

## NOTICE OF DECISION

TO: Secretary for Resources  
1416 Ninth Street, Room 1311  
Sacramento, CA 95814

FROM: State Water Resources Control Board  
Division of Water Rights  
P.O. Box 2000  
Sacramento, CA 95812-2000

SUBJECT: Filing of Notice of Decision in Compliance with Section 21080.5 of the Public Resources Code

Project Proponent: State Water Resources Control Board

Project Title: Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary

Contact Person: Tom Howard

Telephone No.: (916) 657-1873

Project Location: San Francisco Bay/Sacramento-San Joaquin Delta Estuary

Project Description: The Water Quality Control Plan establishes water quality objectives that will ensure reasonable protection of the beneficial uses and will prevent nuisance. The plan consists of: (1) beneficial uses to be protected; (2) water quality objectives for the reasonable protection of beneficial uses; and (3) a program of implementation for achieving the water quality objectives.

This is to advise that the State Water Resources Control Board has made the following determination regarding the above-described project:

The project has been:

RECEIVED BY  approved  
 disapproved  
Office of the Secretary

Date Received for Filing: MAY 22 1990

RESOURCES AGENCY OF CALIFORNIA

  
Signature of Person Filing Notice

Chief Division of Water Rights  
Title

The CEQA Findings, including the Overriding Considerations, are attached.

## CEQA FINDINGS

The SWRCB will decide the exact measures needed to implement the Bay-Delta Plan in a future water rights proceeding that includes the water users in the watershed of the Bay-Delta Estuary, and will consider actions to mitigate any significant environmental effects that will occur as a result of those implementation measures at that time. The SWRCB separated this action from the future implementation of the plan upon the direction of the Court of Appeal in previous Bay-Delta litigation. In that case, the SWRCB combined its water quality and water rights proceedings, and implemented the plan immediately. The Court of Appeal stated that combining the proceedings caused the SWRCB to compromise its water quality role by defining the water quality objectives in terms of the water rights to be amended. The Court advised the SWRCB against this procedure. (U.S. v. State Water Resources Control Board (1986) 227 Cal.Rptr. 161, 180)

Because the plan does not, in itself, mandate any implementation, no significant environmental effects will occur until a further action has been taken that implements the plan. To the extent that the DWR and the USBR already are implementing some of the new objectives in the plan, they are doing so because of both their obligations under the federal ESA and their commitment to implement the Principles for Agreement, which predate the adoption of the plan. Therefore, most of the environmental effects identified below have already occurred. The discussion below makes the theoretical assumption that the existing physical environment is the environment that would exist in the absence of the intervening regulatory actions by other agencies. In effect, it provides a cumulative assessment of the likely impacts of implementing the water quality objectives in the plan instead of implementing the operating standards in D-1485. D-1485 was the primary regulatory control over flow, operations, and salinity levels in the Bay-Delta Estuary until about 1991, when other regulatory actions were commenced under the federal ESA.

The plan increases the protection provided to fish and wildlife uses of the Estuary while maintaining existing water quality protections for other uses of water in the Estuary. Therefore, there will be no significant adverse environmental effects in the Estuary due to the plan. Implementation of these protections would shift some water supplies from consumptive uses throughout the State to fish and wildlife uses in the Estuary, resulting in decreased water availability to water users responsible for meeting the objectives and changes in reservoir levels and river flows in upstream areas. Consequently, implementation could cause significant or potentially significant adverse environmental effects through reductions in water supply and changes in flow patterns. These environmental effects, including possible mitigation measures and findings, are discussed below. The notations in brackets refer to the environmental checklist items which identify these environmental effects.

a. Adverse Environmental Effects Primarily Due to Reduced Water Supplies

- (1) Water Supplies. Implementation of the plan could have the potential to result in significant cumulative effects on water supplies in some upstream and export areas [21.c]. Increases in the rate of use of stored water from upstream reservoirs would occur [9]. Substantial reduction in the amount of water otherwise available for public water supplies would occur [3.h]. The occurrence and extent of these effects would depend on water year type, area, water right type, and water management strategies. Also, there could be a need for new systems or substantial alterations to existing water facilities to address changes in the amount or allocation of water supplies [16.b].
- (2) Water Quality. Higher levels of total dissolved solids could occur in surface waters in export areas due to decreased availability of water for blending with local lower quality water [3.e].
- (3) Ground Water. Changes in quantity of ground waters, either through direct additions or withdrawals, would occur [3.g]. Increases in the rate of use of ground water would occur [9]. Alteration of the direction and rate of the flow of ground water would occur as a result of less percolation to the ground water table due to reductions in surface water applied in some areas [3.f]. Changes in topography or ground surface relief features could occur as a result of local land subsidence due to increased groundwater withdrawals or overdraft [1.c].
- (4) Agriculture. Reduction of acreage of agricultural crops would occur in some areas [4.d]. Substantial alteration of the present or planned use of some agricultural areas would occur [8]. Changes in the types of agricultural crops could occur [4.a]. Changes in topography or ground surface relief features could occur as a result of changes in agricultural practices in certain areas [1.c]. Increases in wind erosion of soils could occur if abandoned agricultural areas increase [1.e].
- (5) Short-term Gain/Long-term Loss. Implementation of the plan could have the potential to achieve short-term environmental goals to the disadvantage of long-term goals such as minimizing environmental problems related to groundwater overdraft, and shifts in crops or land use [12.b].
- (6) Biological Resources. Implementation of the plan could have the potential to affect adversely plants or animals in the export areas [21.a]. Changes in the diversity of species, or number of any species, of animals could occur [5.a]. Reduction of the numbers of any unique, rare, threatened, or endangered species of plants and animals could occur [4.b, 5.b]. The occurrence and extent of these effects would depend on water year type and local water management and operations in response to reduced water supplies.
- (7) Parks and Recreation. Effects on parks or other recreational facilities could

occur through reductions in water supplies to these areas [14.d].

- (8) Human Populations. Implementation of the plan has the potential to affect adversely, directly and indirectly, people involved in agriculture or dependent on municipal supplies through reduced water supplies in some parts of the State [21.d]. Alterations in the location, distribution, density, or growth rate of the human population of an area could occur if changes in the distribution of municipal water supplies occurs as a result of changed water supplies [11].
- (9) Aesthetics. Creation of an aesthetically offensive site open to public view could occur if water availability for landscape irrigation is reduced [18].

Mitigation Measures and Findings. It is essential that the SWRCB now adopt a water quality control plan to serve as a basis for future regulatory measures that will protect the fish and wildlife uses of the Estuary. The plan is an essential early step in establishing adequate protections for the Estuary.

This report, in Chapter X, lists the following mitigation measures that could mitigate the effects of implementing the plan. When the SWRCB implements the plan through a water right decision, it will consider specific actions within its authority that may help carry out the following mitigation measures. The implementation measures are of a nature that they must be adopted under other proceedings. The water rights measures cannot be adopted under the authority to adopt a water quality control plan. The SWRCB's authority to mitigate the effects of implementing the plan is the SWRCB's water rights authority. Therefore, the SWRCB cannot legally, at this time, either implement the plan or mitigate the environmental effects of implementation. Consequently, adoption of the mitigation measures identified in the environmental report is infeasible at this time. These legal considerations also will delay any significant effects resulting from adoption of the plan and these legal considerations outweigh the potential significant environmental effects of the plan. Adoption of the plan without adopting mitigation measures does not preclude mitigation, but merely delays it until the future proceeding, which may directly result in the significant environmental effects listed above.

Actions which could mitigate or avoid the significant effects on the environment are primarily within the responsibility and jurisdiction of local water purveyors and managers and have been, or can and should be, adopted by those entities. The decisions made by local water purveyors when they allocate remaining water supplies will determine whether the adverse effects occur. If they use the following mitigation measures effectively, they may be able to reduce the adverse effects to a level of insignificance.

- (1) Urban Water Conservation (including the 16 Best Management Practices for urban water conservation established in the Memorandum of Understanding Regarding Urban Water Conservation in California)
- (2) Agricultural Water Conservation (including water conservation measures formulated under the Efficient Water Management Practices Act of 1990 and conservation goals established by the San Joaquin Valley Drainage program)
- (3) Ground Water Management (including conjunctive use programs)
- (4) Water Transfers
- (5) Reclamation (including reclaimed water use for irrigation of agricultural crops, parks, greenbelts, golf courses, and landscape)
- (6) Mitigation Fund (including a mitigation credits program)
- (7) Combined Use of CVP and SWP Points of Diversion in the Delta
- (8) Offstream Storage Projects (including Los Banos Grandes Reservoir, Domenigoni Valley Reservoir, Los Vaqueros Reservoir, Delta Wetlands, and Mandeville Island)
- (9) South Delta Program (undertaken by the DWR)
- (10) Purchase of Delta Islands (where land subsidence is a serious problem)
- (11) Long-term Delta Solution (joint federal-State effort)

b. Environmental Effects Primarily Due to Changes in Flow Patterns

- (1) Water Flows. Changes in currents, or the course or direction of water movements of marine and fresh waters would occur as a result of changes in the magnitude and timing of freshwater outflow in the Delta. River flows could be affected as a result of changes in reservoir operation, runoff, return flows, wastewater discharge, or drainage to the rivers [3.a].
- (2) Water Quality. Alteration of surface water quality parameters, including temperature, dissolved oxygen, and turbidity, would occur in the rivers and the Delta by changing the magnitude of flows at different times of the year [3.e].
- (3) Energy. Substantial air emissions or deterioration of ambient air quality could occur as a result of electrical power generation from fossil fuel combustion that could make up for hydroelectric power generation losses incurred due to decreased water availability in peak generating periods [2.a]. Use of substantial amounts of fuel or energy could occur [15.a], including an increase

in the rate of use of fossil fuels for power generation [9]. Substantial increase in demand upon existing sources of energy for increased ground water pumping, or requirements for the developing new sources of energy to replace any reductions in hydroelectric power generation, could occur [15.b]. Need for new systems or substantial alterations to existing electricity facilities could occur [16.c].

- (4) Parks and Recreation. Effects on parks or other recreational facilities could occur through changes in water levels of upstream reservoirs and flows in rivers, and uses of recreational facilities by sport fishery participants [14.d]. Impacts upon the quality or quantity of existing recreational opportunities would occur through closure of the Delta Cross Channel gates which would restrict recreational access to some waterways in the Delta; other aspects of the proposal could affect sport fisheries [19].
- (5) Aesthetics. Changes in the amount of surface water in reservoirs would occur in the upstream and export areas [3.d]. Creation of an aesthetically offensive site open to public view could occur if changes in reservoir operations cause water levels to be lower for longer periods [18].
- (6) Traffic. Alterations to waterborne traffic would occur due to closure of the Delta Cross Channel gates intended to protect fish migration [13.e].

Mitigation Measures and Findings. These environmental effects could only be avoided by not implementing the plan, except that a boat lock could be constructed at the Delta Cross Channel. Boating interests may consider such a facility. However, the environmental effects of such a facility and its cost could preclude its construction.

Because the SWRCB is required by law to adopt a plan which will ensure the reasonable protection of beneficial uses and the prevention of nuisance, it is infeasible not to adopt the plan. (See Water Code section 13241.) The benefits of providing protection for fish and wildlife uses in the Estuary outweigh any significant adverse environmental effect that could occur due to implementation of the plan.

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KATHLEEN BROWN, TREASURER  
STATE OF CALIFORNIA  
SACRAMENTO

NUMBER  
420-143293  
ACCOUNT SERIAL

90-1342  
1211

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**PAY TO THE ORDER OF**

DEPT. OF FISH AND GAME  
1416 NINTH STREET  
SACRAMENTO, CA 95814

ISSUE DATE

05/22/95

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\*\*\*850.00\*\*

STATE WATER RESOURCES CONTROL BOARD

By *Judith Lewis-Mallon*

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