



THE LEAGUE OF WOMEN VOTERS OF CALIFORNIA

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

Dear Chairman Caffrey and members of the Board:

The League of Women Voters of California (LWVC) has been participating in the Bay-Delta Hearings since they began. We wish to respond to the questions posed in the various workshops held by the State Water Resources Control Board (SWRCB) regarding standards for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

April Workshop Questions

1. Which standards should the State Water Board focus on during this triennial review?

The League of Women Voters believes the Board should focus on implementing the proposed U.S. Environmental Protection Agency (USEPA) standards that were first put forth December 15, 1993 and are due to be finalized December 15, 1994. We believe the State should work cooperatively with EPA and the other responsible federal agencies to implement the standards, as we already have stated in our letter to EPA dated March 7, 1994. We are concerned with the State's past failure to protect the Bay-Delta Estuary and believe that this inaction contributed to the National Marine Fisheries Service (NMFS) listing of the winter-run Chinook salmon as "endangered" and the U.S. Fish and Wildlife Service (USFWS) listing of the Delta smelt as "threatened" and proposed listing of the Sacramento splittail as "threatened." We do not think these current hearings or the water rights phase that follows should delay moving forward on implementing the EPA proposed standards, even if this is only an interim action on the part of the Board.

2. What level of protection is required by the California Water Code and the Clean Water Act for protection of public trust uses in the Bay-Delta Estuary?

While the League generally is supportive of EPA's ecosystem-based approach which emphasizes protection of habitat to ensure survival of estuarine species rather than a species-by-species approach, we have some concerns that we previously expressed to USEPA and that we would like to see addressed in the final Bay-Delta standards:

- a) Protection of the tidal marshlands of Suisun Bay by development of a numerical standard since they are not protected by the Suisun March agreement;
- b) Establishment of a baseline historical period that will protect and restore healthy fish populations.

3. What are the principal environmental, water supply, and economic effects of USEPA's draft standards? Should these standards, or modified versions of these standards, be considered as alternatives in this review?

We believe the effects of USEPA'S draft standards can be mitigated by adopting several important principles in any Bay-Delta decision, two of these having first surfaced in the SWRCB draft D-1630:

- a). All water users should be called upon to protect the public trust resources of the Bay-Delta Estuary; sharing responsibility reduces the impact on all diverters - otherwise the burden falls almost entirely on the Central Valley Project (CVP) and the State Water Project (SWP);
- b) An environmental restoration fund should be established similar to the restoration fund created by the Central Valley Project Improvement Act (CVPIA), allowing the purchase of environmental water to help meet the standards; such a fund allows diverters who contribute to the fund to fulfill their public trust responsibilities and greatly reduce the economic impact on diverters who might be called upon to give up water or to alter the timing of their diversions;
- c) Conservation and reclamation should be maximized among all water users; LWVC supports the implementation of the Best Management Practices (BMPs) embodied in the urban MOU and urge the creation of a similar process in the agricultural sector.

In answer to the second question, LWVC believes the SWRCB should adopt the USEPA draft standards or modified versions of these standards. The key to any adopted standards is that they meet the requirements of the Clean Water Act and also that they lead to the protection and restoration of the Estuary over the long term. The Board should not be hesitant to adopt standards more stringent than USEPA's if that is necessary. LWVC supports the authority of state and regional water quality control boards to set standards that may be higher than minimum federal standards.

May Workshop Questions

1. What are the principal ESA issues the SWRCB should consider during this review?

As previously stated, LWVC believes that the best way to protect endangered species is for the SWRCB to set Bay-Delta standards and impose conditions on water right holders that will result in protection of the estuarine ecosystem's habitats.

We believe the emphasis on protection of the habitat during dry years, the changing of operations for the CVP and the SWP (e.g., closing the Delta cross channel during spring months, limitations on the time and amount of pumping during other months, addition of pulse flows during migrations, etc.) not only will help the recovery of species listed under the ESA but also will help prevent other species from being listed.

We support the maintenance of the salinity criteria of 2 parts per thousand (2 ppt) at all three locations cited by EPA, including the Roe Island location. We believe there is sufficient biological and hydrological evidence to support the Roe Island salinity standard as necessary for providing adequate aquatic habitat and for protecting the brackish marsh habitat. Furthermore, the standard should not be relaxed in dry years for more than two consecutive years. Relaxation in meeting standards should be linked to relaxation in meeting other water delivery obligations. This is important for protecting several fish species that depend on the delta for spawning, rearing, and migratory habitat.

We believe the SWRCB should rely on the conditions set forth in the biological opinions to protect these species but has an obligation to go beyond crisis management. We urge the Board to follow the EPA lead in setting standards that protect and restore the ecosystem over the long term.

2. What are the effects of diversions throughout the Bay-Delta Estuary on beneficial uses?

As we already have mentioned, we believe all Bay-Delta watershed diversions have adversely affected the fisheries of the Bay-Delta. We support an equitable means of sharing in the restoration of the fisheries, including contribution of project yield, changes in project operation such as timing of diversions, screening of all diversions along the Sacramento and San Joaquin Rivers to reduce entrainment of fish, conservation and reclamation efforts for both urban and agricultural agencies, and participation in environmental enhancement projects.

3. What methods should the SWRCB use to analyze the water supply and environmental effects of alternative standards?

The SWRCB should utilize the work of the CVP Programmatic Environmental Impact Assessment team now working on the CVPIA. Several analytical tools are being used, including the PROSIM model developed by the Bureau of Reclamation to simulate the operation of the CVP and the SWP under various conditions. What is important is the team approach of including representatives of both federal and state agencies to develop and use these analytical tools.

June Workshop Questions

1. What factors, excluding diversions, contribute to the decline of fish and wildlife resources in the Bay-Delta Estuary?

LWVC believes many factors may contribute to the decline of fish and wildlife resources in the Bay-Delta Estuary. However, we believe the loss or alteration of habitat is the primary cause of these declines. Habitat degradation, in turn, is directly influenced by both the amount and timing of diversions and by alteration or loss of fish spawning grounds within the watershed through the construction of dams and other onstream physical facilities.

We believe pollution can have an effect on fishery declines and we support high standards of water quality that are appropriate for the intended use for both point and non-point sources of pollution from urban and agricultural runoff. LWVC has been a consistent advocate of the state's antidegradation policy and supports the highest water quality standards that are feasible to obtain.

Introduced species also have altered the ecosystem, but as we have stated before, we believe the loss of habitat is the primary cause for fishery and wildlife declines. The Comprehensive Conservation

and Management Plan (CCMP) of the San Francisco Estuary Project addresses several causes of fishery and wildlife declines and actions to mitigate them. CCMP actions that particularly are pertinent are found under Program Areas for Aquatic Resources, Wildlife, Wetlands Management, Water Use, Pollution Prevention and Reduction, Dredging and Waterway Modification, and Land Use Management. The League supports the CCMP and urges the SWRCB and other appropriate state agencies to implement the CCMP recommendations as soon as it is feasible.

2. What modifications have the SWP and CVP made to their operations to protect endangered species and other species of concern?

LWVC believes both the California Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (BuRec) should adhere more stringently to National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Game (CFDG) recommendations for modification of their respective project operations to avoid exceeding the incidental take limit for winter-run Chinook salmon or for Delta smelt.

3. What effect do upstream water projects, other than the CVP and SWP, have on the fish and wildlife resources of the Bay-Delta Estuary?

As previously stated, LWVC believes that to the extent the other diverters have contributed to the decline of ESA-protected species, they should participate in recovery programs for these species in a manner that equitably assigns responsibility to various projects. Preventive actions within the watershed designed to preclude the listing of additional species also should include participation by other diverters, as appropriate.

4. What are the status and trends of biological resources in the Bay-Delta Estuary?

The League again recommends the CCMP of the San Francisco Estuary Project and work of the CVPIA Environment Assessment team now preparing the Programmatic Environmental Impact Statement (PEIS).

July Workshop Questions

1. What fish and wildlife standards should the SWRCB evaluate as alternatives in this review?

The League believes it is essential to any alternative evaluated as part of the SWRCB review that it meet Clean Water Standards. Therefore, any alternatives that are not likely to be approved by USEPA should not be pursued. As we have stated before, we support EPA's proposed salinity criteria at the three locations. We favor reoperation of the SWP and CVP and other diverters' projects to increase the amount and timing of flows to protect fish and wildlife. We believe the adverse effects these reoperations could have on diverters could be mitigated to a great extent through emphasis on non-structural management options. Such options should include conservation as a condition of use for both the urban and agricultural sectors and increased reclamation in both sectors. Other innovative options could include the development of conjunctive use projects where appropriate and the creation of an environmental restoration fund which could be used to help meet standards by purchasing water through voluntary water transfers.

2. How should the economic and social effects of alternative standards be determined?

Several studies on the economic effects of standards have been done over the period the SWRCB has been attempting to set new Bay-Delta standards. LWVC believes these economic analyses should include all impacts, including those on commercial and sport fisheries, avoided environmental costs, etc.

3. Should the SWRCB request the CVP and SWP to implement portions of the draft standards prior to adoption of a water rights decision?

Yes. LWVC supports the state and federal governments operating the CVP and the SWP to comply with finalized federal water quality standards once they are promulgated December 15, 1994. This compliance should remain in place until the SWRCB has issued final Bay-Delta standards that are acceptable to EPA, has completed the water rights phase, and has implementation of its own standards underway.

In conclusion, we urge the Board to exercise its authority in the spirit of the Racanelli decision and set standards that truly will protect and restore the Bay-Delta Estuary.

Thank you for the opportunity to comment during this phase of the Hearings. We will be happy to clarify any comments we have made and we will continue to participate in these important proceedings.

Sincerely,

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