

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

September 14, 2010

The Honorable Grace F. Napolitano  
1610 Longworth House Office Building  
Washington, D.C. 20515

The Honorable John Garamendi  
2459 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congresswoman Napolitano and Congressman Garamendi,

We write to inform you of our strong support of the continuation of the Grassland Bypass Project- San Joaquin River Salinity Management Program. This program has received ongoing support from Congress, the US Bureau of Reclamation, the State of California and local entities and has been recognized for its innovative and effective approach to drainage control.

The Grassland Bypass Project is a very successful drainage control program, part of the selenium control program of the Central Valley Regional Water Quality Control Board and selenium total maximum daily load program for the San Joaquin River. This has all been accomplished by innovative programs developed by the farmers within the drainage area. The agricultural drainage issues in the San Joaquin Valley have been ongoing for over a century and solutions have been elusive. The Grassland Bypass Project is one of the shining examples of proactive management of agricultural drainage.

The Grassland Bypass Project has successfully reduced the amount of drainage water discharged from this area into the San Joaquin River by 77% and a corresponding reduction of selenium and salt by 89% and 77% respectively since the project's inception in 1995. The drainage area that contributes to the Grassland Bypass Project is comprised of 97,000 acres of highly productive land contributing to the economic viability in the state. The economic value of agricultural crops in the area is over \$300 million per year which is a critical component of economic recovery in the area.

Over \$104 million has been spent to implement the current program. The federal government has directly committed \$19 million to this effort through its San Joaquin River Salinity Management Program annual appropriations. Additional federal funds have also contributed indirectly through conservation programs to member districts. The State of California has contributed \$47 million through state bond-funded grants and local farmers have contributed \$38 million. Additional time and funds will be necessary to complete the final stage. This investment returns many times over to the federal government and the state and local economy through jobs and taxes.

This 15-year-old selenium control program has been a resounding success for water quality in the San Joaquin River. Recently, the State Water Resources Control Board took action to remove selenium from the 303(d) list of impacted water bodies from the Merced River to the Delta boundary. Clearly, in the eyes of the State Water Resources Control Board, selenium is currently not an issue for that reach of the San Joaquin River immediately upstream of the Sacramento-San Joaquin River Delta.

The program was developed in the early 1990's through the signing of the first Use Agreement allowing drainage water to be conveyed in the federal San Luis Drain. This first Use Agreement was developed in collaboration with a wide variety of federal and state agencies including the U.S. Bureau of Reclamation, the U.S. Fish & Wildlife Service, the U.S. Environmental Protection Agency, the California Central Valley Regional Water Quality Control Board, and the California Department of Fish and Game as well as local farmers, municipal water users in the Delta, and active participation by environmental organizations. The program is governed by an Oversight Committee comprised of executives of the Bureau of Reclamation, Environmental Protection Agency, Fish & Wildlife Service, Department of Fish & Game, and the Central Valley Regional Water Quality Control Board to deal with any problems that might arise.

It should be noted that the Grassland Bypass Project never discharged to Kesterson Reservoir, which closed in the mid-1980's. Kesterson Reservoir was a closed basin that allowed the selenium in the water to stagnate and evapoconcentrate. In contrast, drainage from the Grassland Bypass Project is conveyed into a flowing system, through Mud Slough and into the San Joaquin River. This discharge to the San Joaquin River has met all applicable performance goals and water quality objectives in the reach between the Merced River and the Delta for both selenium and salt.

The recently approved 2010-2019 Use Agreement was developed over a 25-month period with approximately 25 stakeholder meetings, including participation and input from many government agencies such as Environmental Protection Agency, Fish & Wildlife Service, Bureau of Reclamation, California Central Valley Regional Water Quality Control Board, and California Department of Fish and Game, as well as local farmers, municipal water users in the Delta, and active participation by environmental organizations. A complete Environmental Impact Statement/Environmental Impact Report was prepared and a Biological Opinion was issued by the Fish & Wildlife Service. This biological opinion includes an intensive monitoring program to assure there are no impacts to endangered species including the San Joaquin Kit Fox and Giant Garter Snake. In addition, the project was reviewed by the National Marine Fisheries Service through Section 7 consultation under the Endangered Species Act. They concluded that the 2010-2019 Use Agreement is "not likely to adversely affect" steelhead, salmon or sturgeon.

This Use Agreement has many environmental safeguards including:

- (1) The establishment of enforceable selenium and salinity load limits that comply with or are below the established San Joaquin River selenium total maximum daily load (Selenium concentrations in the River below the Merced River have consistently met performance goals and water quality objectives. Concentrations at Vernalis are consistently half or less than the 5 ppb selenium objective);



- (2) The requirement that farmers pay significant incentive fees if the region's agricultural discharges exceed load limits established by the agreement. These fees go up over the term of the agreement;
- (3) The requirement to mitigate by providing alternative fresh water habitat for the continued use of Mud Slough for the entire term of the agreement. This mitigation requirement increases in year 6 to include payments to a mitigation fund as well as the fresh water habitat;
- (4) The incentive provisions for farmers to cease drainage discharges as soon as feasible even though the agreement establishes terms for use of the drain for the next 10 years. Costs rise dramatically and allowable loads decrease over the term of the agreement in such a way as to make it very expensive to continue using the drain beyond year 5. (Area farmers have made significant progress toward implementing an in-valley drainage disposal option. This is the same basic in-valley drainage plan as advanced by many major environmental organizations);
- (5) The provision that once salmon are present, the project is subject to termination at any time if the Oversight Committee determines that it is having an unacceptable adverse environmental effect or if ongoing obligations for load reductions are not met.

The terms also provide for continuous improvement of the San Joaquin River. The local farmers that participate in the Grassland Bypass Project are totally committed to meeting the obligations in the new Use Agreement which is consistent with their track record for meeting the discharge limits in the previous Use Agreements.

It has been suggested that the Use Agreement's 10-year extension be reduced to a one or two-year extension to accommodate the San Joaquin River Restoration Program goal of returning salmon to this stretch of the San Joaquin River in 2012. The project, however, is subject to termination at any time if the Oversight Committee determines that it is having an unacceptable adverse environmental effect or if ongoing obligations for load reductions are not met. In addition, terminating the project in the short term will not guarantee less selenium in the San Joaquin River. In fact, this project is an important management tool for achieving the best possible water quality in both the wildlife refuges and the San Joaquin River.

The 10-year extension is needed to complete the drainage plan for zero discharge and allow time for the development, financing, and implementation of treatment technology. If the project terminates after 1 or 2 years and the discharge is taken out of the San Luis Drain, it will be a disaster for the region's private, state, and federal refuges and for the San Joaquin River. The drain water will continue to flow with or without this plan and with or without irrigation. The absence of this Project would result in unmanageable drain water backing up and making its way into wildlife refuge delivery systems that have been cleaned up by the Grassland Bypass Project. Rainfall events create runoff and floods from Silver Creek; high-selenium local runoff would, absent the Project, flood the Grasslands. There is a drainage conveyance system in place now

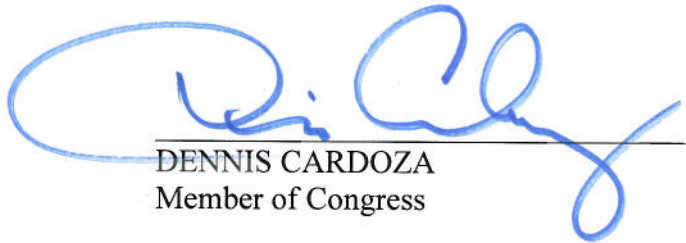
that has been very successful and protective of the Grasslands, the refuges and the San Joaquin River.

A Basin Plan Amendment, which was unanimously approved by the Central Valley Regional Water Quality Control Board on May 27, 2010, will be up for approval by the State Water Resources Control Board in early October. The Basin Plan Amendment extends the compliance date for up to ten years to correspond with the terms of the 2010-2019 Use Agreement. The agreement implements the selenium objectives in a short portion of Mud Slough, a natural channel tributary to the San Joaquin River, and for a two mile section of the San Joaquin River. In addition, the extension allows for the final stage of implementation: treatment.

We commend the Grassland Basin drainers for their proactive approach in complying with regulations and addressing longstanding drainage problems in the San Joaquin River Basin. We support the Basin Plan Amendment which allows for the delay in implementation of the Mud Slough water quality objective until 2019. This project needs to move forward. It is a win-win for agriculture and the environment by keeping agriculture in production, maintaining jobs, and bolstering the local and regional economy while also improving the quality of the San Joaquin River and the Sacramento-San Francisco Bay Delta.

Thank you for your consideration and support of this program.

Sincerely,



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DENNIS CARDOZA  
Member of Congress



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JIM COSTA  
Member of Congress

Cc:  
Secretary of the Interior  
Governor of California  
California Delegation  
Members of the State Water Resources Control Board