

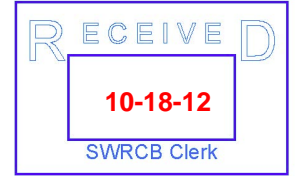


Association of California Water Agencies

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Public Comment
Statewide Biological Objectives Policy-CEQA Scoping
Deadline: 10/19/12 by 12 noon



October 18, 2012

VIA ELECTRONIC MAIL

c/o Jeanine Townsend, Clerk to the Board

commentletters@waterboards.ca.gov

Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
1001 "I" Street, 24th Floor
Sacramento, CA 95814-2828

**Subject: Comment Letter – Statewide Biological Objectives Policy – CEQA Scoping
Comments**

Dear Ms. Townsend:

The Association of California Water Agencies (ACWA) is pleased to submit comments regarding the proposed Statewide Biological Objective Policy, which will be used to prepare a draft substitute environmental document in compliance with the California Environmental Quality Act (CEQA). We understand that the State Water Resources Control Board (SWRCB) is soliciting input regarding the scope of the proposed policy, potential significant environmental impacts of the proposed policy, cumulative impacts if any, mitigation measures, possible alternatives, and to identify any issues that are deemed not to be important.

ACWA represents approximately 450 public water agencies throughout the state that collectively provide approximately 90 percent of the water used for residential, commercial and agricultural purposes in California. ACWA's member public water utilities provide potable water treatment, wastewater treatment and water recycling, and agricultural water supply services statewide. Our member agencies also manage local and regional surface and groundwater supplies, and depend on extensive water transfer across the state using a complex water supply system upon which the economy of California depends.

Scope of the Proposed Policy

ACWA supports *in concept* the development of a statewide biological objectives policy, which could provide consistent and scientifically rigorous methods for evaluating and monitoring aquatic life beneficial uses of some types of waterbodies. We support limiting this policy to "Perennial, Wadeable Streams", but we ask that this be better defined and that the intended statewide extent of these waterbodies be disclosed as part of the policy itself. Unless this "project description" issue is clearly resolved, potential direct and cumulative impacts of implementing this policy in conjunction with other water quality management policies cannot be adequately assessed in the environmental document.

ACWA recognizes that Regional Boards and other water management authorities have considered, and in some cases are already using biological indicators to assess the health of aquatic life, and we see the value in standardizing the methods and objectives for such assessment. Given the potential significance of this analytical tool and the as-yet-unknown impacts it may have on statewide water resource management, water agencies have been participating in the technical advisory committee process with keen interest, and we anticipate having many technical and water management concerns about the scope and use of the statewide biological objectives policy.

For the present and until the biological objectives policy is well refined and has a demonstrated track-record of reliability and efficacy, ACWA strongly opposes using this policy for regulatory purposes. This policy may have some near-term value for environmental assessment and monitoring purposes, but it should not be given the regulatory authority that has been afforded to existing chemical, physical and toxicological water quality objectives, which have been developed and fine-tuned over many years and have widely-recognized credibility.

Non-Regulatory Alternative

We assume from the Informational Document that the proposed project is to be identified in the environmental document as Alternative 3. “Adopt biological objectives for all perennial, wadeable streams in the state”. If the SWRCB is unwilling to redefine the biological objectives policy to exclude its implementation for regulatory purposes, then a new Non-Regulatory Alternative should be developed and fully described. This Non-Regulatory Alternative could offer an opportunity for the policy to demonstrate its value and implementation viability using “success criteria” that would need to be met before the SWRCB proposed to use the policy for regulatory purposes at some time in the future.

Equal-Level-of-Detail Analysis

Each of the alternatives that are included in the environmental document should be analyzed for their direct and cumulative impacts at an *equal-level-of-detail*. This is the only way to provide for an informed comparison of impacts associated with each alternative and ensure an adequate disclosure of the likely unintended, and possibly significant, adverse impacts associated with premature regulatory use of the proposed policy.

Potential Environmental Impacts

Some of the environmental impacts of concern to California’s public water agencies which need to be disclosed and assessed are identified in an October 16, 2012 letter submitted by the San Joaquin River Group Authority (SJRG) and are also listed below. Many of these impacts are clearly cumulative in nature and it will be necessary for the analysis to include a reasonably complete listing of the other state and federal regulatory

policies and programs that are expected to affect the severity, scale and duration of the identified impacts.

- Adverse impacts on water supply deliveries for agricultural, municipal and wetland uses and the consequences in either the amount delivered, the timing of the deliveries or the quality of that water supply;
- Water rights and the subsequent water delivery capability of the various water right holders and reservoir operators;
- Repayment capacity for reservoir and downstream infrastructure debt and how these would change downstream operations and water supply delivery capabilities;
- Loss of agricultural crop production and/or fallowing of agricultural lands during various water-year types;
- Changes in cropping patterns that would result from changes in surface water supply availability and the resulting economic impact;
- Water supply carryover used to avoid drought year effects;
- Loss of wetland habitat in and near these reservoirs due to reservoir reoperations and changes in reservoir water levels;
- Flood control needs and requirements and the resulting impacts on downstream communities;
- Consequences of likely increased groundwater use, including, but not limited to, overdraft to replace the lost agricultural, municipal and wetland water supplies caused by reservoir reoperations or increased in-stream flow requirements;
- Changes in groundwater quality likely to occur with increased overdraft to replace lost water supplies;
- Loss of domestic-use groundwater supplies in rural areas due to the resulting overdraft to replace water supplies lost due to reservoir reoperations or increased in-stream flow requirements;
- Increased power needs associated with increased groundwater pumping to replace water supplies lost due to reservoir reoperations or increased in-stream flow requirements;
- Loss of summer-time hydro-power energy production due to reservoir reoperations or increased in-stream flow requirements and changes in water head in the reservoirs;

- Increased carbon emissions from replacement energy supplies from decreased hydro-power operations;
- Increases in carbon emissions caused by increased power consumption during the summer months for groundwater pumping to replace water supplies lost due to reservoir reoperations or increased in-stream flow requirements;
- The costs and ability to transmit the increased power requirement caused by increased groundwater pumping and loss of hydropower production including impacts to the long-term reliability of the California energy grid;
- The long-term sustainability and costs of converting to groundwater pumping;
- State’s existing energy and renewable energy policies;
- Cost and consequences of lost recreation opportunities on reservoirs or in-stream created by changes in reservoir operations or increased in-stream flow requirements and the impact on the local communities that rely heavily on the recreational income for their revenue;
- Existing downstream water quality requirements due to reservoir reoperations or increased in-stream flow requirements;
- Existing downstream flow requirements including FERC licensing requirements;
- Existing flow and temperature requirements for protection of anadromous fisheries, including salmon and steelhead;
- Potential for creating “dead pool” status in the reservoirs and the consequences to recreational opportunities, in-reservoir fishery resources and downstream fishery resources;
- Loss of fish habitat in the Delta in drier years due to changes in water supply availability;
- Changes in reservoir reoperation or increased in-stream flow requirements on water temperature in the reservoir and the conflict with existing flow and temperature requirements for protection of anadromous fisheries, including salmon and steelhead;
- Public trust values to upstream river and reservoir habitat and commerce; and
- Reduced water supply for the Pacific Flyway and other wildlife refuges.

We look forward to reviewing the environmental document when it is ready for public review and comment, but more importantly we stand ready to help the state further refine the proposed Biological Objectives Policy so that it can strategically implemented to effectively to protect and restore aquatic live beneficial uses to selected surface water in California.

If you have any questions regarding this letter please feel free to contact me by e-mail at daveb@acwa.com or by phone at (916) 441-4545.

Sincerely,

A handwritten signature in black ink that reads "David E. Bolland". The signature is written in a cursive style with a large, prominent 'D' and 'B'.

David Bolland
Senior Regulatory Advocate