

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
July 13, 2011

PROPOSED REDLINED REVISIONS TO
FOURTH DRAFT OF DELTA PLAN

PAGE 5, Line 14-20 [BDCP/SWRCB flows]

- The Delta Plan additionally calls for ~~prioritizing~~ the development and implementation of water flow ~~requirements objectives~~ for the Delta. ~~Until a~~ Updated flow ~~criteria~~ requirements will be ~~are~~ established and implemented by the SWRCB under its water quality and water rights authorities ~~to protect the Delta ecosystem, it is impossible to determine reliable levels of urban and agricultural water supplies available from the Delta. Separately, the BDCP is required to analyze various flow criteria and operational scenarios. The results of these processes are closely interrelated; SWRCB's determination of appropriate flow requirements will depend on the BDCP alternative eventually selected, and the ability of that alternative to meet the coequal goals will be influenced by SWRB adopted flows. Therefore, both the adoption of a BDCP alternative and of SWRCB flow requirements should be coordinated and expeditiously completed on a compatible timeline~~ Once flow objectives are set, conveyance alternatives should be considered that minimize reverse flows and reduce risk to water supplies posed by sea level rise and seismic threat. The Delta Plan also identifies water storage as a key element of adding flexibility and reliability to the Delta system.

PAGE 48, LINE 12-22 [BDCP element consistency]

Incorporation of the Bay Delta Conservation Plan into the Delta Plan

The Bay Delta Conservation Plan (BDCP) is a major project considering large-scale improvements in water conveyance and large-scale ecosystem restorations in the Delta. When completed, it must be incorporated into the Delta Plan if it meets certain statutory requirements. If the BDCP is incorporated into the Delta Plan, it becomes part of the Delta Plan and therefore part of the basis for future consistency determinations.

After BDCP's incorporation, an agency proposing an ~~covered~~ action that is included in the BDCP or qualifies for credit under the BDCP may determine that it is a covered action and must file a consistency certification. That certification finding must find only that the covered action is consistent with the BDCP, not with other parts of the Delta Plan. The Council retains the authority upon appeal to find the covered action inconsistent with BDCP and therefore the Delta Plan.

PAGE 62, PAGE 31—PAGE 64, PAGE 29 [Water management regulatory policies]

Policies

The following policies (WR P1, WR P2, and WR P3) can apply as regulatory policies only for the purposes of the consistency review process and where the following conditions are met:

A. where a public agency that initiated the consistency review process approves, funds, or carries out a covered action; and if either B. or C. Where it does, that covered action is inconsistent with the Delta Plan if, and only if, one or both of the following applies:

B.A. The covered action involves the export of water from the Delta or involves the transfer of water through the Delta, and an appeal is filed alleging the need for that covered action is ~~significantly~~ caused by the

significant failure of ~~one or more water suppliers~~ the certifying entity to comply with policies WR P1, WR P2, and/or WR P3.

CB. The covered action involves the use of water in the Delta, and an appeal is filed alleging the need for that covered action is significantly caused by the significant failure of the certifying entity ~~one or more water suppliers~~ to comply with policies WR P1, WR P2, and WR P3.

If these conditions are met, the Council may consider an argument by the appealing party that the consistency determination's finding is incorrect because of a failure to meet these policies. Where, however, in all other situations neither A nor B applies, the following (WR P1, WR P2, and WR P3) are only recommendations.

WR P1 Water suppliers ~~should~~ shall demonstrate compliance with existing State laws promoting water supply planning, conservation, and efficiency measures:

φ Urban water suppliers

- Adopt and implement an Urban Water Management Plan and all required elements and measures, meeting the standards and timelines established in Water Code section 10610 3 et. seq.
- Adopt and implement a plan to achieve 20 percent reduction in urban per capita water use by December 31, 2020, meeting the standards and timelines established in Water Code section 10608 et. seq. 7

◆ Agricultural water suppliers

- Adopt and implement Agricultural Efficient Water Management Practices including measurement of the volume of water delivered to customers, adoption of a pricing structure based in part on the quantity delivered, and implementation of specific conservation measures that are locally cost effective and technically feasible, meeting the standards and timelines established in Water Code section 10900 et. seq.
- Adopt and implement an Agricultural Water Management Plan and all required elements, meeting the standards and timelines established in Water Code section 10900 15 et. seq.

WR P2 To promote accountability throughout the state in achieving the coequal goals, water suppliers ~~should~~ shall, no later than December 31, 2015, expand an existing or add a new Water Reliability Element in their Urban Water Management Plan and/or Agricultural Water Management Plan. Water suppliers may also meet this requirement by including a Water Reliability Element in an approved Integrated Regional Water Management Plan or other water plan that provides equivalent information.

The Water Reliability Element ~~should~~ shall detail how water suppliers are sustaining and improving regional self-reliance and reducing reliance dependence on the Delta in meeting future water supply needs through investments in local and regional programs and projects and ~~should~~ shall document the manner in which the element contributes to actual or projected net reduction in reliance on the Delta in meeting California's future water supply needs ~~exports~~. At a minimum, the Water Reliability Element ~~should~~ shall include:

◆ **A plan for possible interruption of Delta water supply:** Identify how reliable water service will be provided for a minimum periods of 6 months, 18 months, and 36 months in the event that diversions or exports from, or use of water in, the Delta are interrupted during an average water year, dry water year, and following three dry water years.

φ **Implementation of planned investments in water conservation, water efficiency, and water supply development:** Identify specific programs and projects that will be implemented over a 20-year planning period and how they are consistent with the coequal goals and will contribute to improved regional self-reliance and reduced reliance on the Delta in meeting future water supply needs, including, but not limited to, the following strategies:

- Water conservation
- Water use efficiency
- Local groundwater and surface storage
- Conjunctive use programs
- Water transfers
- Water recycling
- Use of currently non-potable groundwater
- Storm water capture and recharge
- Saline water and brackish water desalination

◆ **Evaluation of regional water balance:** Provide an assessment of the long-term sustainability of the water supplies available to meet projected demands within the supplier’s hydrologic region, as defined by the 2009 California Water Plan Update, over the 20-year planning period. If the region’s demand exceeds available supplies, identify the steps being taken through the Integrated Regional Water Management Plan to bring the region into long-term balance. If the region’s demand exceeds available supplies and it does not have an Integrated Regional Water Management Plan or the Plan does not address the steps being taken to bring the region into balance, then describe how the supplier’s programs and projects are helping to bring the region into balance.

◆ **Conservation-oriented water rate structure:** Evaluate the degree to which the supplier’s current rate structure sustainably encourages and supports water conservation.

WR P3 Water suppliers ~~should~~shall, by December 31, 2020, develop and implement a conservation-oriented rate structure, which may include consideration of a water-budget-based rate structure that sustainably encourages and supports more efficient water use without causing a shortfall in system revenues.

PAGE 66, LINE 8-14 [SWRCB flow requirements]

Problem Statement

~~Until the SWRCB updates and adopts water quality objectives and flow requirements objectives for the Delta, and high priority tributaries in the Delta watershed necessary to achieve the coequal goals, every Proposed actions that potentially increases the amount of water diverted from or moved through the Delta will be affected by SWRCB’s flow requirements is vulnerable to legal challenge over the question of whether sufficient flows are available to protect and restore the environment.~~ The completion and implementation of the Delta water flow requirements, in coordination and conjunction with the BDCP, objectives is urgently needed to improve reliability of the State’s water supplies.

PAGE 88, LINE 7—PAGE 89, LINE 7 [SWRCB flow requirements]

Policies

ER P1 Prior to the establishment of revised flow ~~requirements eriteria~~and water quality objectives identified in ER R1, the existing Bay-Delta Water Quality Control Plan objectives shall be used to determine consistency with the Delta Plan.

◆ By June 30, 2013, the Council will request an update from the State Water Resources Control Board on items ER R1 (a) and (b). If the Board indicates the dates in items (a) or 12 (b) cannot be met by the dates provided, the Council will consider and may amend the Delta Plan if necessary to achieve progress on the coequal goals ~~in place of the updated flow objectives~~. For example, the Council could:

1. In an appeal of a consistency certification, consider an argument by the appealing party Determine that a covered action that would increase the capacity of any water system to store, divert, move, or export water from or through the Delta would not be consistent with the Delta Plan because until the revised existing flow objectives are inadequateimplemented.
2. Recommend that the State Water Resources Control Board cease issuing water rights permits in the Delta and the Delta watershed (or, if the absence of flow criteria is specific to one or more of the major tributaries, then the recommendation could be focused on the impacted areas).

Recommendations

ER R1 The State Water Resources Control Board should update the Bay-Delta Water Quality Control Plan objectives and ~~establish~~ flows as follows:

- ◆ By June 2, 2014, adopt and implement updated flow requirements and water quality objectives for the Delta that are necessary to achieve the coequal goals.
- ◆ By June 2, 2018, develop flow criteria for high priority tributaries in the Delta watershed that are necessary to achieve the coequal goals.

PAGE 91, LINE 7-20 [protect restoration opportunities]

Problem Statement

Landscape attributes, particularly elevation and other environmental conditions, have changed dramatically in the Delta and the Suisun Marsh over the last 160 years. The resultant reduction in the extent, quality, and diversity of habitats supporting native species has led to declines in populations of native resident and migratory species.

Policies

ER P2 Habitat ecosystem restoration actions shall be consistent with the habitat type locations shown on the elevation map in Figure 5-3, and accompanying text shown in Appendix D, based on the *Ecosystem Restoration Program's Conservation Strategy for Stage 2 Implementation for the Sacramento-San Joaquin Delta Ecological Management Zone* (DFG et al. 2010), with minor alterations.

The Council may amend the Delta Plan to incorporate revised figures and text from the Ecosystem Restoration Program's Conservation Strategy as the strategy is revised.

ER P3 Actions other than habitat restoration, including new or amended local or regional land use plans, shall demonstrate that they have avoided or substantially minimized the adverse impacts to the opportunity for habitat restoration at the elevations shown in Figure 5-3.

ER P4 State and local agencies constructing new levees, or substantially rehabilitating or reconstructing existing levees in the Delta shall evaluate and, where feasible, incorporate alternatives (including use of setback levees) that would increase the extent of floodplain and riparian habitats and avoid or substantially minimize the adverse impacts to the opportunity for habitat restoration.

PAGE 5, Line 14-20 [BDCP/SWRCB flows]

- The Delta Plan additionally calls for the development and implementation of water flow requirements for the Delta. Updated flow requirements will be established and implemented by the SWRCB under its water quality and water rights authorities. Separately, the BDCP is required to analyze various flow criteria and operational scenarios. The results of these processes are closely interrelated; SWRCB's determination of appropriate flow requirements will depend on the BDCP alternative eventually selected, and the ability of that alternative to meet the coequal goals will be influenced by SWRB adopted flows. Therefore, both the adoption of a BDCP alternative and of SWRCB flow requirements should be coordinated and expeditiously completed on a compatible timeline. The Delta Plan also identifies water storage as a key element of adding flexibility and reliability to the Delta system.

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After BDCP's incorporation, an agency proposing an action that is included in the BDCP or qualifies for credit under the BDCP may determine that it is a covered action and file a consistency certification. That certification will be required to find the covered action is consistent with the BDCP itself, not with the Delta Plan. The Council retains the authority upon appeal to find the covered action inconsistent with BDCP and therefore the Delta Plan.

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- A. A public agency that initiated the consistency process approves, funds, or carries out a covered action, and if either B. or C. applies.
- B. The covered action involves the export of water from the Delta or involves the transfer of water through the Delta, and an appeal is filed alleging the need for that covered action is caused by the significant failure of the certifying entity to comply with policies WR P1, WR P2, and/or WR P3.
- C. The covered action involves the use of water in the Delta, and an appeal is filed alleging the need for that covered action is caused by the significant failure of the certifying entity to comply with policies WR P1, WR P2, and WR P3.

If these conditions are met, the Council may consider an argument by the appealing party that the consistency determination's finding is incorrect because of a failure to meet these policies. However, in all other situations, the following (WR P1, WR P2, and WR P3) are only recommendations.

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PAGE 66, LINE 8-14 [SWRCB flow requirements]

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SWRCB updates and adopts water quality objectives and flow requirements for the Delta. Proposed actions that potentially increase the amount of water diverted from or moved through the Delta will be affected by SWRCB’s flow requirements. The completion and implementation of the Delta water flow requirements, in coordination and conjunction with the BDCP, is urgently needed to improve reliability of the State’s water supplies.

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1. In an appeal of a consistency certification, consider an argument by the appealing party that a covered action that would increase the capacity of any water system to store, divert, move, or export water from or through the Delta would not be consistent with the Delta Plan because existing flow objectives are inadequate.
2. Recommend that the State Water Resources Control Board cease issuing water rights permits in the Delta and the Delta watershed (or, if the absence of flow criteria is specific to one or more of the major tributaries, then the recommendation could be focused on the impacted areas).

Recommendations

ER R1 The State Water Resources Control Board should update the Bay-Delta Water Quality Control Plan objectives and flows as follows:

◆ By June 2, 2014, adopt and implement updated flow requirements and water quality objectives for the Delta that are necessary to achieve the coequal goals.

◆ By June 2, 2018, develop flow criteria for high priority tributaries in the Delta watershed that are necessary to achieve the coequal goals.

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ER P4 State and local agencies constructing new levees, or substantially rehabilitating or reconstructing existing levees in the Delta shall evaluate and, where feasible, incorporate alternatives (including use of setback levees) that would increase the extent of floodplain and riparian habitats and avoid or substantially minimize the adverse impacts to the opportunity for habitat restoration.