

STATE WATER RESOURCES CONTROL BOARD

PAUL R. BONDERSON BUILDING
901 P STREET
P. O. BOX 100
SACRAMENTO, CALIFORNIA 95812-0100

**SETTING DELTA STANDARDS**

- o The San Francisco Bay/Sacramento-San Joaquin Delta Estuary includes the Sacramento-San Joaquin Delta, Suisun Marsh and the embayments upstream of the Golden Gate. The Delta and Suisun Marsh are located where California's two major river systems, the Sacramento and San Joaquin Rivers, converge to flow westward to meet incoming seawater tides flowing through San Francisco Bay. The watershed of the Estuary supplies some of the state's most productive agricultural areas both inside and outside the Delta; it is one of the largest systems for fish and waterfowl habitat and production in the United States.
- o The watershed of the Bay-Delta Estuary is a critical source of water supply for much of the State, including the needs of a growing population, expanding economy and the aquatic environment. The watershed is a source of drinking water for two-thirds of the State's population. It supplies some of the State's most productive agricultural areas and it provides water to the largest estuarine system on the west coast of the United States.
- o Two major water distribution systems release stored water into and divert water from the Delta: the State Water Project (SWP), operated by the Department of Water Resources and the Central Valley Project (CVP), operated by the U.S. Bureau of Reclamation). Numerous other water storage and diversion projects influence the inflows into and outflows from the Bay-Delta Estuary.
- o Water quality objectives and flow and operational requirements to protect beneficial uses of Bay-Delta Estuary waters were adopted in the 1978 Delta Water Quality Plan and Water Right Decision 1485 (D-1485).
- o The State Water Resources Control Board (SWRCB) opened public proceedings in July 1987 to review these documents for adequacy. In May 1991, the SWRCB adopted the 1991 Water Quality Control Plan for Salinity (1991 Bay-Delta Plan) which set new objectives for salinity, dissolved oxygen and temperature for protection of fisheries-related and agricultural supply beneficial uses.
- o The 1991 Bay-Delta Plan did not include flow and operational requirements needed to improve protection of fisheries-related beneficial uses. When the SWRCB adopted the 1991 Bay-Delta Plan, it stated that implementation of the adopted objectives would be addressed through an updated water right decision which would include additional flow and operational requirements necessary to protect fisheries-related beneficial uses. Despite this intention, the U.S. Environmental Protection Agency (USEPA), in September 1991, disapproved parts of the Plan believing it did not provide adequate protection for the estuarine habitat and other designated fish and wildlife uses of the Bay-Delta Estuary.
- o The disapproved objectives remain in effect until replaced by new or revised objectives. (However, constraints imposed by Federal agencies under the Endangered species Act (EPA) in combination with the requirements of D-1485 are, for practical purposes, controlling the operation of the SWP and CVP, as described below.)

- o After adoption of the 1991 Bay-Delta Plan, the SWRCB began preparing a water right decision and an accompanying EIR. Meanwhile, monitoring data at the time showed segments of the public trust resources of the Bay-Delta Estuary were declining due to both the drought and the inadequacies of the D-1485 standards. An intensive task force effort over several months in response to this situation culminated in an announcement by the Governor of a new water policy on April 6, 1992.
- o The water policy, which has many elements, specifically charged the SWRCB to develop interim standards within a year. In response, the SWRCB released draft Decision 1630 in December 1992. Subsequently, the SWRCB announced that it would not adopt draft Decision 1630 because the combination of the end of the prolonged drought and regulatory controls imposed by the National Marine Fisheries Service and the U.S. Fish and Wildlife Service, under authority of the ESA, provided adequate protection of public trust resources in the interim period.
- o Soon after the SWRCB's announcement, USEPA announced that it would propose draft standards for the Bay-Delta Estuary. In December 1993, these standards were made public and on January 6, 1994, USEPA published its draft standards in the Federal Register for protection of fisheries-related beneficial uses in the Bay-Delta Estuary.
- o As the result of legal action by a coalition of environmental organizations, the USEPA was under court order to promulgate final Delta standards by December 15, 1994.

WHY THIS REVIEW?

- o The California Water Code requires that water quality control plans adopted by the SWRCB must be periodically reviewed and may be revised. In addition, the clean Water Act requires a triennial review of water quality control plans.
- o The California Water Code authorizes the SWRCB to establish State policy for water quality control, including surface water management programs.

PROCESS FOR SWRCB ACTION

- o The SWRCB held a series of workshops from April through October. The SWRCB developed a preliminary set of alternative standards based on input received during the workshops. These alternatives were distributed to all interested parties for review and comment.
- o The following schedule and subjects were distributed:

April

1. Selection of standards for review
2. Level of protection necessary for the Bay-Delta Estuary
3. Review of USEPA proposed standards

May

1. ESA issues
2. Effects of Delta diversions, including diversions other than CVP and SWP
3. Methods available to analyze water supply and environmental effects of draft standards.

June

1. Fishery declines from causes other than flows and diversions, such as pollution, introduced species and habitat loss.
2. Review of CVP and SWP operations for ESA and other species of concern.
3. Effects of upstream water projects other than the CVP and SWP

July

1. Methods available to analyze economic effects of standards
2. Interim implementation of standards by CVP and SWP prior to adoption of water rights decision
3. Recommendations for alternative standards.

September

1. What fish and wildlife standards the SWRCB should evaluate as alternatives in this review

October

1. What are the technical bases for alternative fish and wildlife standards for the Bay-Delta Estuary?

Following the workshops, the Executive Director at the SWRCB's request, held a series of meetings with the parties involved in reviewing the Water Quality Control Plan.

- o Results of the above process were used in the draft Water Quality Control Plan released December 15, 1994 with an evaluation of the environmental and economic effects of the draft plan and its alternatives.
- o The California Water Code requires that economic considerations be considered when the SWRCB establishes standards. Also, the California Environmental Quality Act (CEQA) requires that the SWRCB conduct an analysis of the impacts of the proposed plan and alternatives. The water quality planning process is exempt from CEQA requirements for preparing a separate environmental document. Thus, the plan is functionally equivalent to an environmental document.
- o A hearing will be held approximately 45 days after the release of the draft plan to solicit comments and recommendations. The SWRCB will then consider adoption of the draft plan.
- o The adopted plan will be submitted to the Office of Administrative Law for approval, and those portions of the plan subject to Federal authority will be submitted to USEPA for approval.
- o After approval by USEPA, the SWRCB will initiate a water right proceeding in order to allocate responsibility to meet the standards among the water right holders in the Central Valley and to establish terms and conditions in appropriate water right permits.