

December 10, 2019

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Commissioner
U.S. Bureau of Reclamation
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Washington DC 20240-0001

Ernest Conant,
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Re: New Information Regarding Deformities in Sacramento Splittail and Drinking Water Quality Raise Significant National Issues for Consideration in the Draft Environmental Assessment for the proposed 10-Year Agreement to Use the San Luis Drain for Discharges to the San Joaquin River and San Francisco-Bay Delta by the San Luis & Delta-Mendota Water Authority--We Seek a Public Hearing, an EIS and Extended Comment Period--2 Weeks Is Insufficient.

The undersigned organizations respectfully request an extension of the 2 week comment period ending right before Christmas Eve for the Draft Environmental Assessment (DEA) for the new 10-Year Use Agreement for the San Luis & Delta-Mendota Water Authority Long-term Storm Water Management Plan for the Grassland Drainage Area. Pursuant to 40 CFR § 1506.6 we seek a public hearing, an environmental impact statement and a 60 day comment period due to the national and regional significance of the proposed discharge sanctioned by this new use agreement and contract. As you know, the Inspector General Reported in November 2019¹ that the expiring use agreement has not been followed, properly managed and treatment promises were not kept. The IG's Recommendations 2-7 remain unresolved.

With the holidays approaching and the desire for many to spend time with their families and loved ones, it seems particularly onerous to provide only a two week notice period ending the day before Christmas Eve.

¹ <https://www.doioig.gov/reports/bureau-reclamation-did-not-effectively-manage-san-luis-demonstration-treatment-plant>

Our organizations have had a long history of involvement with the Grassland Bypass Project, no official notice of the availability of the DEA was provided, and no press release was issued. The notice of availability for this DEA was posted on Reclamation's website under NEPA documents² on December 9, 2019 for a 2-week comment period ending on December 23, 2019.

The title of the DEA mentions a 10-Year Use Agreement, there is no Use Agreement included in the DEA. Further, there is no draft FONSI provided with the DEA.³ Failure to provide these essential documents for such a truncated public review period effectively precludes public comments and fails to meet Reclamation policy to make diligent efforts to include the public and provide for full the disclosure and transparency contemplated by the National Environmental Policy Act. Given the national and regional interest in the discharge of this selenium contamination gathered from outside the San Luis Unit service area, the time allotted does not comply with the spirit of 40 CFR 1506.6.

The Definition of the Project Remains Muddy with Significant Time Period Discrepancies

The DEA covers a Use Agreement for a period of 10 Years. Yet the San Luis and Delta Mendota Water Authority approved a CEQA document that authorized the use of the San Luis Drain to discharge storm water commingled with subsurface agricultural drainage from the Grassland Drainage Area for 25 Years.⁴ Further, the Central Valley Regional Water Quality Control Board approved Waste Discharge Requirements for only a storm water discharge with a mandatory 2-year permit review in December of 2021. The inconsistency of these various state agency documents, the absence of the new use agreement and the lack of a rigorously defined project in the DEA effectively precludes the public and decision maker from considering a number of "solutions" which will satisfy the project purpose and conditions.

New Information on Environmental Effects of GBP Discharges from the Federal San Luis Drain.

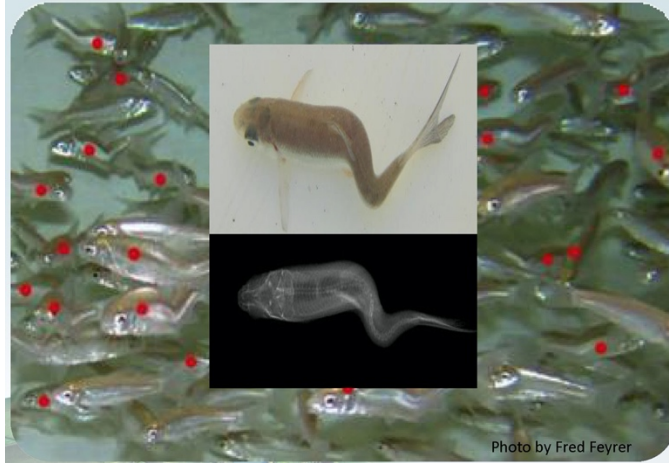
At the December 5, 2019 CV Regional Water Board Meeting, new information was provided by Board staff on selenium effects to Sacramento splittail. Worthy of note is a photo from Dr. Rachel Johnson, provided to the Regional Board and presented at the State of the Estuary Conference in 2019⁵ depicting high numbers of Sacramento splittail (photographed in the Delta with an underwater camera) with spinal deformities (marked by red dots) typical of selenium contamination:

² https://www.usbr.gov/mp/nepa/nepa_project_details.php?Project_ID=41544

³ Federal law and regulation 'require at least thirty (30) calendar days before making the decision on whether, and if so how, to proceed with a proposed action, the Responsible Official must make the EA and preliminary FONSI available for review and comment to the interested federal agencies, state and local governments, federally-recognized Indian tribes and the affected public. The Responsible Official must respond to any substantive comments received and finalize the EA and FONSI before making a decision on the proposed action. See 40 CFR § 6.203 - Public participation.

⁴ <https://ceqanet.opr.ca.gov/2007121110/6>

⁵ See Mavens Notebook summary of Dr. Johnson's presentation at the 2019 State of the Estuary Conference: <https://mavensnotebook.com/2019/12/05/state-of-estuary-standing-too-close-to-the-elephant-addressing-scales-in-restoration-and-fisheries-conservation/>



R. Johnson, 22 Oct 2019 State of the Estuary Conference

Dr. Johnson noted at the conference that, “It’s actually rare to actually see deformed animals in nature because usually something eats them, and so we wanted to take this opportunity to try and diagnose why it is that we had so many of these fish that had these deformities.” Dr. Johnson’s work on splittail has been accepted for publication in *Science of the Total Environment* and is currently undergoing peer-review prior to publication. Further we understand the Sacramento splittail has an 80% deformity rate and Se exposure stable isotope finger-printed back to San Joaquin River. These findings are of national significance and deserve a public hearing before use of the San Luis Drain is sanctioned for continued discharge of selenium, salts and other contaminants into the San Joaquin River and the San Francisco Bay-Delta Estuary.

Although the Sacramento splittail is not currently listed as threatened or endangered by the Federal or State government, they serve as an indicator species for species such as federally listed as threatened Green sturgeon⁶ which feed on the same species of clam (Asian clam) as splittail.

Furthermore, the Contra Costa Water Agency in their December testimony before the Regional Board on the GBP waste discharge permit also voiced concerns over increases in contaminants being discharged by the GBP drainers from this federal facility. Contra Costa WA pumps their drinking water from the south Delta and increases in electrical conductivity has real deleterious effects to their drinking water supply. These discharges were found in violation of State water quality standards.

⁶ <https://www.fisheries.noaa.gov/species/green-sturgeon>

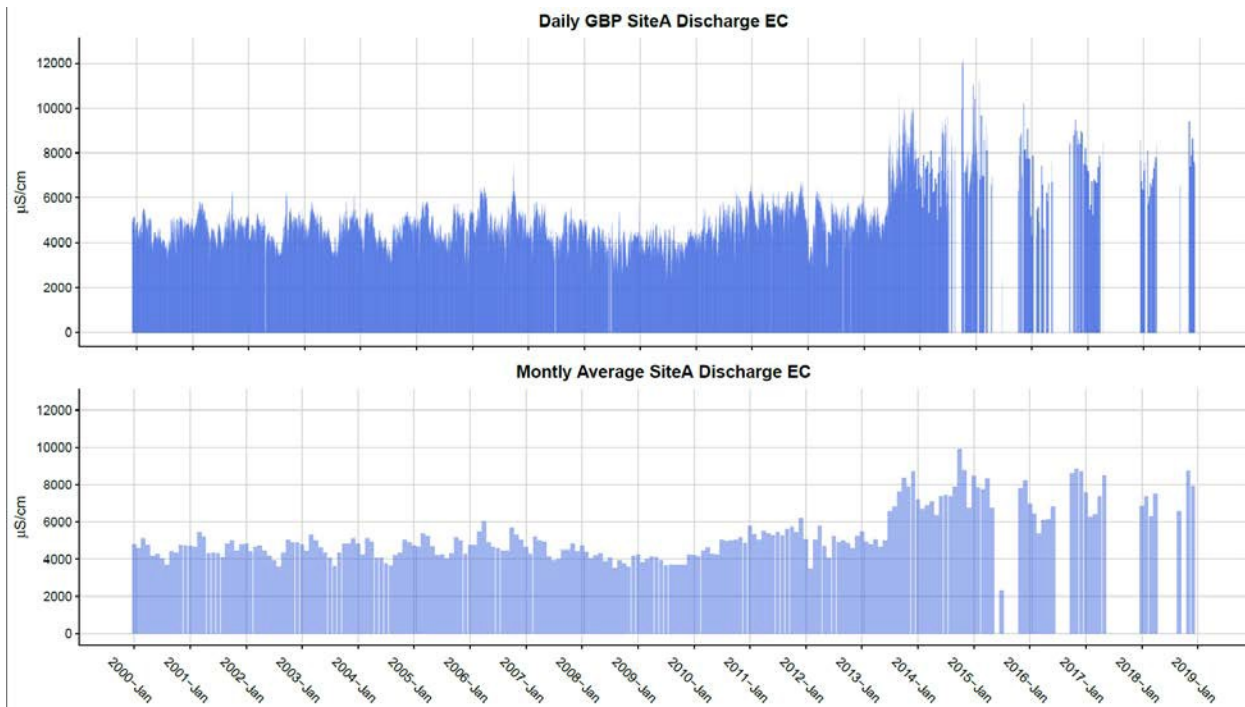


Figure 1 Electrical conductivity (EC) of discharges from Grassland Bypass Project (GBP) (2000 – 2019)

Electrical conductivity (EC) at Station R was as high as 4,000 µs/cm in 2015 and 1,700 µs/cm in 2018, exceeding the 1,600 µs/cm EC objective in the Regional Water Quality Control Board water quality standard in the Basin Plan.

Based on new information, and the need to review the Use Agreement, as well as, the DEA, we request a public hearing, a full EIS and an extension of the comment period for the Draft Environmental Assessment before this new proposal by the San Luis & Delta-Mendota Water Authority to drain lands during storm events for the next decade for discharge into the San Joaquin River and San Francisco-Bay Delta Estuary. We further request copies of the Use Agreement, draft FONSI, and all ESA consultations.

Requiring comment on an issue of such regional and national significance while people are gathering for this religious holiday with family and friends is unconscionable. As well it effectively precludes the public participation and transparency policy goals of the National Environmental Policy Act and Reclamation policies, regulations and directives.

Thank you for your consideration. If you have any questions please contact either Kathryn Phillips Director of Sierra Club California at (916) 557-1100 or Jonas Minton at (916) 626-9148

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