

Attachment

**Contra Costa County Comments on Proposed Final Amendments
(Appendix K, Revised WQCP)**

Bottom of Page 18

“Flows provided to meet these numeric objectives shall be managed in a manner to avoid causing significant adverse impacts to fish and wildlife beneficial uses at other times of the year.”

Contra Costa County previously commented that only setting minimum flow objectives for February through June would increase the likelihood of decreases in stream flows in subsequent months (Contra Costa County comments on SJ River and South Delta Salinity Draft Technical Report, December 6, 2010, page 2). This has a real potential to shift environmental impacts on fish to other months, i.e., July-January. The County recommended that the SWRCB consider setting minimum flow objectives for July-January to avoid further reductions in flow in these months.

The language added at the bottom of page 18 of Appendix K is a step in the right direction but lacks specific quantifiable flow objectives to ensure flows are not reduced July-January and that there is monitoring to allow a determination of whether there are any adverse impacts to fish and wildlife during that period.

It is also not clear whether the use of the term “*managed*” could be interpreted to mean that it would be allowable to provide less than the required flow during February-June in order to avoid adverse impacts in subsequent months.

The County recommends that this language be modified to require existing levels of flow be maintained or enhanced, and not reduced, during July-January.

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Comprehensive Operations Plan

The modification to the WQCP also requires that DWR and the U.S. Bureau of Reclamation consult with Contra Costa Water District to develop the Comprehensive Operations Plan. The SWRCB should also require that, prior to the Executive Director’s approval of the plans, reports, and studies, they be posted for 15-day public review and comment. That would allow other affected Delta stakeholders like Contra Costa County to participate in the process.

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The new language in vii appears to significantly relax the requirements for publicly owned treatment works (POTWs) in the southern Delta to meet quantifiable discharge limits. This reduces their incentive to improve water quality. While it is true that “*POTW discharges also reflect the EC levels of their source water, which is high in the southern Delta,*” the SWRCB’s

proposal to relax the discharge requirements on POTWs and also relax the April-August south Delta agricultural EC standard is a step in the wrong direction. It is contrary to the State policy of improving water quality to protect human health and the environment in the Delta (Cal. Water Code § 85020(e)).

Relaxing the agricultural EC standard will allow salinities in the south Delta, the source water of POTWs, to increase which will further exacerbate the POTW discharge problem.

Additional Comments on the Revised WQCP

Page 16, Footnote 5

“[5] Salinity objectives are subject to the Variance Policy, Salinity Variance Program and Salinity Exception Program adopted in Central Valley Regional Water Board Resolution No. R5-2014-0074.”

The SWRCB should clarify that the salinity variances and exceptions under Central Valley Regional Water Quality Control Board Resolution R5-2014-0074 apply to requirements on dischargers and not to granting exceptions to the Central Valley Project (CVP) and State Water Project (SWP). This footnote could be misunderstood to mean that the south Delta agriculture EC standards could be relaxed through this RWQCB Resolution.

Page 20, Footnote 15

“[15] Combined export rate for this objective is defined as the Clifton Court Forebay inflow rate (minus actual Byron-Bethany Irrigation District diversions from Clifton Court Forebay) and the export rate of the Tracy pumping plant.”

This footnote should be revised to clarify that any new export intakes that may be constructed in the future would also be included in the definition of combined exports so that the WQCP does not need to be updated every time a new diversion point comes on line.

The November 3, 1994 “Biological Explanation of the Joint Water Users Proposed Bay-Delta Standards”¹ formed the basis for development of the December 1994 Bay-Delta Accord and the new Bay-Delta standards in D-1641. The Biological Explanation document makes clear that the goal of the export/inflow limits was to reduce fish, egg and larvae entrainment and mortality at the pumps. The Biological Explanation document, at page 2-19, states that the Biological Objective of the Export/Inflow ratio is to: *“Reduce fish, egg, and larvae entrainment and mortality at the pumps through export restrictions and intensive real-time monitoring/response designed to detect presence of fish in areas adjacent to the pumps.”*

¹ The November 3, 1994 “Biological Explanation of the Joint Water Users Proposed Bay-Delta Standards” can be downloaded from the following link:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/wq_control_plans/1995wqcp/admin_records/part05/368.pdf

The Biological Explanation, at page 2-19, states that the Intended Benefits of the Export/Inflow ratio include that “*exports should decrease during those years when fresh water inflow to the Delta is decreased and a larger percentage of fish and other aquatic organisms are geographically distributed further upstream where their susceptibility to export losses is increased.*”

Eggs and larvae of key fish species are present throughout the Delta, even in the north Delta on the Sacramento River above Courtland. Any new export intakes in the Delta would entrain eggs and larvae even with state-of-the-art fish screens so must also operate according to the original definition of the export/inflow ratio to help reduce the entrainment of eggs and larvae.

Suggested language:

[15] Combined export rate for this objective is defined as the Clifton Court Forebay inflow rate (minus actual Byron-Bethany Irrigation District diversions from Clifton Court Forebay), and the export rate of the Tracy pumping plant, and the export rate at any new export intakes constructed in the Delta after 2018.

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FIGURE 2 -- Sacramento Valley Water Year Hydrologic Classification

Footnote 2 on Page 22 contains reference to the San Joaquin classification that is not needed with respect to the Sacramento Valley. This should be deleted.

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FIGURE 3 San Joaquin Valley Water Year Hydrologic Classification

The SWRCB should also consider whether the water year classification transition points should be modified to account for climate change, i.e., does transition from below normal to above normal for the San Joaquin Valley (3.1 MAF) still represent 50-percentile of (recent) historical 60-20-20 indices.

Because the April-July unimpaired runoffs are changing due to climate change, the SWRCB could also determine whether the 60%, 20% and 20% numeric values need to be changed to better represent the availability of water to the water projects for each water year.

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3. River Flows: Lower San Joaquin River at Airport Way Bridge, Vernalis

The SWRCB has acknowledged in the SED that modifications to the WQCP may be made in the future to incorporate objectives for the Upper San Joaquin River. Bullet #3 should be left as it was to represent the whole San Joaquin River.

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*“Footnote 9: To refine the implementation actions and provide for coordination with ongoing FERC proceedings in the LSJR watershed, the February through June LSJR flow objective may be phased in over time, but **must be fully implemented by 2022.**”*

The revisions to the Bay-Delta WQCP eliminate the current D-1641 minimum flow objectives, except for the October minimum flow of 1,000 cfs (page 18). If the LSJR flow objectives will not be fully implemented until 2022, the existing Vernalis flows in D-1641 and the southern Delta agricultural EC standards should not be eliminated until 2022. Otherwise, there will be no flow objectives in place until 2022, and the assumed water quality benefits of the LSJR flows in the south Delta will not have manifested themselves.

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*“It is the State Water Board’s intention that an entity’s implementation of the LSJR flow objectives, including implementation through flow requirements imposed in a FERC process, will meet any responsibility to contribute to the LSJR inflow component of the Delta outflow objective in this Plan. **The State Water Board, however, may further consider and reallocate responsibility for implementing the Delta outflow objective in any subsequent proceeding, including a water right proceeding.**”*

Because the SWRCB is only proposing a minimum 40% of unimpaired flow objective for three tributaries of the San Joaquin River, the actual percentage of unimpaired flow reaching Vernalis will only be 28%. The three tributaries account for about 70% of the total San Joaquin Valley unimpaired flow.

Because the SWRCB is intending in Phase 2 to require January-June minimum Delta outflows of 55% of unimpaired Delta outflow then the Sacramento Valley water users, the CVP, and SWP will have to provide additional flow equivalent to $55 - 28 = 27\%$ of San Joaquin unimpaired flow from the Sacramento Valley. In January, they will need to provide the equivalent of 75% of San Joaquin unimpaired flow to meet the Delta outflow standard as there is no LSJR flow objective in January.

The SWRCB should include language in the revised WQCP to make sure the full 40% of unimpaired flow is achieved at Vernalis and the full 55% of unimpaired Delta outflow is achieved at Chipps Island. The lack of sufficient contributions from the upper San Joaquin River, and the lack of sufficient contributions from the San Joaquin Valley in January should not result in failure to achieve the full San Joaquin and Delta Outflow objectives.

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The SWRCB has updated parts of Section C – Recommendations to Other Agencies, but only those related to the San Joaquin River. However, there are other references in this section to completion dates that have already passed and other material that should be updated.