

**CONTRA COSTA
WATER DISTRICT**

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Item 1
Sept. 14, 2004 Workshop
hard cc: Board
Debbie Irvin

email: Board
CC, HMS, TH, CMW, BJJ, DI
VAW, JWK, LJM, GK, JT

September 8, 2004

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Debbie Irvin, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812

Subject: Draft Staff Report on Periodic Review of the 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary

Dear Ms. Irvin:

The Contra Costa Water District (CCWD) appreciates the opportunity to provide comments to the State Water Resources Control Board (SWRCB) regarding the draft staff report on Periodic Review of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (1995 Plan). The draft report contains the SWRCB staff recommendations regarding 16 major issues, as framed by the SWRCB staff, based on scoping comments received from stakeholders. The draft report also recommends a multi-day schedule for a public workshop, starting on October 12, to address these issues. The draft report recommends that certain other issues not be reviewed at this time. After the workshop, the SWRCB staff proposes to prepare plan amendments or a revised plan, including appropriate environmental documentation.

The SWRCB staff is to be commended for all the careful work that went into developing the detailed staff report. CCWD provides the following comments on the draft staff report and associated documents for the SWRCB's consideration. CCWD's key interest is to ensure that the SWRCB's Periodic Review process results in improved protection of source water quality for the 480,000 people who rely on CCWD for their drinking water supplies. Improved source water quality would also protect the health of the other 23 million Californians who depend on the Delta as a source of drinking water.

The Most Current Version of 1995 Plan should be Reviewed

The water quality objectives in the 1995 Plan, in particular numerous footnotes, were modified and updated when they were incorporated, five years later, into the March 2000 Water Rights Decision 1641. Tables 1-3 in the staff report should incorporate the relevant language from the D-1641 version of these water quality objective tables.

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The Resolution should Acknowledge Anti-Degradation Policies

CCWD requests that the SWRCB include an additional recital in the draft resolution, after the third recital, which acknowledges – as does the staff report – that any changes to the 1995 Plan will be pursuant to State and Federal anti-degradation policies. Suggested language:

4. The SWRCB will analyze changes to its 1995 Plan pursuant to its non-degradation policy set forth in SWRCB Resolution No. 68-16 and pursuant to the federal anti-degradation policy (40 CFR § 131.12).

The Board should limit the review pertinent to Issue 1 to maintaining or improving water quality for municipal and industrial beneficial uses

As noted on page 10 of the staff report, some of the commenters on the M&I water quality objectives in the 1995 Plan requested relaxation of water quality objectives or changes in the compliance locations. The California Department of Water Resources (DWR) in particular has asked that the SWRCB to consider eliminating the 150 mg/L chloride objective¹.

While the 150 mg/l standard was originally designed to protect industrial purposes, this “pulp water” standard remains, unfortunately, the M&I standard that is most protective of drinking water quality. Eliminating the 150 mg/l standard that has been in place since 1978 would thus be (1) contrary to the non-degradation policies set forth in SWRCB Resolution 68-16, and the anti-degradation requirements of the Clean Water Act, as set forth in 40 CFR 131.12, (2) contrary to the anti-degradation rationale of the “functionally equivalent” provisions of the California Environmental Quality Act, and (3) contrary to the spirit and letter of legislation protecting the area of origin, particularly the Delta Protection Act and the Watershed of Origin codified in the state Central Valley Project Act. Perhaps more importantly, such relaxation would violate Public Law 99-546, which mandates that the Rock Slough standards (including the 150 mg/l standard) must remain in effect and be met at CCWD’s intake.

Such relaxation would also be a huge setback to, if not negate, the CALFED effort to *improve* Delta water quality.

As the SWRCB discussed in the 1991 Water Quality Control Plan for Salinity (91-15WR), the current 150 mg/l chloride objective provides ancillary protection to municipal and industrial uses. This ancillary protection has taken on even greater importance, for regulations of disinfection by-products have become more stringent since 1991. The Delta M&I workgroup, convened by the SWRCB as part of the development of the 1991 Plan, recommended a 0.150

¹ DWR’s comment is one that seems to fall into the category set forth on page 9 of the draft staff report that should have been raised in a petition for reconsideration of D-1641, particularly since the trial court decision upholding D-1641 is now on appeal.

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mg/L bromide concentration goal (equivalent to about 50 mg/L chloride) to ensure drinking water providers could meet the U.S. Environmental Protection Agency's drinking water regulations for total trihalomethane (THM), a disinfection by-product (DBP). In the 1991 Plan, the SWRCB stated (page 5-5):

Due to the concerns with DBPs in treated water from the Delta and in keeping with the goal (not objective) of obtaining the best available drinking water, the Board finds that, wherever feasible, municipal water supply agencies should strive to obtain bromide levels of 0.15 mg/l or less (about 50 mg/L chloride in the Delta).

In the 1991 Plan, the SWRCB also stated that: "while THMs are the DBP of current concern, further studies may indicate that other DBPs are of greater concern." This has indeed proven to be the case. The U.S. Environmental Protection Agency's Disinfectants/Disinfection By-Products Rule, which was promulgated in 1998, established Maximum Contaminant Levels for bromate, haloacetic acid and chlorite in addition to further restricting total trihalomethanes. Findings by expert panels convened by the California Urban Water Agencies and the CALFED Bay-Delta Program led CALFED to adopt the following drinking water goal in its August 2000 Record of Decision (page 65):

CALFED Agencies' target for providing safe, reliable, and affordable drinking water in a cost-effective way, is to achieve either: (a) average concentrations at Clifton Court Forebay and other southern and central Delta drinking water intakes of 50 µg/L bromide [0.050 mg/l bromide] and 3.0 mg/L total organic carbon, or (b) an equivalent level of public health protection using a cost-effective combination of alternative source waters, source control and treatment technologies."

CALFED's 0.050 mg/L bromide concentration level (equivalent to about 20 mg/L chlorides) is based on drinking water agencies' need to meet drinking water regulations for THMs and bromate, the latter being a DBP produced when water containing bromide is disinfected using ozone.

For the reasons discussed above, CCWD requests that the SWRCB limit its review of the municipal and industrial objectives to possible measures to improve source water quality and eliminate from consideration any change to those objectives that would result in or allow degradation of drinking water quality in the Delta.

The Staff Report does not correctly reflect the intent of CCWD's comments regarding a Narrative Target for Drinking Water Protection

CCWD's use of the term "objective" in its December 24, 2003 letter to the SWRCB appears to have created some confusion. CCWD's intent was that the SWRCB should consider options for adopting the CALFED drinking water quality goal as a narrative objective or as a target or goal. One option would be similar to the SWRCB's consideration of the 0.150 mg/L bromide goal in the 1991 Plan, and along the same lines as the salmon protection narrative objective in the 1995

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Plan. Another option would be as an enforceable objective, and a third would be a goal along with an enforceable objective that helps meet the goal.

The draft staff report also failed to note that CCWD's proposal recognized the CALFED goal of a specific bromide and total organic carbon targets or an equivalent level of public health protection using a cost-effective combination of alternative source waters, source control and treatment technologies, consistent with the CALFED drinking water quality goal. Consideration should be given for a narrative goal and enforceable objectives that adequately protect drinking water quality.

The Staff Report does not correctly reflect CCWD's comments regarding the X2 Standard

CCWD requests that the discussion of CCWD's comments on page 40 of the draft staff report (under Issue 9: Delta Outflow) be clarified in the final report. In its December 24, 2003 letter, CCWD noted that other parties may ask for modification of the X2 standard but cautioned that any modifications should be made only if there is no adverse impact on drinking water quality. CCWD did not specifically request or support modification of X2, but simply suggested that if modification were made, some of the water gained by relaxing the objectives should be applied to a "Water Quality Account" to be used later, for example in the fall, to improve Delta water quality.

CCWD suggests that the description of CCWD's comments at the top of page 40 be changed to:

CCWD comments that any modifications to Delta outflow objectives must be done in the context of protecting drinking water beneficial uses. CCWD further noted that water quality could be protected while allowing more flexibility in the Delta outflow objectives could be made more flexible if the water gained by relaxing the objectives

Mailing List

CCWD requests that CCWD be added to the Bay-Delta Service List that was attached to the SWRCB's transmittal letter for the draft staff report. Please add the following:

Richard A. Denton
Water Resources Manager
Contra Costa Water District
1331 Concord Avenue
P.O. Box H2O
Concord, CA 94524-2099
Tel: (925) 688-8187

CCWD has additional editorial comments on the staff report and associated documents that are set forth in the attachment to this letter.

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CCWD looks forward to working with the SWRCB to review and update the 1995 Plan. Should you have any question about these comments, please contact me at (925) 688-8100.

Sincerely,



Gregory Gartrell
Assistant General Manager

Attachment: Additional CCWD Comments on the Draft Staff Report and Associated Documents

GG/RAD:bm

cc: Chester V. Bowling (USBR)
Alf Brandt (DOI)
Cathy Crothers (DWR)
Ken Landau (CVRWQCB)

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Attachment A

Additional CCWD Comments on the Draft Staff Report and Associated Documents

Page 18, Table 3, Delta Cross Channel Gate Closure, Footnote 26

Decision 1641 requires that for the November-January period, the Delta Cross Channel gates be closed for a total of up to 45 days for fisheries protection. The 1995 Plan had similar language, i.e., "up to a total of 45 days." Footnote 26 in the draft staff report has inadvertently dropped the "up to."

If fisheries conditions are good, the gates do not need to be, and are not required to be, closed for the full 45 days. The existing footnote also does not make clear that the total includes closures for both flood control purposes (e.g., when the Sacramento flow at Walnut Grove exceeds 25,000 cubic feet per second) and fisheries protection.

Note also that the 1995 Plan stated that timing of the gate closure will be determined by the operations group established under the Framework Agreement. D-1641 updated that language (footnote 22) to state:

"The USBR will determine the timing and duration of the gate closure after consultation with the USFWS, the NMFS and the DFG. Consultation with the CALFED Operations Group established under the Framework Agreement will satisfy the consultation requirement."

Page 26 (bottom of page), Trihalomethanes and other disinfection by-products

The draft staff report notes that in the 1991 Plan, the SWRCB "reviewed potential new objectives for trihalomethanes and other disinfection by-products (including bromides)." This sentence should be rewritten to distinguish between disinfection by-product precursors (e.g., bromide and total organic carbon), potential new source water targets, e.g., bromide, and the disinfection by-product bromate. Bromate is produced when water containing bromide is disinfected using ozone and was lesser known at the time of the 1991 Plan than trihalomethanes. The current U.S. Environmental Protection Agency regulation for bromate is 10 µg/L but this could be lowered to 5 µg/L in the future. Other DBPs of particular concern include haloacetic acids, haloacetonitriles and halopicrins (associated with chlorination), nitrosodimethylamine (NDMA), which is a byproduct of chlorination and chloramination, and chlorite and chlorate (associated with chlorine dioxide disinfection).

The staff report should also acknowledge that regulation of disinfection by-products in drinking water has become increasingly stringent making treatment more difficult and costly. When the 1995 Plan was adopted, the Total Trihalomethane Rule (promulgated in 1979) regulated disinfection by-products, and limited the sum of the four trihalomethanes to 100 µg/l. In 1998, the Stage 1 Disinfection/Disinfection Byproducts Rule was promulgated and established a

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Maximum Contaminant Level of 80 µg/l for total trihalomethanes, 60 µg/l for haloacetic acids, 10 µg/l for bromate, and 1 mg/l for chlorite. Further restrictions are being considered in U.S. Environmental Protection Agency's Stage 2 Disinfectants/Disinfection By-Products Rule, which was released in draft form in 2003 and expected to be final sometime in 2004.

Page 44, San Joaquin River flow objective

One factor affecting USBR's ability to meet the San Joaquin River flow objective is that the X2 requirements for Chipps Island are tied to a combination of Sacramento and San Joaquin River unimpaired runoff (Eight River Index) but the San Joaquin River often experiences drier conditions when the Sacramento River is experiencing wetter conditions. The staff discussion could note that one alternative might be to tie compliance to the San Joaquin Valley 60-20-20 water year hydrologic classification to more closely align compliance with the actual San Joaquin watershed supply.

Page 50, Delta Cross Channel closures

Decision 1641 requires that from November 1 through January 31, the gates be closed for a total of up to 45 days for fisheries protection. As discussed with respect to footnote 26 on page 18, "up to" appears to have been inadvertently dropped from the description of November-January gate closures.

Page 54, Comment #5

The UDWA comments regarding M&I water quality objectives also pertain to Issue #1, not just the Program of Implementation.

Page 59, Timeline

This timeline should also include a description of the 1991 Delta Plan for Salinity, which included acknowledgment of urban drinking water agencies' need for improved source water quality to meet existing and future disinfection byproduct regulations. CCWD also notes that the Timeline lists the 1978 Delta Plan but the 1995 Delta Plan is only mentioned indirectly with respect to Resolution 95-24.