

AGENDA ITEM 17
30/31 July 2015 Board Meeting

LATE REVISIONS – 30 July 2015

- Item 17. Waste Discharge Requirements for San Luis and Delta-Mendota Water Authority and United States Department of the Interior Bureau of Reclamation, Surface Water Discharges from the Grassland Bypass Project - Consideration of New Waste Discharge Requirements**

WASTE DISCHARGE REQUIREMENTS

Page 4, revise Finding 13 as follows:

The Agreement for Use of the San Luis Drain (Use Agreement) between the Bureau and Authority contains terms and conditions that address Grassland Bypass Project longevity and water quality. Monthly and annual limits were placed on the loads of selenium that could be discharged and an extensive, multi-agency monitoring program was established. An updated Use Agreement (2009 Use Agreement) was signed in 2009, extending the Grassland Bypass Project through 31 December 2019. In the event the Grassland Bypass Project is extended, [the Board may reissue this Order or prescribe new Waste Discharge Requirements may be reopened and extended](#) only upon a showing that all significant environmental impacts associated with the continued operation of the GBP have been analyzed pursuant to any applicable provisions of CEQA and only after the Dischargers demonstrate to the satisfaction of the Board that the continued operation of the GBP is in compliance with the ESA.

Page 15, revise item 7 as follows:

[This Order does not authorize discharges to the San Luis Drain beyond 2019. Discharges in the event the Dischargers intend to discharge to the San Luis Drain beyond after 31 December 2019 shall only be authorized, this Order may be reopened and extended only](#) upon a showing that any significant environmental impacts associated with the continued operation of the GBP have been analyzed pursuant to any applicable provisions of CEQA and only after the Dischargers demonstrate to the satisfaction of the Board that the continued operation of the GBP is in compliance with the ESA.

ATTACHMENT A – INFORMATION SHEET

Page 38, revise second paragraph as follows:

The compliance time schedule has been established for selenium in Mud Slough (north) and the San Joaquin River from the Mud Slough confluence to the Merced River. A performance goal specified in the Basin Plan for achieving 15 µg/L monthly mean is by 31 December 2015. The water quality objective (5 µg/L as 4-day average) must be met by 31 December 2019. [In addition, the Order requires compliance with the selenium load reduction strategy in the 2009 Use Agreement, which includes the annual and monthly selenium load values, the application of the Drainage Incentive Fees in accordance with the Performance Incentive System, and the termination of the Use Agreement Total maximum monthly loads \(TMMLs\) for selenium have been established based on the water quality objective \(Table 6\).](#)

Page 38, delete Table 6 and associated footnote, and renumber subsequent tables and footnotes.

RESPONSE TO COMMENTS

Page 2, revise response to General Issue 1 as follows:

The Tentative GBP Order was revised to require compliance with the overall selenium load reduction strategy in the Use Agreement, which includes compliance with the load reductions, and the application of the Drainage Incentive Fees.

Table 2 does not authorize increased selenium concentrations and load levels. Total Maximum Monthly Load (TMML) values for selenium from the Grassland Bypass Project (GBP) listed in Table 2 are based upon meeting a 5 µg/L four-day average water quality objective for the San Joaquin River at Crows Landing, a site downstream of the Merced River confluence. The water quality objective has been met for the San Joaquin River at Crows Landing since 2004. The Water Quality Control Plan, Fourth Edition, for the Sacramento River and San Joaquin River Basins (Basin Plan) also contains a water quality objective of 5 µg/L selenium at Mud Slough (north) and the San Joaquin River from the Mud Slough confluence to the Merced River which becomes effective in 2019.

Board staff agrees that the initial version of Table 2 may have been confusing; edits were made to Table 2 and Finding 12 to clarify that the monthly loads are to meet the objective at Crows Landing, ~~and that the 5 µg/L selenium water quality objective for Mud Slough is more restrictive. The Use Agreement is a contract between the Bureau of Reclamation and the San Luis & Delta Mendota Water Authority that is designed to achieve zero discharge by 31 December 2019. Consistent with that zero discharge goal, the load limits in the Use Agreement are based on background selenium loading (i.e., the expected selenium concentrations if there were no discharge). This is why the load limits in Use Agreement are lower than load limits developed to meet a 5 µg/L water quality objective for selenium in the Lower San Joaquin River.~~ The Tentative GBP Order reflects the implementation provisions of the Basin Plan, which require that the water quality objective of 5 µg/L be met in Mud Slough by 31 December 2019 in order to protect beneficial uses. ~~Furthermore, the Tentative GBP Order requires compliance with the overall selenium load reduction strategy in the Use Agreement.~~

Finally, the Basin Plan specifies that the discharge of selenium from agricultural subsurface drainage in the Grassland watershed to the San Joaquin River cannot exceed 8,000 lbs/year beginning on 10 January 1997. This prohibition is in the Tentative GBP Order, although the selenium load from the Grassland Drainage Area has been below the 8,000-pound limit since 1999. The annual selenium load value in the Use Agreement is not included in the Basin Plan. Both the TMML load limits for the Grassland Drainage Area (GDA) to meet the 5 µg/L water quality objective in the San Joaquin River at Crows Landing (ranging from 1,075 to 4,480 lbs), and the 5 µg/L water quality objective for Mud Slough are more restrictive than the 8,000 lbs limit. Staff revised Findings 11 and 12 to clarify the context for the prohibition.

Page 3, delete last sentence of the response to General Issue 2.

Page 3, revise first paragraph of response to General Issue 3 as follows:

Board staff acknowledges that the Use Agreement for the San Luis Drain to transport subsurface drainage from the Grassland Drainage Area to Mud Slough (north) expires on 31 December 2019. Board staff agrees that should the Dischargers propose to continue to discharge to the San Luis Drain after 31 December 2019, a separate evaluation for compliance with CEQA and the ESA may be necessary. Rather than impose a strict prohibition, Board staff have tailored the language of the Tentative GBP to the language of the Basin Plan ("The

discharge of agricultural subsurface drainage water to Mud Slough (north) and the San Joaquin River from the Mud Slough confluence to the Merced River is prohibited after 31 December 2019 unless water quality objectives for selenium are being met.”). The Tentative Order was revised to and have added a provision specifying that discharges to San Luis Drain an extension of the GBP Order could only be approved authorized upon a showing that any significant environmental impacts associated with the continued operation of the GBP have been analyzed pursuant to any applicable provisions of CEQA and only after the Dischargers demonstrate to the satisfaction of the Board that the continued operation of the GBP is in compliance with the continued discharge was in compliance with any applicable provisions of CEQA and the ESA.

Page 5, revise second to last sentence of response to Comment 1-1 as follows:

Additionally, the selenium load reduction assurances - which include the load reductions and application of the incentive fees in accordance with -in the 2009 Use Agreement, apply and are a part of the Tentative GBP Order requirements.

Page 5, revise response to Comment 1-2 as follows:

The Basin Plan includes an interim selenium performance goal of 15 µg/L to be met by 31 December 2015. The water quality objective 5 µg/L must be met at Mud Slough (north) and in the San Joaquin River above the Merced River confluence by 31 December 2019. The Order includes the Basin Plan’s interim performance goal, and monitoring required by the GBP Order will track the progress towards meeting the water quality objective. As stated above, selenium load reduction assurances from the 2009 Use Agreement have been included in the Tentative GBP Order requirements and act as incremental performance goals. Additional incremental performance goals are not included in the Basin Plan, are not required, and are unnecessary to ensure attainment of the water quality objectives.

Page 5, add a note related to Comment Letter 1 as follows:

NOTE: On 14 July 2015 the commenter retracted the second sentence of the first paragraph of the comment letter. The sentence was erroneously included in the comment letter; the proposed Order is not subject to any court order as implied by the retracted sentence.

Page 9, revise the first sentence of response to Comment 7-2 as follows:

The proposed GBP Order does regulate salt discharges consistent with the ~~the~~ Basin Plan’s Salt and Boron Control Program and the Board’s approach for addressing salinity; see Response to General Issue 2.

Page 10, revise the last sentence of response to Comment 7-2 as follows:

The “exceedances” listed fall within a critically dry year and so represent anticipated elevated concentrations but not a violation of a water quality objective and are still in compliance with the Salt and Boron Control Program.

Page 13, revise response to Comment 9-1 as follows:

~~The commenter would be correct if the Tentative GBP Order were the means by which the selenium load reduction targets are enforced. However, this is not the case; under the terms of the Use Agreement, if the selenium load reductions are not met, the Bureau will terminate the Use Agreement, thereby prohibiting the continued use of the San Luis Drain (see Attachment K to the Use Agreement, a table entitled “Mandatory Termination for Selenium Exceedance”). Although the selenium limits in the Tentative GBP Order do not correspond with the selenium load values in the Use Agreement, t~~The Tentative GBP Order has been revised does to require implementation of selenium load reduction assurances in the Use Agreement (See Response to

[General Issue 1](#)). Since the WDRs do not authorize any new significant impacts that were not fully analyzed in the EIS/EIR, the Board may continue to rely on that document.

Page 15, revise the 9-9 comment summary to add a sentence at the end:

[Records should be kept for 20 years, not as proposed for five years.](#)

Page 16, revise response to Comment 9-9 to add at the end:

[The Water Boards records retention schedule, adopted pursuant to the State Records Management Act, states that WDR records will be stored until waste discharge requirements are rescinded by the Board. This retention schedule is updated periodically. Board staff may take commenter's suggestion under advisement when this retention schedule is revised.](#)