



via email: ashley.Peters@waterboards.ca.gov and susan.Fregien@waterboards.ca.gov

1 February 2021

Ashley Peters and Susan Fregien
Irrigated Lands Regulatory Program
Central Valley Regional Water Quality Control Board (Region 5)
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

**Subject: Comments from the Stockton Coalition for Environmental Justice on
Grassland Bypass Project Drainage Management Plan**

Dear Ms. Peters and Ms. Fregien:

We represent community organizations of Stockton concerned with water and environmental justice matters. We thank you for the opportunity to comment on the Grassland Bypass Project Drainage Management Plan.

We incorporate to this letter by reference our letter of November 26, 2019, which described the environmental justice law and policy principles of the state of California and the demographic and geographic presence of environmental justice communities in the Delta region. We also incorporate to this letter by reference the letter of February 1, 2021 by The Environmental Water Coalition.

As you will recall, our groups opposed extension of the Grassland Bypass Project (GBP) Waste Discharge Requirements (WDR) in December 2019. At that time, we urged that environmental justice considerations were lacking, the selenium water quality objective was too lax, and that alternatives to continuing discharges from the GBP need to be considered. Region 5 nonetheless approved the WDR order (R5-2019-0077) but agreed to review progress of its discharge activities in 2021.

General Comments

Our community believes that continuing irrigation drainage discharge of selenium, boron, and molybdenum into Mud Slough (North) and the San Joaquin River perpetuates an environmental injustice from upstream of the Merced River all the way to the Delta for communities of color who reside, recreate, fish, and subsist along the stream. These discharges, particularly during stormwater events, can send substantial pulses of selenium loads into these water ways that the present Grassland Bypass Project system fails to control. The bypass system is set up only to avoid harm to important wetland and wildlife beneficial uses in national wildlife refuges and fails to solve the problem, so far, of reducing contaminated discharges to zero or nearly so.

The Drainage Management Plan released last December provides little assurance that improvements in drainage—particularly during storm events, such as the one we just experienced—will result from management of the GBP by the San Luis Delta-Mendota Water Authority and the United States Bureau of Reclamation.

We continue to insist that serious consideration of alternatives to the status quo of simply protecting the beneficial uses of the important wildlife refuges along the San Joaquin River. Make no mistake: we value the wildlife refuges. But so far, beneficial uses of environmental justice communities in the same corridor are being ignored in the regulation of selenium discharge from the Grasslands area. An important set of alternatives to the status quo is planned land retirement within the Grasslands Drainage Area to curtail the primary source of irrigation drainage flows laden with selenium, boron, and molybdenum. We urge Region 5 staff and Board to examine land retirement as an alternative to continuing down the road of continued selenium-laden irrigation drainage discharges to the San Joaquin River.

Specific Comments

1. While the selenium water quality objective applicable to the Grassland Bypass Project and this area of the San Joaquin River watershed continues to be 5 micrograms per Liter ($\mu\text{g/L}$) there is a growing body of scientific studies finding that this objective criterion is insufficiently protective of beneficial uses like fish, wildlife, and potentially human consumption of fish tissue. USEPA scientists have urged that a 2 $\mu\text{g/L}$ criterion be applied, while Dr. Joseph Skorupa of the US Fish and Wildlife Service informed Region 5 staff at the January 14, 2021, stakeholder meeting on the drainage plan, that an appropriate protective selenium criterion may have to be site specific since selenium activation depends on an array of environmental considerations. He cited potential criteria of 0.8 $\mu\text{g/L}$ to 3.1 $\mu\text{g/L}$, which are applied elsewhere in the United States, and recommended that Region 5 have the Grassland drainers study what would be appropriate. Figure 3 of the Drainage Management Plan (DMP) for Site D (Mud Slough downstream of the San Luis Drain) shows that in 2019 and 2020, while there were no exceedances or violations of the 5 $\mu\text{g/L}$ criterion, were a 2.0 $\mu\text{g/L}$ criterion for the selenium objective, this same period would have seen 28

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different exceedances. Thus, while compliance is achieved by the Grassland drainers through the GBP, the bar is set so that such compliance is with respect to a water quality criterion that is not sufficiently protective of beneficial uses.

2. This unsafe situation is prolonged by Region 5 despite the fact that both staff and the Water Authority and the Bureau all agree that each of the treatment systems evaluated by these parties “were determined to be infeasible for a variety of reasons, usually as a result of the highly mineralized—and thus expensive to treat—water chemistry” in the western San Joaquin Valley soils of the Grassland drainage area.¹ Even the WDR adopted by Region 5’s Board in December 2019 acknowledged this reality that “identification of a specific technology or treatment device as [Best Practicable Treatment or Control] or ‘best efforts’ has not been accomplished” and “There is no specific set of technologies, practices, or treatment devices that can be said to achieve BPTC/best efforts universally in the watershed.”²
3. Region 5 justified approving the WDR order, however, under the State Water Resources Control Board’s anti-degradation policy, contained in Resolution 68-16. This resolution governs how state and federal anti-degradation policy is applied to water quality regulation in California. This policy needs to be revisited in the light of environmental justice problems it raises when continuing discharge of contaminants is allowed for decades and no treatment technology is available to truly improve things—and environmental justice communities are forced to bear burdens of these contaminants.

Thank you again for the opportunity to comment on the Grassland Bypass Project Drainage Management Plan. If you have questions concerning this letter, please contact Tim Strohane at the contact information below.

Sincerely,



Barbara Barrigan-Parrilla
Executive Director
Restore the Delta



Tim Strohane
Policy Analyst
Restore the Delta

¹ *Grassland Bypass Project—Drainage management Plan, including components of the Westside Regional Drainage Plan and the Long-Term Stormwater Management Plan*, December 6, 2020, p. 21.

² *Attachment A to Order R5-2019-0077, Grassland Drainage Area*, December 2019, p. 43.

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