



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

June 22, 2015

Pamela Creedon, P.E.
Executive Officer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Ste. 200
Rancho Cordova, CA 95670

Re: Proposed Waste Discharge Requirements for Grasslands Bypass Project, Order R5-2015-XXX)

Dear Ms. Creedon:

Thank you for the opportunity to comment on the Central Valley Regional Board's proposed waste discharge requirements for surface water discharges from the Grasslands Bypass Project (GBP Order), dated May 8, 2015. We recognize the proposed permit amendments are related to a recent court order and therefore must be accomplished by July 2015. We have reviewed the proposed GBP Order and have concerns about the proposed increases in Se discharge levels to Mud Slough and the San Joaquin River.

The proposed Order appears to authorize increased Se concentrations and annual loads into receiving waters, which do not currently meet applicable water quality objectives for Se. Furthermore, under drought conditions, the receiving waters do not have any available dilution capacity to accommodate increased Se levels. EPA is concerned the proposed changes would: (a) further delay progress in TMDL implementation; (b) prolong elevated Se levels in receiving waters; and (c) further degrade water quality and inadequately protect applicable beneficial uses.

Selenium Discharge Levels

EPA is pleased to see the proposed Order retains the final applicable Se chronic water quality objective (5 ug/L based on 4-day average) and the 2015 monthly mean performance goal (15 ug/L) which are deemed as maximum allowable discharge values. These values are consistent with the 2009 WDRs. However, the proposed WDR would apparently authorize significant increases in the maximum monthly Se discharge levels (up to 20 ug/L for Mud Slough (north) to Merced River; and up to 12 ug/L for Merced to Vernalis). The tentative Order also appears to authorize higher mass-based load limits for discharges from irrigated lands from the Grassland Drainage Area. These higher mass loads, which range from 350 to 460% higher, would be allowed during all water years, regardless of the relative water year (critical, dry/below normal, above normal, and wet).

The proposed increases in allowable monthly maximum Se concentrations and mass loads during different year types are of concern as they would apparently relax Se controls during a period when substantial Se discharge reductions are needed to attain final water quality criteria that are supposed to be achieved by December 2019. We recommend that discharge limitations for Se not be relaxed in the final order as apparently proposed.

Drought Conditions

We note the Regional Board amended the Basin Plan in 2010 to extend the compliance dates for the selenium water quality objective from 2010 to 2019. Within that amendment, the Board recognized that, despite the best efforts of the Grasslands Drainage Area growers and districts in significantly reducing selenium loads, there was not enough dilution to meet objectives in the receiving waters and additional time was needed to implement solutions. Now, in 2015, given the impacts of severe drought conditions in the receiving waters and the associated reduction in dilution capacity, we are particularly concerned about the adverse effects that would occur if Se discharges are permitted to increase as the Order proposes. We understand that drought conditions have made it more difficult to control Se impairments in the San Joaquin River and its tributaries, but believe this is not the right time to relax Se control requirements for Grasslands dischargers.

Tracking Progress

We recommend revising the Order to include more incremental performance goals that would apply between now and 2019 to support more robust tracking of interim progress towards meeting the monthly and annual Se loading limits, water quality performance goals and the applicable water quality objective. The Board has discretion regarding whether to define these performance goals as enforceable values.

Conclusion

We would appreciate the opportunity to discuss with your staff our concerns about the proposed Order prior to its adoption. We want to be sure that we fully understand the Board's rationale for the proposed order and would like to explore alternative approaches to revising the WDRs that will facilitate achievement of Se standards and incorporate interim performance tracking provisions. If you have questions about our comments, please contact me at (415) 972-3464 or Peter Kozelka of my staff at (415) 972-3448.

Sincerely,



David Smith
Acting Assistant Director
Ecosystems Branch (WTR-2)