An aerial, high-contrast black and white photograph of a river delta. The image shows a complex network of water channels and levees that divide the land into various agricultural plots. The fields are characterized by distinct patterns, likely from irrigation or planting. The overall scene depicts a large-scale water management system in a rural, agricultural landscape.

Western Water

Published by the Water Education Foundation

THE DELTA DILEMMA CONTINUES

MARCH/APRIL 1993

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On the cover

Aerial view of the Sacramento-San Joaquin Delta, through which flows 42 percent of the state's vital fresh water runoff. A region of multiple uses, the Delta has long been the center of controversy in California's water world.

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The Water Education Foundation would like to thank all the sources and experts who reviewed this magazine for balance and accuracy.

The Water Education Foundation is a nonprofit, nonpartisan, tax-exempt organization. Its mission is to develop and implement educational programs leading to a broader understanding of water issues and to resolution of water problems.

WESTERN WATER is published by the Water Education Foundation, 717 K Street, Suite 517, Sacramento, CA, 95814 (916)444-6240. An annual subscription to this bimonthly magazine is \$22. The balance of the Foundation's water information program may be supported by contributing larger amounts, which are tax deductible.

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It's official now: the California drought is over. Even though Gov. Wilson declared the drought over in late February, he and other observers of California's water problems agree they no longer come and go with the weather. But as word came in

March that the State Water Project was boosting water deliveries to 70 percent of normal, the improving situation was a relief to all Californians who lived through six years of dried-out forests and resulting fires, brown lawns, fallowed farmland, losses of large amounts of ground water and dwindling fish populations.

Unfortunately, no matter how much snow and rain California gets, probably neither the state nor the federal project will get a full water supply this year because of a growing population, continuing agricultural demands and increasing environmental regulation. For farmers in the San Joaquin Valley who are receiving about half their normal allotment of water, the drought is still on. Only now it's called a "regulatory" or "institutional" drought. With the recent declaration that the Delta smelt is a threatened species and the massive state and federal Delta pumps slowed to protect the winter-run chinook salmon, limits remain on how much water can be pumped to central and southern California.

The drought brought fundamental change. The draft Delta standards prepared by the State Water Resources Control Board (State Board) and the reform of the Central Valley Project discussed in this and the previous issue of *Western Water* reflect a new environment surrounding decision-making on water issues.

Among other options, water marketing has become recognized as a partial solution to water supply needs during the drought. In addition to writing about this subject, the Foundation recently summarized an UCLA Extension public policy conference. The summary analysis, *Buying and Selling Water in California: Issues, Experience and Policy Options*, prepared by the Foundation's Valerie Holcomb, is now available from us or UCLA Extension.

Because of the effects of the drought and the changing water scene, the Foundation's **Central California Tour**, May 12-14, and **Bay-Delta Tour**, June 23-25, will be extremely relevant this year. Remember, these tours fill up fast so **register early**.

Finally, I want to note the retirement of State Board Chair Don Maughan. Don's work in Western water is recognized by all in the industry and also by competing forces in the environmental movement and agricultural and urban water worlds. He was always ready to assist me and my staff and support the work of the Foundation. We will miss him.



Don Maughan

Rita Schmidt Sudman

The Delta Dilemma Continues

Water world watches and waits as state regulatory officials deliberate over proposed interim standards to protect the estuary

by Sue McClurg

Where the flow of the Sacramento River meets the San Joaquin lies a maze of waterways and islands formed by nature and engineered by humans: the Sacramento-San Joaquin Delta. The Delta islands' rich soil nourishes an agricultural cornucopia while 42 percent of the state's critically important runoff flows into the San Francisco Bay-Delta estuary. The labyrinth of Delta sloughs serves as a recreational playground for boaters and fishermen while a diverse population of flora and fauna is sustained by the estuary's mix of fresh and salt water.

The Delta also is the heart of California's largest water delivery systems, the federal Central Valley Project (CVP) and the State Water Project (SWP). As a region of multiple uses, the Delta has long been subject to conflict and controversy — especially when it comes to water allocations for farms, cities, fish and wildlife. Over the last decade, a number of factors has increased pressure on the fragile Delta system and heightened interest in attaining a solution to Delta problems. These factors include a precipitous decline in many fish species that live in or migrate through the Delta, laws and public pressure to protect the environment, unprecedented urban population growth and a corresponding need for more water, and the recent drought. While agricultural, environmental and urban water interests differ on how to resolve these complex issues, they do agree upon a fundamental axiom — the key to resolving these problems lays in striking a balance among the three interests.

Charged with that difficult balancing act is the State Water Resources Control Board (State Board). Following weeks of speculation and under increasing political pressure, the State Board on March 9 delayed action on its most recent effort at balance — draft Delta Water Right Decision 1630 (D-1630), the new interim standards it released in December. The State Board did decide not to take any further public comments on D-1630 and is now meeting in closed session to discuss changes in the final D-1630 document. As this issue

of *Western Water* went to press, no date for adoption had been set. "We heard 34 pages of revisions as proposed by staff and received additional oral comments from the water interests during our two-day public session and we need to spend time going through the order page by page analyzing it and making any revisions," said John Caffrey, the State Board member who proposed the executive session. "Then we will bring the order back to public session and vote on it."

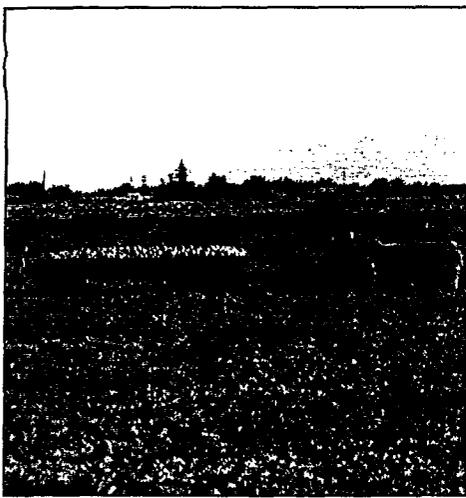
It was the second delay in what has become an increasingly divisive and discordant effort to implement interim standards to halt the deterioration of the Bay-Delta estuary's environmental resources — as requested by Gov. Wilson — and allow the newly appointed 22-member Bay-Delta Oversight Council (BDOC) and the State Board additional time to evaluate and develop a long-term solution to "fix" the Delta. The adoption of interim standards also could prevent a showdown with the U.S. Environmental Protection Agency (EPA) over Delta water quality (see page 8).

As this article was being edited for publication, the water world was evaluating D-1630 changes recommended by State Board staff. Wherever possible, these most-recent suggestions, as well as stipulations in the original draft D-1630 document released in December, are discussed in this issue.

Under terms of draft D-1630, CVP and SWP operators would be required to modify maximum export pumping; minimize "reverse flows"; and contribute to and oversee short-term or "pulse flow" releases from upstream reservoirs — all to increase survival rates for chinook salmon, striped bass and other fish species. A \$300 million environmental mitigation fund also is included in D-1630, although the State Board may not implement this fund until Oct. 1 when the next water year begins. Through proposed environmental mitigation fees and pulse flows, the State Board is poised to demand — for the first time — that all major water diverters, not just the SWP and CVP, take steps to protect the Delta environment. These operational and environmental changes

"We need to spend time going through the order page by page analyzing it and making any revisions. Then we will ... vote on it."

— John Caffrey, State Board



could substantially reduce agricultural and urban contractors' surface water supplies — especially in future droughts — and, at the same time, increase water costs.

Reaction to D-1630 has been mixed with environmentalists saying it doesn't go far enough and water users saying it goes too far. Conservationists also contend the proposed modifications further weaken protection for the estuary. "This is a set of interim standards; the board should be focusing on long-term standards," said Gary Bobker, program associate for the Bay Institute of San Francisco, adding that D-1630 still should be adopted without further delay. "The state of California and its water board has not had the political will to do what it is required. It rescinded a stronger water quality plan in 1988, it produced an inadequate water quality plan in 1991 and ignored the EPA's criteria to develop an acceptable water quality plan."

Urban water agencies generally support D-1630, but agricultural water groups oppose it. For the Association of California Water Agencies (ACWA), which represents both, neither the original draft D-1630 nor modifications resolves the question of the Endangered Species Act's (ESA) effect on water supplies. "Coordination of regulatory decisions regarding the Delta is nonexistent," said Steve Hall, executive director of ACWA. "An accounting for the actions already underway to protect winter-run salmon and the recent listing of the Delta smelt have not even been considered within the original D-1630 proposal or the revisions. The only consistency lies in the fact that none of

the decisions has a sound biological basis, and all threaten the water supplies of California's cities and farms."

More than 100 agencies, water-user groups and environmental organizations filed official comments on the draft standards and the State Board received letters from more than 1,000 citizens. Through written comments, litigation, public forums and proposed state legislation, agricultural interest groups applied the most pressure on the State Board to delay adoption of D-1630. Farming interests contend the combination of stricter Delta standards and the 1992 federal CVP Improvement Act (see January/February 1993 *Western Water*) will leave growers in a permanent drought, costing rural regions thousands of jobs and reducing the amount of food produced in California.

Breaking a historical alliance with agriculture and putting aside their regional differences, northern and southern California urban water suppliers united behind the plan in general support, although they solicited modifications. Some of those requests, such as easing restrictions on water transfers through the Delta, were included in the most recent recommended modifications. Others were not.

Environmental organizations, in turn, have praised portions of D-1630, such as the mitigation fund, although most declare it only a "first step" in restoration of the Bay-Delta estuary. These groups also have applied political pressure on the State Board by linking their participation on BDOC with the adoption of interim standards to protect the estuary.

"The board's efforts at balance cannot possibly satisfy any of those three groups. It is impossible to

do that," said W. Don Maughan, former State Board chair who retired late last year. "I think the Board listened to everyone and tried to cut through the rhetoric and include a lot of their recommendations in D-1630."

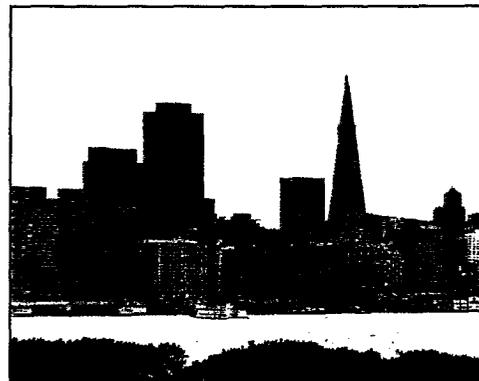
In addition to fulfilling Gov. Wilson's call for interim standards to halt the estuary's decline, the State Board drafted D-1630 in an effort to avoid a federal-state clash over the Bay-Delta — a confrontation initiated when EPA rejected key portions of the State Board's 1991 Delta water quality plan. Exercising its authority under the federal Clean Water Act (CWA), EPA gave the State Board until December 1992 to adopt stricter standards or face federally promulgated rules. "From the board's point of view, we in California should be the ones who set our priorities," said Jerry Johns, assistant division chief of water rights at the State Board. "It's better for us to keep that priority in California rather than have it dictated to us by a federal agency."

After rejecting the 1991 plan, EPA officials indicated they might accept water quality objectives less rigorous than those they would impose under the CWA. However, D-1630 was subsequently pronounced "too weak" by Daniel McGovern, then-administrator of EPA's Region 9, and officials have directed the State Board to either adopt more stringent water quality rules or face federally developed standards. "The threat is real. We don't want to use it; we hope to work this out with the State Board," said Harry Seraydarian, director

of water management for EPA Region 9.

"But if the state of California doesn't resolve its own water problems, the EPA may have to step in."

Long a contentious area, Delta water issues often are the subject of litigation, and whatever provisional standards the State



Board ultimately adopts will probably end up in court. With the indeterminable delay in adoption of D-1630, this issue of *Western Water* focuses on provisions of the draft standards released in December, modifications forwarded to the State Board in March, reaction to the interim standards and what the future might hold. The State Board's ultimate action on D-1630 will be covered in a future issue.

History

In its natural state, the Delta was a giant swamp where fresh water from the Sacramento and San Joaquin rivers mixed with salt water from San Francisco Bay, creating a unique ecosystem for plants, fish and wildlife. The land was reclaimed in the 1800s as settlers built dikes and levees, pumped the water from the channels and transformed the marsh into island farms. Water for irrigation was within easy reach and Delta agriculture flourished.

But as California's population grew, so did the need for water. First, upstream users began diverting water from rivers for use on farms. Then, major Sierra tributaries were dammed and their waters diverted around the Delta for growing Bay Area cities, reducing fresh water flows into the estuary. Later, pumps for the CVP and the SWP were constructed at the southern end of the Delta to collect vital fresh water stored upstream and distribute it to farms and cities in central and southern California and the south Bay Area. Today more than 7,000 diverters obtain water from Delta tributaries or the Delta itself.

The problem of seasonal salt water intrusion into the Delta from the bay, primarily in the summer and early fall, was greatly alleviated by upstream dams and reservoirs; the year-round release of fresh water from CVP and SWP facilities helps keep sea water at bay. However, environmentalists and fishery biologists say efforts to increase the Delta's summertime fresh-water flows for human needs — highly saline water affects agricultural production and

municipal water quality — in combination with maximum Delta export pumping of spring runoff, has created a saltier estuary in the winter and spring, adversely impacting natural resources.

In the 1960s, the State Board began setting salinity and flow objectives to maintain water quality for local and statewide use — two-thirds of Californians rely on the Delta for at least a portion of their drinking water.

In 1978, the State Board adopted Water Right Decision 1485 (D-1485) and a Water Quality Control Plan (the Delta Plan) for the Delta, including Suisun Marsh. At 36 square miles, Suisun Marsh is the largest brackish-water marsh in the United States. It provides critical year-round habitat for many species of wildlife and is a crucial resting spot for migrating ducks and geese along the Pacific Flyway. The Delta Plan contained flow, salinity and operational objectives while D-1485 placed permit conditions on the SWP and CVP to meet these objectives, through release of water from upstream reservoirs and reduced exports. When the State Board adopted the 1978 plan, it pledged to review it in 10 years to ensure that it provided a "reasonable" level of protection for fish and wildlife, agricultural and urban water users.

In 1987, EPA notified the State Board that D-1485 standards were inadequate to protect the estuary. Because the State Board was about to begin a series of public hearings (the Bay-Delta Proceedings) to modify D-1485 and the Delta plan, EPA did not impose its own standards. Meanwhile, a 1986 landmark legal ruling known as the "Racanelli Decision" greatly expanded the obligations and authority of the State Board. The appellate court ruling, in response to 14 lawsuits filed against D-1485, directed the State Board to balance and protect all beneficial uses of Bay-Delta waters — including fishery and other instream uses — and to modify existing water rights if necessary to



Suisun Marsh is a crucial resting spot for migrating ducks and geese along the Pacific Flyway.

achieve that balance.

After gathering testimony from more than 150 agricultural, urban and environmental organizations and state and federal agencies, the State Board in 1988 issued a draft water quality plan for the Delta, which proposed both water quality and flow objectives. The 1988 document unleashed a storm of protest. Agricultural and urban water users insisted the plan would place too severe limits on exports while fishery and environmental groups pushed for even stronger instream protection. Several weeks later, the State Board withdrew the draft document and announced it would begin anew — with the subsequent order to come in two separate actions: a water quality plan that would address only water quality issues such as salinity, temperature and dissolved oxygen, and a water right decision that would implement the water quality objectives and address flow standards and project operations criteria.

After adopting a salinity plan in May 1991, the State Board resumed work on the water right portion of new Bay-Delta standards. With a final decision three years in the future, the threat of federally imposed water quality rules following EPA's rejection of the May 1991 document, pending petitions to protect three Delta fish, including the Delta smelt, under the ESA, and growing concern about drought-induced environmental damage, Gov. Wilson intervened. In his April 1992 statewide water policy, he called upon the State Board to set interim Delta standards by the year's end and announced he would appoint a panel of citizens to evaluate and recommend long-term solutions to the environmental and plumbing problems of the Delta (see page 11).

Highlights of D-1630 Environment

Designed as an interim solution to the Delta, the overriding goal of D-1630, as stated by the State Board, is to stop the decline of fishery resources. The standards are to be in place no longer than five years, although the issue of a definite sunset date for the requirements remains before the State Board. "All D-1630 does is try to stop the current decline in the Delta," said Johns, assistant chief of water rights for the State Board. "From an environmental standpoint, that's not a very ambitious goal. It's not the solution. It would simply freeze the degradation and allow us to do some planning on where we go from here."

Nevertheless, D-1630 is a far-reaching document, and the environment would be its greatest beneficiary — especially when compared to current standards in place under D-1485. Under terms of D-1630:

— The period of maximum export pumping for the CVP and SWP would shift from late winter, spring and summer, when migrating fish are most susceptible to entrainment in the pumps, to fall and early winter, when fish populations are less vulnerable.

These restrictions would most benefit fall- and winter-run chinook salmon and striped bass. The Sacramento River winter-run salmon is protected under the ESA.

— U.S. Bureau of Reclamation (Bureau) officials, who operate the CVP, would be required to close the Delta Cross Channel gates to prevent young salmon and striped bass eggs from becoming lost in the central Delta. The

Delta Cross Channel connects the Sacramento and Mokelumne rivers, directing Sacramento River water across the Delta to the CVP export pumps near Tracy. This "real time" monitoring, with authority for closure resting with the State Board's executive director, would require the Cross Channel to be closed when significant numbers of young salmon or striped bass eggs are present or suspected of being present. In general, these stipulations would require the Cross Channel to be closed for periods of time from February through June.

— CVP and SWP operators would be required to minimize so-called "reverse flows" on the San Joaquin River, when project pumps actually reverse the natural fresh-water flow pattern in the western Delta, drawing fish into the pumps and poorer quality water into south-bound channels. Through the reverse flow requirement, Delta Cross Channel closures and changes in maximum pumping time, annual water exports, according to the State Board, would be reduced, on average, between

659,000 and 785,000 acre-feet. (See page 7). Export reductions and pulse flows would also increase outflow to San Francisco Bay, although the State Board has not established a specific outflow requirement above and beyond D-

1485 standards.

— Major reservoir operators would be required to contribute short-term flow increases or "pulse flows" for a three-week period each spring to aid downstream migration of young salmon and striped bass in the Sacramento and San Joaquin rivers and their tributaries. A stipulation in the December draft that large riparian diverters cease pumping



D-1630 would require reoperation of the Delta Cross Channel, above.

for five days within that three-week period may be deferred until 1994, pending further State Board hearings scheduled for July.

While D-1485 imposed water quality objectives on only the CVP and SWP, the pulse flows and proposed environmental fees are designed to fulfill the Racanelli Decision. The annual volume of water to be used for San Joaquin River Basin pulse flows is capped at 150,000 acre-foot; there is no limit on Sacramento River Basin pulse flows.

— Sixty-five major water rights holders would be required to pay a per acre-foot environmental mitigation fee on water diverted upstream or south of the Delta, although these fees may not be initiated until October. In response to formal comments on the fees, State Board staff suggested a four-tier rather than two-tier pricing structure: urban users within the Delta watershed would pay \$5 per acre-foot compared to \$10 per acre-foot for urban use of water diverted outside the watershed; in-basin agricultural users would pay \$4 per acre-foot compared to \$8 per acre-foot for agricultural use outside the watershed. (CVP water users, who face similar charges under the CVP Improvement Act, would not be required to pay the state fee.)

The fees would create a \$300 million environmental mitigation fund over the life of D-1630 to finance improvement of instream habitat, such as replenishment of gravel for fish spawning; modifications in fish screens on diversion facilities; and temporary hatcheries to boost fish populations. The fund also could finance the state's share of the habitat improvements required under the CVP Improvement Act.

"D-1630 is an injunction against any further Delta degradation and that's not a plan; that's an emergency stopgap measure."

— Chelsea Congdon, EDF

Urban and Agricultural Water Users

For the state's urban and agricultural water contractors, D-1630 is a comprehensive order with potential for significant modifications in historic water rights, water project operations and water management measures. In particular, the State Board has clearly signalled to the two water-user groups that stretching current supplies — through conservation, water transfers, conjunctive use of ground and surface water, and recycling treated wastewater — is the best way to offset water supply reductions imposed by D-1630.

To analyze water supply effects of D-1630 compared to D-1485, the current Delta standards, the State Board set certain assumptions and used a computer model to determine Delta exports over the past 70 years. To assist in its analysis, the State Board solicited help from staff at the Department of Water Resources (DWR). The resulting analysis was generated through use of DWRSIM, a public domain computer model developed and operated by DWR. The model is designed to simulate coordinated operation of the CVP and SWP project reservoirs and conveyance facilities.

Based on a 7.1 million acre-feet combined SWP and CVP demand south and west of the Delta, State Board analyses show that under D-1630, annual exports (from 1922 through 1991) would have been reduced by 785,000 acre-feet, on average, compared to D-1485. If D-1630 had been in place during those seven decades (compared to D-1485), water losses would have ranged from zero in some years to 1.9 million acre-feet in other years. In general, D-1630 would have had the greatest impact in dry years. In some wet years, more water would have been available for export.

In its most recent recommendations, State Board staff suggested easing reverse flow restrictions from August to

January, reducing pulse flow requirements on the Sacramento River in dry and critically dry years, and relaxing the cap on Delta exports from April to June (if San Luis Reservoir storage is less than 1.5 million acre-feet) in dry and critically-dry years, boosting agricultural and urban water supplies. If the State Board incorporates these changes into D-1630, annual CVP/SWP exports based on the 70-year timeline and 7.1 million acre-feet demand would have been reduced on average by 659,000 acre-feet compared to D-1485.

State Board staff also proposed revising the August through January reverse-flow restriction on the San Joaquin River to facilitate north to south water transfers through the Delta. If the State Board eases this standard and transfers occur on the magnitude calculated by staff, CVP/SWP exports, based on the 70-year timeline and the 7.1 million acre-feet demand, would have been reduced by 427,000 acre-feet on average compared to D-1485.

To date, most of the major debate over D-1630 has centered on two items: 1) the accuracy of the computer analyses and 2) measuring the actual social and economic impact of D-1630-imposed water cutbacks in agricultural and urban areas south and west of the Delta.

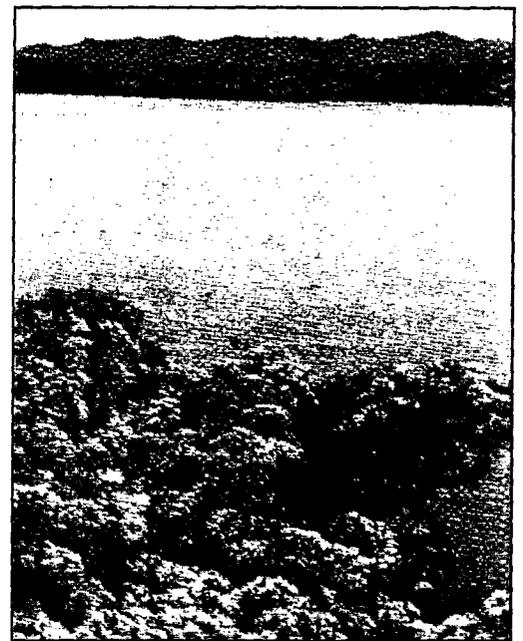
In its draft D-1630 document, the State Board analyzed the impact of the interim Delta standards compared to the 7.1 million acre-feet base demand, a level never achieved, *and* actual recent exports from 1984 to 1989. (No drought deficiencies were imposed on the CVP or SWP from 1984 to 1989.) The comparison with actual recent events, according to the State Board, is required by the California Environmental Quality Act (CEQA) and illustrates that D-1630 standards would not have that severe effect on Delta exports compared to the recent past.

Incorporating the staff's suggested changes, average annual exports under D-1630 over that five-year period, their analyses show, would have been

5.3 million acre-feet and 5.6 million acre-feet with water transfers. This, the State Board argues, compares favorably to the actual average annual exports for that time period — 5.3 million acre-feet. (Under D-1485 standards and based on the 7.1 million acre-feet demand, as much as 6.3 million acre-feet a year, on average, could have been exported during that five-year time frame.)

"Under D-1630, projected deliveries will drop compared to what D-1485 would have allowed, but it compares pretty favorably to what the CVP and SWP actually exported in the past. If you look at that, they are not really going to lose a great deal," Johns said. "From a planning standpoint, 1630 has an impact, but we didn't take away water they're actually using now. The real loss is much smaller than the perceived loss of future water supplies."

However, DWR officials contend the State Board's analysis is faulty for several reasons, including 1) DWRSIM is not designed to compare computerized exports with actual exports, 2) California has added 5 million new residents since



To fill south-of-Delta storage facilities such as San Luis Reservoir, above, the State Board may relax the cap on Delta exports from April to June in dry and critically-dry years.

1989, increasing water needs, and 3) drought — not demand — have kept recent SWP/CVP water exports below the record 6.1 million acre-feet of 1989. “The State Board’s interpretation represents a serious mistake,” said Robert Potter, chief deputy director at DWR. “It’s an ‘apples and oranges’ kind of error ... the kind of thinking that got you a very poor grade on your math quiz in school.”

In addition to environmental measures, under terms of D-1630:

— Urban water suppliers are to make mandatory the conservation measures in the Best Management Practices (BMPs) Memorandum of Understanding (MOU) signed in 1991. The BMPs outline 16 management proposals to encourage water conservation, including installation of low-flow showerheads and ultra-low-flush toilets, aggressive leak-detection programs, meters on all new hook-ups and landscape water conservation laws. In response to requests from water-user organizations, State Board staff recommended in March that utilities be allowed to apply for exemp-

tions from specific BMPs.

— Urban water suppliers are to continue plans to expand wastewater recycling; increase conjunctive use programs, deliberately storing excess surface water in ground water aquifers for use in times of drought; and pursue water transfers.

— Agricultural water users are to limit deep percolation of applied irrigation water in four delineated areas on the west side of the San Joaquin Valley that have agricultural drainage problems. Deep percolation, the application of water below a plant’s root zone, often is used to wash salt from the soil. In response to comments filed on D-1630, State Board staff has recommended that the deadline for compliance be changed from 1994 to 1998.

— Agricultural water suppliers, users and researchers are to continue work on drafting a program of irrigation conservation measures, similar in structure to that created by the urban MOU, and DWR is to report on implementation of such a program later this year.

— SWP and CVP operators are required to use more conservative methods of determining deliveries to increase carryover supplies for subsequent years and improve water supply reliability forecasts for their contractors. In response to comments filed on D-1630, State Board staff has recommended the CVP reliability forecast model match, not exceed, that of the SWP.

As written, the requirements of D-1630 would result in water supply impacts between the SWP and CVP splitting, on average, 29 percent and 71 percent, respectively. For example, if annual exports are reduced by 800,000 acre-feet to meet conditions imposed through D-1630, the SWP would see a 230,000 acre-feet cutback while the CVP would see a 570,000 acre-feet cutback.

Neither DWR, which operates the SWP, nor the Bureau, which operates the CVP, is sure how this stipulation will work with the Coordinated Operations Agreement (COA) they signed in 1986. The COA was approved by Congress and dictates how the two projects are to

State vs. EPA?

When EPA rejected the State Board’s 1991 Delta water quality plan, it gave California a year to adopt stricter standards or face federal rules. Instead, the State Board has issued an interim water right decision — setting the stage for a federal vs. state conflict over setting water quality standards and overseeing water rights issues.

The State Board contends it, not the federal government, has legal authority over water rights. It does not even intend to submit D-1630 to EPA for approval. Instead, a copy of the final interim standards will be forwarded to EPA along with an official request that the federal agency “reconsider” its disapproval of the 1991 salinity plan. The State Board will then resume work on long-term standards, in coordination with BDOC’s recommendations of a physical Delta solution, to replace the interim standards in D-1630.



EPA’s Harry Seraydarian, left, and the State Board’s Jerry Johns, right, at the January California Irrigation Institute conference.

EPA, however, has said D-1630 is too weak, and officials have reiterated their intent to impose federally promulgated Delta water quality standards unless the State Board amends the final D-1630 document to EPA officials’ satisfaction. EPA’s primary requests are that the State Board set long-term Delta water quality now, to guide the BDOC process, and establish a more stringent outflow or tougher salinity standard for Suisun Bay in the interim.

Federal law under the Clean Water Act gives EPA the power to override a state’s water quality standards. But how EPA could force California to implement

those rules, whose own laws state only that water quality must be considered when setting water rights, is less clear.

The issue probably will be decided by the courts with California arguing it, not the federal government, has authority over water rights, and EPA arguing that its federally developed water quality rules must be met — even if they require an alteration of state water allocation rights.

operate to meet D-1485 Delta requirements and their water deliveries. The COA may have to be renegotiated to meet D-1630 requirements.

In addition to COA issues, some water officials and environmentalists have said the Department of the Interior, not the State Board, should determine how to use the 800,000 acre-feet (600,000 acre-feet in drought years) of environmental water set aside under the CVP Improvement Act signed into law late last year by President Bush.

Reaction to D-1630

While criticism of D-1630 has not been nearly as virulent or public as that directed at the State Board's short-lived 1988 draft plan, none of the three water-interest groups came out in solid support of the interim standards.

Proponents of more protection for the Bay-Delta estuary, mainly environmental and fishery groups, generally see D-1630 as something positive: the State Board asserting its authority to regulate water quality and appropriate rights. But they do not believe the interim standards are enough and want to see long-term Delta protection policies adopted. "D-1630 is not a plan, it's an injunction against any further Delta degradation and that's not a plan; that's an emergency stopgap measure," said Chelsea Congdon, a resource analyst for the Environmental Defense Fund.

Like EPA officials, environmental and fishery organizations are most critical of D-1630 because it does not specifically require an increased outflow standard. In its draft order, however, the State Board pointed out that "a consequence of the reverse flow and export restrictions is that export of uncontrolled flows in the spring is reduced, and outflow's increased."

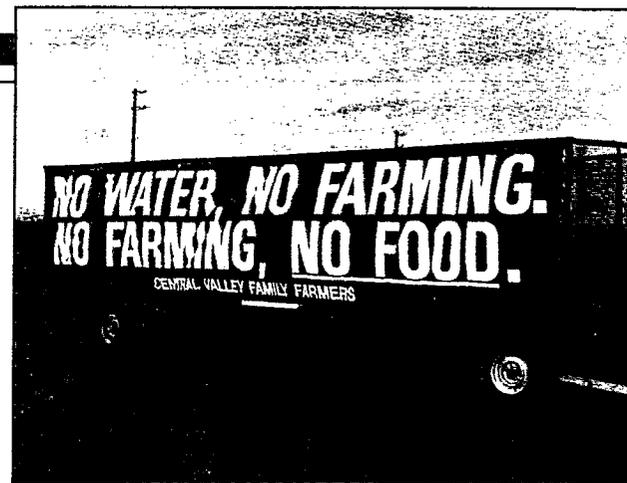
Proponents who favor an outflow requirement say fresh water flows are especially vital for Suisun Bay and the

unmanaged tidal wetlands that are an important fish nursery and home for several species, including the Delta smelt that was just proposed for listing as a threatened species by the U.S. Fish and Wildlife Service. In addition to the push for more fresh-water flows for the Bay-Delta, environmental and fishery groups say they are unsure whether pulse flows will truly benefit salmon migration. They also believe there should be clearer guidelines for administration and use of the environmental mitigation fund.

Environmental organizations also would prefer that D-1630 spell-out required fishery improvements rather than rely on the computer-generated estimated benefits contained in the draft documents. Still, Gregory Thomas, president of the Natural Heritage Institute, believes D-1630 should be adopted as soon as possible because "It is a critical and significant first step ... delay will only bring more species to the brink of extinction."

And he is nervous about the State Board's recent delay; "Delay worries me because it indicates a continued faint-heartedness on the part of the board, which has been the case for the past six years."

One of the central points of Gov. Wilson's April 1992 statewide water policy announcement, in which he called for interim Delta standards, was "linkage" — that each of the major water groups move "step by step" and "each step must be linked to progress for every sector." Agricultural interest groups contend that because the environment is the main beneficiary of D-1630, the State Board's interim standards violate the governor's commitment to linkage. "Draft D-1630 is a far cry from representing a balanced approach to resolving water issues in this state," said Brad Shinn, executive director of the California Farm Water Coalition. "Once again the brunt of resolving problems falls on



Signs produced by the Central Valley Family Farmers, above, spell-out their anger over D-1630, the CVP Improvement Act and ESA water-supply impacts.

the shoulders of an already overburdened agricultural industry."

Among other controversial items, the issue of linkage was raised at a February public workshop on D-1630, at which State Board staff was on hand to answer technical questions about the draft interim standards. "We viewed the governor's statement as a charge that all of us would cooperate to make sure that the three groups move forward equitably," State Board Executive Officer Walter Pettit told questioners. "I think the long-term forum for that is the BDOC. But there was also a charge by the governor to draft interim standards to stop the decline of the Delta. The board views its charge as trying to do what it can to stem or stop the decline in the Delta ... without having an unreasonable burden on the water projects."

Farm groups also contend that the water supply impacts outlined in D-1630 are incorrect and question whether the State Board fully comprehends the economic effects on rural areas throughout the state, and particularly in the San Joaquin Valley, should the standards be implemented. "This is going to be a significant monetary problem for a lot of our folks. The average rice grower will pay \$12,000 more in operating costs just because of these environmental fees on water," said Mary Ann Warmerdam, director of natural resources for the California Farm Bureau Federation. "But for the people south of the Delta, a bigger concern is lack of water."

While farmers south of the Delta

said D-1630 will severely cut back their water supplies, rice growers north of the Delta argued they also would see a cutback because of the no-diversion requirement during spring pulse flows for migrating fish. State Board staff have since recommended this standard be postponed pending a July workshop to more thoroughly discuss this proposed standard.

Environmental effects of D-1630 south and north of the Delta, contend the Farm Bureau, Kern County Water Agency and the CVP Water Association (CVPWA), can only be determined through an Environmental Impact Report (EIR). These three organizations, among others, say the State Board is legally required to prepare an EIR to determine the effect of D-1630 on areas outside the Delta, such as ground water aquifers in the Central Valley. The State Board, however, maintains it has a categorical exemption from CEQA EIR requirement because D-1630 was developed under its enforcement authority and will have a positive effect on the Delta environment.

“Once again the brunt of resolving problems falls on the shoulders of an already over-burdened agricultural industry.”

— Brad Shinn, CFWC

The issue of whether an EIR is required is just one expected to ultimately be decided in court. Agricultural groups have raised two additional legal points: that the State Board lacks authority to impose environmental mitigation fees; and that since the Delta is a public trust resource with shared benefits, all California citizens, not just water users, should share in the financial cost to protect the estuary. “If there’s not substantial modification of the order

there will be enormous litigation,” said Jason Peltier, manager of CVPWA, a membership organization. In fact, Peltier’s group already filed suit to force the State Board to hold an evidentiary hearing, not simply a public workshop, on the proposed D-1630 standards. That effort failed.

While agricultural interest groups have denounced the Delta standards for breaking Gov. Wilson’s linkage concept, urban water agencies from northern and southern California collaborated to show support for D-1630, if modified, and “avoid derailing the governor’s water policy,” according to Lyle Hoag, executive director of California Urban Water Agencies (CUWA). “We believe the Delta habitat has been significantly degraded and that major water export is one significant cause,” Hoag said. “The public wants to protect the Delta environment, and we’re trying to make D-1630 a workable, fair and politically salable program.”

But CUWA, which represents the state’s 11 largest urban water suppliers, did not have its request of a 1.1 million acre-feet cap on export reductions included in the March State Board staff recommendations, and its members were reevaluating their support as this *Western Water* went to press. The organization did, however, see its request for relaxed “reverse flow” restrictions to facilitate water transfers through the Delta forwarded to the State Board as well as its bid that the California Urban Water Conservation Council retain some control over the management of the BMPs created by that urban MOU.

The north-south urban alliance on Delta issues breaks with past adversarial positions, just as the current urban-agriculture split over D-1630 illustrates the political changes in the water world between 1988 and 1993. The Metropolitan Water District of Southern California (MWD), for example, lobbied vigorously for the State Board to drop the 1988 draft Delta plan, but, as a member of CUWA, has voiced qualified support of D-1630. “We believe this decision has a much stronger technical basis than the 1988

decision,” said Timothy Quinn, director of MWD’s SWP and Conservation Division. “The basic science is much more sound, we have experienced six years of drought, and the Delta problem is much worse.”

“The governor said step one for the Delta was interim standards. This notion that nothing the governor meant was going to cost agriculture a penny or a drop of water is nonsense.”

— Tim Quinn, MWD

As for the contention from farm groups that D-1630 breaks the governor’s linkage goal, Quinn said: “The governor said step one for the Delta was interim standards and environmental restoration. D-1630 reflects that first step and lays the groundwork for BDOC. This notion that nothing the governor meant was going to cost agriculture a penny or a drop of water is nonsense.”

While D-1630 places most of the responsibility for Delta degradation and Delta restrictions on the CVP and SWP and their contractors, the State Board also mandated that upstream diverters contribute to pulse flows, including the Hetch Hetchy project, which diverts water from the Tuolumne River for San Francisco. “This is the first time the State Board has sought to assert its jurisdiction in this manner and certainly the first time they have looked upstream of the Delta for solutions,” said Anson Moran, general manager of Hetch Hetchy, who described the mandates in D-1630 as “sweeping.”

Ag-urban differences over the interim Delta standards were best illustrated by the State Water Contractors

(SWC), a membership group that represents 27 of the 29 agencies that receive SWP water. Although the group did agree to ask DWR to stop all planning, design and land acquisition activity on future SWP water supply components (such as Los Banos Grandes Reservoir) until "clear progress toward implementation of a Delta solution" can be demonstrated, a divided SWC did not file official comments on D-1630. Instead, each member agency filed its own comments.

"We still have a lot of common issues," said George Baumli, general manager of SWC, "but on D-1630, separate comments were submitted by the urban and agricultural contractors."

The Future

The Delta has long been the center of controversy in California water. Despite numerous efforts, no proposed solution to its environmental and water supply problems has achieved consensus among the state's water interests. As the governor outlined in his April 1992 water policy, D-1630 is an interim solution; the members of BDOC are faced with the daunting task of evaluating and recommending a long-term answer that can realize concordance. BDOC is composed of 22 agricultural, environmental and urban water leaders from throughout the state.

"We have to ensure the water supply will be greater than the one that now sustains the state, and we have to fix the Delta in a way that is equitable to each interest," Resources Secretary Douglas Wheeler told BDOC at its first meeting in February. "To the extent that you can reach a set of conclusions that are close to unanimous, you will be more influential."

BDOC and the Water Policy Council, top officials from eight state agencies and departments who advise Gov. Wilson on water issues, were established by Gov. Wilson through executive order. Gov. Wilson directed the

members of BDOC to assist and advise the Water Policy Council in development of a comprehensive program to protect and enhance the Bay-Delta estuary by addressing water quality concerns; effective design and operation of water export systems; maintenance of Delta levees and channels; and guarantees of protection for the estuary and its fish and wildlife.

BDOC is to evaluate alternative solutions with full public participation and complete environmental assessments required by CEQA and the National Environmental Quality Act — a process expected to take three years.

In his April water policy announcement, the governor also announced that "all options are on the table" for a long-term Delta solution, and environmentalists and some water officials in northern California fear BDOC will revive the idea of constructing an isolated transfer facility around the Delta — an idea defeated by the state's voters in

1982 when the Peripheral Canal package appeared on the ballot. Others worry that BDOC will recommend long-term restrictions on Delta exports, reducing future water supplies. At their first meeting, BDOC members were quick not to promote one Delta solution over another and laid the groundwork for consensus.

"Ten to 12 votes around here won't cut it. We need close to unanimous votes. We will work very hard to try and bring this effort to some sort of consensus conclusion. If we don't do that, we will not be successful," said co-chair Michael Madigan, senior vice president of Pardee Construction Co. in San Diego. "Some have suggested that the conclusion of this



BDOC members at their first meeting.

group is already a foregone conclusion. That's not true. We have no hidden agendas. We are not, for example, the Peripheral Canal committee nor are we the State Water Resources Control Board in disguise. ... As we work our way through this and if we are successful

and have something approaching consensus, and offer a plan that reflects a satisfactory conclusion, we will have done a great service for this state."

Whether the members of BDOC will be successful in forging a compromise and recommending a plan that meets with consensus remains to be seen,

"We need close to unanimous votes ... to try and bring this effort to some sort of consensus conclusion. If we don't do that, we will not be successful."

— Michael Madigan, BDOC

but the need for such a solution is clear to Daniel Nelson, a member of BDOC and executive director of the San Luis & Delta-Mendota Water Authority. "The Delta is broken. The Delta is a valuable resource. The Delta is the heart of the water projects," Nelson told an audience at the recent California Irrigation Institute conference in Sacramento. "Until we are able to address Delta issues and figure out how to move water through the Delta and protect the Delta's resources at the same time, we're going to be limited in the amount of water we can move south of the Delta."



