

Interface of Policy and Science

The evolving dynamic between
prescriptive standards and flexible tools

Wayne White

U.S. Fish and Wildlife
Service

November 9, 2004



Objective:

- Highlight the differences between the projects' operations in the 1995 and the 2004 Biological Opinions for delta smelt
- Changes in approach and outcomes

Endangered Species Act Requirements

- Conserve threatened and endangered species
- Section 7- determine if Federal action jeopardizes listed species and authorize incidental take
- Cooperate with state and local agencies to resolve water resource issues

OCAP and the Evolution of the 1995 Biological Opinion

- Smelt listed in 1993
- Federal project needed section 7 biological opinion to authorize incidental take by the Projects; State joined in to receive authorization
- PA's unwilling to address in OCAP FWS' concern of indirect effects of pumping on smelt

1995 Biological Opinion Outcomes

- ESA requires minimizing incidental take
- No-jeopardy BO with terms and conditions that only minimized measured take at the pumps
- Only able to act when “yellow light” was reached
 - Reduce exports
 - Shift exports
- Very difficult process

ACCORD, SJRA/VAMP and CVPIA (b)(2)

- Mainly addressed salmonid issues yet did benefit smelt
- Delta smelt
 - Barrier at head of old river added to indirect effect concerns for smelt
 - Lacked real-time monitoring
 - Smelt distribution unknown until 20-mm

CALFED ROD: Protection and Recovery

- The Environmental Water Account was created to provide assets (water) for MA's to use for fish actions instead of forced regulatory actions- flexible approach
 - Augment streamflow & Delta outflow
 - Reduce export pumping

Environmental Water Account

- Implemented VAMP shoulders (pre- and post-) to protect delta smelt
- De-emphasized take limits
- Enabled use of real-time distribution to manage exports' indirect effects
- Exports return to baseline when surveys indicate that smelt have moved west

2004 OCAP Process

- A collaborative effort between USBR, DWR, USFWS, CDFG and NOAA Fisheries

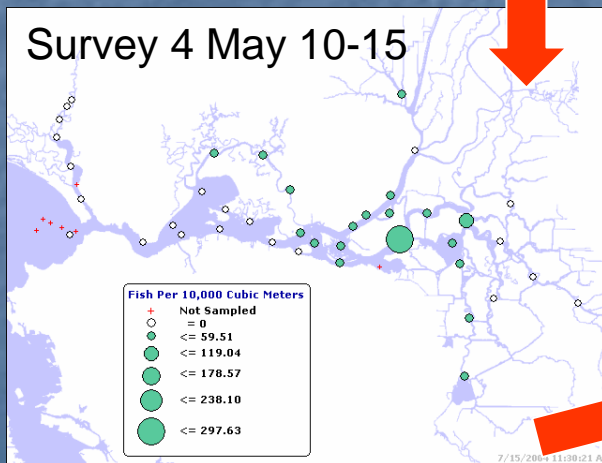
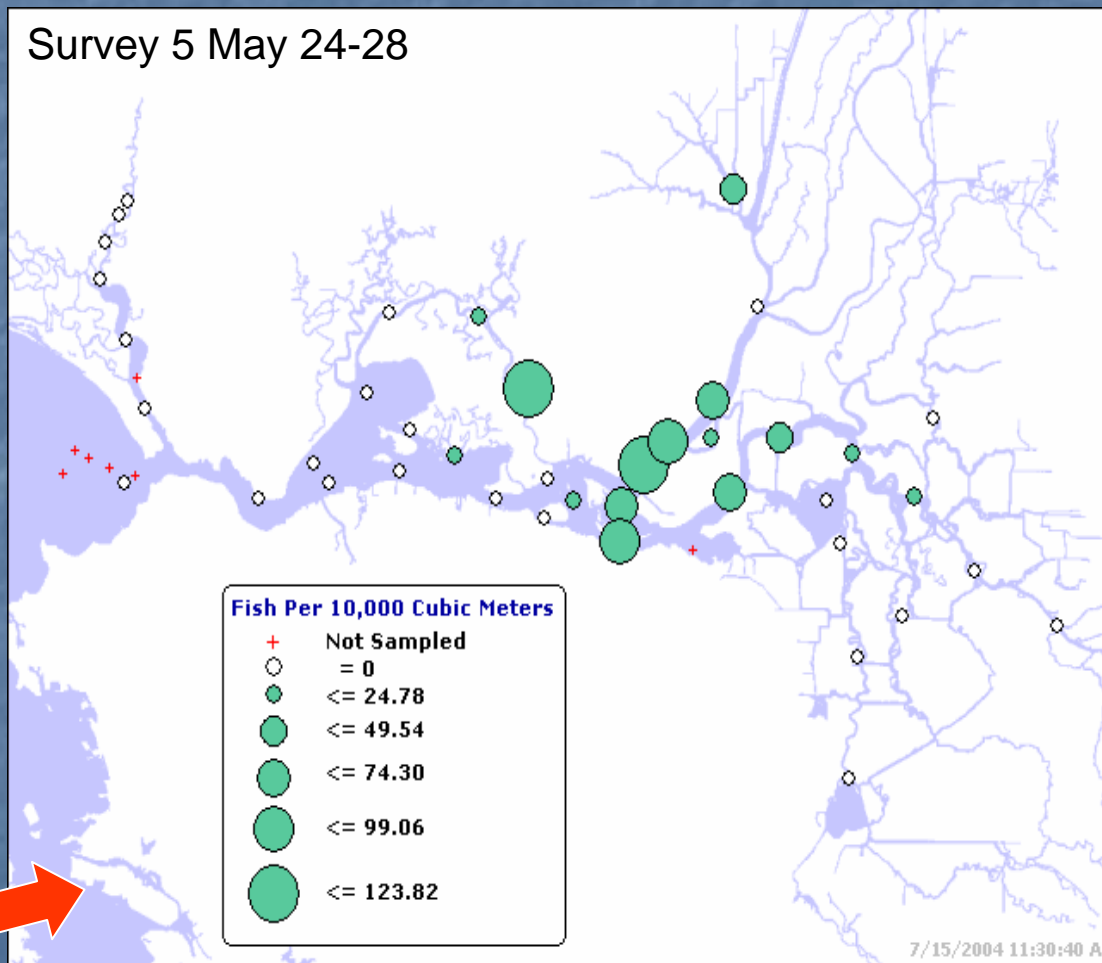
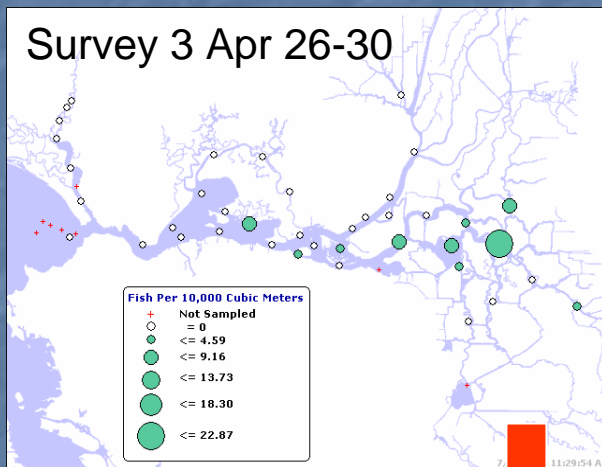
The New Decision Process

- Based on latest knowledge of smelt
- Updated and modified from the existing delta smelt decision tree
- Developed using an iterative, consensus process
- Codified flexible rather than prescriptive approach

Distribution of Delta Smelt, During and Post-VAMP, 2004

VAMP

Post-VAMP "Shoulder"



Old vs New Decision Process

- Criteria trigger meetings, not actions
- Actions taken proactively
- MA's and PA's working cooperatively
- A suite of potential tools
- Able to infuse new info/science
- Working Group meets prior to the DAT call
- Planning for independent peer review

Modifying the Decision Process

- The DSRAM can be changed without reinitiating on the entire OCAP delta smelt biological opinion
- The Delta Smelt Working Group can easily incorporate the latest science and monitoring outcomes into the DSRAM

Conclusion

- Needs of smelt better met
- Science integral to process
- Much better for water users south of delta
- Collaborative interface between water exports and fish protective actions