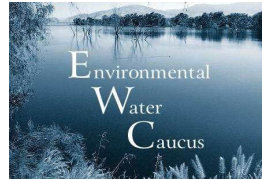


Revised January 25, 2022



AQUALLIANCE
DEFENDING NORTHERN CALIFORNIA WATERS



CA Save Our Streams Council



January 24, 2022

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**Re: Request Regional Board Reopen the Grassland Bypass Project (GBP) WDR:
Inconsistent Wetland Objectives; WDRs not protective of China Island & Newman Lake
wetlands; Identified Flaws in GBP Stormwater Discharge Plan; The San Luis Delta
Mendota Water Authority (SLDMWA) Mud Slough Project to Reroute Flows is not
Protective of Wetlands & Follow up to the December 2021 Grassland Bypass Project
Stakeholder Meeting.**

We appreciate the update that was provided on the Grassland Bypass Project (GBP) at the Regional Board's December 9, 2021, regular Board meeting.¹ We urge the CV Regional Board reopen the GBP WDR as required due to new information and new actions:

1. We provide these comments specifically with respect to the SLDMWA Mud Slough Restoration Project, which will reroute flows in Mud Slough (North) to CDFW's North Grasslands Wildlife Area, China Island Unit (China Island) and private wetlands associated with the Newman Land Company and Newman Lake. The current WDR for the San Luis Drain is not protective of these wetland and refuge areas.
2. There is a lack of public transparency under the existing WDR reporting program for the GBP. GBP water quality data (after 2020) and GBP reports (after 2019) are not posted to provide public access. The Regional Board needs to update the website for the GBP and provide links to current monitoring reports.
3. Selenium water quality data at Vernalis shows that since 2011 (when splittail deformities were reported by federal scientists) dissolved selenium concentrations were below 0.5 µg/L. Further, water quality trends since 2011 have not appreciably changed at the Vernalis regulatory point. This data should be revisited in the Regional Board's analysis of protective selenium water quality objectives for the San Joaquin River and the Sacramento-San Joaquin Delta Estuary. Given the data regarding deformities, the dissolved selenium concentrations at 0.5 µg/L are not protective.

SPECIFIC COMMENTS

SLDMWA Rerouting of Flows: Mud Slough Restoration Project

Grassland Bypass Project Waste Discharge Requirements are Insufficient to Address Rerouting Mud Slough Flows.

Since 1995, without an NPDES permit², the GBP has conveyed water contaminated with pollutants, including selenium, through the San Luis Drain (Drain) to Mud Slough (North). The GBP is currently permitted by the Regional Board via a Waste Discharge Requirements (WDR) R5-2019-0077 to allow stormwater flows commingled with groundwater contaminants, including selenium, to be routed from the San Luis Drain to Mud Slough (North) from 2020-2035.³ Impacts of routing Mud Slough (North) flows (downstream of the San Luis Drain) to wetlands were not considered in the GBP WDR. The SLDMWA Mud Slough Restoration

¹ See: https://www.waterboards.ca.gov/centralvalley/board_info/meetings/2021/

² See Pacific Coast Federation of Fishermen's Associations v. Glaser, 937 F.3d 1191 (9th Cir. 2019) The SLD collects and commingles polluted water from a variety of sources, both ground and surface, and conveys this pollution into Mud Slough and hence to the San Joaquin River and the San Francisco, Sacramento-San Joaquin Delta Estuary. The SLD conveys and discharges contaminated water that contains high levels of selenium, boron, molybdenum, salt, pesticides, and other pollutants.

³ See WDR Order No. R5-2019-0077:
https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2019-0077.pdf

Project Mitigated Negative Declaration (MND)⁴ likewise does not analyze nor disclose the impacts from the introduction of this contaminated water into these public and private wetlands.

The Final SLDMWA MND Response to Comments on page 30-31 states, “*The Proposed Project is not a discharge project and does not affect water quality conditions in Mud Slough nor the volume of water discharged into Mud Slough. Waste Discharge Requirements are established by the RWQCB and are outside the scope of this project. Evaluation of the water quality impacts of discharges from the Grassland Drainage Area are evaluated in the Addendum to the Final Environmental Impact Statement and Environmental Impact Report for the Grassland Bypass Project, 2010-2019.*”⁵ However, neither the 2019 Addendum nor the 2009 EIS/R for the GBP considered the water quality impact of routing the GBP discharges along with stormwater discharges from the San Luis Drain to these wetlands and wildlife refuges.

The 2019 GBP WDR lists the water quality objectives for selenium in Mud Slough (North) as 5 µg/L 4-day average, and an acute maximum of 20 µg/L.⁶ These selenium objectives are not protective of wetland beneficial uses and concentrations at these levels and lower have been documented to cause reproductive failure and deformities in fish and wildlife. In a 1987 Technical Committee Report on Regulation of Agricultural Drainage to the San Joaquin River the State Water Resources Control Board concluded that “*A 5 ppb interim selenium objective such as recommended for the San Joaquin River may not protect fish and wildlife beneficial uses of the impounded water habitats in the Grassland Water District, San Luis National Wildlife Refuge (NWR), and Los Banos State Wildlife Area (SWA)...A separate objective of 2 ppb selenium in water supply drains and canals which supply the San Luis NWR, the GWD and other state and federal waterfowl areas, which historically diverted subsurface agricultural drainage for waterfowl habitat, is recommended.*”⁷

No explanation is provided in SLDMWA MND or WDR as to why China Island and Newman Lake wetlands are not afforded the same protective water quality objectives as required in the Regional Board’s Basin Plan for the Salt Slough and the Grasslands wetland supply channels and listed in Appendix 40 (objective of 2 µg/L selenium, monthly mean).⁸ The undersigned have

⁴ SCH # 2021060585 see: <https://ceqanet.opr.ca.gov/Project/2021060585>

⁵ See Attachment A to the MND (Response to Comments):
https://www.sldmwa.org/OHTDocs/pdf_documents/Meetings/Board/Prepacket/AgendaItem11_AgendaItem12_2021_1119_GBD_Mud_Slough.pdf

⁶ See Order R5-2019-0077, Attachment A, Table 5, page 37:
https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2019-0077.pdf

⁷ See: https://www.google.com/url?client=internal-element-cse&cx=001779225245372747843:6ygtx6llvco&q=https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/wq_control_plans/1995wqcp/exhibits/sdwa/sdwa-exh-14.pdf&sa=U&ved=2ahUKewiCtOuz_6vwAhUHGDQIHdkaANcQFjAAegQIBBAB&usg=AOvVaw2AnnpOj4kvyzmyLbB5HWkh

⁸ See Table 3-1, page 3-3 of the Sacramento River Basin and San Joaquin River Basin Plan:
https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

submitted comments on the SLDMWA MND.⁹ Many of the undersigned also objected to the adoption of the SLDMWA MND.¹⁰ This inconsistency appears arbitrary and without scientific justification.

Rerouting Mud Slough Flows is Not Consistent with GBP WDR Attachment A, Antidegradation
Page 38 of Attachment A of the GBP WDR begins a discussion of SWRCB Resolution 68-16 Statement of Policy with Respect to Maintaining High Quality of Waters in California (Resolution 68-16 or “antidegradation policy”). Further, this section includes discussion of Federal Antidegradation Policy (40 C.F.R. § 131.12) that requires for discharges to surface waters that: *“Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.”*

The GBP WDR did not consider the impacts of rerouting Mud Slough and Drain flows into this state refuge area and federally protected wetlands. The SLDMWA MND that would reroute Mud Slough flows is not in compliance with SWRCB Resolution 68-16 nor Federal Antidegradation Policy. Further, the water provided by the GBP Drainers to China Island and Newman Lake since 2010 (as mitigation for the GBP) has been from wells with significantly better water quality. The GBP 2009 Final EIS/R, Appendix D, page 17-18 noted that, *“The results of chemical analysis of well water samples that probably represent the proposed supply water indicate that water quality is good although the salinity is elevated relative to San Joaquin River water quality objectives. Selenium is consistently less than the reporting limit of 2 ppb.”*¹¹ Implementation of the SLDMWA Project would allow poorer quality stormwater commingled with drainage water from Mud Slough to replace groundwater that had been provided to these public and private wetlands. As a result, this action would violate State and Federal Antidegradation policy and does not protect beneficial uses.

The SLDMWA MND Fails to Meet Specified GBP Drainage Management Plan and Long-Term Stormwater Management Plan Objectives.

The final Drainage Management Plan (DMP) for the GBP dated March 31, 2021 references 6 objectives of the Long-Term Stormwater Management Plan (LTSWMP) including the following two objectives (p.18):

1. To eliminate, to the extent feasible, stormwater drainage discharged from the GDA into wetland water supply conveyance channels.

And See Appendix 40 to Basin Plan, pdf pgs. 206-208:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_appendices.pdf

⁹ https://calsport.org/news/wp-content/uploads/PCL-et-al_Cmts-SLDMWA-MND-for-Mud-Slough-Restoration-Project_7-28-2021-1.pdf

¹⁰ <https://calsport.org/news/wp-content/uploads/Mud-Slough-Restoration-Project-Objection-MND-and-NOD-12-9-2021.pdf>

¹¹ See: https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc_ID=4413

6. To provide an outlet for stormwater to flow to the San Joaquin River from the GDA ...that also protects the integrity and quality of wetlands and wildlife refuges.

The SLDMWA MND fails to meet these LTSWMP objectives. Specifically, the Basin Plan selenium objectives for Mud Slough (North) do not protect the integrity and quality of wetlands and wildlife refuges (i.e., China Island and Newman Lake) that would be receiving water from Mud Slough (North) when the SLDMWA Mud Slough Restoration Project is completed.

Drainers' GBP WDR Reopening and Revision Language Requirements are Ignored.

We note that the GBP WDR includes reopening and revision requirements. Page 16 of the WDR denotes conditions for permit reopening, revision, transfer, revocation, termination, and reissuance. Item 1 under this section notes that, *"This Order may be reopened to address any changes in state statutes, regulations, plans, or policies that would affect the water quality requirements for the discharges, including, but not limited to, the Basin Plan."* (emphasis added) Item 5 on page 16 of the WDR notes that, *"The Central Valley Water Board will review this Order periodically and may revise this Order when necessary. No later than 31 December 2021, and every five years thereafter, Central Valley Water Board staff will present to the board an update on the Grassland Bypass Project, project compliance with Order requirements, and any additional information needed to determine whether the Order should be revised."* The Regional Board included an update on the GBP at the Board's December 9, 2021, regular Board meeting,¹² but there was no mention of the drainers' Mud Slough Restoration Project nor the need to revise the GBP WDR at this meeting.

Because the water quality impacts of routing stormwater discharges from the San Luis Drain to wetlands was not considered in the GBP WDR, the TMDL for Selenium in the Lower San Joaquin River,¹³ or the San Joaquin River Basin Plan,¹⁴ the Regional Board should reopen the GBP WDR and revise the water quality requirements for Mud Slough (North) to protect wildlife habitat beneficial uses in China Island and Newman Lake. We urge the Regional Board to revise the Basin Plan to require that water quality provided to China Island and Newman Lake meet the USEPA's revised chronic selenium criterion for lentic waters of 1.5 µg/L (monthly mean)¹⁵ or at least the 2 µg/L monthly mean selenium objective for the Grassland wetland supply channels.¹⁶

¹² See: https://www.waterboards.ca.gov/centralvalley/board_info/meetings/2021/

¹³

https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/docs/petitioners_exhibit/dwr/part2/DWR-1110%20McCarthy_Grober_2001.pdf

¹⁴ See: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

¹⁵ See: <https://www.federalregister.gov/documents/2016/07/13/2016-16585/recommended-aquatic-life-ambient-water-quality-criterion-for-selenium-in-freshwater>

¹⁶ See Table 3-1, page 3-3 of the Sacramento River Basin and San Joaquin River Basin Plan: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

Clean Water Act (CWA) 404 & 401 Certification Permits Require Analysis of Environmental Impacts from the SLDMWA Mud Slough Rerouting Project & Dredging.

To protect water quality a 401 certification and a federal 404 permit from the Secretary of the Army are also required for the SLDMWA Mud Slough Restoration Project. The U.S. Army Corps of Engineers (Corps), through the Regulatory Program, administers and enforces Section 10 of the Rivers and Harbors Act of 1899 (RHA) and Section 404 of the Clean Water Act (CWA). Under RHA Section 10, a permit is required for work or structures in, over or under navigable waters of the United States. Under CWA Section 404, a permit is required for the discharge of dredged or fill material into waters of the United States. Many waterbodies and wetlands in the nation are waters of the United States and are subject to the Corps' regulatory authority.

The SLDMWA MND proposes to remove sediment from Mud Slough and to remove and/or modify various dikes and levees. Yet, detailed sediment analysis was not provided in the SLDMWA MND nor are these materials proposed to be tested before dredging commences. The public and regulatory agencies are left in the dark regarding potential contaminants (including high levels of selenium and other pollutants) in these sediments that could be remobilized into adjacent water ways and wetlands. Any potential pathway for these contaminants to reach surface and groundwater must be disclosed and the impacts and mitigation addressed.

A new Mud Slough Diversion Structure that will span the entire width of Mud Slough with a crest elevation of 8 feet and 80 feet wide, capable of holding back all the flows of Mud Slough with accumulation of water, ponding and inundation planned upstream has the potential for serious ponding adjacent to federal and state wildlife refuges and wetlands. These impacts have not been sufficiently analyzed. The exposure of waterfowl to elevated selenium and other contaminants from this ponding and flooding must be analyzed and its impacts and their mitigation addressed.¹⁷ Please include the undersigned in any correspondence with the drainers' application for either a 401 certification or 404 permit application.

An NPDES Permit Is Required to Reroute the Drain Discharges to China Island and Newman Lake.

On September 6, 2019, the Ninth Circuit Court of Appeals ruled that commingled discharges from the GBP are not exempt from NPDES permitting requirements. In reaching its decision, the Court issued three landmark rulings under the Clean Water Act's exemption for discharges from irrigated agriculture. First, the Court held that the Defendants had the burden of establishing that their discharges were "composed entirely of return flows from irrigated agriculture." Second, the Court held that the exception was limited to "only those flows that do not contain additional discharges from activities unrelated to crop production." Third, the Court held that the District

¹⁷ Ponding upstream from flooding has poisoned birds. In "2003, a pasture at the existing upstream reuse area site attracted waterfowl when it was inadvertently flooded. This flooded area created ideal ecological conditions for shorebird foraging and nesting and thus, a number of pairs responded opportunistically and bred in the field. As a consequence, eggs collected near the pasture had highly elevated [selenium] concentrations." A deliberate exposure of waterfowl to these poisonous waters is a significant impact that requires analysis. Creating this hazard is also a crime forbidden by the Migratory Bird Treaty Act, 16 U.S.C. section 703.

Judge erred in ruling that the exemption applied so long as a “majority” of the wastewater originated from agricultural activities. The Court ruled that only those discharges that are composed *entirely* of return flows from irrigated agriculture were exempt.

Applying these rulings to the commingled discharges of the GBP, the Court held that all of the Plaintiffs’ claims should proceed. First, the commingled discharges from a solar project were not exempt even though they did not comprise a majority of the Project’s waste-stream, since only those discharges that “were composed entirely of return flows from irrigated agriculture were exempt.” Second, the Court overturned the District Judge’s dismissal of the Plaintiffs’ claims regarding polluted ground water that seeped into the Project’s massive drain from unfarmed lands, including highways and residences. Because those commingled discharges were not composed entirely of return flows from irrigated agriculture, they did not fall within the exemption. Third, the Court held that the fact these non-exempt flows were commingled with discharges from irrigated agriculture did not bring them within the exemption.

Mitigation measures or alternatives, including the continued delivery of clean water to these wetland areas, were not considered along with the obligation of the Grassland Drainers/SLDMWA to obtain a NPDES permit to ensure discharges from the San Luis Drain to Mud Slough meet at least the US EPA’s revised chronic selenium criterion for lentic waters of 1.5 µg/L (monthly mean)¹⁸ or the 2 µg/L monthly mean selenium objective for the Grassland wetland supply channels.¹⁹

Mitigation measures in the SLDMWA MND are vague and fail to provide enforceable guidelines. This is especially important with regard to the quality of water that will be introduced to China Island and Newman Lake from Mud Slough once the streambed alteration is completed. Neither the quantity nor quality of the water is provided, analyzed, or modeled in the SLDMWA MND. A brief narrative of water quality data from Mud Slough is provided in the SLDMWA MND Appendix B (Response to Comments)²⁰ and indicates that since July 2019 at least 13% of the water quality samples collected in Mud Slough exceeded 2 µg/L selenium and one sample was above 5 µg/L selenium. The actual water quality data for Mud Slough was not provided in the SLDMWA MND and current water quality reports from the GBP are no longer posted on the USBR or SFEI websites (discussed in more detail below).²¹

¹⁸ See: <https://www.federalregister.gov/documents/2016/07/13/2016-16585/recommended-aquatic-life-ambient-water-quality-criterion-for-selenium-in-freshwater>

¹⁹ See Table 3-1, page 3-3 of the Sacramento River Basin and San Joaquin River Basin Plan: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

²⁰ See pgs. 33-34 of Attachment A to MND (Response to Comments): https://www.sldmwa.org/OHTDocs/pdf_documents/Meetings/Board/Prepacket/AgendaItem11_AgendaItem12_2021_1119_GBD_Mud_Slough.pdf

²¹ The most recent GBP water quality report available at the SFEI website for the GBP is from 2019: https://www.sfei.org/sites/default/files/general_content/Final%20GBP%20Monthly%20Report%20January-December%202019.pdf

GBP WDR, Monitoring and Reporting Program, Notification Lack Public Notice.

On page 4 of the GBP Monitoring and Reporting Program (MRP) under Stormwater Monitoring lists the requirements for Notification:

“1. Notification

The following individuals are to be informed of the possible diversion to Grassland wetland supply channels:

- *the main contact at the Central Valley Water Board in Sacramento;*
- *the Manager of the Grassland Water District;*
- *the Manager of the Central California Irrigation District;*
- *the Manager of the San Luis Canal Company;*
- *personnel at the State and Federal Wildlife Areas that use the water supply channels in the region;*
- *managers of the irrigation and drainage districts participating in the Grassland Drainage Area;*
- *the Manager of the San Joaquin River Exchange Contractors Water Authority;*
and
- *the Area Manager, South-Central California Area Office, Bureau of Reclamation.”*

We note that Summers Engineering previously notified the public stakeholders including members of this environmental coalition when rainfall events resulted in stormwater diversions into the Grassland wetland supply channels. We stopped receiving these notifications several years ago. For the sake of public transparency, the Regional Board should include public stakeholder notifications in the MRP for the GBP not merely the dischargers or those with a stake in continuing the discharge.

GBP WDR, MRP Reporting, Results & Data Are Not Readily Available to the Public.

On page 9-10 of the GBP MRP are requirements for reporting semi-annual surface water monitoring results in an electronic format: *“Every six months, the Dischargers shall submit the previous six months surface water monitoring results in an electronic format. The schedule for these submittals is listed in Table 5 below.”*

Table 5: Semi-annual Surface Water Monitoring Data Report Schedule

Due Date	Type	Reporting Period
31 October	Semi-annual Monitoring Data Report	1 January through 30 June of calendar year
30 April	Semi-annual Monitoring Data Report	1 July through 31 December of previous calendar year

On page 10-11 of the GBP MRP are requirements for annual monitoring reports. As denoted in the MRP, *“The Annual Monitoring Report shall be submitted by 30 April of each year. The report shall cover monitoring periods for the previous calendar year (1 January thru 31 December).”*

On page 14 of the GBP MRP is a requirement of surface water exceedance reports, “*The Dischargers shall provide surface water exceedance reports if monitoring results show exceedances of adopted numeric water quality objectives or trigger limits...The Dischargers shall evaluate all of its monitoring data and determine exceedances no later than five (5) business days after receiving the laboratory analytical reports for an event...the Dischargers shall send the Exceedance Report by email to the designated Central Valley Water Board staff contact by the next business day.*”

On page 15-16 of the GBP MRP is the annual requirement to provide the Regional Board with an update to the Drainage Management Plan (DMP). These updates can be submitted as an attachment to the Annual Monitoring Report.

Since 2020, none of the reports required by the GBP WDR and MRP are available from the Regional Board website.²² The reports that are available are woefully out of date. The Regional Board’s website for the GBP does include links to USBR and SFEI (copied below):

For more detailed information and access to annual reports, go to [U.S. Bureau of Reclamation Grassland Bypass Project Homepage](#).

Additional data and reports are available on the San Francisco Estuary Institute's page: <http://www.sfei.org/projects/grassland-bypass-project>.

We note, however, that the USBR website does not include any current documents related to the GBP WDR or the current Use Agreement for the San Luis Drain. The latest document posted at the USBR site is the 2013 revised monitoring plan for the GBP. Further, the latest document posted on the SFEI site is the annual monitoring report for the GBP from 2019 (latest monthly report January – December 2019)²³ which predates the current GBP Order.

Further, we queried the California Environmental Data Exchange Network for water quality data in Mud Slough (North) (site D) and found the most recent data input to this database was only through December 31, 2020.²⁴

²² Site viewed on January 14, 2022: https://www.waterboards.ca.gov/centralvalley/water_issues/grassland_bypass/

²³ See: <https://www.sfei.org/gbp/reports>

²⁴ Site visited on January 14, 2022: <https://ceden.waterboards.ca.gov/AdvancedQueryTool>

To allow full public accountability and transparency, we ask that the Regional Board make available all monitoring reports and data required in the GBP MRP (including annual monitoring reports, semi-annual surface water monitoring results, surface water exceedance reports, and annual updates to the Drainage Management Plan). Without this information, the public is left in the dark about the performance of the GBP.

Splittail Deformities from Elevated Selenium Exposure from Selenium San Joaquin River Diets Despite Selenium Levels at Vernalis Relatively Constant from 2009-2021.

Johnson et al 2018 submitted a Final Report to USEPA on August 26, 2018, titled “*Unraveling sources and pathways of elevated selenium exposure over the lifetime of an imperiled migratory fish.*”²⁵ The report describes splittail with visible morphological and spinal deformities observed in the Delta. As described on page 3 of this report, “*these gross deformities were found to be consistent with selenium toxicity which include scoliosis (lateral curvature of the spine), kyphosis (outward curvature of the spine), lordosis (concave curvature of the lumbar and caudal regions of the spine; as well as deformities of fins, skull, jaws, and bulging eyes.*”

The Johnson et al 2018 report to EPA concludes on Page 10: “*The strontium isotopic composition ($^{87}\text{Sr}:$ ^{86}Sr) in the otoliths of all wild splittail indicated they acquired Se toxicity while rearing in the freshwaters of the San Joaquin River.*” And “*The otolith data and the*

²⁵ Johnson, R.C., R. Stewart, K. Limburg, R. Huang, D. Cocherell and F. Feyrer. 2018. Unraveling sources and pathways of elevated selenium exposure over the lifetime of an imperiled migratory fish. Final report to USEPA Region 9, San Francisco. 31 pp.

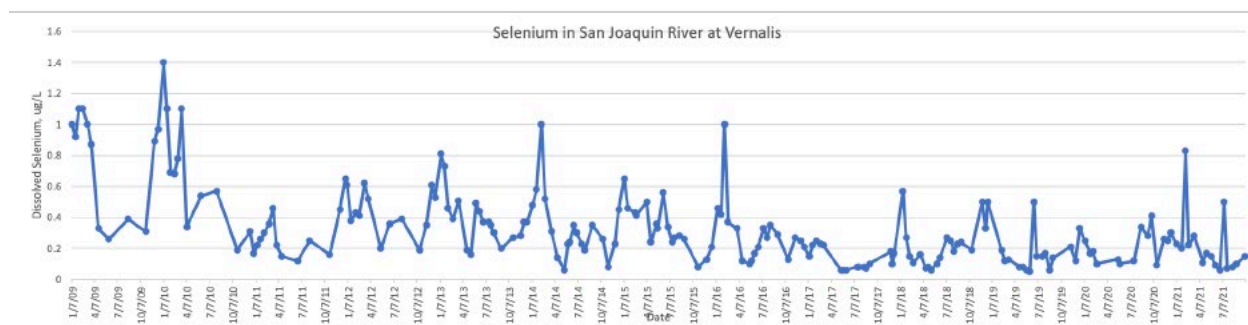
presence of multiple spinal malformations support the interpretation that juvenile splittail in this study fed directly on Se-enriched diets in the San Joaquin River prior to capture.”

The Regional Board’s update on the GBP presented in December 2021 included these questions about splittail deformities from slide 16:

Key Questions

- Are splittail deformities continuing to occur?
- Are they attributable to selenium discharges from the Grassland Drainage Area?
- Are the selenium water quality objectives adequate?

Selenium concentrations in the San Joaquin River at Vernalis are monitored by the US Geological Survey (USGS) as part of routine monitoring and the data are publicly available on the National Water Information System (NWIS) database.²⁶ In 2011 selenium concentrations at Vernalis were below 0.5 ug/L most of the time. Yet, in the spring of 2011, young-of-year splittail were found to have a high incidence (>80%) of spinal deformities characteristic of selenium toxicity at the site of a water diversion station in the San Joaquin Valley of the Delta (U.S. Department of the Interior, Bureau of Reclamation Tracy Fish Collection Facility) (Johnson et al 2020²⁷). The Figure below depicts selenium concentrations in the San Joaquin River at Vernalis from January 2009 thru July 2021. We note that the USGS water quality data at Vernalis data shows some temporal variability in selenium concentrations, but overall selenium water quality has not appreciably changed from when splittail deformities were observed in 2011.



Conclusion

The water quality impacts of routing discharges from the San Luis Drain to wetlands were not considered in the GBP WDR and, therefore, the Regional Board should reopen the GBP WDR and revise the water quality requirements for Mud Slough (North) to protect wildlife habitat

²⁶ The USGS Vernalis station ID# is 11303500. See: <https://nwis.waterdata.usgs.gov/usa/nwis/qwdata>

²⁷ See: <https://pubs.acs.org/doi/10.1021/acs.est.9b06419>

beneficial uses in China Island and Newman Lake. We urge the Regional Board to revise the Basin Plan to require that water quality provided to China Island and Newman Lake meet the USEPA's revised chronic selenium criterion for lentic waters of 1.5 µg/L (monthly mean)²⁸ or the 2 µg/L monthly mean selenium objective for the Grassland wetland supply channels.²⁹ Further there is extensive public interest with regard to the routing of these contaminants to the San Joaquin River and the San Francisco-Sacramento-San Joaquin Delta Estuary. The public should not be excluded from the monitoring and reporting requirements and required data.

Thank you for your consideration.

Sincerely,



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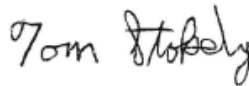
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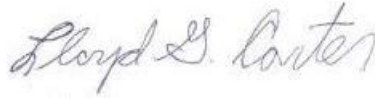
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²⁸ See: <https://www.federalregister.gov/documents/2016/07/13/2016-16585/recommended-aquatic-life-ambient-water-quality-criterion-for-selenium-in-freshwater>


²⁹ See Table 3-1, page 3-3 of the Sacramento River Basin and San Joaquin River Basin Plan:
https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf



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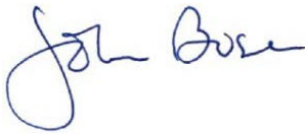
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