

August 30, 2005

State Water Resources Control Board
Attention: Debbie Irvin, Clerk to the Board
P.O. Box 100
Sacramento, California 95812-0100

Dear Ms. Irvin:

We continue to follow the progress of the State Water Resources Control Board's (Board's) series of workshops associated with the periodic review of the 1995 Water Quality Control Plan. As the Board continues these workshops with its special August 31 workshop on the Delta Outflow Objective, we offer the following comments.

The Delta Outflow Objective (generally referred to as the "X2 standard") was the product of an unprecedented scientific and policy collaboration in the early 1990's. The idea of developing a broad ecosystem standard, as opposed to single-species management approaches, was widely praised at that time. After the initial proposal of the X2 standard in 1993, agencies and stakeholders worked tirelessly through 1994 to develop a series of refinements that collectively reduced the water supply impacts by almost 1 million acre feet in some years. These refinements included the use of triggers for the Chipps and Port Chicago compliance points, the creation of a "sliding scale" that more accurately reflected the natural hydrology at any given time, and permitting alternative measures of compliance (daily salinity measures, 14-day averages, or "flow equivalence.") These refinements achieved the biological goal of the X2 standard, which was to protect the natural variability in the low salinity aquatic habitat during periods of peak spring runoff, while substantially reducing the water supply impacts of compliance.

We have previously submitted comments about the current proposals to "flex" the X2 standard. Our letter of June 21, 2005, raised three fundamental issues:

- (1) That the structure of the X2 standard (a broad habitat protection standard that was based on observed correlations between six representative species from different trophic levels and the X2 isohaline) does not lend itself to real time manipulation;
- (2) That the recent unexplained decline in pelagic species in the Delta makes it inadvisable to trade lower protection of the in-Delta aquatic ecosystem (targeted by the X2 standard) for higher protection of relatively healthier migrating salmonids upstream; and

(3) That advocates of X2 flexing have not defined a clear problem that requires this additional flexibility in system regulation.

In preparation for the Board's follow-up workshop, we have reviewed additional draft materials from the Water Operations Management Team (WOMT) and the State Water Contractors. EPA strongly agrees with the conclusion of the WOMT that the Board should not pursue X2 flexing at this time, primarily due to the continued scientific uncertainty about the causes and possible remedies for the recent decline in Delta pelagic species at many trophic levels.

Further, EPA believes that the materials submitted to the Board thus far do not answer fundamental questions about the X2 flexing proposal. These include:

- (1) What biological data are available on a real time basis for the many species protected by the broad ecosystem X2 standard, and how would this data be evaluated by decisionmakers to determine that X2 protections can be relaxed?
- (2) What biological data would be available on a real time basis that could serve as an indication that, at any given time, protection of upstream uses is more desirable than protection of in-Delta uses? In other words, what is the scientific basis for trading off protection of one set of instream uses (upstream) for another set of instream uses (Delta), on a real-time basis?
- (3) The triggers included in the existing X2 standard establish a direct relationship between upstream flows and in-Delta requirements at Chipps Island. This relationship recognizes the biological importance of high flow events generated in the upper watershed to the health of the Delta ecosystem. How does the proposed X2 flexing maintain that relationship?

EPA believes that any flexing process must be able to articulate the scientific basis of flexing decisions. At this point, we do not believe that scientific basis has been provided.

We look forward to further cooperation with the State as it continues its periodic review of the 1995 Water Quality Control Plan. If there are any questions regarding our comments, please contact me at (415)972-3472.

Sincerely,

Karen Schwinn
Associate Director
Water Division