



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

198

COMMENTS OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY
TO THE
STATE WATER RESOURCES CONTROL BOARD
AT THE
FIFTH PUBLIC WORKSHOP FOR THE REVIEW OF STANDARDS FOR THE
SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN DELTA ESTUARY

SEPTEMBER 1, 1994

At the last Board workshop, EPA summarized the extensive discussions with the parties that have taken place since our proposed standards were announced last December. We also described some of the modifications to those standards that we have developed in an attempt to reduce their water supply impacts while maintaining our targeted level of protection. Once again, we would like to thank the staffs of the various agencies and interests that contributed their time and energy to this process. Although several significant differences remain among the parties, we are encouraged by the progress we have made to date, and urge the Board to build upon these efforts in its development of State standards.

In December 1993, EPA proposed three sets of water quality standards for the estuary as part of a coordinated set of federal actions. In the past several months, we have been reviewing the comments received on the proposed rule, and working with a broad spectrum of interested parties in developing the final rule.

Today, we are making available several documents that explain in detail our current staff recommendations with respect to the final standards. The first set of documents were contained in a Notice of Availability that was published in the Federal Register last Friday; the second set were part of a letter sent earlier this week from EPA to FWS and NMFS as part of the Endangered Species Act consultation process.

The recommendations in these documents are, of course, preliminary. They represent staff recommendations only and have not received final management approval. Nevertheless, we believe it is important for the State Board and other parties to be apprised of our efforts as we all work towards adoption of mutually acceptable standards.

The staff recommendations include four sets of water quality criteria:

1. Estuarine Habitat

The first are the 2 ppt salinity criteria at Roe Island, Chipps Island, and the confluence of the Sacramento and San Joaquin Rivers. Based on extensive discussions with DWR, CCWD, and other parties, we have developed two major modifications to the Estuarine Habitat criteria described in the proposed rule: a sliding scale to replace the five water year classifications, and three alternative methods of compliance at the Roe Island and Chipps Island stations: daily salinity, 14-day average salinity, and the equivalent daily outflow. These modifications have been endorsed by a broad range of interests.

2. Fish Migration

The second set of criteria are Fish Migration criteria to protect salmon smolts and other migratory species in the Delta.

After the close of the public comment period, EPA participated in a series of three scientific peer review workshops on these criteria organized and facilitated by the urban and environmental interests. Several participants in the workshops raised concerns about using predicted model results as the basis for these criteria. The group agreed that goals for salmon smolt survival should be based on the actual fall-run salmon smolt survival index (SSI) rather than predicted model results.

Based on these discussions, EPA has developed an alternative methodology for the Fish Migration criteria that is based on measured survival rates. The new methodology is described in two documents published in the Federal Register last week: 1) The summary of the three scientific peer review workshops on the Fish Migration criteria sponsored by the urban and environmental interests in June, and 2) A description of an alternative set of criteria based on the conclusions of those workshops. The target values for the new set of criteria reflect an achievable set of implementation measures, and are generally consistent with the doubling goal established by the CVPIA and state legislation.

The workshop participants also discussed how these criteria might be implemented. There was general agreement that a specified salmon smolt survival goal should be coupled with a set of implementation measures designed to achieve the goal, including gate closures, increased flows, export limits, and other measures. The goals would be revisited during the triennial review process to determine the effectiveness of the measures. The implementation measures could then be modified as appropriate to achieve the goals, on average, over a period of years.

We believe this approach will ensure that the designated uses are protected, while providing the flexibility necessary to experiment with different approaches to improve survival. In recent Board workshops, several parties have stressed the importance of developing real-time monitoring programs and studies

to evaluate the effectiveness of innovative control measures, such as the sound barrier on Georgiana Slough. By combining goal-setting with an adaptive management process, we can provide a mechanism for the State Board to incorporate the results of these and other ongoing studies into its implementation plan without modifying the approved criteria.

3. Fish Spawning

We are also recommending salinity criteria to protect Fish Spawning and other fish and wildlife uses of the lower San Joaquin River from Jersey Point to Vernalis. The purpose of these criteria is to address increased salinity levels caused by agricultural return flows in the San Joaquin Valley.

In the preamble to the proposed rule, we suggested that these criteria were likely to be implemented by increased flows on the lower San Joaquin River. That statement was based on an analysis by the Board staff which concluded that the measures proposed to protect salmon in Draft Decision 1630 would also be adequate to meet these salinity criteria. Several commenters took issue with these statements, and suggested that these criteria should be implemented through reductions in salt loadings from agricultural return flows. EPA agrees with these commenters, and recommends that the Board develop an implementation plan that builds upon the recommendations of the San Joaquin Valley Drainage Program and EDF's recent proposals to use economic incentives to achieve compliance with the criteria. Through this approach, the Board can ensure the criteria will not have any additional impacts on water supplies.

Some parties have suggested that these criteria are inconsistent with an ecosystem-based protection plan for the estuary, and may have adverse impacts on some species. We disagree. We do not believe that setting criteria to reduce the impacts of salt loadings on spawning habitat for sensitive species, including striped bass and Sacramento splittail, is in any way inconsistent with an ecosystem-based approach. We are also not aware of any evidence that reductions in salt loadings would have adverse impacts on other species. In fact, we note that several parties, including the California Urban Water Agencies (CUWA) and the Association of California Water Agencies (ACWA), have recommended reductions in salt loadings as part of their comprehensive protection plans for the estuary.

4. Suisun Marsh Tidal Wetlands

The final recommended criteria is a narrative criteria to protect the tidal wetlands surrounding Suisun Bay. You may recall that EPA's approval of the 1978 Delta Plan was conditioned, in part, upon the Board's commitment to develop standards to protect aquatic life and the brackish tidal marshes surrounding Suisun Bay. Because these commitments were not met, EPA specifically disapproved the State's salinity criteria for the Marsh because

they were not adequate to protect Estuarine Habitat, Wildlife Habitat, Rare and Endangered Species, and other fish and wildlife uses of the Marsh.

In the proposed rule, EPA included two possible narrative criteria for the tidal wetlands, and solicited comment on whether these or other criteria should be included in the final rule. Based on the comments received, we have further refined this narrative criteria. It provides that water quality conditions be sufficient to support high plant diversity and diverse wildlife habitat, to prevent conversion of brackish marsh to salt marsh, and to protect and maintain sustainable populations of those species vulnerable to increases in water and soil salinity.

We believe that this criteria serves several important purposes: 1) It fulfills our responsibility to set standards for the tidal marshes; 2) It addresses concerns raised in the Endangered Species Act consultation process regarding the protection of candidate species dependent upon brackish marsh habitat; 3) It provides a clear statement that the tidal marsh community should be protected in any comprehensive ecosystem-based protection plan for the estuary; and 4) It provides an incentive for new and ongoing studies of the Marsh to be completed, as the Board recommended in the 1991 Plan.

In the 1991 Water Quality Control Plan, the Board noted that a biological assessment is needed to determine the water quality requirements of the rare, threatened, and endangered species in the managed and unmanaged wetlands around Suisun Bay. The Plan stated that the Board would develop amendments and additions to the existing numeric criteria based upon the results of this assessment, and then, in a later action, assign responsibilities for meeting any changed standards. EPA supports this approach, and encourages the Board to work with DWR, DFG, and others to complete the assessment before the next triennial review. The narrative criteria will provide a framework for these studies, and ensure that protective criteria are in place pending the development of revised numeric criteria for the Marsh.

That concludes my summary of EPA's staff recommendations. Again, each of these criteria are explained in more detail in our letter to FWS and NMFS, and in our Federal Register notice regarding the Fish Migration criteria.

Thank you again for hearing our comments. We appreciate this opportunity to contribute to the State Board's process, and look forward to working with you and your staff in developing approvable State standards.