

**PUBLIC WORKSHOP COMMENTS**

**REVIEW OF THE 1995 WATER QUALITY CONTROL PLAN FOR THE  
SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN DELTA  
ESTUARY**

**State Water Resources Control Board  
January 8, 2004**

**Comments of the  
California Department of Fish and Game**

**Presented by  
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## GENERAL COMMENTS ON WORKSHOP NOTICE

Without modification, the 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (1995 Plan) contains water quality control measures which, in conjunction with Regional Water Quality Control Board plans, other SWRCB plans and policies, and programs under the jurisdictions of other agencies, such as the Central Valley Project Improvement Act (CVPIA) and CALFED, provide a coordinated and comprehensive ecosystem approach to protection of the beneficial uses of the Bay-Delta Estuary. Therefore, the Department of Fish and Game (DFG) believes that, at this time, there is no need to modify either the beneficial uses to be protected by the 1995 Plan or the water quality objectives for the reasonable protection of those beneficial uses.

In the event the SWRCB elects to consider modifications to the current 1995 Plan objectives, we believe that the objectives should not be amended without the same level of scientific evaluation and public review that contributed to the adoption of the existing objectives. The SWRCB also should analyze potential consequences for attainment of Basin Plan objectives and other requirements intended to protect aquatic resources in upstream areas from any changes it considers in the 1995 Plan. Finally, DFG supports the concept of allowing greater flexibility for Delta water project operations, but only when adequate protection is maintained for fish and wildlife resources.

In 2004, new federal biological opinions will be provided for the Operations Criteria and Plan for the State Water Project and Central Valley Project. The DFG will make consistency determinations on those biological opinions. The Department of Water Resources will also be releasing a Draft EIR/EIS for the South Delta Improvements Program (SDIP). The re-initiation of consultation on the CALFED Program called for in the CALFED Record of Decision will be completed and will include a program-wide evaluation of Ecosystem Restoration Program/Multi-species Conservation Strategy Milestones and the Environmental Water Account. The DFG is closely involved in and supports these coordinated efforts. DFG is committed to and stands ready to assist the SWRCB in ensuring consistency between these activities and the 1995 Plan review.

## COMMENTS ON POTENTIAL WORKSHOP ISSUES

### San Joaquin Issues

**Vernalis Flow Objective Outside the April 15 – May 15 Period:** In the last two years compliance with the Vernalis flow objective outside the April 15- May 15 period was not achieved in several instances. In each case, water availability forced a choice between meeting the flow objective with water released from New Melones in the late winter and having enough water to comply with Plan objectives later in the spring and to provide water temperature in the Stanislaus River suitable for fish in the summer. We believe the SWRCB should examine the factors that make such tradeoffs necessary, determine how the frequency of such circumstances can be minimized, and consider whether

some flexibility in the flow objective may be appropriate under some extreme circumstances.

**Vernalis Adaptive Management Plan:** The DFG is aware of the Superior Court's holding regarding VAMP in *Anderson, et al. v. State Water Resources Control Board*, the "State Water Resources Control Board Coordinated Cases" seeking review of D-1641, and will assist the SWRCB as necessary in seeking a resolution of the issue.

### **Suisun Marsh Objectives and Narrative**

Two issues are associated with the Suisun Marsh; the salinity objectives and the Brackish Tidal Marshes of Suisun Bay Narrative. The DFG believes that several key events have occurred since the adoption of the 1995 Plan that affect whether the Suisun Marsh objectives and the tidal wetland narrative should be considered for modification by the SWRCB at this time. The most significant were the establishment of CALFED and adoption of the Suisun Marsh Charter. The DFG supports delaying significant modifications of the 1995 Plan until the Suisun Marsh Implementation Plan is completed through the Suisun Marsh Charter process.

**Suisun Marsh Charter:** A charter was formed to develop a regional plan that balances implementation of CALFED, the Suisun Marsh Preservation Act, and other management and restoration programs within Suisun Marsh in a manner responsive to the concerns of stakeholders and based upon voluntary participation by private land owners. The overall objective of that Implementation Plan is to guide ongoing operations in managed wetlands and recovery actions for listed species in the Marsh.

Principal agencies are the National Marine Fisheries Service, U.S. Bureau of Reclamation, U.S. Fish and Wildlife Service, California Department of Fish and Game, California Department of Water Resources, California Bay-Delta Authority, and Suisun Resource Conservation District. Participating agencies include the U. S. Army Corps of Engineers, Bay Conservation and Development Commission, San Francisco Bay-Delta Science Consortium, and U.S. Geological Survey. The process fostered by the Charter has significantly improved coordination and collaboration among agencies.

The Implementation Plan will be consistent with CALFED, including the Ecosystem Restoration Program, Levee Program, Drinking Water Quality Program, Multi Species Conservation Strategy, Milestones, and Science Program, and will be implemented in an adaptive management framework. The Implementation Plan will be consistent with the Suisun Marsh Preservation Act and the recovery needs of threatened and endangered species by balancing the habitat needs of species in managed wetlands with the habitat needs of tidal marsh-dependent species. The DFG is the CEQA lead agency and the U.S. Bureau of Reclamation and U.S. Fish and Wildlife Service are the NEPA co-leads for the effort to develop the Implementation Plan.

If necessary, the Suisun Marsh Charter Group will work toward developing recommended changes for the water quality objectives in Suisun Marsh through the

Charter process. Recommendations will be consistent with CALFED, the recovery needs of threatened and endangered species, and the protection of managed wetlands. All appropriate information, including the recommendations of the Suisun Ecological Workgroup, will be used in formulating any recommendations.

**Suisun Marsh Ecological Workgroup:** The Suisun Marsh Ecological Workgroup (SEW) final report has been submitted to the SWRCB. Four SEW subcommittees made recommendations for research and monitoring that could help guide future incorporation of science into ecosystem restoration implementation with science actions to address information gaps and ecological questions. The full SEW report including research and monitoring recommendations can be viewed at the Interagency Ecological Program website: [http://www.iep.ca.gov/suisun\\_eco\\_workgroup/final\\_report/SEWFinalReport.pdf](http://www.iep.ca.gov/suisun_eco_workgroup/final_report/SEWFinalReport.pdf)

Progress on several issues has been made since the SEW report was completed. For instance, evaluations of the effects of the Suisun Marsh Salinity Control Gates on the movement of migrating Chinook salmon and a genetic study of salt marsh harvest mice have been undertaken. The SWRCB could be periodically updated on study results.

**Western Suisun Marsh Salinity:** S-97 and S-35 were included in the 1995 Plan but, during the hearings for D-1641, arguments were made that a different approach to meeting objectives at these stations would yield equivalent or better protection. The suite of actions that would have provided that equivalent or better protection have not yet been implemented and may be modified based on the outcome of the Suisun Marsh Implementation Plan. Because of that delay any decision to significantly modify the 1995 Plan with respect to the salinity objectives should also be delayed.

**Brackish Tidal Marshes of Suisun Bay Narrative:** The narrative states that water quality conditions sufficient to support a natural gradient in species composition and wildlife habitat characteristic of a brackish marsh throughout all elevations of the tidal marshes bordering Suisun Bay shall be maintained. It also states that conditions should not result in loss of diversity, conversion of brackish marsh to salt marsh, or decreased population abundance of animals vulnerable to increased mortality and loss of habitat from increased water salinity. While the Brackish Marsh subcommittee of SEW believed the narrative standard should ultimately be revised to emphasize species diversity and maintaining historic salinity regime variability we do not recommend that the SWRCB address modification of the narrative standard at this time. Any recommendations will be developed through the Suisun Charter process.

### **Narrative Objective for Salmon Protection**

The narrative objective for salmon protection included in the 1995 Plan states that water quality conditions shall be maintained, together with other measures in the watershed, sufficient to achieve a doubling of natural production of Chinook salmon from the average production of 1967-1991, consistent with the provisions of State and federal law. The SWRCB recognized that numerous actions would be taken, in addition to establishing and implementing water quality objectives for the Bay-Delta Estuary, to

improve salmon populations in the Bay-Delta system. Since 1995, several new or expanded Central Valley fish and wildlife restoration programs, including the Central Valley Project Improvement Act program (CVPIA) Anadromous Fish Restoration Program and the CALFED Ecosystem Restoration Program (ERP), have provided significant funding for the improvement of habitat conditions for Chinook salmon.

Monitoring of the implementation of the objectives and restoration activities and their contribution to meeting the doubling goals has continued since the adoption of the 1995 Plan. Further monitoring is needed to evaluate the success of restoration actions. In addition, further studies of the factors controlling salmon production and survival in upstream areas and the Delta are needed. Within the next two years, the completion of recovery planning for listed salmon stocks will also provide guidance for establishing more detailed objectives for salmon recovery. Accordingly, the current narrative objective should not be amended at this time.

### **Preliminary Water Quality Compliance and Baseline Monitoring Program**

A future review of the 1995 Plan should include an update of the compliance and baseline monitoring program in coordination with the Interagency Ecological Program (IEP) and the CALFED Science Program. Changes and refinements to monitoring activities in the estuary since adoption of the 1995 Plan should be discussed and reflected in a revised plan. Factors to discuss include new monitoring proposed for CALFED and any revised monitoring associated with the new OCAP and SDIP biological opinions and SDIP environmental documentation.

### **Other Objectives and Operations**

**Flow Objectives and Export Limits:** Pending the outcome of the revised OCAP and SDIP opinions and SDIP environmental documentation, the DFG does not believe any other objectives related to Delta Outflow, Sacramento River Flow at Rio Vista, or export limits should be modified at this time.

**Increased Flexibility in Delta Standards:** The X2 standard was developed to provide variability in the western Delta salinity regime and was based on X2/fish relationships that generally remain valid. The standard targeted replicating a semblance of the estuarine environmental conditions that existed at an earlier level of water development and use. Other biological benefits were expected as well associated with supporting estuarine ecological functions.

The DFG recommends that before any changes to the X2 standard are proposed the SWRCB should review the historical hydrology and determine if there is a problem with the existing standard that needs a solution. An event like February 2003 when compliance with X2 at Roe Island necessitated release of stored water from reservoirs and short-term pumping curtailments when the naturally occurring flow was not sufficient may be very uncommon. The SWRCB should not modify the X2 standard until there is evidence that we know what the biological consequences would be.

