to accomplish the effluent limitations. Appendix B includes the parties' recommended Drainage Incentive Fee System which identifies a tiered system of financial liability associated with exceedance of monthly and annual effluent limitations.

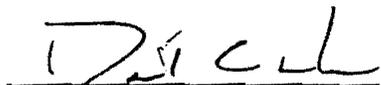
The Use Agreement provides that Reclamation will establish the Drainage Incentive

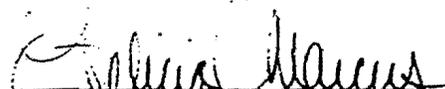
Fee System for use during the entire 5 year term of the Use Agreement, should the agreement be extended beyond the first two years.

The Use Agreement requires that the Drainage Incentive Fee System be established by Reclamation as an account known as the Drainage Incentive Fee Account. Disbursements will be made from this account only at the direction of the Drainage Oversight Committee, as established under the Use Agreement. Any fees collected will be used to fund local source control and drainage management activities not otherwise funded. The Water Authority will pay the fees to a Drainage Incentive Fee Account based on exceedances of monthly and annual effluent limitations. Reclamation will calculate the appropriate fee in consultation with the Drainage Oversight Committee.

Thank you for your consideration of our recommendations on the above matters.

Sincerely,

  
San Luis & Delta-Mendota  
Water Authority

  
U.S. Environmental Protection  
Agency

  
U.S. Bureau of Reclamation

  
U.S. Fish and Wildlife Service