

**POINTS OF AGREEMENT
ON
STATE AND FEDERAL PROCESSES FOR SETTING
WATER QUALITY STANDARDS FOR THE BAY-DELTA ESTUARY**

1. EPA has proposed and received public comments on draft water quality standards for the Bay-Delta Estuary pursuant to Section 303(c)(3) and 303(c)(4) of the Clean Water Act (33 U.S.C. § 1313(c)(3), (4)). EPA will take final action on the proposed standards by December 15, 1994. These standards are intended to supersede and supplement 1991 SWRCB standards disapproved by EPA relating to estuarine habitat and other fish and wildlife uses of the Bay-Delta Estuary. Upon its approval of State-submitted standards meeting the requirements of the Clean Water Act, EPA will initiate necessary rulemaking action, consistent with the Clean Water Act, to withdraw the Federal standards. Prior to any action on State-submitted standards, EPA will consult with USFWS and NMFS as required by Section 7 of the Federal Endangered Species Act (16 U.S.C. § 1536).
2. Commencing with workshops in April 1994, SWRCB will update and revise its 1991 Water Quality Control Plan for the Bay-Delta Estuary, including revision of the State standards to meet Federal Clean Water Act requirements, and will release a new draft Plan by December 1994. The workshops will solicit comments and recommendations from interested parties on the scope of the review, the level of protection that should be provided to fish and wildlife beneficial uses, the alternatives available to achieve that level of protection, and related issues.
3. The results of this process will be used to prepare a draft water quality control plan and an evaluation of the environmental and economic effects of the draft plan and its alternatives pursuant to all applicable provisions of the California Water Code, the Federal Clean Water Act, and the California Environmental Quality Act (CEQA). A hearing will be held approximately 60 days after the release of the draft plan to solicit comments on the draft plan. The SWRCB will then consider adoption of the draft plan at a subsequent public meeting. After adoption of the plan and its approval by the California Office of Administrative Law (OAL), the new or revised water quality standards contained in the plan that are subject to Federal authority will be submitted to EPA for its review and approval.
4. The SWRCB will initiate a water right proceeding for the purpose of allocating responsibility to comply with water quality standards meeting the requirements of the Clean Water Act among the water right holders in the Bay-Delta watershed and to establish terms and conditions in appropriate water right permits. A CEQA document (probably an EIR) will be prepared before adoption of a water right decision.
5. The SWRCB will seek agreement with the California Department of Water Resources and the U.S. Department of the Interior to operate the SWP and CVP to make an equitable contribution to meeting the standards, starting in calendar year 1995, while the

SWRCB is working on a water rights decision to equitably allocate responsibility among water right holders in the Bay-Delta watershed.^{1/}

6. The time schedule for these State Board activities is provided below.

- * March 1994 Distribute workshop notice initiating review of the water quality control plan

- * April-July 1994 Conduct workshops to receive input on the 1994 following subjects, and possibly others:
 - April - EPA/Federal Ecosystem Directorate proposed standards
 - Level of protection necessary for the Bay-Delta Estuary

 - May - ESA issues
 - Western Delta industrial diversions
 - Other Delta diversions
 - Striped bass

 - June - Exotic species
 - Fishery declines from other causes
 - Operations by CVP/SWP for ESA and other species of concern
 - Effects of projects other than SWP/CVP

 - July - Potential methods of economic analysis
 - Recommendations for alternative standards
 - Interim implementation of standards by SWP/CVP during 1995 and until water rights decision is implemented

- * July-November 1994 Analyze data and write draft Water Quality Control Plan

- * December 1994 - Release draft Water Quality Control Plan and Notice of Hearing to Consider Plan
 - Negotiate agreements for compliance with draft standards during 1995 and until water rights decision is implemented (see footnote #1)

- * January 1995 Commence SWP/CVP operations under interim compliance standards^{2/}

1. It may be possible for the standards to be phased, with the initial phase implemented by the projects during the water rights hearings. Compliance with Endangered Species Act requirements affecting the Bay-Delta may result in actions which contribute to or result in meeting the standards' initial phase.

2. Because of procedural complexities and numbers of diversions affected, the water rights process could take up to two years to complete.

- * February 1995 Conduct Water Quality Control Plan hearing
- * March 1995 Adopt Water Quality Control Plan
- * June 1995 Commence water rights process