



California Fair Political Practices Commission

June 16, 1988

Warren J. Abbott
General Counsel
Metropolitan Water District
of Southern California
1111 Sunset Blvd.
Los Angeles, CA 90054

Re: Your Request for Advice
Our File No. A-88-164

Dear Mr. Abbott:

You have requested advice concerning the lobbying disclosure provisions of the Political Reform Act (the "Act").^{1/}

QUESTION

Is the Metropolitan Water District required to report as lobbying expenses the costs it incurs participating in the Bay-Delta hearings before the State Water Resources Control Board?

CONCLUSION

The Metropolitan Water District is required to report as lobbying expenses the costs it incurs participating in phases

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

I and II of the Bay-Delta hearings before the State Water Resources Control Board. Phases I and II of the hearings concern water quality control plans, which are quasi-legislative proceedings for purposes of the Act. Thus, attempting to influence the State Water Resources Control Board in connection with these proceedings is attempting to influence administrative action and must be reported as lobbying activity under the Act.

In contrast, phase III of the hearings concerns water rights decisions, which are quasi-judicial proceedings. Under the lobbying provisions of the Act, the Metropolitan Water District is not required to report its expenses in connection with attempting to influence quasi-judicial proceedings of state administrative agencies.

FACTS

The State Water Resources Control Board (the "SWRCB") is currently undertaking a three-year hearing process intended to assess the effects of water use and diversions from the Sacramento/San Joaquin watershed on beneficial uses of water in the San Francisco/Sacramento-San Joaquin Delta Estuary. The purpose of the hearings is twofold: (1) to develop water quality objectives for the estuary, and (2) to determine whether or how to modify rights of water rights holders who use and divert water from the Sacramento-San Joaquin system.

SWRCB has established a three-phase hearing process, which began in July 1987. In phase I, which was held from July to December 1987, the SWRCB received evidence on subjects related to reasonable levels of protection for the Bay-Delta Estuary. Phase I was conducted under the procedures for an adjudicative water rights hearing. The evidence received in phase I will be used in both phase II and phase III of the hearings.

Phase II, which is scheduled to commence July 1988, concerns review of a draft salinity control plan and pollutant policy document. The salinity control plan and pollutant policy document will be developed from evidence submitted in phase I. Phase II will be conducted as a quasi-legislative hearing.

Phase III is scheduled to commence April 1989, after adoption of a final salinity control plan. The SWRCB staff will issue for review a set of alternatives for implementing the objectives in the salinity control plan through a new water rights decision. Like phase I, phase III will be conducted under the procedures for an adjudicative water rights hearing.

Pursuant to a contract with the Department of Water Resources, Metropolitan Water District ("MWD") receives water diverted from the Sacramento-San Joaquin Delta. Thus, MWD has participated in phase I of the Bay-Delta hearings and plans to participate in phases II and III. You have informed us that, in an excess of caution, MWD has reported expenses incurred in these hearings on its lobbying reports.

ANALYSIS

The lobbying disclosure provisions of the Act (Sections 86100-86118) require lobbyists, lobbying firms and lobbyist employers to file quarterly reports of their expenditures and activities in connection with attempting to influence legislative or administrative action. As a lobbyist employer, MWD is required to file these reports. (Sections 82039.5, 86115 and 86116.)

In its lobbyist employer reports, MWD is required to disclose payments to lobbying firms, payments to lobbyists employed by MWD, gifts and other payments which benefit elected state officials, legislative officials or state agency officials or members of their immediate families, and campaign contributions to elected state officers or state candidates. (Section 86116 (b), (c), (f) and (g).) MWD also is required to disclose:

(h) The total of all other payments to influence legislative or administrative action including overhead expenses and all payments to employees who spend 10 percent or more of their compensated time in any one month in activities related to influencing legislative or administrative action.

Section 86116(h).

Your question is whether MWD's expenses in connection with the Bay-Delta hearings must be reported as payments to influence administrative action. "Administrative action" is defined in Section 82002, as follows:

"Administrative action" means the proposal, drafting, development, consideration, amendment, enactment or defeat by any state agency of any rule, regulation or other action in any rate-making proceeding or any quasi-legislative proceeding, which shall include any proceeding governed by Chapter 4.5 of Division 3 of Title 2 of the Government Code (beginning with Section 11371).

Thus, "administrative action" includes any quasi-legislative proceeding of a state agency. In contrast, adjudicatory proceedings of a state agency, such as proceedings involving a permit, license, grant or contract, are not considered "administrative action." (Regulation 18202, copy enclosed.) The SWRCB is a state agency (Section 82049), and has both quasi-legislative and adjudicatory powers. (See United States v. State Water Resources Control Bd. (1986) 182 Cal. App.3d 82.) Accordingly, we must decide whether the Bay-Delta hearings are quasi-legislative or quasi-judicial proceedings of the SWRCB.

In your letter, you note that the SWRCB has indicated that phases I and III of the Bay-Delta hearings will be held in accordance with the procedures for an adjudicative water rights decision. However, Phase II will be conducted as a quasi-legislative hearing. It is clear that the SWRCB did not purport to designate these proceedings as quasi-legislative or adjudicatory for purposes of the Act. Instead, it appears that the purpose of the adjudicatory and quasi-legislative designations was to inform interested persons of the applicable procedures for submitting evidence in connection with the hearings and the likely standard of review should any determinations of the SWRCB be challenged. Thus, we must examine the three phases of the Bay-Delta hearings to determine whether they are quasi-legislative or quasi-judicial for purposes of the Act.

When the Commission previously has considered whether a proceeding before a public agency is quasi-legislative or quasi-judicial, the Commission has based its conclusion on relevant case law. (See, In re Curiel (1983) 8 FPCC Ops. 1, 3-4; In re Evans (1978) 4 FPCC Ops. 84; In re Leonard (1976) 2 FPCC Ops. 54; In re Carson (1975) 1 FPCC Ops. 46.) With regard to decisions of the SWRCB, the courts have held that the SWRCB acts in a quasi-legislative capacity when establishing water quality objectives, but performs a quasi-judicial function in undertaking to allocate water rights. (United States v. State Water Resources Control Bd., supra at 112-113; Temescal Water Co. v. Dept. Public Works (1955) 44 Cal.2d 90, 100-106; Marina County Water Dist. v. State Water Resources Control Bd. (1984) 163 Cal. App.3d 132, 139.)

Applying the above determinations to the Bay-Delta hearings, we conclude phase II will be a quasi-legislative proceeding because it will concern water quality objectives, such as the salinity control plan and the pollutant policy. Phase III concerns water rights decisions, and thus is a quasi-judicial proceeding. However, in phase I, the SWRCB gathered evidence for use in determining both the water quality objectives and water rights. Thus, phase I was a proceeding in connection with both quasi-legislative and quasi-judicial decisions.

In In re Evans, supra, the Commission considered whether actions of the Public Utilities Commission which combined quasi-legislative and quasi-judicial proceedings should be treated as "administrative action" for purposes of the Act. The proceedings in question combined certificate decisions, which the Commission had determined were quasi-judicial, and an Order Instituting Investigation ("OII"), which the Commission had determined was quasi-legislative. The Commission stated:

Once the two proceedings are combined, we believe that the entire combined proceeding should be considered to be administrative action. We reach this result because, as a practical matter, it will not be possible to isolate what expenses are attributable to attempting to influence that part of the proceeding which involves consideration of rules and rates and that part which involves the certificate. In all likelihood most information and testimony submitted to the PUC in connection with the combined proceedings will serve the dual purpose of attempting to influence the certificate decision and decisions concerning rules, regulations and rates that arise out of the OII aspect of the proceeding.

In re Evans, supra at 94.

In phase I of the Bay-Delta hearings, the SWRCB gathered evidence for use in both the quasi-legislative water quality plans and the quasi-judicial water rights decisions. Based on the Commission's reasoning in the Evans opinion, we conclude that phase I of the Bay-Delta hearings should be considered administrative action.

Thus, we conclude that phases I and II of the Bay-Delta hearings are administrative action for purposes of the Act. Accordingly, MWD is required to report on its lobbyist employer reports the expenses incurred in connection with influencing decisions of the SWRCB in phases I and II.

In your letter you assert that MWD should not be required to report expenses incurred for administrative testimony during the Bay-Delta hearings, whether or not the proceedings are quasi-legislative or quasi-judicial. You note that Regulation 18239 (copy enclosed) provides that administrative testimony is excluded from the types of direct communication with agency officials which require one to register as a lobbyist. Therefore, you state that MWD also should not have to report expenses incurred for administrative testimony on its lobbyist employer reports.

Your letter accurately states that a person who engages in direct communication consisting only of administrative testimony will not qualify as a lobbyist. Regulation 18329(a) specifically excludes administrative testimony from the type of direct communication that requires a person to register as a lobbyist. However, the exception for administrative testimony exists solely for qualification as a lobbyist. After an MWD employee has qualified as a lobbyist, MWD becomes a lobbyist employer and must report all of its lobbying activities. (Sections 82039.5, 86115 and 86116.) In addition to reporting payments made to MWD lobbyists, MWD also must report "the total of all other payments to influence legislative or administrative action." (Section 86116(h).)

Section 82045 specifies various types of payments that are "payments to influence legislative or administrative action." Such payments include "compensation, payment or reimbursement for the services, time or expenses of an employee, for or in connection with direct communication with any elective state official, legislative official or agency official." (Section 82045(d).)

"Direct communication" is defined as follows:

(3) "Direct communication" means appearing as a witness before, talking to (either by telephone or in person), corresponding with, or answering questions or inquiries from, any qualifying official, either personally or through an agent who acts under one's direct supervision, control or direction. Direct communication does not include any request for or provision of purely technical data or analysis to an administrative agency by a person who does not otherwise engage in direct communication for the purpose of influencing legislative or administrative action.

Regulation 18239(d)(3)
(emphasis added.)

Neither Section 82045 nor Regulation 18239(d)(3) excludes payments for administrative testimony from the types of payments to influence legislative or administrative action that lobbyist employers are required to report. Accordingly, Section 86116(h) requires MWD to report on the lobbyist employer reports its payments to influence decisions of the SWRCB in Phases I and II of the Bay-Delta hearings, including payments in connection with administrative testimony.

Warren J. Abbott
June 16, 1988
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If you have any questions concerning this letter, please
contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel

Kathryn E. Donovan
By: Kathryn E. Donovan
Counsel, Legal Division

DMG:KED:ld

Enclosures



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

F P T
MAY 3 9 26 AM '88

Office of General Counsel

April 28, 1988

Ms. Diane Griffiths
General Counsel
Fair Political Practices Commission
1100 "K" Street
P. O. Box 807
Sacramento, California 95804-0807

Dear Ms. Griffiths:

Request for Advice Regarding
Lobbying Expense Reporting

This is a request for written advice pursuant to Government Code section 83114(b).

It is our belief that expenses incurred participating in each phase of the State Water Resources Control Board's (SWRCB) Bay-Delta hearing procedure, described below, are not "lobbying" expenses under the Political Reform Act (PRA) and Fair Political Practices Commission (FPPC) regulations promulgated thereunder. While we have, in an excess of caution, reported expenses incurred in these hearings, we would like your advice on this issue.

The Metropolitan Water District of Southern California is a multi-county district formed for the purpose of importing water to its six-county service area for municipal and industrial purposes. Metropolitan has a contract with the Department of Water Resources of the State of California (DWR) for the receipt of water developed by the State Water Project. The water delivered under this contract is diverted from the Sacramento-San Joaquin Delta into the California Aqueduct and eventually delivered to Metropolitan. DWR has also entered into similar contracts to supply water diverted from the Delta to state water contractors in the southern San Francisco Bay area, in Napa and Solano Counties, the Sacramento and San

Ms. Diane Griffiths

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April 28, 1988

Joaquin Valleys, in Central Coastal counties, and other areas of Southern California.

DWR diverts the water from the Sacramento-San Joaquin Delta pursuant to water rights permits issued by SWRCB. The Federal Central Valley Project also diverts water from the Sacramento-San Joaquin system under permits with SWRCB, and many hundreds of other water users also divert and use water in the Sacramento/San Joaquin watershed pursuant to permit or other water right.

SWRCB is currently undertaking a three-year hearing process intended to assess the effects of water use and diversions from the Sacramento/San Joaquin watershed on beneficial uses of water in the San Francisco Bay/Sacramento-San Joaquin Delta estuary in order to develop water quality objectives for the estuary and to determine whether or how to modify rights of water rights holders who use and divert water from the system. SWRCB has developed a "Workplan" for this process, a copy of which is enclosed.

A three-phase process has been established by SWRCB. In Phase I (which was held from July to December 1987) and Phase III (scheduled to commence in April 1989), the SWRCB will sit as the finder of fact in evidentiary hearings "conducted under the procedures for an adjudicative water right hearing." (Workplan, p. 29.) The purpose of Phase I was to develop a hearing record. No rule, order, determination, or other action was taken by SWRCB in Phase I. Phase III will result in a water right decision. (*Id.*, pp. 8 & 29.)

Elements of the Phases I and III hearings include "opening statements, direct [sworn] testimony, cross-examination, redirect and recross examination, if necessary, rebuttal, and closing argument or briefs." (Workplan, p. 31.) At the close of Phase I, the evidentiary hearing was continued until Phase III, during which additional evidentiary hearings will be held "for purposes of a water right decision." (*Id.*) This decision may condition or otherwise restrict the water rights of parties who use and divert water from the Sacramento-San Joaquin system, and may affect contractors such as Metropolitan that receive water diverted by DWR under its water right permits.

Phase II will be conducted "apart from Phases I and III", and SWRCB has identified it as a "quasi-legislative

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hearing." (Workplan, p. 8.) Phase II will result in a salinity control plan, setting forth flow and salinity objectives for the Bay-Delta estuary, and a pollutant policy document. A draft plan and pollutant policy document, based on the record compiled in Phase I, will be circulated for comment at the commencement of Phase II, and hearings will be held on the drafts. SWRCB will then issue its final water quality control plan and final pollutant policy document.

The issue raised by this request for advice is whether the costs of participation in each phase of the hearings are reportable as lobbying expenses. The types of costs incurred by Metropolitan in participating in the hearings are the salaries and travel expenses of legal and technical staff for attendance at and, in some instances, testimony at the hearings and for office work in preparation for the hearings; the cost of preparing and submitting evidentiary materials; and fees and expenses of expert witnesses retained to testify in the hearings and to aid in analysis of evidence and testimony of other parties. We do not believe that expenses such as these, incurred in an adjudicative-type hearing, are the type of expenses the voters contemplated would be considered "lobbying" expenses when passing the Political Reform Act.

It is our position that the Phases I and III evidentiary hearings, conducted according to SWRCB adjudicative water rights hearings procedures, are being held, in part, to develop evidence for use in preparation of a water right decision which may impact water right permits and other water rights. As such, they are excluded from the definition of quasi-legislative administrative action by 2 California Administrative Code section 18202(a)(1) and (2). This being so, expenses incurred for participation in Phases I and III of the SWRCB proceeding should not be reportable lobbying expenses.

Moreover, while Phase II has been designated a "quasi-legislative" proceeding by SWRCB (SWRCB did not, however, purport to so designate it for Political Reform Act purposes), we do not believe that the types of expenses incurred participating, or preparing to participate, in such on-the-record agency hearings meet the Political Reform Act definition of "payment to influence legislative or administrative action;" that is, "payment . . . for or in connection with direct communication with any elective state official, legislative official or agency official." (Gov. Code

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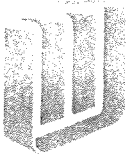
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If we can provide you with any further information regarding this question, please call Deputy General Counsel James F. Roberts at (213) 250-6316. We look forward to your early attention to this matter.

Very truly yours,


Warren J. Abbott
General Counsel

JFR:cwv
Encl.
LDCORRE2 #3710



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

MAY 3 9 26 AM '88

MEMPHIS, TENNESSEE

April 28, 1988

Ms. Diane Griffiths
General Counsel
Fair Political Practices Commission
1100 "K" Street
P. O. Box 807
Sacramento, California 95804-0807

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Elements of the Phases I and III hearings include "opening statements, direct [sworn] testimony, cross-examination, redirect and recross examination, if necessary, rebuttal, and closing argument or briefs." (Workplan, p. 31.) At the close of Phase I, the evidentiary hearing was continued until Phase III, during which additional evidentiary hearings will be held "for purposes of a water right decision." (Id.) This decision may condition or otherwise restrict the water rights of parties who use and divert water from the Sacramento-San Joaquin system, and may affect contractors such as Metropolitan that receive water diverted by DWR under its water right permits.

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Moreover, while Phase II has been designated a "quasi-legislative" proceeding by SWRCB (SWRCB did not, however, purport to so designate it for Political Reform Act purposes), we do not believe that the types of expenses incurred participating, or preparing to participate, in such on-the-record agency hearings meet the Political Reform Act definition of "payment to influence legislative or administrative action;" that is, "payment . . . for or in connection with direct communication with any elective state official, legislative official or agency official." (Gov. Code

Ms. Diane Griffiths


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April 28, 1988

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If we can provide you with any further information regarding this question, please call Deputy General Counsel James F. Roberts at (213) 250-6316. We look forward to your early attention to this matter.

Very truly yours,


Warren J. Abbott
General Counsel

JFR:cwv
Encl.
LDCORRE2 #3710



California Fair Political Practices Commission

May 4, 1988

Warren J. Abbott
Metropolitan Water District of
So. California
Box 54153
Los Angeles, CA 90054

Re: 88-164

Dear Mr. Abbott:

Your letter requesting advice under the Political Reform Act was received on May 3, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Kathryn Donovan, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

MAY 3 5 26 AM '88

Office of the General Counsel

April 28, 1988

Ms. Diane Griffiths
General Counsel
Fair Political Practices Commission
1100 "K" Street
P. O. Box 807
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Very truly yours,

Warren J. Abbott
Warren J. Abbott
General Counsel

JFR:cwv
Encl.
LDCORRE2 #3710



California Fair Political Practices Commission

June 2, 1988

William W. Abbott
Balfrey & Abbott
1801 I Street, Suite 200
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-88-156

Dear Mr. Abbott:

You have requested advice on behalf of Joe Marin about application of the conflict-of-interest provisions of the Political Reform Act (the "Act")^{1/} to his duties on the Sierra County Board of Supervisors.

QUESTION

May Mr. Marin participate in board decisions to certify the supplementary environmental impact report (EIR) for the Haypress Creek hydroelectric project and related decisions?

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

CONCLUSION

Based on the special facts you have provided, Mr. Marin may participate in a board decision to approve the supplemental EIR because the decision will not have a foreseeable material financial effect on his employer. We are not providing advice about related decisions, because you have not given us any information about the content or effects of the other decisions.

FACTS

Joe Marin is a member of the Board of Supervisors of Sierra County. He also is an employee of Sierra Pacific Industries (Sierra Pacific).

Sierra Pacific is a privately held corporation with net tangible assets of more than \$18,000,000. Its gross pre-tax income for the past fiscal year was more than \$2,500,000. Sierra Pacific owns the land on which Northwest Power, Inc. (Northwest Power) is building the Haypress Creek hydroelectric plant (Haypress project), an access road, and part of a power transmission line. On February 29, 1988, Sierra Pacific acquired the land when it acquired Santa Fe Pacific Timber Co. (Santa Fe).

Northwest Power already has obtained all required discretionary approvals from Sierra County for the Haypress project. When Northwest Power applied to the State Water Resources Board, however, for the final required approvals to build the Haypress project, its application was challenged. The case now is on appeal to the Court of Appeal.

In the meantime, Sierra County has assumed responsibility for developing and certifying the supplementary EIR for the Haypress project. Nevertheless, under state law the Water Resources Board has ultimate authority for certifying the supplementary EIR for the project.

As a result of Sierra Pacific's acquiring Santa Fe, Northwest Power now owes fees to Sierra Pacific for the use of Sierra Pacific property for the Haypress project. The following is a summary of the fee arrangements for use of Sierra Pacific property. These facts are derived from your letter of April 26, 1988. Please let us know immediately if our understanding of the facts is incorrect.

Northwest Power agreed to pay 50% of the costs of building an access road to the Haypress project on what now is Sierra Pacific land. Currently, Northwest Power owes Sierra Pacific less than \$35,000 for the cost of building the road. Northwest Power is expected to assume the costs for maintaining the road.

Northwest Power also has agreed to pay an annual fee, based on a timber site classification multiplier, for surface disturbance of about 22 acres of timberland on which Northwest Power will build power transmission lines. The highest possible fee for disturbing 22 acres would result in annual income of \$6,160 for Sierra Pacific.

The county assessor believes the value of the land underlying the hydroelectric project will not change after the project is built. If Northwest Power abandons the project, Northwest Power has agreed to remove all facilities and restore Sierra Pacific land nearly to its original condition. Furthermore, certification of the supplementary EIR will not affect the value of surrounding land because of restrictive timber zoning and because the project area is small in comparison to the size of the timber production area. Sierra Pacific will not be paying taxes for improvements to the property; Northwest Power has promised to pay those taxes.

ANALYSIS

Section 87100 prohibits a public official from making, participating in making, or in any way attempting to influence a governmental decision in which an official knows or has reason to know he has a financial interest. An official has a financial interest in a decision that will have a foreseeable and material financial effect, different from the effect on the general public, on a source of income of \$250 or more promised to or received by the official within 12 months before the decision. (Section 87103(c).)

Mr. Marin is a public official because of his position on the Board of Supervisors of Sierra County. (Section 82048.) Sierra Pacific, Mr. Marin's employer, is a source of income of \$250 or more to Mr. Marin. Soon the board of supervisors will be considering a decision to certify the supplementary EIR, which Northwest Power needs to finish its Haypress project. Sierra Pacific owns the property on which Northwest Power is building the hydroelectric plant, an access road, and part of a power transmission line. By means of several different contracts, Northwest Power owes Sierra Pacific money for using its property. Mr. Marin would be disqualified from participating in the EIR certification decision if the decision would have a foreseeable and material financial effect on Sierra Pacific.

To require disqualification, the effect of a decision must be foreseeable. An effect does not have to be certain to be foreseeable. However, if an effect were a mere possibility, it would not be foreseeable. (In re Thorner (1975) 1 FPPC Ops. 198, 206-207, copy enclosed.)

The effect of a decision also must be material. Regulation 18702.2 (copy enclosed) provides guidelines for determining whether the effect of a decision on a business entity will be material. Sierra Pacific has net tangible assets of at least \$18,000,000 and pre-tax income for the last fiscal year of at least \$2,500,000. Therefore, pursuant to Regulation 18702.2(f), the standards contained in Regulation 18702.2(d) apply. The decision is material if:

- (1) The decision will result in an increase or decrease in the gross revenues for a fiscal year of \$150,000 or more; or
- (2) The decision will result in the business entity incurring or avoiding additional expenses or reducing or eliminating existing expenses for a fiscal year in the amount of \$50,000 or more; or
- (3) The decision will result in an increase or decrease in the value of assets or liabilities of \$150,000 or more.

Regulation 18702.2(d).

The information in your letter shows that Northwest Power owes money to Sierra Pacific under various contracts for the use of Sierra Pacific land for the Haypress project. The next question is what kind of an effect the supplementary EIR decision will have on Sierra Pacific's financial status.

Based on the special facts you have provided and applying Regulation 18702.2(d) to those facts, it appears the certification decision will not have a material financial effect on Sierra Pacific. Even if the board of supervisors does not certify the supplementary EIR, the amounts Northwest Power owes Sierra Pacific under various contracts for using Sierra Pacific land for the Haypress project will not result in a foreseeable increase or decrease in gross revenues for a fiscal year of \$150,000 or more.

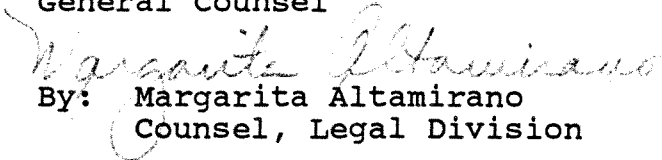
Based on the information provided in your letter, the value of property being used for the project and surrounding timberland will not increase or decrease as a result of the project. Sierra Pacific has no rights to the project; Northwest Power will remove all facilities if it abandons the project. Therefore, the decision will not result in a foreseeable increase or decrease in the value of assets or liabilities or gross revenues of \$150,000 or more, or in a foreseeable incurrence or elimination of expenses of \$50,000 or more. Consequently, Mr. Marin may participate in a decision to certify the supplementary EIR for the Haypress project.

William W. Abbott
June 2, 1988
Page 5

I hope this letter provides you with a satisfactory answer to your advice request. Please call me at (916) 322-5901 if you have any questions about this letter.

Sincerely,

Diane M. Griffiths
General Counsel


By: Margarita Altamirano
Counsel, Legal Division

DMG:MA:ld:Abbott

Enclosures

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April 26, 1988

If this box is checked,
please reply to Oakland
address.

Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804

Re: Request for Opinion - Government Code Section 83114

To Whom It May Concern:

As special counsel to the Board of Supervisors to the County of Sierra, I request an opinion regarding the facts and issue set forth below. This request is made on behalf of Supervisor Joe Marin.

NAME AND ADDRESS OF REQUESTING PARTY

Honorable Joe Marin
P.O. Box 750
Loyalton, CA 96118

QUESTION PRESENTED

May Supervisor Marin vote on the certification of the Haypress Creek Hydroelectric Projects EIR and related actions?

FACTS

Presently, Sierra County is preparing a supplemental EIR for a hydro-electric project. The applicant is Northwest Power, Inc. The property owner is Sierra Pacific Industries. Mr. Marin, a county supervisor, is an employee of Sierra Pacific Industries ("SPI"), which is a source of income to him of greater than \$250.00 within the 12 months prior to the time when this decision is to be made. Development of the hydro-electric facility will not have a direct impact on the income or assets of SPI.

However, due to the lease arrangement executed between NWP and SPI's predecessor in interest, there will be some economic impacts. The various transactions and agreements linking SPI & NWP are also set forth in the attached March 22, 1988 letter from R.L. Smith of SPI and the attached "Quitclaim Deed".

The following information should be of relevance to your analysis.

The proposed project encompasses 11 acres of private land (SPI), and 6.55 acres of United States Forrest Service permit land. According to the Sierra County Tax Assessor, the taxes on the private land are \$0.53/acre per year. The assessor believes that the value of the land itself underlying the project will not be changed by the proposed project. Approval of the hydro project will probably have no impact on the market value of surrounding land, due to the restrictive timber zoning and by virtue of the fact that the project area is relatively small compared to the size of the timber production parcels overall. The improvement will be taxed to NWP, not SPI.

NWP currently owes SPI for its proportionate share of completed road construction into the project. Though the amount is not fixed it does not exceed \$35,000.00 (letter attached). This claim arises from SPI's acquisition of the land, not from any current agreement. Yearly reimbursement in the future for road maintenance into the project site as per the "Quitclaim Deed" is estimated to be \$2,500.00 per year. Also, a worst case catastrophic damage repair cost of \$20,000.000 in one year is possible. The expectation is that NWP will itself perform any maintenance and repair work on the road.

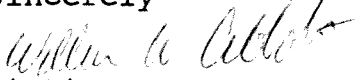
Planned power transmission lines will occupy a 60 foot wide corridor passing through three sections to the county line, of both private (SPI) and public (U.S.F.S.)land. This encompasses approximately 22 acres including public acreage.

Pursuant to the lease agreement, NWP will be obligated to reimburse SPI based on a formula tied to the amount of timberland disturbed. Based on an estimated disturbed area of 22 acres times the highest possible royalty, the result is projected to be in an annual income of \$6,160.00. Based upon the annual income requirements for disqualification, I believe that at least 500+ acres of Class 1 lands would have to be disturbed.

Fair Political Practices Commission
April 26, 1988
Page 3

On our review of the facts and relevant statutes, we believe that Mr. Marin is not disqualified from voting in this decision. However, Mr. Marin has requested that we also seek an opinion from the FPPC. Your cooperation is appreciated. Should you need any additional facts please do not hesitate in calling Jim Falcone of my office, or myself.

Sincerely


William W. Abbott

WWA/jb

Enclosure

(JF\JF\JB\FPPC.LTR\#2)



Sierra Pacific Industries

Timber Division • P.O. Box 996014 • Redding, CA 96099 (916) 365-3721

Anderson, April 21, 1988
Haypress Hydro

Mr. Bill Abbott
Balfrey & Abbott
1801 "I" Street
Sacramento, CA 95814

Dear Mr. Abbott:

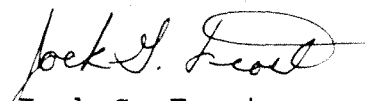
The purpose of this letter is to confirm Sierra Pacific Industries interest, both past and future, in the Haypress Hydro projects being constructed in Sierra County.

As successor in interest to Santa Fe Pacific Timber Company, we are the land owner of the portions of Sections 25 and 35, Twp. 20N., Rge. 12E., over which a portion of the above mentioned project crosses. During the construction of the roads the Haypress Hydro Project contractor agreed to share in the cost of building the roads based on their proposed use. This amounted to approximately 50% of the costs.

Since the roads were built, in 1984, the property has changed ownership twice and the amount now owed to Sierra Pacific Industries is less than \$35,000.00. We are still in the process of attempting to collect the amount owed and would appreciate being informed as to progress of this project.

If you need any further information please feel free to call me at the number shown.

Very truly yours,


Jack G. Frost
Lands Forester

JGF:ekf

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 87-7

ADOPTION OF THE "WORKPLAN FOR THE HEARING PROCESS ON THE SAN FRANCISCO BAY/
SACRAMENTO-SAN JOAQUIN DELTA ESTUARY"--DATED FEBRUARY 5, 1987

WHEREAS:

1. The State Board, in August 1978, adopted a water quality control plan for the Sacramento-San Joaquin Delta and Suisun Marsh (Delta Plan) to protect beneficial uses of water in the Sacramento-San Joaquin Delta and Suisun Marsh and to provide for necessary studies to develop reliable information regarding the fresh water inflow needs of the San Francisco Bay.
2. Pursuant to Section 303(c) of the Clean Water Act, the State Board must complete a triennial review of the water quality standards in the Delta Plan.
3. In April 1980, the State Board adopted Resolution No. 80-18 specifying a schedule of hearings and actions to resolve outstanding issues relative to the Delta Plan.
4. On September 22, 1981 and November 7, 1984, the State Board held public hearings to review and consider the adequacy of the water quality standards in the Delta Plan.
5. The State Board intends to open a new hearing in July 1987 to consider revisions to the water quality standards contained in the Delta Plan and new standards for San Francisco Bay.
6. The scope of the Delta Plan is limited to flow and salinity related issues, while nonsalinity related pollutant and toxic issues are addressed by the Regional Boards in the Basin Plans.
7. The workplan for the forthcoming hearing outlines a process, scope and schedule the State Board and the Regional Water Quality Control Boards (San Francisco Bay Basin and Central Valley Basin) will use to address the effects of flow, salinity and pollutants on the beneficial uses of the Bay-Delta Estuary.

THEREFORE BE IT RESOLVED:

That the State Water Resources Control Board adopts the "Workplan for the Hearing Process on the San Francisco/Sacramento-San Joaquin Delta Estuary".

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on February 5, 1987.


Maureen Marche
Administrative Assistant to the Board

WORKPLAN FOR THE HEARING PROCESS
ON THE
SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN DELTA ESTUARY
(BAY-DELTA HEARING PROCESS)

The purpose of this workplan is to describe the nature and conduct of the Bay-Delta hearing. The hearing process described in this workplan was developed from the public comments and recommendations received by the Board during six prehearing conferences, the comment period held thereafter, and the appellate court decision on the Decision 1488 Delta Water Cases. The State Board members would like to take this opportunity to thank all the prehearing conference participants for their valuable input on this important process.

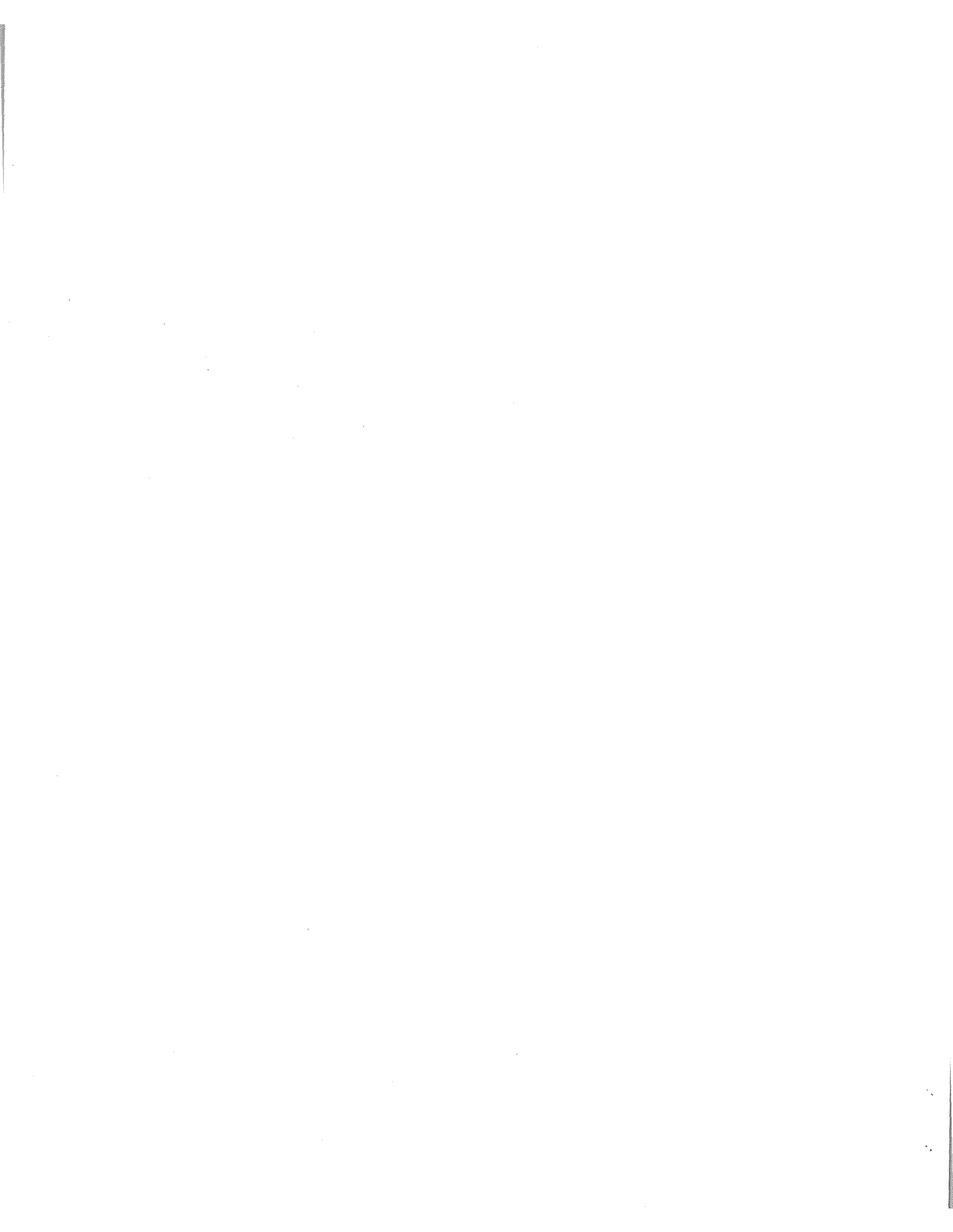
Prepared By
Bay-Delta Program
Division of Water Rights
State Water Resources Control Board

February 5, 1987



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WORKPLAN FOR THE
BAY-DELTA HEARING PROCESS

1.0 INTRODUCTION

1.1 BACKGROUND

The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Estuary) includes the Sacramento-San Joaquin Delta (Delta), Suisun Marsh and San Francisco Bay. The Delta is composed of about 738,000 acres, of which about 48,000 acres are water surface area; Suisun Marsh comprises approximately 85,000 acres of marshland and waterways. San Francisco Bay includes about 306,400 acres of water surface area. The Delta and Suisun Marsh are located where California's two major river systems (the Sacramento and San Joaquin River systems) converge to flow westward, meeting incoming seawater from the Pacific Ocean through San Francisco Bay. The Bay-Delta Estuary is one of the largest, most important estuarine systems for fish and waterfowl production on the Pacific Coast of the United States. In addition, the Delta is one of the State's most fertile and important agricultural regions and is the location of a major water-related industrial corridor in the vicinity of Antioch.

The watershed of the Bay-Delta Estuary provides about two-thirds of all the water used in California including 40 percent of the state's drinking water. Two major water distribution systems, one state and one federal, export supplies from the Delta to areas of use. These systems are the State Water Project (SWP), operated by the California Department of Water Resources (Department), and the Central Valley Project (CVP), operated by the U.S. Bureau of Reclamation (Bureau). Numerous other water development projects also alter the river inflows into the Bay-Delta Estuary.

Because of the configuration of the Delta, the water from the Sacramento River and its tributaries that is exported south and west of the Delta must flow through the Delta into the channels of the lower San Joaquin River system to reach the SWP and CVP export pumps in the southern Delta. Because of this circuitous route,

"carriage water", which becomes Delta outflow to the ocean, is required in order to repel ocean salinity and maintain the quality of the water on its way to the export pumps. This water protects the quality of exported water. This water also helps protect the beneficial uses in the Delta.

1.2 REGULATION OF WATER QUALITY IN THE BAY-DELTA ESTUARY

Between 1958 and 1970 the State Water Resources Control Board issued water right permits to the Bureau and the Department which authorize the two agencies to divert water by direct diversion or by rediversion from the Delta for transportation to the areas south and west of the Delta. During the period when the permits were being issued, the State Board recognized that diversion of water under the permits would have an uncertain effect on the salinity in the Bay-Delta Estuary. To ensure adequate protection the Board reserved jurisdiction in the CVP and SWP permits until the effects of project operations were better understood. As those effects have been better understood, the Board has imposed conditions for salinity control in the Delta and coordinated the terms and conditions of the various CVP and SWP permits that affect the Delta. The Board also reserved jurisdiction in several permits to protect fish and wildlife in the Delta.

The Board first exercised its reserved jurisdiction over the CVP and SWP permits to impose Delta salinity requirements on the CVP and SWP in Water Right Decision 1379, adopted July 28, 1971.

Under its water quality authority, the Board's predecessor first regulated the quality of water in the Delta and in Suisun Marsh in its 1967 Water Quality Control Policy, which was amended in 1968 by the State Board. In 1971 the Regional Water Quality Control Boards for the San Francisco Bay Basin and the Central Valley Basin (Regions 2 and 5), adopted interim water quality control plans for their respective parts of the Estuary. (Regular plans were approved for the two regions in 1975.) In 1973 the State Board supplemented its 1967 Water Quality Control Policy for the Delta. In 1976 the Board commenced a joint water right and water quality hearing to coordinate salinity standards for the Delta and Suisun Marsh in both a water quality control plan and in the water right permits of the SWP and CVP. The basis of the water right proceeding was the reservation of jurisdiction the Board had

previously placed in the SWP and CVP permits to control salinity in the Estuary. The hearing culminated in the adoption in 1978 of Water Right Decision 1485 (D-1485) and a Water Quality Control Plan for the Sacramento-San Joaquin Delta and Suisun Marsh (Delta Plan). The 1978 Delta Plan contains water quality standards for salinity only.

In November of 1983 the Board adopted Water Right Decision 1594. This decision concerns recent water right permittees (not related to the CVP and SWP), over which the Board had retained appropriate jurisdiction (since about 1965).

The 1978 decisions and Decision 1594 are the immediate predecessors of the forthcoming proceeding, which will expand to the entire Bay-Delta Estuary the area that will be considered for protection of beneficial uses (including uses protected by public trust) in the water quality control plan. The forthcoming proceeding also will expand consideration of the responsibilities of water right holders to meet the standards, from just the two projects to all post-1914 water right holders, and pre-1914 and riparian water right holders, who are upstream from the Bay-Delta Estuary and within the watershed of the Estuary. Further, it will provide a forum for the Regional Boards for the San Francisco Bay and Central Valley to receive evidence on pollutants in the Estuary, to use in amending their respective basin plans for the Estuary.

1.3 SOME LAWS THAT AFFECT THE BOARD'S AUTHORITY TO CONDUCT THE FORTHCOMING PROCEEDING AND THE BOARD'S DECISION MAKING

The Board's authority to conduct a new proceeding to set water quality standards for the Bay-Delta Estuary and to implement the standards by amending water rights is founded on several statutes and case laws. These include:

- a. Water Code Section 13170, (State Board authority to adopt water quality control plans).
- b. The federal Clean Water Act, at Section 303(e), (Federal requirements related to the preparation of water quality control plans).

- c. Reserved jurisdiction in permits of the CVP, SWP, and in permits of new appropriators since about 1965 within the watershed to add specific terms and conditions.
- d. Continuing jurisdiction to amend all water right permits and licenses under, Cal. Const. Art. X, Section 2; Water Code Sections 100, 275, 1050; United States v. State Water Resources Control Board (1985) 182 Cal.App.3d 82, 129, 227, Cal. Rptr. 161.
- e. Continuing jurisdiction to reexamine all permits and licenses under the public trust doctrine. National Audubon Society v. Superior Court (1983) 33 Cal.3d 419, 447, 189 Cal.Rptr. 346.
- f. The Delta Protection Act, at Water Code Sections 12200-12220, the Watershed of Origin protections at Water Code Sections 11460-11463, the County of Origin protections at Water Code Sections 10505 and 10505.5, and the San Joaquin River protection act, at Water Code Sections 12230-12233.

1.4 OBJECTIVES OF THE BAY-DELTA HEARING PROCESS

The principal focus of the 1978 Delta Plan and D-1485 was on the effects of the operation of the state and federal water projects on the Estuary. These effects were to be reviewed again by 1988. The Board recognized that there were uncertainties associated with possible new SWP and CVP facilities. Also there was a recognized need for additional ecological and hydrological information on the Bay-Delta Estuary.

In the forthcoming proceeding the Board will review, broaden and refine the water quality standards of the Bay-Delta Estuary to provide reasonable levels of protection for beneficial uses insofar as they are affected by conditions of flow, salinity and pollutants. ^{1/} This will be done in cooperation with the Regional Water Quality Control Boards 2 and 5.

^{1/} For the purpose of this proceeding, "pollutants" are defined as organic and inorganic substances (other than ocean derived salinity) which may arise from point and non-point sources.

Once estuarine water quality and salinity standards have been reviewed and revised (if necessary), the Board will then determine if it is necessary to amend water rights in order to achieve, or progress toward the achievement of those standards. This final decision will require careful evaluation, balancing and protection of the beneficial uses within and outside the Bay-Delta Estuary.

Evidence received on pollutants will be used by Regional Boards 2 and 5 to update their basin plans. The State Board will provide guidance to the Regional Boards in the development of pertinent provisions of these plans and will review and approve Regional Board updates as part of the coordinated actions. During the final phase of the hearing, the Board will evaluate whether the source control of pollutants proposed by the Regional Boards is sufficient to protect beneficial uses in the Estuary. The Board may consider the need for dilution or flushing flows through water right amendments only after all reasonable source control methods have been implemented and only if the Board finds it to be in the public interest.

2.0 SCHEDULE AND SCOPE FOR THE BAY-DELTA HEARING

2.1 SCHEDULE OF ACTIVITIES

The proposed schedule for the Bay-Delta hearing process (Plate 1) has been drafted taking into account the appellate court decision on the D-1485 Delta water cases and comments and recommendations made by individuals, local interest groups and local, state and federal agencies during a series of prehearing conferences held in May, June and July, 1986. The schedule for the hearing is divided into three distinct hearing phases (also refer to Plate 1). Phase I is scheduled to commence in July 1987. Phase II is estimated to start in July 1988. Phase III is estimated to start in April 1989.

A. Phase I Scope of the Hearing--Determination of Reasonable Levels of Protection

Evidence will be received on the following subjects during Phase I: 2/

2/ See Table I, Topics for the Bay-Delta Hearing, page 33.

- (1) The beneficial uses within and outside of the Bay-Delta Estuary;
- (2) The reasonable protection in terms of flow and salinity levels that the beneficial uses should be given, considering the uses of the water within and outside of the Estuary; 3/
- (3) The impacts of pollutants (other than salinity) on the beneficial uses;
- (4) The means for implementing any flow or salinity objectives that are set for the Bay-Delta Estuary; and
- (5) The means for identifying and mitigating any adverse impacts on the beneficial uses that may result from pollutants.

The evidence should be framed so that it is useful for differentiating the effects of salinity on the beneficial uses from the effects of pollutants on those beneficial uses. This will allow the State Board to establish flow and salinity objectives which mitigate solely for the effects of changes in flow and salinity.

The evidence regarding pollutants should also be framed so as to be useful to the Regional Water Quality Control Boards for Regions 2 and 5 in their preparation of amendments to their water quality control plans that cover the Bay-Delta Estuary. The State Board will provide guidance to the Regional Boards in a state policy on the control of pollutants in the Bay-Delta Estuary. (Also refer to Section 2.2 for a discussion on Regional Board participation in the hearing process.)

3/ Additional evidence regarding beneficial uses outside the Estuary will be appropriate in Phase III.

Evidence received in Phase I will have four uses. First, it will be used to prepare a draft salinity control plan. Second, it will be used together with evidence received during the third phase of the hearing to prepare a water right decision. Third, it will be used by the State Board to develop a pollutant policy document which will provide guidance to Regional Water Quality Control Boards 2 and 5 in the review of their water quality control plans that cover the Bay-Delta Estuary. Fourth, it will be used by the Regional Boards to review and amend their plans.

Evidence for Phase I should be designed to facilitate development of the salinity plan and to allow for consideration of discharge of pollutants into the Estuary. Evidence concerning uses outside the Estuary, to determine reasonable levels of protection, should include such matters as the amounts of water used in a regional area, the types of uses, projections of future needs, and amounts of water produced within the Bay-Delta hydrologic basin. The salinity control plan, the pollutant policy document, and the regional boards' plan amendments will not allocate water. (Water allocation will occur after the Phase III hearing which will include the Phase I hearing record and sufficient additional evidence upon which to base an allocation decision.)

B. Phase II Scope of The Hearing--Review of the Draft Salinity Control Plan and Pollutant Policy Document

Prior to Phase II, Board staff, in consultation with State and Regional Board members involved in the Phase I hearing will prepare a salinity control plan and a pollutant policy document for review by the hearing participants. The purpose of Phase II is to consider the draft salinity plan and the pollutant policy document. The draft plan will contain: (1) an identification of beneficial uses of Bay-Delta waters; (2) objectives to reasonably protect the beneficial uses identified in Phase I from adverse salinity and flow effects; (3) a program of implementation for the flow and salinity objectives; and (4) an analysis of the environmental impacts of the draft plan. The program of implementation will contain the types of implementation measures the Board will consider to achieve a reasonable set of flow and salinity

objectives. Part of this consideration in the program of implementation will be a review of the responsibilities of all appropriators to protect the beneficial uses of Bay-Delta waters. Such a review in detail is the subject of Phase III of the hearing.

The pollutant policy document will set forth State policy on regulation of pollutants in the Bay-Delta Estuary. This policy will be developed based upon the evidence received during Phase I on the adverse impacts of pollutants on beneficial uses. Guided by this policy, the San Francisco Bay Basin and Central Valley Basin Regional Boards (2 and 5) will conduct an update of their basin plans.

Phase II of the hearing will be conducted apart from Phases I and III, as a quasi-legislative hearing. In Phase II, testimony will not be sworn nor witnesses cross-examined. After Phase II, the Board expects to prepare and adopt a final salinity control plan and pollutant policy document.

C. Phase III Scope of the Hearing--Consideration of the Impacts of the Alternatives and Receipt of Other Information Needed for a Water Right Decision

Prior to Phase III, and after adoption of a final salinity control plan, Board staff will prepare and issue for review a set of alternatives for implementing the objectives in the salinity control plan through a new water right decision. During Phase III of the hearing, the Board will receive evidence on the set of alternatives and any other alternative(s) recommended by any party.

Relevant evidence in Phase III will include: (1) detailed hydrologic studies of the relationships between flow and salinity 4/; (2) reasonableness of alternatives for protecting uses of Bay-Delta waters; (3) protecting rights to Bay-Delta waters; (4) the impacts of various attainment alternatives that will be provided by the Board's staff before Phase III; (5) evidence relevant to the petition of the United States Bureau of Reclamation to add the SWP Banks Pumping Plant as a point of diversion and

4/ General hydrologic studies will be received during Phase I.

rediversion and increase the diversion rate; (6) evidence relevant to the effects of the federal Central Valley Project and State Water Project on the Southern Delta; (7) the effects on beneficial uses outside the Estuary of implementing water quality objectives by modifying water rights; and (8) any other evidence that is relevant to reasonable attainment of water quality objectives contained in the salinity control plan.

D. Final Determinations

After the close of the Phase III hearing, the Board will develop and circulate a draft environmental impact report and may hold a hearing on the EIR. Thereafter, a public Board meeting will be held in which the Board will certify the final EIR and adopt a water right decision about July 1990.

2.2 REGIONAL BOARD PARTICIPATION IN THE HEARING PROCESS

The Bay-Delta Estuary is a hydrologically continuous water body whose beneficial uses are subject to the combined effects of flow, salinity and pollutants. The State Board has therefore decided to receive evidence on the adverse impacts of pollutants on beneficial uses of the Bay-Delta Estuary during the first phase of the hearing process. Because the Regional Water Quality Control Boards are responsible under the Porter-Cologne Act to formulate, adopt, review and revise water quality control plans for the hydrologic basins within their area of jurisdiction, the State Board has invited the Regional Water Quality Control Boards of the San Francisco Bay Basin and Central Valley Basin (Regional Boards 2 and 5) to participate in the hearing process.

Through their participation, the Regional Board representatives will assist the State Board in differentiating the salinity induced impacts on beneficial uses from those caused by pollutants and will present relevant water quality data. The Regional Boards will also update their respective basin plans based upon the evidence they receive during the hearing. To assure uniformity of objectives and programs of implementation in the Regional Board basin plans before they are updated, the State Board will coordinate the activities of each Board and develop a pollutant policy document which will set forth State policy on regulation of pollutants in the Bay-Delta

Estuary. Regional Board representatives will participate in reviewing comments on the draft pollutant policy document during Phase II, before it is adopted by the State Board. Subsequently, Basin Plan amendments will be submitted to the State Board prior to Phase III for review and approval.

Plate 2, "Schematic of the State Board Bay-Delta Hearing Process and Regional Board Involvement" and the accompanying narrative, provides a detailed description of Regional Board cooperation. The reader is advised to review this schematic for a more detailed explanation on Regional Board participation.

2.3 OVERVIEW OF THE HEARING PROCESS

The information that will be presented to the Board during this hearing process will be complex and cover many diverse topics. In order to receive this information in a manner most helpful to the Board, a structured hearing process has been formulated. As discussed above, the evidentiary hearing will be divided into three phases. Specific topics will be discussed in each phase of the hearing as noted in Section 3.0 (pages) (also see Table 1, page). Time slots will be set aside for the discussion of each topic. For example, for topics listed under Phase I, a different number of hearing days will be allotted for agricultural uses, for municipal and industrial uses, for wildlife, salmon fishery, etc. Organizing the hearing according to topic will help to assure a clear record and should help many of the parties to concentrate their efforts. However, it will require some parties to divide their testimony into parts rather than presenting it all at one time. The amount of time set aside for each topic will be set as soon as the Board knows the estimated time each party requests to present testimony on each topic. The time required for cross-examination will be roughly estimated and a flexible number of days will be available for each topic.

3.0 BAY-DELTA HEARING TOPICS & ISSUES

The issues listed in this part are not inclusive and are not intended to exclude other issues relevant to the topics listed in this part. In particular, while we have set aside a topic in Phase I in which pollutants will be emphasized, and in which we want most of the evidence on pollutants, we will not exclude relevant nonrepetitive evidence regarding pollutants during time slots set aside for other topics in Phase I.

Through Phase I, the Board seeks evidence that can be used to develop water quality objectives. For purposes of this hearing, "water quality objectives" include flow levels, salinity objectives, and pollutant objectives.

3.1 PHASE I: TOPICS AND ISSUES--DETERMINATION OF REASONABLE LEVELS OF PROTECTION FOR THE BAY-DELTA'S BENEFICIAL USES

TOPIC

1. Hydrologic Conditions

This topic covers several subjects that the Board will consider when developing reasonable water quality objectives for maintaining beneficial uses in the Bay-Delta Estuary. Specifically, the Board will hear evidence on the following:

- a. Hydrologic conditions that parties recommend for consideration in developing water quality objectives for Bay-Delta beneficial uses.
- b. The water quality conditions in the Bay-Delta Estuary under the present level of development upstream and in the Estuary.
- c. The flow and salinity in the Bay-Delta Estuary under natural flow conditions. 5/

5/ Natural flow conditions--flow entering the Estuary under the present channel configuration, assuming no impairment or enhancement of flow.

The following issues are associated with these subjects.

Issues

- What are the existing water quality conditions in the Bay-Delta Estuary?
- How have hydrology and salinity conditions in the Bay-Delta Estuary changed as a result of upstream development?
- What are the effects of Delta inflow and outflow on salinity?
- What are the flows and salinities in the Bay-Delta Estuary under natural flow conditions?
- Should water year types of individual major basins contributing flows to the Delta be considered in determining flow and salinity objectives for the Bay-Delta Estuary? How can this be accomplished?
- Should water year types be used as a measure for adjustment of flow and salinity objectives in the Bay-Delta Estuary? Should a sliding scale be used instead of the stair-step method used in Water Right Decision 1485?
- What period of record should the Board use in estimating hydrologic and salinity conditions?

TOPIC

2. Uses Within the Bay-Delta Estuary

A. Agricultural Uses (Northern, Southern, Central and Western Delta)

Testimony and evidence will be received regarding the objectives that parties believe will provide reasonable protection of Delta agriculture.

Issues

- What specific water levels are needed in Delta channels to accommodate diversion for irrigation?
- What are the short and long-term water quality needs (for both irrigation and leaching) of significant salt sensitive crops in the different agricultural areas of the Delta? What are these crops?
- What is the appropriate use of the results of the "Delta Corn Study" in determining agricultural water quality objectives?
- What are the agricultural management practices the Board should consider when developing flow and salinity objectives for the different areas of the Delta?
- What actions in addition to the establishment of water quality objectives should the Board or Regional Boards 2 and 5 consider to achieve reasonable levels of protection for agricultural uses?
- At what locations should water quality objectives be established and measured?

B. Municipal and Industrial Uses

Evidence will be received on the effects of water quality on Bay-Delta municipal and industrial uses of water. Evidence will also be received on the reasonable water quality objectives parties believe will ensure protection of these beneficial uses.

Issues

- What are the adverse effects of salinity and organics on municipal and industrial uses of water (including the formation of trihalomethanes in the water treatment process)? How can these effects be lessened with alternative forms of water treatment?
- What are the reasonable municipal and industrial water quality objectives for the Bay-Delta Estuary?
- What actions in addition to the establishment of water quality objectives should the Board or Regional Boards 2 and 5 consider to achieve reasonable levels of protection for municipal and industrial uses?
- At what locations should water quality objectives be established and measured?

C. Wildlife

Evidence on the types of wildlife within the Bay-Delta Estuary will be received. Evidence will also be received on the reasonable needs of wildlife.

Issues

- What types of wildlife inhabit the Bay-Delta Estuary?
- Are there any wildlife species other than migrating and resident waterfowl that the Board should consider as a basis for setting reasonable water quality objectives?

- What recreational, economic and other factors should be considered by the Board in developing reasonable levels of protection for wildlife?
- What are reasonable levels of protection for wildlife of the Bay-Delta Estuary?
- What are reasonable water quality objectives for wildlife of the Bay-Delta Estuary?
- What actions in addition to the establishment of water quality objectives should the Board or Regional Boards 2 and 5 consider to achieve reasonable levels of protection for wildlife resources?
- At what locations should water quality objectives be established and measured?

D. Striped Bass Fishery

Evidence regarding Delta flow, salinity, pollution, diversions and survival relationship of young striped bass will be received. The importance of other factors such as phytoplankton, zooplankton, and egg production will also be heard. Evidence will be received on the reasonable levels of protection to be provided young and adult striped bass.

Issues

- How do Delta flows and diversions affect the abundance of young striped bass?
- What is the importance of phytoplankton, zooplankton, striped bass egg production and other factors to the abundance of young striped bass?
- What is the relationship between the numbers of young striped bass and the numbers of adult striped bass recruited into the fishery?
- What recreational, economic and other factors should be considered by the Board in developing reasonable levels of protection for the striped bass fishery?

- What are the reasonable levels of protection for striped bass in the Bay-Delta Estuary?
- What are the reasonable water quality objectives for striped bass in the Bay-Delta Estuary?
- What actions in addition to the establishment of water quality objectives should the Board or Regional Boards 2 and 5 consider to achieve reasonable levels of protection for striped bass?
- At what locations should water quality objectives be established and measured?

E. Chinook Salmon Fishery

Evidence regarding salinity, Delta flow, diversions, pollutants, habitat requirements, and survival relationships for chinook salmon will be received. Evidence on the reasonable levels of protection to be provided young and migrating adult chinook salmon will be received.

Issues

- How do Delta flows and diversions affect the abundance of chinook salmon?
- What is the importance of phytoplankton, zooplankton, chinook salmon spawning requirements and other factors to the abundance of young salmon?
- What is the relationship between the numbers of young chinook salmon and the numbers of adult chinook salmon recruited into the fishery?
- What recreational, economic and other factors should be considered by the Board in developing reasonable levels of protection for chinook salmon?
- What are the reasonable levels of protection for chinook salmon using the Bay-Delta Estuary?

- What are the reasonable water quality objectives for chinook salmon in the Bay-Delta Estuary?
- What actions in addition to the establishment of water quality objectives should the Board or Regional Boards 2 and 5 consider to achieve reasonable levels of protection for chinook salmon?
- At what locations should water quality objectives be established and measured?

F. Other Migrating and Resident Fish

Evidence regarding the effects of flow, salinity, pollutants and diversions on other types of migrating and resident fish in the Bay-Delta Estuary will be received. Evidence on reasonable levels of protection to protect these species will also be received.

Issues

- What other migrating and resident fish of the Bay-Delta Estuary should be specifically accorded reasonable levels of protection?
- How do Delta flows and diversions affect the abundance of other migrating and resident fish?
- What recreational, economic and other factors should be considered by the Board in developing reasonable levels of protection for other migrating and resident fish of the Bay-Delta Estuary?
- What are the reasonable levels of protection for other migrating and resident fish of the Bay-Delta Estuary?
- What are the reasonable water quality objectives for other migrating and resident fish of the Bay-Delta Estuary?
- What actions in addition to the establishment of water quality objectives should the Board or Regional Boards 2 and 5 consider to achieve reasonable levels of protection for other migrating and resident fish?

- At what locations should water quality objectives be established and measured?

TOPIC

3. Uses Within Export Areas

Under this topic the Board wishes to receive evidence regarding the State Water Project, the Federal Central Valley Project, reservoir operations, and other export uses of water. This topic includes uses of water in export areas, and estimates of future water demand. Evidence also will be received regarding alternative sources of water to meet existing and future demands. As part of this topic the Central Valley Project is asked to provide evidence regarding the effect on water uses of the changes it has proposed in its operations, including those proposed in the Coordinated Operations Agreement.

The evidence provided under this topic should provide region-wide statistics and estimates of the amount of water going to various uses. The evidence should be sufficiently detailed to allow the Board to take a global perspective of the state's water uses in determining the reasonable levels of protection for all the beneficial uses of the waters. In accordance with the appellate court decision, consideration of the allocation of water must be separated from the consideration of water quality standards for the Estuary. Therefore, the basis of water quality standards will be addressed in Phase I and the water allocation process will result from Phase III.

A. Agricultural Uses

What are the types and amounts of agricultural water use within the export areas?

Issues

- How much water from the Delta is needed to support current agricultural uses within export areas, taking into consideration market economics, water conservation measures, and alternative sources of supply?

- How much water from the Delta will be needed to support projected agricultural uses within export areas, taking into consideration market economics, water conservation measures, and alternative sources of supply?
- What are the alternative sources of water available to meet existing and future agricultural water demands within the export areas?
- What is the relationship between proposed changes in the operation of exporters to agricultural areas, including the Central Valley Project and State Water Project and future demands for exported water?

B. Municipal and Industrial Uses

Issues

- What are the types and amounts of municipal and industrial water use within the export areas?
- How much water from the Delta is needed to support current municipal and industrial uses within export areas, taking into account market economics, water conservation measures, and alternative sources of supply?
- How much water from the Delta will be needed to support projected municipal and industrial uses within export areas, taking into account market economics, water conservation measures, and alternative sources of supply?
- What are the alternative sources of water available to meet existing and future municipal and industrial water demands within the export areas?
- What is the relationship between proposed changes in the operation of exporters to municipal and industrial areas, including the Central Valley Project and State Water Project and future demands for exported water?

C. Other Uses

- What are the types and amounts of other water uses within the export areas?
- How much water from the Delta is needed to support current beneficial uses within export areas, taking into consideration market economics, water conservation measures, and alternative sources of supply?
- How much water from the Delta will be needed to support other projected beneficial uses within export areas, taking into account market economics, water conservation measures, and alternative sources of supply?
- What are the alternative sources of water available to meet other existing and future water demands within the export areas?
- What is the relationship between proposed changes in the operation of exporters for use other than agriculture, municipal and industrial, including the Central Valley Project and State Water Project and future demands for exported water?

TOPIC

4. Uses Upstream of the Bay-Delta Estuary

Under this topic the Board wishes to receive evidence regarding upstream water uses, reservoir operations, the State Water Project, the federal Central Valley Project, and other uses of water within the Bay-Delta hydrologic basin and estimates of future water demand. Evidence also will be received regarding alternative sources of water to meet existing and future demands. As part of this topic the Central Valley Project is asked to provide evidence regarding the effect on water uses of the changes it has proposed in its operations.

The evidence provided under this topic should include region-wide statistics and estimates of the amount of water going to various uses. The evidence should be sufficiently detailed to allow the Board to take a global perspective of the state's water uses in determining the reasonable

levels of protection for the Estuary. However, consideration of the allocation of water must be separated from the consideration of water quality standards for the Estuary and will occur during Phase III.

A. Agricultural Issues

Issues

- What are the types and amounts of agricultural water use upstream of the Bay-Delta Estuary?
- How much water is needed to support current agricultural uses upstream of the Bay-Delta Estuary, taking into consideration market economics, water conservation measures and alternative sources of supply?
- How much water will be needed to support projected agricultural uses upstream of the Bay-Delta Estuary, taking into consideration market economics and alternative sources of supply?
- What are the alternative sources of water available to meet existing and future agricultural water demands upstream of the Bay-Delta Estuary?

B. Municipal and Industrial

Issues

- What are the types and amounts of municipal and industrial water use upstream of the Bay-Delta Estuary?
- How much water is needed to support current municipal and industrial uses upstream of the Bay-Delta Estuary, taking into consideration market economics, water conservation measures and alternative sources of supply?
- How much water will be needed to support projected municipal and industrial uses upstream of the Bay-Delta Estuary, taking into consideration market economics, water conservation measures and alternative sources of supply?

- What are the alternative sources of water available to meet existing and future municipal and industrial water demands upstream of the Bay-Delta Estuary?

C. Other Uses

Issues

- What are the types and amounts of other water uses upstream of the Bay-Delta Estuary?
- How much water will be needed to support current beneficial uses upstream of the Bay-Delta Estuary, taking into consideration market economics, water conservation measures and alternative sources of supply?
- How much water will be needed to support other projected beneficial uses upstream of the Bay-Delta Estuary taking into account market economics, water conservation measures and alternative sources of supply?
- What are the alternative sources of supply available to meet other existing and future water demands upstream of the Bay-Delta Estuary.

TOPIC

5. Impacts of Freshwater Inflow on San Francisco Bay

Evidence will be received to evaluate the impacts of annual and pulse freshwater inflows on the beneficial uses of San Francisco Bay and the protection of those uses.

Issues

- What are the various beneficial uses and key organisms of San Francisco Bay which can be shown to be influenced by freshwater inflows?
- What are the relationships between the Bay's beneficial uses, including the key organisms inhabiting the Bay, and freshwater inflow?

- What are the ecological benefits of freshwater inflows for key organisms inhabiting San Francisco Bay?
- What are the relationships between freshwater inflow and the abundance of key organisms inhabiting San Francisco Bay?
- What recreational, economic and other factors should be considered in the development of reasonable levels of protection for the beneficial uses of San Francisco Bay?
- What are the reasonable levels of protection the Board should consider for the various beneficial uses of San Francisco Bay?
- What are the water quality objectives the Board should consider for the various beneficial uses of San Francisco Bay?
- At what locations should water quality objectives be established and measured?

TOPIC

6. Pollutants in the Bay-Delta Estuary
(See statement under paragraph 3.0)

Evidence on impacts of pollutants is an important topic during Phase I of the Bay-Delta hearing. The Bay-Delta Estuary is a hydrologically continuous water body whose beneficial uses are subject to the combined effects of flow, salinity and pollutants. Evidence received on this topic will be used in three ways.

- a. To differentiate to the extent practical the effects of flow and salinity on beneficial uses from the effects of pollutants; and
- b. To provide the Central Valley and San Francisco Bay Regional Water Quality Control Boards with a Bay-Delta wide scope of current information upon which they can base timely revisions to their water quality control plans (basin plans), prior to the beginning of the Phase III hearing record; and

- c. To prepare a pollutant policy document for the guidance of the two Regional Boards in revising or amending their basin plans.

Issues

- What are the quantities, types, and sources (point and non-point) of pollutants in the Bay-Delta Estuary?
- What were the quantities and types of pollutants in the Bay-Delta Estuary prior to the observed decline of the striped bass?
- What are the principal persistent pollutants in the Bay-Delta Estuary?
- What are the known links between pollutant loading and concentrations in the Bay-Delta Estuary and detrimental biological effects?
- To what extent do pollutants currently affect species that are being reviewed by the Board for establishment of reasonable levels of protection? Such species include striped bass, chinook salmon, American shad, English sole, Bay shrimp, and Neomysis.
- What is known about the environmental fate of pollutants; i.e., their distribution in the water column, sediment and biota (both toxicity and bioaccumulation)?
- What pollutant loads can the Bay-Delta Estuary assimilate without causing unreasonable impacts on the aquatic ecosystems? How do freshwater inflows affect the Bay's assimilative capacity?
- What deficiencies currently exist in the data base that may prohibit a complete evaluation of the effects of pollutants on the distribution and abundance of Bay-Delta biota?
- What additional actions should the State and Regional Boards 2 and 5 consider to reasonably protect the Bay-Delta's beneficial uses from the effects of pollutants?

TOPIC

7. Program of Implementation

Evidence will be received on the implementation measures the Board should consider to achieve a chosen set of flow and salinity objectives for maintaining Bay-Delta beneficial uses. Evidence will also be received on the implementation measures the Regional Boards and other entities should consider to reasonably protect the Bay-Delta Estuary's beneficial uses from pollutants other than salinity.

The program of implementation may identify public trust values that other governmental agencies are responsible for maintaining. Where appropriate, the State Board expects responsible agencies to fulfill their obligations for the maintenance of such values.

Issues

- What types of implementation measures should be included in the salinity control plan for the Bay-Delta Estuary to achieve a chosen set of flow and salinity objectives?
- What implementation measures should Regional Water Quality Control Boards 2 and 5 consider to achieve a chosen set of objectives that reasonably protects the beneficial uses of the Bay-Delta Estuary from pollutants?

3.2 PHASE II: TOPICS AND ISSUES--REVIEW OF THE DRAFT POLLUTANT POLICY DOCUMENT AND DRAFT WATER QUALITY CONTROL PLAN FOR SALINITY IN THE BAY-DELTA ESTUARY

TOPIC

1. Draft Pollutant Policy Document For the Bay-Delta Estuary

Prior to the start of the second phase of the Bay-Delta hearing, a draft pollutant policy document will have been developed and circulated to participating parties. This document when finalized will serve two purposes. It will:

- a. Set State policy on regulation of pollutants in the Bay-Delta Estuary.
- b. It will be used by the San Francisco Bay Basin and Central Valley Basin Boards in the update of their basin plans.

During the second phase of the hearing, State Board and Regional Board members will wish to receive comments on the adequacy of the draft pollutant policy document prior to its finalization.

Issues

- Is the draft pollutant policy document adequate? Does the document provide adequate guidance to the Regional Boards to assure uniformity of water quality objectives and to provide reasonable protection of beneficial uses in the Bay-Delta Estuary from pollutants? If not, how should the document be changed?

TOPIC

2. Draft Water Quality Control Plan for Salinity in the Bay-Delta Estuary

Prior to the start of the second phase of the Bay-Delta hearing, a draft salinity control plan will have been developed and circulated to participating parties. The plan will contain three major elements. They are:

- a. Identification of the beneficial uses of the Bay-Delta Estuarine system.
- b. Flow and salinity objectives for reasonable levels of protection of those beneficial uses.
- c. A program of implementation for achieving those objectives.

During the second phase of the hearing evidence will be received by the State Board on the adequacy of the draft plan prior to its finalization.

Issues

- Is the draft salinity control plan adequate? Will the draft salinity control plan provide reasonable protection for the beneficial uses of the Bay-Delta Estuarine system? If not, how should the Plan be changed?

3.3 PHASE III: TOPICS AND ISSUES--CONSIDERATION OF THE IMPACTS OF THE ATTAINMENT ALTERNATIVES AND RECEIPT OF OTHER INFORMATION NEEDED FOR A WATER RIGHT DECISION

TOPIC

1. Impacts of Attainment Alternatives

Prior to the start of the third phase of the Bay-Delta hearing and after adoption of a salinity control plan for the Bay-Delta, a document titled "Water Right Attainment Alternatives" will be developed and circulated to participating parties for review. The subject of the document will be the alternatives for implementing objectives in the salinity control plan through amendment of water right permits and licenses. Pre-1914 and riparian water rights are expected to be considered.

Participating parties will be asked to review this document and present evidence to the Board during the third phase of the hearing on the impacts that may be caused by implementation of the various alternatives identified in the document.

Issues

- What are the social, economic, environmental or other impacts that water users in the hydrologic basin of the Bay-Delta Estuary and in the regions of Water Quality Control Boards for Regions 2, 3, 4, 5, 6, 7, 8, and 9 may experience as a result of implementation of the salinity control plan, insofar as it can be implemented through reasonable control of flows of water through the water right process?
- What are the economic, environmental or other impacts that could occur within the Estuary under the various attainment alternatives.
- How is water used outside the Estuary for beneficial purposes?

- How will implementation of the water quality objectives for the Estuary affect the water quality objectives of Regions 2, 3, 4, 5, 6, 7, 8, and 9?

TOPIC

2. Other Information Needed for a Water Right Decision

Other information may be needed for the Board to complete a water right decision. This topic will not be fully defined until all information needs are known. Currently, the Board expects to need information on the following: (1) the number of water right holders within the hydrologic basin of the Bay-Delta system; (2) the amounts and uses of water under right; (3) certain petitions of the U.S. Bureau of Reclamation to add a point of diversion in the Delta; and (4) certain operational information of the State Water Project and Central Valley Project. Issues related to this topic are as follows:

Issues

- To what extent should the Board take measures to implement regional basin plan amendments?
- What is the tabulation of diverters within the hydrologic basin of the Bay-Delta under the jurisdiction of the Board? (Tabulation includes number of diverters, amounts and seasons of water diverted, and use of the water).
- What terms and conditions should be placed on water right permits and licenses for protection of the Southern Delta beneficial uses.
- What are the operational problems that have been experienced in complying with the standards contained in Water Right Decision 1485?
- Should the petition of the USBR to add the SWP Banks pumping plant as a point of diversion and redirection and increase the rate of diversion from the Delta be approved?

4.0 PROCEDURES FOR THE BAY-DELTA HEARING

The 1986 Bay-Delta hearing will be conducted in three phases. Phases I and III will be conducted under the procedures for an adjudicative water right hearing. Phase II of the hearing will be conducted as a quasi-legislative hearing to receive comments on a draft pollutant policy document and a draft salinity control plan. After Phase I, the hearing will be continued and the record will remain open between Phase I and Phase III for purposes of a water right decision.

For a detailed description of the Board's adjudicative water right hearing procedures please refer to a Board document titled "The Nuts and Bolts of Water Right Hearings--Process and Procedures", January 1985. This document can be obtained by contacting the Division of Water Rights at (916) 322-4503.

4.1 TESTIMONY

Surprise testimony has no place in this hearing. To that end, advance identification of witnesses intending to testify in Phases I and III of the hearing is required. Parties wishing to offer testimony in the hearing will be asked to estimate the amount of time they require for presentation of testimony on each topic area upon which they wish to present evidence during Phase I. The Board will compile the names and addresses of all the qualified parties to this proceeding. Addition of witnesses during the course of the hearing must be justified and is at the discretion of the hearing officer.

Due to the number of witnesses expected to appear during Phases I and III, and also due to the amount of technical testimony expected in these phases, witnesses will be required to submit a substantial number of copies of a summary in outline form of their testimony sixty days in advance of the date the testimony is scheduled to be presented. Acceptance of testimony outside the scope of the written summary must be justified and will be at the discretion of the hearing officer.

The dates for hearing testimony on each topic will be scheduled in advance, together with the order of presentation of witnesses and the time estimated for each witness.

4.2 EXHIBITS

Introduction of surprise exhibits has no place in this hearing (Phases I and III). Exhibits that will be used to support or illustrate a point will be required to be submitted in advance to the Board. An exhibit being offered in evidence should be substantiated by testimony unless it is a well-known, recognized, and reliable publication of a governmental agency or is stipulated to by all parties. Generally the Board will exclude exhibits which rely on data or technical documents that are not publicly available or accessible unless the data or documents are made public and admitted as exhibits. All parties that intend to use data not presently publicly available must take steps to make the data accessible to the public.

Each party offering exhibits in Phase I or Phase III shall submit to the Board a substantial number of copies of the exhibits and an index of the exhibits sixty days in advance of the first date when the exhibit may be used or referenced during the hearing. The source of the exhibit and cost of reproduction should be identified for each lodged exhibit. This will enable interested parties to order their own copy if desired. Originators of exhibits must furnish a copy of the exhibit within ten days of receipt of a request. The Board will also lodge copies of the exhibits and indexes in places in addition to Sacramento. For those parties not conveniently located to a lodging location, the Board will maintain a limited number of copies for lending. Mailing costs for the loaned exhibits will be borne by those requesting them. Remaining copies of exhibits will be for the use of the Board and its staff.

Each party offering exhibits in Phase I and Phase III will mail the index of their exhibits to each of the qualified parties. Persons wishing to have their own copies of exhibits may make arrangements with the producers of the exhibits. A producer of an exhibit must make the exhibit available at the cost of copying if requested.

Exhibits for Phase II of the hearing shall be submitted on the date of the hearing or within any comment period thereafter.

4.3 CONDUCT OF THE HEARING

Phases I and III of the hearing will be conducted in accordance with the Board's rules and regulations for water right hearings. Elements of Phases I and III of the hearing will include opening statements, direct testimony, cross-examination, redirect and recross examination if necessary, rebuttal and closing arguments or briefs.

Phase II of the hearing will be conducted as a quasi-legislative hearing on the draft salinity control plan and pollutant policy document. Relevant evidence will be received. Participants will not be sworn. There will be no right to cross-examine witnesses.

At specific predetermined times throughout the hearing, persons who wish to make nonevidentiary policy or position statements will be allowed to do so without being sworn and cross-examined. Policy statements will be used in the same manner as opening or closing statements or arguments. It should be clearly understood they do not constitute evidence. Policy statements include the policy views and position of the speaker, non-expert analysis of previously presented evidence, and argument concerning the contents of environmental documents.

5.0 EX PARTE COMMUNICATIONS

When appropriate during the hearing process, parties and interested persons shall avoid ex parte communications with members of the Board regarding the hearing issues. In its usual sense, ex parte means that one party is heard by the Board or a Board member on an issue that will be decided as a result of the hearing in the absence of other parties and without notice to them.

6.0 PARTIES

The Board will consider admitting new parties to the hearing at any stage. Generally, a new party will not be allowed to present evidence on a topic that already has been completed or cross-examine on topics for which cross-examination has been concluded except in extraordinary circumstances. Parties will include the following:

1. Water right holders in the Bay-Delta hydrologic basin;
and
2. Interested parties.

7.0 CONTACT PERSONS FOR THE BAY-DELTA HEARING PROCESS

The following State Board personnel have been assigned to develop and coordinate the Bay-Delta hearing activities. You are encouraged to call these individuals for any questions you might have concerning the hearing process.

HEARING MANAGEMENT ACTIVITIES

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LEGAL ACTIVITIES

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