

The Bay Institute *of San Francisco*

**COMMENTS OF
THE BAY INSTITUTE OF SAN FRANCISCO
REGARDING ADOPTION OF THE
WATER QUALITY CONTROL PLAN
FOR THE SAN FRANCISCO BAY/
SACRAMENTO-SAN JOAQUIN DELTA ESTUARY**

Submitted by:

Gary Bobker, Policy Analyst, The Bay Institute of San Francisco

**Before the State Water Resources Control Board
Sacramento, California
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These comments are divided into three sections: 1) general comments on the May 1995 Draft Water Quality Control Plan (DWQCP); 2) specific comments on the text of the DWQCP; and 3) specific comments on the text of the May 1995 Draft Environmental Report (DER).

General comments

The Bay Institute of San Francisco supports the adoption by the State Water Resources Control Board (Board) of the DWQCP as an interim plan of water quality protection for the next three years, which, in combination with the Central Valley Project Improvement Act (CVPIA), the proposed "Category III" program, the San Joaquin Valley Drainage program (SJVDP), and other federal, state and local efforts, as well as the implementation of narrative objectives and the exercise of operational flexibility to allow variations in the percent of Delta inflow diverted in order to increase biological protections provided for by this Plan, will contribute to improved conditions in the estuary.

Because the DWQCP's export limits, Delta Cross Channel Gate closure criteria, and other operational requirements will not in and of themselves fully protect beneficial uses, the prompt and effective implementation of the CVPIA, Category III, the SJVDP, narrative objective programs, operational flexibility and other measures are absolutely essential to the success of this interim Plan as an element of a coordinated, comprehensive management package.

Our support for the DWQCP as an interim measure does not in any way alter the fact that adoption of this Plan will not completely discharge the Board's obligations under the federal Clean Water Act, state and federal antidegradation policies and the public trust to provide full protection for the beneficial uses and public trust resources of the estuary and its waters.

These general themes are discussed in greater detail in our comments of February 22, 1995, regarding the December 1994 DWQCP.

Specific comments

DWQCP, pages 3-4 (A. Purpose and Scope)

We continue to object to the Board's inaccurate characterization of the level of protection afforded by this interim Plan as "the highest water quality which is reasonable," in view of the Board's continuing obligation, incompletely discharged by adoption of the DWQCP, to fully execute its Clean Water Act, public trust and antidegradation mandates.

DWQCP, page 4 (A. Purpose and Scope)

Independent of the question of whether or not the implementation of the DWQCP represents attainment of "the highest water quality which is reasonable," the Plan should articulate the long-term water quality goals for the Bay/Delta estuary which will serve as the Board's guidance in future water quality and water rights proceedings. Therefore, the following sentence, or similar language, should be added to this section:

"The Board reaffirms as the long-term objective of this Plan and future revisions of this Plan the underlying principle of Water Right Decision 1485 that 'water quality in the [Bay/Delta estuary] should be at least as good as those levels which would have been available had the state and federal water projects not been constructed.' provided that reasonable protection of beneficial uses is thereby achieved and that degradation of water quality by nonproject users is also protected against."

DWQCP, pages 7-11 (C. Legal Authority)

We continue to disagree with the Board's inaccurate characterization of the authority of the U.S. Environmental Protection Agency to approve state criteria or, alternatively, promulgate new criteria regulating salinity and/or freshwater flow under the federal Clean Water Act.

DWQCP, Page 18 (Table 3: Salmon Protection)

We support this component of the Plan as an interim objective for salmon protection. In the long term, however, a greater level of protection which is consistent with state and federal antidegradation policies and the adoption of specific numeric objectives for temperature and other water quality parameters will be necessary to fully protect salmon spawning and migration, and other beneficial uses.

DWQCP, page 19 (Table 3: Delta Outflow)

We continue to object to the Board's inaccurate characterization of the new salinity objectives to protect estuarine habitat as "Delta Outflow objectives."

DWQCP, page 19 (Table 3: Export Limits)

We continue to emphasize that these components of the Plan should be regarded as interim objectives, and that in the long term more stringent export limits, particularly during the period from July through January and during the 31-day San Joaquin River pulse flow, will be necessary to fully protect beneficial uses.

DWQCP, page 19 (Table 3: Delta Cross Channel Gates Closure)

We continue to emphasize that these components of the Plan should be regarded as interim objectives, and that in the long term more stringent gate closure requirements will be necessary to fully protect beneficial uses.

DWQCP, page 30 (Source Control)

The following sentence, or similar language, should be added at the end of the second paragraph in this section:

"DWR, through the San Joaquin Valley Drainage Relief Program, and USBR, through the CVPIA land retirement program, should acquire and cease irrigation of lands with high priority drainage problems."

DWQCP, page 32 (Discharges to the San Joaquin River)

The following sentences, or similar language, should be added at the end of the first paragraph in this section:

"However, no flows should be released to the river specifically for dilution purposes, nor should releases for environmental enhancement purposes be included in the calculation of dilution capacity. In addition, because agricultural drainage water contains selenium and other bioaccumulative substances which persist in the environment, upper limits should be placed by the Central Valley RWOCB on load discharges to the river."

DWQCP, pages 32-33 (Out-of-Valley Disposal of Salts)

This section should be deleted as inconsistent with the findings of the San Joaquin Valley Drainage Program's 1990 Management Plan, which

recommended that in-Valley management measures should be implemented before out-of-Valley alternatives are considered:

"Under the assumptions and conditions of the plan, no decision need be made now on exporting salt from the San Joaquin Valley...Most, if not all, of the actions proposed in the recommended plan would be required as the first phase of any out-of-valley export system [p.121]...Under the assumptions and conditions stated above, the western valley has several decades remaining before salt removal and/or export will be required [p. 128]."

DER, Chapters VIII and IX

We emphasize that the DER's modeling estimates of the impacts of the DWQCP's proposed export criteria on water quality and aquatic resources are based on the assumption that water project operations will not uniformly attain the maximum export levels permitted but will be limited by current conditions of storage and withdrawal capacity in the Bay/Delta system. Any significant changes in the ability to export water, or store water exported, from the estuary will therefore alter the baseline conditions assumed for export-related impacts on water quality and aquatic resources and could invalidate the Board's finding of reasonable (interim) protection of beneficial uses.

See also our written comments of February 22, 1995, and March 7, 1995, for detailed discussions of the issues above and other topics.