



Cindy Messer  
Delta Plan Program Manager  
Delta Stewardship Council

Via email to: [recirculateddpeircomments@deltacouncil.ca.gov](mailto:recirculateddpeircomments@deltacouncil.ca.gov)

Comments on the RPEIR, water quality recommendations,  
and piecemealing under CEQA

The revised Delta Plan has some significant changes with respect to water quality. The revised Delta Plan introduces five new recommendations:

WQ R1 (Protect Beneficial Uses) , WQ R2 (Identify Covered Action Impacts) ,WQ R3 (Special Water Quality Protections for the Delta), WQ R11 (Manage Dissolved Oxygen in Stockton Ship Channel) and WQ R12 (Manage Dissolved Oxygen in Suisun Marsh).

The RPEIR attempts to make the “no action alternative” for these new recommendations to be the adoption of the 5<sup>th</sup> draft Delta Plan.

As discussed in our comments for the 5<sup>th</sup> draft Delta Plan PEIR, here incorporated by reference, the “no action alternative” for the adoption of the water quality recommendations in the Delta Plan should be the continuation of the existing state water quality policies under the 2000 CALFED Record of Decision.

In the revised Delta Plan, WQ R1 (Protect Beneficial Uses) recommends that Delta water quality be maintained to support, enhance, and protect beneficial uses identified by the SWRCB and regional water quality control boards.

This recommendation is much weaker than the explicit goal in the 2000 CALFED ROD of “improving or maintaining water quality in the Delta.” The state appears to have no other explicit anti-degradation policy for the Delta. Turning this policy into an optional

“recommendation” could have very significant and foreseeable environmental effects, and these potential effects and required mitigation need to be addressed in the RPEIR.

The new water quality recommendations by the Delta Stewardship Council are also far less specific and detailed than the water quality actions which were begun under the CALFED program. These actions were defined in the California Environmental Quality Act Requirements<sup>1</sup>, and included the following:

- Pesticides - Reduce the impacts of pesticides through (1) development and implementation of BMPs, for both urban and agricultural uses; and (2) support of pesticide studies for regulatory agencies, while providing education and assistance in implementation of control strategies for the regulated pesticide users.
- Organochlorine pesticides - Reduce the load of organochlorine pesticides in the system By reducing runoff and erosion from agricultural lands through BMPs.
- Trace metals - Reduce the impacts of trace metals, such as copper, cadmium, and zinc, in upper watershed areas near abandoned mine sites. Reduce the impacts of copper through urban storm water programs and agricultural BMPs.
- Mercury - Reduce mercury levels in rivers and the estuary by source control at inactive and abandoned mine sites.
- Selenium - Reduce selenium impacts through reduction of loads at their sources and through appropriate land fallowing and land retirement programs.
- Salinity - Reduce salt sources in urban and industrial wastewater to protect drinking and agricultural water supplies, and facilitate development of successful water recycling, source water blending, and groundwater storage programs. Salinity in the Delta will be controlled both by limiting salt loadings from its tributaries, and through managing seawater intrusion by such means as using storage capability to maintain Delta outflow and to adjust timing of outflow, and by export management.
- Turbidity and sedimentation - Reduce turbidity and sedimentation, which adversely affect several areas in the Bay Delta and its tributaries.
- Low dissolved oxygen - Reduce the impairment of rivers and the estuary from substances that exert excessive demand on dissolved oxygen.
- Toxicity of unknown origin - Through research and monitoring, identify parameters of concern in the water and sediment and implement actions to reduce their impacts to aquatic resources.

Since the revised Delta Plan now includes many recommendations with respect to the Delta watersheds, there seems to be little justification for turning these explicit goals, which were

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<sup>1</sup> CALFED Record of Decision, attachment 1, California Environmental Quality Act Requirements, CEQA Findings of Fact, p. 6

developed, funded, and studied over the previous decade, into a set of optional recommendations with no associated performance metrics.

To the extent that contaminants and eutrophication in the Delta are major stressors in the ecosystem, this lack of explicit water quality performance metrics also violates the legislative mandate of the Delta Reform Act for quantitative measurements of the health of the estuary:

85211. The Delta Plan shall include performance measurements that will enable the council to track progress in meeting the objectives of the Delta Plan. The performance measurements shall include, but need not be limited to, quantitative or otherwise measurable assessments of the status of

(a) The health of the Delta's estuary and wetland ecosystem for supporting viable populations of aquatic and terrestrial species, habitats, and processes, including viable populations of Delta fisheries and other aquatic organisms.

The omission of clear policies and metrics also allows piecemealing of consideration of water quality impacts of new conveyance on the Delta. Any new conveyance that diverts Sacramento River water that currently flows into the estuary will likely increase the problems with contaminants and eutrophication.

Degradation of water quality continues to be one of the major foreseeable adverse impacts of the proposed BDCP project. But the Delta Plan only has an optional recommendation to even analyze water quality impacts:

WQ R2 ...recommends that covered actions identify any significant impacts to water quality.

WQ R1 and R2 are considerably weaker than the existing state water quality policies in the Delta. At a minimum, the Delta Stewardship Council needs to change these recommendations to mandatory policies for all projects in the Delta.

In addition, to avoid piecemealing of consideration of major water quality impacts of the change in policies and of required mitigation measures, the RPEIR needs to consider the new water quality policies and recommendations as an extension of the 5<sup>th</sup> draft Delta Plan, not as a completely new project. The new water quality recommendations should then be compared to the existing state water quality policies.

While the RPEIR states that currently funded projects are considered as the baseline under CEQA 15125(a), the Delta Stewardship Council is not proposing to fund or supervise projects in the Delta Plan. The Delta Plan is primarily a policy document. Therefore the baseline for the Delta Plan under CEQA 15125(a) should be the existing state policies.

The state's commitment in CALFED to maintain or improve water quality in the Delta was an integral part of the mitigation under CEQA for increased Delta exports, and part of the state's agreement to comply with anti-degradation policies in the Clean Water Act. Later opposition by export water agencies to fund projects to improve water quality in the Delta should not be an excuse for the state, or the Delta Stewardship Council as an agency of the state, to abandon that commitment.

Sincerely,

Deirdre Des Jardins

California Water Research