

Decision Tree for Water Quality Control Plan Flexibility

1. The United States Bureau of Reclamation ("Reclamation"), United States Fish & Wildlife Service, NOAA Fisheries, California Department of Water Resources ("DWR"), and California Department of Fish & Game (collectively the "Agencies") shall meet to determine whether a variation or flex of the outflow, export, or Rio Vista objective should be considered:
 - A. Immediately before the relevant objective begins controlling Delta operations, and
 - B. If, during the time a particular objective is controlling Delta operations, there is a change in the fishery or hydrologic conditions that existed at the time the objective became controlling.

Full consideration of a flex will be initiated if, during any such consultation, any one of the Agencies requests it.

2. When full consideration is initiated, the Agencies shall:
 - A. Develop an alternative or alternatives for how the objective could flex ("Action Alternative(s)").
 - B. Consider for each Action Alternative how the water that would otherwise be necessary to meet the objective ("saved water") would be subsequently used.
 - C. In determining how saved water will be used, the Agencies shall provide for multiple use of the saved water whenever possible.
 - D. Provide science-based evaluations of a "no action" alternative and each Action Alternative developed, including: (i) quantified estimates of population level effects on fishery resources, (ii) quantitative estimates of effects on water supply and water quality, and (iii) quantified estimates of uncertainty for both population level, water supply, and water quality effects.
 - E. The Agencies shall not propose an Action Alternative that:
 - i. If during the February through June period (other than during a VAMP flow/pumping restriction), and for the export objective, would cause an increase in the E/I ratio of more than ten percent (i.e., 35% to 45%).
 - ii. If during the VAMP 31-day pulse period, and for export objective, would cause pumping to exceed 200% of 3-day running average of San Joaquin River flow at Vernalis.

- iii. If during the July through January period and for the export objective, would cause an increase in the E/I ratio of more than ten percent (i.e., 65% to 75%).
 - iv. If for the outflow objective, would (a) occur when the Port Chicago standard is not triggered, (b) cause Delta outflow to fall below 20,000 cfs, or (c) cause the February through June average location of X2 to move more than one kilometer further upstream from the Golden Gate Bridge.
 - v. If for the Rio Vista objective, would cause the minimum monthly average flow rate to be reduced by more than 1,000 cfs.
 - vi. If for any objective, would impair the ability of Reclamation or DWR to meet their respective contractual obligations.
 - vii. If for any objective, would cause a significant adverse environmental effect.
3. If the Agencies agree on a single Action Alternative, the Agencies shall immediately notify the Executive Officer of the SWRCB of the decision. The Agencies shall, within 24 hours of reaching the decision, provide the Executive Officer with a written description of the Action Alternative and the reason for the decision. The Agencies may begin implementing the Action Alternative 24 hours after the Agencies notified the Executive Officer. If the Executive Officer does not object to the decision within 5 days, the decision by the Agencies will remain in effect. If the Action Alternative is implemented 24 hours after the Agencies provided the Executive Officer notice, but the Executive Officer objects to the decision within the 5-day period, the SWRCB shall consider the CVP and SWP in compliance with the objective during any under-compliance that results directly or indirectly from implementing the Action Alternative. After completion of the flex, the Agencies shall compute the actual water saved from "undercompliance" with the relevant objective.
4. In addition to the notice and reports required under paragraphs 3 and 4, on or before January 1 of each year, the Agencies shall prepare and transmit to the Executive Officer of the SWRCB a report summarizing flexing activities, accounting for the changed water use, describing how the saved water was allocated among beneficial uses, and estimating the effects on beneficial uses of flexing over the course of the prior year, consistent with the requirements under paragraphs 2 and 3. The report shall provide the information required under paragraphs 2 and 3 for each occasion when full consideration of a flex was initiated, whether or not the Agencies agreed on an Action Alternative. For instances when full consideration of a flex was initiated but agreement not reached, a majority and a minority report may be included in the report. As soon as possible, the Executive Officer shall make the report available for public review.

5. The Agencies shall include one SWRCB staff member in all deliberations required to reach a decision on an Action Alternative. The funding for this staff member shall be provided by the Agencies. The staff member shall:
 - A. Participate in all actions required under paragraphs 2, 4, and 5.
 - B. Assist the Executive Officer of the SWRCB in determining whether or not to object to an Action Alternative.
 - C. Assist in developing and amendments or supplements to this Decision Tree.