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DEFENDING NORTHERN CALIFORNIA WATERS



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May 28, 2010

Jeanine Townsend,
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Sent Via e-mail to commentletters@waterboards.ca.gov

RE: Comments on 2010 Integrated Report (Clean Water Act Section 303(d) List / 305(b) Report

Dear Ms. Townsend:

The above signatory groups have reviewed the proposed revisions to the 303(d) List and submit the following comments.

We acknowledge and applaud the prodigious effort of State Board and Regional Board staffs in collecting and analyzing relevant water quality data and proposing revisions to the 303(d) List. With several exceptions, we support the proposed revisions/additions. The more than 440 additions to the list are a graphic reminder of the seriously degraded state of Central Valley waterways. As additional data is collected from previously unmonitored waters, the list of impaired waterways is likely to continue to expand.

We strongly support the long overdue inclusion of temperature impairment for the San Joaquin, Merced, Tuolumne, Merced, San Joaquin, Pit, Yuba and the North Fork Feather Rivers. Excessive temperatures are clearly major limiting factors to renewable fisheries in these waterways and the data overwhelmingly supports listing.

We question and object to the elimination of selenium impairment for Salt Slough and the San Joaquin River (Merced River to Tuolumne River, Tuolumne River to Stanislaus River, Stanislaus River to Delta). Selenium is a bioaccumulative toxin. The Fact Sheets in Appendix G of the Staff Report that document the delisting of these waterways appear to be limited to selenium concentration in the water column but not fish tissue. While the percentage of water column samples exceeding the 5 µg/L Basin Plan numerical limit may seem to justify delisting, we urge staff to reexamine relevant data to see if the Basin Plan Narrative Objective to not cause physiological harm to aquatic life is exceeded. According to the Fact Sheets in Appendix G that provide the basis for the proposed selenium delistings, it appears that no data has been collected since June 30, 2006. Hopefully, this is not the case and we encourage staff to examine more recent data. For instance, selenium levels in the San Joaquin River at Hills Ferry were 32.2 µg/l on October 21, 2009.¹

We also bring to your attention the fact that the United States Environmental Protection Agency is required under the joint Biological Opinion for the California Toxics Rule² to revise its national Clean Water Act Section 304(a) acute and chronic aquatic life selenium criteria by January of 2002, and to revise its acute and chronic aquatic life selenium criteria for California by January of 2003. While neither revision has yet occurred, USEPA has indicated to the Central Valley Regional Water Quality Control Board that in both cases the revised criteria are forthcoming and will be more stringent than existing State Water Quality Objectives for selenium.³ Therefore, delisting the proposed water bodies for selenium would be premature.

¹ Grasslands Bypass Project Monthly Data Report November 2009. San Francisco Estuary Institute, May 10, 2010.

² USFWS/NMFS Biological Opinion on California Toxics Rule; letter to Felicia Marcus, Region IX USEPA Administrator, March 24, 2000. Page 9. See http://www.c-win.org/webfm_send/40 accessed 5/23/2010.

³ Letter from Janet Hashimoto, USEPA Region IX to Gail Cismowski, CVRWQCB regarding selenium Basin Plan Amendment, dated April 28, 2010. http://www.waterboards.ca.gov/centralvalley/water_issues/grassland_bypass/usepa_com.pdf. Accessed 5/23/2010

A report by the U.S. Fish and Wildlife Service⁴ clearly shows that the 5 µg/L selenium water quality objective is not protective of fish and wildlife, including listed salmonids. We also bring to your attention the fact that selenium is bioaccumulating in bivalves and Sacramento splittail in Suisun Bay, and is causing deformities in Sacramento splittail at that location.⁵ Accordingly, we urge you to reconsider delisting these water bodies for impairment with regard to selenium contamination.

The delisting of electrical conductivity (EC) on the San Joaquin below the Stanislaus is also problematic. Water Quality standards apply throughout the length of a waterbody, not simply at a single monitoring point. Compliance at Vernalis is only achieved because of dilution flows from the Stanislaus River, which may not be available in the future due to a recent court decision on the use of New Melones water (Stockton East Water District v. U.S., 07-5142). However, this temporary reduction in EC concentration does not ensure compliance further downstream where agricultural and municipal dischargers contribute additional salt loading.

While it is difficult to find an example where the 30-day standard has been violated at Vernalis, a quick check of monitoring data on the San Joaquin reveals extended periods where EC levels at Vernalis, Mossdale and Brandt Bridge are above the 700 or 1,000 µmhos/L mandated standards. Every time the 30-day EC standard at Vernalis approaches a violation, the Bureau releases a slug of water from New Melones. An additional problem is that the only monitoring point between Vernalis and the Delta is at Vernalis so any subsequent agricultural, municipal or industrial discharges may cause the EC standard to be violated but remain undetected. In other words, there is a single point at Vernalis where the standard is measured but there are downstream discharges of salt that do not provide for meeting water quality standards throughout the designated river reach.

The Board's Water Rights Decision 1641 implemented the Electrical Conductivity standards in 2000 and made the California Department of Water Resources and the US Bureau of Reclamation directly responsible for meeting them. DWR and the Bureau are responsible for these extended periods of elevated EC levels, behavior that was subjected to a Board-initiated Cease and Desist WR Order 2006-0006. Unfortunately, the Board recently modified this order in January 2010 (Order WR 2010-0002) to delay enforcement of the standards on DWR and the Bureau. This does not mean that the salinity problems here have abated, only that the Board's willingness to enforce

⁴ Potential Effects Of Selenium Contamination On Federally-Listed Species Resulting From Delivery Of Federal Water To The San Luis Unit. U.S. Fish and Wildlife Service Sacramento Fish and Wildlife Office Environmental Contaminants Division. P 15. March 2008.
http://wwwrcamnl.wr.usgs.gov/Selenium/Library_articles/Beckon_and_Maurer_Effects_of_Se_on_Listed_Species_SLD_2008.pdf accessed 5/28/2010.

⁵ Stewart, AR, Luoma, SN, Schlegel, CE, Doblin, MA and Hieb, KA. (2004) Food web pathway determines how selenium affects aquatic ecosystems: A San Francisco Bay case study. Environmental Science & Technology 38(17):4519-4526. See
http://wwwrcamnl.wr.usgs.gov/Selenium/Library_articles/stewart04.pdf, accessed 5/23/3010.

standards regulating them has. Logically, then, these reaches of the San Joaquin River should not be removed from the list of impaired water bodies. We urge you to reconsider their delisting.

Likewise, compliance with the diazinon objective on the Feather River near the confluence with the Sacramento River, where maximum dilution occurs, does not provide assurance that the standard is being met along the entire length of the Feather River below Oroville. This is especially true considering the recent reduction in river monitoring and the levels of diazinon found in tributaries. According to the Fact Sheets in Appendix G to the Staff Report that provide the basis for the proposed delisting, it appears that no data has been collected since February 2005. Hopefully, this is not the case and we encourage staff to examine more recent data.

Thank you for considering these comments. If you have questions or require clarification, please don't hesitate to contact us.

Respectfully submitted,



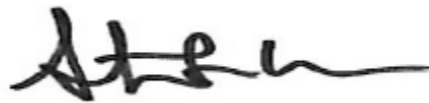
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California Water Impact Network



Bill Jennings
Chairman Executive Director
California Sportfishing Protection Alliance



Jim Metropulos
Senior Advocate
Sierra Club California

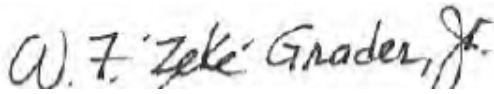


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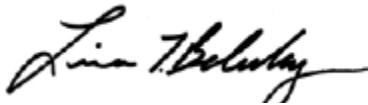
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