



February 9, 2016

Mr. Tom Howard, Executive Director  
State Water Resources Control Board  
c/o Jeanine Townsend, Clerk to the Board  
1001 "I" Street  
Sacramento, CA 95814

Submitted via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

**Subject: Comment Letter—Selenium TMDL North San Francisco Bay**

Dear Mr. Howard:

The Partnership for Sound Science in Environmental Policy ("PSSEP") appreciates the opportunity to provide these comments on the Selenium TMDL for North San Francisco Bay, its related implementation plan, and the proposed Basin Plan Amendment related thereto ("Selenium TMDL Basin Plan Amendment"). PSSEP has been engaged in the development of the Selenium TMDL from its inception some seven years ago. Some of PSSEP's members and/or affiliates are located in the San Francisco Bay Area and will be directly affected by the Selenium TMDL Basin Plan.

PSSEP strongly supports the State Board's approval of the Selenium TMDL Basin Plan Amendment, and we wish to acknowledge the extraordinary effort of the San Francisco Regional Water Quality Control Board staff in developing the TMDL and implementation plan. The hard work and dedication of Ms. Barbara Baginska to develop the Selenium TMDL, work with all of the interested parties, and address the comments and concerns of U.S. EPA Region IX were particularly noteworthy and appreciated.

At the Regional Board hearing on the draft Selenium TMDL and proposed Basin Plan Amendment, PSSEP's comments focused on an issue related to potential future selenium loads to North San Francisco Bay that are likely to come from the Central Valley Watershed as a result of the future "California Water Fix,"<sup>1</sup> - - the new "preferred alternative" of the Department of Water Resources and Bureau of Reclamation to re-plumb the Sacramento-San Joaquin Delta and ensure continued exports of Delta water

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<sup>1</sup> Bay Delta Conservation Plan/California WaterFix, Partially Recirculated Draft EIR/Supplemental Draft EIS, Executive Summary at p. ES-3. (July 2015) (hereafter, "BDCP/California WaterFix RDEIR/EIS").

via the State and Federal Water Projects. PSSEP has been active in reviewing and commenting on prior drafts of the BDCP and draft EIR/EIS.<sup>2</sup>

We emphasize that PSSEP takes no position on the desirability of the BDCP/California WaterFix or its related conveyance facilities. However, PSSEP's members believe it is vital to ensure that the final BDCP/California WaterFix is both technically accurate and adequately ensures that known or reasonably foreseeable impacts likely to accrue as a result of BDCP will be formally recognized and fully mitigated. In particular, PSSEP is concerned that the BDCP/WaterFix RDEIR/EIS continues to understate the potential additional selenium loading impacts to the Delta and San Francisco Bay. Those understated future selenium loads are important to the ecological health of San Francisco Bay.

One of the key changes to the BDCP/California WaterFix RDEIR/EIS is a revised estimate of increased selenium loading to North San Francisco Bay under the preferred Alternative 4. Specifically, and according to the project proponents themselves:

“Changes in source water fraction and net Delta outflow under Alternative 4, relative to Existing Conditions, **are projected to cause the total selenium load to the North Bay to increase by 6-11%...**”<sup>3</sup>

However – and astonishingly - the preparers go on to conclude that “the estimated changes in selenium loads in Delta exports to San Francisco Bay due to Alternative 4 are not expected to result in adverse effects to beneficial uses or substantially degrade the water quality with regard to selenium, or make the existing CWA Section 303(d) impairment [for selenium] measurably worse.”<sup>4</sup> PSSEP rejects this conclusion.

The Selenium TMDL estimates the current annual selenium load attributable to the Central Valley Watershed is 4070 kg/year.<sup>5</sup> According to the recent BDCP/California WaterFix RDEIR/EIS, those loads are expected to **increase** by as much as 447

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<sup>2</sup> PSSEP Comment Letter on [November 2013] Draft BDCP and Supporting Draft EIR/EIS – Focus on Selenium Impacts, June 25, 2014, attached hereto and incorporated in these comments.

<sup>3</sup> BDCP/California WaterFix RDEIR/EIS, Appendix A, Revisions to Draft EIR/EIS, Chapter 8 – Water Quality, p. 8-310, lines 15-16. (Emphasis added.)

<sup>4</sup> BDCP/California WaterFix RDEIR/EIS, Appendix A, Revisions to Draft EIR/EIS, Chapter 8 – Water Quality, p. 8-310, lines 27-30.

<sup>5</sup> Draft Proposed Basin Plan Amendment for North San Francisco Bay Selenium TMDL, §7.2.4.3 and Table 7.2.4-2; Draft Staff Report for Proposed Basin Plan Amendment, Section 7, Table 24.

kg/year.<sup>6</sup> It is nonsensical to say that the anticipated increased selenium loading to North San Francisco Bay related to the California WaterFix is “less than significant.”<sup>7</sup>

The provisions of the Selenium TMDL require ongoing, future monitoring of selenium impacts by all NPDES permittees in the region, and PSSEP certainly supports these obligations. It is important to note that fully 77% of all selenium that loads to North San Francisco Bay derives from upstream, out-of-region sources, and are thus not subject to the regulatory reach of the San Francisco Regional Water Board. To address this fact, the Selenium TMDL Basin Plan Amendment provides:

“The Water Board will work with the State Water Board and Central Valley Water Board through their planning and regulatory processes to ensure that monitoring is conducted to evaluate changes in selenium concentrations and loads from the Central Valley Watershed and San Joaquin River and to ensure that any increases in selenium upstream are addressed through the State Water Board’s or Central Valley Water Board’s regulatory processes.” (Selenium TMDL Basin Plan Amendment at p. 7.)

PSSEP supports the inclusion of this language and strongly urges the State Water Board to set in motion all appropriate steps to incorporate the *spirit* if not the *letter* of the provision above, to ensure that any parties whose actions may increase selenium loading to the Delta (and therefor, ultimately, to North San Francisco Bay) are not only required to **monitor** for such discharges, but to **abate** and thereafter **remediate** any such increased loads. Without doing so, these reasonably anticipated increased selenium loads may have a profound and negative effect on the North San Francisco Bay ecosystem.

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<sup>6</sup> BDCP/California WaterFix RDEIR/EIS, Appendix A, Revisions to Draft EIR/EIS, Chapter 8 – Water Quality, p. 8-310, lines 15-16.

<sup>7</sup> BDCP/California WaterFix RDEIR/SDEIS, Section 2 – Substantive Draft EIR/EIS Revisions, §2.2.2 page 2-12, lines 23-26.

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Thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Craig S.J. Johns". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Craig S.J. Johns  
Program Manager

cc: Dr. Terry Young, Chair, SFRWQCB  
Bruce Wolfe, SFRWQCB  
Tom Mumley, SFRWQCB  
Naomi Feger, SFRWQCB